



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS**

(Reference: [Inquiry into commercial rates](#))

**Members:**

**MRS V DUNNE (Chair)**  
**MS T CHEYNE (Deputy Chair)**  
**MS B CODY**  
**MS N LAWDER**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**THURSDAY, 28 FEBRUARY 2019**

**Secretary to the committee:**  
**Dr B Lloyd (Ph: 620 50137)**

**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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## **Privilege statement**

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*Amended 20 May 2013*

**The committee met at 10.19 am.**

**CARNELL, MS KATE AO**, Australian Small Business and Family Enterprise Ombudsman

**SCOTT, MS ANNE**, Principal Adviser, Small Business, Australian Small Business and Family Enterprise Ombudsman

**THE CHAIR:** Welcome to the fifth public hearing of the committee's inquiry into commercial rates. Today we will hear from the Australian Small Business and Family Enterprise Ombudsman, Ms Kate Carnell AO; Mr Angus Nardi and Mr Marcus Conabere from the Shopping Centre Council; Mr Peter Maguire, a commercial property tenant in the ACT; Ms Carolyn Mowbray, State Director of Egan Valuers; Mr David Quinn, manager and partner of the Duxton at O'Connor; and Mr George Cassimatis, Finance Manager of Evri Group.

When witnesses appear at the table I will ask each witness if they have read and understood the pink privilege statement on the table in front of them. Today's hearings will be broadcast, recorded and transcribed. Witnesses will receive a proof transcript for their consideration from the committee's secretary, Dr Lloyd. Any requests for corrections can go through him. If any questions are taken on notice, please liaise, again, with Dr Lloyd. Standing order 254D(b) now provides that questions taken on notice are to be answered within five working days of the receipt of the proof transcript of proceedings. That having been said, I welcome everyone to these hearings and we will begin.

Welcome, Ms Carnell. I presume that you have read and understood the privilege statement.

**Ms Carnell:** I have done that, thank you.

**THE CHAIR:** Would you like to make a short opening statement?

**Ms Carnell:** I will make a short statement. First, why are we here from the Australian Small Business and Family Enterprise Ombudsman? The legislation that sets up my office gives us two roles. One is a traditional ombudsman role which is looking after individual cases where small businesses have a problem with a big business or in some cases, such as the Northern Territory and the ACT, with government or the federal government. We also have a legislative advocacy role to advocate on behalf of small businesses or small to medium businesses with fewer than 100 employees to ensure that legislation and regulation are as small-business friendly as possible.

I actually appear today predominantly in an advocacy capacity although we have had a number of ACT cases that have at some level been impacted by significant increases in commercial rates. I do not have to tell members sitting opposite that the ACT market is a little different from many others and we have a large number of small businesses that are renters in commercial properties. But we also have probably a higher number of family owned commercial properties in the ACT. There are also quite small businesses that own commercial properties in the ACT, and that runs from local shopping centres to commercial buildings and so on. We would like to suggest

today that the quite significant increases in commercial rates have impacted upon both of those groups of people.

Members may not be as aware as possibly we are, because we live and breathe it, but currently in the finance market in Australia the big banks, which lend something like 82 per cent of money to small to medium businesses, have really closed the doors. The access to finance issue is extraordinarily difficult for small businesses in Australia at the moment. There are a range of reasons for that but one of the possibly major reasons is that prudential requirements—that is, AFCA, ASIC issues in terms of enforcement and risk, royal commissions and others—have really created a situation where banks' interest in or appetite for lending to small to medium businesses has significantly decreased.

Why does that matter in this case? What has happened as a result of the quite significant increases in commercial rates is that the return on investment for people owning—we are talking about those, for me, small families that own some commercial property in the ACT—property, unless they can pass on those increases in full to their tenants then the return on investment on the property is significantly reduced, which impacts upon the value of the property. And we have seen that in the ACT. We have seen reductions in the value of much of our commercial property; not all, but a large amount.

The problem for owners of those properties in that situation is that the banks' interest in lending them money to redevelop their commercial properties to get their commercial properties up to the sort of level that probably needs to happen to compete adequately with some of the newer buildings—the very impressive buildings at the airport and in other places—is incredibly difficult. We have impacted upon their capacity to borrow the money they might need to take their B grade or their C grade commercial property up to an area where they can get the levels of rent that they need to be able to get to make the commercial rate increases viable.

We have got this cyclical problem happening in those cases, with quite significant reductions in values in some of those properties, which are C and D grade in many cases. This has impacted upon the superannuation of those families, their capacity to maintain buildings and so on, and some of the issues that we have dealt with are in those sorts of areas.

In the cases where it has been possible for landlords to pass on the significant increase in commercial rates to their tenants the issue then becomes—for small businesses in a pretty flat environment, particularly in hospitality, restaurants and retail—that the capacity to pass on to consumers is really low. There is nobody running around there at the moment in the ACT saying people are making a large amount of money in their retail or their restaurants or their cafes or whatever. We know that the market is flat and we certainly know from stats that profits have been pretty flat for the past five years, even when revenue has gone up a bit. The increase in commercial rates, which in those cases are passed on directly to the small business, has hit their bottom line. Their capacity to pass on is low.

For many businesses, though, the interest in moving over the border—and I accept possibly there are some businesses that cannot do it, but there are a lot that can—is

significant. I note the comment that ACT payroll tax is lower than in New South Wales—and that is something the ACT should be very proud of—but remember that very small businesses, in fact the majority of small businesses, do not pay payroll tax even in New South Wales, and with the New South Wales government announcements of reducing payroll tax that will become even more so. I do not accept that that is an argument to suggest that it is reasonable to have commercial rates in Queanbeyan that can be 10 per cent of what they are in the ACT. We compete directly. And we have to take that pretty seriously. I know that ACT governments have done that in a whole range of different areas.

I suppose I just wanted to start by saying that there are two groups of people—the family owned businesses that own commercial property in the ACT and the tenants—that simply cannot pass on the sorts of significant increases we have seen to ACT residents, because there is not a market there to be that much more expensive than similar businesses across the border.

**THE CHAIR:** Ms Carnell, you did touch on the issue about the drying up of finance. It has been pointed out to the committee through submissions and other witnesses that this is not an immediate problem but possibly an emerging problem. I am getting a sense that that may not be the case. Could you, from your point of view, expand on that issue?

**Ms Scott:** The work of the Australian Small Business and Family Enterprise Ombudsman is largely in the advocacy space. In the past few years we have undertaken significant work in access to finance for small to medium businesses. That also involved the financial services royal commission hearings that have just been reported to government.

There has been an ongoing issue with access to finance for small businesses. That has been well known. But emerging in the past six months there has been a definite nosedive in terms of a credit crunch for small businesses nationally. That is resulting from the banks' very conservative approach now to responsible lending. It is covered by legislation for consumers for residential mortgages but small business owners do not have that for their commercial lending. There is no legislation that covers responsible lending for small businesses.

With the conservatism of the big four banks, which is 88 per cent of the lending market for commercial businesses, they have tightened their response. Probably people round the room have had experience with getting a residential mortgage now; they have understood in the past four to six months that the banks have paid considerably more attention to their expenditure. The way that they approve a residential mortgage is not appropriate for a business but unfortunately the banks, with automating their processes, have put a blanket arrangement over commercial lending as well.

We have had discussions with senior members of the major four banks. They have seen a definite drop in the number of new loans being approved for small business. More worryingly, small businesses that are coming up to the end of their loan facility period and then going to renegotiate a new loan with their bank are finding that the door is now shutting on them. Their existing arrangements and the revenue they are

generating from the business were good enough before, but they are not good enough now. When you overlay increased pressure on the business through either the rates directly or the transfer of the rates to that business's overheads, there are even more reasons for the banks not to continue finance arrangements with that business.

Our real concern at the moment is that it is alive and well now. It is not emerging; it is now. And we are now seeing small businesses' loan facilities being closed to them, which means their businesses will fundamentally fold.

**THE CHAIR:** Unless they go and re-mortgage their house or something like that.

**Ms Carnell:** No.

**Ms Scott:** No.

**THE CHAIR:** No?

**Ms Carnell:** Possibly. If they have lots of equity in their own homes, that is always a source of finance. But remember that a chunk of the people that we have spoken to here have commercial properties that, say, they paid \$4 million for that are now worth 2.8. They owe \$2 million. The banks are not going to roll over a \$2 million loan on a property that is now worth \$2.8 million. Their interest in lending at all will be low. If they are interested in lending, the LVR that they will be willing to run at will not be 80 per cent or 70 per cent; it will be 40 per cent, those sorts of figures, in the space.

One case that we saw was facing this scenario where the bank was pulling back on the amount they were willing to lend on a rollover on a loan. Say it was that \$2 million loan. The bank was not willing to go above \$1 million. The small family enterprise did not have a million dollars to be able to pay back the \$2 million loan and were struggling to sell their property.

**Ms Scott:** The vast majority of small business loans, commercial loans, are based on property. They are not based on an assessment of the business. Banks do not do that anymore; that is old-fashioned banking. The issue will be that there is only so much equity you have in a business; you cannot keep re-using it over and over again. That equity in the current market is depending on how much people actually have equity in property, or their parents' property or whoever's property it happens to be. Once you have used that once, you cannot use it again. So one of the barriers to finance for businesses is that that equity has a ceiling to it, and you cannot go beyond it. So if you have increasing costs and lowering values of property, and the bank is being reluctant to lend anyway, that is a perfect storm.

**THE CHAIR:** I was thinking of the term "perfect storm". Thank you.

**MS CHEYNE:** Ms Carnell, you mentioned that the ACT—tell me if I heard you correctly—has a higher number of families and mums and dads who own commercial properties than in other jurisdictions. Do you have any figures on that?

**Ms Carnell:** You might like to ask Angus about shopping centres when he comes on. We do not but, anecdotally, knowing the ACT market and other places pretty well,

I think it is just due to the way the ACT grew and when we grew. When commercial properties came onto the market, there were a lot of ACT families—I think we all know them pretty well—who got into commercial properties back in the 1970s and the 1980s. They are not huge. They own two or three properties, some of them not much more than that. This is what the family has done for a period of time.

That is probably, I would have to say, because the significantly big capital—the big companies—on the whole have not moved into the ACT apart from some of the areas like the Canberra Centre and so on, and that has kept those sorts of ownership structures happening. It is interesting, and there are some downsides on that. It is probably the reason that some buildings that should have been upgraded a while ago have not been. There have been some issues surrounding that sort of ownership. But, that said, I am comfortable saying that you would not see the same level of individual ownership, family-based ownership, of commercial buildings in other capital cities. You might in rural or regional areas.

**THE CHAIR:** Just to follow up on that, my understanding of the suburban shop market, for instance, in the ACT, is that in a lot of places, even in regional towns, they would be owned by larger groups: Stockland and things like that.

**Ms Carnell:** Yes, but not in the ACT.

**THE CHAIR:** In the ACT they tend to be family owned.

**Ms Carnell:** Absolutely.

**THE CHAIR:** If your income is falling on that building, even if you have owned it for 30 or 40 years and your costs are increasing, it is difficult to justify zhooshing it up from time to time. And then you run the risk of losing tenants to somewhere which is a big newer and a bit sharper as well.

**Ms Carnell:** We could look around Canberra and see good examples of exactly that. There are suburban shopping centres that—let us be fair—are really important for local communities. We do have an ageing population in the ACT, just like everywhere else. The local shopping centre is an important part of that community scenario. And you are right: they are owned predominantly by families. The significant increase in rates—I do not have to tell you guys how much that is; I have it in front of me and you have had everybody talking to you about it in the inquiry—is just a significant new cost to those people. Can you pass it on to the small retailers that exist in those neighbourhood centres? With great difficulty. And if you do, it will often push them out the back door. It is the domino effect. You end up with an empty store and a small business that has sunk, that has gone out the back door, which nobody wants.

**MS LAWDER:** Do you have any comparison regarding how big an issue rates increases is in the ACT compared to any other jurisdiction? Is it something that is raised frequently or occasionally with your office?

**Ms Carnell:** It is raised every time you speak to ACT businesses. When they compare their costs of doing business with similar operations over the border, theirs are significantly higher. Commercial rates is a part of that, as are power prices, you could

argue, in that scenario.

We know that the ACT labour market is a challenging one for small businesses. As we know, that is due to government salaries setting the benchmark. If you have three major costs in a small business setting the benchmark, meaning that your cost of premises, your wage costs and your power costs are higher—in some cases demonstrably higher—than businesses in other places, and particularly over the border or down the road a bit, that is a real problem, and a real problem for small business.

**MS LAWDER:** In your letter of submission you talked about the need for greater transparency in the process of determining rates. Are you talking about a long-term understanding or next year's rates?

**Ms Carnell:** I think everyone accepts that you are not going to be able to say what your rates will be in 10 years time, but having a scenario whereby, in the commercial space, valuations are not done every year, and they are done in the way they are done, you can end up with a significant increase that you were not expecting. We have read the Duxton submission; I know that they are appearing later and I am sure they will make their case much more strongly than I can, but there are scenarios whereby you were not expecting an \$18,000 increase in your rates bill based upon a new valuation.

I would also argue that the capacity to have a decision reviewed is an issue. We would all accept that a scenario whereby the people who set the rates review the rates would not really get over the line on a transparency—

**THE CHAIR:** It does not pass the pub test, perhaps.

**Ms Carnell:** It does not pass the pub test.

**MS LAWDER:** Speaking of the Duxton!

**Ms Carnell:** Yes, speaking of the Duxton. But it is a problem if the review mechanism is the same as the setting mechanism. I am sure they will talk about Chinese walls and having different people, but it does not pass. I know people do not think that that is a fair or reasonable way to go.

**Ms Scott:** When you know valuations and rates cause a lot of friction, anyway, it is a problem wherever valuations appear in a decision-making process. Why wouldn't you make it more transparent, and have the dispute resolution being seen to be independent, just to save the hassle of everybody getting so heated about it?

We see this a lot where businesses require certainty. We see it in the way big businesses conduct themselves as well. Having certainty means that there is transparency of process; there are no surprises. When there is a dispute, it is seen to be handled independently, and the problem can kind of go away.

**THE CHAIR:** In relation to the setting of the rates process, we have heard a lot of evidence that the process of setting rates in the ACT is also not independent enough, because it sits in the revenue office and there is too much of an association with the

revenue office. We have received substantial evidence and a number of suggestions that that rating process should be statutorily independent. Does your organisation have a view about that?

**Ms Carnell:** It is such a difficult issue: setting rates, setting commercial rates. I think it is a logical approach. The ACT has progressed through a range of things since self-government. It certainly came of age a long time ago. Let us be fair: the revenue office is responsible for getting money so that you can determine how that is spent on behalf of the people of the ACT. You would not want a perception that rate levels were being clouded by that rather than by what is fair, equitable and competitive in the market more broadly. It would seem to be a good time to go to an independent entity. We have done that in lots of areas—power, water and other areas—in order to have some level of independence in setting a price. So it would not be a surprise; it would not be unusual, and it is very much in line with other places that have gone down that path.

