



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**STANDING COMMITTEE ON PLANNING, PUBLIC WORKS
AND TERRITORY AND MUNICIPAL SERVICES**

(Reference: Draft variation 288: Lyons)

Members:

**MS M PORTER (The Chair)
MS C LE COUTEUR (The Deputy Chair)
MR A COE**

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 7 APRIL 2009

**Secretary to the committee:
Ms N Derigo (Ph: 6205 0435)**

By authority of the Legislative Assembly for the Australian Capital Territory

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

WITNESSES

ADAMS, MR TONY , Senior Director, Town Planning, CB Richard Ellis	34
BARR, MR ANDREW , Minister for Planning	20
COLLETT, Mr DAVID , Director, Asset Management, Department of Disability, Housing and Community Services	37
HINDMARSH, Mr JOHN , Executive Chairman, Hindmarsh	37
MOSER, MS SONYA , Team Leader, Territory Plan Variation Unit, Planning Services Branch, ACT Planning and Land Authority	20
SAVERY, MR NEIL , Chief Planning Executive, ACT Planning and Land Authority	20

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Amended 21 January 2009

The committee met at 3.01 pm.

BARR, MR ANDREW, Minister for Planning

SAVERY, MR NEIL, Chief Planning Executive, ACT Planning and Land Authority

MOSER, MS SONYA, Team Leader, Territory Plan Variation Unit, Planning Services Branch, ACT Planning and Land Authority

THE CHAIR: Thank you very much, minister, for appearing before us today.

Mr Barr: I would like to say it is always a pleasure, Madam Chair; it probably is.

THE CHAIR: I would like to welcome everybody here this afternoon to the public hearing of the Standing Committee on Planning, Public Works and Territory and Municipal Services inquiring into draft variation No 288, which is Lyons. Is everyone familiar with the privilege card, the contents therein and the implications of their privilege statements? If you are, can you please say yes. You have all said yes, so thank you very much.

Before we proceed to any questions, do you wish to make any opening remarks, minister?

Mr Barr: No.

THE CHAIR: Okay. Then we will go straight to questions.

MS LE COUTEUR: Slightly off topic, I guess, but one of the things that has been confusing us is: what is the status of the development applications on here? I guess particularly that is relevant because some of the submissions that we have heard to date have really been more concerned about their expectations of the development application as distinct from the territory plan variation, and it is not particularly obvious to people exactly which is which. I admit to being confused myself as to exactly what we are expecting to have developed here.

Mr Savery: There is only one development application relating to this site currently. It has been approved and works are proceeding in accordance with that development approval, which is essentially stage 1 of the project. Whilst the territory plan variation applies to the whole site, the balance of the site is essentially unable to proceed without the variation, unless of course the design of that stage was to be modified to accord with the territory plan. So until the territory plan has been varied there will be no other development application on the site.

MS LE COUTEUR: This is no good for *Hansard*, but what we have at present is in this area. This is one of your pretty pictures.

Mr Savery: I refer the committee to a different diagram; I do not know if you have a copy of it. It is part of the draft variation. It is the concept plan document—page 10 of the planning study. On this concept plan, which is in the planning study for the variation, the buildings that are coloured green have been approved and are subject to construction. The buildings that are coloured red, as they are currently proposed, could not proceed without the variation. Therefore, there is no development

application with the authority, before the authority, for those. If the variation was not to proceed, it is not that nothing could be developed; it would have to be revisited and a DA would have to be in accordance with what the territory plan allows primarily.

THE CHAIR: Does that kind of clarify?

MS LE COUTEUR: Yes. I have got the same picture as you have—and that is all one storey?

Mr Savery: No. Block C is two to three storeys, self-care apartments.

MS LE COUTEUR: But the rest of these—

Mr Savery: The rest are single-storey villas.

THE CHAIR: So are you clear now what you are asking questions about? So it is this area here.

MS LE COUTEUR: Yes, although the territory plan variation covers some of the stuff—

Mr Savery: It does.

MS LE COUTEUR: They now would have the right to go higher but they are not going to.

MR COE: Mr Savery, I am interested in the role of planning consultants' reports to support an application. I think the Hindmarsh DHCS case, as put forward, saw a planning consultant's report submitted with it and I understand that ACTPLA may have quoted part of that back when it gave some decisions. I am just wondering broadly what you think is the role of planning consultants' reports when they are submitted to support an application. Are they just politically charged documents that should be discarded, or do they have merits?

Mr Savery: They potentially have merit. The whole planning system is premised on merit assessment. In order to undertake a territory plan variation, the planning authority, if it supports the principle of a variation, will typically require the proponent to prepare a planning study. Bearing in mind that most proponents aren't planning, engineering, traffic, landscape or environmental consultants on their own behalf, they will engage consultants to do that work for them.

We will then have regard to the material contained within the planning study to determine whether or not it adequately addresses the sorts of issues that would enable us to support the variation proceeding, or whether or not it needs to be supplemented by additional work.

Inevitably, the consultants who undertake that work are being paid for by a client and we are cognisant of that, but we are also cognisant of the fact that those consultants are professionals, they have their code of ethics and they produce documents typically that are of high integrity. But if we find failings in the study we do not equate that

back to the fact that the client is paying for it; we say that you have not given us the quality of documentation that we need.

They are an essential part of the process. If they are not doing that work, we are going to have to engage consultants from some other part of the country. We will be commissioning it or we will be doing the work ourselves. One way or another you have got to resource it. This is not atypical of anywhere else in the country. People who propose changes to planning ordinances will commission consultants. If we draw an analogy to development application appeals, proponents will engage their consultants, government may have its consultants. It is part of the typical planning process. I do not see anything unusual or untoward about it.

MR COE: You said that if they do not do the work then you will have to do it. Surely you are scrutinising it and surely you are actually doing the work anyway.

Mr Savery: We are, but the consultant does the broad analysis of the issues and those issues are typically identified by us. If you like, we are scoping the extent of the planning study, and then we will review it, just as we would an environmental impact statement, to determine whether or not the issues we have identified have been adequately addressed. The fact that we may later quote from the planning study in support of our analysis of the variation again is totally appropriate, because if we have agreed to proceed with the variation it is because we generally believe that the planning study has satisfied us that it is worthy. So there is nothing inappropriate that we would want to quote from that planning study to support the basis for the variation proceeding.

MR COE: I think in the particular quotes that I am referring to there was a bit of an issue that they were not properly indexed or properly footnoted. Is it usual just to quote back and simply say, “These are our words” or “This is our view; therefore we do not actually need to cite where the direct quote came from”?

Mr Savery: So are you saying that we plagiarised it in some way?

MR COE: No. I am not saying that, but there were some direct quotes used by ACTPLA that came from the consultant’s report that were not referenced or were not cited.

Mr Savery: Sorry, I am just trying to clarify: so we did credit the quotes as being sourced from the planning study, but we did not necessarily footnote?

MR COE: To be honest, I have not got the—

Mr Savery: I am not sure what the—

MR COE: I have not got the report with me, but I do not think it was clear at all that the quotes did come from the planning study.

Mr Savery: Okay.

MR COE: And it did seem to me that it was printed as if it was ACTPLA’s original

work—

Mr Savery: Right, okay.

MR COE: as opposed to coming from the consultant's report.

Mr Savery: That is the clarification I needed. I cannot answer that question specifically.

Ms Moser: It is my understanding that there may have been similarities in the wording used, but I am not aware that there were direct quotes that came specifically out of that. Possibly what you may be referring to is areas with regard to northerly aspect?

MS LE COUTEUR: I know this was raised by the Planning Institute. I am trying to find the exact quotes.

MR COE: Perhaps I will go to another question and I will come back to that.

MS LE COUTEUR: Let us go back to it.

THE CHAIR: Ms Le Couteur, do you have another question?

MS LE COUTEUR: I guess it partly continues on. One of the things that makes these variations very hard for people to understand is that, while I appreciate that we are not actually talking about a development application, what you have got in here effectively has got a development application in it as well. You have got the buildings; you have got the houses. From the point of view of anyone in the public, you are going to assume that what you are doing is consulting on both of them when you are only consulting on the actual territory plan variation. I suppose it is partly a comment about the whole process which I think seriously confuses people.

Given that you have got all of this in here, I guess it is fair game for questioning. You have said in here that the majority of units will have a strong northerly orientation, but that does not appear to be particularly true. The line you have got along, the one-storey line, not along Melrose Drive—

THE CHAIR: Are you referring to Burnie Street?

MS LE COUTEUR: Am I referring to Burnie Street?

THE CHAIR: If you look on—

MS LE COUTEUR: This street; I think I am—

THE CHAIR: If you look at page 10, you will see that that is Burnie Street.

MS LE COUTEUR: I am sure it is Burnie Street. There are not any north facing windows there. How can we describe this as a majority of units having strong northerly orientation, with the remainder predominantly facing east or west? How is it

that we are building things like this? I know it is a DA but you have got it as part of the territory plan.

