



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING AND URBAN RENEWAL

(Reference: [Draft variation to the Territory Plan No 355—Calwell group centre](#))

Members:

MS C LE COUTEUR (Chair)

MS S ORR (Deputy Chair)

MR M PARTON

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 29 MAY 2019

Secretary to the committee:

Ms Annemieke Jongsma (Ph: 620 51253)

By authority of the Legislative Assembly for the Australian Capital Territory

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

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Amended 20 May 2013

The committee met at 2.01 pm.

van der WALT, MR PIETER, Director, Canberra Town Planning
TSOULIAS, MR ARTHUR, Property Manager and General Manager, Tsoulias Group

FLACK, MRS AMANDA, Centre Manager and Office Manager, Tsoulias Group

THE CHAIR: Good afternoon. I draw your attention to the pink privilege statement. Can you please confirm for the record that you are happy to agree to it?

Mr van der Walt: I am familiar with the privilege statement and I am happy to abide by it.

THE CHAIR: Thank you. Do you have an opening statement?

Mr van der Walt: We have not prepared something particular. We have been working with the planning authority on the Calwell centre for some time, both through the master plan and the plan variation. We have done multiple submissions, which I am sure the committee would have copies of.

We have been having a look at how the planning has transformed, and we have expressed some concerns. Being the primary landowner in the centre and responsible for the provision of the core retail offering, we feel that planning consideration for not only the centre but also the landowner that is responsible for providing that amenity to the community is really important. We would love to use this opportunity to further express some of our concerns about the manner in which the planning is being formalised today.

MR PARTON: Arthur, I will start with you and Amanda. I will get you to briefly explain your history with this shopping centre.

Mr Tsoulias: My father purchased the block of land for the whole group centre 28 years ago, nearly 30 years now, before the development started. We developed the centre and the petrol station, which is a Caltex. We also built some houses in the group centre. I think we did 10 houses. We have done a car wash. We own all the properties there except for the club, the churches and the houses there now. We manage it on a daily basis. We are there Monday to Friday, between Amanda and me, and my father comes in still. He is the boss.

It is a good family business. It has been our income for our family for the last 30 years and we have grown from that. But we also have reinvested in the group centre every year. The way we manage it is that we treat everyone in the centre—I am talking about the tenants—as partners, not as landlords and tenants. We look at them as partners because we want to have a long-term relationship with them. Hence with the coffee shop we might not put any more coffee shops in there, because we do not want to lose one to get another one. We look after all the tenants as if they were family to us.

MR PARTON: You personally have seen many changes over 28 or 30 years.

Mr Tsoulias: Yes.

MR PARTON: All of this stuff aside, if we did not have these restrictions and everything, what would be your vision for that centre for the next 15 or 20 years and beyond?

Mr Tsoulias: In the last 10 years it has changed, and in the next 15 years it is going to change a lot more. The shops are shrinking in size. Ten years ago you had a big newsagency. Now newsagencies hardly exist anywhere. A few papers and magazines are being sold, but the video shops are gone. Things are changing in all these shops. Apart from liquor shops and the butcher, which are doing well, the rest of the shops are struggling. The takeaway is not doing too badly but the video shop, post office and newsagency are gone. The bank is there—it is a community bank—but they struggle too. People leave during the day and only come back at night to do their shopping, so it is not a busy bank. The restaurants are pretty much dead during the day, because everyone has left the area; they have gone to Civic or Tuggeranong to work. With the number of people we have during the day to sustain that many shops, they are struggling.

The way we are going in the next 10 or 15 years is that we will have to get bigger businesses in to take over that floor area, to lease it, like the medical centre. Our medical centre moved in about six years ago. That took about 1,200 square metres of space. That saved us. We had that vacant for so long. That was like six shops, 1,200 square metres. We were lucky and fortunate to get Ochre Health in. It has boosted the centre a bit. But for us to get more commercial space around the centre, retail, is only going to hurt us and the tenants that are there now, because they are struggling.

MR PARTON: Irrespective of retail outcomes, what is your vision for that space? Do you see it changing?

Mr Tsoulias: I can see it is going to have to change, because we have vacancies. We will have to go with the times. You have to either go residential or increase your commercial, and increasing your commercial in the next 10 to 15 years is not going to be a good step forward. We have been talking about it with Dad and with Pieter and Amanda. We are all for residential, and in the next 10 to 15 years there it might be sustainable. But at the moment even residential, the way the market is now, is a problem. We are going to have to see how we go, the way that the market is. It is very hard to say in these conditions now, because they are all struggling. Woolworths is doing well but at a big centre like that I think it will be shrinking in commercial.

Mr van der Walt: We were engaged by the Tsoulias Group when the master plan was being finalised, when a draft of that came out. At the time we engaged a local architecture firm that is quite well known for working in that sort of mixed use smaller commercial and residential space to have a look at the master plan and some of the opportunity that came through that so that we could give meaningful responses back to the planning authority. We built on that when the draft variation initially came out.