**THE CHAIR:** In this space—and if you do not feel comfortable answering this question, I understand—from my reading of the rates legislation, it requires the valuation process every year to look at every lease, which clearly does not happen.

**Ms Carnell:** It does not, no.

**THE CHAIR:** We know that there is a rolling program of batch reviews. That is not the correct term but it covers the thing. Would you have suggestions about how one might amend the rates legislation to more accurately reflect what is done or what should be done in this space?

**Ms Carnell:** It is not something we have spent time looking at, I would have to say.

**MS CHEYNE:** You have also raised the time and the expense of objecting. We have heard repeatedly that there could be a perception that everyone thinks things are pretty hunky-dory because not a lot has been going through ACAT, but that is actually because people are making the assessment that it is not worth it. Would this mediation step, an intermediary step, that other organisations have proposed be suitable?

**Ms Carnell:** It has proven to be pretty suitable in other places where it has been done. The admin appeals approach is a very good system for some things but in this case people do not believe that they will get a different outcome because at the end of the day the entity that set the rates can do so. With the transparency of the model, what are you complaining about when you say that it is not fair? Where does it say that it has to be fair? From whose perspective? Anne, do you want to make some comments on that?

**Ms Scott:** Broadly, there is lots of policy work on good access to justice frameworks and systems. The point I made earlier about transparency and independence is very important, to get the message out to people, if they have a problem, to tell them where they can go.

It is also about looking at the system so that it does not get gummed up at various points. You want something that is like a triage at the front. As well as having this

independence, it is about the flow of the system, from the beginning of a dispute through to the end, how that all works, so that everybody is aware of how it works. It should not cost much, or it should not cost at all, and the time frame should be efficient.

You need to get rid of the white noise, or the stuff that is more about education and information, because that is obviously an aspect of this as well: people not understanding how the process works. It is about looking holistically at the process from beginning to end, from an original complaint, dispute or lack of information through to “Yes, there is a definite problem,” and how that whole system works together. We see that in other jurisdictions as well.

**THE CHAIR:** In this rates setting?

**Ms Scott:** No, for different topics, but about dispute resolution. There has been a lot written on access to justice for dispute resolution systems and what is best practice for them.

**THE CHAIR:** Could you help us with the research by perhaps directing Dr Lloyd to some useful starting points in that research?

**Ms Scott:** Sure.

**Ms Carnell:** We have finished a paper on access to justice, so we are right up to speed on this.

**MS CHEYNE:** And, just on transparency, I have also heard feedback about rates notices and the information that is contained within those. Have you got feedback on that or received feedback that you can share with us?

**Ms Carnell:** The figure we have got is that there is just a lack of transparency. They have got a huge increase and no particular explanation around it, no knowledge that it was going to happen and just a lack of transparency and being able to work out how it was done or what delivered this. They are sitting there knowing that their businesses have not increased a lot. They cannot sell them. There are an awful lot of businesses, a lot of commercial properties, in Fyshwick on the market at the moment. They are not selling very easily but their rates are going up. “Help us with why this would be the case.”

**Ms Scott:** When you have businesses that, when they read that, they think that their rates have been backdated, that tells you that the communication has gone awry with how that business has understood. Leaving a business with a view that this is all bad—“I don’t understand how I have got here; it has been backdated”—I do not think is a message that anybody would want to give to the community or the business community. It is about thinking, “When you have clearly got these things that have led to somebody misunderstanding, that shows there is a problem.”

**MS CHEYNE:** And, potentially, just talking about the system, when you do not have that information up front that then is taking up valuable time calling—

**Ms Scott:** Yes.

**MS CHEYNE:** and trying to get to the bottom of it. Even though we are aware of the tax reform and different approaches that have been taken; just assuming that other people are on board and know where to go online is, perhaps, a step too far?

**Ms Scott:** Yes. The likelihood is that they will pay attention to it only when it becomes a problem.

**Ms Carnell:** Personally—I am now speaking personally—I support the move from stamp duty through to land-based taxes. I think that from an ACT perspective it is a sensible approach. The dilemma is that there is no transparency on whether the increases we are seeing in rates are actually balancing with the decreases in stamp duty.

**MS LAWDER:** So-called “revenue neutral”?

**Ms Carnell:** Supposedly it is revenue neutral. And if it is revenue neutral then I would have to personally say, “I support that move and you have just got to wear that this is what is going to happen to rates.” But because you only pay stamp duty when you sell it is a lumpy space—and you pay rates all the time. I think it is important to be able to show people that it is revenue neutral and that commercial rates are not picking up a bigger part of that tab than would be reasonable; obviously the issue is what is reasonable and of course the same issues run into in residential rates as well. From a commercial perspective, these are big increases and there is no visibility on how this is balancing with reductions in stamp duty.

**Ms Scott:** And when you have got that level of uncertainty that means that businesses are very unlikely to invest. It has a stalling effect. You are quite right in terms of emerging, because that just means, “I don’t know what is going to happen in the future; so I’m not going to take the risk of investing further in my business because I might not be able to afford it because I just do not know.” So it does have a projection going forward.

**Ms Carnell:** Quite seriously, would you buy a commercial building in the ACT?

**MS CHEYNE:** I do not have enough money.

**Ms Carnell:** If we had the money, would we? And it is always a good question to ask yourself. The return on investment will be challenging with rate levels at the levels that they are at.

**MS LAWDER:** We have heard quite a bit of evidence and discussion about your mum and dad investors purchasing commercial property, paying off that loan and in that time not contributing to their super or not contributing as much to their super because they expect the commercial property to be their super in the future. Can you give us your view about that?

**Ms Carnell:** Yes. The case I mentioned earlier, the \$4.something million property that was now possibly valued at about \$2.8 million, was very much in that capacity.

The persons who owned that property were a husband and wife. The husband has died, left it to the wife, rates have now gone up, they have lost some tenants. This was her super. The whole basis of this was the revenue. And because she has got the property she cannot actually get the pension. She has got no income. She has got the income from the property but it is not actually making a quid anymore and she cannot sell it.

**THE CHAIR:** Because of the assets test?

**Ms Carnell:** Because of the assets test. The assets test has taken her out of being able to get the old age pension, but the property is not delivering a return. And she cannot sell it, one of the reasons being that the rates have gone up so significantly. I told you before that the bank is no longer willing to lend at the level they were willing to lend before. She is in an absolutely horrible spot. And I am not for a moment suggesting that commercial rates are the only issue but they have exacerbated this significantly. She came to us because she could not afford to pay her rates bill. That was the major reason. She did not know how she was going to do that.

**THE CHAIR:** In the days when there were property tax and rates, if you were not earning income on the property you were not paying the property tax portion of that, but now that is all being rolled in together and there is no relief for people who have vacancies. Is that an emerging issue as well, that people just do not have the relief?

**Ms Carnell:** I do not know. I can only talk anecdotally from the cases we have seen like this one. And I think that we have to really take seriously that the significant increase and ongoing increases in commercial rates—because there is no indication here that this increase is going to stop—

**THE CHAIR:** This is not the end of it, yes.

**Ms Carnell:** are impacting upon commercial values of properties in a number of major areas in Canberra. When that starts to happen, then the impact of vacancies, people trying to pass on rent increases and not being able to—all the things we have been talking about—starts the spiral. I think we will see more of it because, again, with the commercial rates; it is hard to see them really being tied to return on investment on these properties at all. I know it is about land being—

**THE CHAIR:** They are based on land value.

**Ms Carnell:** I know but—

**THE CHAIR:** But the overall value of the entity with the building on it is going in one direction and the land value is going in another direction.

**Ms Carnell:** That is it, yes.

**THE CHAIR:** There seems to be quite a disconnect between those two.

**Ms Carnell:** That is right. That is the understandable feeling of people in the market.

**MS LAWDER:** And in the example that you gave of that property going from \$4

point something to \$2.8 million, is it possible that a poor outcome from that may be that the bank may force a bit of a fire sale and that owner—

**Ms Carnell:** That was what was about to happen. I have not spoken to that particular family for a while. I am imagining it did happen because there was not a huge number of other options for them really. They were selling mum's family home because they had to, and she was moving in with the kids—all the sort of stuff—

**MS LAWDER:** Which, when you buy a \$4 million property, is not probably what you expect to happen.

**Ms Carnell:** That was not what they anticipated that older age was going to look like.

**THE CHAIR:** I am mindful of the time. Has anyone got any final questions? Thank you very much Ms Carnell and Ms Scott for your attendance here today and for your insights into the commercial rates inquiry. You will receive from Dr Lloyd a proof transcript early next week and, if there is anything that you need to clarify, you can do that through Dr Lloyd. And you were going to provide him with access to justice.

**Ms Carnell:** Access to justice.

**THE CHAIR:** Is the paper published?

**Ms Carnell:** Yes, late last year—a couple of months ago.

**THE CHAIR:** That may be the thing that we need. Thank you.

**NARDI, MR ANGUS**, Executive Director, Shopping Centre Council of Australia  
**CONABERE, MR MARCUS**, Group Director, Urbis

**THE CHAIR:** We are resuming hearings on the fifth day of the PAC inquiry into commercial rates. We will hear from Mr Angus Nardi, the Executive Director of the Shopping Centre Council of Australia, and Mr Marcus Conabere of Urbis, the Shopping Centre Council's valuation and taxation adviser. Gentlemen, welcome. Could you acknowledge that you have read and understood the pink laminated privilege statement?

**Mr Nardi:** Yes.

**Mr Conabere:** Yes.

**THE CHAIR:** Thank you. Mr Nardi, do you want to make an opening statement?

**Mr Nardi:** Yes, please. Thank you, chair and committee members, for the opportunity to participate in this inquiry and appear before you today. I will be speaking largely to the submission that we provided, which I note is now on the committee's website.

Our members, as outlined in our submission, own and operate several shopping centres across the ACT. We included all of those companies. They are principally larger companies, including Charter Hall; ISPT; Mirvac; QIC; and Scentre Group, which is the company that owns and operates Westfield shopping centres.

The key issue that we have highlighted in our submission is that the growth of commercial rates, not just in terms of the published rate in the dollar but in terms of actual rates paid, has vastly outstripped the growth of statutory land valuations. In the sample modelling provided in our submission, we have highlighted that there is an adverse gap of around 90 per cent across the period from 2012-13 to the current period. It shows that valuations in our sample have decreased but the rates have increased substantially. The de-linking of rate setting from statutory land value is a cause for concern for our industry, and we believe it is a serious shortcoming of the rating framework.

With me is my colleague Marcus Conabere, who is the group director of the national consultancy group Urbis, who is our longstanding national valuation and rating adviser. Marcus undertakes statutory valuations for our members across the country. I might turn to Marcus to provide some brief opening comments.

**Mr Conabere:** I thought I would just link it back into the focus of the inquiry and speak at a reasonably high level.

The first point was the process for determining the actual rating factors. In the ACT we have a residential factor and a commercial factor at the end of the day. Effectively, what we look at when we are doing a lot of this work is how the rates burden has actually been apportioned between the different classifications of properties. In the ACT it is limited to resi and commercial.

**THE CHAIR:** And rural.

**Mr Conabere:** And rural, sorry. We sought to determine how that is actually done. Typically, there will be government policy or it will be referenced in the enabling legislation as to how that process actually occurs. From our review, we could not find where that was specified in either an ACT policy or the legislation. We made an inquiry with treasury, and we were referenced to a response to a question on notice, which was dated 26 October 2018. That had a series of questions, one of which said, “How is the actual rating factor determined?”

**THE CHAIR:** So that is the only source of their—

**Mr Conabere:** That is the only source that we could find.

**Mr Nardi:** Sorry, chair: we made an inquiry of treasury; that was the source that they referred us to.

**THE CHAIR:** So it was not a sort of fact sheet or a Q&A on their website?

**Mr Nardi:** No.

**Mr Conabere:** Correct.

**THE CHAIR:** Or anything on the back of an envelope that was on a file somewhere.

**Mr Conabere:** Correct.

**THE CHAIR:** Wow. Okay.

**Mr Conabere:** In the context of this answer to the question, I will talk about how rates are calculated. Effectively, the response said that every year there is a percentage increase in the total rates collect that the state sets. Basically, that is your first starting point.

The balance of the answer then says that what we have to take into account is movement in the valuation. In the ACT we have what we call an annual revaluation process. That means that the unimproved value is assessed every year for every property. Effectively, we have changes in value and then, equally, as property is developed over time, new properties come into that taxation base.

What typically happens in standard rating policy is that you will say, “We need to collect X dollars. Our total, our rating base, our total unimproved value across the entire state, is X dollars.” That is then typically differentiated between your residential, your commercial and your rural. Basically they all have a different taxation rate on them.

It said, “This is how we do it. We work out how much we need. We work out what our valuation base is. Then we work out what our taxation rates need to be to deliver that amount of revenue.” What it did not explain was how the apportionment of that

burden between the residential, the commercial and the rural is actually calculated.

In rating policy in Australia, that burden is held generally constant; the burden is set. It may be, as an example, that we have 50 per cent being paid by residential, 40 per cent being paid by commercial and the balance being paid by rural, just as examples.

What happens when you get differential movement in the valuation? When we do a reval every year, we can have varying movement from the prior year based on a classification of property. We could have one year where residential property increases, commercial property decreases and farmland is constant. Basically what happens in that equation is that the rate in the dollar is adjusted to reflect the same collect that would occur, so you will see variations in the actual rate in the dollar.

We cannot find anything that dictates how that has been done. We can go to other states and they will publish the total value for each group of property so that you can look at it and say, "That is the total figure. They have applied this taxation rate to it. Therefore the amount of tax coming from that particular category is X dollars." If you do that for the three categories, you can determine if there is any change in the weighting of that tax burden between the three property categories.

**THE CHAIR:** And you can see that change sequentially over time?

**Mr Conabere:** You can. As I said, standard policy will be that once that distribution of rates or the actual rate burden is set between the various categories, the valuation movement is normalised in the taxation rate to make sure that, moving forward, we have the same collect from those same categories. So we are not actually changing the rates burden between the categories. Without that detail to know what the total unimproved value of each category or class of property is, we cannot sit here today and say that the rate burden has changed. What I mean by that is that the decision has been made to put more of the rates burden onto a particular class of property from what was originally set.

Our view on that is that there has clearly been a redistribution of the rates burden from FY13 to FY19 to commercial ratepayers. The reason we say that is twofold. If we completely remove the valuation discussion, so if we simply look at the taxation rates that are applied to residential and commercial, and we look at how they have changed from FY13 to FY19, as Angus touched on, the top tax rate for commercial, the percentage change from what was charged in FY13 to FY19, is 98 per cent. That is an annual compounding growth rate of 12 per cent, which is very significant in comparison to other states. If you look at the residential tax rate over the same period, the percentage change is only 38 per cent, and therefore the compounding growth rate is five per cent.

