



**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, 11 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.

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*Amended 9 August 2011*

**The committee met at 10.33 am.**

**KENT, MR GARY**, Chair, Inner South Canberra Community Council

**FORREST, MS ANNE PATRICIA**, Deputy Chair, Inner South Canberra Community Council

**FATSEAS, MS MAREA**, Committee Member, Inner South Canberra Community Council

**THE CHAIR:** Good morning, everybody. I declare open this third 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 development, estate development and leasing codes. The committee will be holding four additional public hearings on this inquiry during July, and details are available on the committee's web page or through the secretariat.

On behalf of the committee I welcome to the table representatives from the Inner South Canberra Community Council. Thank you for your time this morning, all of you. I draw your attention to the protections and obligations afforded by parliamentary privilege and draw your attention to the blue-coloured privileges statement before you on the table. Could you confirm for the record that you understand the privilege implications of the statement, thank you?

**Mr Kent:** Yes.

**Ms Fatseas:** Yes.

**THE CHAIR:** Thank you very much. We have your submission, Mr Kent, from the Inner South Canberra Community Council. I was wondering, though, whether you would like to make any opening statements.

**Mr Kent:** If I could.

**THE CHAIR:** Yes, either yourself or any of the other members.

**Mr Kent:** I will make a few opening remarks, if I may, and then I will hand over to Ms Fatseas to conclude. All of us have colds, so you will have to persevere with us.

Before discussing the submission, I would like to mention that I was only elected to this position last night at our committee meeting, in place of Kevin Gill, who recently retired. I know the committee knows of Kevin and knows of his work. I just want, with the committee's agreement, to place on the record our appreciation of Kevin's work in forming the ISCCC two years ago. I felt it was appropriate that we draw the committee's attention to the fact that Kevin has retired.

**THE CHAIR:** Thank you for that. We wish him well. I am sure that all committee members wish him well.

**Mr Kent:** Yes, he has done a fabulous job. Kevin will be a very hard act to follow.

Very briefly, the ISCCC is a federation of local residents groups in Canberra's inner

south: the Old Narrabundah Community Council, the Griffith/Narrabundah Community Association, the Yarralumla Residents Association, the Deakin Residents Group, the Red Hill Residents Group, the Kingston and Barton Residents Association and, most recently, the Oaks Estate Progress Association. So we consider that we are broadly representative of opinion in the inner south.

As you would expect, the local residents groups focus on issues of direct relevance to their suburbs, while the ISCCC endeavours to focus on the more strategic issues that affect the inner south as a whole. Many of the detailed issues presented by DV 306 have been canvassed in the submission by the GNCA, a copy of which you will note has been attached to our submission. I would like to state for the record that the ISCCC fully supports that submission and the submissions made by the YRA and Ms Margaret Fanning. Collectively, these submissions represent the views of the inner south of Canberra representative bodies.

In preparing its submission, the ISCCC sought to benchmark DV 306 against external criteria. At this point I would like to ask Marea Fatseas to continue with the detail of our approach.

**Ms Fatseas:** Gary mentioned that we had sought to benchmark DV 306 against external benchmarks; so we thought, “Okay.” The Griffith/Narrabundah Community Association has gone into quite a lot of detail, and we fully support their submission in relation to DV 306. So we thought we would take a different tack and we would look at national planning systems principles that were developed by the Local Government and Planning Ministers Council. They came up with about 10 planning principles. I will not go through each of those, because they are mentioned in our submission, but I will highlight just a few of them that are relevant to the discussion today.

Principles 1 and 2 are integration and coordination. DV 306 is a very significant variation that will have implications across Canberra and is very relevant to the ACT planning strategy and the transport strategy. Given that the planning strategy is the overarching document that should guide planning and that the government is in a parallel process in seeking views of the community on the draft ACT planning strategy, we thought it would have made sense to actually take that process through to completion and then look at the draft variations that would need to be developed to put into effect the key directions in that final ACT planning strategy, similarly with the transport strategy. So those are the issues of integration and coordination that we think are important.

Within that context, the National Capital Authority and other national-scale initiatives should be taken into account in planning, including the proposed listing of Canberra as a heritage site. And until that process goes through to completion, that also will have implications for the ACT territory plan. I guess within that broader context it seems to us that the way that DV 306 has come through at this particular point in time is really putting the cart before the horse.

Another one of the principles that I would like to emphasise is efficiency and economy, which is principle No 6. This whole process, having followed it through from DV 301 and DV 303 in 2010, then to the reference group and DV 306 and then

the current DV 306, it has been two years of community consultation. If we had, once again, looked at the planning strategy first, then it might have been a bit more efficient in terms of the final outcome.

In terms of transparency and accessibility, principle 7, I think most people would agree by looking at DV 306 that DV 306 does not comply with the principle of having key planning instruments which are written in plain English and avoid using jargon. So from the point of view of that principle, we also have difficulties with DV 306.

From the point of view of accountability, which is principle 8, DV 306 does not engender a confidence that current problems with lack of clarity leading to appeals to ACAT will be reduced in future. And the use of vague terms, such as “reasonable”, within DV 306 takes for granted that other measures are in place to deal with those sorts of vague components in DV 306. And we know from the Auditor-General’s report that there have been severe issues with accountability of the territory plan.

Finally, engagement, principle 10, the process through which DV 306 has gone with the community has been very much one of throwing it out there and getting community comments. As far back as 2010 there was very little public consultation on DV 301 and DV 303. The principle of engagement is that community engagement should start as early as possible in the planning process rather than waiting until a planning document is prepared and then putting it out for comment, which is really a reactive type of engagement rather than full engagement.

Those are the key principles that we think should apply in varying the territory plan. And we know that a lot of work has gone into the current DV 306, but we do think that these principles, wherever possible, should be applied both now and in future variations to the territory plan.

**THE CHAIR:** Thank you very much. I now ask members whether they have some questions. We have got until quarter past 11. I will go to Ms Le Couteur first.

**MS LE COUTEUR:** In your submission, at page 3, you state:

In the meantime, the principles contained in DV306 should be put on hold.

I am interpreting that as meaning that you think it would be better if 306 was voted against—is that correct?—or are there elements in it that you think have something worth while?

**Mr Kent:** There are a number of elements of DV 306 that we support. They are particularly highlighted in the other submissions—other than the ISCCC’s submission. If we had our druthers we would probably argue that DV 306 be started again, but we know that is not going to be feasible. A lot of work has gone into preparing DV 306. We would like to urge the committee, in writing its report, to consider including the adoption of the principles we have mentioned in respect of future formulation of variations.

We believe that there are a number of detailed amendments that could be made to the current DV 306 to make it a better document. They relate, for example, to plot ratios,

setback and the like. There are good things in DV 306. We would like to see those changes made, but we do accept that it is not practical to seek for it to be restarted. Does that answer the question?

**MS LE COUTEUR:** Yes, it does, thank you. I have actually done a little table of the various submissions and I have put “no” against those that I thought were saying, “Throw the whole thing out.” It is more than one that I have got “no” against.

**Mr Kent:** In the cold light of day, that would be our position.

**MS LE COUTEUR:** You said that there were areas that you would like to see amendments to. Are they going to be dealt with by other groups submitting?

**Mr Kent:** Pretty much, Ms Le Couteur, yes.

**MS LE COUTEUR:** Obviously we would really like to hear what they are, because that will be an important part of the committee’s report and recommendations.

**Mr Kent:** There are a number of provisions. They include those relating to sunlight. They are covered quite comprehensively, I think, in the other submissions. It might be best if you focused on it at that time. Our submission really does not address the detailed operational aspects of DV 306.

**MR COE:** On that note, do you have any comments about how difficult it was for the council to actually digest this? You have mentioned that, with respect to your comments on principles 5 and 7, and elsewhere, about the accessibility and the equity side of things. Would you like to expand on that?

**Ms Fatseas:** I can speak from personal experience, because I first looked at DV 301 and 303 in 2010, and I could not believe that there were something like 290 pages that we could not even get in hard copy. If we wanted to see it in hard copy we had to go over to the ACTPLA office and see it there. To download that amount of information is difficult, for a start. When DV 306 came out, the complexity was still there, and it is still there now.

In terms of benchmarking, I have had a look at what other jurisdictions do. If you go to, say, the Brisbane City Council website, they have local plans. So you go on the website, you find your suburb, you can print it out—and I can actually leave here an example of the local plan code for New Farm and Teneriffe Hill. It has performance criteria and acceptable solutions. I do not know about the content as I have not gone through it, but it is so easy to find.

In Melbourne, for the Melbourne City Council, you go onto the website and you can put in your address and then it can give you a PDF report on what zoning will apply and what the conditions are for use. I was able to do that; I put in a particular address and I immediately got a PDF report. I went onto the ACTPLA website. They have something called iMAP.

**MS LE COUTEUR:** ACTMAPi.

**Ms Fatseas:** It says you could find your address and then you click, but it does not go anywhere.

**MR COE:** At best, it tells you the zone you are in. It does not actually expand upon that jargon.

**Ms Fatseas:** Yes. You can look at a test of 10 minutes, say, regarding what I could achieve without being at all familiar with the Brisbane situation or the Melbourne situation and what I was able to get in a short time, compared to my own jurisdiction and what I was able to get in that time.

**THE CHAIR:** That is looking at an example of how you zoom in and have a look at your zone or your area, and the things that apply for where you actually live. But I think Mr Coe's question was more about—and you did start to go to that—the total plan. Obviously your area is part of a total plan, and this is quite a large variation to the territory plan itself. Obviously just looking at your area is not going to help you necessarily to answer the questions that your committee needs to answer in actually focusing on what our ideas are as far as the total plan is concerned and any suggestions to vary it. I think Mr Coe's question was around how you found going through that document and your experience as to whether it was friendly or not. You have gone to it to a certain extent. You said you could not access the hard copy, and that remained the same towards the end?

**Ms Fatseas:** Yes. Also various parts of the document are really difficult to understand. Another example is building heights. You go through the document and try to find what the building heights are that apply in the multi-unit dwelling code. It looks as though it is two storeys, but then you go to the redevelopment section and it is not a compulsory rule. There is a lot of lack of clarity about whether something is mandatory or whether it could be overruled by other criteria. There is a lot of confusion, even between the different parts of the territory plan.

**THE CHAIR:** The territory plan or this document?

**Ms Fatseas:** Sorry, this document, DV 306.

**Mr Kent:** I could add, Madam Chair, that we believe that the accessibility of these documents is very difficult, as Mr Coe implied in his question. Some people simply do not have the computer firepower at home to do it. Some of the little printers at home are just not going to make it. We go in and spend a lot of money. We reimbursed our deputy chair yesterday for the cost of photocopying DV 306, and it is expensive. We have been quoted hundreds of dollars to have things officially copied. But the language is inaccessible. I have two law degrees and I have trouble reading the planning stuff.

It would be wonderful if an effort could be made to produce the document in a form in which the average person can understand it a lot easier. Planning is vital to everybody in the community. The documents at the moment are really designed for those on the inner track—the practitioners. It is not going to be easy but it would be good if a simplification program could be conducted on that. This applies not just to DV 306 but to other documents as well in the planning domain.

**THE CHAIR:** Coming on the back of the comments that you made, Ms Fatseas, you were talking earlier about the consultation process. I just need to get this right but I think you said that, instead of just putting it out there and asking for comment, you needed another process before it was actually presented to you. So before the 306 was presented to the community and we asked for comment, you said we should have had another process before that. It is my recollection that we had another process called time to talk, which you may or may not have been involved in, which was talking about how you see this city 30 years hence. Where do you see this city going, basically? Obviously there were the 301 and 303 processes. What other processes do you think it would have been helpful to have been offered to you before 306 was put on the table? I am not quite sure how you tell people about what you plan to do before you actually present the plan.

**Ms Fatseas:** Time to talk, DV 301 and 303 and the draft variations were all happening roughly in parallel. With time to talk, it would have been good if that was before, and the same with the planning strategy. It would be great to have the outcome of that process. Submissions were due in February. It would be good to know what the outcome of that was and what specific proposal the government is going to put through as a result of those consultations on the planning strategy, then to look at what the key elements are that will have implications for the territory plan and then to look at how the territory plan could be amended to take into account the new long-term direction for Canberra that is envisaged by the planning strategy.

**MS LE COUTEUR:** Keeping on the comprehensibility issue, do you think it would have been easier had it not been one huge document but had been broken into bits, potentially by issues or potentially by zones? There are different ways, I imagine, that they would probably want to break it up. In fact, the way they have internally is by single residences, multi-unit residences, estate development. You have many codes within this variation. Would it have been easier, do you think, if they had been separate, or would it just have been, "Oh, my, I just did that one; there's another one coming out in three months time," if they had all been done separately?

**Ms Forrest:** Marea, can I answer that?

**Ms Fatseas:** Yes.

**Ms Forrest:** I am hoping that the committee will agree to my making some very specific comments which go to some of those questions following on the presentation from the Griffith/Narrabundah spokesperson, David. So I would sit with him, if that is okay.

On that, draft variation 306 takes what I think is a flat-earth approach. It is intended to cover enormous areas of Canberra. It deals with RZ1, RZ2 et cetera, and people tend to concentrate on the character of their area and the proposed effects that these planning instruments are going to have. So I think it would be much better if these draft variations dealt only with specific zones as they progressed. You will hear, and you will have seen in some of the submissions, recommendations about some of the proposals for RZ2 zones, for instance; whereas if you delve into the submissions you will find real issues with some of the proposals for RZ1. So it would be much better to

separate them, I think, so that the community could concentrate on particular areas one at a time.

Certainly with regard to community councils and local associations, it would be much better if members of those groups were talking to people within those zones about proposals for those zones instead of an instrument that proposes to cover most of Canberra.

**MS LE COUTEUR:** Although the counter argument would be that, if we ended up with separate consultations for each zone, we would end up with a significant amount of repetition. We have actually had this discussion with ACTPLA, and that is how they would see it. On the solar access, for instance, we are trying to make that throughout Canberra. Ms Fatseas, that might have offended some of the 10 national principles because of the amount of repetition inevitable in taking each zone separately. Do you think it still would have been a better way to go?

**Ms Fatseas:** One of the things in particular with this flat-earth approach is that draft variation 306, a lot of us believe, ignores the established character of our older suburbs. It treats the older suburbs in the same way as newer suburbs with very different block sizes and very different characteristics. And so I still would maintain that it is better to have more focused draft variations.

**MR COE:** Continuing with this thread on consultation, how do you think ACTPLA could better liaise with organisations such as the council and individuals better than they currently are?

**Ms Fatseas:** In the final strategic plan for 2011-15, agreed by members of the ISCCC, we have suggested there that the council work with the community and with the ACT government on a strategic plan for the development of inner south Canberra so that we develop a strategic approach that would look at avoiding spot development and would come to a view with the community about what are the key elements of the suburbs that we live in and that we would like to retain. And then we would move from that strategic approach to supporting the review, development and recognition of local plans for inner south suburbs and advocating their inclusion in the territory plan.

So really what we are talking about there are precinct codes, but not the kinds of precinct codes that are just attached at the moment to the territory plan and that are empty. You go to the Yarralumla one, for example, and there is virtually nothing in there. We actually have precinct codes that are at the suburban scale and that really take the place of the neighbourhood plans. At the moment, as far as I am aware, even the latest DV 306 has taken out reference to neighbourhood plans.

While that is the case, there is nothing there to protect the existing character of the inner south suburbs. So we would ideally like to work with the ACT government on these elements that would then follow up with what our members have said that they would like, and that would perhaps give us a more strategic approach to development in the inner south that then will mean that we do not have as many complaints to ACAT when there are particular development applications going through that offend the views of people in those suburbs about what the character of their suburb should be like.

**MR COE:** And specifically about DV 306, is there a way that you think ACTPLA could have consulted with the council better? I imagine ACTPLA visited the council to give a briefing, or they would have, if invited. Is that the best way for ACTPLA to pass on information or would it be better if there was an ACT-wide briefing or if there were fact sheets or whatever? Do you have any thoughts about that?

