

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON PLANNING AND ENVIRONMENT**

**(Reference: Draft variation 200)**

**Members:**

**MRS V DUNNE (The Chair)**

**MR J HARGREAVES**

**MRS H CROSS**

**MS R DUNDAS**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**FRIDAY, 28 FEBRUARY 2003**

**Secretary to the committee:**

**Ms L Atkinson (Ph: 6205 0142)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents relevant to this inquiry which have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

## **The committee met at 10.06 am.**

**THE CHAIR:** Welcome, everyone. This is the first of a large number of hearings on draft variation 200. We envisage that another full day of hearings will occur next Friday, on 7 March.

The draft variation was revised at least four times between 30 May and when it was released by Planning and Land Management on 23 December, before referral to this committee.

The key dates in the life of draft variation 200 are as follows. It was released by PALM on 30 May, with notices in the *Canberra Times* on 1 June. The closing date for submissions to PALM was extended from 29 July 2002 to 30 August. Revisions occurred on 31 August, 26 November and 17 December. A final version, which is what we're talking about here today—the white version—was released to this committee and publicly on 23 December. On 31 August revisions allowed development applications for house and land packages in Canberra's new greenfields suburbs to be assessed under the former rules for private open space to be extended to 31 May this year.

This committee's closing date for submissions for these hearings was 14 February. We put ads in the *Chronicle* and the *Canberra Times*. We have received about 100 submissions, with the majority from Downer, all against, and two submissions in favour of draft variation 200.

PALM received about 500 submissions, of which 478 were against and 23 were in support. There were about 200 form letters from Downer and a number of submissions from residents of Red Hill, in Quiros, Pelsart and Supply Streets, that objected to draft variation 200.

We are departing a little from procedure here. We did this in recent hearings on draft variation 173. PALM staff are in attendance at the hearing in an advisory capacity. The hope is that this will help clarify issues that come up as they arise and that this will give members of the public the capacity to clear up misunderstandings. It will also help the committee. This is somewhat experimental for the committee. We haven't done this in the past. I would emphasise that PALM is here to answer, essentially, the committee's inquiries as we go along and not to present a critique of evidence that is given before the inquiry. The arrangement will also give PALM an opportunity to clarify any of the complexities of draft variation 200 as the hearings proceed. It will also give them a clear understanding of what people's concerns are.

We would like to make the public hearings for draft variation 200 as comprehensive and open as possible. We hope that these hearings will complement the submissions that we've received.

Witnesses, as they come to the table, are asked to identify themselves and state the role in which they are appearing before the committee. If you are appearing as a private citizen, just give your address. If you use an acronym, spell it out in the first instance so that the *Hansard* officers have an easier job of it.

**ROBERT THORN** was called.

**THE CHAIR:** You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you're protected from certain legal actions such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

Thank you, Mr Thorn, for your time, for coming here today and for making a submission to the inquiry. Would you like to make an opening statement?

**Mr Thorn:** Good morning. My name is Robert Thorn. I am representing the Royal Australian Institute of Architects, the ACT chapter. There are four points that I would like to cover with regard to DV 200. The first is in relation to the concept of the core and suburban areas. The second is in regard to dual occupancy. The third is about the controls on residential development—that is, the setbacks, plot ratios, et cetera and the impact upon design flexibility. The fourth is about the high-quality sustainable design process referred to in DV 200 and its impact upon design innovation.

I begin with the concept of the core areas and suburban areas. One of the fundamental objectives of DV 200 is to enable appropriate residential development and redevelopment while maintaining the amenity and character of Canberra's residential areas. The principal mechanism for achieving this objective is the designation of core areas around retail centres where higher density development is committed, while development is then restricted in the remainder of the suburban areas. We question whether this designation of areas achieves the intended objective.

The definition of core areas is based on a single parameter. It is based on the distance from a retail centre. There are no precise criteria for determining what that distance should be. Because of that, we believe the size of core areas will continue to be contested and negotiated. This will not result in certainty either for people wishing to develop areas or for residents of existing areas. It will be a continuing debate. I think we've experienced that already. The changes that have occurred in DV 200 to date have largely been a result of negotiation of how big those core areas should be.

**MR HARGREAVES:** Mr Thorn, can I ask you for your opinion on the general philosophy of trying to inject life into smaller centres? I use my electorate of Brindabella as an example—Calwell shops, Chisholm shops and those sorts of areas, as opposed to Erindale, which is larger. Those areas have been providing services to the suburbs in the catchment, but business is struggling there. Do you agree with the principle of having higher density housing in those precincts?

**Mr Thorn:** I agree with the principle of generally increasing the density of housing in residential areas. I question whether concentrating that new development immediately around shopping centres has any greater impact on the viability of the shopping centre than higher density distributed throughout the suburb.

**MR HARGREAVES:** If you increase the number of people living in the suburb, that will encourage business into those shopping centres?

**Mr Thorn:** Yes. With the scale of suburbs in Canberra, I think development generally within a suburb which increases the density and increases the population will benefit the centre. The finite definition of a dense area and a less dense area wouldn't achieve anything additional.

**MRS CROSS:** Would you use a criterion for each area?

**Mr Thorn:** No. I think the criteria need to be more subtle.

**MRS CROSS:** Can you be specific?

**Mr Thorn:** I certainly can. There are a number of criteria such as topography, orientation, and relationship to open spaces which would make certain areas—and we're talking about quite small areas within a suburb—better suited for medium-density redevelopment than others. This is especially from a sustainability point of view, but also from an amenity point of view and minimising the impact on adjacent sites, et cetera. So we're suggesting that there should be a much more fine-grained selection of sites throughout suburbs that are suitable for medium density.

**MRS CROSS:** Do you have examples from elsewhere that show that applying criteria in this way has been successful, or is it just speculation?

**Mr Thorn:** The original design of the suburbs often demonstrates this. The area for medium density as opposed to lower densities was carefully selected.

**MRS CROSS:** But you must be basing your opinion on some example from somewhere else. Why do you think that would work? It can't just be because it's a medium-density suburb.

**Mr Thorn:** I can't give an example of exactly where this type of fine-grained analysis has occurred.

**THE CHAIR:** The one-size-fits-all approach is that this is where the shops should be and this is where the high density should be. You've mentioned topography, sustainability and things like that. But if you could only build west-facing town houses because of the lie of the land, that wouldn't necessarily be a particularly good thing to do.

**Mr Thorn:** That's exactly it, yes.

**THE CHAIR:** Whereas over the ridge you might be able to build a bank of north-facing town houses.

**Mr Thorn:** North-facing town houses.

**THE CHAIR:** You're saying that on a suburb-by-suburb basis we should be asking whether it is suitable for densification—I hate the word, so if anyone can think of a better one, I will use it—and then say yes or no. People have wanted to increase the density about the Curtin group centre, which is on the top of a hill. If you build high towers on top of a hill, that might be offensive to people, because the topography is all wrong. If you went a bit further over, there could be quite a good argument for making them nudge into the hill and into the landscape. Is that the sort of thing you mean?

**Mr Thorn:** That's a very good summary of the principle. The selection of sites would be based on a series of criteria which are all measurable. There's a long tradition of site analysis and determining suitability of sites for different functions. It becomes a much more rigorous exercise. It removes the question that a site, simply because it's in the zone, can be developed at a high density no matter what it's like. Having rigorous criteria means that it doesn't come down to political process to determine whether a site ends up being developed or not. It increases certainty for everybody—both for residents and for people wishing to develop.

That is my first point. The second one is to do with dual occupancies. DV 200 enables the continuation of dual occupancies. The effectiveness of dual occupancy is constrained by the restrictions of existing block shape and orientation. In other words, it's too fine-grained a development, we would argue.

We would argue that because of this it has many of the disadvantages of both low density and high density without the advantages of either. We feel that it should be phased out and in its stead there should be careful selection of what could still be quite small developments, small block amalgamations. Once you go to two or three blocks, the opportunity for a development which is sustainable, has proper orientation and achieves proper privacy between blocks increases greatly. If you amalgamate three blocks, your ability to achieve good design increases incredibly. Whilst dual occupancy possibly responds to short-term goals of residents, it doesn't really achieve the long-term goals of a high-amenity neighbourhood and good quality design.

**MS DUNDAS:** You would then need the agreement of all three of your neighbours to redevelop your block, whereas at the moment you need the agreement of only one.

**Mr Thorn:** This is true. The one advantage of dual occupancy is that one individual who owns own block can do something. On the other hand, it's extremely selective at the moment. You have to have the right sized block. Only a small percentage of blocks are open to dual occupancy.

**MR HARGREAVES:** The good burghers of banks might disagree with you. This has to be the dual occupancy capital of the southern hemisphere.

**Mr Thorn:** That's because of the impact that dual occupancy has on the surrounding suburbs. I think that's a very good point. The relatively small number that occur have a disproportionate impact upon the amenity of the suburb. The criteria we were talking about earlier meet the overall objectives of greater density in the suburbs but also meet all the objectives of creating good design, maintaining amenity and providing sustainability.

**THE CHAIR:** As an architect, you're saying that dual occupancy limits the possibilities for good design, good orientation, long-term feasibility and sustainability?

**Mr Thorn:** I think the small scale of the blocks limits the ability for good design. That is not on every block. A small percentage of blocks, because of their orientation and shape, are suited to good design. Many others are the right size, but the orientation and shape would give you less than the optimum.

**MRS CROSS:** Your concern is more about design than dual occupancy?

**Mr Thorn:** We should be delivering good housing for the future. We should be making our suburbs sustainable and maintaining their amenity.

**MRS CROSS:** You'd be happy with dual occupancy if it was designed well?

**Mr Thorn:** No. I'd be happy with dual occupancy on a site which enables good design to occur.

**THE CHAIR:** As a rough rule of thumb, what would your criteria be?

**Mr Thorn:** This is my personal view. I'm not saying this as a representative of the RAIA.

**THE CHAIR:** *Hansard* will note that this is personal.

**Mr Thorn:** I would feel that any block which requires one house to sit behind the other does not produce a good solution. You would only be talking about blocks which are on corners—

**THE CHAIR:** Corner blocks and ones with a very wide frontage?

**Mr Thorn:** Yes, or possibly blocks with a street at the front and a reserve at the back.

**MS DUNDAS:** But how does that fit with the desire for a draft variation to keep the streetscape and maintain the garden frontage? If dual occupancies of good design only happen when the houses occur side by side on a block of land, that would have a greater impact on the visual aspect of the street.

**Mr Thorn:** That is why I mention a block which is wide enough to accommodate that adequately or a block on a corner.

**MRS CROSS:** You couldn't have good design with a house behind a house if it was the right aspect?

**Mr Thorn:** I've looked at a number of those. I feel that, no matter what, you never achieve the right level of privacy. Often the outdoor space for each of the buildings isn't adequate. In a dual occupancy you end up with a massive amount of ground space which

does not have a lot of usage. You end up with narrow strips down the sides of the houses. Someone has to look after them, but you can't use them. The efficiency of the block is quite low because of the wasted space between the fence and the building.

**THE CHAIR:** That raises a question I have. There's a tendency in the ACT not to build duplexes, so you have space between the outside wall and the fence. Could we get around some of the design problems by building duplexes? Although you might not front the street, you may end up with more useable space on the block.

**Mr Thorn:** I think that would help. There are plenty of examples of exactly what you describe. I'm not sure if we'd go all the way. If you have a dual occupancy, invariably you have double garages for each house. I guess that will continue into the future. A dual occupancy needs a fairly large turning area for vehicles. You would still have a driveway to every single block side by side. You're using up a lot of space on the site for movement of vehicles.

**THE CHAIR:** And limiting the amount of private open space.

**Mr Thorn:** Exactly. These are the things which cause me to say that dual occupancy doesn't lend itself to optimal design, whilst a slightly larger development does, because you have the opportunity of moving things around a bit more, rationalising vehicle access, et cetera.

**THE CHAIR:** Sorry, I distracted you.

**Mr Thorn:** The third one is about the controls on residential development that control the bulk of the building—the setback from boundaries, the building envelope (which is defined by sloping planes and a height plane), the plot ratio and the requirements regarding private open space. These are a really good set of controls. They're quite simple and quite direct. Essentially, they clearly define a building envelope on every block in which you can build. They are very clear and unambiguous.

Our concerns come in when additional constraints are placed upon that. I guess the principal constraint placed upon it in DV 200 is that buildings are only to be two storeys, and when they're two storeys there's to be no attic and no basement. We'd question why there's a necessity to have those controls. The controls that ensure that you have privacy, that you have daylight and sunlight and that you keep the streetscape are the original ones about the setback, the building envelope and the plot ratio.

Why within that building envelope can't the house have as many storeys as can be fitted in and as many as the owner wishes? If he wants a smallish house of a couple of storeys instead of a spreading house and it is fully within the envelope, why can he not have it?

We feel that to a certain extent this will restrict the variety of housing. It will restrict the flexibility of people to design houses which are more suitable to their needs, and maybe it will restrict innovation.

I put one proviso on that. One very sensible thing in DV 200 is the concern with basement car parking. The concern with basement car parking is the impact of ramps going down to the car park. We'd suggest that that could be more effectively controlled

by having in DV 200 something which restricts what ramps you can have, as opposed to simply saying across the board that if you have a two-storey house you can't have a basement car park. I'm sure that there would be situations where—because of the lie of the land, the size of the block, et cetera—you could have basement car parking with two storeys. It would still fit within the envelope and still meet the high-quality design criteria. We would argue that this could be simplified even further if you simply had the envelope controls. Why have anything else?

The last point is to do with high-quality sustainable design. DV 200 requires that development and redevelopment go through the pre-application process for designing for high quality and sustainability. That has to be successfully completed.

I summarise what we understand is the high-quality design process. There are three aspects to it. One is that developments are to be designed to be sustainable. It has to be demonstrated that they're sustainable; that they incorporate principles of passive solar energy design, efficient water use and appropriate conservative materials. I am very much supportive of that aspect, well and truly. The good thing about it is that it's very measurable. Officers of PALM can clearly measure whether a design meets this criterion.

The second one is that the process requires an analysis of the context to which the design of the development will respond. This includes the things we were talking about earlier—topography, orientation, the existing surrounding structures the design has to respond to, and analysis of the streetscape within which the new design building will sit. There's a requirement for all that to be analysed and documented. Again, this is something which we very strongly support. It's the basic process that a designer should go through in moving towards a design for the project.

It's the third one which we have concerns with. I'm not sure if it's concern with the intention or with the way it's being interpreted. We believe the third one is how the design of a development actually responds to and acknowledges the context that has been analysed. In other words, once the analysis is done, then the way in which the design responds to that analysis needs to be understood, presented to PALM and seen to be appropriate.

Our concern is that this has been interpreted as meaning that buildings need to look like the buildings beside them; that a new development should ape or copy those around it. We feel that that should not be the thrust. We feel that a designer responding to the context does not mean that he simply copies it. There are points where there can be contrasts. You can take elements from the context and integrate them with new elements that start to transform the area in a good way. It's all about innovation and design, taking the context and responding to it creatively as opposed to just copying it.

**MRS CROSS:** Complementary?

**Mr Thorn:** Yes.

**THE CHAIR:** What you're saying is that if that is how it is being interpreted we would never have moved on from red brick?

**Mr Thorn:** Exactly. There are now a number of buildings around Canberra which are heritage listed because, when they were built, they were innovative and they were breaking new ground. If the interpretation we appear to have on high-quality design now had in place then, you would question whether those buildings, which we now regard highly, would have been built. We're concerned that innovative design could be restricted by the HQSD process. We hope that it would foster and engender innovative design.

**THE CHAIR:** Thank you, Mr Thorn, for your time.

**PETER LOCKWOOD** was called.

**THE CHAIR**: Mr Lockwood, were you here before when I read the riot act?

**Mr Lockwood**: I was, yes.

**THE CHAIR**: Can we deem that it has been read, then?

**Mr Lockwood**: Certainly.

**THE CHAIR**: Would you like to make an opening presentation?

**Mr Lockwood**: My name is Peter Lockwood. I'm a resident of Downer. I'm a designer and artist by occupation, but I come here simply as a resident of Downer and a concerned citizen. I'd like to begin by just mentioning that I agree with and fully support all of the comments of the previous speaker and I feel that they represented a nice mix of both positive and critical commentary.

My own response to the final version of DV 200 is similar, in the sense that there are certainly aspects of it which I am in support of. I would like to confine my point today primarily to dual occupancies, which was the main substance of my letter, although I'd like to mention, as I've said, that a number of aspects of the proposal, such as the way the private open space arrangements have been redefined to make a minimum of six metres in any dimension, are a positive move in my view, very much so.

I am opposed to dual occupancy developments, as I said in my letter, except at very low levels of incidence, similar to the levels which have been proposed over the last couple of years under the moratorium on dual occupancies, which was a response, I think, to community concerns. Since then some of those dual occupancies have appeared and people have had a chance to assess their impact.

I wrote a form letter about the original DV 200—draft variation 200; I will call it DV 200 from this point—and my prime concerns were, along with other residents of Downer, relating to the placement and size of the residential core area in the suburb of Downer. I find that the new, revised DV 200, recommended final, actually introduces a major new departure which I think is quite inappropriate to have been slipped into what most people expected to be a revision of the original material.

We now find that a fundamental new change which potentially has the capability of transforming the look of our suburbs has been introduced. That is represented by the reduction of the size of dual occupancy blocks, blocks that are eligible for dual occupancy, from 800 square metres to 700 square metres. That change represents the possibility of, for example, in the suburb of Downer, where I live, up to 50 per cent of the suburb then becoming eligible for dual occupancies.

That brings me to my main point. I agree with the last speaker in questioning the dual occupancy concept per se as a high-quality design solution at all. I believe fundamentally that attempting to place a second major structure within a boundary, next to another major structure, namely, the original building, and remembering that the original

building was placed without provision for eventual sharing of that area with other structures—I believe that that notion is a fundamentally unsatisfactory, low quality and second rate design solution and that it should therefore be discouraged, not encouraged. I see the recommended final effectively encourages dual occupancy developments.

That is the main thrust of my point. I'd like to point out that a major change such as this, which effectively allows access to more than half of the suburb—in many of the suburbs, more than half of the blocks will now become potentially eligible for dual occupancies—should, in my view, have much greater discussion and consideration, given that it has the potential to have a major and irretrievable impact on the fundamental character of Canberra suburbs and is a major variation to the original planning intentions and controls.

I could speak to the idea of the seeming inconsistencies in the analysis and reasons given, if there are any reasons, which are clearly articulated in this document as to why they are planning to allow what looks like open slather to dual occupancies. There seems to be a confused bunch of reasons relating to words like “disbursing dual occupancy housing”—

**THE CHAIR:** To which page are you referring, Mr Lockwood?

**Mr Lockwood:** On page 4. I don't know whether I should go into trying to provide some sort of attack on the logic, but it seems obvious that there's been a recognition that there are people who wish to build these dual occupancies and that somehow that seems to be driving the consideration of that taking place, of dual occupancies appearing. I don't think that's a valid reason for driving the discussion. I think the discussion should be much more general and should be based on consideration of the quality of that kind of development.

As I said, I'm supportive of the previous speaker's notion that attempts to design correctly and place well a building on a small block which already has another building, et cetera, are vexed, are fundamentally very difficult to do. Redevelopment on several blocks, a number of blocks which have been acquired by a developer—in what fashion, I'm not sure—but redevelopments of that kind and townhouse developments, et cetera, allow a potential for architects and designers to actually address the fundamental issue of good design, sustainability and all of the other issues that we're all concerned about.

Dual occupancy developments present the kinds of problems that I have mentioned in my letter, which are privacy problems, parking problems, room for trees and gardens, aesthetics, the character of the areas, pressure on sewerage and so forth. We have a lot of issues here. As I say, all of those are a subject in themselves, all those objections. I think it's a fundamentally flawed concept from an architecture and town planning point of view. Dual occupancy is like a gap tooth; it's an incomplete thought designed amongst rows of legitimate work which are respecting the overall planning character.

I think dual occupancies need to be treated with great caution if they're not to have an extremely detrimental effect on the character and logic of Canberra. So that's my fundamental point, if anyone would like to question me on it.

**MS DUNDAS:** I want you to pick up on the thing you put in your submission in regard to the neighbourhood planning process and draft variation 200 being almost pre-emptive of the other planning processes that are going on.

**Mr Lockwood:** Exactly.

**MS DUNDAS:** Can you provide greater information on what you think good process would be for the development of a plan for planning to a certain extent?

**Mr Lockwood:** I suppose it's not for me—I'm just a concerned private citizen—to design a process, but I am willing, as witness the fact that I am here today, to voluntarily give my time to try to make good points that will eventually lead to better outcomes for all of us and a happier and healthier population housed correctly.

I'm willing to participate in the neighbourhood planning process but, like all people who are concerned, I'm worried that that process will just be a form thing that will concentrate on small, sideline, fringe issues. I'm worried that all the main points seem to be a fait accompli and are very often presented as a fait accompli. To me, the process that has happened here is a classic example. Whether by accident or by design, the revised version, with its major new thrust totally at odds with the kind of feel that we had about what was the attitude to dual occupancies, was published at a time which was not at all conducive to receiving large public attention.

Many people were away, as we all know, during that period. We were also, unfortunately, distracted by the disaster in Canberra. But the mere fact that such a major variation was suddenly slipped in and that most concerned people in the community were surprised by it, that it seemed to be clear before that the community and the residents were actually voicing very grave concerns about dual occupancies, only to find that the controls seemed to have been relaxed, to the point of actually giving total open slather to dual occupancies.

So this is my concern, as I say. I would like to participate in neighbourhood planning processes. There's nothing I would like more than, for example, in my suburb of Downer to be able to have an input of a sensitive kind to the way development, redevelopment and general amenity in the suburb proceed. As I said in my letter, I'm not opposed to redevelopment. Much as the previous speaker from the Institute of Architects, I am simply concerned with good design. I see no good design in this proposal.

**MRS CROSS:** Did you participate at all in any neighbourhood planning process?

**Mr Lockwood:** Previously?

**MRS CROSS:** Yes.

**Mr Lockwood:** No, I haven't.

**MRS CROSS:** Was there a neighbourhood planning process for Downer in your area?

**Mr Lockwood:** It has not yet been scheduled. I went to meetings of the Downer Community Association with Mr Corbell and we expressed a desire to hasten that process in our suburb to try to make the neighbourhood planning process meaningful so that our input to the very issues of the placement of the residential foyer and so forth could actually take place at that forum. But, instead, it seems to be—

**MRS CROSS:** So there was no forum to discuss this in your area?

**Mr Lockwood:** There has been absolutely no forum to discuss this in our area previously, other than the forum of the community association, which is simply an association of concerned citizens.

**MRS CROSS:** Mr Lockwood, if I were to ask you to give me an approximate percentage of people who are disgruntled in Downer regarding this, would you know? Say in your street? Have you gauged opinion in your area?

**Mr Lockwood:** I have, yes.

**MRS CROSS:** Okay, could you let us know?

**Mr Lockwood:** In my street, for example, all around me are professional people, many of them high-ranking public servants and so on. They are opposed to a person to this development; yes, they are opposed to it.

**MRS CROSS:** Are they opposed to it because they were not consulted or are they opposed to it because they are not happy with the outcome?

**Mr Lockwood:** Both.

**MS DUNDAS:** What would you like to see?

**Mr Lockwood:** Again, as I've also stated in my letter, we have started to suspect motives. We're not exactly sure as to what extent a lot of these ideas are being now driven by developers or builders or some imperative of this kind. I'm not sure whether the aim of the whole exercise as regards Downer, for example, is primarily to increase the occupation of the suburb. It's of interest to note that Downer is already the most occupied suburb in terms of population per square metre in Canberra, according to some of the literature that I have here. So we're already well occupied. I am not at all opposed to the idea of increasing that occupation, but I think that good design is very important. Increasing the occupation through dual occupancies is not the way to go, I am convinced of that, and that's the substance of my objection to them.

**MRS CROSS:** It sounds to me like you're concerned that, even if there were consultation, it wouldn't matter because there was a preconceived solution that would have been introduced. I think that's what I heard you say earlier, were alluding to.

**Mr Lockwood:** I see a preconceived solution being proposed here in the recommended final.

**MRS CROSS:** There has been no consultation but, even if there had been, you don't think your views would have been taken seriously because the ultimate aim, the ultimate result, would still be the same; is that right?

**Mr Lockwood:** I do believe that there seems to be a lack of possibility for input on those major issues, yes, and, as I say, I haven't participated in a neighbourhood planning process, and there hasn't been one for Downer yet, but I have heard that people who have in other suburbs have been disappointed by the neighbourhood planning processes.

**MRS CROSS:** Because their views have not been seriously adopted or considered?

**Mr Lockwood:** That sort of thing, indeed, yes.

**MRS CROSS:** Do you think the problem is more of a communication breakdown from the department not letting you know, "Yes, we've taken your views on board, but at the end of the day we've worked out that this is the best way to go?" Do you think that maybe that's the problem? Has there been any communication?

**Mr Lockwood:** No, not really.

**MRS CROSS:** Okay, thank you.

**MS DUNDAS:** If we can just go back to the question of what you would like to see. Clearly, in terms of planning, you'd like greater restrictions on dual occupancies and you would like greater linkages through the neighbourhood planning process.

**Mr Lockwood:** Yes.

**MS DUNDAS:** What else would you like to see in terms of establishing a plan?

**Mr Lockwood:** I don't want to anticipate the department and everyone by proposing exactly what I think. I do think the present controls of 800 square metres should certainly be maintained. I think that it's fundamentally wrong to lower those controls. I mean, you only have to look at the potential size. If you lower it to 700, you've got potentially two houses occupying a 350 square metres block. It's absurd.

At 800 square metres and a certain amount, as I say. I don't believe in forbidding them. There are certain blocks that are suitable for that, but not many, very few. I think that other forms of development where several blocks are amalgamated by a developer and a development is done, a sensitive development, offer much more chance of a correct design solution, so that's what I have to say on that.

I do think that the neighbourhood planning process should be a real process where we have a real chance to have a real say and I think that we should have more say on the placement of the residential core area, for example, and there should be more chance for input. There hasn't been a formal chance for our input; we're simply presented with different ideas at different times and we are then in the position of having to make representations, such as I'm doing now.

**MRS CROSS:** That's what you mean by a real say, so what you've heard from your friends in other areas is that the neighbourhood planning process consists of that.

**Mr Lockwood:** No. Look, I don't know enough about that.

**THE CHAIR:** Actually, I don't think, in fairness, we should be having a critique of the neighbourhood planning process here today.

**Mr Lockwood:** I don't want to talk about that. I haven't been in it. As I say, if this DV 200 recommended final was adopted, the neighbourhood planning process for our suburb of Downer would be significantly compromised because this contains all the changes that we would not be wanting, so we would like to preserve the status quo until such time as we can go through that neighbourhood planning process, naturally.

**THE CHAIR:** Anything else?

**MR HARGREAVES:** I think I've got a fair idea of the way Mr Lockwood feels about it.

**THE CHAIR:** Okay. Thank you very much for your time, Mr Lockwood.

**Mr Lockwood:** Thank you very much.

**GRAHAM MOSELEY** was called.

**Mr Moseley:** My name is Graham Moseley. I'm here representing myself, but I have a background in planning, having been involved in residential area planning in Canberra for 37 years, and in New South Wales and Queensland, much of that time, of course, having seen new approaches to suburban planning and controls having come and gone and been modified.