That does not definitively tell us that there has been a redistribution of that quantum to commercial, because what may have occurred, and likely occurred, is that the variation in the unimproved value of those two categories year on year has changed at a different rate. But certainly it does tell us—we know commercially that the unimproved values have been generally static over that period—that effectively that correlates into a 98 per cent increase in rates payable by the average commercial

ratepayer over that period.

That is very significant. To give it some context, if you go to New South Wales or Victoria, they have a cap on the increase of rates that can be charged by local government every year. For New South Wales it is the IPART cap. Victoria have recently introduced a cap that is substantially linked to CPI. So the 12 per cent increase is very significant.

**THE CHAIR:** It is more than four per cent, four times CPI.

**Mr Conabere:** Yes, correct.

**THE CHAIR:** I am personally aware that there is a cap on rates. But that is not just residential rates in New South Wales; it is commercial rates as well?

**Mr Conabere:** The way it works in New South Wales is different. We have got to be very careful to differentiate ACT and the other states. In New South Wales and Queensland, which I will come to, local government rates are levied by the individual local governments. Then there is a separate land tax charge. So in the comparisons that we are going to make when we talk about rates here in ACT for commercial property, we are aware that it is a proxy for both council rates and land tax, because they have been combined.

The way the IPART cap works in New South Wales is not a perfect system. What it says to the council, from a council rates perspective, is that if you collected \$50 million in FY18 there is a cap of, let us say, 2½ per cent—and they announce that every year—you cannot collect more than a 2½ per cent increase off that \$50 million. What it does not do is say to every individual ratepayer, “Your council rates cannot increase by more than 2½ per cent,” because the council still has the discretion to reapportion that rates burden as it sees fit. But a 12 per cent annual growth rate in rates for commercial property is way off the scale.

The other thing that we did is very clear when you look at the history of the tax rate. Let us take FY13 as the base year for the inception of the new taxation regime. In FY14 the top commercial tax rate increased by 35.7 per cent, the lowest commercial tax rate increased by 15.7 per cent and the residential rate increased by 4.3 per cent. That has to be a significant reweighting in the rates burden that has been put in place. The only thing that could explain that would be the commercial values. Given that we have a 35 per cent increase in our tax rate, the only thing that could explain that would be that we had a commensurate reduction in the UV. The UV would have to drop by 30 per cent across the board so that our increase in rates would be comparable to the 4.3 per cent on residential.

Undoubtedly the issue we are facing today has arisen from a reweighting of the rates burden—being pushed onto commercial property. Interestingly the bulk of that happened in FY14. Looking at the subsequent increases in the tax rates, for the top commercial rate there was a 13.8 per cent increase in FY15, 10.2 per cent in FY16, 7.6 per cent in FY17, 4.7 per cent in FY18 and 3½ per cent in FY19. So we had this very abnormal increase back in FY14, where there has obviously been a reweighting, and then that has softened over time. But the problem is that the increase

in FY14 has pushed the rates to a level where they sit well outside interstate relativities. And it has continued to grow, so it has grown off an unsustainable base back in FY14.

That addresses the whole concept of how taxation rates are constructed between the properties. One of the other points that we noted, in terms of the scope of the inquiry, is the valuation process. We represent, I think, 240 shopping centre owners nationally. We negotiate all of the statutory valuations nationally, so we have very broad exposure to this process. I do not think that the issue in the ACT is the valuation process. Effectively, what you have in the ACT is what we call an unimproved rating base. I will still segregate land tax and rates but, effectively, all of the properties for tax purposes are assessed on a vacant land basis. So, effectively, the improvements that sit on a site are assumed not to exist. That same system applies in both Queensland and New South Wales. They both operate an unimproved system where every property in the state is valued every year at its land value. And, again, in the ACT you have an annual reval.

The concept behind an annual reval is that it is meant to pick up movements in the market. Victoria originally, many years ago, operated on a four-year cycle. One of the problems with a four-year cycle was that, where we were seeing reductions in property values, they were not being picked up for four years. So an annual cycle is best practice. That it is rated on land value is common practice. So, from our perspective, we do not think that the cause of the current issue really has anything to do with the valuation methodology in the state.

It is another thing to say whether the valuations are correct. There are two parts to the valuation piece. One is structure. Two is whether the actual unimproved values that are being assessed for rating purposes are the right figures. We spend a lot of time reviewing valuations for that very purpose.

One of the things that we thought would be helpful for the inquiry was to look at property values. I can only look at those through a shopping centre lens. On behalf of the Shopping Centre Council, we basically have a national relativity. We have all of our shopping centres and we benchmark all of the statutory land values to make sure that we have what we call a consistent relativity. What the shopping centre owners have to do for their tenants, given that most of their tenants will pay stat charges, is to make sure that the valuation is true and correct and properly assessed. That is our obligation to the tenants.

For the five centres that are referenced in the SCCA submission, we have looked at the unimproved values that sit on those properties as at today, so the current UV that sits on those properties. We are generally satisfied that that sits at the right level of value. If we compare that on all of our valuation matrix nationally, those numbers look pretty good, so there is a reasonable relativity. So when I am talking about the issues that we have with these five centres, it is important to note that we are saying that this is not a valuation issue for us.

One of the drivers of excessive rates could be an excessive valuation that is incorrect. Obviously there is an objection process. If that objection process results in the value being reduced, your rates are reduced. But what we are saying is that, for the five

centres we have here, the values look appropriate. And, as I said, there is an annual system. The other thing that you have here is a rolling average. Again, that is sort of best practice, because it smooths out any fluctuations in the annual revaluations. Your rating base is the average of the current UV and the two prior UVs, so you have this three-year rolling average.

On the issue about the amount of rates that we are paying and the impact on commercial owners and tenants, we have basically taken these five shopping centres that we have in the ACT and hypothetically dropped them into the New South Wales and Queensland taxation regimes. We said, hypothetically, “If we had the same statutory value on these shopping centres in New South Wales and Queensland, what rates would we be paying?” Given that, as I touched on earlier, you have the segregation between council rates and land tax, with the comparison we are making there we are calculating in New South Wales and Queensland both an amount for council rates and an amount for land tax so that we have a like comparison to the rates here in the ACT, which embodies both of them. It is a very interesting exercise. New South Wales and Queensland have a land rating system, whereas in Victoria they would rate these shopping centres on the actual capital value, so that is why Queensland and New South Wales are the relevant two to compare to.

The challenge we had with that comparison is that every different local council has a different taxation rate, which is obviously different to what we are dealing with in the ACT, where we have a common taxation rate. Land tax is easy because in each state it is a common tax scale, so there is no variation. So we have had to get a proxy for New South Wales and Queensland average council charge for the rates. In Queensland we have 32 shopping centres that we look after and represent. What we have done for the proxy is to take those 32 shopping centres, for each individual council, we have their taxation rate, and we have taken the median of those 32. In New South Wales we have 20 shopping centres in the same portfolio, and we have done the same thing. So really what we are getting to is a like comparison, removing all of the anomalies to say, “What would those rates be?” I will go through Belconnen and Woden.

**Mr Nardi:** Westfield.

**Mr Conabere:** Yes, Westfield. In FY19 for Westfield Belconnen, the total rates are \$2.321 million per annum. If that centre were in New South Wales, the total land tax and council rates would be \$1.3 million. So the ACT charge is 78 per cent higher than New South Wales. If we put Belconnen into the Queensland rating structure—Queensland is a high-taxing state from a council rate perspective—the rates would be \$1.989 million. Therefore the ACT is 17 per cent higher than Queensland. Looking at Woden is a very similar exercise. The total rates in FY19 in the ACT are \$1.802 million. If that centre were in New South Wales, land tax and council rates would be, in round numbers, \$1 million. So, effectively, the ACT is 79 per cent higher. If it were in Queensland, total rates and land tax would be \$1.528 million, ACT being 18 per cent higher than that charge. That is just a snapshot of that piece.

Finally, how this actually affects property owners, tenants, business and all of those things: when you have high statutory charges, from a tenant perspective, invariably leases are structured on the basis that tenants pay statutory charges in a retail or commercial application. So what transpires there is that these enormous increases that

are coming through are being paid substantially by the tenants, substantially by local business. They obviously reach a point where that is not sustainable, business is not sustainable. Then they float backwards from there to a centre owner, because the tenant really does not mind whether it is rent or it is outgoings; it is all money. There is a total cost of occupation point for a tenant where they are not making any money. So the impact of high rates impacts tenants and local businesses.

Equally, from an owner's perspective, when you have unrecoverable amounts that keep increasing, it is affecting your bottom line: your net rental income and therefore the value of your shopping centre. They are the two key impacts. That is a quick snapshot of our modelling. I am happy to take any questions.

**THE CHAIR:** Can I go back to the very beginning? You referred to a question on notice from October last year. Do you have the number?

**Mr Conabere:** Yes, I do. It is 1925.

**THE CHAIR:** Was that from Mr Coe?

**Mr Conabere:** No; Minister Berry.

**THE CHAIR:** No, the questioner. It does not matter. You said you did not really have a problem with the rating process in the ACT. You thought that that was—

**Mr Conabere:** The valuation process.

**THE CHAIR:** Sorry, the valuation process. You thought that, generally speaking, that was comparable with—

**Mr Conabere:** It is.

**THE CHAIR:** The outcomes are comparable. One of the things we have heard is that the process is a lot more opaque or a lot less transparent than in some other jurisdictions. It has been put to us that most other jurisdictions have a statutorily independent valuation process, whereas ours is part of the revenue office.

**Mr Conabere:** Yes.

**THE CHAIR:** Notwithstanding that, do you think that the process for establishing the land values is pretty much spot on?

**Mr Conabere:** Just to clarify that, there are three parts there. With the actual rating system—that is how I will define it initially—in the sense of having unimproved land as your rating base, the fact that you do annual valuations and the fact that you take a rolling average of all of that is common practice. I do not have any issue with that.

In terms of the valuations and how they are assessed, I would have to take that on notice. Basically, what transpires in the other states is that you have what is called a valuer-general. The valuer-general's role is to audit all of the valuations and make sure that they are true and correct. They have to provide what is called a generally true

and correct sign-off across all valuations. If that does not occur in the ACT, it should. That is the independent piece that should be occurring.

From a taxation perspective, in terms of how the actual tax is calculated, that is where it is opaque. It is simple in the sense of saying that we have an average value, it gets multiplied by a taxation rate, it has a fixed charge, and that is what we pay. What is absolutely opaque is how that taxation rate or rating factor is assessed and apportioned between the three land use categories.

**THE CHAIR:** You talked, very early in the piece, about the fact that there are three classifications of ratings—rural, residential and commercial.

**Mr Conabere:** Yes.

**THE CHAIR:** This committee has previously had an inquiry into some aspects of residential rates. During part of that the government said that there was a malapportionment between stand-alone properties and unit plans, and that led to some changes there. Do you think that the general apportionment or the general classification of commercial simpliciter is lacking in some fine grain? Are there other jurisdictions where there are different classifications?

**Mr Conabere:** Yes, most definitely. With your traditional land use category, if you took a sample across the eastern seaboard, you basically have residential—the issue around apartments and the apportionment of the unimproved value is common in other states as well—commercial, industrial, farmland and recreational. There is a myriad different categories. The additional categories give you the ability to better regulate changes in the land value.

In the sense of having a single commercial category here and one taxation rate for that category, what we find—and I am pretty sure I read it in some of the submissions—is that you will have different pockets of commercial property across the ACT. One pocket may have increased by 10 per cent, and one pocket may not have moved. The problem is that, when you have a single taxation rate, you cannot adjust for that. Basically, that particular 10 per cent increase is going to pay a 10 per cent increase in rates, and the person that has not had an increase is going to be paying 10 per cent less.

That is a challenge in all rating models because it is very broad based. But you are correct: you need to have sufficient differentiation in land categories for that very purpose. It can go to the extreme. If you go to Queensland, they create differential categories for shopping centres, which is completely inappropriate in terms of a proper taxation methodology and regime. Yes, it is limited here. You would have all of your industrial property within commercial—

**THE CHAIR:** Everything is in commercial, yes.

**Mr Conabere:** I would express caution in terms of making that too broad because it makes it a much more complex process.

**THE CHAIR:** That was my next question. There is a risk if you go too far down that track—

**Mr Conabere:** Correct.

**THE CHAIR:** and you have too many variables.

**Mr Conabere:** Correct.

**Mr Nardi:** I refer, for example, to Brisbane City Council. In Brisbane city, like all major capitals, they have a major pedestrian mall, called Queen Street. For about three or four shopping centres on the mall, there are about three different rating categories for those centres, all within the same precinct. They generally distinguish that as being shopping centres over 30,000 square metres and shopping centres over 45,000 square metres. You see an extreme level of differentiation, which we are not supportive of. Even using Queen Street mall as an example, ones that are just over the road from each other have a different rate in the dollar, from Brisbane City Council.

**MS CHEYNE:** Going back to your point about transparency, if the government did take the approach of being more transparent, how should that transparency be communicated? What is the best way to receive that information as a business?

**Mr Conabere:** In other jurisdictions—and I will bring this back to the ACT—for FY19 what would be published is the total unimproved value, the aggregate of all properties in each category: commercial, residential and farmland. The total UV would be shown for each of those categories. Obviously, the taxation rate is published. With those two numbers, you can actually see if there is a change in the apportionment of the tax burden. You can say, for residential, if I take the total aggregate UV and multiply it by the tax rate, it is now contributing that many dollars to the total collect.

If I do the same for the other two, I can compare that with the prior year, and I can see if treasury is changing that rates burden. Clearly, that is the modelling that treasury does. As I said, that is published in other jurisdictions. That is the reason we cannot sit here today and categorically say that the movement in the rates burden to commercial is 25 per cent because we do not know all of the individual valuations that are sitting in the categories.

Local government in Victoria are required to disclose that in their budget papers. Invariably, with that rates burden, unless there is a fundamental shift in why that should change, standard policy is that the rate in the dollar gets adjusted so that, across the three categories, they are paying the same proportional increase in rates, and so that the burden does not change.

The reason we are sitting here today is that in 2014 that burden changed dramatically with that increase of 35 per cent in the rates for commercial, with resi going at four per cent.

**MS CHEYNE:** In terms of the budget papers, should there be more effort from government to explain the tax reform that is going on? As a member—I will not speak for my colleagues; I am sure they can reflect on this—I know it is something that has been around for quite a long time; I know how pervasive it is in the community, and

business psyche is pretty low.