**Mr Kent:** We were well looked after by ACTPLA in most respects, I must say. ACTPLA did come to one of our meetings. We had several special council meetings on DV 306. ACTPLA came to one of them and there was a long and occasionally vigorous discussion about the principles in DV 306. There are fact sheets, and I have got some here. But I suppose our concern is the way that it is presented to the community. One of the points we make in our submission is that it is a rolling series of things going on. We have got transport plans. We have got planning strategies and variations to the territory plan going on. It is hard to keep up with them on occasion.

We wonder whether documents like DV 306 could be presented as part of a broader whole. It seems to us occasionally that there are a list of things that the government need to tick off: “We’ve got to do a transport plan, we’ve got to do a planning strategy and we’ve got to get DV 306 out there.” They roll through, and we wonder how coordinated they are. And we are wondering whether there might be a more cohesive way in which these matters could be put before the community.

As I said, ACTPLA were very good to us, but they were presenting a small part of an overall package which we find, because of lack of resources, very difficult to grasp. I think the lead times are too short. I think the experience of most of our community groups is that the lead times provided for comment are very short. It does not give us enough time to let the membership know, convene a meeting and then put in a submission. And we are forever seeking extensions. I think many groups seek extensions to these processes, and I think there could be a less rushed process and perhaps, at the beginning, a shared understanding of what is coming over the next year or two. I think that would go a long way to assisting us in better participating in the process.

**THE CHAIR:** You said that you thought the lead time was too rushed. What time frame would you see as a suitable time frame for community organisations to be able to conduct their own consultation and then come back with a submission?

**Mr Kent:** I think at the moment—and my memory is not good on this—the deadlines occasionally fall eight weeks after the release of the document. I would have thought that three or four months might be appropriate.

**THE CHAIR:** I think it is longer than four weeks. I think there is a mandatory time.

**Mr Kent:** Yes, I think it might have been two months. It depends on the document we are talking about. I cannot remember DV 306.

**THE CHAIR:** But you think three months?

**Mr Kent:** I think three months at a minimum would be good. Often, for some reason,

the communication channels are not as good as they could be, and we do not learn about the release of a document until a month after it has happened. I think a recent example was what I call the Brumbies development. There was a document whacked up on the internet overnight in the summer holidays, and no-one knew about it. And by the time we discovered it, there was not really time to respond. But I think we need at least three months.

Our endeavour is to consult widely with the residents in our communities, and that is not easy. We do not have a lot of access to communication resources. And these things are important enough that we should be able to get meetings of our constituent groups and refine a policy that we can put to government. So I think three months at a minimum is what we would be seeking. But that would include a package of much better notification through the media and elsewhere, correspondence with relevant groups, so that the three months should really start when we become aware, when we are told in a really helpful way, of the proposal under consideration.

**THE CHAIR:** You mentioned the difficulty you have in consulting with the residents that are affected. How well attended are the meetings that you hold? Are you satisfied that you are reaching enough people and they are coming to your meetings to meet with ACTPLA, for instance, when they came? Was that an open public meeting or was that a private meeting?

**Mr Kent:** We had an open public meeting at Eastlake Football Club. It was very well attended. As I mentioned at the beginning, we are a federation. Much of our work is conducted by the local residents groups, and those meetings are also very well attended. I think collectively we have more people coming to our meetings than any other similar group in the territory. These meetings come and go. There are some issues that do not seem to attract anybody. There are interesting issues—and DV 306 is interesting—and DV 306 does attract a lot of people because they know that the implications can be quite profound.

**THE CHAIR:** Ms Le Couteur.

**MS LE COUTEUR:** Ms Fatseas, you talked about Brisbane having laid out performance criteria, performance objectives.

**Ms Fatseas:** Yes.

**MS LE COUTEUR:** Could you talk a bit more about that and whether you think it would be suitable? With some of the discussions I have heard in the past about laying it out like that, people have said: “No, we don’t want that. What we want is absolutely clear black-and-white rules; otherwise the developers will push it and we won’t know exactly what is going to happen.” It seems that one of the reasons that ACTPLA has gone down the route it has with rules and criteria rather than performance objectives is because people think it just becomes a bit too vague and woolly and open to interpretation. I am wondering about that, particularly from a community point of view and from the point of view of someone who has some knowledge of ACAT proceedings.

**Ms Fatseas:** I can understand why they would think that about the neighbourhood

plans, because there were maybe aspects of those that are not measurable. But the kinds of plans that I have been looking at here are very specific. They have got very clear prescriptive guidelines. I think we are looking at moving from maybe general documents such as neighbourhood plans to actual codes, precinct codes, that are very specific about what the requirements are, and which then could be included within the territory plan. I think that would help to address that issue while encapsulating also broad ideas about the desired character that would be maintained. I think that move from neighbourhood plans to precinct codes could help to address those concerns.

**MS LE COUTEUR:** If you could have objectives for other things—solar access, noise issues, sustainability issues—do you think those would be applicable to the objectives rather than the millions of rules that we currently have in 306?

**Ms Fatseas:** In those areas as well, they should definitely be included. They should be measurable. I notice with respect to sunlight, with DV 306 and solar access, that reference to three hours a day in winter has been put back in. But when I looked at the detail, it appeared that it was not a rule; it was a criterion or something like that, which suggests that it is not mandatory. Once again that is an area that is a little bit unclear to me. As Gary said, he has a couple of legal degrees. I have a couple of masters degrees. To go through that document, you have to keep shifting from one part of the draft variation to another to find out what it really means: is it a rule, is it mandatory or is it just optional? I think for sustainability, it should be included, but there should be mandatory rules and measurable rules.

**THE CHAIR:** Just to go back to the clarity, one of your issues was that word “reasonable”. We did discuss this with the minister and his officials when they appeared before us. Mr Kent, you would be aware that this is a word that is used in a number of legal documents and it is a word that has meaning, legally. We obviously wanted to talk about that as well because with “reasonable”, what is “reasonable”? But it is in fact a word, we believe, that is a credible word and that is used in lots of documents. My question was more around whether you thought “desired character” was something that you could actually define or not, in your opinion.

**Ms Fatseas:** In terms of desired character, when it comes down to it, I think you can define it in terms of setbacks and plot ratios. So I think we have very clear ideas when we see a building that has no setback and where the bulk is much higher than you would expect, looking at the surrounding streetscape. I think there are specific measurable criteria that you can use to ensure that you get the desired character of the suburb.

**Ms Forrest:** I tend to use the words, particularly in relation to the older suburbs, “established character”, because “desired character”, you could argue, is going to come from redevelopments that have taken place that the local community regard as inappropriate. I think the “desired character” definition is problematical.

**THE CHAIR:** In regard to the government’s desire to have more people living close to transport corridors—that is discussed in these documents—there are transport corridors, close to where they work, close to the city perhaps, all those kinds of things, and then you have established suburbs. I am just wondering how you see those two marrying in the future in that you have suburbs that have been established for a long

time and that have, in your opinion, the desired character, and then we have documents that are being consulted on and agreed—certainly through time to talk, these sorts of things were discussed—regarding the desire to have the ability for people to live in these areas and to commute more easily, to ride their bike, to walk, perhaps to walk to catch the bus, and all those kinds of things. Do you have a quick comment about that?

**Ms Forrest:** I have a quick comment, and it is something that I was going to bring up as part of the Griffith/Narrabundah group presentation. In the older suburbs, it goes back to variation 200, the garden city variation, which went through many consultation processes and was very carefully looked at over a long period of time. At the end of the day, even though everybody might not have been entirely happy with the outcome, RZ1 zones, as they are now called, were identified. RZ2 zones were identified. They were called “core areas”, and people accepted, in the main, in these older suburbs that there would be protection of the established character in RZ1 zones and there would be change in the core areas, the RZ2 zones. I know that there is going to be some comment on what actually has happened in some of these RZ2 zones, but that did, as far as people were concerned, enable this city to grow without destroying the established character.

**THE CHAIR:** Thank you for that succinct answer in that amount of time. I would like to thank you for appearing before us today. You will get a copy of the transcript so that you will be able to see if there are any inaccuracies in what Hansard has picked up. If members have other questions, they will certainly send them to you. Could you turn them around as quickly as you are able to? I know the constraints on your council. Thank you very much for appearing before us today.

**Mr Kent:** Thank you, Madam Chair, and thank you, committee.

**THE CHAIR:** For the record, the documents are being tabled now. What is the name of the document?

**MS LE COUTEUR:** New Farm and Teneriffe Hill local plan.

**DENHAM, DR DAVID AM**, President, Griffith/Narrabundah Community Association

**EDQUIST, MR JOHN**, Vice President, Griffith/Narrabundah Community Association

**FORREST, MS ANNE PATRICIA**, Member, Griffith/Narrabundah Community Association

**THE CHAIR:** I welcome Dr Denham and Mr Edquist and thank you for coming this morning to appear before us. I would just like to draw your attention to the protections and obligations afforded under parliamentary privilege and draw your attention to the blue-coloured privileges statement before you on the table. Could you confirm for Hansard and for the record that you understand the privilege implications of the statement, please?

**Dr Denham:** I do.

**Mr Edquist:** I do.

**THE CHAIR:** Thank you very much. We have your submission, Dr Denham. Would you like to make an opening statement, or Mr Edquist?

**Dr Denham:** Yes. Thank you very much, Madam Chair. On behalf of the Griffith/Narrabundah Community Association, I would like to thank you for the opportunity to appear before the committee today and, through you, I would also like to thank Minister Corbell for referring DV 306 to your committee.

I would like to introduce John Edquist. I do not think he has been to one of these committees before. He is the vice president of the GNCA and he prepared the submission which was sent to this committee, because I was not here at the time.

DV 306 is probably one of the more important variations to have emerged from the planning authority in recent years, because the changes to the regulations for residential developments will affect all Canberrans and will determine what sort of Canberra we will be living in in the future. Unfortunately, some of the aspects of DV 306 appear to be flawed. It seems that, rather like DV 307, this committee is having to do the work of the planning authority to some extent to progress the matter, or, to put the argument another way, if DV 306 had been a satisfactory document we would not be here today.

That is not to say there are not good parts to the draft variation. For example, we support the provisions that have been given interim effect, clarifying the rules relating to the redevelopment of RZ2 and the reinstatement of a minimum three-hour solar access in the winter solstice.

What I want to do today is focus on three issues and we will make three recommendations on that. One of these issues we referred to in our document, but it is so important—and it was discussed earlier today—that I am afraid you are going to hear more of it, and that relates to the complexity of the document. The other two issues are not related and the recommendations from that I do not think are covered in our document.

I think this is vital, the complexity of the document. It was identified as a problem in DV 303, particularly if you read the Weston Creek submission on that. It is still a daunting document. It is still too complex, and all stakeholders find it very difficult. We recommend that a restructured version be produced that is more user friendly. We suggest that the document should be structured so that you start off with a zone and then for that zone you go through all the development tables, the plot ratios, the setbacks, car parking and all the rest.

There is going to be some duplication, as was discussed earlier today, but I think it makes it simple. You know which zone you are in; you go into that, there is the document, and everything is there. Right now you have got to go to the territory plan and all sorts of things—appendices here, appendices there; all sorts of clutter in there that you do not really need. So that is what we are recommending, something along those lines.

In addition, the document should clearly indicate the benefits of the proposed changes and why they are necessary, and it does not do that. It just says: “We’re going to revise the residential zones, the zones’ objectives. We’re going to replace the current residential zones.” But, apart from the solar access provisions, it does not articulate the reasons why. In fact, if you want to find why, you have got to wade through the 147-page document of the report on consultation, which at least gives you some idea of the thinking that is going on in ACTPLA about getting to where they have got to, or back to the fact sheets.

Finally on this issue, I could not find a definition of “sustainable” anywhere in the document yet it is in the objectives of just about all the zones relating to sustainable water use. I am not sure what that means. That needs fixing. That is the first one.

The second one: plot ratios, setbacks and building heights. At present, at least in the Griffith area, an RZ1, there is a mismatch between what is actually happening on the ground and the words that are in the territory plan’s statement of strategic directions and the RZ1 objectives. I am just going to quote from the strategic direction—one sentence from the urban design paragraph: “Special attention will be given to safeguarding visual amenity, protecting vegetation and other important features within established urban landscape and ensuring the high quality of environmental design in new development and redevelopment.”

What is happening in fact is that many developers are using the so-called plot ratio of 50 per cent to effectively cover the whole block with bricks and concrete, and I do not think this really matches the objectives that we are trying to aim for.

There seems to be an unwritten policy of encouraging bulk, increasing building density at the expense of landscape values, and this continues in a subtle way through DV 306.

There is no doubt in our mind that in the Griffith area the garden city complex has been under attack, by not only the encouragement of more bulk but also the push for intensification with new proposals for multi-unit housing.

I would like now to go to the pictures that the committee have. Figure 1 is the frontal view of 32 Stuart Street. That shows what it was on 4 July, and this is RZ1. It is one building on that. It goes right to the half-metre on one side and the 1.5 on the other and the four metres and so on. That fills the whole block, yet that gets by as 50 per cent plot ratio—probably because there is a swimming pool in the middle of it with a beach around it, so the cats can play in the night in the sand. On the left you can see the house that is next door to it.

If you then go to figure 2, you have got a close-up of that house on the top one. That is what the view is from the lady's house. It looks like “futile”, doesn't it, the word on there, but it is not; it is something “tile”. That will not stay there, obviously, but it will be covered with something else, because that is what the final wall is. And this to me is not reasonable—when it says in the new regulations to not have an unreasonable negative impact on neighbouring properties. I think that is really awful.

So what we are saying is that we would like ACTPLA to review the plot ratios and how they are calculated, in consultation with developers and community groups, so that all residential development, particularly in RZ1, which is mainly Griffith, is consistent with the strategic directions and the objectives of the plan. And right now that is not working. So that is No 2.

No 3 is the planning regime in Canberra, and I do not want to go into the potential conflict of interest between short-term financial government imperatives and long-term planning to maintain our garden city. I just want to focus on the interaction between TAMS and ESD on the matter of protecting the trees and verges during construction, because this is falling through the cracks right now. It is very important in Canberra that we maintain our verges and street trees, particularly with increased intensification. But at present there appears to be a problem with responsibility between ESD and TAMS.

The first one is construction traffic and where it parks and how it gets there. What happens is that the DA is approved and then suddenly TAMS have got to organise where the traffic is going to park and all the rest of it. That has been solved, I think, because Minister Corbell last month announced an interim measure that would require a temporary traffic management plan to be lodged with the development application. Right now what goes on during construction is not in the DA at all; all the DA is considering is what the outcome is going to be.

The trees and verges are a real challenge. It is a TAMS responsibility for urban trees and verges, and ESD do not want to know about it. Picture 3 there that you have got was taken on 29 June this year and you can see that the tree has not been protected, the verge is being hacked about, there are heaps of bricks there, yet the building has started.

I sent an email to ESD on that date asking why it was approved—nothing back from them. So I will have to follow that up. But it is obviously not a matter that they have got the resources for or the interest in or whatever. What we are recommending is that during construction the responsibility for the verges and the traffic problems for workers really be with ESD; they take it over after the development application has been approved and they carry it right through till the certificate of occupancy is given.

Of course they can consult with TAMS on this, but it should be their responsibility. That is all I have got to say, Madam Chair.

**THE CHAIR:** Thank you.

**Dr Denham:** I do not know whether John wants to add anything.

**Mr Edquist:** As well as making it an ESD responsibility, we would like appropriate resources to be allocated to ESD so that they can carry out these new functions effectively. It is pointless giving them yet another thing to do without any money or staff to do it with. It is an ongoing problem that does need to be resolved.

I thought I would amplify a little bit some of the things that David and other people have touched on, starting off with this constant drive we seem to get from ESD and ACTPLA over the years to increase the plot ratios that are allowed in each of the zones. They keep trying to push it back down so that you can have more area covered in zone 1, zone 2 and so on. There is the constant creeping out, the pushing back of the setbacks, so that they get reduced and you can build closer and closer to the line. It is never argued and discussed in public as to why this is good or even if it is necessary.