I come before the committee recognising that a lot of work has gone on, good work, that a lot of community input has been given, which has also been helpful, I believe, and that a lot of comment has been made about the importance of the garden city to Canberra's residents. I share that from where I sit now and I share it from the point of view of having contributed, I believe fairly strongly, to that image over those 37 years. I have some illustrations which complement the paper and which, with your permission, Madam Chair, I'd like to distribute.

Rather than attempting to go into a great deal of detail over what is, I think, a fairly complex and detailed draft variation, I propose to concentrate mainly on four elements of it. Those elements are: private open space; secondly, the streetscape and what the garden city really is; thirdly, the issue of consolidation and resubdivision; and, fourthly, the residential core areas, but just touching briefly on building blocks.

In relation to the first matter—those members of PALM who are here will be very familiar with my views on some of these things; I apologise to them—I am concerned, I guess, at the direction in which standards in relation to private open space are going, and that is because we must compare ourselves, I believe, in a city of the 21st century with what's happening elsewhere in Australia, indeed overseas. Although we're an island in the middle of New South Wales in many ways, we are not an island in terms of the Australian community in terms of affordability and the other social, physical and environmental factors, nor an island in terms of sustainability criteria in the rest of Australia.

I have noticed that the private open space requirements in the code are actually diverging further from what is a recognised Australian code to the point where, in the latest variation, they are something like 2.6 times the recommended provision in the Australian model code for residential development, 1995. That's a significant difference. My question is whether we can continue to afford, as a city and as a community concerned with sustaining its environment, to be so far out of whack. I use the word a bit colloquially, but I think that's what it is.

In page 1 of the distributed notes, I compare the differences in what that means on a standard 650 square metres block, which is not a large block in Canberra terms, although it is seen as fairly large elsewhere. Those figures go from 130 in AMCORD 1995, the model code, to about 296 or so in the present Territory Plan. The May version of DVP 200 actually required over 400 square metres. I'm glad to see that that has been reduced by redefinition of what private open space is to something like 340 square metres. I question that. I don't deny the processes that have gone on in reviewing that matter, but I question whether we should cement it into our planning system for the days ahead.

Also on that page, I have dual occupancy comparisons, noting that for, say, an 800 square metres block, the May version of the variation allowed for a modest three-bedroom secondary dwelling. The present variation, on the same criterion and with the same figures, reduces that to a very small two-bedroom or one bedroom capability; so we are going in a different direction, I believe, from what is happening elsewhere and what I believe should be entertained in the ACT.

I won't go into detail, Madam Chair, on some of the issues which I believe add weight to questioning the increase in private open space. I've touched on them in the submission. But merely to mention, and I think reinforcing the speakers that have preceded me, that progressive small scale organic change through what I describe as low intensity but fine-grained redevelopment I think is a sign of a healthy city. I don't think tandem arrangements for dual occupancies cater very well.

**THE CHAIR:** Sorry, what do you mean by tandem arrangements?

**Mr Moseley:** Tandem, one behind the other, a rear dwelling. They can be designed in the right circumstances to give an appropriate environment a good design feeling. I've touched there also on the fact that the market, I don't think, is being satisfied. I'll give more details on this because I am personally involved in this matter. I don't think the variation recognises adequately that by 2021, which is only 18 years away, one and two-person households will represent nearly 60 per cent of all ACT households, and that not all those one or two-person households will want to live in small houses, small dwellings, and near centres.

Another matter, briefly, is that we must be more diligent, I believe, in our use of the precious water supplies that we have. The chief executive officer of ACTEW, who obviously has been in the news a lot since the disastrous bushfires, has noted that 39 per cent of the domestic consumption of water is used on gardens in Canberra, a very, very high consumption. I'd be the last one to give any findings on factors influencing the disastrous bushfires, but one cannot but observe that the extent of combustible material in large areas surrounding dwellings and private open space has been a factor.

In short, I believe the Territory Plan should not impose de facto and on a generalised basis an unnecessarily low density of development that works against the responsible and safe use and reuse of land, a viable social order and intergenerational environmental sustainability. Perhaps it might be summarised very briefly in the statement, "Let the users pay" or "Let the beneficiaries pay". If there is an advantage not shared by the community at large, then I think it's a reasonable thesis that the beneficiaries of that advantage should pay, and one can extend that argument into having 2.6 times the Australian standard for private open space.

The second point I wanted to touch on was about streetscapes in the garden city. The brochures distributed with some of the planning documents are admirable. I will give but one example, Madam Chair—"Preserving the garden city", with a photograph of a nice leafy street, a discussion paper/report on proposed residential land-use policies. There are some very helpful leaflets in here, each illustrating very, very attractive streets. Howitt Street in Kingston in autumn is one—beautiful but, unfortunately, very highly unrepresentative of many of our new areas.

Sheet two that I've distributed—if I may, I'll show it as an overhead as well—illustrates what I believe is part of the essential fundamental character of Canberra's streetscapes and therefore the garden city. I have put it up—it was one of a series published in the *Canberra Times*—because it shows the area that I live in, Lyneham, and most of my illustrations are centred on that area. I believe it does show the strength of the streetscapes, the very strong avenue plantings in old Lyneham.

This is characteristic of a lot of the inner areas of Canberra, very mature arching canopies of very attractive trees. Unfortunately, in newer areas, North Lyneham is the example that I've taken, and in many of the other suburbs that doesn't occur, and I believe will never occur, because the character of the streets and the streetscapes has not been done in a way that will allow it to occur.

In that illustration and also the next one, which takes in the area that I live in, North Lyneham, in particular, by a survey that has only the status that it's my observation, you'll see there that most of those streets have very few or no trees, but in those few streets that do have trees left, street trees, they are of medium to poor quality; very little of the suburb has good street trees.

I believe that the emphasis in our planning work at the moment on the garden city should very much be orientated equally, if not more, towards the public realm as it is towards the private realm, because I think that's where the essence of Canberra's character, right from the historic and heritage values that Burley Griffin's plan represented down to today, will survive.

**THE CHAIR:** Just on the subject of North Lyneham, Mr Moseley, it is 10 years or so since it was completed.

**Mr Moseley:** A bit more than that, about 15.

**THE CHAIR:** With these coloured lines, are you saying that it's the quality of the trees or that the trees aren't there, they weren't planted when they did the development? I remember when I first came to Canberra in the 1960s, it didn't have a streetscape. The things that we talk about as streetscapes weren't there then because the trees weren't big enough. Will North Lyneham get better, as an example?

**Mr Moseley:** The short answer, no. There was a public street tree planting exercise when we moved in in 1988, when the suburb was two years old. Many of the residents either pulled the little trees straight out or said they didn't want them and then the people moved on to the next street. There is no comprehensive street tree planting in existence, either big, small or indifferent.

**MR HARGREAVES:** What you're saying, Mr Moseley, is that, bad luck for those people who didn't want a tree out the front of their place, the consideration of the general public ought to take precedence over that.

**Mr Moseley:** Essentially, Mr Hargreaves, yes. I believe that there is an overarching and fundamental planning imperative that relates to the landscape character of the garden city, and that is that street trees, and the correct street trees, are in place, which seemed,

if I may hark back, to have been a philosophy in the old NCDC days, let alone the days preceding that, when much of the old inner Canberra area was established. And now there is an attempt, as a rearguard course, for private developers to reinstate street trees, but there are a lot of suburbs caught in the middle where it's very poor, in my opinion.

**MR HARGREAVES:** You mentioned the type of street trees, too, and you haven't actually expanded much on that.

**Mr Moseley:** No, I'm not a landscape architect. There are experts in those areas. I observe when I go interstate that the concerns that our local urban services people have about root invasion and the like don't seem to be shared by local municipalities in other places, which, in many cases, plant very large growing trees in very confined spaces, with a very good streetscape result and, apparently, the world hasn't collapsed. So I question some of those criteria.

**MR HARGREAVES:** The world has not collapsed but the pavements have.

**THE CHAIR:** There are other issues. One of my favourite streetscapes—this is Vicki Dunne being personal again—is actually in Downer off Pigot Street. There is quite a large U-shaped street there which has pin oaks in it, I think, which are stunning all year round. But I'm just wondering about solar access, which is another issue with street trees.

**MS DUNDAS:** To bring us back to the draft variation, is the core of the point you're trying to make that we shouldn't be expanding the amount of private open space in an attempt to make the streetscape better; we should actually be working in the public space to bring about the garden city that we're looking for?

**Mr Moseley:** I think I agree with what you're saying, Ms Dundas. What I'm trying to get across is that the factors that contribute collectively to the garden city comprise, in part, the space behind and around buildings and the spaciousness of our backyards and, in part, the public realm, which is predominantly the streets. I'm saying that the streets and the public realm should get the maximum possible emphasis in retaining and enhancing that character, particularly when there is a diverse range of views, attitudes, costs and benefits relating to the private realm, the backyards and the spaces around buildings, which in my view is more adaptable to change and should be allowed to change.

**THE CHAIR:** Do you want to talk about consolidation and resubdivision?

**Mr Moseley:** Yes, I'll move on. I'm taking as an example of the third point, consolidation and resubdivision, a random but real example in my suburb again. That rather scratchy aerial photo is of several blocks in Lyneham on which there are small cottages. In the next diagram, which is diagram 5, you'll see that those three cottages occupy a total area of about 2,070 square metres, having a sum of their gross floor areas of something like 430 square metres.

The December variation, the latest one, would permit four dwellings, one being a rear dual occupancy. I've taken the centre of those three blocks as an example. Provided that

an extra 50 square metres was going to bring it up to 700 square metres from its present 650, a small unit, maybe a bedsitter, could be accommodated in the backyard of that house.

On the other hand, if the policy was changed which prohibits at the moment the amalgamation and resubdivision of lots, those three could, as in the third diagram, diagram C, be consolidated and four units, but this time larger units, could be accommodated without loss of trees, with improved amenity, and certainly with increased energy efficiency.

Those three cottages are ageing, they're showing signs of decline. To my mind, it's a great pity that we can't allow that sort of comprehensive redevelopment, which I class as a typical small-scale organic change, in an area like that, other than for supportive housing, and I've been rather critical of the requirement that that only be allowed for people who are in a development because they fail the frailty and dependency test. I believe this is good housing, whether it's for supportive housing or not.

I add there the personal bit. On sheet 6, I gave what next week will have been six months ago a list of criteria to five real estate agents operating in the North Canberra area. We like North Canberra. We would rather keep living in North Canberra. Those criteria are that we'd like a house large enough to accommodate our family, which, when they all come home for Christmas, expands from two to 13, so we don't want a small house but we'd like a new house. We'd like a smallish yard with not a great deal of gardening; I've finished my gardening interests.

In that six-month period there has literally not been one dwelling advertised or referred to me that satisfies those criteria. They're not very harsh criteria. But if we could relax some of our planning policies, I believe people like my wife and myself who are, let's face it, a growing proportion of our population, will have greater opportunities with very little additional infrastructure costs—no new streets, no new bus services, no new social facilities; in fact, we may help the social and retail facilities that are there.

I move on to the last point, residential core areas. Other previous speakers have questioned the efficacy of the distinction between high density in defined core areas and the rest of the urban fabric. I find myself in agreement with that approach. Certainly, I find it difficult to come to terms with the arbitrary nature of what I think was the definition of core areas, although I confess I don't have an easy solution to how that intensification tapers out into lower density.

**MRS CROSS:** Why are you opposed to non-core in core areas, Mr Moseley?

**Mr Moseley:** I don't think I've developed my view sufficiently to say I'd be opposed to it. I feel uncomfortable with the notion that we have to create such a hard distinction, based on an arbitrary line, between what can intensify and what cannot. The people the other side of that line are not different people; they don't have different objectives in life necessarily.

**MRS CROSS:** I just sense from your submission that you're not happy with that criterion.

**Mr Moseley:** Again, I don't know that I am unhappy with it, Mrs Cross. I'd just like to have more understanding of how those core areas are going to be delivered, what process is in place or will be put in place to ensure that the objective of intensification can be delivered, and I have some thoughts on that. Equally, I believe, intensification should also be allowed, but at a lesser level in the balance, which is the suburban areas. I find the whole area somewhat arbitrary, as I've tried to illustrate in diagram 7, that is, that when the first variation 200 was published in May, around my centre in Lyneham something like 306 standard residential blocks were included in that area, which was based fundamentally on a 200-metre radius.

The interim community reference panel, of which I was a member, recommended that that be rationalised, but mainly to cut out rather irregular extensions of sections which were an accident of the plan. The final recommended plan that we have before us today curtails those 306 blocks down to 148. That's a 48 per cent reduction. The first response I have to that is: why? Was the first one wrong? Is the last one right? Is there something in between? Is the process wrong? It seems very arbitrary.

I'd like to pass on to the next point, which really relates to the high-quality sustainable design process. I'm a very strong advocate of that. I applaud the process. It may have some warts on it in the way that it's being applied, but the notion of how it's applied in an iterative and dialogue process between applicants and proposed developers is, I think, a very good objective and I'd like to see it very highly resourced—given a fair go, I've said.

I think we have to be realistic about what that may be able to deliver. It was rather ironic, in my view, that the booklet called "A guide to high-quality residential development in the ACT", was published by PALM in July last year, just after the first draft variation 200 was published. I think it's an excellent book. It takes some 13 examples around Canberra of good design, how it blends with the context and how it contributes to high residential amenity. Unfortunately, something like eight of the 11 examples in suburban areas don't qualify under draft variation 200. I've listed those on page 8.

The figure might not be exactly accurate, because it was the best one could do from the material supplied, but it looks like they fail on matters of inadequate private open space, being redevelopment in a suburban area other than for supportive housing, exceeding the height building envelope, exceeding the ground building envelope, and again consolidation and redevelopment other than for supportive housing. To my mind, that is a great shame. I think the document is good. The principle of illustrating by example what can be done is good and it shouldn't be defeated by a hard-line planning policy.

Finally, I'd like to touch on something in an attempt to bring about some positive thoughts on desirable outcomes. In the last sheet I've given you I have listed what I would hope would be seen as possible preferred outcomes. On private open space, it may not be possible to move in one step much closer towards the Australian standards or the Australian model code; I acknowledge that. However, I would prefer to see a direction which acknowledges that that should be the way that we intend to proceed in this day and age of the 21st century.

I would like to see an increase in the ability for performance-based private open space at the rear of dwellings, utilising the full capacity of the high-quality sustainable design process. Don't allow bad ones, but do your best to allow good ones. Then I go a bit further to say I would prefer the outcome to be the deferral of an across-the-board increase in the private open space requirements at this time, depending on a number of things.

Firstly, investigating the uses and social values of backyards. I might just pause here for a moment to explain what I mean. Some three decades ago, a study was done by, I think, Dr Ian Halkett in Adelaide utilising aerial photographs plus ground surveys and interviews, asking people on a representative basis, "How do you value your backyard? How much space have you got? What's it worth to you? What do you do in it? What would you do if you were offered other alternatives for that land? There were very interesting results. We could easily do that. It could be a student project representing several areas—old, new, large blocks, middle-size blocks and small blocks—in Canberra. I'm sure it would be very illuminating.

Secondly, to defer that increase in requirements while, as a follow-on perhaps to the study that I just recommended, we look at the opportunity costs of small-scale redevelopment. What that means, of course, is to say that there are X hectares in a study area, of which a proportion is very large backyards. What could be done within the limits of environmental amenity with that land if it were available? It is a hypothetical question, but let's get a notional opportunity cost about that. If that cost is not to be met, then I believe the beneficiaries of that need to be brought to account.

It doesn't mean that rates are going to go up necessarily, but I believe that we, as a city ought to be moving towards an understanding of what the opportunity costs forgone are in that process. Ultimately, perhaps, we may be able to adopt a public financing mechanism which accounts for the opportunity costs forgone. In other words, it would allow a precinct, a suburb, an area to say, "We want large backyards. We don't want more than a very small proportion, if any, of dual occupancy. We are prepared to pay for the loss of opportunity costs that that represents," and there would be some mechanism for doing it. I don't have the answer. I'm just suggesting that maybe that's a direction.

Secondly, preferred outcomes, streetscape and the garden city. I've already said, Madam Chair, in answering a question that I believe it's the public realm that needs to be emphasised equally, if not more than that, with the private realm in regard to maintaining and enhancing the garden city character. That should flow through everything that is said in the Territory Plan. Following that, I believe that there is a good opportunity to undertake a very focused government and community program, or several, to install and strengthen street tree plantings. I obviously talk here as a resident of an area that doesn't have much. That as a general principle.

In consolidation and resubdivision, the third point, I would like to see outcomes that recognise the demographic and social trends by facilitating small-scale consolidation and resubdivisions in declining suburban housing areas. I have observed a number of areas where the housing stock now is very ageing. There is the onset of blight, certainly decline, and obvious disinclination for many of the occupants of those houses to be caring for large gardens, for whatever reason.

I would like to see removal of the restriction in suburban areas allowing consolidation and resubdivision only for supportive housing. I believe that is quite an untenable restriction. In the core areas, at the moment at least, to reinstate and rationalise the former 200 and 300-metre guidelines but to support them with some positive principles plans, I've called them, initially to be defined in design studies in a way that demonstrates to residents of those particular areas approaches towards good physical design and integration.

It may then flow through to more controlling types of documents, but there needs to be a communication based on informed knowledge and design expertise and, perhaps following that, some pilot demonstration projects in which I would like to see the territory heavily involved to demonstrate successful outcomes. There may be mechanisms available under the provisions of the land development proposals with us at the moment through one of the development authorities or they could be gained with the prospective changes.

Madam Chair, that completes what I'd like to say, thank you.

**THE CHAIR:** Thank you very much, Mr Moseley. I think that has been very useful and has shown a lot of thought and insight. Is there anything else that anyone wants to ask at this time?

**MRS CROSS:** It was an excellent presentation.

**THE CHAIR:** Thank you very much for your presentation.

**JANE HINGSTON** was called.

**THE CHAIR:** Would you begin by introducing yourself and giving your name and address. Do you want to make a general introductory statement?

**Ms Hingston:** Briefly. My name is Jane Hingston. I'm here as a resident of Kambah, but I have a background in design and heritage management. I'm also a councillor on the National Trust, although I'm not here in that capacity.

The primary reason for involving myself in this process and making a submission is that my street is one of the delineating markers between suburban and residential core areas. My submission relates to issues which emerge from what is seen by some of us as an arbitrary demarcation based on a set of figures and numbers rather than an actual assessment of the context within which it is being made. The consequence of what is happening is an across-the-board change to all suburbs in Canberra which may be regretted unless there is a more contextual rationale behind the consolidation process.

I have done some work previously on successful ageing in the ACT. That was an ACT health department project in the 1990s. It became clear that the elderly, as has been suggested in the variation, require access to facilities, flat land and smaller houses. People's needs change as they age. This is a feature of Canberra. I am trying to provide housing options. In no way am I trying to present an argument that ignores that reality or does support progressing in that way.

My main points relate to the manner in which that seems to be happening through the draft variation as it stands. I have a fairly small submission. It makes four main points. I have brought in some supporting documentation which I believe I can leave with you.

**THE CHAIR:** Yes, you can.

**Ms Hingston:** The shopping complex allocated to our area is in Gibbs Place, Kambah. It consists of a small community variety store that sells bits and pieces to local residents. It is very welcome, because the main shopping complex is a little further away and hard to get to.

**THE CHAIR:** Are you talking about the one off Boddington Crescent?

**Ms Hingston:** The one on Mannheim Street. There is a hairdresser and a doctor's surgery. Alongside it is a commercial enterprise, a landscaping storage facility, which in no way is a residential requirement. The square metreage of this shopping centre is inappropriate for the residential core area around it. The facilities that it provides are no different from several other facilities in the area. I've given a demonstration of that.

The terrain in the immediate vicinity is quite hilly. There is an underpass. The area obviously accommodates younger families, because there's a child-care centre and a primary school nearby. The doesn't present a problem for people who are fit and able, but would present a problem for people who are less able. The extension up the hill towards Gibbs Place and even beyond, if I've interpreted the map correctly, would be

detrimental if sustainable alternative housing options to suit a variety of needs were being looked at. The streets within the defined area are quite steep leading to the open parkland. I have some photos showing that. So my first point is that the demarcation has some flaws.

Part of my second point relates to splitting the integrity and cohesiveness of a street used as a demarcation line. You will have on one side of the street suburban houses and on the other side blocks which under the new regime can be turned into dual occupancies with separate title, double storeys, attics and so forth.

If implemented, that will split the integrity of what is a well-established streetscape and therefore diminish the established integrity of the suburb. Although Kambah is a humble suburb, it has a very distinctive quality and landscape, and as does each of Canberra's suburbs.

My next point relates to the reduction of block sizes from 800 square metres to 700 square metres to allow for dual occupancies with separate title. I'm afraid I have not involved myself in the complexities of the wording of the draft variation about driveways, off-street areas round the back and overshadowing. I know that these things can be addressed through good design.

Building in Kambah and Wanniasa began in the mid-1970s. They have been part of Canberra's history for more than 30 years. That is a significant chunk of our very short history. We don't want people in the future to look back and say "That was a silly mistake." The typical notion of heritage in Canberra relates to the original suburbs, where blocks of land are 1,500 square metres or whatever. They are so big that you could fit several houses on them. The people who live there are very loud in their calls to maintain those characteristics.

I think this is an opportunity to look ahead and anticipate that not too far into the future there are going to be many other suburbs with distinct characteristics that we are going to look at in the same way, for different reasons. We will look at them not as just more suburbs but as suburbs with particular characteristics we might want to keep as part of our Canberra identity.

My fourth point is that in Kambah there is an extensive range of housing available. There have been some recent developments on previously vacant land. This is part of the consolidation process. It is happening in a constructive way. Some work needs to be done on managing design across some of those places. That's an issue that has emerged from other people's comments.

Closer to Kambah Village, it is blindingly obvious that there was a lack of design when the area was first developed. We wouldn't want the same mistakes to be made again. This gives further weight to my argument that we should keep the areas that have worked well the way they are. We should not fix something that ain't broke.

Finally, I have a few handwritten notes here for your records. I have an example on Livingston Avenue which isn't included in the residential core area as a shopping centre. It is similar in size to the Kambah one that our residential core area relates to. It is a high-density area. There have been a recent redevelopment on a block of land opposite

there. It looks to me like a dual occupancy. It's hard to tell. But it has retained the character and line characteristics of the existing older smaller houses and doesn't stand out as different and new. It is quite a good example of how you can develop existing high-density areas without interfering with the other parts which do not currently have that profile.

**MS DUNDAS:** You don't necessarily have a problem with dual occupancies happening, as long as—

**Ms Hingston:** I think the reduction to 700 square metres would make it problematic. It would create the opportunity for higher density like that in established areas of Canberra rather than that on single blocks in suburban areas. 700 square metres is not very much for two houses and two driveways. Double storey immediately changes the whole character of the area.

I think in Kambah improvements can be made to existing housing stock, or open space could be converted as the age range of the population changes. For example, the number of schools in the area inevitably will not be required. There are opportunities there.

The plan, as it stands, does not take into account the total picture. Simply saying that there's a shopping centre and that within 200 to 300 square metres we can implement these new arrangements does not take into account the needs and characteristics of each case-by-case example. A blanket approach does not allow that to happen.

**THE CHAIR:** The message I'm getting is the same message as we got from the Institute of Architects this morning: the issue should be not whether it's associated with shops but the topography, the land form and a whole lot of other factors.

**Ms Hingston:** That would make sense to me. I have provided another good example in Kambah. Near Kambah Village there's a retirement village associated with the Anglican Church. It's in Wyselaskie Circuit. It's a high-density little complex of houses that was built alongside the shopping centre 15 or 20 years ago. It has worked very well. The people there have maintained it very well. It's a good example of high-density housing and has a range of housing within it.

The new complex that has recently opened doesn't have a lot of noticeable landscaping or greenery yet, but it has been very carefully thought out in the colouring, the size, the shape, the pattern and the way the streets integrate. It offers all the facilities required for what I've termed "carless living"—which we're all going to have to face at some stage, horrible as it's going to be—within easy walking distance of the shopping centre, the bus stop, the church and the doctor.

I think those are the issues which need to determine where it is appropriate to create high-density opportunities and that we should not interfere with good established highly individual regular suburban blocks.

**THE CHAIR:** Thank you for your time and your presentation.

**ROBERT BURGESS** was called.

**THE CHAIR:** You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal action such as being sued for defamation for what you might say at a public hearing, but it also means that you have the responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

Could you begin, Mr Burgess, by stating your name and address. Do you want to give an opening submission?

**Mr Burgess:** I am Robert Burgess, of 93 Jackie Howe Crescent, Macarthur. You know the subject of my submission. I contend that the law as it stands is open-ended. I don't know if you have read the sections in relation to home business. Are you conversant with those and the definitions in relation to home business and home occupancy?

**THE CHAIR:** I couldn't say that I could recite them chapter and verse, but yes.

**MRS CROSS:** I'm familiar with them, because I had one. So I'm fairly all right with them.

**Mr Burgess:** I had an experience with a neighbour. We had adjoining battleaxe blocks. This neighbour was the third resident on the block adjoining me and had lived there for five years. He then transferred an existing business to the site. Eventually the business grew till it had 30 employees and became a nuisance. I proceeded to examine his situation and was surprised to find what was in the legislation. I went through the due process and found that my rights as an occupant were largely ignored and the rights of the other person were upheld.

I went eventually to the AAT and found that the legislation doesn't restrict uses but says that, because it's not there, anything can happen. In the legislation there are very few restrictions. Under the definitions, home occupation means the use of residential land for carrying on a profession, trade or occupation. Then there are things which, when examined, are inclusive, not restrictive.

Home business means the use of residential land for carrying on a profession, occupation or calling on the land which is not a home occupation. It means that any business, of whatever description, can be carried on on residential land.

Then there are provisions setting out what you can do if you're offended by such. You have to go through a very onerous process. Any normal person is very reluctant to cause ructions with their neighbour. Unfortunately, the main consideration of people who are in business is business. It's not friends. They pursue their business interests to the exclusion of common decency. So when you object, it becomes very difficult, particularly in a close residential situation. Most of us try to be friendly and get on with our neighbours.

I went through the process, and eventually the matter ended up in the AAT. In the AAT the member, Mr McMichael, was restricted in his determination by what is in the legislation.

My argument, based on what I thought was commonsense and usual business practice, it was not considered, because the legislation doesn't refer to such things. This person had 30 employees. As a layman, I said to PALM, "How the dickens could somebody with 30 employees be permitted to carry on a business from a residence?" I think that's commonsense.

**MRS CROSS:** Was your concern that there were 30 cars driving into the street? Can you tell us what your experience was with your neighbour?

**Mr Burgess:** He was conducting a business, so he could do whatever he liked.

**MRS CROSS:** Yes, but how did it disrupt your life? Did it disrupt your life?

**Mr Burgess:** Yes. When this fellow ran out of parking space in his own block, he parked in my block—among other things. He had easy access to our block.

I get back to what a layman thinks is commonsense about what is permissible within your own residence. A home is a home is a home. With improvements in telecommunications in the last 10 to 15 years, people can readily carry out their occupation in a home office in lieu of travelling 20 or 30 miles to work every day. That is the situation a layman would think of as a home business. It's not until you find somebody who is not doing that and you look at the legislation that you realise that a home business is anything.

I hope you can understand what I'm saying. It is not a matter of "you and I". They go as far as they can go. They take advantage of people who are reasonable, so-called good neighbours, until it becomes intolerable. Because the neighbour does not want to upset their relationship, they go along until the situation deteriorates so much that it's irretrievable.