**Mr Conabere:** It is a good question. We often meet with government on these issues, and we talk about the best practice. If you get a rates notice and for no explained reason your value stayed the same and all of a sudden your tax rate is up substantially, and you are paying a 20 per cent increase in your rates, or 35 back in 2014, we say that best practice means that there needs to be an explanation as to why that has occurred. The only explanation for that is, “We have decided, for reasons A, B and C, that we are going to re-weight the tax burden away from residential to commercial.” So best practice is that explanation.

When I say it is in the budget papers, certainly in Victoria those budget papers are published in draft. Submissions can be made on the allocation of rates as part of that process. One of the things that we do is to watch that movement. We might see an unexplained change and the reality is that, from an equity viewpoint, unless the commercial property is deriving some wonderful, new benefit from the rates, that burden should stay pretty constant; it has been set.

We see this again and again: the burden gets shifted from the political residential base to the higher value commercial properties, but what always gets lost in that is that that is actually going down to the businesses, and it is hitting the businesses.

**Mr Nardi:** A way that we look at it, as outlined in our submission, is particularly where the rates are growing well beyond other metrics. A common metric is CPI. It is quite a well-known metric for all sorts of things. When something is going up two, three, four or five times CPI, or in our case two, three or four times the growth of the valuation, where is the explanation for that? As Marcus said, you then ask, “Are we getting that increase in government services?” There is that lack of explanation. Sometimes it might be in a budget paper and you can see what the numbers look like, but what is the actual explanation for it? That is often what we are trying to grasp.

**Mr Conabere:** Often there is no explanation, and that is invariably why it is not published and it is silent. The fact is that politically it is advantageous to shift the burden from the residential ratepayer to the commercial. It is twofold; as I touched on earlier, it is not just about the commercial. Where we have a progressive tax scale, as we do here, for the rates, obviously, the higher your UV, the higher the tax rate that you will pay. That burden has shifted within those categories as well; so the big push has been on the higher value property. We understand the politics of that, but, as I said, the problem is that it is hitting the mum and dad retailers.

**MS LAWDER:** I was about to go to the comment in your submission about the unlinking of rates between commercial and residential, but I will move on, since you just covered some of that, and ask about the rationale—and ask you to make it quite clear for me—for your suggestion or recommendation for a new rating benchmark which ensures commercial rates and the growth of commercial rates are linked to statutory land values. Can you explain for me how that would be different to the current valuation process?

**Mr Conabere:** Yes, I can explain that.

**THE CHAIR:** That is a very good question. Thank you for asking.

**Mr Conabere:** The statement is generic, in the sense of Angus's point about the absolute unlinking, where we have had this 98 per cent movement in rates and values have stayed the same. In the context that the state has come out and said, "There is a six per cent annual uplift that we want to see in total rates collect," basically the point that we are making there is that there should not be any reason that we are paying 12 per cent of that annually, as compared to that six per cent increase.

In terms of linking it to valuations, that is not done in any other state. You could not say that we want to make sure that the increase in the rates payable on a particular property are going to marry perfectly with the change in the valuation. The reason for that is that you have got an entire group there. It is not a scenario where we could say that, for commercial property, on average it fell by five per cent or this property here was up 10 per cent. It cannot be linked in that sense. But the link is that if the whole category is down by five per cent, for example—

**MS LAWDER:** Shopping centres, you mean?

**Mr Conabere:** Yes, the whole commercial category. I am talking of the ACT categories. If commercial is down five per cent across the entire category and the state government is saying, "We want a six per cent increase in rates year on year," basically what you would expect to see—and this is not perfect mathematics—is that your rate on the dollar for commercial would be 11 per cent, to reflect the fact that the values have dropped five on average and to acknowledge the fact that we want to see a six per cent uplift. Therefore, you would see an 11 per cent change in your taxation rate.

But when you multiply that out, what you find is that the increase in rates for that category is the six per cent. That is the linking to the valuation that we talk about. Invariably, that is the way policy is done. What that means is keeping the same tax burden for each category.

As we have said, what has occurred is that—and we are looking at our five shopping centres where we have said their values have been pretty static over that journey and the increase in rates has been 98 per cent—within that category, that commercial category, other properties may have formed. They may have increased. So it is linking it back to your category and having that alignment.

**MS LAWDER:** I am certainly not here to do the Treasurer's job for him, but can I ask then: if you were in an area with high vacancy, would you feel it was equitable that you were being charged the same increase as someone in a fabulous, vibrant new area?

**Mr Conabere:** Good question. That should be covered by the valuation process, though. Given that you are doing it annually—if I am in an area with a high vacancy rate, the reality is that the land value in that area will have dropped—if I come and do a hypothetical feasibility and say, "I am going to buy that parcel of land," the risk factor that I put in for either the lower rent or the fact that it is going to be vacant will mean my land value should be lower. If I am in a stronger area, it will mean that my

land value should be higher.

The issue that we have here with the single commercial category is that basically—let us say this one has gone up 10 per cent for land value and this one is down 10, but on average we are only down five per cent; it is not a perfect science because we are not valuing all the properties individually—your valuation process should account for that. The only way to rectify that, which is completely impractical, is that you turn around and say, “We’re going to look at every property individually in terms of what its value does.” That does not occur in any state anywhere.

**THE CHAIR:** Despite the fact that the rates legislation in the ACT says that every year every block will be looked at?

**Mr Conabere:** Yes. The problem—and I will touch on this—is that the valuation process is a mass valuation. When we say that every property is looked at—and you are absolutely right—it comes down to the quality of the valuation that is being undertaken. I cannot comment on that. I have only looked at the five centres that we have got and where they sit. But if the values that are being updated annually are not reflective of what is going on in the market, absolutely you are going to have an inequity in that space.

Then there is the three-year rolling average that you have got. One of the interesting points in Queensland is that if your current statutory value or UV is lower than your three-year rolling average—let us say we have had a big dip in the property market but we had two years that were higher here, so the average of the three is higher than the new—they adopt the new. Effectively, you would argue that that is a much more equitable approach. They would not take the three-year rolling average. They would take the lower number and charge the rates on that basis.

**THE CHAIR:** I am mindful of the time. You did most of the talking, but thank you very much. I think it was very insightful.

**MS CHEYNE:** It was.

**THE CHAIR:** You gave examples, which I took notes on here. But do you have those examples—

**Mr Conabere:** Happy to—

**Mr Nardi:** Yes. We can provide them.

**MS LAWDER:** About the Westfield at—

**THE CHAIR:** The Westfields but also did you—

**Mr Nardi:** Those interstate comparisons.

**THE CHAIR:** Did you do those comparisons for all of the shopping centres you look at here or just the Westfields?

**Mr Conabere:** No, we have done them for all five.

**Mr Nardi:** Yes.

**THE CHAIR:** Would you be able to provide those to the committee?

**Mr Conabere:** Yes.

**Mr Nardi:** Yes.

**THE CHAIR:** Thank you very much.

**Mr Conabere:** And what I will do, if the committee is comfortable, is actually summarise what we have articulated here, because it is not all covered in that submission.

**THE CHAIR:** And some of it is quite dense.

**Mr Conabere:** Yes, it is.

**Mr Nardi:** Yes.

**THE CHAIR:** And I do not mean that in a pejorative way.

**Mr Conabere:** No.

**Mr Nardi:** Yes.

**Mr Conabere:** It is, absolutely, yes.

**THE CHAIR:** Speaking for myself alone, valuation is not my strong point.

**Mr Conabere:** No; it is a unique science.

**THE CHAIR:** Yes. Some people call it a dark art.

**Mr Nardi:** True.

**THE CHAIR:** Thank you very much, Mr Nardi and Mr Conabere, for your attendance here today and your opinions. You will receive a draft proof transcript of the *Hansard* from Dr Lloyd early next week. If there are issues that appear in the *Hansard* that you wish to clarify or correct, you can take that up with Dr Lloyd. You also have undertaken to provide things to us. There is a new standing order, standing order 254D(b), that says that questions taken on notice are to be answered within five working days of receipt of the proof transcript of proceedings. When you get that, the clock starts on the five days.

**Mr Nardi:** Okay.

**THE CHAIR:** Thank you very much for your attendance here today.

**Mr Nardi:** Thank you for seeing us.

**Mr Conabere:** Thank you.

**MAGUIRE, MR PETER**

**THE CHAIR:** This is the fifth day of hearings of the public accounts committee inquiry into commercial rates. I welcome Mr Peter Maguire, a tenant of commercial property in Fadden. Mr Maguire, have you read and understood the pink privilege statement? Dr Lloyd would have sent you a copy of that.

**Mr Maguire:** Yes. I do not have a problem. Whatever I have to say can be on the public record.

**THE CHAIR:** Thank you very much. This is probably your first visit to a committee.

**Mr Maguire:** Yes, I think so.

**THE CHAIR:** The proceedings are being broadcast and webcast. They are being recorded and they will be transcribed. You will receive a proof transcript of your evidence. Mr Maguire, would you like to make an opening statement?

**Mr Maguire:** Probably a bit of background might help.

**THE CHAIR:** Yes, thanks; that would be great.

**Mr Maguire:** This came about because my daughter Shari handed me something. I own a hair salon in Fadden. My daughter Shari handed something to me and said, "Do you want to do anything about this?" I said, "Yes."

Let me give a bit of background. I am an ex-Army officer, ex-Comcare investigator and ex-ACT WorkCover inspector. I have been out of that since 2003. Initially my wife and I owned the business. My wife passed away in 2012, and I have still got it. I have had it for about 18 years.

I am a member of the Australian Hairdressing Council, which is a professional body of salon owners. It has been mostly hair salons but more recently hair and beauty salons. Our CEO, Sandy Chong, is on the board of COSBOA. It is not a political organisation; it is more about spreading the word about how good hairdressers are.

One of the things that came out of it was a thing called Sustainable Salons. I am a salon gold, according to the AHC, but I am also green, according to the AHC. March is about Charlie's Angels. We have an annual charity we support, and the Charlie Teo Foundation is the March one. If you come into a salon that is an AHC salon—and some salons that are not—you will see people wandering around in Charlie's Angels suits and what have you for the month of March.

**THE CHAIR:** They are the 60s suits?

**Mr Maguire:** It is the Charlie's Angels from the 60s and 70s, yes.

**THE CHAIR:** I just need to set the context.

**Mr Maguire:** I am now retired and on the road. I live in a motorhome, which is parked out at my daughter's place at the moment. I have come up here for this today. My new fiancée has to have some fingerprints taken with the police so that she can get police clearances from a couple of Middle East countries.

As I said, I have had the salon for 18 years. It has been interesting times.

**THE CHAIR:** You are a tenant?

**Mr Maguire:** I am a tenant, yes. Fadden shops used to be a big supermarket complex and has broken up. It now has the vet, a doctor, a chiropractor and me. I front Bramston Street and the rest are up towards the Fadden primary.

**THE CHAIR:** So there is no big anchor tenant, no big single tenant?

**Mr Maguire:** No.

**MS LAWDER:** The vet's is quite large.

**Mr Maguire:** That unit is owned by a husband and wife who live down at Bredbo. They have done that probably for the last 12 years. Initially it was owned by a man and a woman who split up and sold. I do not have a huge passing trade. Most of my clients are long term or people we draw into the business. You do not get a lot of passing trade like you do with the big shopping centres. I know that in the big shopping centres there are big rents because of that.

My evidence is really that my landlords have been very good to me. My rent over the 18 years has probably gone up about \$1,000 per month. I have a three-year review—it was a five-year review but now a three-year review—of commercial rent. The first time it came up, the valuer decided to double the rent. I balked at that and said no. Luckily one of the units had just been sold, so I was able to price it at the square metre rate and say, "No, I only have 85 square metres and you want to double it?" They wanted to double it. My landlord was very good. We had a talk and they said, "No, we are not going to do that." More recently it was done and the valuer wanted to reduce the rent. I said, "No. My landlord has been very good to me, so I am quite happy to leave it as is." Then it is whatever the CPI rise is. I think it might be the September CPI. I just cannot remember. It is usually about—

**THE CHAIR:** So there is a CPI rise between re-evaluations of the rent?

**Mr Maguire:** Each year there is a CPI rise. Whatever the CPI is, that is what the rent rises by each year, on the anniversary. I think it is August that there is an anniversary, but I think it is the September CPI that is taken. It is either September or—is it July?

**THE CHAIR:** There is one in June, one in September, one in December.

**Mr Maguire:** I just cannot remember which one it is. But they have been very good. They have been good landlords. The air conditioner decided it wanted to play up and they got one of their nephews to come in. He said it needed to be replaced. So I was looking for a new air conditioner in April, and they did not balk at that. They did not

balk at any of that. They have taken a very active role in the body corporate and helped me over the last five years. It is run by a real estate agent. All they did was say, “Yes, okay. Give us your money. Give us your money.” Since my landlords got involved, they have redone the front of the place with new plants, new walls and what have you. It looked like an old backyard that had been left unattended. There are new plants. And they take an active interest in the whole thing.

**THE CHAIR:** I suppose they see that there is a benefit in their tenants doing well.

**Mr Maguire:** Yes. I believe it is probably super, a self-funded super. I know that he works. He has his own business that he works in. But, yes.

**THE CHAIR:** I honestly do not know what the commercial rates are in Fadden, but you have not seen any untoward increase in your rates?

**Mr Maguire:** Only to that extent. What the valuer did previously was use a shopping centre somewhere else, one of the bigger centres, and try to apply the commercial rate per square metre there to our area. I said no. And as I said, the landlord was quite good about it.

**THE CHAIR:** Yes.

**Mr Maguire:** I do not know what the commercial rates are now. My rent is in the range of about \$500 a week, which is not too bad. I do not see it going up. We are due, I think this August, for another rent review. We both agree on who the valuer is. In fact, my solicitor was the one who drew up the lease for them, because their solicitor was having difficulty getting his head around it. It has been a very amicable arrangement between us. We were never friends—we are not friends or anything like that—but it has been very amicable in how things are done. If I have issues, I pick up the telephone, ring them up and say, “Hey, Sandra. Hey, Chris. Can you have a look at this, please?”

**MS CHEYNE:** What are the key issues overall for you as a business and as a tenant, and where do rates fit?

**Mr Maguire:** The biggest issue for me is home-based salons. I do not know whether you know, but New South Wales hairdressers have to be registered. In the ACT they do not. The problem is that if you have somebody who might have done two or three years at the CIT, or any other RTO for that matter, they can set themselves up as a hairdresser but they really do not have the certificate III in hairdressing, or any other qualification for that matter. They undercut me quite dramatically at times. That, if I am trying to pay my rent, makes it very hard.