What became quite apparent quite early on is that there is a lot of retail for the size of the centre and the catchment as it is already. We had some concern that the extension of more retail space was potentially problematic. As Arthur said, it is cannibalising the offering that is there at the moment with further competition, and there is not an ability to really support that requirement.

The consideration of residential in the centre was a really good idea. Our concerns at the time, which we expressed to the strategic planners, related to the investment that Woolworths has done recently in refurbishing the shop and signing long lease agreements which basically locked up the residential opportunity on top of the supermarket box for up to 20 years. So to have a master plan that has a component for residential that is a really good idea in the centre but is sitting at a 20-year horizon at least is semi-nonsensical.

We were at the time talking to the authority, saying, “That’s a good idea. There are other opportunities in the centre which, if we understand the issues in terms of overshadowing and this, that and the other, can be really easily managed. But if you insist on having the residential box on top of the supermarket, that is a bit of a problem, because we cannot get access to it because Woolworths will not allow us to build on top of them and we will not be able to access car parking underneath them as long as they are operating, and they have got a 10 to 15-year lease. So the master plan is all good and well, but that is not a realistic outcome.”

Then on the other site, on the car wash site, requiring the commercial ground floor space and looking at the opportunities that could be ready for residential, looking towards the green space where the flood infrastructure and the pathways are, they get the passive surveillance and the like that we want into these spaces, and the really good interfaces. We are not going to get that from commercial opportunities. We are really concerned that, even if we can make a building feasibly stack up on that site with a ground floor commercial space, we just will not be able to rent it. So you basically get for sale signs on your primary walkways into the space, or the areas where people potentially would really want to live and have some relief in looking over the green spaces adjacent. Currently the way the planning is working suggests that we should not be doing it.

MR PARTON: Are you of the belief that if that restriction was not placed with regard to the necessity for commercial on the ground floor, it magically would become viable?

Mr van der Walt: If we could utilise those spaces commercially as outdoor residential spaces, the work we did at the time, probably about 12 months ago, showed that it would be a feasible project. But with that being strictly for commercial we would have a view that it will not be—

MR PARTON: In summary, based on your submission, what I think you are saying is that the master plan looks really good but the commercial reality is that nothing that has been described will happen, so we may as well not have updated the master plan, because it will not change anything in reality.

Mr van der Walt: That is a good synopsis of the overall views we have.

Mrs Flack: They did not even consult us.

MS ORR: I have some questions. I think they are probably best directed to Pieter because they are about comments in the submission. I clearly understood the concerns with block 41. However, you were only concerned about the B part of block 12 that allows for residential. Is that the only part of block 12 that you have concerns about?

Mr van der Walt: For us, that was a primary opportunity that was reflected in that site. At the time we were looking for opportunities. We explored opportunities to look under and around the loading dock, to potentially enclose that and build on top of that. It is on the club part of the site, which has got infinitely more chance of actually happening because we control the shorter leases, the space underneath, where that part is completely locked away. If we were to have a residential offering in the centre, that would be the area where we would think that was much more likely to happen.

MS ORR: Sorry, where is that area?

Mr van der Walt: I did not bring the large map.

MS ORR: We have got the paperwork.

Mr van der Walt: I will do this.

THE CHAIR: If you find the page, can you tell us which page number?

Mr van der Walt: It is in my submission on page—

MS ORR: What I am trying to get at is: if the supermarket is in block 12 and they have been signed on and you do not see any development opportunities because of their operational needs, is block 12 something we need to be considering? That is what I am trying to get at.

Mr van der Walt: If we look at block 12, it is the core of the retail offering. The supermarket is only one component. It is not the whole block. It has got the walk arcades and all the speciality shops, I think, in there as well. The B area sits primarily on top of the supermarket retail blocks, whereas some opportunities towards the west of the supermarket to where the loading dock is and the like would be more able to be progressed in a more—

MS ORR: And those are not covered in the Territory Plan variation?

Mr van der Walt: Exactly, yes.

MS ORR: They are not covered in that part that says “B”?

Mr van der Walt: Yes, the B sits basically on top of Woolworths.

MR PARTON: The B is the only place that you could not do it?

Mr van der Walt: That is the only place—exactly, yes. And the primary reason is that the reality of a commercial lease says that they have got the right to occupy that for 10 plus 10, I think, for 20 years.

MS ORR: To clarify some matters you mentioned before, were you initially, in discussions, saying that there was potential? Did the signing of the supermarket come after? I am trying to get the time line. Were you ever looking at that block to do something with it?

Mrs Flack: No-one ever consulted us. They never consulted us. No-one ever consulted us about the Territory Plan and potentially having the opportunity to put residential down there in block 12 at all, where it might be a viable option and what potentially we could or could not do down there. We were just handed a document that said that B was in block 12 and it happened to sit over the component of what is Woolworths.