People in business who spend hundreds of thousands of dollars, or very large amounts of money, on establishing premises, paying rent or paying rates are competing with people who are running a business from their home. I think it is unreasonable. It's unfair. But it's permitted because of the way the legislation is written. The people who administer the legislation are dictated to by what's contained in the law. There are no restrictions. It's open-ended.

I submit that this is not the intention as a laymen thinks it should be. Whether the legislators initially thought that this should be the case, I don't know. The things they said in their wisdom you can't do or must do are not practicable.

You have to go through a process of compliance with PALM. Compliance with PALM is difficult. My neighbour carried on a business for several years without applying to

PALM to run a business. I had to force him to apply. In my ignorance, I thought, “How in the hell could somebody be allowed to conduct a home business that has 30 employees?”

**THE CHAIR:** If you as an accountant turned your home into an office to do accountancy, and a client called, parked his car, came in and left, and later you had another client, that would be a reasonable thing, in your mind? The traffic flow would have a minimal impact on your neighbours. You would consider that a reasonable home business. I’m not quite sure what the business is, but obviously with 30 employees people would coming and going, and possibly clients would be coming and going, and you would have a high volume of traffic. That’s wear and tear on your driveway that it was probably not built for. You’re saying that somewhere along the line a line needs to be drawn.

**Mr Burgess:** It’s all right if it happens in somebody else’s backyard. As long as it doesn’t affect you, it doesn’t matter. You have to consider the situation objectively. You have to consider the effect on other people in business. There is no objection to a person carrying on a personal exertion business from home, because it’s low level. You can do that.

But when you have outsiders coming to the property next door—and in my case more than that, because they were going over my land—then people coming to the site know what’s going on in the neighbouring properties. When you have outsiders—not residents, in the place but people from anywhere—you just don’t know.

I advised my neighbours I was going away for the weekend. That was the sort of thing we did. I told a non-resident associate of the business in the premises next door on Saturday morning. I came back on the Monday night, and my house had been broken into and a car had been stolen. I’m not saying that this person was responsible, but it raises a question. People know or find out what’s going on. These things are not contemplated by the legislation.

**MRS CROSS:** Are you against home businesses in general? I’m getting a feeling that that’s what the issue is.

**Mr Burgess:** Yes, I am. That is the law. The question is whether the law is reasonable or not.

**MRS CROSS:** So there are two issues are here. It’s not just the fact that your neighbour has many people working there; it’s also the fact that there is a business there at all.

**Mr Burgess:** Yes.

**MS DUNDAS:** The draft variation to the Territory Plan says that a home business must not have more than three employees, including residents.

**Mr Burgess:** Where does it say that?

**MS DUNDAS:** I'm looking at page 35. Under land use performance controls, it says that an acceptable standard is for a maximum of three persons, including resident workers, to be employed on the site. Is part of your concern with the draft variation that, even if these restrictions were put in place, they wouldn't be followed?

**MRS CROSS:** No, he doesn't want the business there at all.

**MS DUNDAS:** I'm asking the question. If there was a restriction that there could only be three employees, and if parking was thus restricted, you would be concerned that such a restriction wouldn't be enforced?

**Mr Burgess:** That's part of the question, yes. People can infringe whatever regulations there are. If you make a complaint to PALM, the administrator, the Land (Planning and Environment) Act says that PALM has to give notice to the person that PALM is going to make an inspection. So they have ample opportunity to remove the evidence of anything they are doing. For instance, this guy bought a 30-metre boat and parked it on his land, and because he ran out of land people started parking in my place. So I rang up and told PALM about the boat. When they came to make the inspection, the boat wasn't there. What do you think happened?

It's a question of what is reasonable and what the object of the law should be. Do you want Canberra to be the garden city, or do you want places of business throughout the suburbs? The Queanbeyan City Council will not approve a home business if there is more than one employee other than the residents of the dwelling. That's their legislation.

You go along in good faith or with good intention, and then you find abuses. The intention of the legislation is not respected. I believe that a residence is a residence, and you should be able to enjoy your amenity and your privacy at all times. If you allow people to conduct business in the area, then that is lost.

**MRS CROSS:** If this maximum of three persons was implemented, would you still be unhappy with a business conducted at home?

**Mr Burgess:** No.

**MRS CROSS:** That is a change from your position before.

**Mr Burgess:** You don't know what they're doing, or how often people are going to come there, what they're going to do or who else they're going to bring to the premises.

**THE CHAIR:** I want to seek some clarification from PALM. I'm not quite sure, Garrick and Keith, whether this is within your area of expertise, but have the land use requirements on home businesses changed? This is essentially replicating what's currently in the land use policies and currently reflected in the land act.

**GARRICK CALNAN** was called.

**Mr Calnan:** I am Garrick Calnan, manager, Territory Plan coordination in PALM. There was a review of the home business policies three or four years ago. I don't have the precise date, but it was the subject of a variation to the Territory Plan that came before the predecessor of this committee and was endorsed and went into the Territory Plan.

The provisions in DV 200 precisely reflect what was in that variation. DV 200 is not about reviewing the home business policies. Our position was that that was done exhaustively, and it was fairly exhaustive at the time and was the subject of a lot of consideration by the predecessor of this committee. So there are no changes in DV 200 relating to the home business and home occupation policies.

**THE CHAIR:** So what we're actually seeing is that Mr Burgess has a compliance problem; it's not an issue of what's in the draft variation and it's not what's in the current residential land use policy.

**MS DUNDAS:** There is also an issue with the draft variation in regard to parking.

**Mr Burgess:** Yes, I am concerned about the wording of the law and what it permits. The compliance matter is another issue. It's whether the matters in the law are complied with or how PALM deals with them. That's a separate matter altogether. What I'm saying is that I went through the AAT and argued my case, et cetera, but the member of the AAT, whether he was sympathetic to my case or not, was dictated to by what's contained in the law. As I say, it's not restrictive; it's inclusive. Unless it's written in the law, written there, it doesn't matter, it's allowable.

**THE CHAIR:** The thing is that it isn't allowable, according to the land use policy, to have more than three employees on site.

**Mr Burgess:** That's not in the legislation. I haven't seen that in the proposed draft. You say it's not, sir?

**MRS CROSS:** Land use performance controls, page 35.

**THE CHAIR:** Let Garrick explain.

**Mr Calnan:** If you look at the existing Territory Plan, I have a copy here, the existing residential land use policy has a table of performance, schedule 2, the residential performance controls. It has controls relating to home business. The performance criterion is to protect the amenity of the area by restricting the conglomeration of non-residential activities and ensuring that the scale of home business is compatible with the residential character of the locality.

The acceptable standards associated with that performance control are a maximum of two home businesses per section; a maximum gross floor area of businesses, including storage, of 40 square metres; a maximum of three persons, including resident workers, employed on the site; and a maximum of one commercial vehicle operating from or parked within the site. That's the existing policy in the Territory Plan and I believe, if you look at what's in DV 200, they would be precisely the same.

**THE CHAIR:** I was reading DV 200 when you were reading that and they're exactly the same. So that the other provisions in the land act, do they in any way cut across this?

**Mr Calnan:** The only provision in the land act is that you have to get approval to carry out a home business.

**MS DUNDAS:** And approval would be subject to the Territory Plan.

**Mr Calnan:** And an approval has to be considered against the policies in the Territory Plan.

**THE CHAIR:** I'm confused here and I'm sure Mr Burgess is confused. How have we got to a situation where—and this is a little bit to the side of a discussion about draft variation 200, but it raises an important constituency matter—Mr Burgess' neighbour is running a business with tens of employees coming and going and that isn't in any way circumvented by the law, the Territory Plan, or that Mr McMichael of the AAT can say, "I don't have any power to do anything about this?"

**Mr Calnan:** I don't have the total facts of the case, but it sounds to me as if there has been an investigation and that it has been considered by the AAT. We would need to look at Mr McMichael's decision, what he based his decision on, before I could really comment, but it would be surprising to me. I don't know how you get 31 people working in 40 square metres.

**Mr Burgess:** That's not the point.

**Mr Calnan:** I'm not disputing what Mr Burgess is saying, but it sounds as if the matter has been investigated, it's gone to the AAT. The fact that it's gone to the AAT is evidence of the fact that it's been investigated and the AAT has made a decision and we live by that decision.

**THE CHAIR:** Mr Burgess, when did this go to the AAT, roughly?

**Mr Burgess:** Probably 18 months ago, something like that. Another point is that I mentioned to PALM that this person had 30 employees. The officer who answered me said, "No sweat, we've got one that's got 70."

**MRS CROSS:** But does that mean they're working on site or are they just on the books?

**Mr Calnan:** The reference is on-site.

**Mr Burgess:** That's not the point. The point is that the legislation doesn't say—and this is what Mr McMichael brought out, too—anything about the number of employees.

**THE CHAIR:** I think what you've done here is put forward a case that this is something we need to look at, but we probably need to look at Mr McMichael's judgment.

**Mr Burgess:** Many other points I've mentioned. I've got a stack of paper about that high in relation to this matter. But take, for instance, that the business wasn't owned by the residents. The business was owned by a proprietary company of which two of the directors and shareholders were non-residents. These things you look at and you might say that this was not contemplated. It does happen.

**MRS CROSS:** Mr Burgess, was the managing director of the company the resident, because you can have many directors of a company?

**THE CHAIR:** Hang on, Helen.

**MRS CROSS:** No, that's a valid question.

**Mr Burgess:** That's legal, commercial law, company law, that's legal. But the point is that if somebody who is a non-resident is part-owner of the business, they come and they have different attitudes towards occupation and the residential block to the owner, and you have to deal with your owner, you can't deal with all and sundry who come by. You can't just go and stand on the driveway and say, "Look, I don't like you coming here." I followed due process, right. I was not offensive to my neighbour in any way. But it's just mind-boggling as to the process.

**THE CHAIR:** What you have described does seem to be a fairly extreme case and I think that it probably needs further investigation. It's probably not within the brief of the members of the committee to investigate it, but we will look at Mr McMichael's judgment—I'll get Linda to get that out for us—and we will have to take it up, perhaps by another means than through this committee inquiry, but it is something that obviously needs to be looked at, because the plain words of the draft variation present a case which is pretty unexceptionable.

I don't think that most people could object to that, but your personal experience of what's actually happened is in radical contravention of the plain words of the land use policy, so we have to find a way of addressing how it is that we can have such a breathtaking departure from the policy and still not have that able to be satisfactorily addressed. If everything that you're telling us is accurate, there seems to be no reason why that business should be able to continue to operate in the circumstances that it does, and we need to find an answer to that question. I'm not quite sure how we will do that, but I undertake that we will pursue it.

**Mr Burgess:** If you think about it objectively, you come to, as Mr Michael did, boking at the thing and everybody's bound by what's in the legislation. Unless the legislation says that you can't do this and you can't do that, it's all inclusive, and that's particularly what's happened here.

**THE CHAIR:** But the Territory Plan currently says you can't have more than three people working on the site.

**Mr Burgess:** That doesn't mean anything.

**THE CHAIR:** In your experience, it hasn't meant anything.

**Mr Burgess:** No, of course it doesn't, because what they're saying is that it means three persons working on the site at any one time. A person can have 30 employees, three here from 10 to 10.30 and another three come from two o'clock to three o'clock.

**THE CHAIR:** You're quite right; the plain words could mean three people at any one time. That is quite right, so we should address these issues.

**Mr Burgess:** Yes, and not only that, the contacts they have in the particular business or whatever they're running. You and I, without looking at this thing, assume these sorts of things that are not the case. It is said that there are no friends in business, there are only interests, so they'll pursue to the limit what they can get away with. Not everybody's like that, but that's what happens in practice. You know about the lowering of ethical and other standards in the community. It's just on a downhill slope and that's what's permissible here.

I don't know what else I can add. I've only had a few minutes here today. There are other matters which come into this in practice in relation to land law. I don't know if you're aware of it but, because there's no freehold title in the ACT, there is a law called the Landlord and Tenant Act applies. The Landlord and Tenant Act says that the tenant shall be entitled to free access to any activity which is lawful, shall we say, on his own premises, and it's the obligation of the landlord to see this happen. I went to PALM on this basis and they don't even know or realise this.

Another law that relates to a situation like this is the common law, which applies to your right to do whatever you want on your own premises and restrict other people from doing that on your land. And then there's a law in relation to easements, which contains rights for another person to go over another person's land. In regard to the usage of the two blocks in my case, there were two prior owners and then this third owner was there for five years. All of us used the land purely for residential purposes and then the third owner comes along and, without notice to me, transfers an existing business to the site and carries it on and eventually gets up to, as I said, 30 employees. He's using my land for a purpose other than the prime purpose for which the site is for, and that's residential land.

All these things are not contemplated. I know that my particular situation was not contemplated by the legislation. When it comes to PALM and the administration, they don't want to know about it. When it comes to compliance and getting things done, obviously you've got to go to the extreme of being very unpleasant with your neighbours, et cetera. Then when it comes to some case of compliance, PALM just don't want to know about it. They are not interested in what happened with the abuse that was levelled at me, et cetera, or whatever happened during the process prior which destroyed the relationship between neighbours.

**THE CHAIR:** What you've brought to our attention, Mr Burgess, is definitely, from our experience, an extreme case, but, because it's extreme, doesn't mean that it won't happen again.

**Mr Burgess:** I wouldn't say it was extreme, with due respect, because the people are in business, right, and lots of people start a business, shall we say, from home and then they realise it's too big to carry on from home and they move to business premises. There are circumstances and circumstances, you know. They may do that or they may not. Obviously, if you don't have to supply business premises or pay rates or rents or repairs and maintenance, you can save a hell of a lot of money.

**THE CHAIR:** You have a competitive advantage as well.

**Mr Burgess:** So lots of people will do this. I'm sorry, I think you have to consider not only the situation of the actual residents, but the other people that are in business, who have done the so-called right thing in incurring these expenses but in reality, in lots of cases, they're in competition with people who have an unfair advantage over them.

**THE CHAIR:** Yes, I understand the point precisely. I think that this is something that the committee will have to look at on a different day in the process of deliberating on this, but I thank you for bringing the matter to our attention. It is something that does need some further investigation. Has anyone else got any more questions for Mr Burgess? Thank you very much for your time.

**Mr Burgess:** Thank you.

**Luncheon adjournment**

**MICHAEL PYERS** and

**ALAN MORSCHER**

were called.

**THE CHAIR:** I'll begin by reading the formal bit. You should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections, but also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation, for what you say in this hearing, but it also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

I welcome Mr Pyers and Mr Morscher from the Housing Industry Association. I ask you to identify yourself for *Hansard* when you begin. Michael would you like to begin with an opening statement?

**Mr Pyers:** Certainly. My name is Michael Pyers. I'm the executive director of the Housing Industry Association, ACT-Southern New South Wales Region. Members of the committee, you have our submission, which we filed, I believe, on or about the 14th of this month. I wish to make a short opening statement in support of that submission.

We would submit that the committee should recommend to the minister that DVP 200 not proceed in its current form. We say this for the following reasons. The conceptual framework of DVP 200 was developed without consultation with industry. Although the amended version of DVP 200 published in December last year reflects some of the concerns raised by industry regarding the initial document, it still remains that the fundamentals of DVP 200, we say, were developed without industry consultation.

We also say that DVP 200 was developed in a vacuum and not linked to other important planning and development initiatives in the territory, such as the spatial plan and the economic white paper. We have always argued for consistency in planning and development initiatives and we would argue that the recent bushfires reinforce the need for such consistency insofar as the territory needs to make some fundamental decisions regarding land usage—for example, the pine forests—and whether certain areas need to be declared as being bushfire prone. HIA would argue that this needs to be done in a manner consistent with other planning and development debates going on in the territory.

HIA is concerned about the restrictions placed on dual occupancies in DVP 200. We would argue that such restrictions are uneconomic in an environment where availability of affordable land is such an important issue. The restrictions on dual occupancies are forcing people into an environment of greenfields areas which, in turn, use more of the most scarce resource the territory has—land. There is also an important freedom of choice issue which has been highlighted by the bushfires insofar as people who are what are commonly called empty nesters may be making some decisions about what to do with their blocks of land, and they may wish to go down the path of dual occupancies and may indeed be prohibited by doing so if DVP 200 is adopted.

As the ACT is an island in the middle of New South Wales and many regional developments, such as the proposed Defence Force headquarters and the subsequent housing development that that will bring, will occur on the New South Wales side of the border, we would contend that there needs to be consistency to the extent possible between the planning requirements of both jurisdictions so that investment can be seamlessly attracted to the region.

One of the more important initiatives of this government has been the Planning and Land Management Authority. We understand that the government is actively engaged at this point in time in finding a chief planner. We believe that it will be appropriate for that person, once found, to have input to these processes. For these reasons and for the reasons stated in our written submission, we would seek the recommendations outlined, that DVP 200 not proceed in its current form. We are available to answer any questions the committee may have.

**MR HARGREAVES:** On the equalisation notion between ourselves and New South Wales, why should we do New South Wales any favours by making it just as easy to get accommodated in the ACT and then go and spend all your money in Queanbeyan?

**Mr Pyers:** I really don't think it's a question of doing another jurisdiction any favours. When you look at it from the perspective that the ACT is part of a region—it's commonly called, as I understand it, the capital region—any investment in projects such as the Defence Force headquarters, although they will go on over the border, are going to have a significant spin-off in economic benefits to the Australian Capital Territory; so, if investment can be attracted to this region and attracted to this region in a seamless fashion, we say that that benefits all of us and we say that the best way to attract investment to this region in a seamless fashion is to have consistency in the planning approaches to the extent possible. It may not be possible and I accept that it may not be possible.

**MR HARGREAVES:** On those difficulties with the lack of similarity, it is under the control of the Queanbeyan City Council and the Yarralumla Shire Council, I imagine, to determine the sort of umbrella under which residential development goes ahead.

**Mr Pyers:** Indeed, yes.

**MR HARGREAVES:** What do you say to the argument that they ought to be tailoring themselves to what the ACT is doing, not the other way round?

**Mr Pyers:** When we say consistency, we mean that there should be a consistent approach. Whether that means the councils around the border of the ACT should adopt the ACT approaches, which could be just as easily done, then that's okay as far as we're concerned, but at the end of the day there needs to be a consistent approach. It doesn't really matter what that consistent approach is, but there needs to be a consistent approach.

**MR HARGREAVES:** I was just curious about the inconsistencies—you might list a couple of them for us—because my brother lives at Jerrabomberra and, I've got to tell you, I don't see a lot of difference between Jerrabomberra and Ngunnawal. Maybe

they're both in good need of a wash, I don't know, but what are the inconsistencies with the developments in, say, Gungahlin? I presume that the defence headquarters will come up near the Captains Flat road or somewhere down there. That's why Frank Pangallo is in such a hurry to find a piece of ground that he can build 20,000 houses on.

**Mr Pyers:** I'd suggest it's one of the reasons. But I might, Mr Hargreaves, let Mr Morschel answer the rest of your questions, if that's okay.

**MR HARGREAVES:** Sure, thank you.

**Mr Morschel:** My name is Alan Morschel. There is a national building code which all builders who are our members work to, and that is pretty consistent across the borders. The planning regulations are, as you said, the two councils plus the New South Wales government that come into play. At the broader sense, I would say that the councils and the state and the territory have been pretty cooperative. We haven't seen development racing up the slopes of Queanbeyan and disadvantaging the Canberra valley, as we like to protect our hills, ridges and buffers.

In many cases, it's the way in which the process is handled between the councils and the territory that our members have their biggest problems with in terms of the time taken, the process at the counter and the way in which they're greeted. They will complain one day about Canberra and the next day about Queanbeyan and the next day they'll praise Canberra and praise Queanbeyan. It's that inconsistency of processing that is mostly the problem with our members, not per se the design and siting rules themselves.

**MR HARGREAVES:** The environment around which they're building the dwellings and all that sort of stuff is pretty much the same, but the red tape they've got to go through is a bit different.

**Mr Morschel:** That is the issue, primarily. However, the introduction of DV 200 and the argument about the garden city that that leads to is not as prevalent in Queanbeyan. We're not quite sure where Queanbeyan will go in terms of its planning issues and taking up its additional population. At this stage, it appears to us that they are looking at large areas of land for repeating suburban development, but there are still low-rise developments, apartment blocks, taking place in Queanbeyan. It's our understanding that if Queanbeyan wants to have substantial increases in population, they would be out of the basin in which they exist now. We're aware of the Googong plateau.

**MR HARGREAVES:** They've run out of land down there.

**Mr Morschel:** Yes.

**THE CHAIR:** On the main issues of your submission, would you like to give an exposition on what you think should have been the consultation process before DVP 200 came out last May?

**Mr Pyers:** I might start by saying—then I'll hand over to Mr Morschel, because he was more involved in that process than I was at the time—that there should have been, in our view, more broader based consultation. Alan did indicate to me that he found out DVP

200 was being developed and was told that the document would not be available until it had been made more generally public, so we're in a position where it was dropped on us, if I can put it to you that way. I might let Alan, as he was more closely involved with that process, explain it a bit further.

**Mr Morschel:** To go back one step, variation 192 was introduced very soon after the change of government. That was a shock to the industry in regard to the restrictions that it's placed on dual occupancy. But that was presented to us with an argument that that would be a moratorium in which the issues that had been raised in the election campaign about dual occupancies, medium densities and where residential development in Canberra would go were going to be discussed.

It came as a surprise to us when we and many other people in the industry found out that a document along the lines of what became DV 200 was being prepared. We did ask government if we could partake in that or we could see drafts and comment, and we were told no, that it would be going out as a draft variation to the Territory Plan and it would have interim effect. In May we saw that document for the first time. PALM made a good presentation to us and we clearly understood within the hour exactly where it was. But I think our shock that it was such an extreme document in changing the direction of residential development in Canberra, that we hadn't been involved in that was a real surprise to us.

What is now taking place in regard to the spatial plan is what we would argue should have taken place starting this time last year, to start to put together the strategies, as Michael said a moment ago, picking up the economic white paper that's around. We're aware of transport studies and social planning studies. The affordable housing task force of Bill Wood's has reported in the meanwhile. There's a number of very good documents already in place or nearly in place to which we believe a variation to the Territory Plan for residential policy should have followed afterwards. The hard work that a lot of us are now doing in industry and with PALM and the community in the spatial plan work, we believe should have been done 12 months earlier.

**MS DUNDAS:** The revised final variation that we're now dealing with, after the consultation process for that was extended a month, did you think that the revised changes to the Territory Plan picked up any of the comments that you put forward?

**Mr Pyers:** They certainly did. The revised or amended version, if I can put it that way, picked up a number of concerns, but I suppose the reason why we raise the issue, even at this stage, is that it amended and addressed some of the concerns with the document where there was no consultation in terms of the developing of its conceptual framework. Even though it did address some of the concerns that we raised, we still see it as being a problem that there was no consultation in terms of the development of the document as a concept, particularly when you consider its effect and potential impact.

**Mr Morschel:** To us, DV 200 is a document that contains both strategic planning exercises as well as very specific design and siting. A number of the design and siting components, we believe, have improved from May's version, but a lot of the underlying strategic issues we still have great concerns with and would like to address those through the spatial plan.

**THE CHAIR:** I'm not quite sure how this fits in—perhaps someone from PALM will be able to answer this question—but there is still the ongoing issue of what to do with ACTCode 2. That process has been ongoing for a couple of years this way and we have had DVP 200 in the middle, and we still don't have ACTCode 2 finalised, do we? How does ACTCode 2 fit in with this? How do you see it as fitting in, Garrick or PALM?

**Mr Calnan:** I just might make some comments about this issue of consultation.

**THE CHAIR:** No, I was specific this morning that PALM's role was not to critique the evidence. When we get to you this afternoon, when you give your evidence, you can do that then. I am just wondering how draft variation 200 fits with ACTCode, which is an ongoing consultation.

**Mr Calnan:** Work on ACTCode has been ongoing for quite some time; in fact, I think it goes back to about 1998, 1999. There have been a number of phases of consultation associated with that. In 2001 there was a document made available for public comment that included a proposed replacement residential land use policy, along with a document referred to as ACTCode, which was intended to replace the three existing design and siting codes in the Territory Plan and to also replace the ACTCode 1 document, which primarily focused on estate planning and subdivision. There was a three-month consultation period in relation to that document, so there was consultation in relation to—

**THE CHAIR:** Actually, what I really want to know is, not the history of the consultation, but how does the ACTCode document, which is not finalised, sit in relation to draft variation 200?

**Mr Calnan:** DV 200 addresses some of the key issues to do with design and siting. Rather than replacing those existing codes with a new code, we've proposed a different approach, which is to make some modifications to those existing codes. Those modifications are contained in DV 200 and they're primarily in the area of the introduction of building envelope controls, some new private open space standards and some other adjustments to those existing codes.

At this stage, there is this issue about the estate planning and subdivision work. There was a fairly large degree of sign-off to that when the consultation report was presented by the previous minister, Brendan Smyth. We're looking at ways of introducing those provisions in some form. There has been an advisory panel established by Minister Corbell. That met through the latter part of 2002. It was set up primarily to look at ACTCode, but I'd have to say it spent most of its time focusing on DV 200. So, there is still further work to be done in relation to ACTCode and I don't know exactly what form that will take at this point in time.

**THE CHAIR:** What you're saying is that some of the bits that were in the original ACTCode consultation document are now in here—the design and siting and the building envelope stuff?

**Mr Calnan:** That's right.

**THE CHAIR:** And what's left in the ACTCode is the estate development.

**Mr Calnan:** That's right.

**THE CHAIR:** Is that a reasonable dichotomy? Is that your understanding?

**Mr Morschel:** In broad terms, and DV 200 added in a whole lot of strategic issues—the suburban zone, the residential zone. Could I just say a couple of words about that because the process, as Garrick just said, has been extensive on ACTCode? Industry put a lot of time into that and did, I think, appreciate the consultation processes that were ongoing there. It was a disappointment, then, that it sort of stopped and we had that hiatus of the change of government and then DV 200 came out.

There are components, we would say, in DV 200 that are not supportive of what we were agreeing at a design and siting level in that code—the restrictions on dual occupancies, and we don't believe that the plot ratios and all that are as beneficial to the town as they would have been under ACTCode, so we do look forward to continuing liaison with PALM to develop ACTCode.

**MS DUNDAS:** Can I ask a specific question about dual occupancies?

**THE CHAIR:** Yes.

**MS DUNDAS:** Seven hundred or 800?

**Mr Morschel:** Or 600.

**MS DUNDAS:** The May draft variation was 800, the revised draft variation we're dealing with now is 700. You indicate in your submission that DV 200 has too many restrictions on dual occupancies in regard to size and location. What would you like to see?

**Mr Morschel:** The dual occupancies are, I suppose, the most contentious issue and, I think, to some of us in the industry that was most probably the trigger as to why DV 200 was asked to be produced by government. There has been certainly a lot of public noise about dual occupancies, but at the same time studies that have been done by PALM have shown that there's a high level of dual occupancies.

We would recognise that in the market substantially larger houses have been put on the blocks and have certainly used the 700-800 square metres as the minimums to produce the larger houses. The 700 is adequate at this stage, but I think a concern that we would have in the long term is that dual occupancies can still, as a principle, be a very good offer of low-density redevelopment possibility.

Michael talked about the demographic changes that the town is only seeing and will continue to see. I acknowledge that this is anecdotal, but people are wishing to sell the large family home and move to something that is a little easier to look after in house size, garden size, and have some money in the pocket left over in that sort of transfer, but it is difficult to do in the town with the market structures of building and so on.