I know of one salon in particular that has been set up in a house that is almost like a commercial salon. I do not know if they pay rent, or pay their BAS, their tax or whatever, but it seems strange that somebody can set up like that. I know of a lot of people who set up as home salons. Just look at Facebook. They are advertising, and the prices they charge and the stuff that they use is unbelievable. I have to have insurances for public liability. I have product liability. If you come in and I do your hair and it turns to jelly, I have a \$20 million policy—

**THE CHAIR:** And you would be paying all of it out if it turns green. And Ms Cheyne—well!

**Mr Maguire:** Well, that too. If it ever turns green, come and talk to us and we will look after you. My girls will look after you.

I believe that is the biggest issue: unfair competition. That has an effect on my ability to pay my rent, basically, or to run a business, when you look at all the outgoings that I have versus somebody who sets up in their home. I am sure a lot of them do not have insurance. If some kid falls over and breaks their arm, if they are renting it is not too bad. But if they are in their own home, they can lose their own home in a court case. As to product, I know there have been cases where people have sued hair salons where supposedly the bleach gave them irritation of their scalp and all that sort of stuff.

That is really it. For me, it is unfair competition. I do not mind competing on level ground. If they want to set up in their home and they are registered as a business and registered as hairdresser's, that, to me, probably is the big issue. It is a big issue for the Australian Hairdressing Council at the moment. In the AHC, we have a system where a hairdresser can register. It costs them \$29 for three years or two years, and they can put up a plaque which says "I am a registered hairdresser" anywhere in Australia. The idea is to promote the industry.

There was a big push by the AMWU recently, on hairdressers in particular. In some ways, this is a bit in competition with them. It is okay to belong to a union. To be a member of the AHC, I join, I go silver and I go gold. I went straight to gold because I was one of the very first, about eight years ago, when we first started, to be part of it. I put up some of the seed money to get it going. I think it was \$1,000 to get it on the rails. It has been very active in promoting hairdressing and promoting it as a profession. That is what it is. A lot of people say, "You are just a hairdresser." I take umbrage at that. The maths, the science and the skill that goes into being a hairdresser—

**MS CHEYNE:** I am aware, probably more than most people.

**Mr Maguire:** You are a hairdresser?

**MS CHEYNE:** No.

**THE CHAIR:** You are a consumer.

**MS CHEYNE:** You can see the benefit that I derive from people knowing what they are doing.

**Mr Maguire:** They are professional. My youngest daughter used to work for me. She has a salon near Batemans Bay now. She says that hairdressers are some of the very few people that are allowed near a human being with a sharp object. It is unfortunate that hairdressers do not see themselves as being professionals. If you go to the doctor and the doctor says, "I want you to take these tablets," you say, "Yes, sure, doc."

People come in and we say to them, “Here’s a professional product—a shampoo, a conditioner and a treatment.” They say, “It’s \$26 a bottle.” If you go to any of the supermarkets and buy your shampoo, all you are buying is detergent. There is one popular brand that makes itself out to be fantastic but all it does is put silicone on your hair. I will not name it.

**MS CHEYNE:** We all know what it is.

**Mr Maguire:** Unfair competition is probably the hardest thing for me.

**MS CHEYNE:** Just to close the loop on what you are saying, if you had to pay more in terms of rent, your earning capacity to increase that would be actually quite restricted?

**Mr Maguire:** I would have to increase my earning capacity to meet that.

**MS CHEYNE:** Yes, and that is quite difficult, in terms of current competition?

**Mr Maguire:** Yes.

**MS LAWDER:** You mentioned that you do not have a lot of passing trade.

**Mr Maguire:** Yes.

**MS LAWDER:** I guess that is because of the location—unlike foot traffic through a supermarket. Would it be fair to say that your landlord understands the value of a long-term, low maintenance tenant?

**Mr Maguire:** Definitely. They do not want me to go. They have said that on a number of occasions.

**MS LAWDER:** Has there been much vacancy in those shops?

**Mr Maguire:** Not now. There was a couple of years ago. Domino’s used to be just around the corner from us. They moved up to Erindale and it was vacant for some time. In fact, when that sold, that was the basis for me saying, “Hang on a sec; the valuer has put too much value on the square metre.” You have the vet, the doctor and the chiropractor, and I am around the corner. The business has been there for 25 years. It was actually a supermarket, and it was broken up into individual units. The doctor was the last one to go in there.

**MS LAWDER:** Under the terms of your lease, are you responsible for any refurbishments within your shop, or is it the responsibility of the owner?

**Mr Maguire:** Internally, about every two or three years I will do a repaint and I might change some of the back feature windows or feature walls. We ripped up tiles and painted the floor because the building had moved and the tiles had cracked. The landlord paid for that; then I painted it. They ripped them up and they smoothed them, and I painted it. Internal painting et cetera is my responsibility. External is theirs, or the body corporate.

**MS LAWDER:** In the running of your business, apart from labour—employees—what is the major part of your expenses? Is it products, utilities or rent?

**Mr Maguire:** Electricity. We are in the process of—

**THE CHAIR:** Probably water.

**Mr Maguire:** Part of being green is that we have water-saving showerheads. They reduce the amount of water. Part of being green is that I have gone to all LED lights. All of the equipment that we buy now is energy saving. I am not sure whether I am with ActewAGL or not; we have moved around a little bit to get better rates. The AHC has a group who source good prices on electricity. I have recently gone from using towelling towels to paper towels—disposables. They are the sorts of things that you give the client to take away to mop up stuff around the place. They are all eco-friendly.

Sustainable Salons is a group who support the homeless around Sydney. I am not sure whether they are down here yet. They come down about once a fortnight. All of my foil is bundled up. Our hair goes into a separate bag, and it goes away for oil bags. With anybody who comes in for a haircut and who has long hair, we take it off in big lumps; it is sent off to make wigs for kids. With our cardboard, I think I am 92 or 95 per cent recyclable at the moment. Even with our packaging, the plastic goes in one bin, and any aluminium or metal goes in another bin. They pick it up. The foil that we buy is recycled foil. We get credits for stuff that we provide. For others, it is a reasonable price.

Labour is a fair hit. Off the top of my head, it is \$784 a week for a senior, plus super, workers comp and all of those other things. They are the sort of things that a home salon does not pay. That is why they charge less money, because they do not have those things.

With product, we have a really good product company now. We have been through several of them. We were a customer of a couple of the bigger suppliers and found that they were more interested in the bigger salons and the high flyers rather than a local hair salon. When we first went there, we were treated as that little local salon and people could just pop in and get their hair done. You cannot do that anymore; you need an appointment.

We do a lot of stuff. My daughter Shari does my marketing. We now have a website and Facebook; we do a lot of promotions through that, and that is where we get our new clientele. The industry standard is that you need between 10 and 15 per cent new clients per year to maintain your business.

The home salon I was talking about was run by an ex-employee of mine. When she left, she took a whole pile of my clients. That is the other thing that hurts you. There is a thing among hairdressers: “They’re mine.” “No, they’re mine. I put the money, time and effort into getting them.” But that is another story.

**THE CHAIR:** Hairdressing salon owners must get together and whinge, because my

salon owner says exactly the same thing.

**Mr Maguire:** I probably know the salon owner, being a member of the AHC.

**MS LAWDER:** The previous witnesses were from the Shopping Centre Council of Australia. I have no idea what commercial rates in Fadden, in your centre, might be. For example, in their submission they said the top marginal tax rate—which you are probably not on—has increased exponentially, averaging 31.2 per cent compound annual growth rate over the last eight years. Hypothetically—

**Mr Maguire:** Growth in their business?

**THE CHAIR:** No, growth in their rates.

**MS LAWDER:** No, in their rates.

**Mr Maguire:** Okay.

**MS LAWDER:** It is 31.2 per cent over the last eight years, compounding. Hypothetically, if you had to pay a part of your rent that incorporated, say, a 30 per cent increase in rates, would that make you reassess your lease there?

**Mr Maguire:** It would make me reassess whether I still wanted to be in business. It is something I have been playing around with for about five years. Because of the staffing, and at times the negativity that gets you into the media, that has an impact on small business, I can tell you that things have been going down for the last few months while we come up to a federal election. That has happened for the last several federal elections because there is a habit, in the media and by others, of talking down the economy, talking down business. Everybody says, “I’m going to hang on to my money. I’m not going to spend it.” You are asking whether, if my rent increased by 31 per cent—

**MS LAWDER:** No, a portion of your rent, because your rent would not go up 31 per cent. A part of your rent must be attributable to helping the owner pay rates, for example.

**Mr Maguire:** Yes.

**MS LAWDER:** If your rent went up considerably more than CPI, would that make your salon—

**Mr Maguire:** I would have to work very hard.

**MS LAWDER:** I am sure that you already work very hard.

**Mr Maguire:** We actually use a model that was produced by an ex-salon owner and her husband. We use that to price ourselves. Some people say that it is dear, but it is not, when you work out what all of your outgoings are. This takes into account your staffing and all of those sorts of things.

CPI, to me, is reasonable. If the rates that the owner pays for the business went up 30 per cent and they wanted to recover that, that would hurt me. The only outgoing I have is for electricity. On the lease, I pay my own electricity, and I think there is a proportion of water, and that is one of the reasons why we went to one of these eco devices. If my rent increased dramatically, as they tried to do six or seven years ago, I would have to reassess whether I wanted to renew my lease or not.

**MS LAWDER:** I reiterate: thank goodness you have a reasonable landlord.

**Mr Maguire:** Most definitely. They have been very good over the years. I cannot fault them. I have not had experience with other landlords. These are the only ones I have ever had, other than when I have rented a house. Some of them can be unreasonable.

**THE CHAIR:** Thank you very much for your attendance today, and for giving us an insight into the operation of your business. You will receive a copy of the proof transcript from Dr Lloyd. If there is anything that you want to rectify, you can take that up through Dr Lloyd. You will get that next week.

**Mr Maguire:** Thank you very much for the opportunity. I hope it has been helpful.

**THE CHAIR:** Yes, it has. We will suspend for lunch. The hearing will resume at 2 pm.

**Hearing suspended from 12.26 to 2 pm.**

**MOWBRAY, MS CAROLYN**, State Director (ACT), Egan National Valuers

**THE CHAIR:** Good afternoon and welcome back to the resumed hearings of the public accounts committee's inquiry into commercial rates. The committee welcomes Ms Carolyn Mowbray, the State Director of Egan National Valuers. Thank you for your attendance. Have you had an opportunity to read and understand the pink laminated statement?

**Ms Mowbray:** Yes.

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

**Ms Mowbray:** I did send a submission in. I suppose I am just summarising what my submission stated, which was that the increased rates for commercial property, together with softening rents and increased supply, are affecting capital values, and outgoings have increased by close to 50 per cent of gross rents up from, say, about 20 per cent. So we are noticing that in our valuations practice.

**THE CHAIR:** Could I just go the major point for me out of that, which is that you are saying that gross outgoings are increasing. Do you have a view about what are the things that are increasing in the gross outgoings?

**Ms Mowbray:** It is the rates.

**THE CHAIR:** That is the single biggest contributor to the increase?

**Ms Mowbray:** Yes, definitely. I have been comparing them to 2011, together with the land tax of the day and the commercial rates, and added that together to what the commercial rates are now with our land tax no longer being applicable. And it has increased a lot. But just as an example with the rents, the Phillip service trades area, say Colbee Court, they were getting gross rent in 2012 of about \$142,000 and now they are getting a gross rent of about \$125,000 a year. That is just an example of the softening rents.

**THE CHAIR:** That is a loss in actual dollars as well as in real terms, yes.

**Ms Mowbray:** The gross income has dropped, and then they have got outgoings. The growth in outgoings is outstripping the growth in rents.

**THE CHAIR:** You have given this example in your submission of a lease in Colbee Court where the combined rates and land taxes in 2012 were \$11,000. Now the current rates, which is a combination of rates and land taxes, are now \$23,000 which is a 100 per cent increase for that particular property. Is that the same property where you said also that the outgoings have increased?

**Ms Mowbray:** That is just an example of the outgoings, and then I broke it down to the gross rents as well because the owner sent me the gross rents. Your rents have dropped by, what is that, nearly \$20,000 a year and your outgoings have gone up \$20,000 a year.

**THE CHAIR:** But would you see in your practice that previously if a property was untenanted there was land tax relief, but seeing that land tax has essentially been wound into something else does the landlord now have the capacity for relief if they are untenanted?

**Ms Mowbray:** I could not answer that actually. I do not know.

**MS CHEYNE:** Some of the submissions we have received discuss the valuation process in the ACT as being not quite appropriate because it is in house and quite a few people have asked should we be having an independent office. Do you have any thoughts on that and whether we should be dedicating more resources to it?

**Ms Mowbray:** No, I do not have any thoughts on that; more from a valuer's perspective, just looking at gross rents and outgoings and what I am seeing there. I do not have any thoughts on that, no.

**MS LAWDER:** In your submission—thank you for your submission—you have said that investors are not active in the market for commercial premises due to poor returns and you also said earlier that growth in outgoings is outstripping the increase in rents. As a valuer, do you base that on the number of people coming to your firm or are you aware of the broader trend across the ACT, or what do you base those statements on?

**Ms Mowbray:** I suppose it depends when you are saying an investor or a type of a developer who wants to value add. But a pure passive investor will go and buy something that has got a McDonald's there for 10 years and increased net rents, and that is all they are interested in whereas, with something like this where you are paying 50 per cent of your rent in outgoings and you do not know how much more you are going to be paying next year, and if you do not have a tenant there, that would not be very attractive for an investor. But an owner-occupier will take that on if it is at the right price.

**MS LAWDER:** Would your view be that most investors, especially perhaps bigger ones—I do not want to put words in your mouth—have done all of that background, homework, and understand the limited returns and that is why they are not investing? Or do you think some were caught by surprise?

**Ms Mowbray:** I guess “investors” covers a pretty broad spectrum of people really and what they are looking for. If I am an investor and I am looking in the market place and there is a vacant office in Phillip or, say, Deakin and it has not got a tenant in it, I might buy it at a certain price, if I can get it cheap enough. There have been a few more forced sales lately where properties have been sitting there vacant and some investors have come along and got them at a fairly cheap price.

**THE CHAIR:** But what that does is overall devalue the capital value of commercial property in the ACT.

**Ms Mowbray:** That is right, yes.

**THE CHAIR:** From your professional experience, what impact does that have over

time on the viability of the commercial market in the ACT?

**Ms Mowbray:** I suppose, for example, something sold in Barton earlier this year—and normally that would have been a pretty good quality office property—for about 50 per cent of what its value was perceived to be five years ago because it had been there vacant for a while and there were a few vacant properties in that building. Now what do you do when you value the unit next door to it?

**THE CHAIR:** But also the unit next door, somebody might have owned it for the life of the building and have a perception about what it is worth based on what they paid for it. And they might be in for a shock if they went to perhaps reassess the rents, if it is occupied, or if they wanted to borrow against their asset because of the impact of those associated sales.