Mr Savery: Just on the DA, and the point you are making about the variation incorporating more than just the land use policy, that is not at issue. We would always accept that a territory plan variation of this nature contains some principles and, if they were to be adopted, they are effectively a precursor to what an assessment may or may not consider down the track. So this variation clearly includes heights of buildings, setbacks, and is setting the preconditions for a subsequent DA. We do not dispute that, and that will be the case for many variations that we deal with. But in terms of the orientation, I will let Ms Moser answer.

Mr Barr: I will just add one other point. To not include that level of detail would presumably then leave one open to the accusation that important pieces of information were not being put on the table. So to one extent you are damned if you do and damned if you don't. I think the planning authority's practice is to err on the side of providing more information. Even though it does, as you have identified, have the potential to create confusion between a territory plan variation and a development application, you are probably better off, on balance, making more information available than less. I presume that, on balance, the committee would agree that that would be the only way you could proceed.

MS LE COUTEUR: I would agree with that. I think we possibly have some problems about how we delineate the two, but that is not really today's problem, if you know what I mean. I guess it is partly in the context that the people who have talked to us have talked a lot about things which probably strictly involve the DA.

Mr Barr: Clearly, yes, as they have raised similar issues with me.

MS LE COUTEUR: I am sure they have, but because they are part of this document, I assume they are fair game for questioning today, given that this is our subject matter. We have got a row along Burnie Street which just does not face north.

Ms Moser: Certainly, that is the case. With regard to the northerly facing aspect, the majority of buildings do have a northerly aspect. When we consider a northerly aspect—and I am talking about the majority, so that is more than 50 per cent—we are generally talking about that in terms of 30 degrees to the east and 20 degrees to the west, because that is the area in which northerly sunlight is maximised. So it does not necessarily always have to be facing directionally north. But as you can see, the spacing between the blocks, such as J, K, L and A, is such that there is solar access available between those buildings. Subject to windows being placed on that side, a number of units can have good northerly facing orientation.

We have also done our own shadow diagrams. We did that very early on in the process, early last year. We have those available for you, should you wish to receive those. So we have not relied solely on what was produced in the report. The diagrams that we prepared are perhaps clearer than the ones that are indicated in the report.

MS LE COUTEUR: I would be interested in those. With blocks J, K and L, which are facing Melrose Drive, have you thought of turning them around, a 90-degree move,

so that they have their long access facing north? I am particularly saying this because this morning I have had the proponents of the Tradies development come along, and I have looked at their shadow diagrams. I think the people on the Melrose Drive side, block K, are not ever going to have sun, on the basis of their shadow diagrams.

Ms Moser: That may be a question for the joint venture partners, because we are putting in place here policies within which, for the design outcome, there is some choice. We are saying we think the policy is suitable as we presented it. There is nothing to stop, if this were to go through and be incorporated in the territory plan, the joint venture partners putting in an entirely different application within those policy parameters. So the role of ACTPLA would be to assess the development subject to whatever policies are in place at the time.

MS LE COUTEUR: Continuing on with the sun theme, you have currently got the 10-storey element up on the northern corner, which obviously maximises its potential for overshadowing. Have you considered, if there is a need for 10 storeys, moving it to the southern corner, thus reducing its potential for overshadowing?

Ms Moser: Whilst that would reduce the potential for overshadowing with some of the development on site, there are a number of units—24, I believe—that have been developed on the Freycinet site, and that would increase the overshadowing of that area. Possibly—it would be subject to shadowing diagrams—there is also a community facility zone and a Lutheran church beyond the Freycinet site. So it would have impacts that are external to the site, rather than containing any impact within the site itself.

THE CHAIR: Have you found what you are looking for?

MR COE: No, I am still going through that. Minister, more broadly, in terms of the overall consultation, the role of the community councils was very much, I believe, to give input into cases like this, especially around the town centres. I know the Gungahlin Community Council has been very vocal in advocating for certain things in Gungahlin, and the Woden Valley Community Council, albeit I know quite turbulent within their own ranks, have been—

Mr Barr: I offer no comment at all.

MR COE: quite vocal on this whole issue. How have you consulted with them and how have you brought them into the whole process?

Mr Barr: I can get the Planning and Land Authority to outline the consultation section in a moment, but obviously the Woden Valley Community Council have been actively involved in the consultation. They have made submissions and they have sought meetings with various members of this place as well as with various officials in relation to the proposal. So I do not think there has been any lack of opportunity for the Woden Valley Community Council; in fact, they have taken great advantage of all of the consultation opportunities that have been available. Mr Savery, are you in a position to outline all of the consultation options?

Mr Savery: The vast majority, but I think the important thing is to draw a distinction

between what occurred prior to the territory plan variation being initiated and the role of ACTPLA through the variation process.

The Department of Disability, Housing and Community Services, with their joint venture partner, Hindmarsh, undertook a considerable amount of public consultation, engaged with a number of community groups and, as we understand it, substantially modified some of their initial design concepts as a result of that consultation. It was only at the conclusion of three rounds of consultation that they presented to us a preferred development scenario which is reflected in the territory plan variation. We then proceeded with the variation process, which includes statutory consultation in the form of public exhibition of the documents and providing the community with the opportunity to provide written submissions which we then take into consideration and provide a written response or report to the minister as part of progressing the territory plan variation to this point.

There were notices in the *Canberra Times*, the *Chronicle* and the legislation register, there was a notice on site, posters in the Curtin and Lyons shops, a letterbox drop to all Lyons residents, and a mailing list of community councils and interested parties. ACTPLA attended two community meetings, one held by the joint venture partners in 2008 and one with the Woden Valley Community Council in August 2008. We provided additional information requested by the Woden Valley Community Council. Sorry, it was not three meetings; there were seven community meetings held by the joint venture partners to determine its concept plan.

So it is pretty comprehensive. Whilst I note that some people who have made submissions, which is not unusual, claim that they have not been consulted because they do not believe their views have been incorporated, that does not mean you have not been consulted. Nor does it mean that your views have been ignored. It means that, at this point, those who have the responsibility for assessing all of those comments have not necessarily agreed with those views.

MS LE COUTEUR: We talked earlier about some of this being one storey. One of my concerns about this site is that it is actually a really good site. It is very close to the bus interchange and all the services of Woden. I cannot quite see why nearly half of it is going to be one storey. Why do we have a 10 storey next to one storey? Wouldn't it make more sense, in terms of solar access, in terms of not being dependent on electric lifts et cetera, to get rid of the one storeys, have two or three storeys and not have the 10 storey?

Mr Savery: Ultimately, that is a question for the joint venture partnership to answer. They would have obviously responded to some of the consultation that they undertook. I understand that one of their earlier proposals had higher density closer to Burnie Street and the Lyons residents. In order to respond to community concerns about the proximity of higher density adjacent to them, they reduced the density immediately across the road.

For us, the issue is that, with respect to the part of the site that is proceeding with development, we cannot change that. The DA has been issued. The DA was considered in accordance with the territory plan. So even if our view was that it would be appropriate to put two or three-storey buildings on that land, that is not going to

happen, certainly not in the next 50 to 70 years or for however long those buildings stand. What is presented to us as a planning authority, and obviously to the Assembly ultimately, is how to develop the balance of the site, having regard to what has been built in the first stage.

MS LE COUTEUR: Do you ever have a minimum yield for a site, and particularly for something like this which is a really good site? We would like to see a lot of people take advantage of its good location. Can you say that people have to build a lot of houses and have to allow a lot of people to live there, in a sense?

Mr Savery: The simple answer to that is not in a statutory sense. It is not as if the act or the territory plan prescribe a yield. But the government's land release program will typically identify a minimum yield, whether it is in Gungahlin or, say, in the east Woden estate. That would ultimately get reflected in the lease. The lease would typically, or the deed of agreement with the developers, reflect the minimum lot yield.

My understanding in relation to this site is that DHCS entered into the joint venture arrangement seeking a minimum lot yield. That was not something prescribed by the ACT Planning and Land Authority. I think the government may have also wanted to achieve an equivalent number of dwellings on the site to what existed before.

MS LE COUTEUR: We will be talking to them in a little while, but they saw us earlier and I think they did not achieve as good as that. I guess we will confirm it this afternoon.

MR COE: Going back to the issue I raised earlier, since then we have spoken about the orientation of some of the units. I think there is fairly genuine concern that a lot of the units do not have the most efficient solar aspect. The planning industry brought to our attention this quote from 2.1 of ACTPLA's report on the consultation:

... the majority of proposed units have a strong northerly orientation at the main frontage, with the remainder predominantly facing east or west.

That is in the ACTPLA report, and those exact words are in the consultant's report. It seems to me there is considerable concern about whether the majority of the units in fact have a northerly aspect.

Mr Barr: Are you suggesting ACTPLA should buy a thesaurus and use different language?