Mr van der Walt: I was involved in the early days when the—

Mrs Flack: But if they had consulted us we actually would have shown them another space, still in block 12, potentially for something that possibly would have gone over block 29 as well that was something that we could have made viable.

THE CHAIR: Why do you think they did not take up those options? Clearly, even if they did not consult you at the beginning, you have been able to express your opinion subsequent to that.

Mr Tsoulias: We did. I had meetings with Catherine Campbell at the time and we talked about the car wash, which is block 41. That was our main concern, just because of the way the rates are—they are very high—and it is not feasible for it to be a car wash. We did talk about the car wash with Catherine. She did hint that there would be more residential somewhere, but we did not sit there and talk about where in the centre it would be. When the draft came out it was just plonked on top of Woolworths.

The only other thing they consulted with us was for more cafe space outside. That is all. There were discussions there for the master plan, but not much for the residential on block 12. I did ask the question of her: “Why are you putting it on top of Woolworths?” They said, “It is because of the overshadowing.” I said, “What overshadowing? There is no other high rise around. It is not going to affect anyone.”

Mr van der Walt: Once the draft master plan came out, we entered into a number of discussions with the authority to talk about our concerns, the commercial issues with having the B space shown on top of the block, and our opportunities on other parts of block 12. The matter of overshadowing, especially in the public forecourt and the play area, was expressed and we felt that we were able to demonstrate that there would be opportunities to mitigate that to either have no impact or very little impact. But even though we got hearings it appears that those considerations were not well received, for whatever reason, and they did not adopt those.

MS ORR: Just going through a few more of the comments that you raise in your submission, against rule 3 you note that the wording could be revised. What is your

suggested rewording and how do you see this in application? This is rule 3. It is on the car park.

Mr van der Walt: There is some concern that we have, and we have seen it on a number of other developments in town, where there is a requirement for new development to retain the existing car parking, which is a good thing. Supermarkets and these types of shops in the group and local centres really rely on convenient car parking that is quite visible and the like. Otherwise, people in the car will just drive to the next convenient shop. We have seen that being eroded where car parking land gets sold for development with a requirement explicitly to have the public car parking retained.

But the way that the planning rules are written provides proponents with opportunities to demonstrate that in ephemeral car parking provisions the planned tiers of car parking are not required and you reduce the car parking numbers. Ultimately the shop suffers. The existing tenants that never had the opportunity to design the building with car parking for themselves then suffer because what they rely on gets eroded. The comment in that was to look at wording that really requires that understanding and demonstration and protects the existing use.

MS ORR: In your opinion, saying that the existing number of car parking spaces is retained on the site and made available for public use at all times is not strong enough?

Mr van der Walt: The consideration of the criteria that says that the developer just needs to demonstrate that that is enough is, in our opinion, a really strong concern. It gives quite a strong opportunity. In terms of timing, the shops might go through a period where there are fewer tenants. Somebody may do a car parking assessment showing that only half the car park is used and leave those in a redevelopment.

MS ORR: The issue is more with the criteria as opposed to the rule?

Mr van der Walt: Yes, exactly.

MS ORR: Against rule 4 you note that the maximum height of two storeys will impact on the development opportunities of block 41. But rule 5 provides for block 41 to go to four storeys. Can I clarify: are you concerned with the provision of two storeys or four storeys? It was not clear to me.

Mr van der Walt: It is partly two and partly four on the site, because the block's shape is different from the block A box. On the northern side, towards the public open space area, it allows for four storeys, but then the block is an L-shape and the corner bit is in the southern part of the block.

MS ORR: Your concern is that, while block A can go to four, half the site steps down to two storeys and your preference is to see it stay as four storeys across the whole site? Is that what you say?

Mr van der Walt: A really stark two storeys going up to four storeys, I do not think, is necessarily the best outcome. I think the opportunity for a proponent to have a

sensible outcome—from the public walkway, a graduated building going up the four storeys—would be a much better design outcome.

MS ORR: But there is no concern with four storeys being the maximum; it is more how it is applied across the whole block?

Mr van der Walt: It is an interesting concept in that we see in group centres developments of up to six storeys being considered and approved, and I think the opportunity to create activity in the centre with residential living is a really good idea. Why would we not, in appropriate areas, look at opportunities and abide by other impacts? Whether it is overshadowing and the like being properly managed, if it is okay for Giralang or it is okay for Curtin why would we not think the same—

MS ORR: Do not get me started on Giralang either.

THE CHAIR: Let us not talk about Curtin or Giralang. You are basically saying that higher than four—

Mr van der Walt: But it is a principle that if you are going to have more density in town we really should be looking at areas of high activity where these matters can be properly managed and not that that site be restricted.

MS ORR: In summary, four storeys is fine. You would like to see it applied to the whole of block 41?

Mr van der Walt: Yes. It is important to consider that—

THE CHAIR: In summary, four is fine but bigger would be better? I thought that was what I was hearing.