**Ms Mowbray:** There have been some forced sales, more forced sales, in the past six to 12 months.

**THE CHAIR:** Can you quantify that?

**Ms Mowbray:** I cannot put that all down to increased rates, though, but that must be exacerbating things.

**THE CHAIR:** We heard evidence from the small business ombudsman and her office this morning about the implications for lending in the current environment and that that may be leading to forced sales. Are you seeing more forced sales at the moment?

**Ms Mowbray:** I have certainly seen some more forced sales in the past six to 12 months.

**THE CHAIR:** Can you quantify that?

**Ms Mowbray:** No. I could write down some examples and send them to you and then try to quantify it.

**THE CHAIR:** That would be helpful. I appreciate that you see a section of the market. But, given where you are, you would also be aware of other stuff that is going on, not just your own client base. So if you could think about it and see whether you could quantify it, that would be helpful to us as well.

**Ms Mowbray:** Yes.

**MS CHEYNE:** What else is contributing to forced sales? You said the rates are having an impact but it is not the only part of the story.

**Ms Mowbray:** We have an increased supply of office stock, a lot of secondary, so anything other than an A-grade office, has gone down in value. There is a lot of increased supply.

**MS CHEYNE:** And a lot of that is in areas like Fyshwick or Hume?

**Ms Mowbray:** No. More like Woden town centre. Some offices there went pretty cheaply. Even in the city—

**THE CHAIR:** What about the Deakin area?

**Ms Mowbray:** Belconnen, Tuggeranong, Deakin; Deakin seems to have steadied a bit but they certainly went down and struggled. And then that started to affect areas like Weston, Tuggeranong and what have you.

**THE CHAIR:** Are you really talking about office accommodation? What about other sorts of commercial accommodation?

**Ms Mowbray:** Ground floor restaurants, cafes and that type of thing are a bit of a concern as well, just because there is so much competition. The old Kingston area and Manuka have been particularly affected.

**THE CHAIR:** Affected by the new foreshore—

**Ms Mowbray:** The foreshore—and you have Braddon and Dickson. You have many more areas to go to these days. I suppose eventually the population will outstrip all that and make it all work. But I do not know. At the moment it is a struggle.

**THE CHAIR:** The newer areas, which are therefore essentially a bit sharper and more modern premises, would be attractive to people to relocate to. We have certainly seen that in Kingston, with people relocating out of the Kingston square down to the foreshore. Have you seen the new premises in Braddon putting pressure on other people as well?

**Ms Mowbray:** Yes. It is more competition all the way round.

**THE CHAIR:** You commented at the beginning that there was an expanded supply. Are you seeing the expanded supply in all of the subsets of commercial property— industrial, restaurant?

**Ms Mowbray:** Industrial does not seem to be going so badly because there is limited supply of land with industrial at the moment. So Mitchell, Fyshwick and Hume are not doing too badly. They are still being affected by the increase in rates but not as much as secondary office, not in what I am seeing, anyway.

**THE CHAIR:** You are already seeing it in the secondary office—

**Ms Mowbray:** And some ground floor commercial space. The rents in Kingston and Manuka, for example, have definitely dropped.

**MS LAWDER:** You have given another example of a previous newsagency in Kingston. At the end of that little paragraph, you have said:

The owner is concerned the UV will increase as has been the case with other lease variations and therefore increase the outgoings in tandem with decreased income.

In this case are you saying that the unimproved value is likely to increase because of other increases in the area, and that the increased supply or availability would mean that a vacant property might well remain vacant, given the combination of increased supply and higher rates due to higher unimproved value?

**Ms Mowbray:** I cannot remember the unimproved value on that one. I do not know if it has come in yet. But I know that in Phillip service trades we did a lease variation and then his unimproved value went up straight away. It has not really added to the value of his property, even though he paid a lease variation fee of close to \$20,000. And then he got hit with the rates increase too. It was a bit of a surprise how that happened. Going back to Kingston, that has been sitting there vacant for three years, at least. It is a pretty good example—

**MS LAWDER:** And they paid their crown lease variation charge in that instance as well?

**Ms Mowbray:** Yes, he paid a lease variation charge as well, just to try to get a tenant. And he cannot get a tenant.

**MS LAWDER:** In that same section where you talk about the former newsagency in Kingston, you say:

... new mixed-use developments on the Kingston Foreshore, Braddon, New Acton, Campbell, Belconnen, Gungahlin, Phillip and Tuggeranong are negatively affecting rents.

So is it the increase in supply in areas that already have a vacancy rate? Is that correct? Or a reasonable vacancy—

**Ms Mowbray:** Once if you went out for coffee you went to Manuka, Kingston or maybe Braddon. Now you have Tuggeranong town centre, Belconnen town centre and Gungahlin. Everywhere has places where people want to go. They are not concentrating into these popular inner-south areas anymore. So there is more competition all the way round in Canberra.

**THE CHAIR:** One thing that is becoming apparent to me through this inquiry is that people are trying to use the planning system to optimise the commercial viability of their properties and making changes of lease to do that.

You have given an example here where someone consolidated blocks in Lyell Street in Fyshwick. In this case that meant that they ended up with a much higher valuation, presumably because the blocks were consolidated and therefore there was a larger parcel of land, and larger parcels of land are presumably intrinsically more valuable than small parcels of land.

We heard an example yesterday of traders in Phillip who changed their lease to remove particular allowable uses and to cut their GFA down to something which actually reflected what was on the block. That did not translate into a significant reduction in land valuation and therefore rates.

What I am seeing is that people are trying to take steps to optimise the value of their commercial properties but they seem to be having unintended consequences. They do not get the savings they wanted or they are blindsided by another revaluation. Is it common that people are trying to change their lease variations to make their property more attractive?

**Ms Mowbray:** They get advice from agents who are at the coalface and will say, “If you widen your use, we might get a tenant.” Then they go through the exercise and it is not successful and it costs a fair amount of money at the end of the day. That Fyshwick property is a bit of an example. It was like, “Well, you’re going to have to spend some money, fix it up and widen the uses in it,” because it was sitting there vacant for quite a while. I cannot remember how long but it was quite a long time. The only reason he consolidated it with the block behind him, which he also owned, was to comply with the parking requirements. Once you increase it to office or public agency or something you need more parking, and he had parking in the rear block but not in the front block, so he consolidated it. The sum of its parts became more valuable than when it was separate. I explained that. He was just surprised; that is all. His gross rents are still nowhere near what they were; he was just surprised, or shocked is more the word.

I put one there for Murray Crescent in Manuka. I was looking at the net rent there in 2011, because I valued it then. His net rent was \$425 per square metre. Seven or eight years later he is getting \$359 a square metre. So that is \$65 a square metre—close to that. He is losing a square metre in seven years. The rates are exacerbating it, so it might be all a part of what happens in the market.

**MS CHEYNE:** We have asked everybody about rates notices: the amount of information that is on those and how transparent or not they are. Do you have any comments or advice on how that could be improved?

**Ms Mowbray:** No

**MS LAWDER:** One of the other questions we have been asking is how difficult or easy it is to attract valuers, especially government valuers, to the ACT. Do you feel the government should be fulfilling that role with the valuation office, or should it be independent?

**Ms Mowbray:** I do not really have any thoughts on that.

**MS LAWDER:** What about attracting valuers to the ACT? Any—

**Ms Mowbray:** Are they having trouble?

**THE CHAIR:** Yes, the government said that it was difficult to attract valuers. In your business as a private valuation firm, do you have difficulty attracting valuers to the ACT?

**Ms Mowbray:** No. Some people come from interstate and do not settle, and go back to where they came from.

**THE CHAIR:** It was put to us that there is no course at any ACT university for valuation, so you have to go looking for people, and that there are peculiarities of the ACT leasehold system that require specialist knowledge. Have you experienced difficulty in recruiting to your organisation?

**Ms Mowbray:** No.

**THE CHAIR:** I want to go back to the issue of the places in Murray Crescent. I recollect that somebody has submitted to us about this. They owned a property in Murray Crescent. Because they are formerly residential buildings, and quite old residential buildings, they are quite constrained. You cannot sort of rip them out and easily turn them into open plan and stuff like that. Does that affect the valuation of those properties and their competitiveness with other offices around the place?

**Ms Mowbray:** I suppose they are separately titled, they are heritage and they are in a nice spot, so they are still desirable.

**THE CHAIR:** There are things about them that are desirable that might offset the fact that they have poky rooms and you cannot necessarily knock through to the next one.

**Ms Mowbray:** Yes, and it just depends what else is available in the marketplace as well. But yes, they are still quite desirable. But they probably got to a point about five or six years ago where they were at their maximum value, and now the outgoings and the rents are not really enhancing the values.

**THE CHAIR:** Thank you very much for your attendance here today, Ms Mowbray, and for your submission. You will receive a copy of the draft *Hansard* from the secretary, Dr Lloyd, probably early next week. If there are issues you want to clarify that appear in the *Hansard* then you can take them up with Dr Lloyd. Thank you.

**QUINN, MR DAVID**, Manager and Partner, the Duxton at O'Connor

**THE CHAIR:** The committee will now hear from Mr David Quinn. Mr Quinn, have you had an opportunity to read the privilege statement, which is on that pink laminated card?

**Mr Quinn:** Yes, I have.

**THE CHAIR:** Do you understand it?

**Mr Quinn:** I do.

**THE CHAIR:** You have submitted to the committee. Do you want to make a brief opening statement?

**Mr Quinn:** I will summarise my submission. The Duxton at O'Connor is a bar and restaurant situated at O'Connor shops. My partners and I believe the Duxton provides employment and a high quality amenity for nearby residents and the community to meet and dine near where they live.

The impact of rising rates is causing significant hardship and risking the viability of our small business. The Duxton is contracted to a long-term gross sublease arrangement that includes responsibility for all of the rates on the property. The contributions we have had to make in the sublease have increased over the past three years by 187 per cent, or \$40,000, and an estimated 253 per cent, or \$57,000, for the following year, based on the current rating factor. It is a significant sum, taken directly from the bottom line, without return.

**THE CHAIR:** That is a lot of beers. You do not own the property?

**Mr Quinn:** No.

**THE CHAIR:** You have a long-term lease on the property?

**Mr Quinn:** Yes.

**THE CHAIR:** Are you responsible for the refurbishment and refit?

**Mr Quinn:** Yes, we were.

**THE CHAIR:** Have you done refurbishment and refit on that property?

**Mr Quinn:** Yes, in the last 2½ years.

**THE CHAIR:** Do you occupy all of the—

**Mr Quinn:** The Duxton ground floor—

**THE CHAIR:** The ground floor and—

**Mr Quinn:** and the first floor above it as well.

**THE CHAIR:** And the first floor above. You have facilities upstairs as well?

**Mr Quinn:** Yes. There are some function rooms upstairs.

**MS LAWDER:** Isn't there a basement as well?

**Mr Quinn:** There is a small cellar, yes.

**THE CHAIR:** Do you occupy the corner that goes into O'Connor Place?

**Mr Quinn:** Yes, we do, and it ends at the IGA.

**THE CHAIR:** Do you also own or run the fish and chip shop at the end?

**Mr Quinn:** Yes, which is part of the kitchen.

**THE CHAIR:** That is part of the arrangement?

**Mr Quinn:** Yes. It goes right up to Bluebell Street—Sargood to Bluebell.

**THE CHAIR:** All of them are McCaughey Street frontage?

**Mr Quinn:** Macpherson Street.

**THE CHAIR:** Macpherson Street; McCaughey is the other way.

**Mr Quinn:** Yes.

**THE CHAIR:** You have shown in your submission that the AUV in 2014-15 was \$473,000 and it is now anticipated to be \$1.4 million; it is \$1.08 million this financial year and you project that it will blow out to \$1.4 million next year.

**Mr Quinn:** Yes.

**THE CHAIR:** Are you aware of what the factors are which have caused this quite big increase, beginning in 2017-18, in the AUV?

**Mr Quinn:** I can only speculate from what I have seen, and that is the unimproved value going from \$465,000 to \$1.4 million, and the AUV being worked out on the average of the three years. You can see the scale as to how that has worked out in my submission.

**THE CHAIR:** Have you had discussions about the factors that led the valuation office to so radically increase the value in 2017-18 and 2018-19?

**Mr Quinn:** We have had discussions around it, but we cannot work out how this increase has come about. When we signed the lease in 2012 we had no idea that the

rates would go from \$20,000 up to \$62,000 in the space of five years.

**MS CHEYNE:** With the unexpected backdated bill of \$18,000, were you advised that you had to pay that in one instalment?

**Mr Quinn:** Yes.

**MS CHEYNE:** And immediately?

**Mr Quinn:** Yes.

**MS CHEYNE:** With that situation, was the bigger issue the amount payable or the unexpected nature of the payment?

**Mr Quinn:** It was a combination of the two.

**MS CHEYNE:** When you received the advice that you had to pay that, did you call the revenue office and say, “What is going on?” Did you ask if there could be potentially a payment plan?

**Mr Quinn:** No, I was not aware of any of those options. Being a small business owner, I do not really understand how the whole process works. Budgeting for that was obviously very difficult. It had quite a big impact on our cash flow.

**MS CHEYNE:** With having to pay in one instalment and pay immediately, was that because of how the rates notice was set out for you?

**Mr Quinn:** Yes.

**MS CHEYNE:** With “pay now” in the top right-hand corner?

**Mr Quinn:** Yes.

**THE CHAIR:** In relation to your back payment, did you ask the revenue office what factors caused you to have retrospective rates?

**Mr Quinn:** No, I did not.

**MS LAWDER:** Has there been any lease variation? Have you applied for a variation to the lease?

**Mr Quinn:** Not since I have been there, from July 2012. Before I started, when we signed the lease, there may have been a lease variation.

**MS LAWDER:** Just to reiterate, when you had the backdated rates, was there no explanation about why you had a bill due for back pay, if you like?

**Mr Quinn:** No, there was not.

**THE CHAIR:** You were understanding, and said, “They must be right,” and the

company paid it?

**Mr Quinn:** Yes.

**MS LAWDER:** Last week we heard from the Treasurer, and he talked about the three types of taxes: on capital, on labour and on land. In his view, as the Treasurer, land was the least worst tax. He pointed to our payroll tax limit in the ACT. In your instance—I am not sure if we used the example of the Duxton; we might have—I think he indicated that, for example, you could employ more staff and you still would not reach the payroll tax threshold. How viable or feasible is it to employ more staff?

**Mr Quinn:** From my understanding, it went from \$1.5 to \$2 million and I saved \$34,000, but that is nowhere near what my rates increases are going to be for the next few years.

**THE CHAIR:** So you have actually fallen below the payroll tax threshold?

**Mr Quinn:** I have gone above it.

**THE CHAIR:** You have gone above it, but you have had some payroll tax savings.

**Mr Quinn:** Savings from that, yes.

**THE CHAIR:** You quantify those as \$34,000, compared to a \$40,000 increase in rates this year and \$57,000 next year. Thank you.