MR COE: With respect, minister, I think there are doubts that the majority of proposed units have a strong northerly orientation, and I find it interesting that those exact words from the consultant's report should appear in ACTPLA's report. It goes back to my original question about the role of a consultant's report, how much scrutiny is actually being applied to these consultants' reports, whether it is being taken as gospel from the start, whether you are picking up odd bits here and there or whether you are in fact scrutinising the entire document thoroughly.

Mr Savery: I will let Ms Moser answer the detail of your question, but I would have to say that we do scrutinise the reports, just as we scrutinise submissions and the

proponent's application. Inevitably, there are going to be facts or contentions presented by the consultants that we may agree with and see no reason other than to repeat or reproduce. If we fail to credit those consultants for what they have said then of course we need to correct that, but I do not think there is anything unusual in that, if we happen to agree with their statements, we might reproduce that.

Ms Moser: In part, it may be a fair comment in that we should have said buildings rather than individual units. We have not been privy to the internal layout of this proposal at this stage because it is not a development application. However, whilst it may be possible that a different design could have a different outcome, I would still stand by the comment that most of the buildings have a northerly aspect. In particular, within that extra 50-degree range of 30 degrees to the east of north and 20 degrees to the west of north, most of the buildings do indeed have a northerly aspect to them.

MR COE: With that in mind, that perhaps the ACTPLA report should have said "building", it goes back to the whole issue about the scrutiny of the reports. If it is ACTPLA's view that it should have said "buildings" and not "units" and that text seems to have come straight from the consultant's report, it seems to me that the whole process for assessing these sorts of applications and territory plan variations is perhaps not as transparent and as thorough as it could have been. An admission that it is actually buildings and not units is actually fairly significant. I imagine that that very omission has been the cause of quite a lot of the submissions that this committee has received.

Mr Savery: I think we are being a bit pedantic.

MR COE: Surely, if ACTPLA is copying text from a consultant's report which is wrong, there are issues.

Mr Savery: No-one is saying it is wrong.

MR COE: We have just heard it is buildings and not units.

Mr Savery: What Ms Moser just said was that it may be more correct to describe it as units. She did not say it was wrong.

Mr Barr: As buildings.

Mr Savery: Or as buildings.

MR COE: It is a bit hard to have a go at me for being pedantic when you are saying things like that yourself.

Ms Moser: Mr Coe, may I make a comment please? I have just been referred to page 5 of the consultation report and it actually says:

The Department of Disability, Housing and Community Services has advised that the majority of proposed units have a strong northerly orientation at the main frontage, with the remainder predominantly facing east or west.

So it is actually credited in there that this information has been advised by the Department of Disability, Housing and Community Services, which is a joint venture partner.

MR COE: That does not actually help the case I do not think, but again whether it is coming from the consultant or from the joint venture partner I think it is one and the same, surely?

Ms Moser: That is the point: you are saying we have not credited that particular statement, and we put in here that that particular statement has been advised directly from them.

MR COE: But the point is not whether this particular statement is credited. The much bigger and more important point is whether the consultant's report and all the documents submitted by the proponents of this scheme are being scrutinised thoroughly enough.

Mr Barr: But no-one has yet proven that it is not the case. No-one has presented any evidence that suggests that the majority of the buildings, units, do not face north. In fact, I suggest you look at the diagram and it is—

MS LE COUTEUR: If you look at block E, they are the real losers out of this. They clearly do not have any—

Mr Barr: But block E does not represent the majority of the site and the statement went on to say that the remainder face east or west. So presumably block E would face east or west depending on which side of the block it is.

MS LE COUTEUR: There are not that many alternatives apart from—

MR COE: That is right. Minister, you are at odds with the—

Mr Barr: Block I, block G, block F, block D, block C, block A, block B—

MR COE: Minister, you are at odds with the Planning Institute of Australia and their submission and also with an architect that we spoke to. The Planning Institute said, "From figure 4.5 of the consultant's report, it appears the majority of units probably have an east or west orientation." So, rather than nobody having said that, some people have said that, and that is what we are trying to get to the bottom of here.

Mr Savery: Yes, but whilst I appreciate you may have a different point of view on this, ACTPLA believes that the majority do.

MR COE: Of buildings or units?

Mr Savery: I am not getting into the semantics. I am not the person who has actually assessed that, so I am not going to put myself in a situation where I may give misleading evidence. I am representing the authority and I am saying that the authority happens to agree with the advice that came from the planning consultant and that has also been submitted to us by DHCS. People can dispute that; they take issue

with us all the time on our interpretation.

THE CHAIR: Can we move on now then?

MR COE: Yes, I am happy to.

MS LE COUTEUR: Is this part of a bigger plan for Lyons and how does it relate to the Woden Valley master plan?

Mr Savery: This does not relate to a larger plan for Lyons. As is often the case, territory plan variations are presented to us on the basis of site specific proposals. Clearly an opportunity arose here and the government and the department wanted to proceed with redevelopment of the site. They saw constraints in the current territory plan and they sought permission to proceed with the territory plan variation. So it pretty much sits in isolation from any other planning for Lyons.

The Woden Valley master plan was pretty much confined to the town centre, so to the east of Melrose Drive. Whilst the development of the Woden town centre master plan obviously had regard to development or the disposition of development across all of the main roads, it did not necessarily propose or go into detail on what those developments might comprise.

I think it is fair to say that both the Woden town centre master plan and the Canberra spatial plan promote or foreshadowed the opportunity for higher density development on the periphery of the town centre. So, even though it was outside the strict purview of the master plan and the studies, both those documents identified the opportunity for high density residential to support the activities that were occurring and that those activities themselves could support a higher density of population around that area.

MS LE COUTEUR: What difference do you see happening if the territory plan variation is not approved? As I understand it, could we still go to six storeys on this site? If this was knocked down, what would happen?

Mr Savery: The default is three storeys. You can speculate on the outcomes. If ultimately the Assembly were to decide not to proceed or the minister decided not to proceed with the variation, it would revert to its current condition, which is three storeys. But it could be that the minister or the Assembly is prepared to contemplate some alternative.

MS LE COUTEUR: We have had quite a few people say to us that six storeys is what they think would be fair enough and that 10 storeys is just too high. Assuming there was a will to have that happen, how could that happen?

Mr Savery: It could ultimately happen through the Assembly process, through recommendations made by this committee, the decision of the minister to proceed with the variation into the Assembly and then Assembly deliberations. Equally, the variation could be abandoned, it could be recommenced. But ultimately that is a decision for the joint venture partners as to the commercial viability of what the alternative might be.

MS LE COUTEUR: I suppose this is a question you probably cannot answer, but if it was rejected would you regard it as being a commercially viable development? If it was rejected—

Mr Barr: That would be a matter for us.

MS LE COUTEUR: Yes, you cannot really comment on that.

Mr Savery: You would have to ask the proponents.

MS LE COUTEUR: We will ask them; they are coming in this afternoon. It is a very obvious question: what would happen?

Mr Barr: I would just make one observation: we have all talked at length in the Assembly about the need to increase density in the city. We all nod furiously and then, when it comes to every specific example, we all wring our hands, or some of us wring our hands.

MR COE: Mr Savery, you mentioned alternatives. You said it would be up to the Assembly to consider alternatives. Would you mind humouring us a little bit and talking about what are some of the specific alternatives in terms of the territory plan that the Assembly could look at? If we do not go for this particular variation, what are the other options?

Mr Barr: Without wanting to advise the committee on its preferred course of action, the committee is welcome to make any recommendations it wants back to me as minister. That could well be to place different height limits on the site. I would then have to consider those and provide a government response to those recommendations and then would determine whether to proceed with the variation in its current form or to modify it in response to the committee's recommendations. But ultimately I will have to present a final variation to the Assembly, which is subject to disallowance as per any variation and many other instruments that are presented to the Assembly. It would then ultimately be for the Assembly to determine whether the variation would proceed or not.

So you are of course as a committee free to provide whatever recommendations you want. The only observation I would make is what I said earlier, that we have all agreed—certainly I have heard members and planning spokespeople from each of the political parties represented in the Assembly talk—about the need for increased density, particularly close to major employment centres, public transport, major public transport hubs and on transport routes. This site would appear to meet most of those criteria so we would also as an Assembly want to consider the sort of signal that we were sending around whether we were serious about our broader policy intent that we have all professed.

This is consistent with the sort of philosophy that underpinned the Canberra spatial plan, that underpins a whole range of government initiatives, and that is why it is before you now for consideration. But it is something I recognise that is contentious, that there were submissions. It was open to me under the planning legislation not to refer this variation to the committee, but I felt it was appropriate that it go through a

further level of scrutiny, that we hear the views of all stakeholders and also that the committee consider the matter carefully and make some recommendations to me as planning minister. I hope you take that opportunity.

MR COE: So what scope is there to amend the height restrictions or is it simply a matter of selecting a particular code in the territory plan?