There is an awful lot of greenfield space and brownfield space in Canberra that is available for redevelopment at the higher zoning levels, RZ3, 4 and 5. There is the Kingston foreshore, and when they have filled that up entirely, they can move on to East Lake, which is the area just to the east of the Kingston foreshore. There is the whole of Fyshwick that can be redeveloped. Fyshwick is an extraordinary place to put your industrial area. It is on a hill. If you drive around there in the late afternoon and look back, you get these magnificent views to the west across the lake, the city and so on. You think, “My God, why did they put used car yards here?” I think there is a policy to eventually redevelop Fyshwick for higher uses than its current purposes and move everything else out to Mitchell and Hume, and that is good policy. We do not need to be going around and trashing the existing residential suburbs to do this. Therefore, what is driving ESD and ACTPLA in this constant push to increase the building density that is allowed in the existing suburbs is something that escapes me.

Moving on from that, people have talked about the complexity of this document and its incomprehensibility. I will add a few numbers to that. The ESD-ACTPLA document which talks about the comments received and explains whether they accept them or reject them runs to 147 pages, which is about half a good novel. The documents that you are expected to have read, mastered and understood before you can start commenting on the whole thing comprise another 417 pages. You have to ask: is ACTPLA or ESD serious about attracting comments? Most people in Canberra have lives. They have got jobs, they have got kids—families. They are not going to have time. I am lucky. I am a former senior public servant, I have tertiary qualifications, I am retired, the kids have gone off interstate. I have time on my hands; I can do it. But most people cannot. That is not fair.

Basically ACTPLA has disenfranchised something like 95 per cent of Canberra’s population with this policy, and I do not think that is good. There may be difficulties and it may be that this is the most convenient way for ESD or ACTPLA, but you need to tell them that that is not good enough. They have to make the effort to make sure

that ordinary people understand what is being proposed and can have their say.

One of the other comments that people made was about the complexity and the jargon, and it really does suffer from that. But part of the problem with planning legislation in Canberra is its subjectivity. It is so full of vague, waffly terms that there is no certainty in the system. I was trawling last night through the 147-page commentary document, because I had a vague recollection when I first read it that lots of people seemed to be commenting on subjective criteria.

You know how it works: you have got a rule on one side and then the rule is modified by the criteria. An awful lot of the criteria appealed to “reasonable”. I thought I would look up “reasonable”. I found that it is not the only word where people have a problem. “Reasonable” is appealed to an awful lot of the time, but then reference is made to “character” and to “limited”. You can do things in a “limited” way. And there are “positive” and “positively”, “negative”, “negatively”, “interesting”. Some things are allowed if they are an “interesting” texture. “Promote”: you can do things if you “promote” something. “Predominantly”, “typical”—and I am sure, if you investigated it more, you would find more complaints.

This is not a comment from just one person or someone who has a bee in their bonnet about the use of English; there are dozens of comments about this. With all these things, what do they mean? ACTPLA or ESD dismiss all this by saying, “The term ‘reasonable’ is well understood legally.” Well, yes, it is. “Reasonable” means what the man on the Clapham omnibus would regard as reasonable. I do not have any idea what the man on the Clapham omnibus would think about ACT planning law. It is not a good test. If you say, “We’ve got to be modern,” let us talk to the man on the Belgrave train or in Canberra on the bus to Banks. But he is not going to have any idea either. These things may be clear to people who have been initiated into the planning profession, but to the rest of us it is completely opaque. I suspect it is not clear to people in the planning profession either.

This is a real problem that has real costs, because, if things are not certain, you get this very undesirable outcome, at least from a bureaucratic point of view, where similar situations or similar inputs should produce similar outputs. So if people are in the same situation when they go into the system, they should come out at the same place. With any application you should be able to pick any one at random in ACTPLA and say, “Process this.” They should all go through a unique route, well defined, and come out there, there or there. But you should be able to predict it. In fact anyone who is prepared to read through all the rules should be able to replicate this process. If you cannot, what happens is that neither residents nor developers have any surety as to what is allowed and what is not allowed. It wastes a lot of time and makes trouble. It ends up with cases being decided in the ACAT or in the courts, and that is very expensive.

I will give you my estimate of what it costs. But the other problem is a bureaucratic concern, in that if the outcomes are uncertain and the outcomes are worth a lot of money, it is bad public policy, because there is always the risk of corruption. I am not saying that anyone at ACTPLA is corrupt. But I am pointing out that we know that in neighbouring jurisdictions there has been corruption in the planning process.

If you do not need to have ambiguity, why would you build it in? It is the old adage—you hope for the best but you plan for the worst, and you just recognise that people are fallible and, for whatever reason, some people do the wrong thing sometimes if there is an opportunity to do so. So when you are designing systems, you just minimise the opportunity for things to go wrong.

Reverting to the cost, it is hard to quantify, but I have acquired some hard data the hard way. My wife and I were applicants to ACAT in an appeal a couple of years ago. Before we started I was told by our lawyer that it would cost the cost of a small car, so I thought, “Okay, it’s \$15,000 to \$20,000.” It was not. It cost us \$60,000. We had another family involved. They started using a lawyer earlier than we did, and they paid more. I think they paid in the order of \$70,000. That is \$130,000 just from the appellants, as it were.

At that hearing, which went on for five days, ACTPLA was represented by a lawyer and several members of staff, and the developer was represented by a lawyer. I doubt whether their costs were any smaller than ours. So there we are; we are up to \$390,000. Then there is the ACAT itself. The members of ACAT get about \$1,000 a day. There were two of them. For five days, that is another \$10,000, not accounting for the use of the room, the staff, the recording and God knows what else. So it cost \$400,000 to decide one appeal. This is not cheap, accessible justice.

How typical would that be? The President of the ACAT allocated three days originally. Ours went for five, so ours was probably slightly longer than usual. But if you assume that on every working day somewhere in the ACAT there is a planning appeal being heard by a couple of members—because there are a lot of members, there are a lot of rooms, and it always seemed to be busy whenever we were there—that would be 40 cases a year. Forty by \$400,000 is \$16 million. As I say, that is probably too high. If we reduce it, it brings it back to perhaps \$10 million a year which is being wasted.

I say it is being wasted because the ACAT is not a court and, as a result, it does not regard itself as being bound by previous decisions. So no precedents are set when an issue is resolved in the ACAT. The same arguments and issues are fought over again and again. In our case, what was the allowable density that was envisaged for RZ2? We thought it was supposed to be two to three times the typical quarter-acre block density, because that is what seemed to have been approved before. The developer said: “No, there’s no density—there is no number. Density is not mentioned in any of the rules relating to RZ2.” And in our case, they won.

But if you look at the ACAT documents and reports, you will find that there was a case six months before ours where they said that 55 dwellings per hectare was definitely way beyond what had ever been contemplated for RZ2. The development we were appealing against was 66 dwellings per hectare; so it was well above that. But then, on the other hand, just before ACTPLA decided in our case, there was another decision that said that density was not relevant at all and you could build anything you like.

All this money is being spent and there are no results, and ACTPLA seem to have this absolute resistance to being more specific about what is meant. They say that this

gives them flexibility so that they can approve innovative buildings, but I think there is a risk management issue here. You have got real costs for having this very fuzzy, ill-defined legislation against hypothetical and very nebulous gains. In my mind, as a former bureaucrat, I would go for the certainty, and that is what I would recommend.

**THE CHAIR:** Thank you. I note that Anne Forrest has joined the table. I want to clarify with Dr Denham that Ms Forrest is here as a member of your group.

**Dr Denham:** I suppose so, yes.

**THE CHAIR:** I just need to know.

**Dr Denham:** I think she is, yes. She is welcome here.

**THE CHAIR:** Thank you very much. We only have 15 minutes to ask questions. I will throw it open to the committee now.

**MS LE COUTEUR:** You started off talking about plot ratios and that there was a trend to increasing bulk and density. Clearly, that is an observable trend in RZ1 areas, certainly where I live and not just the inner south. But my question really is: the plot ratio has not changed in RZ1. It has been 50 per cent for a long time, and your submission even says that. What do you think that ACTPLA should actually be doing about it? I agree with you that this is an issue. But what, from a planning point of view—

**Dr Denham:** It is probably how they calculate it, I think. That particular building there—

**MS LE COUTEUR:** That is amazing. And that is a single residence?

**Dr Denham:** That is a single residence.

**MS LE COUTEUR:** When you first said it was RZ1, I thought, “It’s got to be in the multi-unit areas in RZ1,” because I could not believe that this could be one residence.

**Dr Denham:** And really it is a very nice house; it is just in the wrong place.

**MS LE COUTEUR:** It is huge.

**Dr Denham:** That is my personal opinion, anyway.

**MS LE COUTEUR:** It is a huge house.

**Dr Denham:** Yes. But I think the main thing is how they calculate the plot ratio. What has happened here is that they have got this swimming pool in the middle and I think what it is that enables them to—I would not know. That is the problem. You see a thing like this, and you say, “How can that be a 50 per cent plot ratio?” I think I would put that back to ACTPLA and say, “This is ridiculous, using the definition that you’ve got now, because this is what’s happening.” And we are making it bad for neighbours, and there is no room for any greenery there. So I would put it back to

ACTPLA and say: “What we can do about this? It is unsatisfactory.”

**MS LE COUTEUR:** You have got a suggestion here that there might be a sliding scale?

**Dr Denham:** That is another—

**MS LE COUTEUR:** Possibly Ms Forrest wants to say something.

**Dr Denham:** Yes, that is another way of doing it, you see. You have to leave some of the block empty, if you have a sliding scale. If you have a big block, then you have a lower ratio. I would put it back to ACTPLA and say: “It’s not working. People are building right up to the sides. We want a better option from you.”

**MS LE COUTEUR:** We have already made that comment to ACTPLA.

**Ms Forrest:** With the committee’s permission, I would like to go through my points. They actually go to the heart of this issue also of plot ratio and footprint. Could I do that?

**THE CHAIR:** It is up to—

**Dr Denham:** So long as you are not too long.

**THE CHAIR:** Yes, because members may have some further questions, if you could just—

**Dr Denham:** But you will be quick, won’t you?

**Ms Forrest:** Definitely.

**Dr Denham:** Good.

**Ms Forrest:** In 2003, variation 200, the garden city variation, was approved, and it was to provide protection of the established character of the older suburbs and to focus urban intensification around local and group centres and, of course, subsequently along major avenues, which makes a lot of sense.

There have been various review documents which are available on the ACTPLA website, and concern has been expressed with regard to the 50 per cent plot ratio on large blocks, leading to the loss of the established character. And I have the page from the review that goes to that, which I am happy to give to the committee. I also have a document which I did for an AAT case some time ago, which is an overview of the garden city variation over the years leading up to the variation itself and then the subsequent moves in relation to heritage as well.

I put in a submission on variation 303, and again I have a copy of that here, which highlighted those very concerns about plot ratio, and those concerns have not been addressed by draft variation 306. As I said before, draft variation 306 takes what I consider is a flat-earth approach to planning across large swathes of this city, and the

plot ratio of 50 per cent, even though there have been concerns expressed by both professionals and community members, has been retained. And, even more than that, underground garages, if you have got the money to do that, are not included in that plot ratio. So the loss, again, of land within the block is even greater by the underground garage and then there is the cement on top or whatever.

I recommend that RZ1 zones in the garden city suburbs have either a 35 per cent plot ratio, which was in existence for a brief period during draft variation 200, which would align with the 35 per cent plot ratio for dual occupancies in the RZ1 zone, rather than that disconnect between the 50 per cent single dwelling huge home or a house with a second dwelling, which is a 35 per cent plot ratio. Alternatively, there could be a sliding scale plot ratio, dependent on the size of the block. Old Red Hill, which has enormous blocks, does, in fact, have that sliding scale which applies.

The Heritage Register was expunged from the territory plan following the Heritage Act in 2004. There was a review of that act in early 2010, and the Marshall report was the report from that review. No action has been taken about that. And I am still asking what the status of that report is. In fact, Duncan Marshall stated in that report:

... houses which are significant within heritage precincts should be substantially conserved and remain largely intact—substantial demolition should not occur except in exceptional circumstances. The Heritage Council and the ACT Planning and Land Authority should, as a matter of some urgency, jointly undertake a detailed audit of approved development applications within residential heritage precincts to ascertain the extent and causes of substantial demolition ...

It is now some two years ago that that statement was made. DV 306 is playing a part in the continuing loss of these heritage values in precincts within old, established suburbs, because the final decision maker for all DAs rests with ACTPLA. The links between the territory plan and the Heritage Register are now tenuous, relying on accurate information and expert advice. Much can go wrong.

I have an example—and I have photos here, which are very recent—of demolition in our area following a development application. I live in Blandfordia 5. It is actually very difficult for an ordinary person, let alone an expert, to have a look at the territory plan and to have a look at the Heritage Register and even find where Blandfordia 5 is, because it happens to be a part of the suburb of Griffith. And when development applications are notified—and I have examples of them as well—development applications do not—

**Dr Denham:** Just a minute, Anne, we have to allow more time for the committee to ask questions, and we finish at 12 o'clock.

**THE CHAIR:** If you would like to table your document, Ms Forrest.

**Ms Forrest:** Yes.

**Dr Denham:** Because they want to ask us questions, right?

**Ms Forrest:** Okay. I am nearly finished.

**Dr Denham:** No. I think you should finish now. That is five minutes. Just read that last sentence.

**Ms Forrest:** DAs are submitted to ACTPLA and they are notified in three different tracks, which you probably know about—code, merit or impact. In the merit track there are two different ways a development application can go. It can go into the minor or it can go into the major. That first one that I have handed over in Reid went into the major track, which meant that there was an advertisement in the *Canberra Times* and there was wide notification that it was on the website. The one that shows the photograph of the house was in my area, Blandfordia 5, and that was treated as a minor track merit application, which meant only immediate neighbours were notified. Subsequently, although objections were put in, we even discovered that anything that goes into the minor track cannot be challenged in ACAT, apart from by the person who is the proponent for the development application.

The Marshall report noted the decline in numbers of proposals to the heritage unit in recent years, and it stated that it is partly attributable to the implementation of the multi-track system for development tracks under the Planning and Development Act, which came into effect in 2007. So I think that he may in fact be highlighting this issue of minor and major, and we would maintain that the Blandfordia 5 example was incorrectly identified as running in the minor track, and it is not the only example in our area.

The draft planning strategy makes no reference to these heritage precincts. In fact they are identified in very fuzzy maps as appropriate areas for urban intensification. In the meantime the Australian Heritage Council is currently assessing the national capital for inclusion on the register, which could encompass areas such as we are talking about, yet the private realm within these suburbs is not being included in the assessment process at this stage.

**THE CHAIR:** Thank you, Ms Forrest. Mr Coe, did you have any questions?

**MR COE:** Yes. With regard to point 1, neighbourhood plans and precinct codes, as has already been mentioned this morning, we do have precinct codes, but quite often they are a little bit light on detail. I was wondering whether you could expand on how they would be developed.

**Dr Denham:** Precinct codes?

**MR COE:** Yes, which capture neighbourhood plans in effect, and how you go about, as Ms Forrest said earlier, capturing the established character in a document.

**Mr Edquist:** There is already in existence an inner north Canberra precinct code, which was developed by consultation between ACTPLA and the residents groups in north Canberra. I would imagine a similar model would be used or could be used in south Canberra. I always thought that precinct codes were supposed to cover a somewhat larger area than neighbourhood plans, but the way the government or EDS have chosen to implement the references to precinct codes is to produce 70 precinct codes, one for each suburb.

As a temporary measure, perhaps EDS or ACTPLA could get some junior staffer to trawl through the existing neighbourhood plans, identify the guts of them and move them over to the precinct code. The trouble is that we need precinct codes now, because the neighbourhood plans have been abolished. If I had been EDS/ACTPLA, I would not have done that. I would have made provisions for the eventual replacement of neighbourhood plans by precinct codes and said that the existing neighbourhood plans stay in force until we have developed a precinct code in consultation with the residents. But they have chosen not to do that, so it is really ACTPLA's problem to solve. But I think the way to go is obviously to develop a precinct code in consultation with residents.

**MR COE:** Yes. How do you overcome the issue whereby there is a desire for more precise information, yet there would also be this interpretation of character as well? Is that not going back into subjectivity?

