



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

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

(Reference: [Inquiry into draft variation to the territory plan No 306:  
residential development, estate development and leasing codes](#))

**Members:**

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

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**WEDNESDAY, 4 JULY 2012**

**Secretary to the committee:**  
**Ms V Strkalj (Ph: 6205 0435)**

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

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

## **WITNESSES**

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## **Privilege statement**

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*Amended 9 August 2011*

**The committee met at 2.31 pm.**

**CORBELL, MR SIMON**, Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development

**PONTON, MR BEN**, Deputy Director-General, Planning Policy, Environment and Sustainable Development Directorate

**FRAZER, MR BRUCE**, Manager, Territory Plan Review and Technical Amendment Unit, Environment and Sustainable Development Directorate

**CALNAN, Mr GARRICK**, Senior Manager, Territory Plan Review and Implementation Section,, Environment and Sustainable Development Directorate

**THE CHAIR:** I declare open the first public hearing of the Standing Committee on Planning, Public Works and Territory and Municipal Services on draft variation to the territory plan No 306, residential subdivision policy review. The committee will be holding six additional public hearings on this inquiry during July. Details are available on the committee's webpage or through the secretariat.

On behalf of the committee, minister, I welcome you to this hearing as Minister for the Environment and Sustainable Development, and thank you for bringing your ACTPLA officials with you to the table this afternoon. I am sure that you are well aware of the statement on the blue card with regard to parliamentary privilege. Could you just confirm that?

**Mr Corbell:** Yes, Madam Chair.

**THE CHAIR:** Minister, would you like to make an opening statement?

**Mr Corbell:** Thank you for accommodating the slight change in the timetable this afternoon; it is much appreciated. I do not intend to make any statement, but I am happy to try and answer your questions.

**THE CHAIR:** I will open up the floor for questions from the committee.

**MS LE COUTEUR:** Two of the professional associations, the landscape architects and the architect architects, have both, in their submissions, said that they basically do not recommend that this variation go ahead. And a couple of the community associations seem to be of the same mind. How can the committee feel that we should be supporting something to go ahead when we have clearly got no agreement from the organisations that have professional knowledge?

**Mr Corbell:** The alternative is to have no provisions in the territory plan to provide for effective protection of matters such as solar access. That is the alternative to at least proceeding to the adoption of some form of provision for protection of those types of issues in the territory plan.

It is not surprising, from my perspective, that professional organisations and some community organisations will have differing views as to the acceptability or otherwise of the provisions outlined in this draft variation. That is often the case for variations of this nature. Large-scale policy variations which have an impact across residential land use areas inevitably attract a range of commentary. But that does not allow us the

luxury of simply walking away from engagement in this difficult policy area.

It is a difficult policy area, but I think the objectives are clear: to improve solar access, to retain residential character, and to deal with issues around change in established residential areas in a manner which is consistent with broader community expectations. These are all issues of great importance, and draft variation 306 tries to reconcile the different competing perspectives and views that different people will bring to this type of policy document.

**MS LE COUTEUR:** I am surprised that, given that it has been so long in the doing, broad consensus could not have been achieved. I guess a supplementary is this. A number of people have talked about how hard it was to comprehend it, and I certainly put myself in the category of people who found it heavy duty to hard to try and comprehend it or impossible to try to comprehend it. Why did the government not seriously consider breaking it up into more bite sized pieces? I know that everything is connected to everything, but the problem that we have ended up with here is that a lot of people think they just cannot understand it—that when you look at it, it is too big and it is too hard.

**Mr Corbell:** What is the question?

**MS LE COUTEUR:** Could you have broken it up more into more comprehensible pieces?

**Mr Corbell:** I think I have been asked that previously by you and by others. My answer would be the same as I have previously given: there are a range of interrelated considerations around managing issues such as solar access, the process of block consolidation and the process of new estate planning which really make it very difficult to disconnect one from the other. It is more sensible for those matters to be considered as part of a single coherent whole rather than a series of separate parts. I daresay, I would speculate, that if the government had chosen to do it in parts, the criticism would be “What’s the big picture? How does this all fit together?”

**MS LE COUTEUR:** Given that, I will go to a big-picture question. We recently voted for a 40 per cent greenhouse gas reduction by 2020. It does not seem to be something which is addressed in this major variation of the territory plan. If it is addressed, I am afraid I have not managed to work it out. I cannot see—can you explain?—how this is going to lead to contributing towards the 40 per cent greenhouse gas reduction.

**Mr Corbell:** It does so through improving the capacity for dwellings to get greater solar gain and to be better users of passive heating and energy passive design or solar passive design, to reduce their need for space heating or other artificial forms of heating. So it makes a significant contribution in that manner. It is not the case that the variation says that there is 40 per cent of a reduction here. Just because we have a 40 per cent reduction target does not mean that we seek to achieve 40 per cent in every area of policy. That is not the way climate change policy operates. Climate change policy operates in the context of recognising that different parts of the economy and different areas of regulatory effort within government will make varying contributions towards the overall target.

**MS LE COUTEUR:** Some of the commentary within this—previously you have taken out the requirement for three hours of sunshine into dwellings. That was put back in. The commentary when you removed it was that, now we have got six-star building energy efficiency requirements for buildings, you do not need the solar requirements. Clearly we have six stars. What is this going to achieve above the six-star requirements in terms of reduced energy use?

**Mr Corbell:** I'm sorry?

**MS LE COUTEUR:** What, if anything, above six stars is this going to achieve in terms of greenhouse gas reductions?

**Mr Corbell:** I will ask Mr Frazer or Mr Calnan to talk on this issue.

**Mr Frazer:** Energy consumption is multifaceted. Energy rating is one aspect that we assumed would be in place in writing this, in writing codes. What we endeavoured to achieve with advice was to ensure that an individual lessee, when building a home, can take maximum advantage of the sunlight that is available. Solar access is not the only component, though it is a significant component in reaching that six-star rating. As you know, a unit on the southern side of an apartment building can still qualify for six stars without seeing any sun at all. With individual dwellings, the energy rating side of affairs can be then assisted by good-quality access to solar radiation. That is where not being overshadowed by one's neighbour is very important.

But that is not the only component. There is the component then of residential amenity. That is, I think, vital. Vital for residential amenity is the prospect of having good access to northern sunlight or to sunlight generally. Again, these policies allow that. They do not mandate it, but they allow it to happen. If I buy one of the new blocks that is created through this system, I will have confidence that I will not be overshadowed and therefore I can design my property so that I can have sunlit open space, private open space, and I can have sunlit living rooms should I arrange the rooms in a certain way. I am not mandated to do that, but I can certainly take advantage of the policies.

**MS LE COUTEUR:** If I am hearing you right, solar access is basically what this does as far as sustainability goes. In that case, I am fairly disappointed that you have not taken advantage, have not looked at other issues, particularly urban layout and transport issues, where we could do something to reduce the amount of Canberra that is covered in roads and encourage people to use walking, cycling and public transport more. With the original variation, when you had 301, that was all urban state layout and dealt with these issues. The Greens put in a substantial submission on the subject, with our limited understanding, not being town planners. But it would strike me that in terms of sustainability—I am not saying that solar access is not important, but it is clearly not the only thing and I am disappointed to hear that this is really as far as the government thinks it is going in terms of trying to improve sustainability.

**Mr Corbell:** I do not think that is a fair comment. This variation deals with matters around the estate development code, around the multi-unit housing development code. Particularly in relation to the estate development code, it has particular regard to how

subdivisions are planned, to ensure that dwellings in new subdivisions get better access to solar passive gain, if you like, to solar radiation. That has got to be a good thing for the design of the estate overall. I am not quite clear where you believe the variation is deficient in relation to the other issues you raise about transport, walking, cycling and so on. I would be interested if you could elaborate on that.

**Ms Le Couteur:** I am not in a position to give a technical evaluation. What I am in a position to say is that most transport in Canberra is by private car.

**Mr Corbell:** Yes.

**MS LE COUTEUR:** And I would like to see that our planning for the future significantly encourages better cycling, better walking and better public transport.