**MS LAWDER:** So you are, in effect, still worse off?

**Mr Quinn:** I am still worse off. I also have a second venue in Belconnen which I have the payroll tax on as well, so that does not assist in my second business.

**MS CHEYNE:** What business is that?

**Mr Quinn:** It is the Brindabella Bar and Bistro in Holt.

**MS LAWDER:** Do you feel that in a way you have been a victim of your own success in enlivening the business and making it more vibrant, and therefore your rates and values have gone up?

**Mr Quinn:** If we had not done the renovations 2½ to three years ago, we would not have been able to compete in the market today. In the event that we had not done the renovations, there would be no way that we would be able to afford these rate increases. By reinvesting in the business, it has got busier. But, as we have seen, the expenses in running a business like that are just so huge these days, with electricity, wages, the cost of food and the cost of beverages. I am not sure if my reinvesting in the business has somewhat increased the value of the building; I cannot really comment on that. But reinvesting that money into the business with the renovations has helped the business move forward.

**THE CHAIR:** You recognise that you had to revamp the building to remain

competitive. Presumably your major competition now would be the Braddon strip?

**Mr Quinn:** I would say that, since the introduction of Uber, a lot of Canberrans can travel quite easily throughout Canberra. I feel that I now compete with Kingston foreshore, Manuka, Lonsdale Street and Bunda Street.

**THE CHAIR:** That is an interesting point.

**MS CHEYNE:** The increase to your rates, including the unexpected bill—what impact has that had on your budgeting as a business?

**Mr Quinn:** When we were budgeting for the renovations 3½ years ago, we were factoring in maybe a 10 per cent increase in rates; we were not factoring in a 253 per cent increase in rates. That has really hurt what we were planning to do and how we were going to budget and run our business moving forward.

**MS CHEYNE:** Has it influenced some of your business decisions in terms of where you were going to take the business?

**Mr Quinn:** I have certainly had to cut back on a lot of my marketing, and I have also had to cut back on the number of staff that I now run in the business. Just simply, we have had to find ways to cut costs to be able to afford this increase in rates.

**MS CHEYNE:** In terms of all the pressures that you face as a business owner, where do commercial rates sit? Are they the top issue for you?

**Mr Quinn:** Right now, at the moment, yes, this is probably one of the top issues that I am facing, along with the cost of electricity, the cost of food, the cost of beverages and the cost of wages.

**MS CHEYNE:** Going back to the notice that you get, I appreciate what you said before: that you are a small business only focused on running the business, rather than on understanding how tax reform works or trying to decipher notices. What information would be helpful to you and make things easier for you to navigate the system when you receive a notice?

**Mr Quinn:** I do not have any answer on that. If you call a helpline, what sort of help are you going to get or what understanding are you going to get from the helpline as to how they justify the rate increases over the years and how they evaluate the unimproved property value? I am not sure I would be able to get any assistance if I were able to call and speak to anyone on that.

**MS LAWDER:** You have made the point in your submission that it is impossible to budget when you are unsure what the rates increase might be in the outyears. You have also made the point that, simply because property land values have increased and the small business profits or turnover correlate, in actual fact they have little bearing. How would it help you to know what your rates increases would be next year or the year after that, or five or 10 years in the future?

**Mr Quinn:** It would be good if something along the lines of annual caps to rate rises

were introduced so that we could have a better understanding of what they were going to be year on year. If I look at running a small business, I look at everything increasing by approximately 10 per cent each year, and then that is how I budget for that. There is the cost of goods. With food and beverage, I can work roughly off that. It would just be about having a better understanding of the increase in rates year on year.

**MS LAWDER:** You can apply a CPI or other increase. Do you also have to factor in what the market will bear—for example, your competitors in Kingston foreshore, Bunda Street and the other examples that you gave? Are you able to do your own thing or do you have to factor in the competition?

**Mr Quinn:** I keep quite a keen eye on rents that other businesses are paying around town. That gives me an idea of where I stand at the Duxton, compared to my competitors. I keep a keen eye on what they are doing and how much they are selling their food for, their chicken schnitzels or their schooners. Then I can work roughly off that as to where I place myself in the market.

**MS LAWDER:** If your rates went up again by some very large amount, would there be a point where you could not increase your prices commensurately and you would just have to take the hit yourself?

**Mr Quinn:** I am at that place now. I feel that the consumers and the customers are not willing to pay any more than what they are paying. If you walk through a number of cafes, restaurants and bars in Canberra now, you will see that it is expensive to go out. Coffees are \$4; schooners are \$7; chicken schnitzels are \$24. That is the same across the board. All of the feedback I hear from people these days is how expensive the venues are in Canberra. That is just a direct reflection of the costs it takes now to run a small business.

**THE CHAIR:** Could I get back to your unexpected rates bill. If you do not mind, could you provide the committee with a copy of that unexpected rates bill? Had you received your rates assessment for the year and then received one out of sync which was retrospective?

**Mr Quinn:** I will have to follow that up.

**THE CHAIR:** There have been other instances brought to our attention. Some of them were unexpectedly and retrospectively rated—this is probably no joy to you—considerably more than you were. I would be interested and the committee would be interested to see what those rates notices looked like.

**Mr Quinn:** I will follow that up.

**THE CHAIR:** If you could follow that up and provide Dr Lloyd with a copy, that would be helpful to us.

**MS LAWDER:** With the increase in your unimproved value, are you aware of a number of sales of other commercial properties in the area that might have driven that revaluation?

**Mr Quinn:** Yes. I think I know what you might be talking about. There was a sale of another building in the same location, the O'Connor shops. That may have sold for more than what a lot of people thought it was going to go for, and that may have had some impact on the value of the building that I am a tenant of now.

**THE CHAIR:** In the O'Connor shops, how many separate leaseholders are there, as opposed to shops? Do you know?

**Mr Quinn:** I think there may be eight.

**THE CHAIR:** So there are eight separate buildings in the shops?

**MS LAWDER:** Separate leases?

**Mr Quinn:** Yes, or tenants. Eight separate tenants in the complex.

**THE CHAIR:** Which was the block that sold?

**Mr Quinn:** I believe it was where Capital Chemist is.

**THE CHAIR:** Does that include the post office around the back?

**Mr Quinn:** I believe so.

**THE CHAIR:** Thank you very much for your attendance here today and for your submission and your insights into how your business operates. You will receive a draft copy of the *Hansard* of your evidence. That will come from Dr Lloyd early next week. And if you could look at supplying the committee with a copy of those rates notices we discussed, that would be very helpful. If there is anything that comes up in your reading of the transcript that you think needs to be clarified, you can take that up with Dr Lloyd.

**Mr Quinn:** Thanks very much.

**CASSIMATIS, MR GEORGE**, Finance Manager, Evri Group

**THE CHAIR:** The committee will now hear from Mr George Cassimatis, the Finance Manager of Evri Group. I presume that you have read and understood the privilege statement, which is that pink card, which I think Dr Lloyd provided.

**Mr Cassimatis:** I read this yesterday, yes.

**THE CHAIR:** Would you like to make a brief opening statement?

**Mr Cassimatis:** I am the Finance Manager of Evri Group, which is a privately owned Canberra property company. We undertake property development and investment in Canberra and the surrounding regions. I manage the banking and finance there. I have a background in banking, real estate and a bit of property management and leasing.

I am obviously here today to discuss what we believe have been unfair amendments to the Rates Act in the past few years and how they have drastically affected Canberra businesses. It has obviously made a considerable impact to not just our business but a lot of businesses throughout Canberra. It is in the *Canberra Times* almost every day at the moment. It is not just commercial; you have got residential. They have increased the rates on residential units and commercial property. Hopefully, through this parliamentary hearing, you can hear some of the people's concerns, take them under your wing and do something about it.

I am primarily here to talk about one significant example in one of our properties. We manage and own quite a number of properties throughout Canberra. We are a three-generation business. I am the first of the third generation. It is obviously not a pleasant conversation to have. With this case, we actually went to ACAT recently, at considerable expense to our company. We had mediation which was, I guess, acceptable to both parties. We ended up saving a little bit of money and the government got a small win as well. Yes, that is why I am here.

**THE CHAIR:** Would you like to talk us through your example on Northbourne Avenue?

**Mr Cassimatis:** Our company owns a building at 220 Northbourne Avenue.

**MS LAWDER:** Can I ask: is that opposite the ABC?

**Mr Cassimatis:** The ABC, yes.

**MS LAWDER:** And with the little—

**Mr Cassimatis:** The Mantra Hotel.

**MS LAWDER:** Ex-Churchill House on the other side or—

**Mr Cassimatis:** Our building is the—

**THE CHAIR:** It used to be the John Overall Offices.

**Mr Cassimatis:** Yes. It actually houses ACT revenue and treasury and the ACT valuation office.

**MS CHEYNE:** This is now the story in the *Canberra Times*.

**Mr Cassimatis:** It is ironic; they pay us rent and they have increased our rates by 14 times.

**THE CHAIR:** Did you increase their rent by 14 times?

**Mr Cassimatis:** Unfortunately, we cannot because we have entered into a contract with them. It is unfortunate. That is part of the conversation.

**THE CHAIR:** I am sorry; I am going to lose it here.

**Mr Cassimatis:** Yes, I completely agree; it is a bit ludicrous. It is funny. That is the building. And it is interesting, as well, that the ACT government is going to be selling Macarthur House, across the road, shortly. It will be interesting to see what happens there. That is the building in question.

Part of the issue is that we have a commercial building there, which we purchased in, say, 2000. When we bought that property there was a strong commercial market along Northbourne Avenue. When we purchased the property it had residential use on the property. But back then the commercial use was much higher than the residential. We undertook a significant upgrade of the building in 2003.

**THE CHAIR:** You did not change the lease purpose clause?

**Mr Cassimatis:** No. There have been amendments over the years.

**THE CHAIR:** For as long as you have owned it, it has had a residential use?

**Mr Cassimatis:** Yes. I believe we bought it from AMP or some large property company. It always had “residential” on the purpose clause.

**THE CHAIR:** But at that time commercial was considered a higher and better use than residential?

**Mr Cassimatis:** That is correct. It has been tenanted predominantly to the ACT government over this time. The ACT government are tenants of a number of our properties across town. I guess the main issue arose in 2016, when our unimproved land value went from \$5.88 million to \$24 million. That was a significant increase in the land value.

That was not the whole terrible aspect of the situation, because there is a commercial building there. They valued it on the residential. They said, “Because of all these units and blocks along Northbourne, your block’s net worth is here. Now residential is worth more; so the value is up here.” But because there is a commercial building there,

leased to the ACT government, you cannot activate residential use and then charge commercial rates against the residential value.

**THE CHAIR:** You have taken the double whammy of having the higher and better use switch from one to the other, and the rating factor on the commercial, which is a lower use, is at a higher rate.

**Mr Cassimatis:** That is right.

**THE CHAIR:** Even though you have not activated the residential, you are paying commercial rates on the residential value?

**Mr Cassimatis:** That is correct.

**MS LAWDER:** Due to long-term leases, you cannot perhaps do that until 2020. Is that correct?

**Mr Cassimatis:** That is correct. We were originally going to redevelop the site back in 2015 and knock the building down because it was approaching the end of its life cycle. The ACT government approached us and said, “Can you do us a deal for a few more years until we build this new building in the city?” This is the one that is under construction here. We made a decision: “Yes, let’s sign them up for another couple of years.”

**THE CHAIR:** So you did the government a favour?

**Mr Cassimatis:** You could view it that way. It was obviously a commercial deal. But obviously at that time, when we signed a contract with them, the Rates Act was different from how it is now. You cannot really predict what they are going to do. At the time we made a decision and, through no fault of our own, due to governmental changes in the Rates Act—I note there have been, I think, three changes in the Rates Act since then—it has negatively affected the returns on our property.

**MS CHEYNE:** What was the increase, again?

**Mr Cassimatis:** It has gone from \$5.88 million to \$24 million. But we recently mediated. We went to ACAT and we agreed on a value of \$21 million.

**THE CHAIR:** It is still a fourfold increase.

**Mr Cassimatis:** It is. It obviously was a very stressful process to go through as well. I know that in the paper they were talking about an \$80,000 cost for ACAT. It actually cost us more money than that.

**MS CHEYNE:** How much? Can you say?

**Mr Cassimatis:** It was more than \$80,000. That is all I am saying. But I will say that one report alone cost \$60,000 for a geotechnical report.

**MS CHEYNE:** Significantly more than \$80,000, then?

**Mr Cassimatis:** Yes. Then you have got to incorporate solicitors' fees, valuation fees and architects' fees because you need to justify to the government why you think it is worth less than they are saying.

**MS CHEYNE:** Which is interesting, given that they are in the building.

**Mr Cassimatis:** That is correct.

**THE CHAIR:** Surely that geotechnical report will be useful to you down the track when you do redevelop that building?

**Mr Cassimatis:** It would be beneficial. But we had to initiate it earlier than expected to justify our logic—why it was not worth \$24 million. I guess part of the mediation was that they saw some merit in some of the documents we provided. But it is still a stressful process that no-one really wants to go through.

**MS CHEYNE:** The net benefit to you was much less, due to the cost of ACAT?

**Mr Cassimatis:** Actually, in two years of rates amendments—with the mediation saving \$3 million on the land value—we saved about \$60,000 per year. That is about \$120,000. But we may have spent the same amount going through ACAT. So the net result is nil and just a lot of stress and work and pain and suffering for everyone involved.

**MS CHEYNE:** I was going to say: was that ACAT costs but not your costs of the work that you put into it?

**Mr Cassimatis:** That is right. Just before I came in today I was working on our cash flow. I went to the ACT revenue rates calculator and put in our land value of \$21 million, and I calculated for both commercial and residential. On a commercial basis, the rates are \$1,223,000—this is based on last year's rating calculations, because they have not updated the calculator online—but on a residential basis, it is \$230,000. That is a fivefold difference in rates.

**THE CHAIR:** But also—and this point has been made by the Property Council—if you are paying \$1 million in rates on a \$20 million property, you are paying the equivalent of stamp duty every year on the—

**Mr Cassimatis:** It would be more than that in this instance. I do not know what the stamp duty would be. That is part of the other argument as well. Because the rates are so high now, if someone were to come along and say, "Let's buy this property," the cash flows have increased the value of the building but your net income is much lower, so someone would pay far less than if the rates were lower, if that makes sense?

**THE CHAIR:** The committee has heard a lot of evidence that, as your outgoings increase by this much, the value of property decreases by a factor of five times that increase.

**Mr Cassimatis:** That is correct. Unfortunately, Canberra has not seen rents go up for

commercial property, but expenses have gone up significantly over the past two or three years. In my opinion it has had a massive negative effect on the industry and on property values across Canberra, and it will affect investment in this city.