**Mr Edquist:** Not really. You could drive around the inner south and you could describe it as mainly a residential area where the blocks are relatively large. They are probably all, except for most unusual blocks, between about 650 and 1,000, 1,050, 1,100 square metres. They usually have single detached houses on them, usually red brick with clay tile or concrete tile roofs. They are freestanding. There are usually well-developed gardens, large trees et cetera. The verges of the streets are wide. They have large, well-developed, 40, 50, 60-year-old trees of great value. That is all objective and testable. Just because you are describing something does not mean it is a matter of judgement. It is where you talk about "desirable" or "not adverse" or something that you have got to exercise judgement. But it is not hard to identify the characteristics of an area or a suburb and describe them quite fairly and objectively, without using emotional or vague language.

**MR COE:** Thank you.

**THE CHAIR:** It is just on 12 o'clock, so I think that members may have more questions, Dr Denham, of your group.

**Dr Denham:** Okay.

**THE CHAIR:** I apologise that we have run out of time.

**Dr Denham:** That is all right. It was all my fault.

**Ms Forrest:** Not mine?

**THE CHAIR:** I do not think we need to attribute blame. What we do need is to make sure that members can ask further questions of you if they want to, and we request that you get back to us with the answers as soon as practical for you.

**Dr Denham:** Any time.

**THE CHAIR:** You will receive a copy of the *Hansard*, which will enable you to correct anything Hansard have not picked up correctly.

**Dr Denham:** Okay. Thank you.

**THE CHAIR:** We will be now hearing from Ms Margaret Fanning, who has submitted submission No 15. So thanks very much to all of you for appearing this morning.

**FANNING, MS MARGARET**, Committee Member, Griffith/Narrabundah Community Association, and Committee Member, Inner South Canberra Community Council

**THE CHAIR:** Our next witness is Ms Margaret Fanning. Welcome, and thank you very much for, at short notice, agreeing to change your time slot. I would like to draw your attention to the protections and obligations afforded by parliamentary privilege and draw your attention to the blue-coloured privilege statement before you. Could you confirm for the record that you understand the privilege implications of the statement?

**Ms Fanning:** Yes, I do.

**THE CHAIR:** Thank you very much, Ms Fanning. We have your submission, No 15. Would you like to make an opening statement?

**Ms Fanning:** Yes, I would, thank you, Ms Porter. I apologise for my croaky voice.

**THE CHAIR:** You have the dreaded lurgy as well, have you?

**Ms Fanning:** Unfortunately, yes. I am a member of the Griffith/Narrabundah Community Association and I am also a member of the Inner South Canberra Community Council committee. I fully support the written submissions that have been made by both of those organisations.

I made a submission myself because of the depth of my concern about the adverse impact that changes to the territory plan in recent years have had on the garden city character of Canberra and the further threat that I think is posed by the proposals currently being put forward in draft variation 306. I think my concern is shared by many others in the community, and that would be evident to you from both the submissions made to ACTPLA and more recently to your committee.

It is true that there are some elements in DV 306—those relating to multi-unit residential redevelopment in RZ2—that responded to some of the community concerns that were expressed earlier about DV 303 and that they do represent some improvement to the territory plan. They already have interim effect and, in my view, they should be retained.

There are a few other changes that ACTPLA has now made to its recommended version that I think should be supported—notably, the reinstatement of the requirements of a minimum three hours solar access and the requirement to ensure that secondary residences are assessable in the merit track.

To that extent I have a somewhat different view from that expressed by Mr Kent earlier today, because I think that the bulk of the other changes are totally unacceptable, and I would strongly urge you to recommend that they not be implemented.

Some of the issues of particular concern are those relating to neighbourhood plans, the proposals for increased building bulk, inadequate plot ratio requirements, proposed

amendments to setbacks that will have the effect of extending what is already excessive site coverage, minimum block sizes, a whittling down of private open space requirements, the definition of “desired character” and the provisions relating to residential care accommodation.

Little or no argument has been put forward to justify why these changes are warranted and what benefits are expected to be achieved. I think that is the context that is really important, and Ms Fatseas referred to it earlier today. The results of the review of the overall planning strategy have not been decided or have not been announced, and this is being considered to that extent in something of a vacuum. Moreover, there is really no detailed rationale that has been put forward in 306 either in the fact sheets or in the consultation report on why these changes are being proposed and what the benefits are seen to be.

Apart from the changes that have been given interim effect, I believe the rest should be put to one side until a proper review of the plan has been undertaken. I think the degradation of the original garden suburbs is reaching a point where Canberra is in danger of losing the distinctive character that it has enjoyed as a garden city. I think that is a deplorable outcome and a sadly ironic one as Canberra approaches its centenary year.

Much of what has happened has been justified in terms of the need for urban intensification. But urban intensification can be managed and achieved in different ways. It is not a matter of being opposed to urban intensification; it is just that it needs to be managed differently and it needs to be managed better. A key factor is that the detailed provisions of the territory plan and the way they are administered have failed to give sufficient recognition to other objectives which are also important. Some of these are maintaining residential amenity, achieving high quality design outcomes, retaining Canberra’s unique landscape, including the elements that constitute its garden city quality, and protecting heritage and other important features.

They are all mentioned in the plan’s statement of strategic directions, but often they are not being honoured. There has already been some discussion of what has happened in terms of the impact of current plot ratio and setback requirements. There is simply not sufficient space very often left on blocks to allow planting of trees and the development of gardens. The front setback requirements are often insufficient to ensure that streetscapes are preserved.

Many of the original setbacks, of course, are much greater than those currently allowed, which are only four metres. Changing the setback requirements to four metres in the older suburbs of Canberra has meant a huge change to the streetscapes and really obliteration of the garden city elements that were there. You can drive around any of the older suburbs and see examples not quite as egregious as the photograph which is a real standout, but there are plenty of examples of houses that are only a few metres from the pathway. If you look down either side—I can give you photos of some examples, too, if you like—there are minimum setbacks on both sides and the house appears to go right to the rear boundary. The whole block seems to be covered. Probably the explanation is that there is an internal courtyard that is also fully paved. But the site is covered to the extent that there are certainly no trees, often no bushes and often no garden. Some of them seem to be paved right up to all four

boundaries.

What is also of concern with the way things have been done is that inappropriate zoning and development provisions have allowed the juxtaposition of high density residential development with heritage areas—Barton and Kingston are examples—and with RZ1 areas, for example, in Deakin, that are totally out of keeping and detract from the character of those older areas. The development that has occurred on some of the major avenues, particularly Adelaide Avenue, lacks coherence and does not seem to have any regard at all for visual appeal or residential amenity. The design quality of many new developments leaves much to be desired. Finally, of course, open space, recreational and community facility areas are constantly under pressure from developers and targeted for new residential development.

There is a serious problem, and we need a comprehensive review to identify and recommend ways in which all the territory plan's objectives can be reconciled, how urban intensification can proceed in the way that government and planners see it as desirable, but keeping in mind the need to preserve what is good of what we already have.

There are two other issues that I would like to briefly highlight, and one of them is the plot ratio and setback requirements. There has been a fair bit of discussion about this already this morning, and I would note that, although 50 per cent is the normal plot ratio requirement, DV 306 does introduce 65 per cent in certain cases in both RZ1 and RZ2 for multi-unit housing. So, if we have a problem with 50 per cent, 65 per cent, who knows what we will get then.

The problem seems to be that either the current definition of "plot ratio" is deficient or that we need to think about reducing the plot ratio, particularly for larger blocks. I would support the comments that have been made about a sliding scale. As far as definitions are concerned, I would suggest that account needs to be taken of detached garages and other buildings that are on the block and also driveways and hard-paved areas.

In principle, there is a requirement for planting areas, but that just does not seem to be observed. What you typically see, if there is any room left for a garden, is a very narrow band down the sides and at the back, which really does not allow adequate space for any deep-rooted trees and often seems to not allow space for anything very much at all. This is having effect not only on visual amenity and Canberra's character; it has adverse environmental impacts too, because it affects the extent of groundwater retention. So I think that is something that needs to be addressed quite urgently. The setback issue of course is closely related to the plot ratio issue.

The second area that I just wanted to make some brief comments on was neighbourhood plans. Again, those have been discussed. I think it is important that they be retained until precinct codes have been developed to the point where they can give some meaning to "desired character". Although ESD have argued that neighbourhood plans are being abandoned because they often contain provisions that are not suitable for the assessment process, they have in fact used them for the assessment process. I think there are a number of people in this room who would be aware that ACTPLA used the Red Hill neighbourhood plan to knock back proposals

relating to the Morling Lodge redevelopment. In any case, if they are not suitable for the assessment process, the appropriate course would be to update them and amend them as necessary rather than abandon them.

Precinct codes certainly offer scope in the future, but they are all rudimentary, as has been noted this morning. They need much more work and development in consultation with the local community before they can be regarded as an adequate substitute. The question was asked earlier as to how they might be developed. I think there was quite a good process when the neighbourhood plans were developed. They were developed by ACTPLA in consultation with community groups and others whom ACTPLA identified as being important stakeholders. There were quite a lot of workshops; an iterative process. I think at the time all parties were pretty satisfied with them. It seems to me that the process was a good one that and if more definition and specificity are required for precinct codes that can be included as part of that process.

**THE CHAIR:** Thank you very much, Ms Fanning. Have you got any questions, Ms Le Couteur?

**MS LE COUTEUR:** Where to start? Maybe, because it is fairly practical, a bit more about plot ratios. As you noted, we talked about it briefly previously. I was fairly surprised to see this photo. The plot ratio is still only 50 per cent, or supposed to be.

**THE CHAIR:** Perhaps for Hansard you had better identify which photo—

**MS LE COUTEUR:** Sorry. The figure 1, 32 Stuart Street, the photograph provided by the previous group from Griffith/Narrabundah. You described other places that would appear to be greater than 50 per cent.

**Ms Fanning:** Yes.

**MS LE COUTEUR:** What do you think that ACTPLA can actually do to ensure that the 50 per cent is adhered to? How is it falling down?

**Ms Fanning:** I think part of the problem is the way in which “plot ratio” is defined. I think 50 per cent is probably too high, and that is what I was trying to suggest earlier. Of course in RZ1 it used to be 35 per cent, and so the earlier developments were 35 per cent, not 50. There are now large garages and carports attached to houses, internal courtyards, mostly paved, and then other paved areas immediately adjacent to the house. And in some of these cases—I am not sure about the house in Stuart Street; I think it probably does have an underground basement—they also have very large basements. You see, when buildings are knocked down, extraordinarily deep excavations being made.

Another house that I have in mind in Lockyer Street had a huge excavation covering most of the block; there is an underground basement that is used for car parking and other storage purposes and then a house that goes on top of that, which may have some internal courtyards which perhaps are not captured in ACTPLA’s definition. But the result is that the building covers far more than 50 per cent of the block, and that is what we are seeing so often.

I read in Sunday's paper—or Saturday's perhaps—of a house being advertised for sale with a basement that has parking for eight cars. This is in an RZ1 area, in O'Connor. This is what is going on, and the way plot ratio is currently defined is actively encouraging this. I really cannot see how this is consistent with other objectives—maintaining the garden city and other environmental issues. I think the definition needs to be re-examined and I suspect also that it needs to be monitored better. My own suspicion, but it is only a suspicion, is that there is not sufficient monitoring and auditing of certifiers that are certifying that developments have met the plot ratio requirements.

**MR COE:** On the issue of simplifying the territory plan and, in particular, on the issue of draft variations, do you have any thoughts on how that can be achieved such that both variations as well as the plan itself are more accessible?

**Ms Fanning:** As I indicated, I favour a comprehensive review of the plan. As part of that, the plan should be simplified, and I support the suggestions that have been made by Dr Denham and others about having it organised so that there are zone-by-zone chapters, because I think that would make it more accessible. The language needs to be simplified and clearer. And I support the comments that have been made that when draft variations are issued there needs to be more explanatory material and there needs to be a greater attempt to engage the community than I think there is.

Although those who are involved in community associations have been holding meetings and ACTPLA has responded to requests to meet with them, I do think you would find that, if you had a survey of people generally, a high proportion of people would have really no idea of what is contained in draft variation 306. In fact, I do not think they have heard of draft variation 306.

I have spent quite a bit of my time in recent years trying to find out what the territory plan means in various respects. I have been prepared to put a lot of time into it, and I find it difficult. I think someone with a less profound interest than I have got in these matters just would give up because one is constantly moving from the act to the plan and then to different parts of the plan and one is constantly being caught out really because one was not aware that there were other provisions in quite another part of the plan that were also relevant. It is a very difficult document.

I have also observed that the professionals working with the plan, including those in ACTPLA, do not always seem to be completely familiar with what is in the plan. So it really does need to be simplified, ordered better, and then when proposals for change are being put forward, I think the community should expect that there is some evaluation of how well the plan has performed in meeting objectives, why these changes are being proposed and what benefits are expected to be achieved. That is what normally happens with major government proposals, but it does not seem to happen with the changes to the territory plan.

There are fact sheets, but they are fairly superficial. It takes a lot of delving to find out what exactly is happening. For instance, with the private open space requirements, you might think they have not been changed. But yes, they have been, if you go into the detail of it. And that applies with most of DV 306. You just find out gradually and

it is only when you are working on a particular issue, and as you progress, you suddenly realise that there are much greater ramifications than you thought and much greater than are revealed in the fact sheets, which are typically just a couple of pages. You cannot possibly expect to cover that sort of detail. But the information should be there. And there ought to be pointers and guides to where the information is available.

**THE CHAIR:** You have a concern around the treatment of residential care accommodation in residential zones. I was wondering whether you could talk to that.

**Ms Fanning:** The requirement has been a 35 per cent plot ratio for residential care accommodation and the multi-unit housing development code applied for residential care accommodation. And that remains the same, except the plot ratio provision, I think, has been changed. But when the Griffith/Narrabundah Community Association was involved in an appeal against a development proposal relating to an aged care facility in Griffith and that appeal was taken to ACAT, the tribunal ruled that none of these provisions were relevant because this particular aged care facility did not contain dwellings.

I do not know what people who live in residential care think, but I think they live in a dwelling, because they have moved there permanently. However, in the wisdom of this particular tribunal member, they do not contain dwellings; therefore, the multi-unit housing residential code does not apply, nor do any of its provisions. So there are virtually no planning requirements, because this does not relate to dwellings. ACTPLA just seem to be turning a blind eye to this. Although it appears that residential care accommodation is subject to certain planning requirements, that is only the case if the residential care accommodation takes a certain form, and that is that the units are separate.

**THE CHAIR:** That would be independent living units rather than—

**Ms Fanning:** Essentially, yes.

**THE CHAIR:** They are two different things, of course. One is residential aged care, high and low care, for people who are no longer able to live independently. And retirement village living is in independent units. So they are different kinds of—

**Ms Fanning:** Yes.

**THE CHAIR:** In fact, do you think the tribunal were referring to the fact that residential aged care is normally bedrooms with shared living spaces rather than separate living—

**Ms Fanning:** Sometimes they are a mix, of course.

**THE CHAIR:** Which is independent living and—

**Ms Fanning:** Yes, but some of these facilities are a mix.

**THE CHAIR:** That is right. Some have independent living and aged care facilities.

**Ms Fanning:** But—

**THE CHAIR:** And this particular one, was it just—

**Ms Fanning:** But then, as I say, although it appears to anyone reading the plan that residential aged care accommodation is covered, in fact there are then no number requirements.

**THE CHAIR:** Was this particular one that the ACAT made the ruling on entirely residential aged care or was it a mixture?

**Ms Fanning:** It was residential aged care.

**THE CHAIR:** So it did not have independent living units?

**Ms Fanning:** It does not have independent living units, but it ranges from low to high care.

**THE CHAIR:** Thanks for clarifying that for me. I am sorry but we probably do have other questions, and I will ask members to put them to the committee secretary and then we can get them to you, if we do have additional questions. Thank you very much for appearing before us today. A copy of the *Hansard* will be given to you, as usual, and you will be able to make comment if you think it has been picked up inaccurately by Hansard.