**Mr Corbell:** Sure, but in what way is the draft variation deficient in that regard?

**MS LE COUTEUR:** I did ask you about what things this variation is doing to improve sustainability, and you did not touch on that. That is where my question started. I am assuming that you are not believing that it is making improvement.

**Mr Corbell:** On the contrary. What you will find is that this draft variation seeks to address issues around how redevelopment is managed in established residential areas, particularly in the RZ1 zones, the low-density suburban environment which Canberrans obviously greatly value—that amenity—but which we know is subject to pressure for redevelopment. And it seeks to resolve how redevelopment can occur in a manner which is sympathetic to the neighbourhood amenity of those precincts but which nevertheless still provides for a limited form of broader housing choice through redevelopment in those neighbourhoods.

Obviously, that has a direct sustainability contribution, and I am sure that you would appreciate that. If there are greater opportunities for people to age in place, if there are greater opportunities for greater diversity of household types to find accommodation within established neighbourhood areas, that makes a direct contribution towards people's capacity to live closer to where they work or shop. That then gives them greater choices around the types of transport they choose to use.

The most obvious example of this, of course, is the debate that raged around development in Dickson and some of the development proposals there. This variation seeks to address some of the issues that arose as a consequence of approvals granted under the previous controls in suburbs like Dickson. Redevelopment is happening in suburbs like Dickson because people place a premium—and developers can see a premium—on providing more housing choices close to a location like the Dickson group centre. There is a premium there because people want to be able to live close to Dickson. They want to be able to cycle or walk to Dickson rather than drive all the time or they want to live close to Northbourne Avenue so they can get on a bus more easily.

So the changes that are proposed in this draft variation recognise that that is a pressure that will continue to have to be managed and, to that extent, it does make a contribution towards those broader urban consolidation objectives, if you would like

to characterise it that way.

**MS LE COUTEUR:** Going back to the estate development things, I have been told by various developers that they wanted to have narrower roads and they have not been allowed to do that. I can remember one example, the Village Building development out in north Watson. One of the reasons it became community title was that they could not get the small roads approved by ACTPLA otherwise. The rules are ensuring that there is more road provision than is possibly necessary. I guess that is what I am going to. I am not sure that the estate development part, the layout, is really addressing sustainability as a high requirement.

**Mr Corbell:** I will ask Mr Ponton to respond to that in the first instance.

**Mr Ponton:** The code identifies particular standards for road widths and a range of other particular matters. We have incorporated standards from Territory and Municipal Services into the code to make it a one-stop shop. As to the particular example that you refer to at Watson, there is within the existing codes and also more clearly articulated in the proposed code a criterion so that in those particular circumstances, provided a case can be put to have narrower road widths, that can be accommodated within the codes.

On the general point—if I could just add to what the minister has said—we spent some time looking at the structure of the estate development code so that proponents, when they are developing the concept around their estate, actually start to look at the estate in a different way and do not start with car-based solutions. The structure of the code actually looks to get proponents to think about what are the important connections in terms of pedestrian connections and cycle connections and then we move into car-based and public transport considerations. That was quite a deliberate intention in structuring the code the way we have.

**Mr Calnan:** Could I also add that the estate development code typically operates within the context of the structure plans and the concept plans that are prepared for a particular area. It is often in the planning that is applied to a particular area where a lot of these issues are dealt with, considered and resolved. Within that context the estate development code is then used by the developer of the estate to essentially fill in the gaps, if you like. But the broad structure is critical in terms of access to public transport or establishing arrangements for public transport, establishing connections with cycle ways and so forth and dealing with the whole range of sustainability issues, whether they be transport related or whether they be related to the particular environmental characteristics of the particular area that we are looking at. The estate development code is really the document that is used to essentially fill in that detailed planning that is set within that broader context.

**THE CHAIR:** Just to seek clarification, minister, obviously there would be other constraints on the width of the road—for instance, access for emergency vehicles, service vehicles, waste pick-up vehicles and certain buses that need to negotiate roads. These matters would come into consideration as well when looking at the width of the roads, I would presume.

**Mr Corbell:** Yes, they would. Obviously it would depend on what the designated

function of the road was as to what scope there was for revising road width. Obviously, for things such as bus routes and roads that perform more of a distributor function within a suburb compared to just local access there are different requirements.

It is an area where balance is needed. There have been complaints from residents in the past about the adequacy or otherwise of some roads in residential estates. I recall particularly residential estates built in the late 1990s in what were then new parts of Gungahlin, Ngunnawal and Nicholls. There were significant complaints from residents about the scale of roads and that the roads were too narrow and did not facilitate access by waste collection or, indeed, even just by more than a couple of people in the street if they were visiting a home for a function or something. We have to strike an appropriate balance here. As Mr Ponton has indicated, there is scope for going beyond the established quantitative criteria if the case can be made and it is suitable and acceptable in terms of the functions that road has to perform.

**THE CHAIR:** I certainly have received a number of those representations about narrow roads. With more people using bicycles to get around, some people might request on-road cycle paths. Would that be another consideration? Obviously the road needs to be of a certain width to accommodate a lane for cyclists; would that not be true? Is that one of the things you would take into consideration with regard to sustainability?

**Mr Corbell:** That is certainly true for the more trunk, commuting-type roads. But in the context of an estate, I think the point made by Mr Calnan is well made in that the location of multi-unit development is driven by decisions at a structure planning level, at a whole-of-estate planning level and even at a district level in terms of where locations for higher density should be made provision for. That flows through to how a developer on the ground realises that high density development and what provision they make for immediate local access and so on.

**THE CHAIR:** I have a question relating to the changes that have occurred in the territory plan. The territory plan that we are now looking at altering was written in a certain way. Obviously there have been some major changes in the way that we approach planning in the ACT. There have been some constraints or innovations and, as a government, you are responding to the different things that we are becoming aware of, such as the environmental aspects that you talked about before. Can you talk briefly about some of the things that have emerged over time that are now causing you to revisit the territory plan in order to accommodate the changes in the way that we approach planning?

**Mr Corbell:** I think the key issue that is raised in this draft variation is the issues around solar access. Recognising the capacity to significantly reduce demand for artificial heating and cooling in dwellings is the key driver around improving solar access provisions for private dwellings. We know that a significant amount of the territory's electricity use is the use of stationary energy, so electricity in buildings to heat and to cool, or gas to heat as well. Whatever provision we can make to improve the capacity of a dwelling to stay warmer in winter and cooler in summer through good design principles without the need to resort to artificial heating or cooling, the greater contribution we will make to the performance of the territory's building stock overall when it comes to its demand for energy. That has a direct impact on the

territory's overall demand for energy and, therefore, our overall greenhouse gas emissions profile.

**MR COE:** On a broad note, following the committee's opening up of this variation for additional scrutiny and the submissions that we have received, have you, minister, or has your directorate, noticed amongst the submissions any suggestions that you think would be worth while incorporating at this stage?

**Mr Corbell:** I am sure that officials have looked at these submissions as they have come in. Generally speaking, the government would reach a concluded view on that issue that you raise once the committee has reported. Indeed, the purpose of my decision to refer the variation to you is to seek broader community views through an Assembly process and to seek the views through those submissions to the committee and also the committee's views.

**MR COE:** Sure. Given that you are coming back in a few weeks time and that in the meantime we are going to be hearing from a number of people who have put in submissions, I think those people would be interested to know whether there are any particular issues which you have some sympathy with; thus they then might be able to concentrate their efforts on other areas or just make sure that they are in effect targeting their knowledge and their time to the area that you, in addition to the committee, would find of most interest.

**Mr Corbell:** I do not want to pre-empt what different submitters may say to the committee. We have a close regard to issues that submitters raise during the committee inquiry. The government has reached no concluded view on the issues raised in submissions and it would be premature for us to reach a view on these issues at this time.

**MR COE:** Sure. Back on the estate development code, the Property Council in appendix E, key issues, at point 1, block layout and orientation, have said in paragraph 3:

We would strongly disagree with the philosophy underpinning this entire section of the code that the way to solve energy efficient design is by dictating a limited solution as the only "complying" solution.