I think if you start to continue to put severe restrictions on dual occupancies, you'll continue to keep those prices high and the possibility of taking smaller blocks of land and putting smaller units on, two-bedroom units, et cetera, is not available under the current wording of DV 200. But most probably at the present moment 700 is adequate, but I think we need to be clearly ready to make changes in the years to come as the demographics change. We'd most probably argue that further in the spatial plan discussions that we'll be having with government.

**Mr Pyers:** If I could just come in on that as well. The other important thing about dual occupancies and what are often described in the press as the empty nesters these days is that a number of these people have a high level of disposable income, mortgages paid off, all those sorts of things, and if you make it difficult for people with a high level of disposable income to stay in the ACT and spend their money in the ACT, they're going to go somewhere else.

That is an economic concern that needs to be considered in the context of the debate about dual occupancies. The other economic concern is what I alluded to earlier, being that if there are restrictions, and too many restrictions, at the end of the day on the development of dual occupancies, people will have no alternative other than to look for land in more green field parts of the ACT, and we all know what a scarce resource land is at the moment.

**MS DUNDAS:** And you have similar concerns with the residential core proposal put forward in the draft variation that major redevelopment can only happen within a mapped out area around a shopping centre.

**Mr Morschel:** It's a very arbitrary system. I'm sure you'll hear it put more articulately by some of our professional colleagues—the Planning Institute, et cetera—but it's a fairly old-fashioned approach to start putting boundaries down and one side of the street can do some redevelopment and the other side of the street can do less redevelopment.

We will also be arguing, particularly again through the spatial plan process, that those residential cores should have a lot more opportunity for them than is in DV 200 now, that the potential to incorporate the local centre, the car parks, the open spaces in the broader sense, the underutilised schools, et cetera, should all be taken up in quite rigorous and detailed planning processes, rather than the fairly simple process that's there now of just allowing some dual occupancies.

Some of those local centres have got a lot more potential than what's available there. The map is very arbitrary and we can imagine that you'll be told that the line should change to this side of the road or the line should go somewhere else, or asked why a transport route isn't used, et cetera, and that, I think, is a risk of applying that sort of process, that it becomes real argy-bargy decision making of which parts are black and which parts aren't.

**THE CHAIR:** I want to touch on that and then I want to go back to dual occupancies. If I'm putting words in your mouth, tell me, but the message that we've been getting today

is that people would like to see a more case-by-case planning of suburbs, rather than saying, “This is a shopping centre of a particular size. Therefore, you can have this much densification around the suburb.”

It was put to us this morning by the Institute of Architects that that doesn’t take into account topography, orientation or any of those things. Lots of other people—I think almost everyone so far this morning—has said in some way or another that they’d rather see a case-by-case basis analysis. Does the association have a similar view?

**Mr Pyers:** It would seem to me that a case-by-case basis would be more appropriate because different suburbs have at the end of the day different characteristics. The older suburbs of the inner part of the city have different characteristics to Gungahlin and the newer suburbs, so you would need to look at things on a case-by-case basis to take the different requirements of each suburb into account.

**Mr Morschel:** Yes, you might find that what we call a local centre now or a neighbourhood centre doesn’t require any shop. That might be the outcome of a detailed study.

**MR HARGREAVES:** But isn’t that already there? I am looking at the maps. Incidentally, I don’t know who stuck all the maps up there but they missed out on 30 per cent of the ACT, because I cannot find Tuggeranong on them.

**THE CHAIR:** Yes, I noticed that this morning.

**MR HARGREAVES:** I do hope it’s still there when I go home. I noticed with the smaller shopping centres and the group centres that there is not a nice little radius of 200 metres around them; it’s actually quite deliberate about which blocks. Doesn’t that mean that there has been a specific approach to each of those centres? That’s what it tells me, anyway.

**Mr Morschel:** It has been, but I think it’s been done in a very quick timeframe and at a very superficial level in comparison to what each of those areas deserves. We from industry would like to see government at a planning level taking a much greater leadership in those areas and clearly defining the use. It might be a result of the many boundaries in those areas changing considerably, land ownership changing, leading to the potential for more density and allowing more appropriate development to occur in certain parts.

Whether it becomes more B11s, B12s, I don’t know, but that, I think, is the debate that we need to have in the future and DV 200 in its aim has only just touched it; it hasn’t gone into any depth whatsoever. We can all sit here now and change those lines because we think it’s a good idea to have it one side of the road or the other, but I think it needs a much more vigorous analysis.

**THE CHAIR:** Alan, you and Michael could sit there and say for Evatt, “We think it should be like this,” and I could say, “I live in Evatt and that’s fine,” but I am not representative of the people who live in Evatt and I can’t make a reasonable decision about what happens in Tuggeranong or Cook. It seems that those lines have been drawn in PALM; is that right? Were those blue bits devised in PALM?

**MS DUNDAS:** The orange bits.

**THE CHAIR:** Sorry, the orange bits. The blue bits are the shops.

**MR HARGREAVES:** I sincerely hope so, otherwise somebody is forging the signatures of people in PALM.

**Mr Morschel:** It is a PALM document.

**Mr Calnan:** They were prepared in PALM. In areas where there has been neighbourhood planning, they've responded to the outcome of the neighbourhood planning process.

**THE CHAIR:** I want to go back to dual occupancy, which seems to be one of the things that are preoccupying most people here. One of the things that stuck me this morning when people were talking about dual occupancy is that a lot of them were talking in the sense of maintaining the existing dwelling and putting something else either in front or behind, depending on what the setbacks are. I'm starting to get the feeling that most people think that that's not a very satisfactory process in terms of design and outcome and that under this you can have a granny flat in the garden.

**Mr Morschel:** For the suburban areas.

**THE CHAIR:** For the suburban areas. There has been a lot of criticism of dual occupancy as not being the best possible solution to the densification of suburbs. Does the HIA have a view about how you might optimise the use of dual occupancies?

**Mr Morschel:** To go back to something you've said there, we have certainly heard over the years, particularly in the consultation that has taken place as part of DV 200 and the spatial plan consultation, that a lot of what we would define as the quality of the design of the dual occupancies is of primary concern to the communities. There has then been a catchcry about dual occupancies going up and, of course, that can build on its own momentum. But in many cases where serious neighbourhood concern has come about, it is an issue of the quality of the design.

The most common one, as you've observed, is to retain the front house. For someone investing, doing that as an investment process, or owning the place, if the house is in good condition in the front, some minor alterations to bring that house up to fairly modern standards and then two or three bedrooms down the back with a shared driveway is a common solution that we've seen. Some of those have been good, some of them I think we'd all acknowledge could have been done better.

In discussions that we've had with PALM we have looked at issues of the quality of design through the required quality and sustainable design process and, although we've had some robust discussions with members of PALM about that process in terms of its detail, we are still supportive of that in principle and we're awaiting the revisions to that coming out, I think, in about the next month or so from PALM. We believe that can help considerably in projects that involve dual occupancies and two-storey additions, again an issue that was controversial.

DV 200, the revision in December, starts to focus on or talks about the potential of corner blocks and the potential for both houses to front the street. We think those are both well worth while paths to travel down and see what develops there, but we'd like to see that being more open, rather than having restrictions on them. The 192 restriction is still there, the moratorium. We'd like to see that go. We'd like to see the blocks well and truly at 700 square metres or lower.

We still, as I said earlier, don't believe that, in principle, dual occupancy is something that can be stopped because it can support a good many needs in Canberra. When you think about it, the block that is divided—say it's a 800 square metres block; divide that in half, 400 square metres—is getting pretty close to an average block size in Gungahlin, so that level of density is already in the territory. So we think it's more a case of putting systems into place, which we think are getting there, to improve the quality of the design.

**THE CHAIR:** Could you come up with any sort of explanation for the apparent disparity of view between what's commonly put out in the public that dual occupancies are a bad thing and the results of the Artcraft survey that came out said that people were generally happy—well, not generally happy, but they had issues about design and things like that, but the people living in them and the people who were living around didn't seem to have views opposed to dual occupancy as are commonly expressed in the community? Do you have a view about what might cause that disparity?

**Mr Pyers:** It seems to me that what you've just put reinforces what we just said regarding the major issue or the major area of concern that people have actually about dual occupancies being poor design in some cases. We have certainly conceded that in some cases the design could have been done a heck of a lot better, but if you work a dual occupancy through the high-quality sustainable design process, then perhaps a number of those issues could be alleviated and perhaps the issue of the moratorium on dual occupancies could be addressed that way.

**Mr Morschel:** I don't think Canberrans are any different to any other people in Australia living in suburban areas that are starting to see the changes that are going on in established suburban areas. The demographic changes are driving all of these changes. Our members will build what they know will sell because there's a demand out there.

There is a natural propensity by many people to be concerned and fear change. The dual occupancies in this town were that symbol of change in many streets and areas, particularly in the inner areas, and we notice that PALM has made a change to that, whereby many of the leases were a little more attractive in the way in which the finances of the leasing and the lack of betterment tax did encourage those that were involved in it, due to the hip pocket, to do it in the inner areas, but there was also a strong market demand at that stage by people, and that was the older area of Canberra, wanting to change accommodation but still stay in their neighbourhood, and that was generally in those north and south areas of Canberra.

In the next 10 years, we predict, you will see a lot more pressure on areas in Woden and Weston and parts of Belconnen coming on, and suspect we might already see it in parts of Weston Creek that had the fire damage. Many people there might be starting to look at

going for the dual occupancy solution to the rebuild rather than the single residence because of the age of many of those people in, say, Duffy and Chapman. It might even occur in Kambah as well. It is a solution to many people's own needs, repeating it, but potentially a symbol of change that people fear.

**THE CHAIR:** We are over time. Is there anything else that people want to raise quickly. I think that what you have said in your submission and what you have said today covers the main issues. Thank you very much for coming here today and for your submission.

**ROBERT BODEN** was called.

**THE CHAIR:** Before we start, you should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections, but also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation for what you say at this public hearing. It also means that you have the responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

Thank you, Dr Boden, for coming here today and making your time available, and thank you for your submission. I invite you to make a short opening statement on what you'd like to present today. Please start by stating your name and address for *Hansard*.

**Dr Boden:** My name is Dr Robert William Boden. My address is 20 Barnet Close, Swinger Hill, ACT, 2606. The submission I made I kept deliberately brief and related to two particular points. That's not because I don't believe the issue is highly complex. It is, and I respect the committee's responsibilities in coming to grips with what is a very difficult issue. However, my experience as the tree adviser under the Tree Protection (Interim Scheme) Act from its inception in March 2001 to June last year has given me some experience in relation to concerns about vegetation clearance on blocks prior to development.

The discussion with the previous witnesses dealt with why people dislike dual occupancies and why they are perceived to be bad by some people. One of the major reasons for this, I believe, was the total clearance of blocks which occurred, and this is what was concerning a lot of people. There was total clearance of a block before any development took place. That was one of the bigger issues, and that was prior to the introduction of the tree protection legislation by the previous government. The tree protection legislation set down criteria for significant trees. One criterion was a height of 12 metres, a spread of 12 metres or a trunk circumference of 1500mm.

There are lots of trees which don't meet those criteria. The legislation was meant to be interim. It now looks as if it will be interim for quite some time before it's changed. But what I've found in my role as tree adviser and also in my professional activities is that if a tree didn't meet 12 metres, a don't worry about it, get rid of it, philosophy developed. It became a situation where, if the wind is blowing and it's no longer 12 metres, good, out it comes; it was as simple as that.

Therefore, there were no measures under that legislation to protect the trees of the future, the young trees which have the potential to enhance the environment of the future. Therefore, I was very pleased to see clause 3.5 (c), residential redevelopment in general, in draft variation 200 which came out in May required an evaluation of existing trees, together with a comprehensive landscape design, indicating size and type of species proposed for the site and the adjacent verge.

I thought that was a good move, although I was concerned that it was not explicit in any way and there would still be disputes between the applicants and the assessors in PALM on what is meant by "existing trees". There are no dimensions indicated there. Therefore,

it's quite vague. I inquired after a few months of the operation of draft variation 200 and was told that that clause wasn't being implemented. I looked for it in the application forms if one were to go about a development; there was no mention of it.

That concerned me, because I've always taken the view that if you have a regulation, no matter what it is—a rule in your domestic circumstances with the kids or a regulation at school or a regulation in local government—and you do nothing about it, it's worse than not having one at all. Therefore, I expressed my concern to a senior officer in PALM about this. The response was that they were proposing now to cover the aspect of tree protection and vegetation protection through the HSQD process.

I was then surprised to see clause 3.5 (c) reappear in the draft of 200 which came out in December, so it's still there in the document. Therefore, until such time as it's removed from the document, my argument is that it needs to be made much more explicit and detailed to benefit both the applicant and the assessor. I've suggested in my submission the type of information which I believe, based on experience, is necessary to get an understanding of the existing vegetation on the block and to determine those trees and shrubs which may enhance the development into the future.

The second issue that I raise in my submission is a more general one, and that is of open space provisions. I take a simplistic approach, I guess, that if we are to have greater intensity of urban development in the residential core areas, it seems to me that we must adjust the amount of public open space which is within those areas to allow for some compensation, because space is something which, once it's taken away, is lost virtually for ever. You never get it back. It would seem that the public open space will become more and more important in these areas and therefore the criteria for determining the amount of public open space should be different than the criteria which might apply in other parts of the city.

A consequence of this, of course, is that Canberra Urban Parks and Public Places would have a greater responsibility and the government would be required to finance them to manage these additional areas of space. My concern also is that the space would have to be identified quite clearly as recreational space to avoid the situation of the increased demand for parking gradually taking up more and more of the open space near suburban shopping areas.

Those are the two particular points I wanted to raise with the committee.

**MS DUNDAS:** On the issue of public open space, we've already had some debate this morning about the amount of land that the draft variation designate needs to keep aside for private open space, including the land within the backyards. Do you have any view on what the draft variation says about that, about the decreasing of the size of the house on a block, in terms of trying to maintain some form of streetscape?

**Dr Boden:** Certainly, some loss of open space means we're not going to be able to grow trees of a reasonable size by the time you take up the other ancillary developments. I also have always adopted the view that nothing gets smaller as far as a development is concerned. Someone will want to put a shed on, they'll want to consider whether a pool is appropriate, or things like this. The space is not going to be recovered.

As I say, in relation to Macca, whom I listen to each Sunday morning, there's nowhere in Canberra in the residential core areas where you'll be able to score 100 in the backyard at mum's in the future, because the space is just not there. But there will be demands for that space, and we don't want to assume that all these smaller blocks are going to be childless blocks. They are going to be blocks which have families and there still needs to be the space nearby for children to play in.

There are conflicts, of course, in these days. Whereas in earlier times it was possible for children to wander away and you felt quite comfortable about them, these days there is concern, obviously, at times about where children are. But if we take the available space for a range of activities away from the residential core areas on the leased blocks, then there must be some compensation, in my mind, made in public open space.

**THE CHAIR:** I never thought of it in terms of whether you can get approximately a cricket pitch across your backyard. We could when I was a kid. So you need backyards that are at least a chain long?

**MRS CROSS:** That's why they've got lap pools now.

**Dr Boden:** Another analogy is that there's a magnificent English oak tree, planted in 1840, at Ginninderra, which has a crown width equivalent to a cricket pitch, so you can actually play cricket underneath a single oak tree.

**MRS CROSS:** Dr Boden, do you believe that vegetation surveys should be undertaken before any redevelopment; if so, why?

**Dr Boden:** Yes, I believe that a vegetation survey is part of the basic information gathering process that an architect or a builder should undertake before a development is undertaken. In the same way that they find out where the services are and where the road access is and things of this nature, then the vegetation survey should be an integral and early part of the development. I'm very pleased to see that in greenfields developments now that has been accepted as a primary part of the whole process, rather than waiting until after plans have been developed and then arguing about individual trees.

**THE CHAIR:** And this doesn't happen with a redevelopment? If you knock down a house to build a dual occ, that doesn't happen?

**Dr Boden:** All I can say is that my understanding is it doesn't happen. It's in DV 200, but it wasn't happening, although the DV was introduced, and it still appears in the redraft. Whether the HSQD will resolve that, I can't tell, but it's still in DV 200. I understand there is a memorandum of understanding being developed between Environment ACT and PALM in relation to this, but that still covers only the significant trees, that is, those over 12 metres high.

**THE CHAIR:** You've spoken here about the sorts of things that should be taken into consideration, but when you're talking about a vegetation survey, what other things, apart from the significant trees, do you think should be taken account of in that vegetation survey?

**Dr Boden:** I think things like the weediness potential of the vegetation. Clearly, in some of the older blocks in Canberra where species were planted which are now regarded as weeds, you don't have the same concern about those as you would about some other species which are more acceptable, things which are unusual, things which have a long life expectancy and therefore will contribute, because the value of a 10-year-old specimen—it may be a camellia and it may be a shrub of some sort—is quite considerable. You can see that when you go to the garden centre. You buy something in a pot for \$2, but if you go to buy something which is two metres high, you'll be paying something like \$30 or \$40. So there is a value in advanced growth, which we can't afford, in my view, or should not allow to be lost.

**MRS CROSS:** Dr Boden, I want to know if you are in favour of changing public land to public open space in parks and areas where there isn't any?

**Dr Boden:** I guess my philosophy or my approach is that there should be declared public open space, with protection against future development, in proximity of the residential core areas to compensate for the loss on the greater intensity of development on leased land.

**MS DUNDAS:** On the vegetation surveys that you spoke about applying to a block that is about to be redeveloped, one of the thrusts of draft variation 200 is to look at the garden city concept and the streetscapes. What do you think needs to happen to maintain vegetation on the streetscapes and the verges and the bits that aren't necessarily within a defined block of land because they're actually close to the road and are used as public land, on the nature strip?

**Dr Boden:** I think the streetscapes are extremely important. It's interesting that the amendments to the criteria which the conservator can use in relation to approving a tree damaging activity—these are, I believe, still on the floor of the Assembly—would allow the conservator to take into account the landscape contribution of a particular tree. So we're moving into what, in some cases, are subjective areas, but a recognition that the streetscape is important. If you think of some of the older suburbs where hedges were planted, these are still important to the overall streetscape in those particular suburbs. I agree that the front, between the house and the street and the other houses in the street, should be looked at in some sort of integrated way, rather than in an isolated sort of fashion.

**THE CHAIR:** One of the things put to us this morning, Dr Boden, was that, while some of the older suburbs have substantial street tree plantings and they are now quite an asset in themselves, some of the newer suburbs—and one of the suburbs talked about this morning was North Lyneham, as opposed to Lyneham, which is now 10 or 15 years old—have not had a coherent street tree policy. I live in Evatt and in my street there are no street trees, except what people plant in their own front garden.

It was put to us this morning that perhaps we need to go back and retrofit some of these areas. Do you see that there is an argument for that in the area? The inner north and inner south areas that were planted 30 or 40 years ago have a substantial public asset. In those cases it's oaks, pin oaks and trees of that sort and stature. In the newer suburbs, we went

through a phase of having mainly natives. Sometimes that works and at other times it doesn't. Then we went through a stage where people could opt out of having street trees, as appears to have been the case at North Lyneham.

Do you see that, for the long-term benefit of the whole of the city rather than those ones that actually do have a garden city aspect, we should consider a retro planting?

**Dr Boden:** I certainly do, but it will need to be done carefully. In the situation you mentioned, the public who were present at that time voted against or opted against street trees. There will need to be a strong education program, because I know that in parts of Tuggeranong street tree plantings were actually pulled out.

**THE CHAIR:** It was said to us today that street trees were pulled out.

**MR HARGREAVES:** Do you think that that was because of the type of tree that was put in? I suggest to you—just see how you respond to this—that a lot of the people who live in Tuggeranong actually moved from somewhere else in Canberra. They settled here in the 1960s or 1970s or something like that, became middle-income people and moved to Tuggeranong and, having had experience of gum trees in the front lawn, said, “No, I am not going down that track”. They would have been happy with some other species there but, in lieu of that, said, “I’m not having that,” and yanked it out of the ground and nothing has ever been replaced. How would you respond to that?

**Dr Boden:** I’m afraid that is the circumstance sometimes, but I’m not sure of the process in that case where the species were selected. In the case of a development where a developer develops a whole section he, as I understand it, in consultation with Canberra urban parks chooses the street tree. I’m not sure in the circumstance you’re talking about whether it was the old days when CUP, or its predecessors, determined what the street tree was. There’s a strong dichotomy between pro-native and pro-exotics.

Certainly in the street tree replacement program, which CUP is responsible for, as some of the trees age and are being replaced, there’s a strong consultation phase in that with residents to determine what trees go back into the areas. How they resolve the issue if there’s major conflict, I don’t know.

I’d just like to make the point that we are now, as a result of the fires of 18 January, coming into a phase of enormous concern in some people’s minds about trees and there really needs to be some major education and understanding to help the community come to grips with this and I don’t see it happening at this stage.

**MRS CROSS:** I suppose there’s so much happening with the recovery that it’s one of the many considerations.

**Dr Boden:** Yes. PALM has just produced a leaflet on what you might plant. But there’s still got to be an understanding and an appreciation that the tree is worth looking after. There was a lot of failure to look after street trees when some of the water charges went up. People said, “I’m not going to look after the tree,” which was unfortunate.

In your case, Mrs Dunne, if the footpath is between you and the kerb, that all seems to impose a mental barrier on people regarding the nature strip as theirs or not. I think in cases where there is no footpath or it's on the kerb, people tend to regard the whole area as their block and therefore want the trees of their choice.

**THE CHAIR:** In my street, one side has no footpath and, on the other side, the footpath is right on the road and the people on the side of the footpath have colonised out to the footpath, but there has been no coherent street tree policy, so you get a casuarina, a eucalypt, a claret ash and whatnot. I think that the claret ash was actually planted by our neighbours and that sort of thing, so you don't actually get a theme, whereas in my favourite tree street in Canberra, Blacket Street, there is a fabulous canopy of pin oaks that give character to the street which is far and away beyond the architectural values of the houses behind them.

**THE CHAIR:** Is there anything else that anyone else would like to ask Dr Boden?

**MR HARGREAVES:** You made a very good point and I was really pleased to hear it about the attention the public have to give to trees now that we've lost 90 per cent of them within the borders of the ACT. Perhaps the community could be doing a bit more grieving than it's doing for that.

**MRS CROSS:** I'm happy for you to give advice on what to do with the 100,000 pine trees behind my house that didn't get burnt.

**Dr Boden:** Mrs Dunne will be concerned about the pines in the CSIRO experiment station if she lives in Evatt.

**MRS CROSS:** I'm more concerned about the ones that affect the 1,000 houses in Isaacs.

**Dr Boden:** I must put my hand up now. As a forestry student in 1954, I planted most of those in Isaacs, so I'm guilty.

**MR HARGREAVES:** Did you put them next to the tip?

**Dr Boden:** No, only in Isaacs. It was an exercise in the middle of winter involving cheap student labour.

**THE CHAIR:** Thank you, Dr Boden.

**JAMES DICKINS** was called.

**THE CHAIR:** Dr Dickins, you were here before when I read the advice to witnesses and I think you've heard it before, so I think we can take it that you're already sworn in. Dr Dickins, you're here for Planning the ACT Together. Please introduce yourself for the purposes of *Hansard*. Would you like to make an introductory exposition on the position?

**Dr Dickins:** I'm James MacGregor Dickins, 14 Bent Street, Turner. I'm convener of PACTT, Planning the ACT Together, which is a coalition of some 30 or so residential and similar groups, environment groups, which I'd like to describe as representative citizen organisations. Incidentally, I am a member of the ACTCode advisory committee; I'm PACTT's representative. That's the main part of DV 125, which is static. We did have some discussion, I heard, earlier about ACTCode.

Our submission isn't a long one because various other resident groups will be making quite detailed submissions. I don't think you've heard any of them yet and I don't want to go too much over ground which you are going to hear from other groups.

**THE CHAIR:** You have the advantage that you haven't had a squillion groups before you, so you may as well have the complete say because by the time we get to them we're going to say "Yeah, we've heard that." No, we won't. In your submission you say that perhaps there hasn't been enough opportunity since the white paper version of this came out in December for the community to really focus on it, but are there other aspects of consultation that you might like to discuss, for instance?

**Dr Dickins:** Actually, I only put two, but I want to add a third. There are three major overall issues that we want to direct attention to. The first one is the one you mentioned. DV 200, I think you could say, represents the biggest changes that have ever been made to the Territory Plan since it first came into effect in 1993. In the context of the second revision on top of that, it's a very comprehensive, very complicated and difficult to understand document. You will be aware of that as well as everyone else.

**THE CHAIR:** We're looking for advice on how to make draft variation 200 a plain English version. Have you got some suggestions for the plain English version?

**Dr Dickins:** Yes. Just before I come to that, I would just like to say that it was issued just before Christmas and in very difficult circumstances. There were lots of conflicting statements. You could say that there were two revisions—the first one which involved the 5 per cent and also the titling of dual occupancy and then immediately on top of it, within a few days, there was this extremely complicated document. The changes are so great that I think you could say that really there should be another draft variation.

I'd just like to make the point, and I'm sure that other people are going to make this point, that it seems more appropriate at this stage for this to be put out for public response and not go directly to the executive and the Assembly. For instance, substantial changes are being made to the core areas in the revision and I'd just like to say a little bit about that, keeping my eye on the time, when we come to it.

**THE CHAIR:** You're going pretty well for time at this stage. Would you like to address the issue of core areas?

**Dr Dickins:** Yes. But I want to come to your point. I'll come to the point about simplification. There is a very widespread feeling in the community that they really haven't had a proper opportunity to come to grips with the revised version. I was just going to say about the core areas that in areas where there are not active residents groups, I think people have got no idea what's going to happen to them, because what is proposed there now, and it's very much increased over what it was in the original version, is a pretty high density. It's like a two-storey Kingston we're going to see.

I noticed Dr Bert Boden did address this question of open space, but dual occupancy can be up to a ratio of 0.5 and we know what 0.35 looks like. In many cases when you look around, 0.35 means there's virtually no soft open space, so we can imagine what 0.5 is going to be. The multiunit plot ratio has been increased from 0.35 to 0.5, so there are going to be very substantial changes. I think I would say that most of the people in these core areas have got no idea what's headed for them.

Coming back to simplification, plot ratio is a very complicated thing, plot ratio in itself. I haven't considered that in our document, but from our past experience things like the footprint are much easier and they're more effective. My colleagues might agree with me, but it seems to me that part of this kind of thing is making a job for yourself, as it were. If you're a professional person, it doesn't matter so much if things are very complicated—from a vocational point of view. Something like the footprint is very much easier to work and, I think we would say, it's a very efficient way of dealing with the amount of space that's occupied on a block by a building.

**MR HARGREAVES:** A more common English way of putting it, isn't it? It is easier to understand for thick heads like me. I can understand that. When we were talking about actually sticking a prison on a block of land, the terminology was all important to get the message through, and they talked then about the footprint rather than a percentage of the block and all that sort of nonsense.

**Dr Dickins:** In the document, this is very complicated. There's a formula there. I really can't understand it. For the community to come to grips with it in such a short time is extremely difficult and I don't know that anyone really knows what's going to happen. So that's the first point.

**MS DUNDAS:** Can I jump in at that point? You've spoken a little bit about consultation and the problems with the ability to understand the document and what it's trying to say. How do you see the relationship between draft variation 200 and the neighbourhood planning process that's been going on, the suburban master plans that are being developed and all those other things that are going on?

**Dr Dickins:** I hold up my hand in horror. As you know, I live in Turner; I said so. We've been through a neighbourhood planning process and lots of people are pretty disillusioned about it.