**THE CHAIR:** You also made some comments in your submission about the best possible building you could build, and the assessment is that you can get away with 2.7 metre floor heights and things like that. The assessment was based on the 2.7 metres, rather than on something more optimal for ducting, which would need three metres.

**Mr Cassimatis:** That is correct. I am not a construction expert. However—

**THE CHAIR:** But we can work it out; for every three floors, you—

**Mr Cassimatis:** Talking to developers, to put ducted heating and cooling into an apartment, you need to allow a three-metre floor-to-floor height. If you go lower than that, you are forced to put in split-system air conditioning, which is on the wall, obviously, and it is preferable not to have that. It is a nice upgrade to have ducted heating and cooling. Part of the problem was developers in Canberra who do the minimal thing, and the ACT valuation office believe that if they can do it, they will apply the same to your property, even though it is not the best outcome for the property.

We have this block that is on a prominent site in Canberra, and they are saying, “Okay, you can fit an extra 100 units on it if you do it this high,” but you would have a much lesser quality development than you would otherwise have.

**THE CHAIR:** What it boils down to is that, if you go for the 2.7 metre height, you would get 11 storeys into the same height that you would get 10 storeys into?

**Mr Cassimatis:** That is correct. Every developer is different. Some will try to squeeze in as many as they can. You can imagine walking into a bedroom and your head is almost touching the ceiling, as opposed to walking in and having an extra 30 centimetres, and ducted cooling. It would obviously feel a lot more open and luxurious than it would when your head is almost touching the ceiling. That is part of the argument.

One of the main things that I wanted to bring up today was apportionment. Have you heard much—

**THE CHAIR:** I was going to get there if nobody else on the committee did, so that is fine.

**Mr Cassimatis:** I printed the New South Wales Valuer-General’s policy. I am happy to provide this to you.

**THE CHAIR:** If you can direct that to Dr Lloyd, we can—

**MS CHEYNE:** We can accept it.

**Mr Cassimatis:** I can email it to you.

**THE CHAIR:** Is that your only copy?

**Mr Cassimatis:** It is all right; I know what it says. The legislation in Canberra, in my opinion, is lax when compared to other jurisdictions around Australia. Part of the argument with the ACT valuation office is that they said you can build 36,000 metres of GFA, which is how big the building is that you can fit on there. Rather than arguing about that, let us just agree that you can do 36,000 metres of GFA. As I said before, there is an 8,000 metre commercial building on there. The way they calculate rates is that, as I said, we have the \$24 million land value plus the commercial rating factor. In other jurisdictions, with that advice from the New South Wales Valuer-General, they would apply 8,000 metres as commercial and charge commercial rates on the activated use for the 8,000 and the balance would be on the residential. They separate the cost fairly for the property owner. Does that make sense?

**THE CHAIR:** Just run me through it. Your property is worth \$20 million—the unimproved value is an agreed \$20 million?

**Mr Cassimatis:** \$21 million.

**THE CHAIR:** 20 is easier to divide.

**Mr Cassimatis:** Yes, that is fine.

**THE CHAIR:** But you have 8,000 actual GFA on the site.

**Mr Cassimatis:** There is an 8,000 metre building there. If you do 36,000, less 8,000, you have 24,000.

**THE CHAIR:** You would then be paying commercial rates on—

**Mr Cassimatis:** The eight.

**THE CHAIR:** 8/36ths of the \$21 million, and 26/36ths would be paying at a residential rate?

**Mr Cassimatis:** Yes, we work out a percentage. Twenty-two per cent would be commercial rating and 78 per cent would be residential rating. You would pay the commercial rates on the activated commercial part and residential rates on the balance of land that is valued at residential. That is a fair and equitable way to calculate rates.

**THE CHAIR:** In the ACT you are paying commercial rates on the residential value—

**Mr Cassimatis:** That is correct.

**THE CHAIR:** across the board. Even if you were in the process of building, if you have a DA and the building application is approved, you knock the building down and there is nothing there, you are still paying rates at the highest rate?

**Mr Cassimatis:** My understanding is that until you lodge a development application,

which specifies what you are doing, you cannot get any rates concession until that point. Also, I think you get a rates concession during construction. The problem is that, given that we have leases in place to the government, which are contracts that we signed before the changes to the Rates Act, we cannot even get to that point until 2020.

It is grossly unfair, in my opinion, that the government can do that. It is like asking, "What do you do?" As was said earlier, it is like we have done the government a favour and said, "You can stay here for a few more years until your building is done," and they have turned around and said, "Hang on a sec, your rates have gone from here to here. Thanks for the service."

**MS CHEYNE:** That is because you were providing commercial space but previously paying residential rates?

**Mr Cassimatis:** No. There was a period when we had a scheme to lodge a development application and, because the ACT government approached us, we put that on hold, to extend their lease or do a new lease. We could not charge the residential rates, so now we are paying commercial rates on a residential value.

**THE CHAIR:** This big increase in rates commenced in 2017?

**Mr Cassimatis:** Yes, from 1 January 2017.

**THE CHAIR:** That was the big jump.

**Mr Cassimatis:** We were obviously a bit shocked. We emailed the revenue office and said, "I think you've made a mistake," and they said, "No, there's no mistake. This is what your rates are."

**THE CHAIR:** Your rates went from \$100,000 to \$1 million, or just slightly more than—

**Mr Cassimatis:** They went from \$100,000 to \$634,000, and this year it is \$1 million.

**THE CHAIR:** You are also anticipating that the value will increase back to the original 24?

**Mr Cassimatis:** That is right; then you have to go through the whole process again and hope that the same gentleman from the valuation office is not assessing our file.

**THE CHAIR:** The Mac House site is now cleared and coming onto the market. What might the impact be? If Mac House sells for less than expected, that is probably a good thing for you?

**Mr Cassimatis:** It would be. But another fundamental flaw in the comparable sales part of Canberra is that, if they use Macarthur House as an example for sales, they will not take the demolition cost off our building. Even though the government makes considerable money demolishing the building, as a comparable they will not take it off our site. Let us just use rough numbers and say Macarthur House sells for \$30 million. It has been well documented that they have spent a lot of time and money

demolishing that building and recycling all the stuff; it might cost \$8 million. They do not take that amount off our site, which is a flaw in the system as well.

They did the same for us on the building next to the Mantra; it is called On Forbes. They purchased the site for an amount and they included demolition costs on it, but they did not take that off our site as a comparable. If you are going to use that for their site, you should apply the same rationale to our site, but they do not do that.

**THE CHAIR:** That is the one across the road, the other way, from you?

**Mr Cassimatis:** Yes, directly behind the Mantra, next to the Mantra. It is always a good thing when property values go up, and we would not have a problem if the rates were apportioned, as I discussed, 8,000 metres commercial and the balance residential. That is a fair way to charge rates, and we are happy to pay our fair share of tax in this city, and help it grow and to be a good and prosperous place. I have lived here for my whole life. Not only is this double-dipping; it is unfair and, in our opinion, it is unconscionable. The amendments to the Rates Act are absolutely terrible. My view is they should wind it back to how it was a couple of years ago. There is media about back-charging clients by five years. If it is found that the government is wrong and they are overcharging all these rates, heaven forbid; they will never refund anyone any money.

**THE CHAIR:** Your recommendation is for 10 per cent capital?

**Mr Cassimatis:** Mr Quinn said the same thing.

**THE CHAIR:** You did not collaborate beforehand?

**Mr Cassimatis:** No.

**THE CHAIR:** Just checking!

**Mr Cassimatis:** It is interesting. At least you would have a cap there. As I said, it is good when property values go up; people can budget for it and you would at least have some certainty about where you are going. But in this case it has gone from \$100,000 to \$1.4 million; that is a 1,400 per cent increase in three years. That is outrageous.

**THE CHAIR:** You have to have very deep pockets to be able to bear that.

**Mr Cassimatis:** Exactly. If we were not a successful Canberra business, where would we be now? In effect the government are forcing us to redevelop the site. They are telling us we have to build something there.

**THE CHAIR:** Even if you did not have a long-term tenant, it may not be propitious to develop at a particular time. Building costs might be too high because there are too many other cranes on the skyline or there is an oversupply in the market and you think you cannot build a product to that price or—

**Mr Cassimatis:** That is right, yes.

**THE CHAIR:** All of those things take account of the timing of when you would actually redevelop that site. But you are saying that you are being pressured into doing it as quickly as possible?

**Mr Cassimatis:** We are, because the only way you can save money is by lodging a DA. They are fast-tracking us into doing a DA, which is not going to have a beneficial outcome for anyone. This is part of my submission as well. There are cranes all up and down Northbourne. There is a lot of media about there being so many units in Canberra now. There is a lot of media about the Northbourne plan that is out for consultation at the moment. Does everyone want to see thousands of units along Northbourne?

As we discussed earlier, there are leases in place until the end of 2020. Hypothetically, we lodge a DA at the end of 2020. Normally the process is that you need to get pre-sales before the bank will get you any money. That might take another 12 months. So you are three years away and what if the market changes in three years? We cannot predict where the market will be in three years.

**THE CHAIR:** But also you are competing with Macarthur House, which has been already demolished and cleared, and all of the government flats between the Pines and Space, which are all being pulled down and cleared.

**Mr Cassimatis:** That is correct.

**THE CHAIR:** They will come online ahead of you because you have got a long-term tenant.

**Mr Cassimatis:** That is right. So we are sort of at the end of the line, and they are going to get the benefit if there are people still buying units, which we hope there are. Why should we suffer? We have a commercial agreement with the ACT government and then we are suffering as a result of it. It just does not seem fair.

**THE CHAIR:** We have seen in other cities that there comes a point with units where there is a bit of a glut. We saw it in Brisbane. Every time you went to Brisbane there was another multi-multi-multistorey unit development going up around the river and things like that. Are we approaching that in Canberra, from your business perspective?

**Mr Cassimatis:** Yes, in my view we are. I was born and bred here. I love living in my house. I love having a backyard. I like having my dogs. Everyone is being forced into units through first homebuyer schemes and a shortage of residential land releases. The government is sort of forcing people to move into units. Part of the problem as well is that—I do not want to bag the competition—there are a lot of units going up, and mainly from one developer. In my opinion, they are paying more for sites, which has an effect on all the other property values as well. They pay above market value to secure a site, then it has a negative effect on everyone else. I think you are right. In my opinion there are too many units.

**THE CHAIR:** I think what I am hearing is that you are finding yourself trapped in

this scenario where you actually have to build units or it is going to cost you a squillion in rates.

**Mr Cassimatis:** You do, yes. In an ideal situation I would say, “Let’s build a commercial building there.” But does someone want to be there? If you worked in the city, would you want to work there, or would you want to work in the city? Do you know what I mean? Even though there is a tram stop there, the land value is much higher on a residential basis. But, unfortunately, the commercial market is not there anymore. So the only market is residential.

**MS CHEYNE:** You mentioned the independence of the valuation office. What should it be?

**Mr Cassimatis:** Firstly, I think they should sit in different offices. If the same people are going to do it—

**THE CHAIR:** Preferably ones that you occupy!

**Mr Cassimatis:** I do not really mind.

**MS CHEYNE:** Not necessarily.

**Mr Cassimatis:** I think it should be an independent body. They should not be in the same office and they should not talk to each other. In the private sector, I manage the banking and finance. When the bank says to me, “George, we need new valuation,” I say, “Okay, get me three quotes.” They get a couple of quotes and all they send is an instruction letter. They do not have follow-up meetings. There is no talking to each other. There is no looking over the partition to say, “Hey, what do you think about this?” It is completely independent.

I am not saying that what they do is not accurate, but that is their opinion. If you do not agree with their opinion, it should go to a third party; it should not go back to that person to reassess it, and then you have to supply all of this information to justify your position. For example, in New South Wales if you object to a value—if they come to your house and say your land value is \$1 million and you say, “No, I don’t agree with that”—they send a proper valuer from a proper valuation company to come and assess it. They say, “We think it’s this. The government has got this. Let’s meet somewhere in the middle,” whereas in Canberra you have just got the same office reviewing their own valuation. It is not independent.

**THE CHAIR:** So your only recourse is go to the AAT.

**Mr Cassimatis:** Yes, to ACAT.

**THE CHAIR:** To ACAT, sorry. When you went to ACAT, you resolved this at the mediation phase, so you did not go to a hearing?

**Mr Cassimatis:** No. We mediated this to avoid going to a hearing, which would have cost significantly more than it did. It still cost us over \$100,000.

**THE CHAIR:** But the lawyers in Canberra did not thank you for not going to ACAT?

**Mr Cassimatis:** That is correct.

**THE CHAIR:** Okay.

**Mr Cassimatis:** So it should be an independent body. I also think they need to reverse some of the clauses in the Rates Act, because it is not fair, and they need to adopt that New South Wales value as apportionment stuff.

**THE CHAIR:** Which clauses of the Rates Act, which I do not have in front of me, would you be reviewing if you ruled the world? You might like to take that on notice.

**Mr Cassimatis:** I will take that on notice and get back to you. But logically it makes sense to pay rates on what is activated on the site. The valuation office should take into consideration things such as the commercial leases in place.

The other thing is that that geotechnical report that we got identified that there is massive limestone under the property. Along Northbourne—I do not know if you have heard this before—there is a massive rock under the road, which was found on the development next door to us, the amalgamated one. There are photos that show that they had to hire something like 20 excavators that were there for eight months digging up this rock, which ended up costing millions of dollars. So we had to get that report to say, “Hang on a sec; you can’t build a squillion units here. You can’t excavate this part of the land.” They still would not really listen to us.

**THE CHAIR:** That rock outcrop extends sort of south, down Northbourne Avenue, towards the city?

**Mr Cassimatis:** Towards the city, yes.

**THE CHAIR:** That means—sorry, I am stalking you on Google Maps again.

**Mr Cassimatis:** That is all right.

**THE CHAIR:** Does your block include the car park that is on—

**Mr Cassimatis:** Yes, it does.

**THE CHAIR:** That is the extent of your block? There is the corner of Wakefield and Northbourne, and then there is a band of trees around the car park. Your block goes to that band of trees?

**Mr Cassimatis:** That is correct.

**THE CHAIR:** Mr Cassimatis, thank you very much for your submission and your contribution and candour today. Please do not take it amiss that I laughed so uproariously—

**Mr Cassimatis:** That is all right.

**THE CHAIR:** but irony is not lost on us. You will receive a proof *Hansard* from the secretary of the committee. There are some things that you said you would get back to us with. Standing orders now require that if you take something on notice you have five working days from when you receive the proof *Hansard*. That is when the clock starts. If you need to coordinate, you can do that through Dr Lloyd. Thank you for appearing before the committee today.

**The committee adjourned at 3.20 pm.**