In effect what they are saying is "keep options open for other ways to achieve what is the stated outcome". Is that view something that you have sympathy with?

**Mr Corbell:** I will defer to Mr Frazer, Mr Calnan or Mr Ponton around the technical operation of the variation should it come into permanent effect, but my understanding is that the variation does recognise that outcomes can be achieved in a variety of ways, through clear, quantitative measures or criteria or through performance-based criteria, but I will defer to my officials on that point and perhaps they can elaborate.

**Mr Frazer:** Mr Coe, there are two circumstances to which the solar access provisions apply. The first is in established areas where there is a knockdown and rebuild in one of the established suburbs. In that particular case the potential impact on the neighbour is known because the house is already sited; it is in existence. The windows

to the living areas are already locatable, as are the principal areas of private open space. That is why we have constructed the code to say that, if there is a knockdown rebuild and it is desired to build a new house, or even significant extensions to that house, next to an existing house, there is a criterion.

On the surface the principle applies that your new building will not overshadow the neighbour by more than a 1.8-metre fence on the boundary. But there is provision in the code, in an established setting, for the developer to say, “It doesn’t matter if I overshadow a little bit here; I can have a slightly taller element or be a little closer to the boundary for my new house because I am simply overshadowing my neighbour’s garage and it will have no impact on amenity.” In those circumstances there can be some flexibility given in established areas.

The other set of circumstances of course is in new areas where it is unknown what the neighbour is going to build. The principles there behind the solar access provisions are that everybody who buys, every lessee of a new block in these areas, will have confidence to know that their house will not be overshadowed by their neighbour by more than a 1.8-metre high fence on the boundary.

**THE CHAIR:** Mr Ponton, did you want to add something?

**Mr Ponton:** Yes, sure. I was just going to add that the example that was cited in the particular paragraph that you referred to, Mr Coe, in the Crace urban core—I might ask Mr Frazer to expand on this a little further—would not be prohibited under the provisions in the code. In fact one of the submitters during the consultation period on DV301 and DV303 identified a concept of integrated housing, and the urban core in Crace would be considered under those provisions. Mr Frazer, do you want to elaborate on that?

**Mr Frazer:** I can. That, I suppose, is a third characteristic block—that is, a block within an integrated housing development—and the advantage of disclosing the design of the housing, which is what integrated housing development does, at the subdivision stage and locking that design in is that the unknown that I was speaking about earlier for a block that is bought in a standard residential subdivision disappears because it is only a matter of looking at a precinct code, in this particular case, for a neighbour to know precisely what is going to happen on the adjoining block. In that case, we can, or the authority can—the assessing officer or even a private certifier is able to—at the early stage determine the value of that particular design as far as amenity is concerned, particularly with access to sun-lit private open space.

**MR COE:** There does, on the surface at least, appear to be some confusion about this, judging, firstly, by the Property Council’s submission, but also other submissions. Is that not a fairly serious issue—that you have some very learned people in this space who are not completely sure about what the implications of this variation would be? Does that not telegraph to you that there are concerns about the accessibility of this document?

**Mr Corbell:** I understand that people find this document complicated. But it is a statutory instrument and it has to be interpreted in a manner that stands up to judicial review. So this is a document that by necessity is complex because it is dealing, first

of all, with complex issues, but, secondly, it has to be precise and it has to be worded in such a manner that its interpretation stands up consistently to the inevitable judicial review that planning decisions go under through the ACAT and potentially to higher tribunals and courts.

So I understand it, but I would also say that it is not a reason to not get into the detail of the proposal, because any instrument is going to be a complex one. It is the nature of the planning system; it is subject to a range of legal checks and balances and statutory interpretation which the planners have to work within. So I would say that, whilst there may be some concerns about complexity, that is why I have referred it here—so that those issues can be teased out and the committee can reach a balanced assessment with all the evidence before it as to whether it is a justifiable variation.

Secondly, it is not a reason not to get into that detail. This is an important issue. We have to come to grips with it. This is the proposal that has been reworked on a number of occasions. It is not a reason to simply say, “Go away and work it out again.” We have got to come to grips with the detail of the issue and try to reach a considered view as to whether or not this is an effective way of addressing the issues that this variation seeks to address.

**Mr Calnan:** Can I also make the point that many of the issues that this variation deals with are highly contested. There are differences in views across the community. There is a whole range, which go from one side of the spectrum to the other. It is partly because of the contested nature of these issues that we have to be quite precise in how we define what we recommend as an appropriate balance for addressing a particular issue.

As a result of that, people on both sides of the argument will often not be satisfied because it does not address their particular concern. And the fact that it is then interpreted as being complex, because many of the issues are interactive, is then often used as a criticism of the document that is put forward. But it is really just the nature of the area that we are dealing with. It is highly contested and it is multifaceted.

**MR COE:** Given that need for precision and specificity, I think it would be appropriate to raise a question about the term “reasonable”, which is used as an assessment criterion and which the Property Council have flagged as something of concern. How do you judge what is reasonable?

**MS LE COUTEUR:** The Planning Institute has made the same comment.

**MR COE:** And do you run the risk of having inconsistent application when you have such discretion?

**Mr Frazer:** We will both have a go at that.

**Mr Calnan:** The term is typically used in the criteria, which by their nature are somewhat subjective. But typically those criteria have quantitative rules associated with them, and often those rules are the triggers by which a particular proposal can trip from one development track into another.

For instance, with a single residential development, if you comply with all of the quantitative rules your application can be classified as exempt and thereby you can get your building approval by a private certifier. But if you have to have your application assessed against the qualitative criteria, that makes it a merit-based application, which means that it has to be assessed by professionals in the planning agency. They are dealing with these sorts of issues on a regular basis and they are using professional judgement—they are trained professionals—to make these sorts of decisions. It is not an uncommon term in legislative drafting. In fact, it is used quite regularly.

**Mr Frazer:** What Mr Calnan said is quite right. It is a common subjective assessment tool in a range of legislative environments. And it is not unheard of in the territory plan. The term “reasonable” is used in the current codes. What we have attempted to do is to define its use a bit more and use it in appropriate contexts. Essentially “reasonable” is what a reasonable person would think would be reasonable. That sounds circular and of no value, but the focus needs to be put on who is actually going to make that judgement.

It is not correct to suggest that it is the applicant’s role to make a judgement of what is reasonable. In the end, it is the decision maker, the determining authority—the ACT Planning and Land Authority, first of all, in its role as development assessor or in terms of a tribunal review of that where the tribunal stands in the same shoes as the assessing officer. The applicant has a role to determine, for example, if the code says, and it does, that instead of complying with the rule it is necessary for compliance with the criteria.

One aspect of the criteria is that there would be reasonable access to sunlit private open space. The applicant would have the responsibility, if there is a departure from the code, from the rule, to demonstrate to the determining authority that the departure is reasonable. Clearly, if it came to it and the principal private open space of a dwelling, a unit or a townhouse was completely shadowed and got no sunlight at all, that would be unreasonable: there is no sunlight getting to that particular piece of private open space. If it was 40 per cent, 50 per cent or 60 per cent, it is the question of whether it is reasonable, so someone then taking a step back and looking at that variation to the rule finding the amount of sunlit open space available to the resident to be reasonable. Assessment officers will have different views about what is reasonable. We cannot get away from that because that is the nature of the qualitative assessment.

To avoid that, we would have no criteria at all or we would insert metrics into the criteria so that we would say that, no matter what you do, you cannot have less than 50 per cent of sunlit private open space. But that is just like having a rule. In fact, it is a rule. You will notice that we do not try to limit the amount of discretion that can be applied through the application of metrics into our criteria. Now I am getting into the realms of the actual drafting of the particular code, but I am hoping that that will convey some of the reasoning behind the mechanism by which we apply qualitative assessments.

**Mr Corbell:** From my perspective, this highlights the dilemma planners face. Obviously the alternative, as Mr Frazer points out, is to simply put in a very clear quantitative measure and say that it has to be X size, X number of metres by X

number of metres. But that would also attract commentary from industry, in particular, who would say that this is too prescriptive and does not provide for innovation in design or alternative design solutions and so on. And that is a reasonable comment. What we are seeking to address is the issue of some flexibility whilst recognising that there is still a public policy outcome that is trying to be achieved. That is why we come down to the use of that type of terminology.