**Ms Fanning:** Thank you.

**Meeting adjourned from 12.30 to 1.31 pm.**

**ANDERSON, MR THOMAS GRIFFITHS**, Chair, Weston Creek Community Council

**McGINN, MS PAT**, Deputy Chair, Weston Creek Community Council

**THE CHAIR:** Good afternoon and welcome back to this third public hearing of the Standing Committee on Planning, Public Works and Territory and Municipal Services on draft variation to the territory plan 306—residential development, estate development and leasing codes. As I mentioned this morning, the committee will be holding four additional public hearings on this inquiry during July, and details are available on the committee’s webpage or through the secretariat.

On behalf of the committee I would like to welcome to the table representatives of the Weston Creek Community Council, Mr Tom Anderson and Ms Pat McGinn, and thank you for your time this afternoon. I draw your attention to the protections and obligations afforded by parliamentary privilege and to the blue-coloured privilege statement before you on the table. Could you confirm for the record that you understand the privilege implications of the statement?

**Mr Anderson:** I do.

**Ms McGinn:** I do.

**THE CHAIR:** Thank you very much. We have your submission, No 11, Mr Anderson. Would you like to make some opening remarks?

**Mr Anderson:** Yes, I would, Madam Chair. Thank you for the opportunity to speak to the committee on this issue, which is of significant interest to many Canberrans. Our community council, the Weston Creek Community Council, has lodged a submission, as you say, and we are happy to take any questions on this or anything else that the committee might ask. Pat and I agree on many things but there are also some things that we agree to disagree on. It is done in a very happy way, I suppose.

Residential planning codes are an issue which I personally find complex and confusing. I have been involved in this for three or four years now, during my time with the community council. Pat has been involved in planning all her life. I will not speak on her behalf but she will say that it lacks clarity and transparency.

This planning variation runs to over 50 pages and refers to other legislation. In reading that and some of the evidence previously given to the committee by ACTPLA officials, I gave up after some 20 pages of reading as I was just totally confused and had difficulty in understanding what was being discussed. How people who have not been involved in this planning process and who are suddenly confronted with a development proposal can understand the process is really beyond me. It is little wonder that we community councils get telephone calls from residents who are frantic for some assistance as the neighbourhood that they have known for 30 or 40 years is suddenly and unexpectedly going to change, and they have two weeks, if they are lucky, to make some comments on what is going to happen.

The tragedy of all this is that usually this is the first that they have heard of the proposal, and I suppose it is bad luck if you are away for a couple of weeks. There

really has not been any consultation or discussion on this. This is the crux of the issue, I feel, for most of the residents, and no doubt you have already heard that from others.

In our submission we have really focused on residential zones 1 and 2, as these are mainly the ones that affect people in Weston Creek, although in other parts of Canberra some of the other ones apply. On the positive side, certainly the pamphlets that ACTPLA produced on the changes were very welcome, as they provided a much clearer picture of what could or could not happen in the zones. But we found that trying to read that into the draft variation was very difficult. I will leave it at that at this time as Pat might want to say a few more words.

**Ms McGinn:** We did send in some comments but I did make some additional comments, and Tom is not quite sure whether they reached you or not. They are headed “Additional comments”, so I will go through those first, if that is okay.

**THE CHAIR:** Yes. Can you table those before you—

**Ms McGinn:** Yes, I have a hard copy of those.

**THE CHAIR:** Thank you very much, Ms McGinn, because the secretary says that we do not seem to have received—

**Mr Anderson:** No, I did not provide it.

**Ms McGinn:** Okay. I will not read them absolutely verbatim—

**THE CHAIR:** No, because you need to be conscious of the time.

**Ms McGinn:** That is fine. With secondary residences, we repeat that we consider 75 square metres could be inappropriate on some blocks and support the requirement for the building to be built to the adaptable standard. That is particularly relevant to an area where the demographics are changing quite significantly. With RZ2 areas, there has been some comment about proposed car parking arrangements by other people who have made submissions to this hearing. Again we support the effort to maintain a balance with respect to maintaining neighbourhood character in these areas and that any development will be more consistent with the streetscape overall if the proposed car parking arrangements on the whole go ahead.

With height restrictions, as Tom has just said, we have mainly RZ1 and RZ2 areas, which are the predominant zones. Consequently, the fixing of a two-storey limit is applauded by the community. However, it is noted that the flexibility of building height has been introduced in RZ3, 4 and 5 by the use of criteria and a requirement to demonstrate compliance with these criteria. Our concern is that high quality of design be maintained and, further, that the streetscape is not adversely affected in those areas.

With solar orientation, it is noted that the minimum sunlight penetration rules have been reinstated—I hope that is correct; that is my understanding—and applies as it did previously. That is the three hours of sunlight. We consider that to be a positive outcome. However, there is some concern about solar access on some of the narrow, very small blocks that have been designed in the Molonglo development, particularly

taking into account slopes. I think you have already had some presentations in that regard. They will provide a very strong design challenge for developers. Given that developers have a little bit of a tendency not to be able to meet those challenges, it could result in inappropriate design and not provide sufficient sunlit open space and residential amenity for residents.

With neighbourhood plans, we understand that you received considerable comment about neighbourhood plans with rather polarised opinions. Half went one way and half went the other way. Although these plans were not mentioned in DV 306, we consider that they remain of considerable importance to residents, particularly in identifying the design character of a neighbourhood. Tom mentioned that people do not like to see things radically changing. It is noted that you consider zone objectives should be distilled from what the precinct code says is the desired character, and this will be considered when a development application is made. However, what happens when there is neither a precinct code nor a neighbourhood plan, as is the case in Weston Creek?

We understand that you are intending—this is what we have been told, anyway—to have a precinct code for each suburb and that the community could request a statement of design character be built into this code. Appropriate—underlined—community consultation is essential to ensure that the character is adequately described and agreed. Further, over time, it will be necessary to revisit and adjust these because of the regeneration which is already occurring in some of our suburbs.

The process by which a master plan could evolve into a precinct code has not been adequately explained to the community. This is particularly the case in Cooleman Court, where we are currently undergoing that process. It reflects the complicated nature of planning legislation which is not fully understood by the community. This is of considerable concern considering the master plan currently going on.

At the end I said that Weston Creek Community Council urges the ACT government to make a concerted effort to both simplify and explain in clear terms the full gamut of planning law. That was a submission. I have made a few dot points, if I could read them out. They are very quick.

**THE CHAIR:** Yes.

**Ms McGinn:** It is essential to have a minimum of layers of legislation. I never know quite what to call them, whether to call them guidelines or directions, because there are varying words applied. It is essential to have a minimum of layers so that implementation of legislation is clear. DV 306 has to be read in conjunction with other “guidelines”. That is difficult for the general public.

One of the things that our community keeps coming up with is quality of design—a major factor and frequently mentioned by residents who are not against development quite frequently but would like something appropriate in size. They keep using the words “well designed”, and I know that means different things to different people. But the quality of the design that we get from a lot of developers often reflects the fact that the plans are drawn by the developers themselves and are not explicitly enough explained to residents by the use of 3D diagrams, dioramas et cetera. So people just

do not understand. For instance, most of my neighbours, if I say “three metres” to them, have no idea how much three metres is.

I would like to go on to linking to neighbourhood plans, which are important to residents. In some cases a lack of both neighbourhood plans and a precinct code leaves a void, and they do not know what is going to fill that void. I have some other points, but if you would rather ask me questions—

**THE CHAIR:** I think it may be good to go to questions, given that we have got very limited time. Ms Le Couteur.

**MS LE COUTEUR:** This is a very quick, simple one. You said you are not sure about 75 square metres for secondary dwellings. Are you thinking that the number should be bigger or smaller?

**Mr Anderson:** We think the number should be bigger.

**MS LE COUTEUR:** Do you have any ideas on where it should be?

**Mr Anderson:** No, I do not know. I know that the master builders were talking about a minimum of 90.

**MS LE COUTEUR:** They were talking about 90, I think.

**Mr Anderson:** Yes. We just think it should be bigger.

**Ms McGinn:** Slightly. I would not go to 90. I would go to 80 or 85. It is a matter of getting somebody two bedrooms and a reasonable-sized living space. But again it depends on the size of the block. If you cannot get your private open space up to the required—I think it is still six metres across, unless they have changed it again, which again illustrates the complexity of what we are looking at.

**MR COE:** On that issue of complexity, which I think is a theme of today and certainly a theme throughout the submissions, do you have any thoughts about whether it would have been preferable to have broken the variation down into smaller sections, like bite-size chunks? If so, do you have any thoughts on what chunks they would be? Would they be broken down by issue or by zone or whatever?

**Mr Anderson:** Most of our focus was on RZ1 and RZ2, because in essence that is where Weston Creek is. We have looked at the other parts, but for us the focus was on the first two parts. If you wanted to break it down, I think for the vast majority of people you could have used those first two. How you deal with the other four zones I am not sure.

**MR COE:** And has the communication and consultation that ACTPLA have had with the council been reasonable? Could improvements be made?

**Ms McGinn:** I think it has been reasonable. Some of the issues are that when you bring in another DV it goes on top of what is already there. That is part of the problem. It is like the Housing Act, which I know a lot better. There is a variation. You do not

get one publication with it all in and how it all interlinks. You just get layer upon layer. One of the things—

**MR COE:** With assumed knowledge.

**Ms McGinn:** Yes, exactly, and you have to know the existing part and which bit has changed before you can go to the new part. One of the things that might help would be some comprehensive flow charts which could demonstrate how you could get into different bits of things. But it really needs somebody who is possibly not a planner, somebody from outside, to look at it and say, “Can I understand this?” I think the question would most likely be in some cases no.

How you break it up is quite a different issue. I tend to think that it is a cross match between breaking it up into zones, because it gets very complex when you get into 3, 4 and 5, and an issues-related one. Tom said something to me this morning which made me sit up and think. They are talking about not having very closely defined things because they restrict innovation and design. He said: “It used to be that you had to have six metres one side, so many metres the other side and six metres at the front. Why can’t we do that again?”

**Mr Anderson:** The old rules of six—

**Ms McGinn:** It is very simple. Perhaps that is not exactly the way we want to go, but it is that sort of simplicity. When I was doing town planning one of the things that I can remember a lecturer saying to me was that the most difficult designing to do is when you have got restrictions, clear restrictions, but it makes you think about your design much more carefully because you have got some limitations, rather than what we have got now. For instance, I have got here “latitude”. What does “reasonable” mean? I am sure other people have raised that with you. It is a very difficult one.

While you do not want to stifle design innovation, you also want something that is easy for the legislators or the people in ACTPLA who have to look at these applications to be able to apply—not a whole lot of woolly bits on the side: “We might be able to move here and we might be able to move there.” With all that moving, you end up with something that is not a good design in the end. I hope that answers your question.

**MR COE:** Yes.

**Mr Anderson:** You asked the question on consultation. Certainly ACTPLA have been out to brief our community on the changes. They came out and did a very thorough briefing; also at the forum, which we sit on as individual councils. The briefing was there. I truly believe that the pamphlet identified a lot of things that people could understand. But going from the pamphlet to the actual draft variation is very complex, and I think that is a difficulty for most people.

**THE CHAIR:** You mentioned a period of two weeks and people only having a chance to comment for two weeks. Were you referring to development applications or this plan? I was not quite sure—

**Mr Anderson:** Development applications. By the time people usually find out that something is happening—

**THE CHAIR:** Right, rather than actually the time—

**Mr Anderson:** It is not the time limit. It is when they find out.

**THE CHAIR:** So if they had been away—all those things.

**Mr Anderson:** For most people it is a couple of weeks. I think you have got 30 days to respond to that. I have got an example here. We have an investment property and there is a residential development of apartments going in. On 8 March this year I commented on it, and nothing. That is four months.

**THE CHAIR:** And you do not know what has happened since?

**Mr Anderson:** No. There is no feedback on that.

**THE CHAIR:** Okay. Do you have further questions, Ms Le Couteur?

**MS LE COUTEUR:** Yes, one specific one about RZ2. You say you are happy with the changes that have had interim effect. But you also say, at point 3, single housing development code, that you would prefer to see terraced housing in some places. The RZ2 changes were to ensure a maximum of four dwellings per building, so they were getting rid of the possibility of terraced housing really.

**Mr Anderson:** I have got a preference for townhouses. I think they provide an opportunity, rather than apartments, for people who are ageing to stay in the area, particularly where you have got one-level townhouses. With apartments, once you start to climb stairs, even if it is only one floor, it is a problem for people as they age. We have problems with our knees. We have problems with our hips. That is a real issue. One of the reasons why I have gone that way is to try and see if we can encourage ageing within where we live, and one of those ways is with a townhouse. That is why that is there.

**Ms McGinn:** Can I just say that I live in a townhouse. They are set in blocks of three. There are 18 in our cul-de-sac. I think my block is under 300 square metres. I have got three courtyards. The cul-de-sac is full of ageing people, but we can have dogs, because we do not have a body corporate et cetera. I would like to put that forward as a really good example of getting your density up without losing your amenities.

The other thing that we have put in here is that with the demise of dual occupancies and being able to get individual title I quite strongly believe that in some blocks you should be able to do that; for instance, corner blocks. It is quite easy to get a design which will allow for separate titling, because you can hardly tell there are two houses there. That sort of arrangement will help with keeping the density up without losing the amenity.

**MS LE COUTEUR:** It sounds like you would be happy to see more of the development such as you are living in, in, say, the RZ1 areas?

**Ms McGinn:** Yes. As I said before, and Tom has also said, the community does not say no to those. What they say is good design. The block behind me is a typical example. They put a dual occupancy on the block, but because it was a battleaxe off a cul-de-sac they tried to push it right up to the footpath that was at the back. I went around all the neighbours. We put in a complaint. It went to the AAT, as it was at that time, and I spoke to the architects and the builder's solicitor and said: "We're not complaining about a dual occupancy. What we're complaining about is the design." She said: "It's funny; every one of his applications has got an objection." I said, "Doesn't that tell you something?"

They withdrew. They brought in a new architect. He came and saw all the neighbours. We have now got a lovely dual occ there, which is back from the footpath and fulfils all the neighbours' desires. That is the sort of thing that you can get if—and I keep saying—quality design; Caroline, you are most likely fed up of hearing me say it.

**THE CHAIR:** There are two issues that I have picked up from what you are saying. One of the issues is around the unit title and animals. I think you will find that we have legislation in that space now which requires meetings to be held with residents and in fact they can have animals in unit title—

**Ms McGinn:** Yes.

**THE CHAIR:** if there is agreement. It has to be more than just one person objecting. So I think that legislation has changed.

**Ms McGinn:** Yes.

**THE CHAIR:** The other one is around that word "reasonable". We had some discussion about that this morning, around the fact that it is legal terminology and it means reasonable to the ordinary person on the street; that is my understanding. It is a word that is used frequently in legal documents. But it is a difficult concept for people to understand.

**Mr Anderson:** Which, if I may comment, takes it away from the normal person in the street back into a legal situation where the lawyers understand it, but, again—

**THE CHAIR:** The normal person on the street may not.

**Mr Anderson:** The normal person on the street may not. That is the problem we have with it, trying to address the people that are on the street rather than the lawyers.

**Ms McGinn:** We understand it has got to stand up to judicial review, because if there is an appeal, it has to stand up to that. We appreciate that. But the trouble is, if there are too many "reasonables", if it is in too many areas, then it just gets to be a mess, and that is what has gradually been occurring, a relaxation of what was a fairly strict rule. I am not saying this one or that one should not have been relaxed, but it is the accumulation of them all. It is making everything round the edges very woolly, and that is where it is difficult for Joe Bloggs in the street to understand.

**THE CHAIR:** Ms Le Couteur.

**MS LE COUTEUR:** You just mentioned, Ms McGinn, and it is in your submission, quality of design. We have talked about this at length. Have you any ideas how we can actually achieve it? It is what everyone says. Yes, it is the Holy Grail, but how?

**Ms McGinn:** It is getting rid of some very small “rules”. Let me just think of an example. The eaves on houses have gradually disappeared so that you have got problems with solar access and in order to get the building closer to the boundaries, because the overhang is counted in the footprint of the building—that sort of stuff are the sorts of things that could quite easily be changed. Quality of design is very nebulous and, as I said to you, it is very much what people think in their heads.