Mr Savery: The reality is that it is available for the committee to recommend any height it wants. You could say one storey or 15 storeys. I am not trying to be silly here; that is available to you. The process allows for the minister, obviously with advice from his department, to then determine what the government's response would be to that recommendation from the committee. Whatever the minister ends up deciding is the form that he wants to take in the final variation is what he presents to the Assembly.

MR COE: I mean the specific tool. Can the minister actually stipulate a height restriction on a continuum or does it have to be in one of the predefined codes in there?

Mr Savery: No. This is not related back to the codes. The codes perform a different function. These, if you like, are the overarching principles or objectives that the government and the Assembly want to set for this site. If there are then developments that come along for individual approval, not only do they have to satisfy those overarching principles and objectives; there are then potentially development codes that they also have to satisfy or have to be tested against.

The car parking code does not come up under this process, but they would have to satisfy the car parking code. They might have to satisfy the multi-unit development code, although given the scale of development we are talking about here I suspect the multi-unit development code does not apply. So there is an interplay between the role of the codes and the broad zoning that is being set here.

MS LE COUTEUR: Going back to my understanding, going back to the map that we got originally, basically all of this is proposed to be RZ5, but what we have got here are two or three different lots of shading. Basically you are saying that all RZ5 is all right, red, but we have got specific rules for this block which says the bit up the end is 10 storeys, six storeys, three storeys. It is really RZ5 but the committee could recommend that instead of 10 storeys it should be 20 storeys or five storeys or whatever and that that area should be half the size. The government may not agree, but we have the capability of recommending sort of a mix and match.

Mr Barr: But I would make the observation that I can count and, if a majority of the committee recommend something, the chances of getting it through the Assembly in its current state are such that one of your respective parties is going to have to agree with the government in order to achieve a variation. So let us be frank about this: there is a lot of responsibility on this committee to ensure that you work through this thoroughly and make a recommendation in the end that meets all of our—

MR COE: Are you implying we are not doing that?

Mr Barr: No, I am not suggesting—you asked for advice on how the committee should go about its deliberations.

MR COE: Very good.

Mr Barr: So I am indicating that, yes, of course I will have to listen to what the committee suggests, and there is a range of options available to you.

MS LE COUTEUR: And we could, but I am not necessarily suggesting that we would, re-shade this. The thing that people most object to is the 10-storey part. We could perfectly well say, no—

Mr Savery: Yes, that is available to you, but in effect you are now placing yourselves in the role of the planning authority and you have got to take into account some of those broader considerations that we have. So, whilst we understand and are cognisant of the energy performance of buildings, the solar orientation of buildings, we are also cognisant of the commercial viability of a project—as you said before, the yield of development that DHCS want to get out of this site, other government objectives and broad planning principles in terms of higher density development.

So, when you come to the point of making that deliberation, it cannot just be or should not just be singularly focused, because there are broader objectives, and that is what the planning authority always has to try and weigh up.

Mr Barr: It is all about balancing different—

MR COE: I think the reason for this line of questioning is the fact that it is a very complex planning system. Two-thirds of this committee are new to this, and the territory plan is a real beast; it is very hard to get across.

Mr Barr: You should have seen what it was like before. It is simpler, faster and more effective now, Alistair.

MR COE: I am sure if you asked the average home renovator they might say otherwise.

Mr Savery: I can tell you: this is the simplest planning system in the country.

MR COE: Right. Do business in Australia.

THE CHAIR: I can tell you, Mr Coe, that it is certainly an improvement on what we had before.

MR COE: So, in short, the reason for the line of questioning is that the full suite of tools open to the Assembly is perhaps not apparent to us.

THE CHAIR: I think we have reached the end of our questioning. Thank you very much, minister, Mr Savery and Ms Moser for appearing before us this afternoon.

Meeting adjourned from 3.51 to 4.08 pm.

ADAMS, MR TONY, Senior Director, Town Planning, CB Richard Ellis

THE CHAIR: Good afternoon, Mr Adams. Welcome to this hearing of the Standing Committee on Planning, Public Works and Territory and Municipal Services which is inquiring into draft variation No 288 Lyons. Were you here before when I talked about the privilege card?

Mr Adams: I was not, but I have read it.

THE CHAIR: You have read it. Do you understand the privilege implications contained in it?

Mr Adams: I do.

THE CHAIR: Thank you very much. Do you wish to make an opening statement? We only have a very brief time with you, but if you wish to make some opening remarks that will be fine.

Mr Adams: Thank you very much for the opportunity to speak today. I have presented a written submission. The purpose of my submission and my wish to appear today was to elaborate on and perhaps clear up some misinterpretations or confusion about the role of a town planning consultant in Canberra. There are a number of consultancy firms in Canberra. The one I work for is one. Others include Purdon Associates, Parsons Brinckerhoff and a couple of others. Some things were said in earlier submissions to this committee on this matter that referred to the planning report that accompanied the plan variation, which is this document. I am sure you have all looked at it.

The role of a planning consultant is not to be an unbridled champion for a particular development proposal. If we want that sort of service we perhaps go to a real estate agent. A town planning consultant's role, as I see it, and from where I sit as a member of the Planning Institute and a professional person, is not dissimilar to that of a lawyer where we are obliged and happy to operate within parameters set by the jurisdiction and by the law. In the case of planning, it is the territory plan largely.

We have a responsibility quite often to put forward the best case for a particular proposal and we would only do that within the parameters set by the plan. It is unusual, but in some cases I am presented with proposals by potential clients that I do not believe are valid, that I do not believe meet the requirements of the territory plan, that I do not believe would be in the community interest. In those cases my responsibility is to convince the potential client to amend their proposal to make it fit, to make it better, to make it meet the needs of the community. If I cannot do that I would refer them to some other avenue for their assistance because I am not able to help. We operate within those rules.

Ordinarily when I am dealing with a development application that is the role I play. That role is balanced. I am putting forward a case for the developer, if you like—usually it is a developer—and seeking to maximise their interests, unashamedly, but within the parameters set by the rules. In that context, the planning authority is on the other side of the fence, if you like. It is charged with looking after the community

interest. There is always a balance between one and the other. If the developer interest prevails then obviously the outcomes are not good but, similarly, if the community interest were to totally prevail on all counts then developers would never come forward to develop anything because nothing would be commercially viable.

That balancing act happens all the time, and it is like two lawyers arguing in court. Both are obliged and able to put forward a best case, but within parameters. In this particular project it is actually different from that. That is one very valid way of operating. In this particular case it is quite different. It is not a development application; it is a territory plan variation. A territory plan variation is not proposed by a developer; it can only be proposed by the minister for planning or the chief planner—the chief planning executive of the planning authority.

So the planning authority make their own decision to come forward with a plan variation. In effect, they commission the planning report. Because it is cheaper and efficient, they require the developer to pay for it, but it is not the developer's document. I would like to be very clear on that: this document is essentially prepared by me for the planning authority. Every word is endorsed and approved by them before it is published. The only role that the developer has to play is to play the bills.

It is common in other jurisdictions. I have been involved in work in New South Wales where the Queanbeyan council actually takes the money off the developer and pays its own consultant. That is a similar process but it is even more transparent. Here it is perhaps slightly less transparent, but the outcome is the same. So comments that are made to the effect that this report should be taken with a grain of salt or whatever because it was done for the developer are not true. The planning authority's name is on the front of it. The front cover states it is the ACT planning authority. It is their report. It would not be out there if they did not agree with what was in it.

That is essentially the point I make because I think that point was missed in some earlier submissions. Some people perhaps inappropriately made some comments to the effect that because it was prepared by us—we are fairly transparent about who did it, because our name is on it as well. We are not hiding under a bush or anything. It is an independent report done by professional consultants for the planning authority and I believe it reflects the planning authority's view of this proposal. That was basically all I had to say. There may be some questions.

THE CHAIR: Thank you very much, Mr Adams. I will just go to the committee now for any questions. Do you have any questions, Ms Le Couteur?

MS LE COUTEUR: No.

THE CHAIR: That is all clear to you?

MS LE COUTEUR: Yes.

THE CHAIR: Mr Coe?

MR COE: I have got nothing based on the preamble.

THE CHAIR: Are there any other questions?

MR COE: More broadly, one of the issues that I raised earlier was about the aspect of the units. The report talks about the aspect of the units. Can you talk us through the definition of northerly aspect and how you come to the conclusion that the majority do face north?

Mr Adams: I did not come prepared to talk in detail on the development proposal, noting that this is about a plan variation. The proposal was originally conceived before the new territory plan, but the rules are much the same. The multi-unit guidelines require a certain amount of sunshine and the default, if you like, is three hours of sunshine between 9 am and 3 pm. If you have an apartment where the windows face due north and there is no overshadowing, you will get that quite easily. It was a performance measure and now it is a criterion, so there is some flexibility. If you imagine an apartment that is east-west, you can have sunshine in the morning and in the evening, or more in the morning and more in the evening

I think there are different ways of achieving a viable solar access outcome than having all apartments facing due north. As to the way they are configured on this site in the sketches that are there at the moment, I was relying on architectural advice that they meet the criteria sufficiently or one way or another, either east-west or with northern sunshine. But I would have to re-examine the plans to answer you in detail.