**MR COE:** The Griffith/Narrabundah Community Association mention in their report, on page 4, that there would be merit in defining all terms used in the plan. They have used examples such as “density”, “affordable” and “sustainable”. Is that something that you think is warranted?

**Mr Corbell:** Some of these terms would have formal meanings already through the Legislation Act. Others would not. To the extent that they would not, the common or dictionary meaning would be used. That is a matter of statutory interpretation, on which there are well-established principles and guidelines that are used and would be used by the decision maker.

**MR COE:** The submission points to the fact that low-density, medium-density and high-density housing are defined in the Canberra spatial plan. So those definitions do appear to be there in some instances and, as you said, perhaps in the Legislation Act. I think that there is merit, where possible, in providing the reader with a one-stop shop—where possible.

**Mr Calnan:** The term “density” is not used as a development control, as such, in the territory plan. There are various surrogates—things like plot ratio, site coverage and things like that—which are defined. “Density”, on the surface, seems like a relatively simple term to define but it is actually very contingent on the area that you apply it to. For instance, do you include roads or not include roads; do you include the open spaces within a suburb or not include the open spaces within a suburb? Various suburbs have very different contexts because of their physical characteristics. So you can get very misleading indications if you do not use the term very carefully and very cautiously.

Terms like “affordability” and “sustainability” are notoriously difficult to define. If we did end up defining them in the territory plan I think they would be defined in a way which would probably not address the issues that people are concerned about. By their nature, they are very subjective terms which are difficult to pin down for the purposes of what the territory plan is all about, which is about assessing specific developments when a development application is lodged.

**MR COE:** Have any of these undefined terms been used in ACAT hearings or in other appeal hearings that you know of?

**Mr Ponton:** Not that I am aware of.

**THE CHAIR:** Another term that the same submitter refers to, minister, is the term “desired character”. They maintain in their submission that there should be a reference to neighbourhood plans, but obviously in 303 there is the removal of references to neighbourhood plans. They wish for that to be retained. Could you talk us through the

implications of putting back neighbourhood plans in that reference to desired character and why you believe that it would not be appropriate?

**Mr Frazer:** The question of desired character has been prominent in commentary and we are aware of that. Again, “desired character” itself is commonly used in the codes at present, so it not a new term in that respect. In some instances in the current codes the term is used as “future desired character” or “current desired character”, or terms of that sort, as though there is a choice between the two. That is a difficulty with “desired character”.

Desired character is the character of an area, a neighbourhood, a precinct that the plan aspires to. In some cases, desired character will be as it is at the moment. That is the case very often in RZ1 areas throughout the city, particularly in areas of heritage value where, with a variety of other controls, the buildings are actually locked in. It is not just the general density and rhythm of development and size of buildings; it is actually the building fabric itself.

At the other end of the scale, however, there are other zones which anticipate change—the inner north is one of those—where the provisions of the codes and the territory plan more broadly anticipate that single dwellings will be removed eventually and replaced with higher density development. Ms Le Couteur was referring to those areas, nodes around transport centres and so on, where that could take place. The desired character for Turner is of a different nature than the desired character for Reid or for Garran or for any of the other established suburbs, by that nature.

How are we to determine desired character? When 306 and, in fact, 303 were put forward, the desired character was determined by assessing the objectives of the zone against the particular proposal. The objectives of the zone provided a glimpse of what the desired character will be—so that for RZ1 the desired character is essentially as it is at the moment and for RZ2 there is some scope for change around local centres, group centres and commercial areas where a modest amount of redevelopment is allowable. That will change the character and the desired character is therefore changed. Similarly, with RZ3 and RZ4 there is much more change involved.

As a consequence of submissions received, we have proposed that the definition of “desired character” incorporate particular statements of desired character that are embedded in a precinct code. This is to give a local flavour. In my personal view, it would be really beneficial. There is an awful lot of work involved in it. Each suburb in the city would have a particular statement of desired character. We have not got to that point yet, but the seeds of that were sown with some of our neighbourhood planning earlier on.

Whilst the neighbourhood plans themselves were not particularly conducive to being put into a code or to being part of the assessment process, they did have the core, in some cases—not in all cases but in some—of describing what the future desired character or the desired character of a particular community should be; hence the change in the definition to allow an appropriate statement to come in a precinct code.

We are in the process of creating a precinct code for every suburb in the city at the

moment so we have a place where such statements can be lodged. They will be taken seriously, because every time an assessing officer has to determine whether the departure from the rule is consistent with the criterion, and that criterion contains the words “desired character”. That assessment officer would need to look then not only at the objectives of the zone to determine desired character but also at the particular precinct code and the words in the precinct code.

**MS LE COUTEUR:** You are creating minimal precinct codes for each suburb; that is basically what you are saying. I think I asked about this at an earlier hearing on something: are new precinct codes and variations regarded as variations to the territory plan? What sort of consultation happens on them? There was good consultation on the neighbourhood plans; these are the sort of replacements. What happens?

**Mr Calnan:** We are proposing to shortly release a draft variation in relation to a draft precinct code for the Dickson group centre. That has been the result of quite extensive work that has been undertaken through the development of a master plan and so forth.

A new precinct code would be introduced through a variation to the territory plan; that is the general practice. There are numerous existing provisions scattered through the territory plan which we are proposing to bring together in suburb precinct codes. We are proposing to do that by way of a technical amendment because we are not introducing new provisions. In that case we are just gathering them all together in one place to make it easier for people to find them. Because we are not changing any of the policy content, we are proposing that that be done by way of a technical amendment.

As to the sorts of things that Bruce was talking about, the introduction, for instance, of statements of desired character into a suburb precinct code is something that would have to be done by way of a full variation to the territory plan. Not everyone will have the same view around what the desired character of a particular suburb would be and it would be inappropriate for us to just say, “We think we know best and here they are.”

Those sorts of things would need to be the outcome of a proper planning process. The planning authority has got a program of master plans that are leading to precinct codes. I cannot say how long it will take before we would have these things in place, but at least the way the system is being structured will provide a framework to incorporate these things and for them to be taken into consideration should such a statement be incorporated within one of these codes.

**MS LE COUTEUR:** My understanding is that you are planning to master plan every group centre over time; is that correct?

**Mr Corbell:** Yes, most group centres; that is right.

**MS LE COUTEUR:** If it is most, could you provide on notice who is missing out?

**Mr Corbell:** The government has not promulgated a full program over the period of time that the master planning appropriation has been allocated. We have allocated, I

think, until 2014-15 for master planning in each year up to that final financial year, and we promulgate the master planning sites each year. That allows for flexibility and response to changing circumstances and changing demands from us, planning exercises.

**MS LE COUTEUR:** Presumably for your precinct codes it is not just going to be the group centres or even the local centres; you are going out into the suburban areas? Are you envisaging some sort of process, neighbourhood planning wise, to get there?

**Mr Corbell:** Generally the intent of the government with master planning is to recognise that change and redevelopment will largely occur around centres. That is the broader strategic planning direction as reflected in both the current spatial plan and the draft planning strategy. The focus is on accommodating growth around centres and along corridors. So the master planning work will largely reflect that broader strategic objective, which is accommodating growth around centres and along corridors.

By implication that means that the government does not see significant growth or change in most low density RZ1, RZ2 areas. There will be some change—organic change—as householder preferences change and some redevelopment occurs. But it will be modest in scale and it will not be change that fundamentally alters the character of those areas. Therefore, where areas are going to be subject to more significant change which does have the potential to impact on the existing character of an area, that is where the master planning effort is focused. So it is focused around centres, and the higher density zonings that exist close to those centres, or it is focused along corridors where the same considerations apply.