Mr van der Walt: There is an important concept in there that you need to service a building over four storeys with vertical transport and the like. There is an investment that goes into this building, and that is in dealing with the Building Code to a certain level. There are, for want of a better term, thresholds in building height where you actually get a better return on the investment for the things that a building should have, whether it is structure, lifts and the like.

MS ORR: But everything in the centre at the moment is one storey?

Mr van der Walt: One storey, yes.

MS ORR: One to something above four actually becomes quite—

Mr van der Walt: The Woolworths block will be apparently two storeys.

Mr Tsoulias: Woolworths, yes.

Mr van der Walt: The important consideration in that is that it might say four storeys but if the ground storey goes for commercial we really have only got part three storeys and part one storey.

MS ORR: Against rule number 11 you mention a play space being relocated from C to D. I could not see anything in the draft Territory Plan variation that spoke about this play space. I was incredibly confused.

Mr van der Walt: It talks about public areas. We happen to know this play space because we operate in the space. When you look at some of the supporting documentation it talks about how the space gets used and where the play space goes and the like. Do you guys want to talk a bit about the play space and how it relates to some of the uses there? Have we spoken about that matter? I think that is really important.

Mrs Flack: Yes, certainly. They wanted to move it. Is that what you are talking about?

Mr van der Walt: Yes.

Mrs Flack: At the moment the play space is at the front of the centre. The centre is sort of U-shaped, I suppose you would say, and it is along there. There is a tavern there, but not very far from it is a Kumon centre, which is an early childhood learning centre, and the operator of that centre is very concerned about it moving. The government is wanting to move it right up the other end of the centre. There is nothing up the other end of the centre at the moment, but the government would potentially like a cafe up there. We do not want a cafe up there because we cannot have two cafes in the centre; it will not be viable for the centre. We have approached the cafe that is currently there. They do not want to move. Moving the play centre up the other end is going to take it away from—

MS ORR: There is nothing expressly in the draft Territory Plan code that says the play area will be moved, but it is your understanding that there is some talk that it could potentially—

Mr van der Walt: In some supporting information.

Mrs Flack: We were told that they were going to move it.

Mr van der Walt: It was very clearly expressed that that is where it is going. The underpinning planning that expresses the variation talks about that.

MS ORR: In your understanding, is the space where they want to move it already a public space?

Mr van der Walt: Yes.

Mrs Flack: Yes, it is a green space.

MS ORR: It is not one that is going to be created by this draft?

Mr van der Walt: Correct.

MS ORR: Against rule 13 you state that it is unreasonable that the lessee provide “a six-metre path within block 41 along the circa four-metre wide pathway”. Can you clarify what you mean by this?

Mr van der Walt: Let me get my blocks right. Block 41 is a block that is leased for commercial use. It is a car wash at the moment. It has got a public path adjacent to it. It runs from the east to the west of the centre. This proposal, the way we understand it, requires the lessee to surrender part of that block to become public space for the widening of the public pathway. It goes broader than the current one, and it is on a block. The current walkway is a block between block 41 and the swim centre. We spoke to the authority initially about that, saying, “It is a real concern. We have got a block of land that we purchased off the government for commercial use and it appears that this plan variation is severing off some of that land which we are not being paid for but we are paying rates on it and have the quiet enjoyment of.”

Without really understanding how it will ultimately translate in the future, we think the link to the centre is quite important, but in our discussions we have talked about how it could be designed to be good both for a future development on the site and for the public and the like. It appears that the way the planners look at this is that it is basically a blank space with a pathway in the middle. We just do not think that is a really good—

MS ORR: I found it a little hard to follow the comments. Obviously there was a particular scenario in mind, but it was not quite clear to me what that scenario was. Are you saying you are going to have to build a six-metre path in addition to the existing path?

Mr van der Walt: That was initially not clear, and that is why in our initial submission we said, “Please clarify.” The clarification came back and basically said, “No, you are required to add between the existing pathway block another 2.2-odd metres to make the space available.”

MS ORR: It is the 2.2 metres that you are not happy about?

Mr Tsoulis: The setback, yes

Mr van der Walt: Yes.

MS ORR: It is just that the comments and the concern did not quite get to that. Can you clarify for me what you mean by commercially adaptive?

Mr van der Walt: It is quite a common concept that we see in land such as this. An example of where this has happened is up and down Anthony Rolfe Drive in Gungahlin, where, initially, when the critical mass of the centre did not support a larger commercial offering, you built a space that is initially allowed to be used for residential use but with the ability that, when the market forces change, it can be retrofitted, without breaking the building down, into commercial space.

On Anthony Rolfe, opposite the core Gungahlin town centre, the two and three-storey developments were initially designed as apartments. When you go there now they are

small, often professional, suites. There are some beauty parlours and the like. When the critical mass in the centre becomes large enough to require that commercial services offering, it is able to translate it. The flipside is that we build it and it sits vacant until such time as it becomes viable. That is what happened to the Jamison centre on Eastern Valley Way. I think for a long time those ground floors were vacant, with “for sale” signs. They are just not a good outcome for space and outcome in the public realm.

