



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON PLANNING, TRANSPORT
AND CITY SERVICES**

(Reference: [Inquiry into annual and financial reports 2019-2020
and ACT budget 2020-2021](#))

Members:

**MS J CLAY (Chair)
MS S ORR (Deputy Chair)
MR M PARTON**

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 25 FEBRUARY 2021

**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.

APPEARANCES

Chief Minister, Treasury and Economic Development Directorate	26, 32
Environment, Planning and Sustainable Development Directorate	1, 32

Privilege statement

The Assembly has authorised the recording, broadcasting and re-broadcasting of these proceedings.

All witnesses making submissions or giving evidence to committees of the Legislative Assembly for the ACT are protected by parliamentary privilege.

“Parliamentary privilege” means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively, and enable those involved in committee processes to do so without obstruction, or fear of prosecution.

Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

While the committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

Amended 20 May 2013

The committee met at 2.02 pm.

Appearances:

Gentleman, Mr Mick, Manager of Government Business, Minister for Planning and Land Management, Minister for Police and Emergency Services, Minister for Corrections and Minister for Industrial Relations and Workplace Safety

Environment, Planning and Sustainable Development Directorate

Ponton, Mr Ben, Director-General

Brady, Dr Erin, Deputy Director-General, Planning and Sustainable Development

Rutledge, Mr Geoffrey, Deputy Director-General, Environment, Water and Emissions Reduction

Cameron, Ms Lesley, Executive General Manager, Planning and Urban Policy

Fitzgerald, Mr Bruce, Executive General Manager, Development and Implementation

Iglesias, Mr Daniel, Executive Branch Manager, ACT Parks and Conservation Service

THE CHAIR: Thank you for coming to the first day of hearings of the planning, transport and city services committee into our combined budget and annual reports estimates. We will be hearing from the Minister for Planning and Land Management first up and then later on we will be hearing from the Minister for Sustainable Building and Construction and officers. First of all, can I just check that everybody has observed the COVID protocols and checked in with Check In CBR and done all those things? Has everybody here sighted and acknowledged the privilege statement? You have all seen that?

Mr Gentleman: Yes, we have. Thank you, Chair.

THE CHAIR: Great. When you make your first statement, can you state that you acknowledge the privilege statement? That will make sure that it goes into the *Hansard* record. We will be starting with output classes 1, 2 and 4. Minister, I was wondering what the likely time frame is on our legislation preventing future gas main network connections in our greenfield residential developments and in our infill developments. Can you outline the time line?

Mr Gentleman: There is still a bit of work to do. EPSDD have been working through that process and talking to us about the time lines for legislation and preparedness, to ensure that we can deliver what is in the agreement. I might hand over to Mr Ponton to let us know what preparation he has been doing.

Mr Ponton: Thank you, Minister. I acknowledge that I have read and understand the privilege statement. As the minister said, we are currently in the process of finalising briefing material for the minister's consideration in relation to the proposed banning of gas in new suburbs. As part of that exercise, we are also looking at what that might mean in terms of urban infill opportunities, whether or not there is work that needs to be done in that space. We expect that we will provide a brief to the minister in coming weeks and then from there we need to work through what the best approach will be. In

terms of greenfields, that would be primarily through a Territory Plan variation. In terms of the timing of that, with committee hearings, public engagement et cetera, that would ordinarily take between 12 and 18 months.

THE CHAIR: From all of that information, do you think we are likely to get where we need to go by 2023?

Mr Ponton: Absolutely.

THE CHAIR: You are also including in that suburban infill, as well as greenfield?

Mr Ponton: We are providing advice to the minister in relation to urban infill, but in terms of appendix 1 of the parliamentary agreement, as I recall, that focuses on greenfields development.

THE CHAIR: It does indeed, but the issue is the same for all.

Mr Ponton: Indeed, but in terms of the immediate task, our focus is on appendix 1. But, given that it does make an appearance elsewhere in the parliamentary and governing agreement, we will be providing advice to the minister on that.

THE CHAIR: The briefing and the public hearings would pick up infill as well, do you think?

Mr Ponton: Potentially. That is subject to the minister's consideration of our briefing.

THE CHAIR: Thank you. As part of that, do you think we will be seeing our all-electric Molonglo commercial centre?