But there is some of the stuff they have done with parking. They are suggesting, with parking in DV 306, breaking it up and not having the ends of buildings as the only thing that faces onto the street—those sorts of things. That one is giving a better facade to the street, if you would like to call it that. There are things like the setback, which I think I mentioned, which has been reduced considerably in R3 and R4, so that they are pushing it right onto the footpath.

**THE CHAIR:** You see the new suggestions for parking as a positive thing?

**Ms McGinn:** On the whole, yes, because it is breaking up long rows. Tom has said terrace housing. Yes, I quite agree, but in the street where I live, there are only blocks of three, with a small amount of open space. It may not be any wider from that desk to this in between, but you have got a break-up of this long line so that the poor people next door are not looking at the back of a whole row of the back end, like the terraces in Bath where all the pipes come down. It is, on the whole, a lot of small things. The parking things, I think, are, on the whole, very good because they do a breaking up. So it is this sort of thing.

It is also the fact that when a DA is put in, they have to put in a board with the sorts of materials they are using. ACTPLA can surely have some discussion about that and some suggestions about that. I think what has happened over time is a degradation of the expertise of the staff in ACTPLA, and I am not downgrading those people. I think it has been very difficult to get quality staff, for a variety of reasons. They are so busy trying to implement whether this is reasonable or that is reasonable that they have got no time to negotiate more with the person putting in the DA.

We did that with an extension to one of the homes in Weston. The architect put it in. This was three or four years ago. He came to council and said, “This is our plan.” I looked at it and said to him very nicely, “For heaven’s sake, you need some articulation in this facade.” And he went away and all he did was do some setbacks and put some things on. It came back and it was fantastic. Sorry, it is not a very clear answer.

**MR COE:** I am keen to revisit your comments about RZ2 and how you are supportive of high density, depending on the quality of design in RZ2 areas but also perhaps in RZ1 areas. That is a view that I do not think we regularly get.

**Ms McGinn:** No.

**MR COE:** Is that a view that you think is quite prevalent?

**Mr Anderson:** It is our feel that it is, yes. There is not a lot of redevelopment yet in Weston Creek but, hopefully, there will be some of that going on. We have seen new provisions such as in Chapman and Rivett where the government built new public housing for over 65s. They are quite good. They are quite compact, but they are quite spacious as well in what they do and what they provide for the community and the freeing up of public housing. So that is a good one. And that is in that area.

We think that people in Weston Creek, as they age—and we are getting close to 40 per cent over 55 years of age—think it is such a lovely area that they do not want to leave. So people are looking where they can downsize to and they want to stay within that area. And this is an opportunity for some of that. And some of it has been going on slowly around the area.

**Ms McGinn:** There is an increase in knock-down and rebuilds. I have noticed just in my suburb—I live in Holder—I can count three within about half a kilometre of where I live. I have been there 20 years. That has definitely not been happening before. The suburb is regenerating. Tom said to me earlier, “We mustn’t forget that we are getting younger people coming in.” Maintenance of public open space is another thing we have not mentioned. Maintenance of public areas is very important. It is not really to do with DV 306 but it is something that is mentioned.

Yes, residents have mentioned to us at meetings and in phone calls and emails that we get through our website that people are not unhappy to have dual occupancies. They are not unhappy to have rebuilds. They are not complaining about them. What they are complaining about is the actual design of what is put there. I know you have a submission from the Heart Foundation here, and it was talking about the increase in the size of houses on small blocks. That is part of the issue.

**THE CHAIR:** We are out of time, I believe, for this particular part of our hearings. I would thank you both for coming in. Members may have additional questions that they want to ask you following on from this discussion. They will get them to you through the secretary and you will get back to us as soon as possible. We will forward you a copy of the *Hansard* just in case there is anything that *Hansard* has not picked up properly. Thank you very much.

**Mr Anderson:** Thank you.

**THE CHAIR:** Thank you very much, both of you.

**ARUNDELL, MR LEON**, Chair, North Canberra Community Council  
**LARSON, MR RICHARD**, Secretary, North Canberra Community Council,

**THE CHAIR:** Our next witnesses are from the North Canberra Community Council. I welcome Mr Leon Arundell and Mr Richard Larson. Thank you for your time this afternoon. I draw your attention to the blue privilege card which outlines your protections and obligations under parliamentary privilege. Could you confirm for the record that you understand the privilege implications of the statement?

**Mr Arundell:** Yes, I do.

**Mr Larson:** I do.

**THE CHAIR:** Thank you very much. Mr Arundell, would you like to make an opening statement?

**Mr Arundell:** Yes. We have come to speak mainly in support of a couple of provisions of draft variation 306. I will talk about footpaths. Richard is going to talk more about the public realm. In particular, table 2(a) of draft variation 306 gives the street network requirements for estates in residential zones and CZ5. It says, “Shared use access street A, minimum shared path requirement 1.2 metres wide, shared path on one side only.”

Until now, on those streets in particular, footpaths have been optional. Going back to when I was a baby, we lived in a country town. There was a footpath outside the front gate. When my mother wanted to go shopping, she would put me in the pram and push me along the footpath to the shops. We would get what we needed and come back. We did not have a small-wheeled stroller, and we did not have to push it over grass, which is the situation that most people are in now.

When I was three years old I started driving. I drove my pedal car up to the butcher shop to get the meat for my mum. I remember on one occasion I forgot what I was supposed to get, so the butcher rang mum and clarified it and then I put it behind me on the seat and I pedalled home. When I was four years old I learned to ride a bike on that footpath. Footpaths, when you become a teenager, are places where you can learn to ride a skateboard or use roller blades. You can take a footpath to get to school, to shops, to friends, to parks. You can take a footpath to the bus stop if you want to travel further. When you get a bit older than I am, you can ride your mobility scooter along the footpath. But that all presumes that you have got a footpath.

When footpaths were optional in Canberra, we got a result like this—and I will pass this over to you. This is a cycling and walking path map. This is the Downer section. I have highlighted in red the streets in Downer that do not have footpaths. I have estimated that two out of every five Canberra households have direct access to a footpath, another two out of five have to cross the street to get to their nearest footpath, and one in five is like mine—they live on a street that does not have a footpath.

We are coming up to Canberra’s 100th anniversary. I estimate that over 100 years we have accumulated a \$100 million backlog in streets that do not have footpaths. We

have got \$600,000 allocated to building and maintaining footpaths over the next four years. If we forget maintaining footpaths and just build new footpaths, in 600 years we will have footpaths on all of these streets. We will have a 600-year backlog of footpath maintenance and unless we enact this part of draft variation 306, we will have a 600-year increment in new streets that do not have footpaths.

There is another thing about not having a footpath. You will have to look more closely at these photos which I will hand over to you. That is a street in Chisholm, I think, or Richardson, which links two community paths. That shows you the state of walking and cycling facilities on that. Basically the nature strips are so obstructed that you have no option but to walk on the road. Legally, when you walk on the road, you have to walk into the face of oncoming traffic. That oncoming traffic does not have to give way to you—apart from the fact that they are not allowed to deliberately run you down. If they just do not happen to see you, then they have not broken any road rules.

So if we get our footpaths requirement into this variation, at least we will not get that 600-year backlog of extra streets without footpaths. I will hand this over now. Richard, would you like to take over?

**Mr Larson:** Yes. I would like to talk about estate developments, and in that discussion talk about neighbourhood parks. In the area in which I live, we have a mini suburb. It is attached to another suburb that is comprised of some commercial developments but the majority of new developments are estate developments. There is no central neighbourhood park for this mini suburb. There will probably be 2,000 dwellings when it is completed. There is no neighbourhood park designated by the government for construction. There is a smaller park in one of the estates. The other estate I am talking about has a community facility and it probably has a little park or parks which are based on existing trees which are being retained.

I would like to know why a mini suburb like that does not have a concept plan and why it has not catered for community facilities such as a neighbourhood park when one is required in DV 306. The old future urban area residential development code had specifications for parks. The specifications for a development of over 20 dwellings per hectare were that a community neighbourhood park had to be within a five-minute walk of 95 per cent of dwellings in that residential development.

In the new draft variation, they have made a vast improvement. In the new variation for dwellings in residential use, a neighbourhood park of, say, half a hectare to one hectare has to be provided within 300 metres of a residential development. In the estate developments that I am talking about in this mini suburb now, there is no neighbourhood park within 300 metres of any of those developments.

**THE CHAIR:** So you are supporting the new measures in 306?

**Mr Larson:** That is right. I am supporting it, as long as it is enforced.

**MS LE COUTEUR:** Just for clarification, are you talking about North Watson and Watson?

**Mr Larson:** Yes.

**MS LE COUTEUR:** It is very refreshing to have someone actually talk about estate development, because you are the only people who have so far spoken on the subject. There have been requirements for parks in the past. North Watson is clearly a large area and has had some fairly large estate developments in it. Have you any idea how it managed to not have parks?

**THE CHAIR:** That is what—

**MS LE COUTEUR:** I know. Another way of putting it: is there any reason to think that 306 is going to fix whatever it was—if you know what it was—that caused Watson to manage to avoid parks?

**Mr Larson:** I do not have an answer to that. There was a master plan drawn up for Watson. It had a circle drawn around an area there that said “local activity centre”, but that master plan was never adopted. As we all know, master plans do not have any status in the territory plan. A concept plan does. And that area should have had a concept plan, in my opinion.

**MS LE COUTEUR:** Your planning knowledge is probably better than mine in terms of that time span. Maybe we did not have concept plans. I suppose in a way it does not matter how it is that it did not happen in North Watson, but you would think that if this is implemented it will—

**THE CHAIR:** It will improve.

**Mr Larson:** It should happen.

**MS LE COUTEUR:** You would be happy with what is in here.

**Mr Larson:** Yes, so the next estate development that goes in—I do not know what we can do. We can complain that there still is not a neighbourhood park perhaps. I do not know.

**Mr Arundell:** It should be the case that when somebody comes in to say, “I want to build a development here,” or the government decides it wants to build on there, there is a list that you check off. One of the questions on that list would be, “Is there a neighbourhood park close enough to that?” If there is, you tick it off. If there is not, you say, “We’ll have to build a neighbourhood park.” It is a matter of the process, having a process to ensure that things are complied with.

**MR COE:** One of the issues which has been raised with quite a few people is the complexity and the breadth of DV 306. One of the issues is that there is a fair chance that almost everybody objects to at least part of the document; it is the nature of such a broad document. Would you be supportive of the notion that future variations would be broken down such that the baby would not be thrown out with the bathwater, or do you think that comprehensive variations such as 306 are worth while?

**Mr Larson:** I do not have a problem with 306. I know you have had a lot of comments saying that people do not understand it. But to me it is perfectly

understandable.

**MR COE:** If not in complexity or accessibility, the fact that there are so many different issues encompassed in the document; do you think that is problematic?

**Mr Larson:** I think so. I think it could possibly be broken down. How you do that I do not know. But I have not had any trouble finding material. If I have a problem, I do not have any problem finding it in DV 306 or any of its previous versions.

**MR COE:** A number of witnesses have said that they like certain parts of it; however, on balance, they would prefer to see it rejected. It means that the good elements, in their eyes, in the document would therefore not proceed into the territory plan. I am particularly keen to hear feedback about how it can be broken down and, if so, what aspects would be approved. I think that would be useful advice for the minister especially.

**Mr Arundell:** I would suggest that there is not a perfect solution to that problem. If I can talk about something completely unrelated, for building roads there is a set of guides to traffic engineering practice. In the version before the current one, all the cycling stuff was put into a single guide so it would all be together. So when people were building a road they would look at the road one and they would build it that way. They would forget about the bicycle one. Now they have dispersed the bicycle one into all the bits where it is relevant, and people are complaining there is no single guide to how to build bicycle facilities. Whichever way you do it, it is going to be complex. There are lots of interrelationships and it is not going to be easy.

**MR COE:** Yes, sure.

**MS LE COUTEUR:** You heard the comments from Weston Creek about RZ1 areas, and to a lesser extent RZ2 areas, supporting the idea of gradually increasing density in those areas. Do you have any views on that? I know it is not something you have covered in your submission, but having heard Ms McGinn do you have any views on those issues?

**Mr Larson:** I do not have any problems with increasing density. What I have problems with is private open space on compact blocks. There is no plot ratio for compact blocks. The private open space is only six square metres for anything under a block of 500 square metres. I am concerned about solar access on compact blocks. In most of the estate developments I have seen there are very few houses there that are socially desirable, and the private open space is pretty much useless. The solar access for the private open space is inadequate. You are putting big dwellings on small blocks. That is what has occurred in the past. I do not know what is going to occur in the future as a result of this draft variation. But that is my particular observation of some of these estates. The whole estate is comprised of perhaps a third multi-unit complexes—the plot ratio is now 65 per cent for those—and compact blocks, where the whole block is filled up with a house. I do not find that particularly acceptable.

**Mr Arundell:** I have noticed in consultations about urban infill that developments like the ABC redevelopment just across there, where they are talking about something like 15 storeys, have raised a lot of opposition, much more than just progressively

increasing density. It is sort of taking a quantum leap in urban density all in one go that seems to be what gets people's backs up.

**THE CHAIR:** Mr Larson, what are your views about the solar provisions within 306?

**Mr Larson:** If they are implemented, it could be good. If developers are allowed to do their own thing and they just cannot comply—and Weston Creek made that point—on sloping blocks, on difficult terrain, how are you going to create a subdivision that can possibly comply in most respects? They have provisions in DV 306 for non-complying blocks and the houses that go on them. That would be nice if it happened but I am not terribly confident about it for a lot of these subdivisions. The solar access for a lot of dwellings is still going to be inadequate. In all the ones I know of, it is inadequate. There are very few houses—they have got five-star ratings or 4½-star ratings, but that is done through other means. It is not through passive solar buildings.

**MS LE COUTEUR:** Getting back to estate development and the sort of suburb you are talking about, North Watson, I believe that is a community title development there. I believe the reason for that is that TAMS would not approve the road layout and maintain the pond. Other developers have told me that they would like to do what they regard as more innovative designs as far as roads and footpaths are concerned. In particular they would generally minimise roads, for instance, making them a one-way road where there are only a very limited number of dwellings that would use that road, and they have not been allowed to do it by TAMS.

**Mr Larson:** I find that very interesting, because the initial plans that they drew up in 2008 are very similar to what has happened now. So if that has occurred over a four-year period, when TAMS became involved in this, I find that rather odd.

**MS LE COUTEUR:** I am not suggesting that the plans have changed particularly. I do not think TAMS was particularly happy from—

**MR COE:** From TAMS wanting it to change; is that what you are saying?

**MS LE COUTEUR:** I could be wrong about whether or not it ended up with community title, but I am certainly sure of my memory in that at one stage they were saying that they were going to have to sell it as a community title development because TAMS was not happy with the infrastructure they were providing. The pond was probably the biggest issue because TAMS did not want to have responsibility for the pond. There was also the hall, and I believe that TAMS may have had some issues with the road provision. But that was No 3 of TAMS's issues.

On the first two, I think we would all agree they were positive aspects of the development, regardless of whether you felt the development should have happened or not. But more generally I have been told by many developers that they would like to provide less road space in the small, isolated parts of a development. Where there are only going to be a dozen houses using a bit of road, they would like to make it smaller and potentially not have footpaths because there will be virtually no traffic on the road. You could combine the footpath and the road because there are very few cars. But TAMS has not allowed them to do this. TAMS has had its own separate set

of rules to extend, which are now put into 306, as I understand it.

**Mr Arundell:** There is no requirement either in the future areas urban subdivision code, which is what we have at the moment, or in DV 306, for lanes or woonerfs to have footpaths. A woonerf is a Dutch term for a street that is designed for pedestrians and cars to share. With something like that, you could call it a woonerf and it would comply with DV 306, as far as I can see.

**Mr Larson:** Regarding the pond, that is a statutory requirement on a development that covers 10 hectares. They have to have a retention basin on site. It is not a recreational type. Most of the developers say that it is used for recreation but it is not. It is really just a retention basin to collect stormwater and hold it back, I suppose. They look nice. They do not fulfil much of an ecological function. They probably look good. Residents like them.