**MS LE COUTEUR:** Can I talk a little bit about the suburban areas RZ1 and RZ2. I am a resident in an RZ1 area. There clearly is change happening in the older suburbs, in the RZ1 areas, and what we are having are knockdown rebuilds. We are having a considerable increase in building density without any increase, and sometimes a decrease, in human density. There has been a lot of commentary in various submissions about plot ratios and most obviously the slightly bizarre one, I am sure you are all aware, is that dual occupancies can occupy less of a plot than single dwellings. That has always struck me as bizarre. I will just quote from the submission from the landscape architects, which I am sure someone has read. The first page says:

The proposed rules, such as the controls on RZ2, effectively prevent progressive infill to this transitional zone that would improve the population numbers within inner city areas. ...

These changes are likely to lead to the dominance of single dwelling redevelopment in RZ2 which will inhibit opportunities for consolidation for at least a generation.

I have had that said to me, not just about RZ2 but about RZ1, by many people—that what we are doing by rebuilding our inner suburbs with large single dwellings is keeping a form of development which is less sustainable than what it replaced in some ways. The energy efficiency rating of their houses is higher but the houses are two or three times the size of those they replaced; they are not necessarily consuming an awful lot less energy and they are probably consuming more resources. Is this

something that the government is concerned about? Or is this what you think is desirable?

**Mr Corbell:** Ms Le Couteur, I do not think that your concerns and the institute of architects' concerns are the same—

**MS LE COUTEUR:** Landscape architects.

**Mr Corbell:** I beg your pardon: landscape architects. I do not think they are the same. I did read that paragraph, and my reading of that paragraph is that the Institute of Landscape Architects argue for a policy setting around the amount of infill or urban consolidation that can occur in RZ1 and RZ2, particularly RZ2. Whilst I understand that is their position, that is not the government's policy position and, as you would appreciate, a large number of residents probably would not share the Institute of Landscape Architects' view either. I understand what they are arguing, but there is simply not community support for the level of intensification in RZ2 which is alluded to in their submission.

The government's view is that change in RZ2 will be modest, will be gradual and incremental and will generally reflect the wider characteristics of high density suburban areas that people value. We have taken a very clear policy position, which is that densification, higher densities, will largely be accommodated within centres and along corridors. That is why we align our master planning effort in centres and along corridors. There will be residential areas on the fringes of centres which are captured by that planning work and where more significant change is identified.

I do not want to overstate what the Institute of Landscape Architects are saying. But my reading of what they are saying is that they see these changes preventing progressive infill to this transitional zone. I do not know whether residents who live in RZ2 view themselves as living in a transitional zone. We have to manage change in RZ2 in a very considered and cautious manner, and that is what DV306 attempts to achieve.

**MS LE COUTEUR:** What I am pointing out is that change is happening in these areas—

**Mr Corbell:** Yes, sure, and I think that is a different question. That is not a question about level of densification, which I think is what the landscape architects are raising. What you are raising are issues about the actual built form and how much land is used for those dwellings. If you like, I can ask Mr Frazer or Mr Calnan to talk about the controls on dwelling size and so on, which I think go to the heart of the issue you are raising.

**MS LE COUTEUR:** I think everyone is in agreement that around the transport corridors and the hubs is where we should be having any significant intensification. I am not trying to disagree with that. What I am trying to say is the observable fact that the older suburbs are getting progressively knocked down and rebuilt and that, given we are trying to make a more sustainable Canberra, it is distressing to see that very arguably what is being rebuilt is not advancing that agenda. To use the common term, we are rebuilding McMansions; we do not appear to be increasing sustainability. We

are putting on bigger houses with fewer people.

I noticed looking through the slides that you gave us a few months ago that you have all residential zones, row houses. But you cannot do anything like that as far as I can tell in RZ1—I am not quite sure—and in RZ2 I do not think you could do it, according to the picture here. You would know better than me whether it would be possible to do it in RZ2. It is in one of your slides—

**Mr Calnan:** That development actually is in RZ1; it is Crace. So you can do that in an RZ1 in a new area.

**MS LE COUTEUR:** But the multi-units in RZ1 are a bit—I would read this as meaning that normal common or garden RZ1 areas should be able to do that rather than—

**Mr Calnan:** But this is the nub of the issue. The bulk of our residential areas are RZ1 in area terms. If we allow the existing development to be knocked down and replaced with development like that, it will very significantly change the character of those areas. The community in Canberra have really told us over and over again that that is not what they want in those areas.

The provisions that are currently in the territory plan relating to RZ1—which were largely put in as a result of variation 200 about 10 years ago—restrict the amount of redevelopment that can occur by way of preventing amalgamation of blocks, by limiting the number of dwellings that can occur on those blocks and by limiting the subsequent subdivision or unit titling of those blocks, which acts as a significant disincentive.

So that is really a policy question and it is really at the core of a lot of this debate—the extent to which we want to allow our established areas to change. The government’s position, or our interpretation of the government’s position, is that, for the vast majority of our existing residential areas, we are saying that we want very limited change: in some areas around centres we will allow a more extended amount of change, but the main focus of redevelopment activity will be in centres, along major public transport corridors and around some of the more significant centres. That is really the strategy.

The provisions in 306 relating to the RZ2 zones are a tightening up. A lot of the change that has occurred is a result of the current provisions in the territory plan, which do allow a somewhat broader range of options. The community response to that has been that they think it is changing the character of those areas too significantly.

**Mr Corbell:** It is worth taking a historical view of this. As Mr Calnan points out, before 2003 zoning in suburbs was much more open, and block amalgamation, block consolidation, dual occupancy and multi-unit development could occur anywhere in any general suburban area. Variation 200 changed that and sought to differentiate between a general residential area, a low-rise neighbourhood area, and areas that were closer to centres or closer to major corridors. That has been further refined over time but variation 200 really introduced that concept for the first time into the neighbourhood environment. This variation is very much a further iteration of those

same principles but in an even more refined manner.

It is worth highlighting the contribution in terms of dwelling yields that these areas make to the overall housing stock for the city. It is very modest. RZ2 and RZ1 generally speaking would provide no more than about 200 to 500 dwellings a year, if that. So in the context of overall housing demand, its contribution to additional housing stock is very small. As a city we spend an enormous amount of time on this for very little gain in terms of the contribution to our overall level of supply of housing stock.

The government has taken the policy decision that the contribution to the housing stock supply is small in the scheme of things, and we get much more from either greenfields release or large-scale multi-unit redevelopment or development, so change in these areas should be modest and conservative in scale, recognising that people value these areas and they want change to be modest and measured. That is really what this does.

Coming to the question of dwelling size, this is a difficult area for planners to resolve, but I would make a couple of observations from the government's perspective. The first is that a lot of the housing stock in areas like the area you live in, Ms Le Couteur, is ageing. Some of it is very poor-quality build; it was poor quality when it was first built, let alone now, 40 or 50 years later.

**MS LE COUTEUR:** Yes, absolutely.

**Mr Corbell:** The performance of those dwellings, in terms of energy and water, is poor. And not all dwelling owners will choose to make the investment or see it as cost efficient to make the investment to upgrade the performance of the existing fabric; they will seek to demolish and rebuild. Then we have the issue of people's changed housing expectations in terms of what space they have in a dwelling. It is certainly the case now that people have a higher level of expectation, particularly at the price point in an established relatively inner city suburb, for a bit more than three bedrooms, combined lounge and dining, kitchen and one bathroom and toilet. They expect more than that for what they are paying. Increases in dwelling size are inevitable in that context. That is what the market is seeking, to a degree.

Does that mean I am sanctioning the construction of McMansions? Absolutely not. Draft variation 306 seeks to put into the statutory framework a requirement that if people are building larger homes on existing blocks they need to have regard to, and achieve, some better outcomes, particularly around private open space, passive solar access and so on, so that the liveability of those dwellings is improved and the energy performance, in particular, of those dwellings is improved. But it is very difficult to dictate particular design outcomes or good design through the planning system alone, because of people's individual preferences—unless we want to become extremely prescriptive about what can and cannot be built. My view is that as a community people would still like some flexibility and choice about what they build.