MR COE: Yes, no problem.

THE CHAIR: Mr Adams obviously has clarified that, because you are not getting any further questions. I presume that this has clarified that confusion. Is that the case, Mr Coe?

MR COE: Yes, probably. Thank you.

THE CHAIR: So it has clarified that issue for members of the committee. I thank you for both taking the time to put in a submission and coming before us this afternoon. If there are any other questions, the committee can also contact you with those questions at a later stage. If you could just turn those around as soon as you are possibly able to do that?

Mr Adams: Yes.

THE CHAIR: A transcript will be forwarded which will contain your statement. You can just go over that and make sure that you are happy with it and let us know if you need to make any alterations that might be in the *Hansard*. Thank you for coming this afternoon.

Mr Adams: Thank you.

COLLETT, Mr DAVID, Director, Asset Management, Department of Disability, Housing and Community Services

HINDMARSH, Mr JOHN, Executive Chairman, Hindmarsh

THE CHAIR: Thank you, Mr Collett and Mr Hindmarsh, for coming before the committee this afternoon to talk about draft variation No 288. You are aware of the privilege card and the privilege implications contained in it?

Mr Hindmarsh: Yes.

Mr Collett: Yes.

THE CHAIR: Would you like to make any opening remarks?

Mr Hindmarsh: Yes, Madam Chair, I would. It is by way of a point of clarification in regard to our submission. Since our submission was made, which was on 27 March—

THE CHAIR: Excuse me, Mr Hindmarsh, are we talking about 2009?

Mr Hindmarsh: Yes. It is our submission to this committee. We indicated in our submission that we were about to execute a contract with a sustainable development partner in which we were going to enter into an arrangement for some major solar panel work on the building and solar heat pumps as well. Unfortunately, that company has advised us that it is no longer in a position to proceed so, after a year of negotiation with them, we have to slip down to the bottom of the ladder and start again. I would say that we are already 50 per cent back up the ladder. We have secured the pumps ourselves, rather than through the energy supplier, and we have commenced discussions with several other energy suppliers as well. So we are very confident that we will be able to get back on track with the solar initiatives that we have mentioned in our submission. However, it was important that I mention that the imminent signature just did not take place.

THE CHAIR: That was disappointing for you, I am sure, but I am pleased that you have been able to secure the other—

Mr Hindmarsh: I am sure we will.

THE CHAIR: That is good. Mr Collett, did you want to make any opening remarks?

Mr Collett: No.

THE CHAIR: We will go straight to questions then. Ms Le Couteur?

MS LE COUTEUR: One of the things I am very interested in is the yield in the site, particularly given the comparison with what was there, I am not quite sure how many years ago, when it was all public housing. Firstly, are we going to get as much public housing as we used to have? I suspect the answer might be no. Are we going to have as much housing for anybody as we used to have?

Mr Collett: The question is a good one. One of the reasons we took a decision to demolish the Burnie Court site was because it had become an aggregation of disadvantage in which the congregation of so many public housing tenants in such a small space was leading to difficulties both with the surrounding residents and with the residents themselves.

I note that one of the submissions that has been made to the committee talked about Housing not being prepared to take on the appropriate management of their tenants. I just wanted to make a couple of remarks in relation to that. What happens in a public housing portfolio is that, unless you hold a significant amount of stock vacant for emergency housing and for people with high and complex needs, you will always get an aggregation of those tenants in the least desirable stock, no matter how good that stock is.

Our housing tenants are as interested in their own welfare as the rest of the community. They are aware of the different values and the different qualities of public housing that are available. Both in their initial application and in terms of their applications for transfer, and the evidence they bring forward to support their applications for transfer, they will move to what they see as being more desirable stock. It is often away from multi-unit developments because they are so large and so noisy. They prefer to be, in general, in detached houses. Our detached housing stock, being skewed towards three bedrooms, often gives them more space and accommodation.

So we tend to have high vacancy rates in our multi-unit properties, and that leads to situations where people with high and complex needs are allocated that space because there is simply nowhere else to put them. So a woman escaping domestic violence or a man coming out of the judicial system might be allocated accommodation in those circumstances. Anecdotally, the domestic violence partner finds out where the woman and the child are, comes around late at night, there is a scene, there is disruption and it impacts on the neighbours. They apply for a transfer the next day. So we do get a concentration. It is not about our ability or our willingness to manage the stock; it is just what happens in the dynamics of a portfolio of public housing. In fact, we work very hard to make sure that that does not happen.

The current stimulus package that we are getting from the commonwealth recognised the fact that we need to break down these large aggregations of public housing that occur in capital cities in other jurisdictions, particularly in the western suburbs, such as Macquarie Fields. Luckily, because of the history of public housing in the ACT, we do not have that aggregation. We have got a good spread of public housing, and there are enormous social benefits that flow. So our aggregations of disadvantage tend to be in our multi-unit properties.

For that reason, and it is why I have taken a little time to take the committee through those arguments, we do not see the future of public housing in the ACT as being in these large groups of houses. So we will not, on an individual site-by-site basis, be putting back the same number of public housing that was there before, because that, in many ways, would simply be replicating the problem that we have taken all these actions to try and avoid. In fact, we have set an internal standard for ourselves of somewhere between 12 and 16 units in a multi-unit development as being the

maximum.

We still see a role for those smaller multi-unit developments being included, but we would see that as being the maximum, except where we are housing older persons, where a range of social and behavioural issues means that we can take larger groups. So as we move through our portfolio, we will be making decisions about relocation on the basis of the best location for our tenants, what our waiting lists are telling us and also avoiding those concentrations of disadvantage, and we will not be replicating those.

We need to make sure that we take enough funds out of our redevelopment proposals to, when balanced across a number of projects, enable us to rebuild that number of public housing units. That is one of the reasons why we were attracted to the Hindmarsh development proposal as a joint venture partner. It is one of the reasons why we have stayed in this as a joint venture partner, in order to increase the return to the territory, because all of that money goes back into public housing, and that public housing will be a combination of new builds and spot purchases. It will be in established suburbs and it will be in new areas, and that will be based on what our waiting lists are telling us.

We have already built 24 public housing units on the site, in the Freycinet, in aged accommodation. We are supporting Community Housing Canberra with funds for them to buy into the project. There are enough funds for them to purchase outright 12 units, depending on what the final prices are, but we are hoping that they will leverage off that and buy additional social housing units.

Another one of the characteristics of the Hindmarsh bid that attracted us to that group as a joint venture partner was John's personal familiarity with mixed developments of public housing. He cited the experience that he had in the United States where it was a requirement that he have a level of social housing in the developments that he was doing there, and also the Hindmarsh group's willingness to deal with this in terms of including public and social housing.

It is partly manifested in the plan by the location of the community facilities which are located close to the public housing elderly accommodation, and we will be exploring with the Hindmarsh group the possibility of including them in some of the social events. We see that as a good outcome, and one of the reasons we are seeking to match the yield from the site to what it was previously is because if there is any reduction in the yield that will impact on the number of public housing units we can purchase to replace what is being demolished there.

The second part of the question from a member of the committee was around what is the total yield or the total number that are coming out of the site. The leases that have been prepared as part of the amalgamation of the site, and its re-subdivision to provide for aged accommodation and for new housing, is for 120 units for the retirement complex and 120 units for the residential component, or close to those numbers.

That reflects closely the 240 units that were there previously. So it is important to recognise that we are not, through this territory plan variation, seeking to increase significantly the number of accommodation units that are there. We are seeking to

replace the number that were there previously. Suggestions that this is somehow overdeveloping the site or that it is a commercially-driven objective of ours is incorrect. When we come to the detailed plans, depending on how we configure the units, there might be some slight change to that, either up or down. If it is up, we would be seeking to vary the lease. There is a process for examining that and seeing whether that can be supported or not through a DA process, and there is a change of use charge that is payable. Certainly, our expectation, and the plans that we prepared, lodged with the community and used in support of the territory plan variation, are all around that number.

MS LE COUTEUR: Can I just clarify that? The lease you have got says 240 units, and if you were to do more than that you have to pay betterments?

Mr Collett: We are constrained by our lease at the moment. If we wanted to build more than that we would have to include a variation to the lease as part of the DA, and if the lease was varied that would trigger a change of use charge, yes.

MS LE COUTEUR: And there are no lease issues if you decided to build less?

Mr Collett: No.

MS LE COUTEUR: And the 240 units previously were all public housing, so we have gone from 240 public housing to 36?

Mr Collett: Yes. But the funds that are released will be used to purchase or build the same number of public housing elsewhere.

MS LE COUTEUR: Okay.

MR COE: Sorry, to build or purchase? Definitely to build?

Mr Collett: To build or purchase.