**MS LE COUTEUR:** They are probably good for watering the greenery around, too.

**Mr Larson:** But they have to do that by law. We forced them, basically, to put a pond there. As far as the infrastructure is concerned, that is completely new to me—the road infrastructure, the layout. It looks very similar to every plan that they have produced from day one, when they had to present a planning study at the start in order to do a draft variation and that sort of thing. The plan has not changed very much at all.

**THE CHAIR:** With regard to your opening statements around footpaths and the maintenance of them, I am sure you are aware that we have more footpaths and cycle paths in Canberra than anywhere else in Australia, per kilometre of space. I think that is a record.

**Mr Arundell:** I sincerely doubt that. I had a comment from somebody who works in Victoria walks who was astounded that we do not have footpaths on all of our streets.

**THE CHAIR:** I am talking about cycle paths as well, so you include your cycle paths—

**Mr Arundell:** We have more kilometres of cycle path than Copenhagen, and we have about one-tenth the rate of cycling. Because we are so spread out, the distances that people have to travel in Canberra are just too much for walking and cycling.

**THE CHAIR:** That is why we have a large number of paths. If you include the total number of paths—we will check it—I have been told that we have a lot more for the total area of Canberra than elsewhere.

**Mr Arundell:** Possibly for the total area, but do not forget that in this area there are many cities in the world that would have 10 times as many people. Copenhagen has 14 times the population density.

**THE CHAIR:** That is right. Just going back to the issue of cost, which obviously involves economies of scale as to how you actually keep the maintenance up, if the plan goes ahead, would you be suggesting that every suburb that has not got these

footpaths now should be retrofitted to enable them to have those footpaths that they have not had in the past? Is that what you are saying?

**Mr Arundell:** I would be, yes.

**THE CHAIR:** You are suggesting that?

**Mr Arundell:** As far as economies of scale go, you were talking about urban density before. If you have 10 times as many people living in an area, you do not need 10 times as many footpaths.

**THE CHAIR:** No.

**Mr Arundell:** So per person, the cost goes down if it is denser. But until people have footpaths, they miss out on all the benefits of having footpaths.

**THE CHAIR:** With the photos you have shown us, those areas should be—

**Mr Arundell:** They should be clear.

**THE CHAIR:** That is not—

**Mr Arundell:** Nobody enforces that rule.

**THE CHAIR:** Well—

**Mr Arundell:** Unless somebody reports it.

**THE CHAIR:** Yes, someone needs to report it.

**Mr Arundell:** When you park in Civic, if you park illegally, the government does not wait for somebody to come and report your car as being parked illegally.

**THE CHAIR:** That is right, but it is really good when residents do point out what happens in their streets, and it is very helpful.

**Mr Arundell:** And that is not uncommon in Canberra.

**THE CHAIR:** We have run out of time for questions. There is afternoon tea, if you would like to join us. We are going to pause now for a short break of 10 minutes. Thank you very much to both of you for coming in today and presenting that to us. We will send you some further questions, if members do have them. You will be sent a copy of the *Hansard* for you to have a look at, in case there is anything Hansard has not picked up. Thank you very much.

**Short adjournment.**

**ELFORD, MR PETER**, Vice-President, Gungahlin Community Council

**THE CHAIR:** Good afternoon, Mr Elford from the Gungahlin Community Council. We welcome you to this public hearing this afternoon on DV 306. I draw your attention to the privilege statement on the blue card. Are you familiar with the privilege implications contained within it?

**Mr Elford:** I am.

**THE CHAIR:** And you are happy with that?

**Mr Elford:** I am.

**THE CHAIR:** Thank you. Would you like to make an opening statement?

**Mr Elford:** Thank you for the opportunity to be here today. I am the Vice-President of the Gungahlin Community Council. I have held that position since October 2010. I will make a short statement, really to preface why I am here and what I think is important about the Gungahlin position.

As you are well aware, Gungahlin is very much a greenfields development. It is not, therefore, a redevelopment site. Most of the construction is new. It is growing very quickly. That means that we see a lot of development occurring almost constantly and, in many cases, we see pieces of road ripped up, re-laid and reconfigured. The volume of development that comes through is extremely large. And I think one of the things we will need to consider as we carry this process forward is how we deal with a greenfields development where, whatever process you put in place to deal with development applications, it needs to cope with those areas that are going to have very high volumes of activity. We have a very young demographic, and we have a continual influx of people into the region. So that is the background to the Gungahlin Community Council.

We are, like all the community councils, a volunteer organisation. We have a high turnover of participants. There has not been much turnover, but in the last little while there have been quite a number of new people come in and some longstanding members leave. And with that goes a lot of our corporate knowledge. I guess I would be careful in using the term “corporate”. We are an amateur group. We have very limited resources to respond and, in many ways, I think it is dangerous to assume that consulting the community councils is going to give you good, expert advice. The best case outcomes you will get are from community councils that have longstanding engagements in issues of redevelopment and development, and they are the ones who, through the school of hard knocks, will be able to bring something to the table. But I think it is dangerous to assume that the community councils have a body of expertise in and of their construction. It is usually individuals who bring that forward.

It is also very difficult—and you may have heard this from other community councils—to get a community position. We try very hard through electronic and face-to-face means to gather a position at a community level. But it is extraordinarily difficult. And I am sure the government, indeed, finds that at government level, and we find that at regional level.

That is the preamble. I guess there are three major topics I just want to put out there. In our consultation within our own executive and with some other stakeholders, the feedback we have got from some of the professional groups is that there have been a lot of ongoing concerns with 306 and its two ancestor draft variations, and there seems to be a general consensus amongst the professional bodies, the Institute of Architects and the Planning Institute, that the quality of this document has not progressed to the point where they want it, and that gives us a level of concern. We really cannot comment on that other than that we seem to see a consistent level of concern, because we do not have the level of deep expertise that they bring to this conversation.

The topic that jumps out for us the most and that has caused us the most angst is the issue of streetscape and desired character. We have had a number of developments occur in Gungahlin that are not sympathetic, as far as we can see, to almost anything around them. They are extraordinarily unattractive. They are not sympathetic to either existing developments or developments around them, and we feel that the wording that is in 306, consistent with other comments we have seen, does not have enough detail about how you are going to define and enforce streetscape and desired character. And we think they are incredibly important factors. They are very important for Gungahlin, where we are building a new community and we are trying to avoid that horrible building or this terrible street. We are trying to avoid that. We would like to see that avoided. And I think there needs to be a lot more rigour around how you define a process to ensure you maintain good streetscape and desired character. So that is very difficult.

The last point is that we obviously would like to see better efficiency and better quality of homes. While the solar agenda is excellent, I guess that links back to the earlier comment around delay, around the longevity of this process, the fact that it had crashed and burned once and had to be restarted. That has held up a lot of those development enhancements and improvements. And we would like to see some vehicle for pushing those through quickly, but hopefully not at the expense of getting out a document that has got a lot of grey area that is open to interpretation.

That is what we have concluded. I am happy to take questions.

**THE CHAIR:** Thank you. We will go to the committee for questions now.

**MS LE COUTEUR:** You talked about streetscape and desired character and that you had some buildings which were problematic, to put it mildly, from what you said. Is this happening all throughout, is it just with multi-units, where there is a multi-unit next to a single residential, or only single residential?

**Mr Elford:** It is generally the boundary between single residential and an MDU, where you have a building that is very unsympathetic to the surrounding single dwellings—a big block of flats, I guess, is the throwaway line—or you get a group of blocks of flats along an extended streetscape. They are often not styled the same. And some of them are actually quite slab-sided concrete or they are really psychedelically coloured.

If you look at the suburb of Crace, which has many small flats in a very brightly coloured configuration, it actually works quite well because it is all brightly coloured. There is quite a strong thematic appearance to it. It is good streetscape. If you get that juxtaposed with a great big concrete slab building followed by something done in good old mission brown followed by something done in cream brick, it becomes very unattractive to the eye. So they are the sorts of things that we think get lost.

A single development may be okay if it, indeed, ever gets validated or approved to match a desired character or streetscape but then in the context of an overall street or region, it starts to look extremely unattractive and it looks like it is unplanned. That seems ridiculous in a greenfields development.

**MS LE COUTEUR:** I see what you mean. What do you think is the way around it? You have got three buildings, one is mission brown, another is psychedelic and the other is brutal concrete. Probably each of their designers reasonably feels it is the best solution in the circumstances. How do you think we should be regulating what is largely, from what you are describing, aesthetic settings?

**Mr Elford:** It must be possible, because if you look at suburbs like Forde, for example, it has a very common streetscape character; yet that is all individual buildings. I assume there is a strong building covenant and there is probably a process that all those buildings have to be approved.

**MS LE COUTEUR:** Yes, that is how it is with Forde.

**Mr Elford:** I mentioned the word “process” before, and I guess that is the key. There needs to be a process to ensure those things are captured. And part of this comes back to a definition of what is a streetscape, who defines the desired character and what are the elements of that definition. Is it appearance? Is it a percentage of land use? Is it envelopes of mass? The answer is that it is all of those things, even down to the level of colouring, parking. All of those things become an element of how the streetscape works. I guess the term “master plan” is often thrown around. It is something that is bigger than an individual block conception. I think that is the sort of thing we perhaps need to see.

I guess my concern in the reading—not enough reading—I have done on 306 is that it is very unclear how those streetscapes, for example, the desired characters, are going to be defined and how they are going to be enforced. So without that sort of clarity, I put up a flag and said: “We have seen problems like this. It would be good to see them fixed.”

**MR COE:** Especially for greenfields developments, the key stakeholders are not known at the time of a development. Can you envisage any ways that communities, whether it be through community groups or whether it be through individuals, can actually be engaged with the development of new areas?

**Mr Elford:** I think it has to be done up-front. Obviously you are in a situation where you are putting out greenfield land and seeking development applications for it. The developers need to be aware of whatever constraints might apply. To that end, you, the mythical someone, need a definition of master plan. Perhaps there needs to be a

master plan to define a streetscape and define a character for a region, whether it is a town centre, whether it is a precinct or community master plan, whatever it is. That probably needs to be in place before you start the development. It may be, in fact, there would be an open tender to define a streetscape or a desired character for a portion of an area.

I do not think it is an exact science. But clearly, there needs to be something better than every development stands on its own. Of course, the first development in a street of otherwise empty blocks does not have any reference point. So some reference points need to be defined. For example, in a defined suburb like Crace or Forde, a single developer has control over the look and feel of all of those units. And I guess what we are seeking is to have that sort of oversight role in place before a development occurs.

**MS LE COUTEUR:** That is very interesting. I think in some ways it would have a good result, but I can understand the reluctance of the government to be the aesthetic police. That is probably where they would be coming from, if you know what I mean. I think whatever they wrote on that subject, if they wrote it into 306, there would be huge numbers of people disagreeing. This brings us, I suppose, to the question we asked earlier when someone was talking about design quality being important. And that is really what you are talking about.

**Mr Elford:** Absolutely. In my side notes I have written here “quality”. And that has many dimensions. A streetscape is a quality measure. It is a qualitative quality measure, but it is definitely a quality feel. If there is an ugly block of flats, it reduces the value, the perception, of the entire area; so, yes.

**MS LE COUTEUR:** Do you have any ideas of how we can actually increase the quality of developments? Everyone wants high quality. Everyone says that, but how do we do it?

**Mr Elford:** I think that this notion that you can define a process to define a look and feel is appropriate. I am not asking you to define the look and feel. I am asking you to define a process to define a look and feel. You might say, “I’m seeking tenders for a master plan or a master design”—whatever you want, a precinct strategy—“that actually is going to define what the streetscape is going to look like.” In effect, you outsource the responsibility of defining that streetscape.

Would that add cost? Perhaps. Would it add time? Perhaps. Would it add restrictions? How would the government transact through the streetscape designer then with the development that happens? I am not sure, but it does happen on a suburb-level scale. Forde has a very distinct look and feel, and it is very uniform. So it is possible to achieve that outcome. You probably do not want to put all of Gungahlin in the same bucket and say, “I want everything to look like Forde or everything to look like Crace,” but you do want to understand that you do want large patches that flow together. And obviously draft variation 306 already tries to capture that flowing building bulk and buildings being sympathetic to their surroundings. But no, as a non-expert in town planning, I do not have any specific recommendations, though.

**THE CHAIR:** There are some people who would say they do not like to have a

monoculture and they would prefer to see a mixture of design and the looks of buildings. In fact, they say it is refreshing to go outside a place like Canberra where they perceive that a lot of stuff is over-planned and the like in terms of all the wonderful streets and everything going around in circles and all of those things that people say about Canberra and that give us bad press. They say they like to go somewhere like over the border to Queanbeyan where they get a street that looks untidy, in some ways, to the eye. Once you have been in Canberra for a while and you are not used to that and then you go over the border and you see something that is more, for them, like reality, they like that. As Ms Le Couteur said, there are all these different tastes that we actually are working with.

**Mr Elford:** That is right.

**THE CHAIR:** So it is how to work with everybody's different perception of what is pleasing to the eye and what is comfortable for them to live with.

**Mr Elford:** I cannot disagree with you. I agree with the point you have made. Different tastes will apply in many cases. If all the objects you are trying to put together in a streetscape are smaller, individual houses, for example, you can tolerate a much higher degree of variability. There is one house in lower Ngunnawal that is purple. Everyone knows which house it is, it is a bit strange, but it is not awful because, unless you are close to it, it does not stand out. But once the buildings get larger, particularly when you are dealing with large block MDUs, blocks of flats, they do clash with each other and with the surrounding streetscape, to labour that word.

Absolutely, you do not want a monoculture, and I think I have made the point that if you do have a master plan and you do want to have some commonality and some themes in certain areas, you also want to flow them into other areas which will have other themes—high-density construction, towers, smaller blocks, individual homes, perhaps with individual looks and feels. The ultimate advantage that Canberra has, if you like the look of Queanbeyan, is that you can live at Queanbeyan too.

**MR COE:** A question I put to other community councils is about the consultation that ACTPLA have had with the different communities. Are you happy with how they have conveyed information about DV 306?

**Mr Elford:** I have no complaints about the willingness to engage. The only thing, I guess, which I have developed a position on in preparation for today's hearing is that just because you have seen all seven community councils does not necessarily mean you have got good, expert feedback. Again, the quality of the responses you will get from the community councils will be largely a function of the individuals on the councils, who are contributing their time voluntarily. So I think heroic in death is probably the best way to describe most of the work of the councils—or just passionate enthusiasm.

So I think the engagement that has been extended by ACTPLA and now EDD around this is entirely appropriate. But if they are presenting to 20 people at Gungahlin, at one of our community council meetings, they are not going to get a broad-based response from the community, which is back to my point around it being very hard to get good community consultation. I guess I am saying the community councils are

just a small part of that. It is certainly not the end game.

**MS LE COUTEUR:** Gungahlin is obviously, as you said, a greenfield area. It is where we have been experimenting with compact blocks and integrated development. Do you have any commentary on how well they have been working, not so much from the point of view of how they look but how they actually work for the people who are living there?

**Mr Elford:** I think the individual developments succeed in the market. If people do not buy them, the developments have failed. Where I think you find the commentary and comment is around the supporting infrastructure around those developments. “I’ve moved into the new part of Crace, and there are no bus services,” or, “I never realised that the commute would be so dreadful from here.” I think the individual developments are usually pretty good. It is managing change. The point is that developments are continually happening, you move into a street, you are the only house in the street, there is no traffic, a school gets built because there was planned to be one in your street, suddenly at 3 o’clock, you cannot move. And you deal with that quite often as circumstances change and volumes increase. Look at the amount of cars on Majura Road, for example. It is not static.

I think the individual developments themselves are entirely appropriate. We could have a long, emotive conversation about block size. I am not sure that would get anywhere. People continue to buy the blocks of the size that they are at the prices they are; so that is clearly not entirely broken.

**THE CHAIR:** Just for clarification on that question, you are suggesting that there is a market for the smaller blocks and that some people like them and wish to live on smaller blocks. Do you have any comment to make about the size of the house that they build on those blocks? Previous witnesses have said that they regret that people build such large houses on a particular block. They sometimes have an internal courtyard or maybe even an internal swimming pool taken into consideration and considered to be open space. They say that the lack of private open space on the blocks is being reduced and that they do not believe this is a good way to go.