**MS LE COUTEUR:** I assume that you have had a look at the submission from Cox and Purdon. This is entirely a discussion about the issues with RZ2 redevelopment. In summary, they say that it is not going to achieve the objectives as stated and it does

not enable economically viable development or development that provides housing choice. Rather than me reading it all out, which would be incredibly boring, I would have thought, have you got any commentary on this? This is done by people who know a lot more about the planning system than I do and seem fairly reasonable from my point of view.

**Mr Corbell:** Again, Ms Le Couteur, I would simply say that we are looking closely at all of the submissions, and obviously we are interested in the committee's conclusions on the evidence you have received through these submissions. I would not want to venture a concluded view on what submitters have said to you. As I said to Mr Coe, I think that is a bit pre-emptive. That is why we have this process.

**Mr Calnan:** I have a lot of respect for both firms. But you have to recognise that these consultant firms will come down on the side of the argument that is pro-redevelopment rather than anti-redevelopment. A lot of the community groups would like to see less change; the professional associations and the industry groups will typically be seeking a higher level of change. As we have said before, our job is to try to balance those interests, so I think that submission has to be read within that context. They are not impartial. They might be very professional people who are highly skilled—and I am not criticising; that is what they do—but they are representing a particular interest, and that has to be recognised, even though they are professional consultants.

**MR COE:** Back to RZ2: do you envisage that there will be a significant change of density in RZ2 over time?

**Mr Calnan:** It depends how you define density. There is no change to the proposed maximum plot ratio within the RZ2 zone. The proposed changes are more around what we call dwelling density, which is a different type of density measure; it is the number of dwellings permitted in a particular area. Our view is that it will lead to dwellings that are more consistent with the established character. We would anticipate that there would be some impact in the overall quantum of redevelopment, because, let us face it, redevelopment is driven by profit-making motives and the way people have tended to maximise their profit with the current provisions is to try and get as many dwellings on to a particular block as possible.

So it will depend on many factors, including the location. The experience has been that there has continued to be some interest in redevelopment in RZ2 zones. It is certainly not at the same level as it was a few years ago, and that is potentially as a result of these provisions, but it is also potentially a result of other factors, other changes that have occurred—just the general economic situation. It is hard to say.

The number of applications that have come in for RZ2 redevelopments has dropped away, but they are still coming in, so it is not as though it has killed it off totally. Our view is that the development that will result from these provisions—and I think the experience is supporting that—will be more consistent; it will be less offensive to the local residents and will continue to provide, which I think is an important justification for having some level of redevelopment, some mix of housing within an established area that will enable people to stay within their local community but potentially step down—

**Mr Corbell:** In simple terms I view the RZ2 zone as something of a release valve, if you like. There is always going to be some pressure for different housing choice in a suburb at a low scale, at a modest scale, so not high rise, not multistorey, anything above two or three storeys. It is going to be modest, but there will be some demand, and there has to be some capacity for people to stay within that general area but potentially have a different housing choice.

Our planning rules now say that there is really not a lot of change at all away from single dwellings in RZ1, unless you want to put a habitable suite in the backyard or something, but you cannot separately title and so on. So RZ2 is really the release valve for that more modest change in a neighbourhood, and that is really its purpose in many respects. At least that is the way I view it.

**MR COE:** Mr Calnan, when you say it will be more consistent with the suburb, and you said it will be more in line with the character, how so?

**Mr Calnan:** The suite of provisions relating to RZ2 include dwelling density limits, which are based on the area of the site. Under the current rules, once you can amalgamate a site that is greater than 1,400 square metres in area there is no limit on the number of dwellings; there is no limit in the current territory plan on how many dwellings you can have on that site. Under the proposed provisions it will be essentially a sliding scale; the bigger the area, the more dwellings you can have. It steps down from about one dwelling per 350 square metres of site area. Once you get beyond four dwellings, I think—

**Mr Frazer:** Five or six.

**Mr Calnan:** it drops down to one per every extra 250 square metres. So that will mean that the dwelling size in relation to the site area is more consistent with the character that we are seeking. There are also requirements that limit the number of dwellings that can be located in any one building. One of the characteristics of some of the development that we have had in the recent past is that people are building large banks of dwellings, which are very different in character from the single dwelling character that currently applies to those areas. We have also introduced requirements to break up any surface car parking, because again one of the impacts of getting large numbers of dwellings on some of these sites is that they generate requirements for large areas of car parking, and large areas of car parking can significantly change the character of those areas.

There is a suite of changes incorporated into variation 306 which aim to address the issues that were being experienced with the RZ2 zone and the redevelopments that were occurring under the policies that exist currently within the plan and which this variation proposes to replace.

**Mr Corbell:** It is probably worth giving a practical demonstration of that. You might recall a few years ago that there was concern about redevelopment in the RZ2 zone in Lyons. In particular there was some block amalgamation occurring in a cul-de-sac street in Lyons—

**MR COE:** In 2008; is that right?

**Mr Corbell:** Yes, in about 2008, 2009. There we saw a block amalgamation and proposals for quite a large number of dwellings being crammed into that block amalgamation, and that was compounded by the fact that the street access was very poor because it was a cul-de-sac, so it had that street geometry that did not really suit that type of scale of development. These changes in draft variation 306 are seeking to address some of those types of issues in RZ2 more generally, recognising that previously it was a much more open scope for redevelopment.

**MR COE:** For that to happen, for this to be, as you said, more consistent with the character of existing areas, primarily RZ1, how did you come to a decision that what was happening in RZ2 at the moment under the existing plan was not serving the purpose that you think RZ2 is designed for?

**Mr Corbell:** I think the government took the view that we were seeing a number of contested matters in the ACAT where residents were raising concerns about character and about traffic and parking and scale, which were all legitimate concerns. We have seen a number of matters like the matter in Lyons that I mentioned, and there was obviously the very high profile matter in Dickson as well, which again was in RZ2. So clearly the government needs to respond to community views about what is the desirable level of change in areas zoned RZ2, and that is really what we are seeking to respond to in this variation, recognising that there are concerns.

Principally, the objections came down to the number of dwellings that were permitted and associated issues around parking and access and egress. These were the types of issues that residents were raising and overwhelmingly residents were saying: “We accept there is going to be change in this zone. We know we are not RZ1—we know we are RZ2—but we do not think that the consequences of the number of dwellings you are currently permitting are consistent with the characteristics of the suburb.” And the government has had regard to those issues.

**MR COE:** With that in mind, if the minimum block size for dual occupancy in RZ2 is decreased from 800 to 700 square metres, does that not potentially broaden the concerns that you are trying to address in trying to make it more consistent?

**Mr Calnan:** It is about making it consistent. We have taken the view that one dwelling per 350 square metres is reasonable. The dwelling density provisions are based on that figure. It is a balancing act. The question is: have we gone too far or have we not gone far enough? I guess from our point of view we need to make it consistent. It seemed illogical, for dual occupancy, to require one dwelling per 400 square metres whereas for multi-unit we are saying one dwelling for 350.

That is really the background to that, again making that differentiation between RZ2 and RZ1. We are retaining the 800 square metres maximum in RZ1. At the moment it is 800 in both zones. As to the introduction of the new dwelling density control that is proposed, we felt that it was appropriate that we have a level of consistency between dual occupancy housing and multi-unit housing.

When you look at the permissible plot ratios and the size of dwellings that can be

accommodated, it does allow quite reasonable size houses with quite reasonable levels of open space around them. We think it is quite appropriate. As I said, it reinforces the distinction between the RZ1 and the RZ2 zones.

**MR COE:** The proposed change may impact the size of redeveloped blocks in RZ2. It also increases the number of blocks that can be turned into dual occupancy residences. That is correct, is it not?

**Mr Corbell:** No, there is no change. This is not a rezoning of land.

**MR COE:** Sorry; when I say that it goes from 800 to 700 square metres—not in terms of the actual number of blocks that are in the zone but the number of blocks that are going to be captured as being above 700 square metres as opposed to 800 square metres. The number would therefore increase.