MS ORR: Under rule 16 you suggest removing the word “depth”. Is that because you read the rule to say an awning must be provided, as opposed to “an awning does not need to be provided if there is a tree canopy there”?

Mr van der Walt: If I could remind myself what I wrote, this is a little more detailed comment. When you look at the buildings around us and the implementation of the car park and how it is actually designed today—and it is not only where the car park is—the aisle with it does not have any pedestrian opportunities to walk in front of that. The buildings around the site that have been designed recently do not have the facility for the awning.

At the moment it appears that the awning is set to be a specific size and to take space within the site. The consideration that we had when we did the initial submission was: is there an opportunity to give consideration to where the awning might sit proud of the property boundary and create amenity into the public space with a walkway? That would be a sensible outcome and then link all the buildings up to be the same. Even with some of the buildings behind us, that would be the only way to get an awning outcome.

But in this situation we thought: “If it is then required to be on site, can we have a discussion about the depth?” I would give three metres up, in setting those facades back, which again will be back. Especially if you think of the complex of commercially adaptable and the like—you have some of the potential future shop windows or the like closer to the boundaries—it is really not a bad idea.

THE CHAIR: We have unfortunately run out of the time. Thank you for attending the hearing here today. There were no questions taken on notice. The secretary will send you a copy of the transcript in a few days. Within five days of getting that, please send it back with corrections.

GENTLEMAN, MR MICK, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services, Minister assisting the Chief Minister on Advanced Technology and Space Industries

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

CUSACK, MS KATHY, Executive Group Manager, Planning, Land and Building Policy, Environment, Planning and Sustainable Development Directorate

KAUCZ, MS ALIX, Senior Director, Territory Plan, Environment, Planning and Sustainable Development Directorate

THE CHAIR: Thank you very much, minister and staff, for joining us this afternoon for DV 355. I draw your attention to the pink privilege statement. Can you all please confirm that you are aware of its implications?

Mr Gentleman: Yes, we are. Thank you, chair.

THE CHAIR: Minister, do you have an opening statement?

Mr Gentleman: Yes; it is just a short statement. Thanks for the opportunity to appear before the committee today to discuss DV 355, the Calwell group centre. The draft variation implements the planned related recommendations of the Calwell group centre master plan from 2016. The Territory Plan amendments are intended to provide guidance for future development in the Calwell group centre, particularly in relation to the desired build, form and character. The full suite of measures is detailed in the draft variation document.

However, there are some key elements I would like to bring to the committee's attention. The rezoning of a small area within the Calwell group centre is proposed. This tiny block is currently included in two zones. It extends the commercial CZ1 core zone by rezoning the balance of this block from a CZ3 services zone. There are extensive areas of CZ3 services zone land throughout the centre already. An additional rezoning is proposed on land adjoining Johnson Drive. This land is currently vacant and will be rezoned from transport TSZ2 services zone to community facilities zone. The land will be released for sale and could be developed for a range of community uses in the future.

Lastly, the draft variation seeks to retain two-storey maximum building heights throughout the suburb. However, there is a site-specific allowance for building heights up to four storeys—I understand you had this conversation with the proponents earlier on—towards the eastern edge of the centre. This is intended to provide a moderate increase in development opportunities in the location, consistent with the master plan.

A total of three written submissions were received in relation to the draft variation: one from a member of the public, one from a community group and one from the lessee within the group centre. A full range of issues raised in the submissions are detailed in the report on consultation.

However, key considerations included traffic, access and parking; a desire to extend

the master planning process to the surrounding and adjoining areas; and complexities for future development on the specific block within the centre as well. These concerns raised were carefully considered in the review of DV 355 and responded to in the report on consultation. Changes were made to the draft variation in response to the public submissions. They were primarily focused on improvements to the workability of the proposed provisions, rather than broad-scale policy change. These changes are detailed in both the draft variation and the report on consultation.

I have in attendance with me representatives from the Environment, Planning and Sustainable Development Directorate who will be able to assist with technical input and answer any questions you may have on DV 355. Alongside my colleagues from the directorate, I would be happy to take any questions that the committee may have.

THE CHAIR: Thank you. We will start with Mr Parton, as the local member.

MR PARTON: Minister, I want to get to what strikes me as being the oddest part of this draft variation. Your government is pushing towards a lot of urban infill around Canberra. Group centres are absolutely perfect for that. It strikes me as being a little odd that the small section that is being isolated for the higher level densification is the only spot in the centre, according to the proponents, that they could not actually do it on. It is only that section above Woolworths that they could not build four storeys on because of the redevelopment of that supermarket site. You have seen and heard what the proponents and what Pieter van der Walt had to say about that. Can you explain, from the government's perspective, why you would do that?