MR COE: To build or purchase.

Mr Collett: We managed that through our capital works program. It depends on what the waiting list is telling us; it depends on whether there are people with a disability who need housing that is close to the hospital. I am not trying to be evasive, it is just that we manage the capital works program on a month to month basis to balance our receipts and our expenditure. The other key driver is what the waiting list is telling us about where people want to be, both in broad terms—how many people want to be in west Belconnen or in Gungahlin compared to the inner city areas—and on a particular basis: who we have got and who is eligible for special housing and particular social support or medical needs. Those need to be taken into account.

MR COE: In terms of the 36 units, you say that the cost of public housing can sometimes be problematic when you have medium or high density housing. For your average housing tenant, does it make much difference whether they are in one tower or in five or six towers? For the individual tenant does it pose as much risk of being problematic if they were one tenant in a tower of 36 or one tenant in a cluster of five

or six towers? What difference does it make if you have a cluster of 36 really close to each other? What difference does it make as opposed to 200 in a proportionate area?

Mr Collett: Firstly, we will not be putting the 36 in a single cluster. As we indicated, and as you can see from the photographs that Mr Hindmarsh distributed, the aged accommodation has been built as a single block, but the additional 12 or more units that are developed as social housing, or purchased as social housing, by Community Housing Canberra will be dispersed across the development.

Mr Hindmarsh: And would represent about 10 per cent of the units in the second stage.

MR COE: Right.

Mr Collett: Which is a level that we are comfortable with. If I take, in the first instance, the aged accommodation: as I prefigured in my previous comments on our general limits around the number of public housing tenants we would like to see in a multi-unit development, the exception to that is the elderly. To be frank in front of the committee, some of the more antisocial behaviours are not as predominant amongst elderly people. They tend not to have drunken parties and bang on one another's doors at 2 or 3 o'clock in the morning. They tend not to do donuts in the car park. It is just the way old people are.

MR COE: It sounds like the Assembly!

THE CHAIR: Are you indicating, Mr Coe, that the Assembly does do donuts?

MR COE: It is the inverse, in fact.

THE CHAIR: Yes.

Mr Collett: But there is also the question of support needs. There is also the question of people who are older feeling much more comfortable—as I approach that age I can relate to that—amongst a group of other older people. So we will not be exercising those limits for our older accommodation as part of our response to the commonwealth stimulus package. We will be doing aged accommodation. There might be a reasonably large group of those because we find it easier to support older people and we do not have those excesses.

Turning to what we have done generally in terms of our detached houses and our multi-unit properties—we have even coined a phrase for it: we call it salt and peppering; it is a phrase that is used in other jurisdictions as well, and you might even have heard it around the Assembly—we have been salt and peppering our public housing tenancy and other developments. That means that we tend to break them up so that their neighbours are not other public housing tenants.

In multi-unit properties, for public housing tenants that does not solve all of the problems. One of the issues for us is that we are then involved in paying body corporate fees, which can be quite a significant impost. When you consider the vast majority of our tenants are on rebated rents and we are taking 25 per cent of a

Centrelink benefit or a supporting mother's benefit or an invalid pension benefit, our costs are already very close to break-even. If we are paying body corporate fees on top of that we can have a negative return on an individual property. So our preference would be either for small groups or for detached houses in which we own the entirety.

We still have a lot of stock that is, as I say, salt and peppered, and that would be the case for the 12 or more units that are community housing rather than public housing. They would be let out on an affordability basis rather than a rebated rent basis. They would be renting for 74.9 per cent of their market value rather than 25 per cent of the income. They can certainly sustain body corporate fees. I am sorry that I took a bit long there.

MS LE COUTEUR: The 12 units, are they going to be in the retirement village or in the other part of the development?

Mr Collett: In the residential development.

MS LE COUTEUR: So not retirement. I always think that retirement is residential or—

Mr Collett: I am sorry, the non-retirement component.

MS LE COUTEUR: The non-retirement component, the young people's residential component.

MR COE: Further to all that, obviously having 36 public housing dwellings in amongst 120 dwellings does disperse them to an extent. However, the fact is you still have 36 tenancies in the same area, albeit in amongst another 80 non-housing ACT tenancies. Does the evidence suggest you still get problems simply by having the people close to each other, even though they are dispersed?

Mr Collett: No, that is not the evidence. We are moving away from the territory plan variation itself. To answer the question: no, where we have got them broken up. Ten per cent is pretty much a guideline target, and again that is across Australia. The current reforms that the commonwealth government has promulgated through the housing ministers conference and the COAG process around the national affordable housing agreement, which has replaced the commonwealth-state housing agreement, and through the stimulus package calls on the states to break down their concentrations of public housing so that they are between 10 and 15 per cent of any suburb as a maximum.

Our preference in new suburbs where we do not already have an aggregation or a concentration of housing units is around 10 per cent. So that 10 per cent is accepted widely as being an effective maximum number. There is still the possibility of individual tenants being disruptive to their non-public housing tenant neighbours, and we certainly get objections from body corporates around that. Unfortunately, it is also possible for our public housing tenants to be stigmatised by the rest of the residents by being identified as public housing tenants and they suffer a bit of discrimination in that respect. But that is better than having these aggregations. Certainly, being dispersed at the level of 10 per cent, as John said, is something that works quite

effectively.

Mr Hindmarsh: Within the 120 units in that residential stage or the non-aged care stage, my expectation is that around about 50 per cent of them will be tenanted anyway—that, in fact, they will not be owner-occupiers. That is the nature of the type of accommodation that will come close in to the city centre. The public or community housing tenant will be mixed up with other tenants. Our view was that it was commercially acceptable to have that mix, so we feel no constraints in offering to work with that mix.

Mr Collett: Just to finish off our response, there would be quite a number of medium density units both in the Kingston area and in Braddon where we have between 10 and 15 per cent of the units. That is not widely known and there would be many people living in those apartments who did not realise that their neighbour was a public housing tenant.

MS LE COUTEUR: This is a very interesting aerial view. Can I just check: the bits that are darker, are they the carports, the garages? You have got the bits that appear to be trays—that would be my guess.

Mr Hindmarsh: Yes, they are attached garages.

MS LE COUTEUR: That one and that one—I do not know how to describe them—appear to be on the northern side.

Mr Hindmarsh: Yes, they are; they frame a courtyard. There is a courtyard behind the garage and the garage is only half the width of the block. So there is sunlight coming down between the garages and then it is also coming down between the garage and the house. A courtyard is created between the garage and the start of the house.

MS LE COUTEUR: That courtyard is going to be in the shade.

Mr Hindmarsh: They are not large houses. They are designed to meet what we see as a market demand. And there is a market demand in Woden.

MS LE COUTEUR: Yes.

Mr Hindmarsh: Some 16 per cent of the—

MS LE COUTEUR: It is just that I would like to pick them up and put them around the other side. I would just like to move the ones that are on the northern side onto the southern side because the cars do not need the sun; the people need the sun.

Mr Hindmarsh: I can assure you—

MS LE COUTEUR: I know that is not part of the territory plan.

Mr Hindmarsh: they will in fact get sun in those courtyards during the day. There are 27 of these single level buildings and 14 of them directly face north. The

remaining ones essentially face east-west and get the benefit of the morning and afternoon sun. What is not visible there on the right-hand side of the photograph, where the site is, is that is where there is a block of 16 apartments. That is just to the right of the roundabout. There will be 16 apartments there. Slightly beyond that is the community centre. The very large round circle is one of three large tanks which is being used to capture rainwater and then for irrigation of the site. All the irrigation capacity is being built into the first stage.

MS LE COUTEUR: Good. And there will be stormwater from rainwater.

Mr Hindmarsh: Stormwater, yes.

MS LE COUTEUR: That is good.

Mr Hindmarsh: I mentioned earlier as well that we have done something quite innovative with our hot water. We have heat exchange for hot-water systems which means that people are sharing hot water around the whole of the community. That results in about a 60 per cent energy saving. It is a significantly higher capital cost but it is one of the benefits one can gain from the government subsidies on energy.

MS LE COUTEUR: Can you talk a bit more about that? How is that going to work? Just talking about heat pumps: you are going to have a small number in the apartments?

Mr Hindmarsh: They are in banks of three.

MS LE COUTEUR: How is it going to work? I am actually interested in that.

Mr Hindmarsh: The heat pump is just the way an air conditioner changes heat—

MS LE COUTEUR: Yes, I know how heat pumps work. I want to know how you are circulating it. You have got your apartment building; how are you sharing 23 heat pumps among your 240 units? I guess that is my question, not how heat pumps work.

Mr Hindmarsh: The heat pumps we are talking about now are only related to the first stage, but even the apartments are serviced by heat pumps. There are probably six heat pumps where the small apartment block goes. The water is just reticulated normally, but it is done in a special pipe that has an electric circuit around it and it keeps the water warm so that you do not have to wait five minutes before your hot water comes through. It is quite an innovative system. In fact, I understand that the department of housing is in the process of retrofitting a lot of this system into some of its stock as well.