Mr Ponton: That is also subject of a brief that we are currently developing for the minister's consideration.

THE CHAIR: Okay. As part of the same track?

Mr Ponton: Potentially, but not necessarily. It could be part of the same Territory Plan variation but it might be a separate variation. Again, this is part of what we are exploring through the briefing material that we will prepare for the minister and then it will be for him to make a decision as to the best way that he would like to deal with that. But it is certainly possible that it could all be dealt with as one.

THE CHAIR: Great. We look forward to seeing progress on that one. Suzanne?

MS ORR: Thanks. Is this where I can ask about the Territory Plan review?

MR COE: Can I just ask a supp on gas? Is that okay?

THE CHAIR: Sure.

MS ORR: Okay.

MR COE: Thank you. What are the obstacles? If this is a stated policy intention, what are the obstacles? Why can it not be done sooner, if that is what the intention is?

Mr Ponton: It is certainly much more straightforward for greenfields estates because we are not putting the infrastructure into the ground at that point, so we would be saying that it is not required. That is an easier proposition for us to provide a brief to the minister on. In terms of the timing, as I said, that is not entirely within our control—that process that we need to go through, including, potentially, committee hearings. That is why I say 12 to 18 months, just to get through that process.

In terms of infill development, we need to consider a range of other matters, including the fact that we have got infrastructure that is there and what might happen to that infrastructure. We just need to work through, from a policy perspective, what the implications are and provide advice to the minister on that.

MR COE: Minister, with regard to greenfield, if this is your policy intention, why could you not do it sooner?

Mr Gentleman: We are doing it along the time lines that are available, I think. As the director-general said, we need to do some legislative change. We need to talk to the community about it as well and plan into the future. And then, with regard to brownfields or infill development, we need to—

MR COE: I am talking about greenfield, though.

Mr Gentleman: I am sorry?

MR COE: I am talking about greenfield.

Mr Ponton: In terms of greenfields, we are settling the brief now to provide that to the minister so that we can progress that as a priority. As part of that exercise, we are also providing advice to the minister on infill development.

MR COE: Thanks.

MS ORR: I think we have clarified that I can ask about the Territory Plan here?

THE CHAIR: Yes.

MS ORR: There has been a lot of discussion about the Territory Plan review. Can you run me through where that is up to, what you are looking at doing—it is quite a big process—and how you see that one stepping through all of the different steps?

Mr Gentleman: It is a big process; thanks, Ms Orr. It is one that the directorate has been working hard on for a number of years and it has been working with the community on these changes as well. As we have said, we want to see a planning review which looks at outcomes-based rather than rules-based legislation or codes. That will make it more flexible for developers and give more certainty, we are confident, for the community as well. I will hand over to Mr Ponton. Erin might want to make some comments about the work that she has been doing too.

Mr Ponton: Thank you, Minister. In terms of the project, just for clarity, it is more than a Territory Plan review. That is where it started, but we have gone beyond that to looking at the entire system. We refer to it as the planning system review and reform project because we have gone through the process of reviewing what needs to be done and we are now in the reform stage in terms of working out how we get to the end goal, as the minister said, of a more people and outcomes focused planning system.

In terms of the work that has been done, we have reflected on the engagement activities that we have been undertaking for many years, back to the minister's statement of planning intent in 2015. We have engagement activities on the planning strategy and more business-as-usual engagement activities that we undertake on development applications, on Territory Plan variations and the like. That has given us a really good sense of what the issues are and what people are looking for in a new planning system.

We have looked at what is happening elsewhere across the country but, importantly, what is happening internationally. That has all been synthesised into the directions papers that were released by the government in November last year. The purpose of those directions papers was to make it really clear to the community that this is what we have been hearing from them for quite a number of years and these are the directions that we are wanting to take in terms of making those changes.

We are now at the next phase of the detail. There will be opportunities for further engagement with the community and industry in relation to the various aspects or elements of the planning system. We are looking at changes to the legislation. We are working our way through exactly what changes need to be made. That takes you back to the planning system paper but also elements through to the development assessment, where we are looking at improvements that we can make to the planning system to make the assessment process more outcomes focused.