**MS DUNDAS:** About the neighbourhood planning process?

**Dr Dickins** : Yes. But also how you would fit it in with DV 200. There is, for instance, one very complicated matter that's going to arise from DV 200 and the core areas, because what happened in the inner north—the initial four or five neighbourhood plans have been in the inner north and the other one has been in Deakin—is, in fact, that those discussions have been incorporated into the revised edition of DV 200, but now later, and I won't go into the details of that, as I think everyone is fairly aware—the Downer people are still very upset, to put it nicely, about the area that's within the core area, but they're particularly upset about 700. Are we going to have another DV if we want to change the core areas?

**MS DUNDAS**: So the question is: how will future neighbourhood planning processes that will happen after the draft variation relate to anything?

**Dr Dickins** : Yes.

**THE CHAIR**: This is going to be an interesting question because I noticed at lunchtime that the minister has announced that Downer and Hackett are in the next list of neighbourhoods to be planned and we have got residents of Downer in here saying that they don't know how it will fit together.

**Dr Dickins** : He hasn't asked us about it, I can tell you.

**MR HARGREAVES**: Turner is not adjacent to Downer. Also, you don't live in Hackett, so he's not going to ask you, is he? Also, he didn't need to ask you, I have to say, Dr Dickins, because you're quite capable of telling him without being asked. I think you're legendary.

**Dr Dickins**: No, it's not quite as easy as that, is it? I mean, if you don't know what's going on, it's not so easy.

**THE CHAIR**: He didn't ask us, either, if it's of any consequence.

**Dr Dickins** : He didn't ask you, either.

**THE CHAIR**: No, he just did it. Do you know why he did it? He did it because he can.

**Dr Dickins** : When I say "us", he didn't ask the people of North Canberra about it.

**MRS CROSS**: Can I just follow up on the question that Roslyn asked you about the neighbourhood planning process? You said you had a concern with it. What happened with it that you were concerned with? It did happen. What didn't you like about it, because it was very vague.

**Dr Dickins** : If you think DV 200 is complicated, you have seen nothing. It was very complicated.

**MRS CROSS**: Did something happen in the actual process that you were unhappy with, Dr Dickins?

**Dr Dickins:** The main thing is that a lot of the things that people wanted were not incorporated.

**MRS CROSS:** Okay. Opinions were expressed, but you haven't seen them translated into this; is that right?

**MS DUNDAS:** You haven't seen them translated into the neighbourhood plan.

**Dr Dickins:** Into the neighbourhood plan. I might say something about master plans if I have time, because that's very interesting.

**THE CHAIR:** Yes, if you have time.

**Dr Dickins:** Okay. The second thing is the question of the overall effect. In the suburban area it seems pretty clear that there is more landscaped open space than before DV 100. Especially after the revision, with the greatly increased density in the core areas and the size of the core areas, it looks as though overall there might be less open space than before we had DV 200. This seems to us an issue that requires a lot of public discussion. Is that what people want? In a way, I guess it's the spatial plan question. I mean, do we, overall, want less open space in the city? Again, here there is a major basic problem.

There is starting to be a general feeling that, if the community really does agree that is the good way to go and you couldn't say at this stage that the community really has a very good idea about what this might or might not be and result in, perhaps there ought to be some more equitable carrying of the burden. Also, this has an effect on the garden city. I mean, if we've got great blocks that are, let's just call them, horrible; I know that's an emotional term—

**MRS CROSS:** You can use that word, if you wish.

**Dr Dickins:** I mean, do we want to have areas which are horrible? If we look at B11 and B12 and at B13, which is the Northbourne Avenue corridor, what we're seeing is a kind of monoculture. At the moment, we've got all these apartment buildings—and I say this from our experience—where there's virtually no place for children. I believe now there is one child at Turner School from an apartment and older people either are not really able to live in them or don't want to; it's not the kind of living that older people like. There's noise, there's no privacy. I won't go into it. This is a question of equitable distribution.

That brings me to the third point, which I have heard you already discussing. We feel that the individual areas need to be planned, that this blanket approach is like breaking peanuts with a power tool. You could say that this is a lot of resources, but PALM right now is doing revisions of various local centres, if I can call them that.

There seems to be a good reason to think that it's desirable to have plans for individual areas. Ainslie doesn't have a core area, so that's out of it, but in some places it might be possible. In the city centres you might expect considerably denser development, but local centres could vary. Under DV 200 there's no consideration of what might happen to the local centres, which of them.

If I could just make a point about O'Connor. There was a wonderful opportunity to do something in O'Connor when McPherson Court was developed. It was government land and we were not successful in getting either the government or PALM to do a plan of that area. No plan has been done of the local centre, so that wonderful opportunity was lost and now it's built, it's fixed. With access to the shops and some parklands, there was a wonderful opportunity to do something and it's been lost.

They were the three main points. Perhaps if I just slip through fairly quickly what our view is without going into some detail.

**MS DUNDAS:** I have a general question that might be summed up in what you're about to say, but what would you like to see happen to draft variation 200?

**Dr Dickins:** I've got to think what I would like and what PACTT would like. I think there would be fairly strong feeling in the community that it should go back to taws, should go back to the beginning.

**MS DUNDAS:** And be replaced with greater consultation in the neighbourhoods?

**Dr Dickins:** Certainly, yes.

**MRS CROSS:** What would you prefer instead? If you don't like one, what would you like instead of that? What's the counter to it?

**Dr Dickins:** What would I like?

**THE CHAIR:** We have a current land use policy in the Territory Plan. If your suggestion was that we go back to taws, in the process of going back to taws we would revert to the current land use policy in the Territory Plan. Do you see that there's a problem with that?

**Dr Dickins:** I see lots of problems with that, because I think the Territory Plan needs to be completely revised. What would I like to see? I'd like to see the garden suburbs protected. This raises the question of do we want greater density or not. Here I must speak personally. Personally, there are a lot of difficulties with dense development, a lot of human and physical, environmental, problems. To me, and I think most of our citizens, we have a very high regard for Canberra as it is, don't we? Most of our citizens really have a strong feeling that it's the kind of city that they like. So anything that is done needs to protect what that is. That's the first thing.

If we really think that we need overall greater density, I did talk about being more equitable, but also we need to do it in a way that gives us good solar access. The B11, the B12 and the B13, the density is too high for good residential amenity, for a diverse community and for the environment. The difficulties that there are now with stormwater runoff, and we hear about grey water, but solar access is just going in these areas, so does that answer the question?

**THE CHAIR:** And then you have the problem of marrying that fear that we have to be careful about how we do increase density, how we bring about increased density, with

the discussions most of the members here had yesterday about perhaps the need to increase density to make public transport more viable—I mean good public transport rather than barely adequate public transport more viable—and also to make your shops more viable. There is a lot of competing and sometimes conflicting factors.

**Dr Dickins** : I can tell you one thing. What's happening in North Canberra is that the people who live in these apartments don't use the public transport.

**THE CHAIR** : Do they walk to work?

**Dr Dickins** : Well, it's interesting: yes, some of them walk to work, some of them use bicycles, but virtually none of them go on public transport.

**MR HARGREAVES** : Just so long as they're all out of their cars.

**Dr Dickins** : I don't say they all have cars, but they have cars and they use them, so that's a problem. I don't think that it's a very good approach to think that we are going to make the city denser because it's going to make people go on public transport. I don't know. Look at Bangkok.

**THE CHAIR** : Is there anything else that anyone wants to ask Dr Dickins?

**MR HARGREAVES** : I don't think so.

**Dr Dickins** : Could I just skip through the other main things we're concerned with, and I won't try to talk to them? We're concerned that the areas of territorial significance should be excluded from the core areas, and I won't go into the reasons for that, and the importance of retaining PPN 6, which is the guidelines which were associated with the areas of territorial significance.

They dealt with architectural character and the preservation of streetscape. We consider they're not adequately dealt with in DV. In fact, nowhere are the streetscapes, and here when we talk about streetscapes we take the definition of the Territory Plan, which is from the building on one side to the building on the other side, so that it very much includes the landscaping on the private blocks. I won't go into that.

We support retention of the 5 per cent limit and also support what was in the original about no titling in the suburban areas and we're opposed to 700 square metres, the lowering of that limit.

**MRS CROSS** : Sorry, are you opposed to it or do you support it; I didn't understand?

**Dr Dickins** : No, we are opposed to the 700.

**MS DUNDAS** : Are you happy with the 800 limit? The May draft variation before the revision had an 800 square metres limit for the minimum block size for dual occupancies.

**Dr Dickins** : It was the minimum block in what are now the core areas, I think.

**MS DUNDAS:** It was 800 and then it was revised down to 700. You've just said that you're opposed to 700. Did you support the 800 that was in the original draft variation?

**Dr Dickins :** Can I—

**MRS CROSS:** Take that one on notice and come back to us.

**Dr Dickins :** Yes, I'll take that on notice.

**THE CHAIR:** Okay, if you'd like to get back to us about what PACTT's view is about the optimum minimum size.

**MS DUNDAS:** Yes, what's the minimum size that you see as being necessary for a dual occupancy development.

**Dr Dickins :** Okay. I've already mentioned the increase in plot ratios and density in the core areas. I would like to mention about the B11 and B12 area. The doing away of the overshadowing that was originally in there means that there can be considerably more density. The envelope doesn't cover it and what it was in the urban housing code was that a new development could not cause more overshadowing on an adjacent block which had a single dwelling. So that was a very important protection for people who wanted to continue to live in their single dwellings. Not only has that gone, but it allows quite a bit of extra density.

I'll finish up on the master plans. Earlier on the master plans were approved by the minister. Now they're approved by the planning authority under both versions of DV 11 and there is no appeal and the public input is determined by PALM. What happened with the neighbourhood plan? In the neighbourhood plans in Turner, Braddon, Lyneham and, I think, also Dickson there are some draft—well, I presume they're not draft any longer because—

**THE CHAIR:** They're finalised; is that right?

**Dr Dickins :** They're supposed to be finalised, yes, but they haven't been made public. The public discussion on that involved three weeks, only just the three weeks. There has to be three weeks of public notification, and that was it. They're very complicated documents, so there are some very serious problems with the master plan process. I might finish on that.

**THE CHAIR:** Thanks very much, Dr Dickins, and thank you for your submission. You'll get back to us on the question of dual occupancies.

**Dr Dickins :** Okay. It will give me something to think about. I don't know that we've ever been asked before.

**JOHN DERWENT LAMB** was called.

**THE CHAIR:** Mr Lamb, you should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation, for what you say at this public hearing. It also means that you have the responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

Welcome, Mr Lamb. Thank you for your submission and the extra bits of paper. Would you like, for the purposes of *Hansard*, to say who you are, give your address and make a general introductory comment?

**Mr Lamb:** My name is John Derwent Lamb. I am a resident of Deakin. I am appearing as an individual. My qualifications include a bachelor of architecture, a master of engineering and a graduate diploma of education. I am a registered architect, but currently I'm teaching, more educational services, rather than practising in that area, other than on my own house.

I was from its inception the Deakin representative on the Burley Griffin LAPAC for some three years or so. I'm a member of the Deakin Residents Association, but I'm not appearing on their behalf; they haven't had the opportunity to put a considered opinion together. I am appearing in relation to a relatively quick look at this, given the time it came out. I am a bit concerned about the impact on my own property, but not in the sense of commercial concerns or something. Often, being within one of these areas may improve land values or that. It's more a concern about the quality of the area and the amenity of it.

To explain my position geographically, if you like, I found just from scanning through the paper and in no other way, at one stage, that my property was included within the core areas. If we look to page 24 of the proposed draft variation, we have an area adjacent to the Deakin shops—

**THE CHAIR:** Page 23.

**Mr Lamb:** Page 24 of my pages.

**THE CHAIR:** No, page 22, sorry, has got Deakin on it. Figure 1, Canberra Central.

**Mr Lamb:** Yes. Adjacent to the south of Deakin shops it shows three panels. This is the far left-hand one of those, opposite the corner of The Grange. This drawing is that top block, that being MacGregor Street, Jervois Street, Buxton Street, so that's the top part of the far left-hand unit there. I am in the top right-hand corner there.

The next page, the first of the photographs, shows my house on the left, with the other side of the semidetached on the right. You can see both these houses have had some work on them, but they are well preserving the trees and other plants around them. The next photograph is from there to the right again and it shows that that house has been

developed sympathetically in the style of the old red-brick, semidetached houses. That is, in fact, a five-bedroom, separate living, dining house with a swimming pool on one of those small blocks. These are quite significant houses, though they're on small blocks.

The other picture is to the left of my place again, which shows one of the flat units along there which do have lower-level garages. They are two storeys plus the garage, but you'll notice they're extremely well set back, to the point of preserving major trees in that area. If they came much closer to the boundaries, as proposed by this sort of development, it would give an entirely different impact.

The next one is a plan at design-approval stage showing how I'm on that corner of Jervois Street, extending down the side from a semidetached situation to make it something of a courtyard block. The following page shows you the character of it from the side. It looks to settle in and not be out of place in the area. Against that, on the last two pages I have put a simple plot plan of the house with what potentially could happen in the adjacent blocks. One as a plot plan on that and two as a section. This is what I dealt with in my single page submission here.

This is a complicated document that's hard to get round in a short time. I discussed it with an officer from PALM and it must be read in conjunction with the multiunit development code. My understanding is that if you amalgamated a number of blocks—say, you've got the next two lots of semidetached houses—and you had an area of 1400 square metres, minimum, then the multiunit code applies and you can build to that sort of scale. So the result of that is potentially for a large portion of my back boundary; I can have that 3½ storeys right up to relatively close to the boundary. That alters the whole character of the area; it turns it into a Kingston thing beside you.

These are all relatively small blocks. The density is fair. In this area, if we look at development in this portion of Deakin and to the north of that, the fact is that there is housing on The Grange and just recently there was the sale of Croatia Deakin Soccer Club land on Newdegate Street—along Adelaide Avenue there, you've seen things going on, and there is the potential for more in the soccer ground oval area. The density of this area has probably doubled over the last 15 years, anyway. I'm concerned that this is a really major change and it could, for those areas, result in Kingston-type development that would destroy attempts at a much more sympathetic sort of development that is still at a reasonable density.

**THE CHAIR:** Putting together all the pieces of paper, I think that you've put forward a fairly succinct case as to what the problems might be. Do you have a solution for your own area? How would you address the issues here in Deakin?

**Mr Lamb:** I've made some sort of suggestion, a little bit here, towards it. In the area, I believe that this one, this one, this one, this one and that one—half a dozen of those blocks—are still owned by ACT Housing. I consider that one of the problems with development in Canberra is that it's developer-driven. It comes from seeing a commercial opportunity here. With the Croatia Deakin Soccer Club, everybody got on the bandwagon of something for the Olympics. "We're going to have a training oval. With Olympic soccer here and there, we need this housing here to build that." It comes from an economic drive of making money out of spare land or something like this.

There will be enormous pressure on these areas if this goes ahead. There's enough pressure on them anyway. These are monocrete and timber dwellings, every second pair, and they're very difficult to maintain. They're getting past their life and there is a desire to replace them. If it goes ahead as it is, it's got that dramatic effect on the area. I would like to see a more planning-imaginative, architectural-driven solution where, in a case like this, ACT Housing or somebody got in architects, involved the community and said, "Let's do it in a sympathetic and imaginative way." It may include housing for the aged, it may include different levels, but it will be done in an imaginative and sympathetic way, rather than pushing the boundaries, the envelope, that's set by these things and having that as where your building walls come.

I understand that developers are frustrated by the long processes they go through. Often, though, I think they bring it on themselves by building to that absolute limit. With the Weston Creek areas and the bushfire things, there are desires to push through the red tape. I would think there could be more imaginative approaches, and if you had the unanimous support of the adjacent residents, then you would get a priority go.

In terms of the details of it itself, I think this half-basement car parking tends to be a core thing in destroying the areas, because that inevitably provides these large blocks of half-basement ugly things that don't relate to the ground and other things in the area. I think that's one thing that ought to be reconsidered. I don't have a problem with some things going to three storeys, with an attic, in a sympathetic manner. It's that sympathetic manner of it.

I think the reduction to 700 square metres for dual occupancy is pretty dubious. From what I've seen of blocks around, I would think 800 is the sort of minimum, but it depends on your block situation. On a corner block, you're more likely to be able to do it effectively within those limits, but if it's one behind the other it tends to require a larger block and have more difficulties.

**MRS CROSS:** Were you involved, Mr Lamb, in the neighbourhood planning consultation for Deakin?

**Mr Lamb:** Yes, I was in its early phase.

**MRS CROSS:** In what has come out in draft variation 200, do you see that the issues raised in the neighbourhood planning have been addressed—the planning, land use issues rather than the other things that come out of neighbourhood planning? The land use issues that came up, that you're aware of, do you think that they've been addressed in this variation?

**Mr Lamb:** To the extent that I was involved in the planning, I don't think it got really to that stage where you can say that this applies and this met that. That's very difficult to answer; so I don't think I can give a direct answer against that. I can say from what I attended of them, when I was there, what came across as the most fundamental concern was that the residents felt the biggest problem with planning was PALM itself. That related to the honesty and integrity of the officers, the following through of the legislation, the fact that they were attuned to the developers rather than the community

and that organisations such as the LAPACS previously and now the neighbourhood planning things tended to become captured organisations. So they were dominated by certain individuals. They were led along, fed what was necessary, what was advantageous was taken from them, but the total thing they were proposing didn't get a guernsey.

**THE CHAIR:** The take-home message that I'm getting from your submission is that you'd like to see a planning regime for your suburb, and you're really interested in your suburb, that gives some certainty to the people who are there about what you might end up with in the long run, that what you're saying is that you didn't particularly want to see things that were developer-driven.

**Mr Lamb:** Yes.

**THE CHAIR:** What I'm trying to extrapolate from that is that, if you don't want it developer-driven, you need to have a fair amount of community input before it becomes an issue for developers, so that you need input from the community about what the community wants to see there now and in five, 10 or 15 years, so that you don't end up with the sort of conflict where somebody comes along and says, "Hey, have we got a deal for you."

**Mr Lamb:** That doesn't always work because the planning groups and contact groups they have will never be fully representative and they tend to be taken over by certain individuals or groups and used in some ways. Yes, you do want certainty and everybody wants a certain level of certainty. I don't think the community understands enough of what's involved in this as it is, but I would like to see a more imagination-driven thing where we're not led by developers, but we're led by organisations such as ACT Housing or PALM itself, with professional input, where they look at an imaginative opportunity and doing it well. If this is introduced as it is, I would not like to see it introduced lock, stock and barrel, except as a concept and then within that they look to do model-type developments to show how well it could work, to set some good examples.

**THE CHAIR:** So what you're saying is you'd like to see the government lead by example where it has an interest in the land?

**Mr Lamb:** Yes, I think I would.

**MRS CROSS:** And don't see that the current draft variation is flexible enough to allow that kind of imaginative development to actually occur.

**Mr Lamb:** Yes, but without allowing it to be misused. You've got to have unanimous community support or something like that, otherwise—

**MS DUNDAS:** Do you think that's possible, Mr Lamb, getting unanimous community support?

**Mr Lamb:** Yes, I do in a sense. It does have limitations. I mean, you can get one person saying in there, "Look, I won't do it till I'm paid off enough or something," but I think the money involved means that there are certain undesirable things happening anyway. I

know with my own extensions, though I'm pushing to that boundary, I'm being flexible in that I'm not strictly meeting the parameter codes, but I'm following them in and out. I went and spoke to all the neighbours, I discussed what I was doing, and nobody objected; they were all happy with it. I would prefer to see that sort of approach.

**THE CHAIR:** Is there anything else anyone wants to ask Mr Lamb? Thank you very much for your time and thank you for making submissions and illustrating them.

**Short adjournment**

**ERIC MARTIN** was called.

**THE ACTING CHAIR** (Mr Hargreaves): Mr Martin, thank you for coming. I'm obliged to read this card. You should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation for what you say at this public hearing, but it also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

I invite you to make an opening statement and then we will take questions and see where it leads us. Before you do, identify yourself for the purposes of *Hansard*. If you're just representing yourself, fine; if you're representing somebody else, please say so. Also, be aware that when the buttons up there are alight, the proceedings are being broadcast right through the building and certain public service offices as well and you're entertaining a lot of sleepy public servants.

**Mr Martin:** I hope I don't send them to sleep. Thank you very much. I'm Eric Martin. I'm an architect and have been operating in Canberra since 1973. Although I'm representing myself here today, I do sit on a number of committees and am vice-chairman of the National Trust. I have been chairman of the ACT Heritage Council. I was on the Heritage Council and committee for 11 years.

I have represented a number of people as an expert witness in the AAT on issues of dual occupancy in the inner Canberra areas. I'm also on the ACT chapter of the Royal Australian Institute of Architects heritage committee and I have a masters degree in building conservation. So I come as an architect and I come as a person who's deeply interested in preserving Canberra's garden history, particularly in the inner area where it's most represented.

I'd like to just add a few introductory statements further to my prepared statement, which I assume you all have, and reinforce a couple of particular points of it. One of the issues that come up is the issue of the 50 per cent plot ratio and just what real impact that has. I support the principle of a garden city variation, but I'm really concerned that certain aspects of this draft variation won't achieve a garden city outcome—in other words, a smaller built form in a garden setting, which was the whole principle behind the garden city concept and ideals.

I'd like to provide you with a diagram. The purpose of this diagram is just to illustrate one simple fact of what a 50 per cent plot ratio really means in respect to the built form that can occur on a single block of land. This draft variation does permit 50 per cent plot ratio in a number of areas and when you just see what could be a built envelope within a 1,000 square metres block of land, there doesn't seem to be much space left for any landscape. This ignores the issue of where a car might come into the site and other paved areas; that's just a built form.

It will be partly ameliorated by the 55 per cent private open space which DV 200 does require. However, a 5 per cent loss or reduction in the area still doesn't, in my opinion,

give sufficient space to maintain the principles of the garden city concept and an open area and sufficient landscape around it. These are some of the sorts of things that really concern me.

The other thing, if I can have another diagram circulated, is the issue of the building envelope. While the building envelope has been set out in DV 200, I don't think it has been studied in sufficient detail to really look at the implications of that building envelope. I've been involved with a number of AATs where the whole issue of the proximity of buildings, particularly towards the back end of a block, dual occupancies and the like, and the overlooking effect of a two-storey building on the adjoining property or the loss of sunshine or access to sunshine can occur. What this drawing at the top section shows is that within 12 metres—

**THE CHAIR:** Sorry, Eric, can I be really rude: what's UFL?

**Mr Martin:** It's basically the requirement between 12 metres from the front of the boundary back.

**THE CHAIR:** What does UFL stand for?

**Mr Calnan:** Upper-floor level.

**Mr Martin:** It details that in the front 12 metres at the front of a block, a certain envelope applies, particularly for the upper-floor level, and then beyond the 12 metres another envelope applies. This means that you can actually get upper-floor levels that are looking towards each other within six metres of each other within that envelope. When you start talking about maintaining privacy, either building to building or building to open space, I don't think this actually achieves those sorts of objectives.

It's interesting that in looking at some of the decisions from the AAT, I think that some of the decisions which have been influenced by the loss of privacy would be permitted in the future where they have been rejected in the past. It concerns me that there will be loss of privacy, loss of access to sunshine, and that has a whole impact. I don't think the envelope has been fully explored or the real impact of it.

The other thing which I'd like to particularly emphasise in my submission is attachment A about the residential core areas. There are some areas which I think need to be excluded from the residential core areas. I'd just like to reinforce those. With Dickson, there was a public meeting last year, a neighbourhood meeting, about the future of the Dickson area. It was fairly clear from the view of that public meeting that all the residential areas east of Cowper Street should remain single block and not go into residential core areas.

The rest of Dickson at the moment is in B11, B12, so it will go to much higher density, but that doesn't leave anything of Dickson left except for the areas east of Cowper Street. I think it's strange where a public meeting supported by PALM is saying one thing, yet a document comes out that's to the contrary of that.

Yarralumla, section 64, the second oldest residential area in Canberra, has had a recent heritage assessment which I undertook for the ACT Heritage Council. Once again, the proposal is to permit that very important area as a residential core area and enable a much greater potential for development in that area.

**THE CHAIR:** Could you point out section 64 on the bottom map over there?

**Mr Martin:** Yarralumla 64, the shops are right here and it's the area towards Banks Street, towards the golf club.

**THE CHAIR:** So, it's the one that's diagonally opposite.

**Mr Martin:** Straight down past the shops and immediately on your right. That was built to house the workers working at the brickworks. It was the second block, behind Braddon, with respect to development in Canberra. Curtin is an area where the Radburn planning principles are probably best illustrated in Canberra, a very important and fundamental planning development in Australia's history. That's up for grabs for total redevelopment.

**THE CHAIR:** Curtin?

**Mr Martin:** That's behind the Curtin shops.

**THE CHAIR:** Sorry, I'm on the wrong map.

**Mr Martin:** It's the area here. The other area is in Phillip, Swinger Hill, which is actually on a heritage register at the moment and yet is being opened for potential total change.

**THE CHAIR:** Is Swinger Hill on the heritage list?

**Mr Martin:** It's on a heritage register. It's on the Royal Australian Institute of Architect's register of significant 20th century architecture.

**THE CHAIR:** Okay, so it's not heritage listed.

**Mr Martin:** It's not in the ACT heritage register; it's on a heritage register.

**THE CHAIR:** What about the Curtin Radburn area?

**Mr Martin:** No, it's not, but we've also got a consultancy to look at Canberra's heritage in its broader sense or potential heritage from 1945 to 1988. We should submit our report in about two weeks. Curtin will be one of those areas which we'll identify as having heritage value in our opinion.

**THE CHAIR:** This is 20th century architecture, is it?

**Mr Martin:** It's more than that. It covers planning, landscape, history and architecture, and tries to identify gaps, basically, in our current registers, to get them identified early

so that the community knows about them now so that any future planning issues are aware of them in advance rather than having it occur basically at the 11th hour, which has occurred with some developments in the past.

**MR HARGREAVES:** What sorts of things which were built around the mid-1980s would be on that list?

**Mr Martin:** For instance, the new Parliament House is on the Royal Australian Institute of Architect's international register. But what you did get within the 1960s, 1970s and 1980s was some very fine housing throughout Canberra. For instance, there were a number of important architects. There are five Robin Boyd houses throughout Canberra. Two of them are on the heritage register at the moment; the other three are not. There are houses by many famous Australian architects. I am talking about Harry Seidler. There are some by Philip Cox. Glenn Murcutt has one house in Canberra.

**MR HARGREAVES:** You'll have to excuse me, but I've never heard of those architects because I'm a pleb. I've got to say that there's a whole stack of people out there in the community who are a bit like that, but you'd have to give me another reason why we want to protect it just because some guy designed the thing in 1988.

**Mr Martin:** The architects I'm talking about made their contributions in the 1960s, 1970s and 1980s. There are two things: they are actually very good designs in their own right and by important architects. Some of them are by lesser known architects, if you like, like the Jalinec house in Gawler Crescent. But they are excellent designs. They are certainly representative of periods of Australian architecture of high note. They are by important architects themselves and frequently they've been associated with key individuals, like the Boyd house for Professor Frank Fenner.

**MRS CROSS:** And recognised internationally as well.

**Mr Martin:** Yes.

**MR HARGREAVES:** Where would they be located?

**Mr Martin:** The Fenner house is in Red Hill.

**MR HARGREAVES:** Are there any of them in the newer parts of town, the areas of town that were settled after 1970?

**Mr Martin:** One of Boyd's houses is in Aranda and there are actually quite a number of fine ones from, if you like, the Sydney School, which was also referred to as the nuts and berries, the dark bricks and the dark timbers. Lots of people referred to it as the mission brown period. But there are some very fine examples of architecture of that period, and I think it's important to accept and acknowledge that. That's just part of the process. But the fundamental aspect of this draft variation is the garden city concept, which permeates right through the inner Canberra areas and does permeate into the Woden and Belconnen areas as well, and I think it's important to try and recognise those aspects and, in my opinion, protect them. I don't think this one achieves all that totally.