Mr Gentleman: I will give you some history. The site has been redeveloped over the years. Of course, master plans and the variations that come from master plans are for future development as well. So in 15 to 20 years time there may well be the want for a development on that particular area at the back, as you say.

There is, as I mentioned, history in regard to densification or infill development too. If you look at section 2 of 72, which is just across the road from the shopping centre, on Webber Crescent, you will see that that was originally commercial zoning as well and was allowed a Territory Plan variation to create residential by the same proponents that own the shopping centre now. There has been a history of development around the shopping centre in regard to residential. We have given some advice on where we could do some in the future.

MS ORR: What is the reasoning behind the two portions you have gone for? I think that is actually the question.

THE CHAIR: That is really the question. Because it does not make sense. Let us put it that way.

Ms Kaucz: During the master plan process, where in the centre would be appropriate for higher buildings was looked at. The impact of overshadowing was taken into consideration. If it was too far to the south of those blocks, the overshadowing into the street and the public spaces would have been an issue. There is also the location of the loading docks and that issue of what is considered to be some incompatible uses with residential. It was a matter of going through any of the constraints on the site and then

determining the places. During the master plan process, area A, I believe, was originally six storeys. Then, through the consultation on the master plan, it was reduced to four.

MS ORR: Was it reduced based on community comment or was it reduced based on overshadowing?

Ms Kaucz: Community comment.

MR PARTON: But it is essentially then reduced to nothing, isn't it? Because where it is, that block will not be developed any way within the life of this master plan. So it has effectively been reduced to no additional height.

MR GENTLEMAN: Mr Parton, do you mean block B?

MR PARTON: Block B.

Ms Kaucz: These planned provisions allow for development over the years. It has that allowance for the four storeys. I suppose it would depend on when it was appropriate to do that development.

MR PARTON: In response to that, Canberra Town Planning suggested that strategic planning in the EPSDD shows little interest in the commercial reality that underpinned development of a master plan outcome on the said sites. It is a relatively harsh comment. How would you respond to that?

MR GENTLEMAN: I would say that the directorate, the planning authority and I take the interests of the whole community on board—certainly the interests of not only commercial developers in this case and commercial operators but also the Canberra community. I think we would be well versed in commentary on building heights around shopping centres, particularly even since your time here Mr Parton, and how the community feels about development. We need to ensure that, when we do denser development and further heights in local shopping centres, we do it properly. Therefore, we take all of those considerations into play when we do the planning for them.

Ms Cusack: Just very quickly, to build on the minister's comment, I think the comment is unduly harsh. We look at these problems analytically. We sift through a number of different issues. Alix has talked about overshadowing. We also look at the current state of play within the centre and we look at the opportunity in the future to potentially stage development.

It may mean that part of the centre is not functional whilst the area of uplift is being developed, but there is always that opportunity. We are trying to be practical. We are trying to look at ways that there could be an uplift, where that uplift is most appropriate and ways that the centre could still trade in some way, shape or form whilst redevelopment is occurring. We feel like we have a balance, where we have enabled that.

MS ORR: The previous witness raised other areas within block 12—not the part of

the Woolworths supermarket and the part that has been zoned B. In the analysis you did Ms Kaucz, did you look at any of the areas within that block? What were the reasons that they were ruled out as options?

Ms Kaucz: As I mentioned before, solar access, the loading docks, the loading areas, the traffic arrangements—all those things—were taken into consideration to work out practically whether you could do it and to avoid the conflict of uses. Yes, the centre was looked at as a whole. They were some of the areas that were determined to be able to have increased height without affecting the amenity of the centre.

THE CHAIR: Your consultation report says that the car wash site was not to have residential on the ground floor because of advice from TCCS. What is TCCS's problem with residential on the ground floor there?

Ms Kaucz: It was really for the street that is in front of it, and the traffic and trucks that use that area, and I suppose the amenity of the residents. If it is residential you are going to have windows to living areas. That is not considered as appropriate use for that situation with that traffic arrangement. That is what TCCS were raising.

THE CHAIR: So you thought it would be too much. It is pretty much a dead end. You thought that there was going to be too much traffic there to be an amenity.

Ms Kaucz: Just the turning around it, if you are coming around with the traffic. It is the same as with the amenity of the ground floor, with the trucks coming out. It is a dead end, but it is the circular movement. As you are coming around the corner, the light would be shining into people's windows and things like that.

MS ORR: Okay, so into living spaces and so forth?

Ms Kaucz: Yes, living rooms, bedrooms, whereas, if we were in a commercial space, you would be less likely to be using that at night, for instance.

MS ORR: And that is a standard application across all of the ACT—those sorts of metrics and analysis?

Ms Kaucz: Yes. That is because they just use the standards and the things that they consider when it is appropriate and apply them there.

Mr Gentleman: The laneway in particular services the good butcher shop that we just discussed earlier.

MS ORR: We had some discussion about the requirements for paths. The witness who was in previously was saying that it looked like part of the path, or two metres of it, would have to ingress into block 41, which they saw as a private development space. Can you just run us through how you see that working and the rationale behind what you put forward in the draft Territory Plan variation?