**Mr Frazer:** That is true. There will be more potential blocks available for dual occupancy housing if the minimum size drops from 800 to 700 square metres. We know in practice—and I am sure Mr Ponton would bear this out—that simply allowing dual occupancy in this form does not necessarily mean that there will be dual occupancy, because it is much more difficult now under the unit titles legislation to build a dual occupancy that is not an apartment. The rules prohibit redevelopment in RZ2 to allow for unit titling.

Whilst it is theoretically possible that more blocks will become available for medium density in RZ2 under these proposed changes—they are not in place at the moment, but should they come into place—it is essentially a theoretical potentiality rather than a real one in that case. But for those people who do not wish to subdivide through the unit titles and build a dual occupancy for family reasons, that option is available to them, but they come under the suite of other rules that apply—the 35 per cent plot ratio and all of the other controls that are pertinent to dual occupancy development, but at one for 350 square metres, which in our newer suburbs is the density for single dwelling housing. So it is not high density by any stretch.

**MR COE:** If the actuality is different from what on paper could happen, what is the intention? What is the stated purpose of this change if you are making a change that you know is going to be counteracted by the unit titles legislation?

**Mr Calnan:** It is to make it consistent with the proposed dwelling density controls that are proposed for multi-unit housing. It will provide greater flexibility. We do not expect there to be a significant increase in the amount of dual occupancy activity as a result, because it is really only attractive to people who want to build a dual occupancy for family reasons. As I said, it is really about consistency and, again, to reinforce that distinction between RZ2 and RZ1.

**MR COE:** I understand it will make it consistent, but what is the actual rationale for it? It might make it simple, but what is the planning rationale, other than trying to make it consistent? What is the intended outcome that you are looking for?

**Mr Calnan:** I guess you can ask that question about the RZ2 provisions generally. It is about providing a level of flexibility within established areas for there to be a

limited amount of change, to provide alternative housing options for people who may want to stay in that particular suburb or who are attracted to that particular area for whatever reason and perhaps are not seeking the traditional type of house. It is to provide a limited range of housing choice, for social reasons as well as to assist in supporting local facilities. If we can offset the population decline that is associated with ageing as a result of providing additional housing in an established area, that can help sustain the local facilities, the local shops, the local community services and things like that.

**Mr Ponton:** If I can just add, further to what Mr Calnan has said, having a density of 350 square metres per dwelling, there is a risk—keeping in mind the intention of RZ2 is about limited redevelopment and maintaining the character—that it will simply encourage consolidation. If you have two blocks next door to one another and consolidate those, you would end up with a density of one dwelling per 350; whereas if you kept it at 800 square metres then you would only get one per 400. So there is some logic there in terms of not wanting to encourage, in this zone, consolidation of blocks.

**MR COE:** Is there a change in desired outcome, as stated by Mr Gingell in his submission—that RZ2 may become the transitional zone between low and medium, or low and high densities, which is currently being served by RZ3?

**Mr Ponton:** No, I do not think so. I think RZ3 allows a greater density in terms of plot ratio and also dwellings per hectare.

**MR COE:** It certainly does provide that; I do not think there is any dispute about that. If RZ3 does become predominantly medium density in character, does RZ2 not become the stepping stone which is currently more so what RZ3 is?

**Mr Calnan:** I think RZ2 is already that transition. It is just that these changes, we think, will ensure that the sorts of changes that occur in the RZ2 zones will be more in keeping with the established character of those areas. It will still continue to be a transition area, but we expect that the sort of development outcomes that we will see over time will be more in keeping with that existing character.

**MR COE:** Is there any research about the number of people who have moved from RZ1 to RZ2 in their own suburb or in a very nearby suburb?

**Mr Calnan:** There have been various research projects undertaken over the years. There was a quite significant project undertaken in relation to dual occupancy housing some time ago. But I cannot quote them to you off the top of my head.

**MR COE:** We have heard a few times this afternoon that it is not cheap for people who want to live in the same area to move from one part of the suburb to another part. Whilst it does provide an opportunity, are people actually taking that opportunity? Is that actually something which people desire or is there a new cohort of people moving into suburbs where there is RZ2?

**Mr Corbell:** Anecdotally we are aware that people have a preference for a particular area and often wish to remain within that general area and retain the proximity of

relationships and friendships that have built up over a long period of time.

A good example—not RZ2 but one that I am aware of—is the Ambassador redevelopment in Deakin. That is much higher density than RZ2, but nevertheless the principle still applies insofar as if you spoke to the people who were selling that property when it was selling they indicated that a large number of their owner-occupiers who were purchasing into that development lived in Deakin and Yarralumla. They wanted to remain in that area but they were living in big homes. Their family, their children, had grown up and left; they did not want to maintain a big block in Deakin or Yarralumla anymore but they still wanted to live close. So they chose to purchase into that area.

Certainly anecdotally we hear that a lot. If you talk to real estate agents and people who are marketing property, they will tell you that there is often a strong desire for people to want to continue to live in a particular location, albeit in a different dwelling.

**MR COE:** That example where somebody is already in the inner south or inner north and they choose to live in an apartment or unit in the inner south or inner north I imagine would be somewhat different from examples whereby people moved from an RZ1 to an RZ2 in Gungahlin, parts of Belconnen or Tuggeranong or Weston Creek.

**Mr Corbell:** We know that the rate of household formation continues to grow as more adults are living alone, through divorce, the death of a partner or whatever it may be. That is driving demand for dwellings. We have to have regard to that in our planning policies. Obviously, if there is not demand, these opportunities will not be exploited in the market. We see varying levels of change in RZ2 which are driven by demand. Demand is coming from somewhere. It may not necessarily be coming all from within the established suburb, but it will be coming from people who want to live in that general area, whether they are residents of that area previously or not. The important thing is that our planning policies make provision for that. We are certainly seeing it being taken up, particularly in areas which are seen as more desirable for people to live in.

Again, if you talk, for example, to the Dickson residents association, the leaders of that group were very clear last year that they want to see more housing choices. A number of people active in that association were elderly—or ageing, to be more polite. They expressed a strong desire to have choices where they could move out of their single dwelling into a more compact dwelling that better suited their needs. But they still wanted to live in Dickson. So we know that sentiment is there in the community. It is not uniform; it is not 100 per cent of all demand. Household formation is complex. But nevertheless the demand is there.

**MR COE:** That is yet another inner north or inner south example. I wonder whether the same can be said of parts of the city which are 10 or 15 kilometres away from the city centre.

**Mr Corbell:** It is very different in those areas. Land values are lower in some instances and it is not the same level of demand. Nevertheless planning policy is about making provisions for demand at future points, not just tomorrow. And that is reflected in the level of redevelopment activity. In some areas you just do not see the

same level of redevelopment activity, but at some point you will.

**Mr Calnan:** I think the same trends are observable across the city; it is just that in some areas they are perhaps stronger because the suburb is ageing more and therefore there are more of the households in that particular cohort. Some suburbs attract other interests because they might be close to employment, particularly in the inner north and inner south, where a lot of the demand may be from people who are moving within the suburb but you also get demand from people coming from elsewhere. But across the city people still want to maintain their social networks and their friendship groups once they get to a point where they decide that it is time to change houses. It is not uniform but it is a factor that influences people's housing choice.

**Mr Corbell:** It would be fair to say that 10 years ago, for example, we were not seeing a lot of redevelopment activity in Woden. But we are now. That pattern, that wave of redevelopment activity, moves out from the centre across the city. It is now hitting the middle of districts when 10 years ago it was solely an inner south or inner north construct. We are now seeing it in Aranda, Hawker, Lyons or Chifley. Ten years ago you did not see that. Planning policy has to make provision for that change as land values increase and as that pattern of redevelopment moves across the city.

**MS LE COUTEUR:** Secondary dwellings, which seem like basically a good idea to me—I have been asked, and I do not know the answer to this question, whether they will attract the lease variation charge.

**Mr Corbell:** Sorry, I missed the question.

**MS LE COUTEUR:** The lease variation charge for secondary dwellings.

**Mr Ponton:** That is something that the government could certainly consider under the remission provisions in the legislation. That decision has not yet been made.