Mr Collett: That is correct. The energy and water efficiencies that we are rolling out under the 10-year program funded by the current government is making use of the same fittings. The smaller units that we use have been purchased under a bulk contract to get some economies of scale. In the case of this development, we were very pleased to work with Hindmarsh to use the same system. They are manifolded together, so there is a group of hot-water units which serve a larger group of units, and in that way they can service the apartments as well. So there is a small bank of the hot-water units

servicing a number of apartments or a number of the villas.

As John said, the innovative technology is that there is a heating wire in the lines, because the potential downside of that is you waste a lot of water running cold before you get hot water to wash your dishes, have a shower or run your washing machine. So the significant cost saving, even with heating, is the small amount of electricity that is used to heat the water in the pipes so that they can draw hot water immediately.

MS LE COUTEUR: Is the hot water use metered in any way in the apartments or the units, or do these people effectively have unlimited free hot water?

Mr Hindmarsh: That is another innovation. We are using what are called smart meters. Each apartment has a meter which will measure electricity, hot water and cold water. The data can be put back to your head office or can be taken off the site. So you can measure and give everybody a printout of what usage they get of both hot and cold water and of electricity, on a time basis as well.

MS LE COUTEUR: That sounds great. Will they be billed for the hot water or is that yet to be decided?

Mr Hindmarsh: That is built into the fee. In a retirement community, people pay a community fee on a regular monthly or fortnightly basis, and that is built into it. I presume we will do it the way some of the utilities are done. You strike a rate, you use a given amount, and then, if you go beyond that amount, there might be a slightly higher charge.

MS LE COUTEUR: But moving out of retirement, presumably you are going to do the same sort of thing in the apartment blocks?

Mr Hindmarsh: Yes, absolutely. There is no reason why we cannot do that.

MS LE COUTEUR: The apartments are expected to have their utilities as a flat amount, I would imagine—or am I wrong?

Mr Hindmarsh: They will be.

MS LE COUTEUR: How will they be billed—the non-retirement people?

Mr Hindmarsh: The non-retirement people?

MS LE COUTEUR: Yes, the non-retirement people. I appreciate that the retirement people are being billed a flat amount.

Mr Hindmarsh: Through a body corporate, you can do that.

MS LE COUTEUR: What I am trying to tease out is—

Mr Collett: Price signals. You are talking about pricing signals?

MS LE COUTEUR: Yes. If I spend an hour each morning in the shower, under the

hot water, it is very pleasant. Am I going to pay for it—

Mr Hindmarsh: Yes.

MS LE COUTEUR: or is it just an even amount for everybody?

Mr Hindmarsh: No. That is the purpose of the smart meters. What we are trying to do is to buy electricity at the bulk price and as a one-off or a two-off. It will be two-off in this case: one for the retirement place and one for the other. You buy it in bulk and then you distribute it around to the users. There are significant advantages. It has never been done in Canberra yet. We reckon that when we get the whole of our solar system bedded down, as I thought we had, we will be able to sell back something like 75 per cent of our electricity use through the generation from the solar panels.

THE CHAIR: Mr Coe, do you have any further questions about the territory plan variation?

MR COE: To be honest, I do not, about the territory plan variation, but I do have one or two other ones in relation to the development. How many bodies corporate are there going to be?

Mr Hindmarsh: There will be no body corporate for the retirement village. It will be run through our own management system. We have a company called Hindmarsh Living, and it will manage the whole of the retirement area. It is done under a loan licence arrangement. It is not a traditional unit entitlement. There will be a body corporate for the other part of the residential, which will be approximately 120 units, and that will be a standard unit entitlement arrangement.

MR COE: So with that in mind Housing ACT is going to have 36 120ths of the body corporate; is that correct?

Mr Hindmarsh: No, it will only have 12 because it is counting the 20ths.

THE CHAIR: No, it will have 12 out of 24 here.

Mr Hindmarsh: Twenty-four in their own site.

THE CHAIR: Because they have only got 10 per cent of the rights.

MR COE: Yes, of course. With those 12, do Housing ACT exercise their vote at body corporate meetings?

Mr Collett: Yes. I will make a point of clarification and then I will answer the more general question. We are funding Community Housing Canberra to purchase these units, so they are autonomous in terms of their financial arrangements with Housing. So the commissioner for housing will not have any shares in the body corporate.

To answer the question more generally though, I did mention before that we have got quite a number of units in bodies corporate in Kingston and Braddon in particular, and

yes we do. We need to be selective. I think in total we are in almost 400 bodies corporate. So we have people doing nothing else but attending bodies corporate meetings and responding to correspondence. We tend to be selective in terms of what we respond to, but we do have an officer whose responsibility is our relationships with the bodies corporate. That can be about our tenants impacting on others, the impact of others on our tenants and major maintenance work expenditure. We would typically exercise our rights as a shareholder in the bodies corporate when those issues come up.

MS LE COUTEUR: I have got a question about the commercial viability of this. What people have been complaining to us about is largely the 10-storey part of the development. A lot of people have said it would be much better if it was all six storey. If that was the case, would it be commercially viable? Would you build it? Could you build it? Following on from that, if the territory plan variation did not go ahead, if we all said, “No, not today,” what would happen?

Mr Hindmarsh: I would say the horse has bolted, because we have used a lot of the land up already. The rest of the land would be simply covered with buildings three storeys high. It would be a most unattractive environment, in our view. We have tried to create a diversity of housing in this case, from single storey, which reflects well, we hope, with the existing residential scale at the back of the site, to something that is larger on Melrose Drive.

By the way, when we keep referring to three storeys, four storeys and 10 storeys, under the territory plan you have got to take a storey off because anything that is one metre out of the ground as a basement is counted as a storey. So a 10-storey building is really only nine storeys and a three-storey building only allows us to build two storeys, because if it is one metre out of the ground the planning regime counts it as a storey. We have tried to create a diversity. We are starting at the south end of the site, with essentially a four-storey building block, which is the Freycinet, and we were going to continue that and then move progressively up to five and six and finally to 10 storeys.

I would like to point out to the committee where we are proposing to put the 10-storey building. If you look at the picture that I have given you, if you look across the road, there is a motel that is roughly six storeys, but behind that there is a DA application for an 18-storey tower. The idea behind our tower on the corner was twofold. It widened the amount of space that we could give on the ground, it added to the diversity and it set some sort of a pattern of entry into the Woden community. It has no immediate neighbours across the way in terms of other residential people. With respect to any shadowing it does, it shadows back onto the site for which we are responsible, and even that shadowing and shading is quite modest by normal standards.

We are looking to try and create some diversity and to create a sense of rhythm on the site. I do not like the idea of having a six-storey wall along Melrose Drive. I find that really quite repugnant. It is just not an attractive approach. Something that moves upwards gently and finishes in some sort of statement at the end, a decent architectural expression, will give a lot of visual pleasure to this whole place.

MS LE COUTEUR: Talking about that development, the proponents came to see me this morning and I looked at their shadow diagrams. Putting their shadow diagrams next to your proposal, there is one of your blocks—it must be block K—which I think will end up never getting any sun, for the people on the Melrose side of it, because the morning sun is totally blocked from that if that one goes ahead. Block K is one of the east-west ones.

Mr Collett: Would it be possible for you to hold that up so that we can get a bit of an idea—

MS LE COUTEUR: It is facing east-west. With respect to the side that faces Melrose, the shadow diagram basically showed it in shade in the morning from the proposed Tradies development. Obviously, it is not the morning, given that the east side is not going to get any sun. Anyway, the morning is its only possible sun time.

Mr Hindmarsh: I do not think even the Tradies could shade us that far, could it?

MS LE COUTEUR: Have a talk to them, because I said that Melrose Drive was too big. They may not have had exactly the right positioning but they did appear to just manage to hit you.

Mr Collett: Could I make some comments about that?

MS LE COUTEUR: Sure.

Mr Collett: Firstly, it would be unusual to penalise our proposal, which does not cast shadows over any of the adjoining land, and we have demonstrated that through the sun diagram, because of the shading that is produced by another building. Secondly, if that is the case, we will be making those comments as part of the DA process, which is the part of the process that really does look at overshadowing. Thirdly, if it overshadows block K it will overshadow a single-storey development, two-storey development, three-storey development or six-storey development on the footprint of block K, irrespective of how tall it is. In fact, the taller it is, the more units might be free of that shadow because they will be high enough to escape the sun.

MS LE COUTEUR: Yes, it was a ground level shadow diagram. On that note, the DA has already been in for this development. The comment period is over—not for yours but for Tradies; the DA is already in.

Mr Collett: We will have a look at that. Unlike some of the respondents, I have got a reasonable amount of confidence in the ACT Planning and Land Authority and I would be wanting to see the documentation. The essential point is that that would apply no matter how high the development was on that site. We can certainly look at that as part of the DA, which is the proper place to look at these overshadowing diagrams.