**THE CHAIR:** Actually, you made an interesting point there, Eric, when you said that this permeates into Weston and Belconnen, but it certainly doesn't make it as far as Gungahlin.

**Mr Martin:** Unfortunately, no.

**THE CHAIR:** Part of the problem that I have is that undeniably we have a garden city concept in the inner north and inner south. I'm not quite sure, not being an architectural person, how far it does extend into Woden or Belconnen. The question is: are we making a variation to the Territory Plan that presumes things that aren't actually the case?

**Mr Martin:** I don't believe so, because the planning principles that were adopted through Belconnen and Woden, I don't think that they are that dissimilar, but they are of a different timeframe—in other words, a more recent time—than was adopted in inner Canberra, that's north and south Canberra. The northern end of Tuggeranong is not too different, but what has happened is that the southern end of Tuggeranong and Gungahlin have certainly changed and have changed, in my opinion, to a far less example of a garden city concept. Canberra is of world importance because of its garden city ideals, and I think it's really important that we don't lose that world importance by eroding some of the fundamental values by overdevelopment.

**THE CHAIR:** What do you see as the essential values? I think you're for a smaller built form in a landscape setting; I think they were your words.

**Mr Martin:** Yes.

**THE CHAIR:** And that's the thing that you think that we should be preserving in this draft variation?

**Mr Martin:** Very much so.

**THE CHAIR:** Can we preserve it in Gungahlin if it doesn't exist?

**Mr Martin:** I think parts of Gungahlin have already gone too far. By squeezing big houses onto small blocks of land and narrow streets you will never achieve it. My concern is that you may end up, if you like, Gungahlinising inner Canberra, which would be to the great detriment of Canberra.

**THE CHAIR:** What would you see as the characteristics of Gungahlinisation?

**Mr Martin:** Bigger houses on smaller blocks of land and, unfortunately, very little open space between them and the loss of open space within an individual block and also the loss of open space in the public sense because of the squeezing of the streets and because of the narrowness of the space between buildings.

**MRS CROSS:** I noticed from your submission, Mr Martin, that you have some concerns over the ambiguity of some of the definitions used. Could you be more specific and tell us which areas you have concerns with?

**Mr Martin:** It's a matter of being clear on some of them. Home business was one which I couldn't quite clearly understand and also the issue of substantial definitions. I've been through enough AATs to know that you start arguing about the definition of words in an AAT, about whether 50 per cent constitutes substantial or 51 per cent constitutes substantial. If you're going to do a draft variation, for the benefit of everybody, be clear and be more precise in what you intend by it so that you minimise the ambiguity and then everybody is clear. The developer is clear as well as the individual owner or the people who may be interested in preserving it. Some of the details are just not clear enough.

The other thing which comes up is about streetscape and what constitutes streetscape. There has been an enormous amount of argument over whether the backdrop to a house or the space that you can actually see down beside houses and into the backyard constitutes streetscape. I believe they are all components of it. They are certainly part of the overall impression that you get from walking or driving down streets, and it's not just the front yard and the front facade of a building; it's beyond that. I think that there's an opportunity with this draft variation to clarify these issues and I don't think it does that at this point in time. They're the sorts of things which do crop up through a number of scenarios and I think there's an opportunity here to make it clear.

**MRS CROSS:** If you've got a list of the ambiguities that concern you, would you mind giving it to us?

**Mr Martin:** The key ones are in my submission—the home business, the residential development and the plot ratio development; in other words, the definition of car open space. They are the key ones.

**THE CHAIR:** Would you mind talking the committee through some of these attachments. You talk about attachments A and B and the impact on plot ratios. I don't want to put words in your mouth but, especially with your example B, because there's so much building on the place, I presume that someone has sacrificed garden trees to put this in. So it's not just the streetscape that you're talking about; it's what people put in their backyards that they might knock down to put in a granny flat.

**Mr Martin:** It's not a granny flat; it's usually a second house of somewhere between 150 and 200 square metres. They are examples I've been personally involved with in the AAT. The two drawings that I tabled today are, if you like, generic drawings which further reinforce the sorts of principles that these particular examples have.

What happens there is that you squeeze everything to the minimum setback necessary on a site boundary, like attachment B. The driveway takes up a substantial part of the area getting to the back house and you really don't have space to landscape, certainly not in the traditional garden city concept. It just seems to be squeezing everything to the maximum and I think it is really unfortunate and I don't think it's consistent with the ideals that this draft variation or, if you like, the Territory Plan aims to achieve.

**THE CHAIR:** I'm not very good at interpreting these things, so could you explain what's happening with the one in C. Are C and D related?

**Mr Martin:** C is a dual occupancy in the back of another house. It's a second house at the back of an existing house in an area of territorial significance. With unit 1 of block 9, they've endeavoured to retain the existing building but add to it and then put a two-storey house in the backyard. What happens with that two-storey house, although it meets the envelope in DV 200, is that it totally overlooks the pool of the person in block 10 and it creates a shadowing effect onto adjoining blocks and certainly is incongruous with the character of the area.

**THE CHAIR:** This is the street up here on the inside?

**Mr Martin:** The street is at the top of the page.

**THE CHAIR:** So they've actually built across two blocks?

**Mr Martin:** It's a duplex joined together at the moment.

**THE CHAIR:** I see; that makes sense.

**Mr Martin:** That was the character of the area.

**THE CHAIR:** And then somebody with block 9 has attempted to build something in the back.

**Mr Martin:** They were proposing to build a two-storey house in the back, which is the one that's illustrated in figure D. Although that does fit the envelope, it creates a substantial privacy concern for adjoining people and also alters the character of the area. Another thing which DV 200 doesn't achieve, which was one of the things controlled by PPN 6, relates to heights and relationship from a design sense.

This is totally ignored in DV 200. It was certainly a very strong point in respect to the principles of maintaining the character of an area and having a design philosophy behind two-storey buildings. That particular component seems to have been removed, unfortunately, and I thought it was a fairly sensible and reasonable control which came out of the Lansdown report in the early 1990s and which was then put into PPN 6 but has now, unfortunately, gone out of DV 200.

**MS DUNDAS:** We've had suggestions put to us today that we need almost to go back to allowing individual assessments of blocks, that we can't put strict guidelines across the entire city because each block is different, but if we had principles to follow, we could do individual assessments on blocks to see if a dual occupancy could fit there and those kinds of things. Do you support that as another answer?

**Mr Martin:** I think from a practical point of view, that's really not on. It would be great if you could do it. However, from a practical point of view, I don't think any planning authority would have the time to individually assess every block in Canberra and then put in a development control plan for it. I think there has to be some generalisation on some of these issues to make it a workable document.

**MS DUNDAS:** And what would you like those generalisations to be?

**Mr Martin:** I think DV 200 goes part of the way to it but it doesn't go far enough in a number of areas. There do need to be some of the things that are being put into DV 200, like the open space, but the open space needs to be considered in the sense of the hard landscape and the soft landscape, because the soft landscape is what enables the recharging of the groundwater, which is important for getting plants to grow and assisting that garden city concept.

It's not just open space; it's green open space. I include lawn in that as well as part of it. Some of the controls, like the open space and the plot ratio controls, can assist in a general sense in maintaining some of those values. But it needs to be, if you like, reigned in and certainly a lot less than 50 per cent. Some of the formulae put into DV 200 which do reduce the plot ratio for the larger blocks is heading closer to the mark, in my opinion.

**THE CHAIR:** Eric, with the other two which you've said are inconsistent with the neighbourhood but would meet the building envelope, can you talk us through those? I presume that E and F are the one building.

**Mr Martin:** E and F are the one building.

**THE CHAIR:** And that's in Golden Grove.

**Mr Martin:** It's in Golden Grove.

**THE CHAIR:** What side of the street is it on?

**Mr Martin:** It's on the western side of the street. It's a two-storey development of a flat roof design which is proposed to sit in a street which is primarily single storey, pitch-tiled roofs and single houses. This one has a development across the block, if you include the two carports, from 1½ metres from this boundary right across the block to 1½ metres on this side. So we've got 90 per cent of the front of the block built out with carports and a two-storey building.

It's also totally incongruous with the architecture of the area and totally out of character, and this would be permitted under DV 200. That's the sort of thing, on the face value of it, as far as the envelope, the setbacks and those sorts of things, that would be permitted under DV 200. It is the sort of thing which I find a problem in respect to maintaining the garden city character.

**THE CHAIR:** There are other issues with Golden Grove, but they are on the eastern side with the creek.

**Mr Martin:** Yes, the history of the creek and a rubbish tip that was there in the 1950s. I can go into that if you wish.

**THE CHAIR:** It's very ugly. I understand that. I was wondering what the problem was, but I hadn't actually recognised that one of those bits was, in fact, a carport until you pointed it out to me. It's more understandable also when you see that the buildings go together and where they are.

**Mr Martin:** Some of them, yes.

**THE CHAIR:** Just being the devil's advocate, I could come along and it meets the building envelope and I want to build a two-storey modern structure with an iron roof in amongst modest, red-brick bungalows with tiled roofs which are now 40 to 50 years old and I could be paving the way for a whole lot of new design that might eventually overtake all that. Is it because I'm the first person there that I get knocked down? If two or three other people came forward at the same time and put forward similar proposals, would I have more chance of getting it through? If it was really obvious that Golden Grove was about to go through a metamorphosis, would there be less of a problem, or do you think that Golden Grove is worth maintaining in its present form?

**Mr Martin:** There are certain areas where you can accept that there will be a level of change. In some of the residential core areas close to shops, you can accept a change and that may be a wholesale change. Looking at Torrens Street in Braddon, the heritage area of Braddon was identified which basically said Torrens Street could go and it has gone, so over time you've got your three-storey flat development there, and it will look incongruous as apartments.

But what I think is important is to identify areas, whether it be the bulk of Kingston or wherever else, that will undergo that change and accept that change will occur in those areas. I think it's equally important to exercise a greater level of control on the areas that you want to keep as representative suburbs of the 1920s, 1930s, 1940s, 1950s and 1960s. So you accept wholesale change in certain areas, but you actually do apply a level of protection and control in other areas.

**THE CHAIR:** That means we have to go out and purposely identify the bits that we want to keep the same.

**Mr Martin:** It's not necessarily the same in the sense of every detail, but it's certainly the same in the sense of the essential character of the area.

**THE CHAIR:** The sense, the feel, the character.

**Mr Martin:** Yes.

**MRS CROSS:** But then you have to convince everyone who lives in those areas to want to maintain it in that way.

**Mr Martin:** There are two ways of convincing people. One is just from the groundswell of the interests of the residents. The other way is actually through basically having a conscious planning decision that these controls will apply in this area and therefore control it through a planning regime. You can actually dictate, if you like, or put a planning control on it that actually influences those criteria.

**THE CHAIR:** So what we have, for instance, at the moment are planning controls that mean that the listed heritage areas like Ainslie, Braddon, Blandfordia, et cetera, are not subject to draft variation 200 and you're actually saying that we probably need to identify other areas that are characteristic of them.

**Mr Martin:** Like the areas of territorial significance in PPN 6, where a broader area of Canberra was generally identified as having a character and therefore there were more specific controls placed on those areas. I think that you can identify some of these other areas, whether it be Belconnen or Woden, that do have a certain character and, if you like, an architectural and planning history associated with them and do need to have a higher level of control and therefore a slightly different planning approach for those to some of the other areas which will be opened up for greater development.

**THE CHAIR:** I see, yes. Red Hill doesn't fall into that category in PPN 6 but perhaps should.

**Mr Martin:** I think there are parts of Red Hill that should be, actually. It's a whole process of identifying not only an architectural style, but also the landscape and planning regime at a particular time. I think they do represent our history and our heritage in a broader sense. Even though they may be from the 1960s and the 1970s, they are really fine representations of planning, architecture, landscape and social aspects of our particular time and I think that they're worthy of a greater level of planning control.

**THE CHAIR:** Is there anything else anyone wants to ask Mr Martin? Thank you very much for your time.

**Mr Martin:** Thank you.

**ROBERT WEBB** was called.

**THE CHAIR:** Welcome, Dr Webb.

You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections, but also certain responsibilities. It means you are protected from certain legal action, such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

Please introduce yourself for *Hansard* and give a brief introduction about the points you want to make.

**Dr Webb:** Yes, my name is Robert John Webb of 27 Golden Grove, Red Hill. With regard to listening to my comments and evidence, it will probably be helpful if I just say where I'm coming from. I'm not a planning expert.

**THE CHAIR:** Neither are we.

**Dr Webb:** I am a resident of Golden Grove, Red Hill, who became involved during the last 18 months in a fairly significant appeal about what we saw as a landmark issue. It concerns much the same issues that you were just talking about with Mr Martin—are the streetscapes worth preserving in some of this territory and in what we consider a particularly excessive proposal?

I noted, actually, that the last one, the one on the back of Mr Martin's evidence, is actually the one in which we have been involved.

I'm not an expert but, on the other hand, after being involved first with PALM and then with several hearings in the AAT, then the Supreme Court and back to the AAT—and the issue is still going on after 18 months—it did worry me that, when you asked Mr Martin what UFL meant, I knew the answer.

**THE CHAIR:** Just by way of information for the committee, what's the street address of this plan that Mr Martin showed us? It's 35 or something like that, isn't it?

**Dr Webb:** The one at E and F?

**THE CHAIR:** Yes.

**Dr Webb:** It is I think 26, but it may be 28. I can't quite remember whether it's 26 or 28 Golden Grove. I actually live opposite it and I should know.

**THE CHAIR:** It's on the even side of the street, that's right.

**Dr Webb:** Yes.

**THE CHAIR:** Sorry, I'm just putting it in context, to make sure I know what I'm talking about.

**Dr Webb:** It's on the boy's Grammar side of the street. I do have a supplementary submission which I filed this morning and I understand that, if the committee is agreeable, I can actually table that this afternoon.

**THE CHAIR:** You can table it.

**Dr Webb:** I'll speak to this one first, the one you actually have, then I might just table this and speak briefly to it as well. Is that all right?

**THE CHAIR:** Yes.

**Dr Webb:** On this first submission, I wanted to draw attention to a fairly specific issue, which is that, under the impact of DV 200, as it says on the first page of the submission under 1, there are certain new requirements under DV 200, but they only apply to development applications lodged after the date of effect. There are some other criteria which have other dates, but the general principle is that they are not retrospective. It is not true of everything in DV 200, but it's mostly the principle.

Under 2 there, I note that it also says in the document on DV 200 that, as soon as DV 200 comes formally into the Territory Plan, PPN 6 would be withdrawn. This would presumably include restrictions on certain two-storey developments that are contained in PPN 6 and that are central to quite a number of current AAT appeals, including the one that I have been involved in over the last 18 months.

**THE CHAIR:** Sorry. Could I just interrupt here to ask PALM for information. If PPN 6 ceases to operate when DV 200 comes in, what are the protections of this sort translated into DV 200? I was actually going to ask this later.

**Mr Calnan:** We believe that the protections in DV 200 are much stronger than those in PPN 6. I can outline those if you wish. PPN 6 contains a rather vague statement about two-storey development only being permitted where there is a direct visual relationship to two-storey development on surrounding blocks. A lot of debate in AAT appeals has been about what constitutes a direct visual relationship.

In response to that, DV 200 actually introduces some quite specific controls that relate to the height of dwellings in dual occupancy developments. It specifically says that any dwelling in a dual occupancy development that does not directly address a public street will be limited to being single storey in scale. It will no longer be possible to have two-storey developments at the rear of the block and those, in our view, are the ones that have caused the most concern.

**THE CHAIR:** There was one of those in Mr Martin's evidence.

**Mr Calnan:** I didn't see the plan, but I understood that the development that he was talking about was at the rear of the block and that it was a two-storey development. Under DV 200 that will not be possible.

**THE CHAIR:** DV 200 talks about dual occupancy. Does the same thing relate to multiunit developments, something that is more than a dual occupancy?

**Mr Calnan:** In suburban areas, and I believe Golden Grove is classified as a suburban area, multiunit redevelopment on standard blocks will not be permissible.

**THE CHAIR:** But what about consolidation?

**Mr Calnan:** Consolidation of blocks would only be permissible where the development is for supportive housing.

**THE CHAIR:** Excellent, thank you.

**Dr Webb:** I will follow on from that because I think it is an important line of discussion. The gentleman mentioned then that the main concern was two-storey dwellings at the back of blocks. If we use this particular proposed development as an example, as shown in the attachment to Mr Martin's evidence, it has a two-storey rectangular building, built up above the natural ground level at the front, directly facing the street. I think that would have far more impact on the streetscape than would a two-storey building at the back.

I understand the arguments for not having two-storey buildings at the back, particularly because they overlook others. However, in terms of the preservation of the garden city streetscape and the sort of characters that are consistent with Golden Grove, I think a two-storey building of this sort is clearly completely out of character with the streetscape. It has its maximum impact by being built up so that it is at the front of the site.

The point about PPN 6, guideline 7, in particular, which is the one that is being referred to, is that it does give grounds for considering the impact of a two-storey building that is very much up front and in the faces of people in the street, whereas, as indicated, the new draft variation contains no such criteria. It only relates to buildings at the back of the site. I think that aspect is a very significant omission from draft variation 200.

**THE CHAIR:** In your submission, you move from the specifics of the proposal that concerned land opposite your house to look at the general issue of whether there are streetscapes that should be protected in a more rigorous way than you think DV 200 is doing.

**Dr Webb:** Exactly. I appreciate that the committee can't get involved in arguing the pros and cons of an individual proposal and the AAT will eventually sort that out, as it is still going on. I was speaking as a resident who is now involved in this in a fairly substantial way. I have come to understand a lot of things about the Territory Plan. I am no expert, but I understand a lot of things about the way it operates in practice in a particular application of the guidelines. I have come to a conclusion about the significance of things such as PPN 6 and the extent to which draft variation 200 removes some of those protections for the streetscape that are very important.

**THE CHAIR:** Can you suggest those things that you think are removed by doing away with PPN 6 that you would want to see put back into draft variation 200?

**Dr Webb:** The specific one that I think is most notable is the one that has been used in several AAT appeals, including the one that I've been involved in, which is guideline 7. I think it would be open for us to look at whether it could be rephrased because, as was mentioned, it has led to a lot of debate, although the AAT now has a very good set of working guidelines about how to interpret it that has been accepted in a number of decisions. That is not to say that it should be translated directly, word for word, into draft variation 200.

**THE CHAIR:** I'm afraid that it probably fails to meet the man on the Clapham omnibus test of a definition. I will just read it out for everyone.

Existing buildings in residential areas are predominantly single storey. The height of new buildings should be similar to the height of adjacent and nearby buildings—

—I get that—

and a two storey development will only be permissible if a direct visual relationship to a relevant adjacent two storey building can be demonstrated.

**MR HARGREAVES:** Does that mean you can look out the window and see it?

**THE CHAIR:** If you can see another two-storey building—

**Dr Webb:** Perhaps I can comment on that.

**THE CHAIR:** So what does it mean?

**Dr Webb:** The AAT has ruled quite definitively on that. Basically, it is not being able to see one building from the other—this is direct visual relationship—it is as seen from the public arena, so from the street. Direct visual relationship was originally defined in a particular case in Griffith and that definition is now used in other cases, including this one, to relate to the design concepts involved.

**THE CHAIR:** It doesn't only mean "can I see it" but also "what does it look like"?

**Dr Webb:** Exactly. Can you see it is one criterion. It is an obvious one in the sense that it is the most immediate one. If you can't see it then clearly it doesn't have an impact. Just being able to see both buildings from the street is not sufficient.

A number of criteria are laid down in AAT decisions now which identify the various criteria. They are design criteria and I think that is quite appropriate, because these are design issues. Maintaining the integrity of a streetscape or preserving the original design concepts of areas are design issues. They are not just about whether you can see one thing from another. I am not the best person to elaborate on the detailed of those design issues but they have been ruled on and discussed in the AAT.

**THE CHAIR:** You would like to see guideline 7 picked up and incorporated in a more obvious way in draft variation 200?

**Dr Webb:** Correct, otherwise in my view draft variation 200 and the rest of the Territory Plan does not protect against the impact of large two-storey buildings that front onto the street with a very evident two-storey impact on the street, in what is essentially a single-storey environment.

**THE CHAIR:** Could we move on to your other submission?

**Dr Webb:** Certainly.

**MR HARGREAVES:** This is a general question that anyone in the room can answer. Is it right that the proposal is to stop people extending their houses and putting a Cape Cod extension, for example, on the bit of their house that fronts the street?

**Dr Webb:** It depends on the surrounding environment and whether, from a design point of view, it is in or out of kilter with the rest of the environment.

**MR HARGREAVES:** If your whole street or a place, for example, has less than 20 houses in it and they are all single-storey houses, and someone wants to put a Cape Cod on the top of his house, are we saying that that should not be allowed, or is not allowed now?

**Dr Webb:** It can be allowed if it meets those design criteria in regard to the other houses in the street. For example, in the original AAT decision on the case in which we have been involved—it has made one decision on this and now has to make another decision for reasons I will mention in a moment—the president of the tribunal found that, in considering the objectives and the Territory Plan—because we are not against dual occupancies per se, it is the style and design of dual occupancies that is relevant—there was no evidence that you couldn't have had a dual occupancy there that met the other objectives of the plan, in terms of diversity of dwelling and all those other criteria, but didn't infringe on this particular guideline and impact on the streetscape.

He found—and we thought it was quite appropriate—that you didn't have to sacrifice one objective when you could have a dual occupancy development that met all the other objectives and met this objective as well.

**THE CHAIR:** Dr Webb, there being no further questions on that submission, would you like to speak to this submission, because we haven't had a chance to read it?

**Dr Webb:** Yes, I apologise for getting it to you so late. It is probably easiest if I just talk through it, referring to some of the paragraphs. It is really in two parts and the first part, having reflected a bit more on draft variation 200, goes a bit further than I was just saying. If I go to point 2, as we say there, we think the nature of the proposal is clearly incompatible. If we go to point 3, what we are saying is that such a proposal would apparently still fit within the new proposed building heights and the envelopes referred to in DV 200, and I think that is part of the evidence that Mr Martin gave as well, in his attachment E.

While there may be other restrictions on, for example, the approach being taken to the maximum plot ratio in DV 200, which we would endorse very strongly, you could have something that covered less of the plot but, if it had the same design and the same two-storey nature at the front, from the point of view of its impact on the streetscape and the surrounding area, it would have the identical effect to that which would possibly be prevented under PPN 6 or its equivalent.

**MS DUNDAS:** Could I ask a question at this point? What you are saying is that the generic statement that exists in PPN 6 is more helpful for working out how the building will fit into the streetscape than the specific measurements that are provided in draft variation 200—the 12 metres, the 30 degrees and the 45 degrees, depending on the slope of the house? Would you prefer a more generic statement?

**Dr Webb:** No, I think there is a combination of principles and measurements involved in effective planning. That is the conclusion I've come to during my brief exposure to this area in recent times. I am not at all averse to the measurement approach but in that respect I note that, for something which, to the residents, appears to patently detract from the integrity of the streetscape, in terms of its sheer bulk and size, the particular measurements reflected in the envelope would permit it.

On a straight intuitive basis I'm not against the idea of an envelope—it seems like a good idea—but then, when I see what that envelope actually translates to in practice, I'm saying that there is one very good example that I am faced with immediately that, on what I call commonsense grounds, looks as though it clearly detracts from the integrity and the nature of the streetscape in terms of form, style, bulk and other dimensions. Yet, it fits within the proposed envelope.

**MS DUNDAS:** So we should change the envelope measurements?

**Dr Webb:** My suggestion is that one thing that should be reviewed is the envelopes, if, in practice, they allow those sorts of developments. I can't believe that is what is intended by the overall policy.

**THE CHAIR:** There seems to be a contradiction that this committee is going to have to come to terms with, because there is one school of thought that says we should almost take things on a case-by-case basis, that you have some general guidelines but then sometimes, when you actually get to a particular proposal, you have to exercise common sense and common sense can appear to be rather arbitrary. At the same time, I think it was Mr Martin who said that we can't actually afford to do that because we probably don't have enough detail to be able to do that, so we need to set some stricter guidelines.

There is a conflict there: what you actually seem to be saying, Dr Webb, is that we should exercise common sense.

**Dr Webb:** That is reflected in the principles. I am not sure that either measurements or principles alone would serve. Again, I feel reluctant to comment because I am not a planning or design expert—

**THE CHAIR:** But you are someone who lives here.

**Dr Webb:** Yes. Design is not an absolute science and what constitutes good design is not absolute, so one can and should try, through measurements and those sorts of criteria, to limit the more obvious factors that would offend good design and good city planning. It seems to me that it is also important to reflect back on principles because, when it comes down to matters of judgment on the individual case, sometimes the interpretation of the specific measurements needs to ask, “On this particular design, are they still meeting this principle?”

**THE CHAIR:** The trouble with that is that they are often very subjective. I can come in with a building proposal and say that it meets all the design criteria and fits the envelope and so on but, if you live next door to it, you might say that it is entirely out of keeping with your street and that you don’t want it. I don’t know what the answer is. How do we actually mediate those quite different views, both of which, on the face of it, are equally valid positions, in a civilised way?

**Dr Webb:** It does seem to me that, in the end, you can only relate it to individual cases, as you said at the beginning. With regard to this particular proposal and what it would look like in practice in that environment, if the other intentions in the land use policy objectives are serious about preserving the streetscape and landscape in established areas, leafy areas and such, it is very hard to see that, if a set of measurements and other criteria allows a proposal like this to go ahead—which it would appear is occurring under the revised policy—then all I can say is that maybe the measurements need revision.

I am not against the idea of measurements, but I do think that measurements have their limitations because, ultimately, design is not a science but will always involve matters of judgment and art.

That is the essence of section A of what I have given you there. The specific suggestions are that those criteria be reviewed to avoid an inappropriate impact, and a repetition of the issue that relevant sections of PPN 6 be retained.

**THE CHAIR:** Are there other relevant sections that you think should be retained, apart from 7?

**Dr Webb:** I wasn’t sure. I just don’t know this. When I read through it, I thought that it didn’t actually fit our case, but I didn’t find the heritage issues reflected in DV 200. Ours is not in a heritage area and therefore it wasn’t an area of argument in our case. I did note, in reading through DV 200, that it didn’t seem to pick up that concept, so I’m not sure what happens to that if PPN 6 disappears.

**THE CHAIR:** Okay, we’ll take that up with PALM later.

**MS DUNDAS:** With some other questions.

**Dr Webb:** Otherwise it was mainly that area. As I say, it may not be in its current form. If it could pick up some of the principles that have been agreed in the AAT about what visual relationship actually means, so that those design concepts of form and symmetry and other things were actually built in to help people make that judgment, it would be quite helpful.

**THE CHAIR:** Then you have given your views of the planning process and its relationship to DV 200.

**Dr Webb:** Yes, I would like to speak briefly to that if that's possible?

**THE CHAIR:** Yes, you can speak briefly to that.

**Dr Webb:** I won't cover 1 and 2, because they're fairly self-explanatory, but I will reflect on the fact that, in approaching this, we have not been against dual occupancy. I come back to that AAT decision that said, if you can have a dual occupancy that meets all the criteria, why wouldn't you have it. Why have one that breaches those and is detrimental to the streetscape, if you can meet all the other objectives? I mention that because that's where we're coming from: we're not anti-development and we're not anti-dual occupancy.