Ms Kaucz: It is looking, particularly with developing the site, at the amenity of the pedestrians walking down that path. Six metres is the standard that is used for those sorts of paths. It is, I think, just over four at the moment. It was considered that that

was going to have increased amenity. It was discussed during the master plan process and put into the variation.

MS ORR: Is it unusual for there to be planning rules that provide for public access ways within private leased land? That is pretty standard, is it not?

Ms Kaucz: Yes, we have it in some of the other precinct codes. If they are getting an uplift of development on the site, they are providing something back; it might be provision of a road or something similar to that. In this case it is widening the existing path just to improve that amenity, particularly since otherwise it could have zero setback and seem like an alleyway. That increase to the width would improve that.

MS ORR: There was a lot of comment from Canberra Town Planning, on behalf of the lessees, on awnings. They suggested the removal of the word “depth” from rule 16. Can I get your opinion on how that works? And are Canberra Town Planning correct in their view that under the current wording an awning would be required even where there is a tree canopy or infrastructure requirements? Is there an allowance for a reduction, or are you still going to have to provide a three-metre awning?

Ms Kaucz: The criterion just talks about the continuous all-weather pedestrian shelter. I am aware that there are street trees there. But the idea is to have a pedestrian path that is sheltered from the—

MS ORR: Would that pedestrian path be wholly within block 41 or would part of it go out onto public land? Is there opportunity there for any of it to be in public walkways?

Ms Kaucz: The car parking space takes it pretty much to the property boundary, I think, so it is not much of a space like you would normally see where you have a bit of a path. For that reason, because it butts straight up to the car park, there is that allowance, because otherwise it would not be able to be provided.

MS ORR: The other thing that was raised was the four-storey height allowance on block 41. Four storeys is over half the block, and the other half is two storeys. Can you run me through the rationale behind that?

Ms Kaucz: It is the same as for the rest of the centre. Looking at things like solar access and the impact on the centre as a whole, it was considered that the northern part of the site was more appropriate in not having a detrimental impact on the rest of the centre. So it reduces the height down because the rest of the centre will be two storeys as well.

MS ORR: Can you step us through what solar access you would see impeded by higher heights or enabled by what you have got there?

Ms Kaucz: If we had put four storeys across the whole centre, the public spaces to the south and to the street would have quite significant overshadowing from midwinter when we define it—

MS ORR: The winter solstice, yes.

Ms Kaucz: between 9 am and 3 pm. Because of the orientation of the block, it would not give a welcoming public domain in that location. Basically, where the four-storey part is, the overshadowing it would create would be on the roof of the eventually two-storey building. Some of it is single-storey at the moment, of course. That would minimise that impact. Overshadowing from a two-storey building is not considered to be as significant as from a four-storey building.

THE CHAIR: You only did it in one area, suggesting four storeys on one corner of the northern side. What was the issue with going along more of the northern side?

Ms Kaucz: There was the issue of the loading docks and consultation with the EPA about the noise, and issues of conflicting uses with residential and trucks turning, particularly given the beeping they make. It is a concern in a lot of commercial centres where you have that mix of uses. Their advice was that they would not support the higher residential in that north-western component.

MS ORR: It is block 12, yes?

Ms Kaucz: Yes. That is the reason why it is in the location that it is.

THE CHAIR: When you did the community consultation, was it part of the consultation that the Woolies site was unlikely to be redeveloped any time soon? Canberra Town Planning have made it abundantly clear that they do not believe that it will be developed in the next 10 to 15 years, given that it has just been redeveloped. Was the community aware of this? Did they realise that this probably would not lead to any action for a long time?

Ms Kaucz: I do not believe that it was specifically mentioned. It was not said, “This is the time frame when that might happen.” But when master plans are put forward, in the discussion we have about them we say that this is a 15 or 20-year plan for the area. I do not believe it was specifically said that because it has already had a redevelopment this will not be happening soon, but the master plan would have talked about the need to look at the centre for the coming years.

MR PARTON: One of the beauties of this draft variation is the fact that you have one proponent pretty much owning a large section of what is involved. How much direct consultation was there with that owner?

Ms Kaucz: I believe there was a lot of direct consultation through the master planning process, the development of the draft master plan and then the following steps, which is why, to begin with, the master plan recommended no residential at the base of the building on block 41. Following those discussions with the lessee, that was considered to have residential, and then we got the feedback. That is why it went out for consultation with residential in it, and then we got the feedback to say that it was not going to be supported.

MS ORR: There has been a lot of discussion on whether residential should go at ground level. Can you run us through the rationale behind not having residential?