It might be useful while we are talking about overshadowing to make some comments about the submission that the committee has received. I think Mr Adams has already reflected on the difference between a territory plan variation and a development application. We have made comments about that before. I think it is fairly

insignificant but that the committee bears that in mind and realises that a territory plan variation in itself does not relieve us of any of our obligations under the development application process, and it is the development application process that involves all of the constraints in terms of overshadowing, access to sunlight and all of those sorts of things.

I think it has also led those people who passed comment on the scheme down some what might be described as rabbit holes in a sense. I noticed there have been comments passed about whether in fact the overshadowing of the blocks along Melrose Drive reflect a six-storey building or a four-storey building or what they in fact reflect.

Of course, all of those blocks would be built on a podium which on the territory plan, as John has just said, would represent a floor, so we would have under-croft car parking. Because the level of the land is falling, that would present more than a metre out of the ground, and so that would be regarded as a storey. So the overshadowing would not affect the adjoining residences. That reflects our proposal for three and four storeys above the basement car parking rather than the territory plan variation. But we are continuing to do work on the design of those units, and their configuration will try to maximise their solar access, maximise the capacity to use the heat pumps, and all of the other things that we have added to stage 1 of the development. The DA will require us to do that, and we will do that.

THE CHAIR: Thank you. Any further questions?

MS LE COUTEUR: Assuming the territory plan variation goes ahead as presented, when do you think you will start construction?

Mr Hindmarsh: We would have to start the design process. To do a detailed design process before the committee makes a decision would be a considerable waste of money. We would certainly like to be able to continue our construction program. This first stage will be finished in September and October. We would like to be able to continue with the next block along Melrose Drive immediately following that. If we started today on the design work, it would take us on average somewhere between four and six months, based on experience we have with the LDA. So it is pretty unlikely that we will get anything in the field much before October or November of this year.

In regard to the balance of the site, particularly with regard to the 10 storeys and the separate residential, I would think that design work will probably take longer than the rest of the retirement because it will be contentious even if it is 10 storeys. There are going to be a lot of examinations of it, and my expectation is it will take us a year to get an approval, based on the experience that we are currently having in the territory. So construction on that site would probably not be before the middle of next year.

MS LE COUTEUR: And would you anticipate it would be one DA for all of the buildings or would you be doing it building by building—

Mr Hindmarsh: We would probably do two buildings at a time, so there would be two further DAs on the retirement site, and then it would be a single DA on the major

residential site.

THE CHAIR: Mr Coe, did you have any more questions?

MR COE: No.

THE CHAIR: Ms Le Couteur?

MS LE COUTEUR: I do not think so, no.

THE CHAIR: You do have an opportunity to ask questions later. I think we have come to the conclusion of our questioning for this time. If members do have other questions, we will get them to you as soon as possible, so you can turn those around as quickly as you can.

Mr Collett: Sorry to interrupt, chair, but there are some concluding comments I was hoping to be able to make.

THE CHAIR: Feel free to do that.

Mr Collett: Thank you very much. I did not know what the range of the questions would cover and so I just wanted to let it go. I want to table some documents, and I have got copies here for individual committee members and for the secretary.

THE CHAIR: Thank you.

Mr Collett: One of the committee members referred to the comments that had been received expressing concern about the height of the residential tower, as it were. Comments were also made—some of them, to my mind, seemed a bit gratuitous—about the motivation of the commissioner for housing and our joint venture partner and the attitude that the ACT Planning and Land Authority took to the comments that had been received.

THE CHAIR: Excuse me; could you just clarify where these comments came from? From witnesses?

Mr Collett: From the witnesses, and the statements that were lodged which we had the opportunity to review—the submissions that they made—after they were released by the committee. One of the things that I wanted to make sure that the committee was fully apprised of was the quite significant amount of consultation that we undertook with the residents. Over almost three years of developing our approach to this proposal, we have been involved with a consistent group of residents from the Lyons area.

We first of all initiated that by approaching the Woden Community Council, asked for their advice about how we might go about our consultation process, and made presentations to them about the method that we wanted to use. We then used a combination of letterboxing the contacts that were provided by the Woden Valley Community Council and public advertisements to invite a group of people to come along to see presentations on the development.

We asked those that were willing to to give us their contact details, and I think the vast majority of them did. We established an email group so that we were able to get information out to them and we were able to report back to them on the agendas from meetings and on the conclusions of those meetings. Throughout that process we documented the issues and the concerns that they had raised.

I table these two examples of information that was provided for that group, as well as some supplementary information. So you can see from our list that there were 51 local residents who participated in this process, attended those meetings, raised issues, asked questions and asked us to modify our plans and to provide additional advice to them. We did that. We gave them access to the landscape architects and the engineers that we had used. We invited ACT roads and traffic to come along and make presentations and to be involved in discussions with the local community about some of the issues that they raised about the immediate traffic issues and the broader traffic issues.

I think the most significant thing in all of that was that we documented the concerns and the issues that we raised and we reported back to them on our progress against those initiatives. You can see in that group of information that we have provided that we put up an overhead slide and said, “These are the issues that have been raised in consultation on the development of the land in Lyons” and we reflected all the things that the community had said to us.

We told them about our interactions with the ACT Planning and Land Authority and we said, “These are all the issues that the Planning and Land Authority have raised with us.” Then we provided additional documentation and written responses to them about how the issues raised by ACTPLA had been addressed and modifications and changes and additional information that we had raised. We also reported back on the issues that had been raised by the community and the people who had been involved in this.

We would not claim that we had had a ringing endorsement from the majority of people in Lyons, but you can see that the people who have been involved in this process, who have had their concerns taken on board and who are generally supportive of the direction that we have taken, are a significant number when compared to the number that have raised comments about those.

One of the things that we take a great deal of confidence in is that these are the people who are in the immediate vicinity; these are the people who will be affected by these changes. That, combined with the fact that the significant majority of the people who have purchased off the plans for this first stage of the development are Lyons residents, leads us to form the judgement that what we are doing here is providing something that the community values. When John talks about choice in housing, a range of houses or a variety of housing, that is something that is supported by the local community, both in terms of their interactions with us and their purchase decisions that are being made. So I would hope, in presenting this information to the committee, that you give consideration to the broader role of the community being involved in this process as well as the submissions that have been received in response to aspects of this development.

In summary, if you think about what a sustainable community might look like in Canberra in the future, you would give consideration to people having a choice of housing; people being able to age in place in the community that they have grown up in and being able to maintain contact with their doctors and nursing services; people being able to choose whether they walk to work or have to use a private vehicle; people being able to use public transport because we have got enough density along public transport routes for that to work; people being able to access entertainment and shopping and services without having to rely on a vehicle. You would see that a sustainable development looks very much like what we have developed.

One of the members asked what would happen if we did not get this territory plan variation. Well, the developer—and this needs to be seen in light of some of the comments that are made—and the department have already made a commitment to building single-storey housing, because that is the way that older persons accommodation needs to be configured, with about half of it being single storey. So in order to offer retirement housing to the people of Lyons we were left with no alternative. The financial reality is that we had to build single storey.

We think we have got a good planning outcome because it relates to the single-storey development opposite us on Burnie Street. We have retained the trees. We have configured the units so that they do get solar access. A lot of comments have been made about the solar access. We have gone so far in ensuring that we have got good solar access to our developments that we had an energy company prepared to fund the first commercial application of photovoltaic cells in the ACT. That has fallen over because of the global financial crisis and their inability to get funding for that, but we are in a very good position to pursue that. We have been innovative in terms of the heat-pump-based hot-water units and the reticulation of that. We have been innovative in putting rainwater tanks in there. We have done all that in our stage 1, in advance of what we are asking for in the territory plan variation.

Comments have been made about whether we would overdevelop the site or whether we would disregard the solar access and the design standards in the second stage. We are prepared to stand by what we have already done—of our own volition, without being forced to—in terms of providing those energy and environmental advantages. And it is done within a commercial context. If we do not get a territory plan variation and we are forced to reduce the number of units, less public housing will be built in the ACT as a result, because we will not have the funds to spend on that.

We think we have given very strong consideration to all of the issues that have been raised by the community and overlaid that with a series of environmental initiatives that are not just what people would imagine if they had carte blanche but are realistically achievable in the light of the existing territory plan and on the basis of what can be done on a financially viable basis.

THE CHAIR: Thank you very much. Did you want to make any closing remarks?

Mr Hindmarsh: No, I could not say anything more after that very impassioned plea from my partner.

THE CHAIR: Thank you very much to both of you for appearing before us this afternoon. We will get the transcript to you as soon as possible, so you can see if there are any errors of fact in it and get those back to us. If there are any other questions from the members, as I said before, we will get those to you as quickly as possible.

Mr Hindmarsh: Thank you very much for the opportunity.

Mr Collett: Thank you.

The committee adjourned at 5.12 pm.