**MS LE COUTEUR:** I said I did not know, and that is because nobody knows the situation.

**MR COE:** That is a reasonable position you have.

**Mr Ponton:** We have not put anything to the government to consider at this point in time in relation to that.

**MS LE COUTEUR:** Rainwater tanks—there are provisions for rainwater tanks.

**Mr Ponton:** Can I just say, though, that it would depend on whether or not the lease currently provides for residential purposes, in which case the expectation is that there would not be a need for unit title and therefore the short answer would be no, there would be no lease variation charge. But it depends on the particular circumstances.

**MS LE COUTEUR:** My understanding was that you could not unit title secondary dwellings anyway.

**Mr Ponton:** If they are in RZ1, no.

**MS LE COUTEUR:** Pardon?

**Mr Ponton:** In the RZ1 zone, no, that is right.

**Mr Calnan:** Generally.

**MS LE COUTEUR:** So in general the answer would be no. Rainwater tanks—there are provisions for those under the water sensitive urban design parts of the estate development. My understanding is that the ICRC, when it did its inquiry into water use and recycled water et cetera, decided that water tanks were the most expensive way of providing water. Has the government looked at its policy as far as water tanks are concerned, given the ICRC's findings?

**Mr Corbell:** That is a matter that will be considered through the review of think water, act water, and more broadly or consequently in terms of water sensitive urban design requirements.

**MS LE COUTEUR:** But it is referred to in this.

**Mr Corbell:** It is referenced currently because that is still the current policy. The government has not yet taken a decision on how its policy should be reconsidered when it comes to requirements for water sensitive urban design, including provision of household rainwater tanks. It is the case that the ICRC have concluded that provision of secondary water—that is, water not for potable use—through rainwater tanks is not cost efficient. That is their very clear conclusion. The government will be taking that into account as it finalises its review of think water, act water, and then subsequent work that will have to occur. We will have to look again at our water sensitive urban design guidelines, but that work has not yet occurred.

**MS LE COUTEUR:** What sort of time line are we talking about?

**Mr Corbell:** I would be hesitant to put an exact time frame on it, simply because the government has not scoped that out at this point in time.

**MS LE COUTEUR:** But it will be quite some time before it flows through to the codes that are affected by 306 would be a fair conclusion?

**Mr Corbell:** Certainly it would occur after the government anticipates 306 being concluded, yes.

**MS LE COUTEUR:** Clearly, yes, so it could be a couple of years away before it—

**Mr Corbell:** As I said, I am reluctant to put a time frame on it, because the government simply has not sat down yet and looked at what that timing is. I certainly have nothing before me on that issue at this point.

**MS LE COUTEUR:** Another estate development type question is lighting design. In Gungahlin we still seem to be having some lights put in where a lot of the light is going up, not down, and thus would appear not to be energy efficient.

**Mr Corbell:** Street lighting?

**MS LE COUTEUR:** Yes, I am talking street lighting; I am not talking about household downlights or anything like that. Is that something that you are looking at increasing the energy efficiency of, and decreasing the spillage of light? My memory is that there was work done to try and improve that in the past but—

**Mr Corbell:** You have raised two issues. The first is the energy intensity of the street lighting. The government has indicated it will be exploring a range of options through the resource management fund or the carbon neutral government fund. We are particularly keen to see Roads ACT develop a business case for replacement of less energy efficient street light bulbs with more efficient ones, to reduce energy consumption. It is possible that the carbon neutral government fund could be utilised to achieve that. The same can be said also, I should mention, for traffic lights, which are also quite a large user of energy.

**MS LE COUTEUR:** I thought the traffic lights were all LEDs already and so—

**Mr Corbell:** The newer ones are, but there are a lot of older traffic lights across the city as well.

The second issue you raised, about light spill, comes down to questions about full cut-off, partial cut-off, hoods for the lights and how effectively they are able to light what needs to be lit to the relevant standard in terms of road safety considerations and so on. I would have to defer to Territory and Municipal Services on that; they set the relevant standard. They call down the relevant standard for street lighting. I am happy to come back to the committee with some further information on that, but I do not have that information to hand.

**MS LE COUTEUR:** Maybe when we talk to you again—that would be good, because I am also interested in your having talked about replacing existing inefficient lights. I think the focus of this would be ensuring that inefficient lights are not put in in the new areas. That is really where I am going with the question.

**Mr Corbell:** Yes. I would agree with that.

**MS LE COUTEUR:** There is a lot of commentary about plot ratio in different areas of Canberra, but that is not where I am going right now. My question is that there does not appear to be anything that ensures that we have biologically active ground. You can have a plot ratio of whatever and cover the ground, as far as I can see, with concrete or pavers and that is totally fine from a planning point of view. Is anything being done to ensure that we have some permeable ground and that we have some places where plants and then animals can grow?

**Mr Corbell:** Yes. There are provisions for permeable area. That is an important consideration. It is not acceptable to simply cover all the private outdoor space or backyard in concrete.

**MS LE COUTEUR:** Where is that, because—

**Mr Corbell:** Perhaps Mr Frazer or Mr Calnan can assist you with that.

**Mr Frazer:** Ms Le Couteur, I can refer you, for example, to the draft single dwelling housing development code at page 26. There are a number of rules. There is private open space and then there are two—

**MS LE COUTEUR:** I have got single dwelling on page 26 and we have got “facilitates—

**Mr Frazer:** You can look at rule 37, rule 38 and rule 39. Fifty per cent of the area is to be what is defined as planting area. Planting area is—

**MS LE COUTEUR:** Right. Thank you very much.

**MR COE:** How is that enforced, given you need a DA to put some pavers up in the backyard?

**Mr Frazer:** Later, after the building is constructed?

**MS LE COUTEUR:** Yes, which is often when the landscaping is done.

**Mr Frazer:** It is true that with single dwelling houses—in fact, lots of dwellings but particularly single dwelling houses—the authority does not regulate what happens to landscaping later on. You would appreciate that that would be extremely difficult, if you needed a permit to do things around the house. Consequently, these rules establish the standard, at the construction of the development, for private open space and infiltration area, replanting and all of those things. There is no way that we can think of that would adequately control that into the future, short of having some sort of development assessment process for the changes to paving—

**Mr Corbell:** It is easier in some circumstances over others. For example, where a developer is building a complex or a group of homes they need to get their certificate of occupancy, which needs to be signed off by a certifier and so on and they will look at whether there is compliance with the approved plans, which will include a landscape plan. Obviously it is a bit different for owner-occupiers if it is a knockdown rebuild, particularly if landscape work occurs at a later point—they have run out of money; do it in six months, or whatever it might be. That is obviously a more complex issue, but there is a balance to be had here. We are not about policing how people garden in their backyards.

**THE CHAIR:** You might have a team of rangers going out to check everyone’s backyard for—

**MR COE:** The paver police.

**MS LE COUTEUR:** No, I am not seriously suggesting that. This pretty much suggests to my mind that 25 per cent of the space being planting area is okay; you have 50 per cent of the non-building area. Is that seriously what you feel is acceptable—25 per cent is the permeable, the planted area?

**Mr Frazer:** This is not dissimilar to the current provisions and in that sense they are carried over. They may be slightly reworded but essentially they are carried over. I think it is fair to say that in our experience this is sufficient, but we have to be mindful of the fact that there are small blocks in play and hence there are provisions that apply to the smaller blocks and of course we cannot insist on larger areas, or as large an area, as a proportion in a smaller block, because there simply is not the space. That is the conflict that we have. To an extent it is more of a consideration than a conflict. Where small blocks come into play, how are we to deal with those?

**MS LE COUTEUR:** Fair enough.

**THE CHAIR:** I think we have exhausted the questions now, minister, and it is just on half-past four, so I would like to thank you, minister, Mr Ponton, Mr Frazer and Mr Calnan for attending today. We obviously may have some additional questions on notice which the secretary will forward to you in the next few days. We will reconvene at 1.30 this Friday, 6 July, when we will hear from the ACT Heart Foundation and the Master Builders Association of the ACT. As you know, you will be appearing before us, I believe, on 25 July, minister, so thank you very much for giving us that additional time.

**The committee adjourned at 4.27 pm.**