**MRS CROSS:** Four was interesting.

**Dr Webb:** Yes, I will come to 3 and 4 now. The development application was lodged in June 2001. If one was to drive up Golden Grove, one would see that it does have a particular character, indeed more so than some of the other streets around, such as La Perouse Street, which I believe has already lost, if I can put it that way, its original character to excessive development. I don't believe La Perouse has a character any more. It's become just a hotchpotch of buildings.

Golden Grove is not yet in that situation, but I believe it's at the watershed where it could be tipped in that direction very quickly if DV 200 goes ahead without some modifications. This development, our case, was lodged in 2001. The original PALM decision actually acknowledged the incompatibility. It says, in spite of the incompatibility—I'm paraphrasing a bit here—that it was agreed to approve it anyway. I can quote from the decision if that's of help, but that was the essence of it. We did attempt to get further explanation from PALM, but were advised that the only way to really progress was to go through the AAT, which we did.

We were frankly disappointed when we got what are called the T documents, which are all the background documents that are then laid on the table by PALM, which explain the basis of the decision. In the key criteria concerned, including this one in PPN 6, the sole justification was the word "complies". There was no analysis of that, just the word complies. I suppose our first point was that, as residents coming into the process, we were effectively disappointed in the key criteria. We found no depth of analysis and no real attempt to justify to us what the basis of the decision was.

**MR HARGREAVES:** Is that case ongoing?

**Dr Webb:** It's ongoing yes. The original decision by the commissioner—it says PALM but it is really the Commissioner for Land and Planning, of course, so where I say PALM here I probably should say the commissioner—was made, I think, in about September 2001. We then appealed that. After lengthy and, as it says there, quite costly hearings, because these are not cheap affairs for anyone involved, the AAT upheld our appeal, essentially on the grounds of the incompatibility with PPN 6, guideline 7, that I was referring to earlier. The definition that Mrs Dunne read out was the definition of incompatibility that was contained there.

The developer then appealed this to the Supreme Court and it endorsed all of the bases of the AAT's decision, except in one respect. This was our introduction to the impact of draft variations, which is why I have some concerns about the whole draft variation process and not just this particular draft variation. PALM had introduced draft variation 155. I don't know what the details of that were but, amongst other things, the impact of that had been to effectively repeal—that mightn't be the right word—it meant that the whole of PPN 6 no longer had effect.

That was not, I assume, an intended consequence, but it meant that, at the time when the tribunal happened to make the decision, PPN 6 had effectively been withdrawn. So the criterion that was crucial to the case was not actually in existence at the time when the decision was made, because of the impact of draft variation 155 and because certain procedures were not followed as a result of that.

The Supreme Court, acknowledging that the basis of the present AAT's decision and our appeal was correct, had no choice but to say that unfortunately this administrative effort and the impact of draft variation 155 had effectively repealed PPN 6 at the time the decision was made. I'm not sure if it's clear, but another thing I've learned is that the actual basis of the decision, whether it's the commissioner's or the AAT's, has to be in regard to whatever the status is at the time the decision is made. It's not when the development application was lodged, it's when the decision is made. In this case, then, clearly the decision had to be remade.

As it says there in clause 8, the AAT therefore reheard the case and again significant submissions had to be made at some cost to the parties. By then, the mistake had been redressed: PPN 6 was now back in effect, as it should have been before. So we assumed that it would therefore be a bit of a formality. The tribunal now had PPN 6 reinstated and the Supreme Court had said that its logic was valid, and all they had to do was remake the decision overturning the proposal.

But we were wrong, because, in the meantime, parliament introduced draft variation 200. Draft variation 200 actually changes the definition of basement. Apparently, while a lot of draft variation 200 is prospective, as I said, the definitions apparently are considered to be retrospective, so in fact they go back with unlimited impact in time. That, at least, is the claim of the developer and PALM in this case. The developer then started a new line of case, notwithstanding all the history of this, to effectively say that the definition of basement had an impact. I won't go into the detail of how it had an impact, but the bottom line was that it claimed to have an impact on the application of PPN 6, guideline 7, and so new submissions were required to run that argument.

This was our second experience of the somewhat arbitrary and differential impact of some of the draft variations and the way they come into effect. Again, we made extensive submissions to the hearing. After the second hearing, and this was in November—and we had based our submission on what draft variation 200 was at that stage—the various parties involved, including the president of the tribunal, became aware that draft variation 200 was still in a state of flux, and other versions were being issued with new interim effect.

Because the president of the tribunal can only make a decision based on whatever the latest version is, we then had to resubmit in regard to the changes that had been made to draft variation 200. As it mentions there, even the ACT Government Solicitor was, at some stage, having trouble keeping up with the variation we were dealing with.

**THE CHAIR:** Could we set this to music?

**MR HARGREAVES:** Fantasia?

**THE CHAIR:** No, I was actually thinking of something with a Gilbert and Sullivan flavour to it.

**Dr Webb:** On clause 10 there, as it says, each modification of draft variation 200 does require a reassessment. It was finally concluded, and everyone agreed that the 23 December 2002 version was the one that was to be considered. Therefore all submissions had to be updated to reflect that new version. As the submission says, from a resident's point of view and not a planning expert's, this is what planning in the ACT looks like. To be honest, as this says, the surprises and frustrations have just notched up at every step in this long drawn-out process.

As it says there, we're not talking about intervention in the AAT case and it wouldn't be possible anyway. It's an individual case that will find its answer down the track there somewhere. One of our comments about the reason for the very first submission is that we should be really clear that if, for example, the committee were to approve DV 200 the way it is, it went into effect through the Legislative Assembly, then PPN 6 was then repealed and if that all happened before the president of the tribunal happened to hand down the decision—and we don't know when that will be—that would totally destroy the whole basis of the arguments and the case, everything to that date. To be clear, that's the way the system works at the moment.

Our conclusion in 13 is that we'll cop whatever comes through the AAT route as it is, but we do baulk at a number of things. One is, as I say, we consider the very cursory consideration of our initial objections, and the assessment against the key criteria in the first place, not very acceptable. What that meant was a continued onus on the residents to do nearly all the running and hard work to identify the real arguments in this case. We did that because we felt seriously and strongly enough about it, but we find it hard to believe that that's the intent, and how it should be.

We found it difficult to accept the impact of administrative oversight, including this whole saga of going to the Supreme Court and back to the AAT, primarily because of the inadvertent withdrawal of PPN 6 through one of the draft variations. We can't believe

that this whole process of the ever-shifting goal posts and the fairly random effect of saying that the decision is influenced by the latest stop press news, regardless of all other submissions, is the way the system is intended to work. I appreciate that that's partly to do with draft variation 200 specifically, but it's partly to do with the whole draft variation process and its impact, and it's partly to do with the whole state of planning in the ACT.

**MR HARGREAVES:** So take that.

**THE CHAIR:** I think on that really dismal note we should thank Dr Webb for his exposition. It has been most enlightening.

**Dr Webb:** I appreciate the opportunity to put in the late submission. Thank you.

**LINCOLN HAWKINS** and

**KEITH BURNHAM**

were called.

**THE CHAIRMAN:** I welcome the representatives of PALM, Mr Hawkins, Mr Calnan and Mr Burnham. I think you've all been here and had the riot act read to you. I'm not going to have it again. Consider it read to you. You have a presentation to make. Let's start the presentation and see how we're placed.

**Mr Hawkins:** I'll do the opening bit. Committee members, congratulations on your perseverance today. You're starting the year with a very big topic. We understand the committee's role and the relationship of this to other spatial planning work that's going on. You'll see the presentation about the logic not only of DVP 200, but the revisions that were made prior to Christmas. During the course of the day and perhaps in the commentary from here on you will hear lots of views. You've heard a wide spectrum of them today. Whilst I wasn't here, we've heard from a distance of the variety of views. That's Canberra and that's the planning city we live in and there is always going to be that spectrum of views.

Fifteen months or so after the election the new government has a very big program of work. DVP 200 in May of last year was the delivery of a couple of objectives: protect the garden city character of residential suburbs and provide the starting, primary principles of concentration around certain centres and public transport corridors. It was never intended that it would be the final statement on all of those issues, recognising that a strategic plan would, in a sense, put a layer of understanding and strategy around that very important key starting principle which the garden city variation delivers.

We'd like over the course of these two days and your ongoing work this year— certainly for myself, the Planning Authority, the minister—to be engaging your broader understanding of how this fits with a range of other work. Today won't give us the opportunity to make sure that you do understand the connections of this work to other spatial and neighbourhood plans that others have mentioned today, but I do think that's critically important. I am happy to come back on that again next week, if need be.

So there are the basic objectives. There are many, many important principle issues for our city to be found in this discussion and I would just emphasise again, whilst commentators who perhaps don't share the same policy views either of the government or the Planning Authority or of others would suggest there's a disagreement or infer there's a lack of logic, you will see not only of our staff but the planning experts and consultants we brought into the team there is very considerable logic in the surveys and the analysis. You're just about to see some of that from Garrick and Keith. So, with those words, thank you for today and hope this is useful to you.

**Mr Calnan:** Thanks, Lincoln. What I'll do is I'll give you an overview, some of the background to DV 200, the history of it, some of the key issues that it's attempting to

address, the key provisions that are contained within it and some of the changes that were incorporated into the final recommended version that's now before you, the 23 December version.

**MS DUNDAS:** Sorry, Garrick, a lot of this stuff we're already across. I mean, we know what the timetable is and that sort of thing. I think we need to cut to the chase as to what the principal issues are because of time.

**THE CHAIR:** We'll just go through it a little bit quicker, that's all.

**Mr Calnan:** Okay. Well, I won't dwell on the history. The variation was submitted to the executive on 17 December and there was a further revision on the 23rd relating to the proposed subdivision control. As to some of the key issues that came out of the consultation, we went through a consultation process between May and August last year. We had 501 submissions.

One of the key issues was the definition of the residential core areas. As we've heard today, there are some fairly polarised views about dual occupancy and the proposed policies around that. The proposals in the original DV 200 to prohibit unit title subdivision of dual occupancies in subdivision areas was a major area of comment in the submissions that we received, as was the possible extent of development in residential core areas, as proposed in the original DV 200.

The private open space standards and site density controls were significant issues raised in the original consultation. Again, as we've heard in the submissions today, this issue about housing choice and affordability, the implications of taking a more restrictive approach in the suburban areas, they're the sorts of issues that we have been grappling with in trying to finalise this document. Just to illustrate some of those. Again, there are lots of issues around dual occupancy—

**THE CHAIR:** I am sorry, Garrick, we've had this briefing. We've all had these overheads and these pieces of paper already.

**Mr Calnan:** I think you have. I don't know whether everyone has.

**THE CHAIR:** I'm sorry. In that case, have other people seen this and been through this before? I am just being mindful of the time. I'm sorry, I thought we'd all had this briefing.

**MS DUNDAS:** I had the briefing in May, not in December.

**THE CHAIR:** You haven't had the December briefing. Okay, I withdraw that.

**Mr Calnan:** Okay. Issues around unintended concentrations of dual occupancy development and the scale and character of some of the new development in established areas. Another example is issues about overshadowing. The extent of hard surfaces and the lack of opportunities for landscaping in some of the new developments that were occurring.

In response to that, as I said, we were grappling with those issues and in the final version of DV 200 we have presented a somewhat modified package. We've modified the way the residential core areas are defined from a more generic approach based on a distance criterion from the local centres to an approach where we actually identify the core areas on the Territory Plan map by way of an area specific policy.

The core areas were originally referred to as the general areas. As I said, we're now referring to them as the core areas. In the original version of DV 200, all local centres, all commercial centres, had a core area. Under the revised approach, some centres will not have a core area.

**MS DUNDAS:** Could you please tell us which centres they are?

**Mr Calnan:** Typically, centres that are smaller than 500 square metres in area.

**MS DUNDAS:** Do you have a list of the ones that were withdrawn from the May variation?

**Mr Calnan:** We could give you a list of those. I don't have one with me at the moment.

**MS DUNDAS:** Thank you.

**Mr Calnan:** Centres like Ainslie that are surrounded by a heritage precinct no longer have a—

**MR HARGREAVES:** Is that why Ainslie hasn't got it, because it's in a heritage precinct?

**Mr Calnan:** That's right. Some areas, like Oaks Estate and Hall Village, are no longer to have a core area around the centre. A different approach has been used. On this diagram you can see the implications of the original definition that was contained in the original draft variation. One of the implications of that was that, because of the shape of some of the sections, in many cases we got quite extensive areas of the suburb being included in the core areas.

The red lines indicates the 200-metre criterion. You get, for example, this section, which has only a very small part of the section that sits within the 200-metre line but, because of the shape of the section, all of that section was classified as a core area, and similarly up here. Under the revised approach, we're now showing the proposed core areas on the Territory Plan map. The black boundaries indicate the proposed core areas.

We're trying to stick to that original criterion, but we're identifying physical features, like roads, pathways, land use and other land use areas, like schools and things, to define more effective boundaries that are more consistent with the principle. As you can see on the wall, a series of maps were produced which were made available at the time that the variation was submitted and have been published on the internet for all to see. As well as that, there are diagrams in the variation itself.

Dual occupancy, as I said, was a key issue. There has been a lot of comment today about the proposal to reduce the minimum block size from 800 to 700 square metres. I'd like to explain the rationale behind that. When we started analysing the issues that were raised with us and through the consultation, a number of people were suggesting, first of all, that the proposed approach in the original DV 200, which relied on restriction of subdivision in the suburban areas, was too restrictive. It was limiting opportunities to respond to change in demographic circumstances, limiting housing choice, limiting opportunities for aged housing in places.

So we started looking at ways that we could accommodate dual occupancy under certain circumstances. People were suggesting that maybe it should be restricted to corner blocks, maybe restricted to bigger blocks, and we started to look at what the implications of that would be. When we started analysing it, it started to bring out a very interesting picture.

We started to look at the distribution of block sizes across the city and we found that the blocks larger than 800 square metres, which is the criterion that is currently used, are very much concentrated in certain areas—areas like Ainslie, Turner, Griffith, Red Hill—and there's a strong correlation between the so-called hotspots of dual occupancy activity and the location and those concentrations of larger blocks. When you think about it, it's quite logical, really: the only place that you can have dual occupancy is where those larger blocks are.

The other feature of those dual occupancy hotspots is that they're typically characterised by older what we call residential purposes only leases. The leases do not specify how many dwellings are permissible on the block. The purpose clause says for residential purposes only. The AAT and the courts, in a number of decisions, have reached the position that it is not necessary to vary the lease to accommodate a dual occupancy in those situations. So we have this rather perverse anomaly in the system where the system actually favours dual occupancy over other forms of development because no change of use charge is payable.

For instance, if you had two blocks side by side and someone wanted to amalgamate those blocks and do a multiunit development for four dwellings, they would have to pay change of use charge because they would have to vary the lease first to amalgamate the two blocks and then subdivide the blocks after the two original blocks had been amalgamated, and as a result of that they would pay change of use charge. But if they just put two dual occupancies on the two blocks, they don't pay change of use charge. For that reason, we have had this concentration of activity in certain areas.

The other thing that we identified, the PPN 6 provision that limits plot ratios for dual occupancies to 35 per cent, that's a flat control, so it doesn't vary; whatever the block size, it's still 35 per cent. So the bigger the blocks, the bigger the houses that it is possible to build. In the areas I mentioned, the blocks are quite large; consequently you get quite large developments. It's our view that it's those large developments, concentrated in specific locations, and the amount of activity in those areas that the communities are reacting to. What we've attempted to do in the revised version of DV 200 is to address each of those points.

Instead of having a flat plot ratio control, we're proposing to introduce a sliding scale and the plot ratio reduces as the blocks get larger. This, we believe, will have a very significant impact in terms of controlling the impact of dual occupancy activity. The rationale for reducing the minimum block size from 800 square metres to 700 square metres is that the dual occupancy activity that does occur will be more dispersed and we won't have those concentrations that have occurred in the past.

We recognise that these changes were fairly significant and that, as a consequence, it was inappropriate to change them immediately. We wanted to use this process as the mechanism to get people's views and for this committee to consider this revised approach. So what we've done is we have retained the 5 per cent rule for as long as we can, until essentially variation 200 is adopted, recognising that beyond 30 May of this year variation 200 will no longer have any interim effect, so it will no longer be possible to say beyond 30 May that the 5 per cent rule has any statutory force.

**THE CHAIR:** If and when draft variation 200 is introduced, the 5 per cent rule will lapse? What will happen to the 5 per cent rule?

**Mr Calnan:** The intention is the way it's drafted into this version that you have before you. Either on 30 May—whatever occurs first—or the date that draft variation 200 commences, then the 5 per cent rule will no longer exist. That's our proposal.

The other very important component of this package is a new control on subdivision. We are no longer proposing to prohibit unit title subdivision in the suburban areas, but we are proposing that the subdivision of leases under the Unit Titles Act only be possible where the lease expressly provides for the number of dwellings proposed in the subdivision.

For instance, where a lease is currently for residential purposes only, whilst it will still be possible to do a dual occupancy on that lease, the Territory Plan won't allow subdivision of that lease until that lease is first varied to say that two dwellings are permitted. As a result of that, that will force a variation process to the lease and will require that variation process to be subject to the change of use charge regime.

We believe this will create a much more level playing field. It will mean that the system will no longer unduly favour dual occupancy development over other forms of redevelopment. We would expect that, as a consequence, we will get the sorts of things that people were talking about this morning, more of that comprehensive development in the core areas where it's permitted, and that there will be less dual occupancy activity overall.

Just to illustrate the subdivision control, it says that subdivision of a lease granted for residential purposes may only be approved where the lease expressly provides for the number of dwellings provided for in the proposed subdivision. The only revision to the variation that occurred on 23rd December was an allowance to provide for development applications that were in the system. The new provision will not apply to applications for

subdivision lodged before 1 December of this year where the development is lawfully constructed or for which a development application had been lodged or for which an acceptable design response report had been submitted by the day that the variation was actually submitted to the executive, 17 December.

**MS DUNDAS:** And that's only the subdivision bit?

**Mr Calnan:** That's only in relation to subdivision, yes. What that means is if somebody has an existing dual occupancy, for instance, and they haven't subdivided, and if they lodge their application to subdivide it by 1 December of this year, they will not have to vary their lease as proposed in that new clause. But for any new developments, that requirement already applies.

Moving on to the controls in the variation, the general controls that will apply in all residential areas will be a two-storey height limit, except where an area specific policy, such as the B11, allows three storeys. There is a provision for rebuilding up to the height of existing buildings. If there was an existing lawfully constructed building that exceeded the current height limits and, say, it was destroyed by fire, it would be able to be rebuilt to the height, notwithstanding that there was a restriction in the Territory Plan.

All development will be subject to the relevant design and siting code and we have included some modifications to those design and siting codes in the variation, the key ones being the building envelope control and the private open space standard. Another key provision is the requirement for all proposals for residential redevelopment, as defined, to be subject to the high quality sustainable design process and also the requirements for vegetation assessment and landscape plans.

Subdivision and consolidation of blocks will be permissible where part of an integrated housing development and subject to any area specific policy provisions. Another key change is the introduction of a provision relating to plot ratio which requires that 18 square metres be added for each open car space or carport that's provided to meet territory requirements.

**THE CHAIR:** Open car space?

**Mr Calnan:** Yes. The reason we're doing that is that there has been a tendency to get around the plot ratio controls by not providing garages, by providing open carports and saying that they don't contribute to plot ratio because they're not enclosed by walls, and subsequently people enclose those carports.

**THE CHAIR:** That's a compliance issue, surely?

**Mr Calnan:** It is, but it's an issue that PALM has had to deal with on a regular basis and we believe that including this provision will address that issue. Again, a provision to enable rebuilding up to the existing plot ratio where a development is proposed to be redeveloped, providing they are not adding an extra dwelling.

**MS DUNDAS:** Would that rebuilding include car spaces? Given the situation had arisen which you've just said where they said it was not part of the plot ratio because it's not enclosed and then they've gone back and enclosed it and now they want to redevelop the whole site—

**Mr Calnan:** It says where it was lawfully constructed. If they had unlawfully enclosed it, then it wouldn't be included.

**MS DUNDAS:** So they're still actually working on the bigger plot ratio—no, the smaller plot ratio.

**THE CHAIR:** Actually, while we're on that, this is a question that's been raised with me in relation to, say, fire restorations where the plot ratios under draft variation 200 may have changed, so that people who had a 35-square house aren't in the situation where they suddenly discover that they can only build a 25-square house.

**Mr Calnan:** That's right. If they exceeded the plot ratio defined by DV 200, in that situation they would be able to rebuild up to the previous plot ratio.

**THE CHAIR:** I don't think that people understand that.

**Mr Calnan:** And there are some specific controls for suburban areas. The main feature of the suburban areas is, again, the two-storey height limit is retained. However, we are proposing that attics and basement car parking not be permitted in addition to two-storey, and that's trying to retain the residential scale and, I guess, address the sorts of issues that Dr Webb was referring to.

We're proposing that no triple occupancy or multiunit housing be permitted on standard blocks in suburban areas, but we are proposing to allow dual occupancy and supportive housing in those suburban areas. All development in the suburban areas will be subject to the new building envelope controls. Again, I think those building envelope controls should address the sorts of issues that Dr Webb was addressing. I'd be interested to have a look at that application. I know there was a comment that it did meet the provisions of DV 200.

**THE CHAIR:** For next week, could you look at that as an example to see whether it actually meets the DV?

**Mr Calnan:** If we can get a copy of the application.

**MRS CROSS:** That would be great.

**THE CHAIR:** To see whether it would actually meet the new building envelope, because there have been modifications from the green paper to the white paper phase.

**Mr Calnan:** In relation to dual occupancy in suburban areas, we're proposing to introduce this sliding scale plot ratio control that I mentioned. The figures are all in the variation.

**THE CHAIR:** Can you explain the figures? What does the 140 mean and what is the 0.15?

**Mr Calnan:** It's just a linear formula that we use to calculate. It's based on trying to get plot ratios that we think would be acceptable and address the sorts of issues that people have raised with us.

**THE CHAIR:** But what does 140 represent?

**Mr Calnan:** What it does is it gives you a 35 per cent plot ratio at 700 square metres—35 per cent is the existing provision—and it decreases from there as the blocks get larger.

**THE CHAIR:** Did you just have a formula and put numbers in until you got the answer that you wanted? I want to understand why 140 is the magic figure.

**Mr Calnan:** I do have a slide which illustrates it, but it is about trying to get plot ratio figures and building sizes that would be acceptable in that suburban area context.

**THE CHAIR:** Okay. Have you got the slide that would explain 140 and 1.5?

**Mr Calnan:** I've got a slide that illustrates what the implications are and I'll get to that in a second. In suburban areas, the rear dwelling in any dual occupancy must be single storey in scale, with no basement car parking. Again, it is not possible under this new provision to have two-storey dual occupancies at the rear of blocks.

There is a requirement that the rear dwelling not be larger than half the permissible plot ratio. We don't want a very large dwelling at the back of the block with a small dwelling at the front. This is the slide that illustrates the figures. You can see the different block sizes down the left-hand side, the plot ratios that they produce, the gross floor area that is possible as a result of those plot ratios, and a comparison with what would be possible under the existing PPN 6 provision.

**THE CHAIR:** It still doesn't explain where the 140 over B plus 0.15 come from.

**Mr Calnan:** It was an empirical process. It's a method of generating those numbers.

**THE CHAIR:** Yes, but I'm still asking the question: did you actually put the numbers in until you got the answer you wanted, or what was the empirical basis on which you came up with 140 over B plus 0.15?

**Mr Calnan:** We looked at what sorts of plot ratios and gross floor areas we thought would be acceptable to meet our objectives in those suburban areas and then derived the formula from those figures.

**THE CHAIR:** Can somebody show me the workings, how we came up with this? I mean, what is the significance of 140? Is it that if you divide 140 by 900 it gives you the answer that you want.

**Mr Calnan:** If you divide 140 by 700 and add 0.15—

**THE CHAIR:** And multiply it by 100, you get 35.

**Mr Calnan:** You get to 35 per cent, and we believe that was an appropriate place to—

**THE CHAIR:** You actually said, “What will give me 35 per cent?”

**Mr Calnan:** That was an appropriate place to start for a 700 square metres block.

**THE CHAIR:** Okay. So you said, “What formula do I need to come up with that will give me 35 per cent of 700,” and then you applied that formula all the way down?

**Mr Calnan:** That’s right.

**THE CHAIR:** So there’s nothing magical about 140, except if you add it all up together you get 35 per cent.

**Mr Calnan:** No, that’s right. There’s nothing magical about it.

**THE CHAIR:** There’s nothing magical about it. Okay. That answers my question. I have to say that that’s not very scientific.

**MRS CROSS:** Is it meant to be?

**THE CHAIR:** There are some parts of planning which are a precise art.

**MRS CROSS:** Sorry, I’m the new girl at this and I just thought I’d ask.

**MS DUNDAS:** What was the last one?

**THE CHAIR:** Something that was a bit rigorous and that had some understanding behind it, but we’ve worked out that—

**Mr Calnan:** Thirty-five per cent.

**THE CHAIR:** Thirty-five per cent on 700 is okay.

**Mr Calnan:** We’re basing it on judgments. I mean, there’s no magic to 35 per cent, either. It’s a figure that has proven to be appropriate in certain block size ranges. The problem with it, as I said before, is, for a start, on larger blocks it leads to quite significant amounts of development, particularly in the case of—

**MRS CROSS:** Does it sound all right to you, Claire; you’re a planner?

**THE CHAIR:** No, we can ask Claire when she comes. Don’t upset the stream. I’d be interested in Claire’s views on another day.

**Mr Calnan:** In relation to the suburban areas, we’ve included statements of objectives. We have made provision for block amalgamation for supportive housing. This is to

address issues raised by groups like ACT Shelter about the need to provide for more opportunity for aged persons housing. It will be subject to a 35 per cent maximum plot ratio.

**MS DUNDAS:** Can I go back a step to the inclusion of objectives for residential land use policies? There was some concern that you've removed streetscape and the maintenance of a streetscape as an objective. Am I asking in the wrong section?

**Mr Calnan:** I'll just read the objectives for the suburban areas: "To ensure development respects characteristic features of existing and attractive streetscapes, such as building scale."

**MS DUNDAS:** I'm looking at the objectives for residential land use. I was looking at the wrong spot.

**Mr Calnan:** That hasn't been removed.

**MS DUNDAS:** On what page was that, the suburban residential ones?

**Mr Calnan:** Page 37. It's proposed that there be no subdivision of consolidation in areas that have been identified on the heritage places register.

**MS DUNDAS:** Can I ask a quick question about that? PPN 6 has the definition of an area of territorial significance which is different to places that have been heritage listed. Will the controls that apply to areas of territorial significance continue over? Are they part of draft variation 200, or have we just scrapped the idea of areas of territorial significance and just gone to the register and the other heritage draft variations?

**Mr Calnan:** If you look at PPN 6, it does identify what it calls areas of territorial significance. But if you then go on and read what it says about them, it says things like, "The areas of heritage significance within these areas will be taken into consideration." So there's very little policy content about the areas of territorial significance that are identified. Since PPN 6 was put in place, which goes back to 1994—and I have to say it was released after the Lansdown inquiry as a draft and it hasn't been through these sorts of processes—it has been used as an interim guideline while we've tried to get these sorts of issues sorted out in a more acceptable way. The status of that document has been the subject of some criticism and we think it's very important that we get policies in—

**MRS CROSS:** Does that mean that those areas that Roslyn referred to are now heritage-listed areas or are they still open to interpretation?