Ms Kaucz: It was considered to take into consideration the issue of the viability of the development having commercial and then only one level of residential above. I suppose it could also have two levels of commercial, be it offices or retail or the like. Then it was put in, following the suggestions from the lessee. I think there was concern because of wanting to have the active frontage, not to just have a blank wall. That would be difficult with a residential development because people would not want people walking past, particularly since the space between the car park and the property boundary is very little. There are conflicts of views and people walking past, the need to not have blank walls. Well, you could not have a blank wall if it is residential anyway because that would make a horrible living environment.

THE CHAIR: People wanted windows.

Ms Kaucz: Those sorts of issues just led to not being consistent.

MS ORR: And the road issues from the traffic, yes. Was there any other consideration? They are the main ones?

Ms Kaucz: I think they are the main ones.

MR PARTON: The lessee suggested earlier, although it is not, I guess, directly related to DV 355, that you guys were keen on them setting up an outdoor cafe and moving the playground. Is that correct?

Mr Ponton: I recall consideration of changing the playground and some activation of the frontages of the shops in the first part of the master planning process.

Ms Kaucz: I think during the master planning process there was some concern raised by community members about the location of the existing playground and its proximity to bottle shops and to the tavern and other drinking establishments. I think there were some concerns raised by community members about children playing in that area. That is why it was looked at to see whether it should be moved. There were discussions and there was some interest from people in the centre on that. But that is, I suppose, something that will be part of capital works and things like that for the centre, as opposed to being a planning issue.

MR PARTON: So it is not a direction which is sealed? I think the lessee was of the belief that a view had been formed by government that the play space would move and that it was extremely desirable to have an outdoor cafe.

Ms Kaucz: It is something that the provisions do not prevent happening and can allow, but that does not mean that it will be moving next week or anything.

MR PARTON: It is not carved in stone.

MS ORR: It was suggested by Canberra Town Planning that R10 replicates the multi-unit housing development code. Can you clarify whether it does?

Ms Kaucz: We do have a similar provision. I cannot say off the top of my head whether it is exactly the same words but it is likely to be, to keep the consistent—

THE CHAIR: I think that is correct.

Ms Kaucz: There are requirements in the multi-unit code, although I am just—

MS ORR: If it does replicate it, would it be standard practice to have it there? Or do you just not worry because it is in the development? Does it matter?

Ms Kaucz: I think it is just making sure it is not missed. I will clarify with the multi-unit code, because sometimes that looks at developments within a site and then outside the site.

MS ORR: Are you happy to take that on notice?

Ms Kaucz: Yes.

MS ORR: There was a suggestion by Canberra Town Planning that R3 could be reworded to ensure that existing car parks are retained within redevelopment of the car parks in the centre. That went particularly to the criteria. I did ask them to suggest how it could be changed, but I do not think we got an actual suggestion. Do you want to give us your view on how that—

Ms Kaucz: That provision is an existing one. It is the same one that we have in all of the group centres, just saying that whatever car parking spaces might be taken up by development are to be replaced, as well as whatever the development is creating. There is a bit of flexibility if it meets the requirements of the parking code, but that would need to demonstrate that the parking needs of the centre are being met. It is consistent with other codes that we have.

MS ORR: The other thing that has been put forward is the idea of adaptive residential areas so that on the ground floor of block 41 you could have residential that could over time be adapted to commercial. Do you have a view on whether that would be workable?

Ms Kaucz: We did have a look at that but, based on the reasons that I have outlined for that use, its appropriateness in that location and the configuration of the street and the block, it was not considered to be appropriate even if it was in the short term.

MS ORR: If block 41 was developed to, say, be four storeys across the whole thing and have residential on all floors, without the setbacks of the paths and the awnings and those sorts of things, how would that fit within the vision of the master plan? Would it fit within the vision of the master plan?

Ms Kaucz: A lot of work went into developing it and the recommendations we had that then flowed into the variation. Given the discussion we had about the reasons for heights and things like that, widening that to cover the whole of the block would be problematic for that impact on the centre. It would probably be inconsistent, as well, with the intention of the active frontages so that people walking to the centre are not walking around blank walls or windows with curtains or looking into living spaces.

Mr Gentleman: There is quite a bit of pedestrian activity to the rear. You will not see it on those maps but you will see it on Google Maps. To the northern end of that particular block there is quite a bit of pedestrian activity on unrecognised footpaths.

MS ORR: Will those footpaths become more integral to the overall catchment area once the community zoned land also comes into effect? The other part of the Territory Plan variation, I understand, is the community facility plan. We have focused on block 41, but do you see more pedestrian activity, given the changes?

Ms Kaucz: Currently that is a transport zone, so it is not a popular place for people to go, but, yes, that is being rezoned to community facility zoned land. It does not specify the uses, but obviously they are going to be uses that will have community members using it. You would hope so.

THE CHAIR: Thank you very much for attending today. Were any questions taken on notice?

MS ORR: Yes, there was one.

THE CHAIR: Could you please submit the response to that within five days of the transcript being made available to you by the committee secretary, and also any corrections to the transcript. Thank you.

The committee adjourned at 3.02 pm.