**Mr Elford:** It is not something I have sought the advice of council on, so I will have to provide a personal opinion. I think the streetscape has become very crowded as a result of very dense housing, as you have described, Mary. It just looks unattractive that there are not more spaces around the blocks. I think that is a common response back. Again, a lot of lifestyle choices are being made around not wanting to have a large garden and not wanting to have as much open space.

What I think is important, particularly as the ACT government continues to look for greater density in housing, is that it trades that off against putting back more open space for people to get out and enjoy. The walking tracks in and around the lake system in Gungahlin are extremely well used and personally highly valued. It is some evidence to me that people are trading off their own personal block for access to walking around the lake, good cycling infrastructure and all of those pieces. I think as long as good green spaces are provided for community use—good parks with multi-use supports, so you can ride, walk, skateboard, if that is important to you—all of those things make for a community that is much happier. If we went down a path

where there was no greenery at all, I think that would be a dreadful tragedy.

**MS LE COUTEUR:** Absolutely. Continuing on that line, one of the other issues that people talk about is that while there are plot ratios, which means there is some open space, that open space often manages to get covered in concrete, pavers, gravel—anything other than something growing. We have talked about that with ACTPLA and they have said there is a requirement generally for a small amount of what they describe as permeable space. Of course this is not enforced, something is built and then a year later the landscaping is done and it disappears. As someone who is living closer to the areas where this is more common, do you have any commentary about that? Should we be doing more to ensure that there are permeable spaces in the really compact development areas or do people not really want it? It is not going to work and—

**Mr Elford:** I think the answer will lie in some demographic analysis around the sorts of communities that are taking up what density of housing. I would be surprised if you would find a lot of large families living in very high density housing. I could be wrong but common sense suggests that would not be the case. I think you will find that the demographics of the smaller, high density units will be that smaller families are in there. So their need for access to space is less.

The character of Canberra and the character of Gungahlin would be lost completely if there was not a central plank to retain a lot of that. I hope permeable space means parks and open access areas, particularly designed with a purpose, so that there is a walkway and so that the park is not just a blob of green in the middle of nothing; it is actually connected by a system of parks, walkways, underpasses and overpasses, so people can actually flow through the landscape. In most cases, if you see a block where patches have been left and maybe there is a swing that has been put down safety-wise to basically a stepping ladder or something very basic, it is not very well used, because it is just a block. It is very hard to flow through it. So putting in those green spaces where there are bus shelters, where there are bike paths running through, and making a journey through the landscape, is important.

I was over in Harrison and I noticed exactly that—a spine of green that flows down the playing fields, and that flows across to somewhere else. Again, in a greenfields development, you should be able to get that right.

**THE CHAIR:** There being no further questions, this will be the end of your particular contribution today. Members may have further questions, once they have reviewed the *Hansard*, and they will get them to you and we would like to get those answers back as soon as possible. You will receive a copy of the *Hansard*, and you can correct anything that has been misinterpreted. Thank you very much, Mr Elford.

**Mr Elford:** It has been a pleasure.

**STEWART, DR JENNY**, Chair, Woden Valley Community Council

**THE CHAIR:** I welcome to this hearing Dr Stewart, representing the Woden Valley Community Council, and I draw your attention to the protections and obligations on the blue privileges card. Could you indicate that you understand and are happy with that?

**Dr Stewart:** Yes.

**THE CHAIR:** Thank you. Do you have an opening statement you would like to make?

**Dr Stewart:** Yes, I do. I have held the position of chair of the Woden Valley Community Council since 2009 and I had been on the committee of the council for a number of years before that. Thanks very much for the opportunity to appear today. I know all the community councils have been really appreciative of the efforts that the committee has made to engage with us.

We have a number of concerns about draft variation 306 and also about the planning system as a whole. So I might start by making a few observations about DV 306 and then go on to the more general issues.

We are concerned about the integrated housing development provisions of the estate development code, which is an important part of DV 306 and its predecessors. This will enable, in our view, even bigger houses on even smaller blocks in new residential developments than in the past. It is very difficult for poorly designed, higher density residential suburbs to achieve a sustainable outcome, and sustainability is a key concern of WVCC. Suburbs like this detract from Canberra's heritage as a planned city. In fact they make our city look just like everywhere else, instead of being distinctive. If you go to Harrison, for example, you could just as well be in the new suburbs to the south-west of Sydney.

The second area of our concern relates to the RZ1 and RZ2 zones and the impact of the new multi-unit code in those zones. We would like to commend ACTPLA for reinstating the 800-square metre minimum block size for dual occupancies in RZ1 and also for the density limitations in the multi-unit code, which were somewhat belatedly put in. Of course the density limitations should have been in the original version of the draft variation. But, as is often the case, it is up to those outside ACTPLA to do the work that ACTPLA itself should have done.

Those endorsements aside, we do have continuing concerns. As we recommended in our submission on DV 303, the council opposes the reduction in the minimum block size to 700 square metres for multi-unit developments. We are particularly concerned about setbacks and the potential impact that the proposed changes to setbacks will have on the suburban landscape. If setbacks are reduced, especially if that is in conjunction with smaller nature strips, this will severely limit the space for appropriately sized trees, which are so necessary to aid environmental performance in streets and suburbs and are also essential for the creation of quality private open spaces.

Next, solar access: we were very concerned that the existing requirement for a minimum of three hours of solar access to residential living areas and private open space had been removed from the original draft variation. While we welcome the reinstatement of this requirement, the three hours is really just a bare minimum. There is a lot more to solar access than meeting an energy target. It is about quality of life as well. An extremely well-insulated house that is built like a refrigerator may well achieve a six-star rating, but, if there is little or no solar access, who on earth would want to live in it?

WVCC believes that the current provisions on solar access should in fact be strengthened to mandate that all housing, both single and multi-unit developments, should be designed for optimal orientation of living spaces for solar gain, and that occurs within the range of 15 degrees west to 20 degrees east of true or solar north. They are our specific comments on DV 306.

I would like now, if I may, to make some general comments which have come through to the committee of the Woden Valley Community Council. There is a general consensus that Canberra's planning system is not working well. And I think if you were to ask the developers they would probably say the same. So we have reached the position where our current system is satisfactory to virtually nobody, except possibly the ACT government.

DV 306 in fact is symptomatic of a deeper problem. It is one of, I think, almost 90 draft variations to the territory plan that have taken place over the last four to five years. So there is a constant churn of these particular documents, with the impact, we believe, that planning values are simply being downgraded in the pursuit of short-term political and economic objectives.

ACTPLA come in for a lot of negative attention. But we should remember that they are caught in the middle between the community and developers. And ACTPLA, as I think ACTPLA would agree, lack the resources to administer the rules—which are extremely complex, even for experts—fairly and effectively.

The community continually finds that the deck is stacked in favour of developers, particularly, as is often the case, when citizens have to resort to the appeals process via ACAT. The operations of the merit track, for which we all held such high hopes when it was introduced, have actually been pretty disappointing, because, instead of giving the flexibility for high quality, what has tended to happen is that the merit track gives flexibility for developments which do not fully comply with the rules, and very often those developments are very disappointing in terms of their quality.

Redevelopment in the older suburbs—and of course Woden Valley represents very much those older suburbs—is resulting in a widespread loss of amenity. The multi-units are often of poor quality and design, and traffic and parking issues are consistently underestimated by the proponents. The community has to point this out again and again, and it is still disregarded, not just in relation to multi-unit developments but also of course for apartment style developments as well. Very often these developments are just not in keeping with the existing character of the surrounding area and the streetscape, which I know is a point that has been made to the committee by a number of people.

I am a little bit pessimistic about DV 306. I think that if it is implemented more or less as it is we can more or less guarantee that there will be a loss of public support for the government's overall project of increased density and infill. Our information is that the development industry, particularly the smaller concerns that undertake multi-unit developments, are seeing DV 306—assuming it goes through—as a green light to push ahead with many new undertakings. Not much has been happening over the last few months; presumably the industry is waiting for this change to go through.

We believe there is an urgent need for an independent review of the planning system and the operations not only of ACTPLA but also of, let us not forget, the publicly owned developer, the Land Development Agency. There is also a really pressing need for the commencement of reasoned and reasonable dialogue between developers, the community and government about what is actually meant by “quality” and how it can be achieved. A revitalised Planning and Development Forum might be one way of doing this. At the moment the Planning and Development Forum lacks its developer participants, who have withdrawn from it.

Finally, Canberra is known as both the bush capital for the extensive nature parks that surround it and as the garden city for its urban setting. These are features that we know also have a positive environmental impact. It is important that we do not lose the characteristics that make our city special. The final version of DV 306, we believe, should send a clear signal to everybody that those values remain paramount.

**THE CHAIR:** Thank you, Dr Stewart. Ms Le Couteur, do you have any questions?

**MS LE COUTEUR:** Yes. I totally agree with you about the need for good solar access. You talked about the need to strengthen the mandate so that all houses are orientated basically to the north—15 degrees or 25 degrees of north—which I have to agree is ideal. But there are certainly real issues with that if we start getting into higher density developments with multiple storeys or multi-unit developments. Do you see that we can continue to have them or should we put very good solar access as the higher consideration?

**Dr Stewart:** We believe that good solar access should be the priority and that developers should have to use their imagination and their expertise to come up with solutions that meet that priority. It really is that important, especially in a city like Canberra, which is a cold place, and a high place also. So we are of the view that strong rules are really important because they can encourage the kind of innovation and creative thinking that we so desperately need for the future of our city.

**MR COE:** Do you support the establishment of detailed precinct codes—precinct codes that, in effect, take on the form that neighbourhood plans would?

**Dr Stewart:** We are generally in favour of precinct codes. I am not sure how much detail you mean by “detailed” precinct codes.

**MR COE:** In terms of things like streetscape, perhaps even in terms of tree plantings, block sizes, all of that sort of thing: do you think that going to that sort of detail is required and is that a direction you think ACTPLA should be going down?

**Dr Stewart:** It probably is, but more from the point of view that it gives a focus for meaningful conversations to occur about how people want to see their suburbs develop. At the moment, because the system is so adversarial and in many ways so dysfunctional, we find it very difficult even to get started. In a technical sense, it is almost impossible for most people to engage with draft variations and with the welter of regulation that we have stumbled into.

**MR COE:** That has certainly been a common theme from witnesses today, and also in the submissions in general—that it is, in effect, an inaccessible document for a layperson.

**Dr Stewart:** There are good questions like people wanting to age in their own suburb—those of us who have lived in Canberra for a long time get attached to particular parts of it, and might want to downsize within their own suburb, which of course implies suitable developments to which one might imagine moving. I think many people would be attracted to that idea. But we need to have the conversation at the precinct, neighbourhood or suburb level about where and what kind of development that might represent.

**MS LE COUTEUR:** That was the sort of view that the people from Weston Creek were talking about. While they were not always totally happy about some of the apartment development, they thought more townhouses, for the sorts of reasons you are talking about, could be a positive addition. Would that be the sort of thing that you would be considering?

**Dr Stewart:** Absolutely. Nobody in the community councils would argue that we should only have detached houses on large blocks of land with big gardens around them, and that that is the future. Obviously there has to be a mix of housing. Everybody understands that. People can see in their own lives and experience that at different stages of the life cycle you do need different kinds of housing and accommodation. It is just that at the moment we have this situation where almost literally you wake up one morning and something is going on over your back fence. It could be somebody's idea of an aged-care facility, and you are on the back foot from the outset because the conversation has not been held in an appropriate way leading up to that.

**MR COE:** What pressure does that put on community councils whereby you are either a sounding board or at times a reactionary body, rather than being able to be more proactive?

**Dr Stewart:** I think there is a real wish to be more proactive. I certainly speak for the active members of Woden Valley Community Council in saying that we were absolutely delighted when the Economic Development Directorate included us in some conversations about the redevelopment of the Woden town centre bus interchange, which was something we had been nagging about for many years. Normally it is hard to get people to go along to meetings, but there were people eager to be involved because they could see there was an opportunity that something useful and important could come out of their engagement. I know community councils may be seen as being reactive, but that is only because we have not been given the

opportunities that we have asked for to be more proactive.

**MR COE:** What I was getting at before was: are you forced at times to be reactive because so many people get involved in planning when they are opposing a development?

**Dr Stewart:** That is certainly true, yes. Because of the way the system is set up—

**MR COE:** That adversarial—

**Dr Stewart:** Yes, and people get engaged when they get alarmed. That happens when something happens very close to them. Certainly there are a number of people who are regular attendees at our meetings who have had pretty horrific experiences combating bad developments, bad decision-making processes on development applications, and sometimes even worse processes around appeals where they can actually win an appeal but they may as well not have bothered because the developers just go on and on until the residents retreat through sheer exhaustion. So in answer to your question, yes, that is often what brings residents to community councils.

We do our best to help, because most people do not know what to do. They do not know what, if any, rights they have got. Most people would not have a clue whether they live in an RZ1 or an RZ2 and what that means. We have been arguing for a sort of citizens guide to development to be put together with that precise objective, so that if it does get to the point where something is happening that is alarming you do know what it represents and what you can do to oppose it or even to support it, if you want to.

**MS LE COUTEUR:** You have talked a bit about quality of development and how important that is. I have asked this question of a few people: do you have any ideas as to how ACTPLA and the government can improve building quality, design quality?

**Dr Stewart:** It cannot be prescribed. It cannot be created through rules. It can be enabled through rules. I am a great believer in having this conversation about quality and putting pictures up on the wall: “Here is this block of flats. Is that a quality development?” Obviously there are subjective elements in all this, and ACTPLA keep saying this over and over again. But it is possible to reach a reasonable degree of consensus. In fact it is surprisingly easy when you conduct a conversation in a way that is meaningful.

We started to do that a little bit with our community council meetings. Martin Miller, as you may know, Caroline, is great with technology and puts pictures of amazing things from Denmark, Norway and so forth up on the screen—or even Melbourne—and it gives people a sense of (a) what is possible and (b) what one might mean by a quality development. Certainly the values—that sense of harmony; the building not being intrusive or kind of rude in the streetscape; a building that pays attention to the values of what is around it and is not just put there to make money for somebody—make the big difference. There are many developers in Canberra who would like to do more in the way of quality, but at the moment the system is tilted pretty much in favour of the lowest common denominator. People buy those enormous houses on matchbox-sized blocks because they do not really have any alternative. The industry

does not give them alternatives, and it should.

**MS LE COUTEUR:** From the ACTPLA point of view, how can we ensure there are alternatives to the large houses on small blocks? I agree with you that it is an issue. But what can be done about it? What should be done about it? I can think of things that can but—

**Dr Stewart:** DV 306 does have some elements in it which, if they are set in the right way, make it more difficult than it would otherwise be to do poor quality development; things like plot ratios, density limitations—all those factors are important, and it is important that they should be set in the right way. But beyond that it becomes very difficult for ACTPLA. We talked about the merit track previously. Under the merit track—and most of these developments are under those provisions, not code track—it is almost like an invitation to start pushing the envelope. The context of the way that works has to change and I think that can really only change with political impetus from the relevant minister; also ACTPLA needs to be a lot more professional and a lot more confident about its own decision making. Then I think gradually we will start making some progress.

The other key player is the LDA, particularly in relation to greenfield sites but also, as we know, wherever there is a vacant car park you will find the LDA circling avidly. The LDA is a creature of government, so it is a truly bizarre situation where we find that in many ways the developer that is the least attractive is our developer—that is, the LDA, responding to strategic direction from government, which forces it to over-subdivide and put too many houses in the area. So it is not just ACTPLA; we believe that attention should be given to the LDA as well.

**THE CHAIR:** As there are no more questions and it is 3.30, thank you very much, Dr Stewart, for appearing before us this afternoon. You will get a copy of the *Hansard*. If members have any further questions, they can come back to you with those, if you could get those back to us as soon as possible.

I thank all the people who have appeared before us today for this particular hearing. The committee will reconvene at 10.30 on Friday, 13 July, when we will hear from the Planning Institute of Australia, the Property Council and the Institute of Landscape Architects. Further details will be on the committee's webpage or through the secretariat. Thank you very much.

**The committee adjourned at 3.31 pm.**