**Mr Calnan:** There have been a number of heritage areas identified within the areas of territorial significance, though not all of the areas of territorial significance are identified as heritage.

**MS DUNDAS:** Basically, what would happen to those other areas currently listed as being territorially significant? Would they just come under the normal planning processes?

**THE CHAIR:** They cease to be significant.

**MS DUNDAS:** They would cease to be significant. A number of them are covered by residential core areas, as opposed to just a suburban plan.

**Mr Calnan:** For instance, the provisions in the suburban areas, particularly for single-dwelling housing, will provide a much higher level of protection. PPN 6, for a start, didn't deal with single-dwelling housing; it only dealt with dual occupancy and multiunit redevelopment, so there are no additional provisions relating to single-dwelling housing.

**MS DUNDAS:** Specifically, I am looking at Yarralumla. Some of the places that were areas of territorial significance are becoming part of the residential core. We've already had a submission today to say that this is one of the second oldest bits of the ACT and it hasn't yet been put on a heritage register. Would it just be free to be developed under the residential core guidelines in draft variation 200?

**Mr Calnan:** We need to clarify exactly what these residential core areas are.

**MS DUNDAS:** It's the orange bit.

**Mr Calnan:** Yes, but we are here to clarify what the policies that are proposed to apply to those core areas are. The policies that are proposed are not significantly different to what currently exists in the Territory Plan across the whole of the city, applying to all residential areas. The key focus of DV 200 is not in terms of providing additional development opportunities in those core areas; the key focus is on providing greater protection to the suburban areas.

Essentially, what we are doing in the core areas is retaining the existing policy settings. We have introduced a number of other provisions which we think will ensure that any redevelopment that does occur there will have a lesser impact on the amenity of adjoining blocks. But we're not talking about development of a significantly greater scale than what is possible under the existing Territory Plan.

**MRS CROSS:** I understand that there are three categories—there's regular housing, there are areas of territorial significance and there's heritage listing. Are there three different sets of rules?

**Mr Calnan:** That's right.

**MRS CROSS:** Why do we have areas of territorial significance if they're insignificant?

**THE CHAIR:** Sorry, can you just hold that thought for a second, because I want to go back to Roslyn's question, which she didn't get an answer to, but I think the answer is that the old area of Yarralumla where the brickworks workers used to live is now potentially able to be turned into dual occs and two storeys.

**Mr Calnan:** It's not now. It could have been before.

**THE CHAIR:** PPN 6 gives it some protection which will now be taken away; is that the case?

**MS DUNDAS:** Because it has just now been made part of the residential core.

**THE CHAIR:** Because previously it was this amorphous thing called an area of territorial significance and now it's going to become part of the residential core where, at some stage, PALM is saying that it is allowing for densification so as to protect the rest of the suburb, but now you're saying, "No, what we're giving you is what you've already got and we're giving extra protection to the rest of the suburb." So what it is? I mean, I'm not getting a clear message here. First of all, will section 61 in Yarralumla now be subject to redevelopment with dual occs and two storeys, yes or no?

**Mr Calnan:** The core area of policies will apply under this proposal. It doesn't mean that automatically it will be redeveloped.

**THE CHAIR:** But it has the potential to be redeveloped.

**Mr Calnan:** But the point I'd make is that it could have been redeveloped under the existing policies.

**MS DUNDAS:** But there would have been greater consideration under PPN 6 of surrounding developments, the character and style.

**Mr Calnan:** Under DV 200, it will be subject to the HQSD process, all of the new provisions in DVP 200 relating to private open space, the building envelope controls, all of those additional provisions will apply in that area—the restrictions on the height of any dual occupancy, the rear of the block, will apply.

**THE CHAIR:** That presumes that people who build dual occupancies only build dual occupancies in the backyard of existing dwellings. In fact, many of them knock down the existing dwelling and build two new dwellings.

**Mr Calnan:** But if one of those is in the rear of the yard, it will be restricted to single storey.

**THE CHAIR:** It will still be restricted.

**Mr Calnan:** That's right, any new dwelling that does not directly address a public road will be restricted to single storey.

**MRS CROSS:** Even if the dwelling in the front is two-storey?

**Mr Calnan:** The Territory Plan has always permitted two-storey development. It has always allowed single dwellings to be developed to two-storey. DV 200 introduces some additional provisions, the building envelope controls, to ensure that where two-storey development does occur it has lesser impact on the neighbours. But it's saying that at the rear of the block, where we want to protect particularly the backyards of adjoining blocks, we're going to restrict it to single storey. Under PPN 6, people have been able to argue because there is a direct visual relationship. For instance, if there is a two-storey development on the front of the adjoining block, in some cases they've been able to argue to get a two-storey dwelling in the back of the block.

**MRS CROSS:** Okay, so it has happened.

**Mr Calnan:** Yes.

**MRS CROSS:** But it won't be able to under DV 200.

**Mr Calnan:** But it won't be able to under DV 200.

**MS DUNDAS:** Can I get an answer to my question now?

**THE CHAIR:** Yes, I think so. Have you got an answer to her question?

**MS DUNDAS:** I'll ask mine next week again.

**Mr Calnan:** This is not the process for identifying heritage. There is a separate process which involves the Heritage Council. If the Heritage Council—

**MS DUNDAS:** We did that last week.

**MRS CROSS:** Does that mean that you apply the same rules to residential core areas and areas of territorial significance?

**MS DUNDAS:** The concept of areas of territorial significance will cease to exist under the draft variation.

**MRS CROSS:** After DV 200.

**Mr Calnan:** That's the proposal, yes.

**Mr Hawkins:** Madam Chair, in a sense, we believe there's even greater potential to consider character and issues than PPN 6 provided, because we're instituting into the legislation high quality sustainable design, requirements to consult, demonstrate design response reports—

**MS DUNDAS:** What about keeping the trees? PPN 6 specifically says all existing trees should be retained and protected during construction.

**Mr Calnan:** There's a similar provision in DVP 200, a general control that says that all residential redevelopment will need to be accompanied by—

**MS DUNDAS:** A vegetation plan, but that doesn't say that trees must be retained.

**THE CHAIR:** Dr Boden told us today that the current applications taking into account DV 200 don't actually require it; that it says that you do, but if you actually put in a development application, it's not required. Is that the case?

**Mr Calnan:** It will be the case for any—

**THE CHAIR:** Is it currently the case? DV 200 currently has interim effect and Dr Boden was saying to us today that there isn't a formal requirement for a vegetation plan at the moment. His point, which I heartily agree with, is if you've got a rule that you're not going to implement, you may as well not have the rule. Is it the case at the moment—

**Mr Calnan:** Any new application for residential redevelopment has to meet that requirement.

**THE CHAIR:** Dr Boden is saying that, at the moment, that doesn't happen.

**Mr Calnan:** I don't know what he's basing that on.

**Mr Hawkins:** I'd be happy to talk to Dr Boden and get his information.

**THE CHAIR:** I'd like you to report back next week about that because it's a very substantial issue.

**Mr Hawkins:** Yes. If I can get in contact with him in the week and get the basis of his assertion, comment, I'd be very happy to do that.

**MRS CROSS:** I think that I asked the vegetation question of him today.

**THE CHAIR:** We might get Lincoln a copy of *Hansard* as well.

**MS DUNDAS:** Do you want to continue?

**Mr Hawkins:** Can I have one final comment just on that issue. Perhaps the bigger long-term issue, if the primary outcome Garrick mentioned is to reduce the bulk and scale in suburban areas, protect character and therefore to a degree density—in the long term, the question which is being raised in some quarters, design and industry areas, is: should we be providing, now or later, for increased densities in core area rather than just retaining what is essentially the current controls in a strategic sense?

You don't have to resolve that in dealing with DVP 200, but I know one of the questions you're alluding to now is about what's going to happen with this area of concentration of development. It's something which is, I guess, the consciousness of a debate about a strategic spatial plan and we can come back and talk about that some more next week.

**THE CHAIR:** On the vegetation question that Dr Boden raised today, my understanding, and correct me if I'm wrong, is that in here, in the green one, it is said that your vegetation plan had to be done by a landscape architect or someone similar. In here it says that the vegetation plan can be done by anyone; it doesn't have to be someone with particular qualifications in the area. So someone might be going out there making an assessment and it could be, "I really don't want that tree to be there, so I will actually say that it's on its last legs." How are we certifying that? When you have a vegetation plan, do the people who are signing off on the DAs actually go out and look? Is the tree on its last legs if somebody says it's on its last legs?

**Mr Hawkins :** We have a very comprehensive tree protection regime. Coincidental with that, the conservator's decisions about tree removals are made after on-site inspections. Any vegetation plan, like any other submission, has to be acceptable to the territory. I do know that we do reject, on occasions, submissions made, including vegetation plans. Beyond that, you've asked about Dr Boden's submission. We will seek to do that during the week and come back to you next Friday.

**Mr Calnan:** Just moving on, the residential core areas, I've mentioned, are shown on the Territory Plan as an area specific policy. Again, a two-storey height limit. They're not high rise, as some people have been suggesting. We are proposing to retain the current provision that allows attics and basements in addition to two storeys. That's not new, that's been an existing policy, but we are proposing that that no longer be permitted in suburban areas.

**THE CHAIR:** I have a tricky question that requires a plain English answer. What is an attic in this case?

**Mr Calnan?** There's a definition of an attic. It's habitable space that's contained wholly within the roof.

**THE CHAIR:** What's habitable space?

**Mr Calnan?** Space that is used as a habitable room, so a bedroom.

**THE CHAIR:** So it would have to have an average ceiling height of 2.4 or something like that and it would have to have ventilation.

**Mr Calnan:** Yes, it would have to have access for a start, ventilation.

**THE CHAIR:** Access, ventilation and reasonable head room.

**Mr Calnan:** That's right.

**MRS CROSS:** How do you determine the separation line between a residential core area and a suburban area? I've heard you refer to a suburban area. I really don't know the difference. This term is new to me and this is a genuine question on that. A residential core area and a suburban area, is there a difference? If there is, could you tell me what that is?

**Mr Calnan:** There is a difference between the residential core area and the suburban area. The policies are different. What I'm trying to do is explain the key differences between them. For instance, in the core areas we're allowing attics and basements in addition to two storeys; in the suburban areas we're not. In relation to dual occupancy, we're proposing to retain the flat 35 per cent plot ratio control. In the suburban areas, we're proposing to have the more restrictive sliding scale.

**MRS CROSS:** What is a suburban area and what is a residential core?

**Mr Calnan:** As defined on the map.

**MRS CROSS:** Where I live in Isaacs, say, is that residential or suburban?

**THE CHAIR:** These bits on the map here, the dark bits.

**MRS CROSS:** Why is there a difference?

**MS DUNDAS:** Maybe I can answer the question in a slightly different way. It was put to us in the submissions that originally, under the draft variation in May, it was a 200—metre radius from your local shopping centre and that has now been pared back. It's not in Hall or Oaks Estate. You've redefined the sections where that's going to be. How have you made the decisions about which bits are staying in and which bits are not?

**Mr Calnan:** We have applied the principle that was identified in the original variation. But, instead of just including any section that was wholly or partly within that original distance criteria, we have gone through individually every suburb and identified what we believe to be more appropriate boundaries, based on physical characteristics, like the location of streets and the location of other physical features, like pathways, schools, open spaces, and tried to establish a fairly firm boundary that is clearly related to the principle, which is all about access to those commercial centres, and trying to provide opportunities for more people to live closer to where the services and facilities are.

**MS DUNDAS:** Were these decisions taken in consultation with people currently in those suburbs? We could easily drag out the people who were part of the neighbourhood planning process in those six lucky suburbs who were picked over the last 12 months. But in other suburbs, I keep looking back at Aranda because the Aranda shops haven't been used for a really long time, yet they're still being picked as a residential core. Was there consultation with people in the suburbs about where they thought it was appropriate for the boundaries to be?

**Mr Calnan:** Certainly through the neighbourhood planning process.

**MS DUNDAS:** But that's only six suburbs out of our entire city.

**Mr Calnan:** In relation to the Downer residents who lodged a number of submissions, we had meetings with representatives of the Downer Residents Association and worked through some issues and, I think, mutually agreed on a boundary through that meeting. We haven't met with residents of all suburbs; it's just not possible to meet with them.

**MS DUNDAS:** So the decisions were made based on maps, topographical information and those kinds of things.

**THE CHAIR:** Was topographical information taken into consideration?

**Mr Hawkins:** Certainly, physical information. Some of these align specifically with walkways, roads, access areas.

**MS DUNDAS:** Was consideration taken of what's currently on those sites?

**Mr Calnan:** Yes. As I've said, a number of centres were excluded because of the characteristics of those centres and the characteristics of the locality. In some cases, because of the proximity to larger centres, we modified the approach and in those cases—for instance, in the Downer case we significantly reduced the size of the proposed core area around the Downer shops, in response to the comments that were received from the Downer Residents Association and other residents, but also in recognition that Downer was already being impacted upon in terms of its relationship to—

**MS DUNDAS:** I'll raise the specific issue of Giralang. I'm looking at this map. One side of Hirst Place has been designated a residential core area. There are, from memory, about 10 houses down that side of Hirst Place, one of which is a community facility and has significant car parking associated with it. Hirst Place is a narrow street and is on a bit of a slope, so you'll have the downside of a narrow street in the middle of suburbia being able to be made part of the residential core, even though it's a small walk from the shops, when the other side of Hirst Place, which at the moment has a number of double-storey houses on it, will not be able to be changed and it's only an extra 20 seconds or 10 seconds away from the shops.

**THE CHAIR:** This is the whole thing. I know that we started off with the 200-metre rule and then we got into the nasty octopuses and things like that which I was critical of in the past, but then you have come to a whole range of areas. It's not to say that they should or shouldn't be in, but I just want to know how they came to be in. For instance, around the Ashburton Street shops in Kaleen, how do some of these bits get in and some don't? I know that there's a school there and there's a park, but where do you draw the line and why is the line drawn like that? Was this the application of a numeric formula?

**MRS CROSS:** I understand the theory now, and it's a very sensible theory, but that's a good question, though. How do you work out what gets in and what doesn't?

**THE CHAIR:** Before you had a rule that said 200 or 300 metres and everything that was inside that. Have you just gone around and refined that and said that we can't have an octopus like you have on the Red Hill one, which is a classic one, but O'Connor was a bit like that as well and there were a few others, and just refined that a little bit and gone out and found the octopuses and trimmed off the legs?

**Mr Calnan:** We haven't just trimmed off the legs; we've tried to identify more appropriate boundaries that meet the underlying principle, which is that distance criteria that was originally identified.

**MS DUNDAS:** Again, we're going to have a situation in the place where I live now, in Henry Street in Cook, where from this map the residential core area stops half-way up the street. So, for the people on the same side of the road, one neighbour could have a residential policy apply and another one would have to be a suburban. I know that there is a minor footpath that goes through there.

**Mr Calnan:** I believe that's an open space area that forms that boundary.

**MS DUNDAS:** It's a very small footpath on this end of Henry Street.

**Mr Hawkins:** As would happen in any other town or city in Australia where zoning rules apply and there are lines drawn on the map, in the end this is probably the sort of thing that gets interesting debate. You go through a public process, which we are now, and people are interested and have comment and there's opportunity for review or revision. Yes, there's been a starting principle of 200, so if the logic is right and there was a sense that maybe we shouldn't draw the very precise maps and provide opportunity for refinement either through neighbourhood planning or this public review, we put some further analysis into it, with knowledge of the areas, and give consideration to it and draw a line. It will create some debate and interest, as it has here today, but our professional staff have given their best effort to say that these things—

**MRS CROSS:** So these are just draft maps; they're not firm.

**Mr Hawkins:** These are our final recommended. They're final recommended. They're going through your process of review.

**MS DUNDAS:** Within that, some people have asked for flexibility and some people have asked for greater restriction. If the person living on the other side of the footpath came up to you and said, "I'm only an extra two metres away from the residential core and I'd really like this place to be redeveloped," and I think I can even identify the house in my mind, would that happen? Would you prefer to have that flexibility? You set your boundaries but then will look at the fringes with a slightly more welcoming mind.

**MRS CROSS:** Or would you be concerned about doing that because, if you set a precedent, then you've got to do it for everybody else.

**MS DUNDAS:** It keeps getting bigger.

**Mr Calnan:** We'd prefer to do it through the neighbourhood planning process. This is what we're proposing as an initial position.

**MS DUNDAS:** So, over the next three years, we will continue to vary the Territory Plan, specifically these maps, suburb by suburb.

**Mr Calnan:** Possibly. I don't want to pre-empt what the outcome of that neighbourhood planning process will be, but if there was a strong position that was supported by the analysis that was undertaken and a more detailed level analysis that was undertaken in specific relation to a particular area, then sure, we would have a look at it and we could introduce that by a further variation to the Territory Plan.

**THE CHAIR:** Here's an example that's come to us in a submission about the apparent arbitrariness of what's in a residential core. This person lives in Isabella Plains. I submit that it's going to be a damn long time before neighbourhood planning gets to Isabella Plains. She says that her block is currently excluded from the residential core by about 20 metres, despite being closer to the local centre than many blocks that are zoned in the residential core. Houses on the other side of her street are zoned residential core and hers isn't.

**Mr Calnan:** That's a good example. I've had a look at that block. To include her block, we would essentially have to include the whole of the next section, which I think is about 30-odd blocks. Only about three of those blocks or 2½ of those blocks would be within the 200-metre criterion and the block that that person occupies would be outside the 200-metre criterion. If we just reacted to every one of those proposals, there would be 30 other residents who may not be happy about being included.

**THE CHAIR:** But it is interesting that she has a block which is, get this, 1,426 square metres. Gee, I'd hate to mow that. She says that she has a small house on the front of it but, because she's not in the residential core, if she ever wanted to do dual occupancy or anything like that—

**Mr Calnan:** She can do dual occupancy.

**THE CHAIR:** Yes, so long as she builds a dinky little granny flat in the backyard.

**Mr Calnan:** On a 1,400 square metres block, if you look at those provisions, you could have quite reasonable sized houses, not as big as what you could under the existing provisions.

**THE CHAIR:** Correct me if I'm wrong: if she leaves the existing house at the front of the block, there are limitations on what she can put in the back, even if she does have a 1,400 square metres block.

**Mr Calnan:** It would be limited to single storey and it would be limited to not more than half the permissible plot ratio. So, on a 1,400 square metres block, 350 square metres of development.

**MRS CROSS:** What if the house there is already that big? Could they still build something?

**THE CHAIR:** She could have a 150 square metres building on the back.

**Mr Calnan:** If she had a 200 square metres house, let's say, she could have 150 square metres at the back.

**THE CHAIR:** If she had a 100 square metres house?

**Mr Calnan:** She could have 175 at the back, because the provision is that the back house be no more than half the permissible plot ratio.

**THE CHAIR:** But the permissible plot ratio is 300.

**Mr Calnan:** It allows 350 square metres. So the rear house could be 175. We're talking about the core areas. In the core areas, unlike the suburban areas, triple occupancy and multiunit housing would be permissible, and dual occupancy as well. We're proposing to

retain the 35 per cent plot ratio control for dual and triple occupancies, the conventional dual and triple occupancies, the tandem types that we talked about earlier today, but for all other forms of development in the core areas we're proposing a 50 per cent plot ratio control.

We've included a statement of objectives for those core areas. Again, all development will be subject to the new building envelope controls and the new private open space standards. Even though basements will be permitted, there's a restriction on ramps to basements where they're forward of the building line. This is to reduce the impact on the streetscape. They'll only be permitted where the frontage is greater than 30 metres.

**THE CHAIR:** If the ramp is forward of the building line, the frontage has to be more than 30 metres.

**Mr Calnan:** More than 30 metres. What we don't want is rows and rows of steep ramps going down to basement car parking and having the retaining walls and the impact that that has on the streetscape.

**THE CHAIR:** How does that stand in relation to—and this is probably a question you will take on notice—the lease and development conditions at Yerrabi Ponds, which encourage undercroft parking and ramps?

**Mr Calnan:** I'll have to take that on notice. Other key features of the variation: in terms of policies applying to all residential areas, this new control on subdivision which invokes the change of use charge. This will apply in the core areas as well as the suburban areas and, as I said, we believe will create a more level playing field. The building envelope controls: we have modified those from the original.

We are proposing to retain the very high level of protection to adjoining blocks that could potentially be overshadowed by development. We have compared these to standards that are contained in the national standard that Graham Moseley was referring to and to the new Victorian standard. They are significantly tougher than the standards that apply there. However, on boundaries that are not the southern boundary of the block, we have proposed to go back to a standard that is more based on the national standard. So it will provide more flexibility for designers, without having the potential overshadowing impact of adjoining blocks.

**THE CHAIR:** To go back to the issue of subdivision, you've said on a number of occasions, and it's been said by the minister, that the residential purposes only leases have created an artificial climate. Has there been any independent analysis or testing of that? Is this something that you have a gut feeling about or have you done any analysis that would support this as a proposition? Is it just something that you have a feeling about?

**Mr Calnan:** We've done a lot of analysis to support it. We've discussed it with the valuation profession and we've discussed it with our legal advisers, so we're confident that it will address the issues.

**THE CHAIR:** What formal analysis did you do to come to the conclusion that you needed to discourage people from doing dual occs by imposing a change of use charge? Am I misrepresenting you by saying that what you tried to do is to discourage dual occs by imposing a change of use charge?

**Mr Calnan:** What we are trying to do is to come up with a mechanism to address the range of issues that have been raised by the various commentators. As you have heard today, the views have quite polarised. There are some people who think that dual occupancy is addressing a housing need, it's demonstrable that there's a demand for this type of development, and yet there are people out there in the community who are very opposed, and we've heard some of those comments today.

We've had the Artcraft survey undertaken of the attitudes of people who both live in dual occupancy and who are neighbours to dual occupancy development to try and get a more scientific understanding of attitudes and not just listen to the loud voices who are commenting on the policies. That survey indicated quite high levels of satisfaction, but did identify some issues in terms of design. So what we've tried to do is address those design issues.

**THE CHAIR:** By imposing a change of use charge. I want to get back to the issue.

**Mr Calnan:** As I said, a suite of policies is proposed. There are the plot ratio provisions, which are aimed at reducing the scale; the reduction in block size, which is aimed at greater dispersal; and the change of use charge and subdivision control, which is aimed at removing the inbuilt favouritism that dual occupancy has over other forms of redevelopment.

**Mr Hawkins:** It's an equity issue to remove that artificial incentive which might have been in place and contributing to the concentration you saw in that Ainslie map. The mapping is one of the other forms of analysis that Garrick had done to develop the policy response.

**THE CHAIR:** At the same time, as you've said in the past, Lincoln, people vote with their feet to go into dual occupancy. People build them and they come, so it is demonstrable. Whether you might have problems with the design, people do actually buy them, live in them, and the Artcraft survey says that by and large they're very satisfied with their housing choice.

**Mr Hawkins:** Most people in Canberra recognise that there are good examples of design and, whilst we've all got subjective tastes, there are some poor examples, and we needed to be able to have the teeth and a bit of support to make sure we really did respond to the community, and it's broad concerns—right across even the whole Assembly, in a sense—about typecasting all dual occupancy as bad because we got some examples of incompatible design.

**MRS CROSS:** The common denominator that came across to me today, Lincoln, was the 700 versus the 800. I think nine out of 10 didn't want the 700.

**THE CHAIR:** I don't think we had 10 people.

**MRS CROSS:** I'm giving the percentage, Mrs Dunne. That was the first thing. The design was very important to some people, but very few people didn't want it at all. Most people didn't have an issue with it as long as the design was all right.

**Mr Hawkins:** We're very close to completing your time, I understand. We'll try to wrap these last two slides up very quickly.

**Mr Calnan:** This is just a diagram illustrating the building envelope controls. Do I need to explain that?

**THE CHAIR:** No.

**Mr Calnan:** We've modified the proposed private open space standards. One of the issues raised very early in the piece was about limiting. We had been trying to address this issue of insufficient space for landscaping. One of the consequences of that was that we did limit the amount of built form that was possible on a block. You can't continue to allow an unlimited amount of development on a block and ensure that there will be space for landscaping.

Again, we've looked at that issue very carefully, we've modified the approach, and we think it's much more acceptable. Certainly, I think the feedback we've had from the building industry is that they're much more satisfied. However, I still need to make the point that we're still talking about a higher standard of private open space than what is currently required.

**THE CHAIR:** What's the definition of private open space?

**Mr Calnan:** We have modified the definition, but essentially it's all space on the block that's not occupied by a building or, it used to say, any driveway or vehicle manoeuvring area.

**THE CHAIR:** It's essentially the garden.

**Mr Calnan:** It's essentially the garden area, yes.

**MS DUNDAS:** And the swimming pool.

**Mr Calnan:** A swimming pool would not be excluded. The only exclusions under the previous definition were driveways and vehicle manoeuvring areas. We've modified the definition so that it only excludes common driveways and common vehicle manoeuvring areas. The reason we've done that is to avoid the implication that would have occurred, which would have encouraged people to design their garage as close to the street boundary as possible because in that way they would maximise the amount of built form that they could have on the side. By excluding private driveways from the definition, there's no longer an incentive to move the garage forward.

**THE CHAIR:** I'm not quite sure I understand how that works.

**MRS CROSS:** Sorry, I don't either.

**MS DUNDAS:** It's to do with the length of the driveway, isn't it?

**Mr Calnan:** Because the driveway was previously excluded from private open space, you could increase the amount of private open space by reducing the size of the driveway. The way you reduced the size of the driveway was to build the garage as close to the boundary as you possibly could. By doing that, it meant you could have a larger house than what you would otherwise be able to.

**MS DUNDAS:** You're using less private open space for your driveway, which means you can use more of it for your house.

**Mr Hawkins:** And you would get more garages on the street front and have a design problem.

**Mr Calnan:** There are also processes in this draft variation relating to master plans. We've included some provisions to enable minor amendments and corrections to master plans and we've made reference to the inclusion of neighbourhood planning groups in the section that deals with community consultation.

This table just illustrates the new private open space standards and compares them to the existing standards. The existing standards in the design and siting codes require 35 per cent of the block area for blocks up to 450 square metres and 40 per cent of the block area for blocks over 450. As you can see, particularly on larger blocks, one of the implications of this is that you can get very significant amounts of development. On a 1,000 square metres block you're only required to provide 40 per cent, which is 400—this is under the existing policies—which means you can have a 600 square metres footprint for a house, which is already a plot ratio of 0.6. If you put an additional storey on it, you can potentially get over one.

We've done a number of things to address that. I showed some slides of some fairly large, bulky buildings, bulky single dwellings that have been retrofitted into established areas. The combination of the plot ratio control for single dwellings and the private open space standards, along with the building envelope controls, will ensure that the bulk of those buildings is much more appropriate to that context. That's the end of the presentation.

**Mr Hawkins:** Thank you for your patience. We'll be back next week to assist you again.

**MRS CROSS:** Thanks, Garrick, for that.

**MS DUNDAS:** I know it's been a hard day for you sitting here hearing all of this, but thank you.

**MRS CROSS:** Can I have a copy of that presentation?

**Mr Calnan:** Sure.

**MRS CROSS:** This is the first time I've seen this one.

**THE CHAIR:** Thank you, everyone; thank you, Hansard, you've done well. We'll be back here at the same time next week.

**Committee adjourned at 7.00 pm.**