That will then result in, hopefully—subject to the minister's consideration, the government's consideration and ultimately Assembly consideration—amended legislation or potentially a new planning act that will set the new framework, the new planning system, if you will. That will allow us to move into implementation next year. That will result in policy work, further engagement in relation to some of the detail of the Territory Plan itself and district level plans that we have foreshadowed in the papers released last year and also the planning strategy. With that overview, I might ask Dr Brady to talk a little bit more—unless you think I have covered it well enough.

Dr Brady: You have probably covered it. I acknowledge the privilege statement. I will just elaborate a bit on the papers that we have put out. As Mr Ponton referred to, the papers highlighted the review work that we had done and what we had heard from community over the years through different various projects that we have worked on. A clear objective is to try to simplify the system. As Mr Ponton said, that is looking at the whole system, not just the Territory Plan. One of the things that we are doing is looking at all the policy strategy changes that have come through in government in recent years to try and make sure that the planning system is facilitating that. That is transport strategy changes, climate strategy changes—those sorts of things. We are

trying to pick up on those.

We have been looking at best practice from other jurisdictions, both within Australia and internationally. South Australia has done a reform program recently. The Northern Territory released new legislation late last year. We are looking at what other jurisdictions are doing as well and what is relevant for the ACT. We will keep doing that and look at places in Australia and overseas. We have looked at Singapore, we have looked at some of the systems in the UK and we have looked at some American systems; so different examples to help us out in that regard.

As Mr Ponton said, some of the focus areas and the five papers look at system structure, development assessment, development control, system operation and strategic planning. The district planning ties into some of the strategic planning and providing a bit more information for people about what their areas might look like into the future, because that is where we heard there is a bit of a gap with people sort of looking at the planning strategy and then jumping to the Territory Plan.

It is not quite clear to them what their areas might look like, particularly as we move towards the 70 per cent infill, and how we are actually planning for that and involving people in protecting the values that they have told us about. So we have done some engagement and have asked people, “What is it that you value in your areas?” Some of the values are the same across all of Canberra, but for particular areas they are quite different. We are trying to pick up on how we plan to protect that better as we go forward. It is a big package of integrated work. As Mr Ponton said, there will be some legislative changes to help enable some of the further changes that we will make as we step through the more detailed changes.

MS ORR: There are two things I would really like to clarify so that we are all on the same page. There is a level of what I want to call interpretation but only because I cannot think of a better word. When you say “outcomes based”, can you define outcomes for me, Mr Ponton?

Mr Ponton: At the moment the current system is extremely rules based. We are seeing it from the planning and land authority’s perspective and we are hearing it from the community, who comment on development applications. For that matter, industry reps are saying that they are seeing this as well. As a result of a very rules-based system, people are just going through and ticking off each rule. For a multi-unit development there are well over 200 rules or criteria that you need to consider if you wish to depart from a rule.

What that is driving is people not stopping and looking at their site and really thinking about what is the best outcome for the site. They are not thinking about the site in the context of the street or the block or the suburb. Therefore, we get this very isolated development that may not necessarily be the best development for the site. As we go through that process, the planning authority may be almost forced to approve a development that we know is not ideal and the community does not particularly want, and developers know that at least they can get a clear pathway. Particularly if they comply with all the rules then there is less chance of a tribunal appeal. That is driving the development that we are seeing.

We would like to get to a system where people stop and think about the strategic direction. It is that clear line of sight through to other government policy that we do not have in the current system. There is a planning strategy but, as Dr Brady said, there is not a clear line of sight from the Territory Plan to the planning strategy. We have got the climate change strategy and we have got the transport and housing strategies. They are not acknowledged or reflected in the planning system. We would like it to be less focused on the rules and more focused on the outcomes, getting it to communities and developers and giving the assessment team a greater opportunity to really shape quality products.

MS ORR: How do you anticipate getting to the end of a process where a decision has to be made? How do you anticipate making that decision and feeling comfortable you have actually got that outcomes approach?

Mr Ponton: I think that is part of the work that is yet to be done.

MS ORR: Okay.

Mr Ponton: We have been working our way through the various themes and through the directions papers. Development assessment and controls are at the latter end as we cascade our way through. We are bringing forward some of that work in terms of development controls and development assessment because that is the question that we are often asked. It is really important that we do all of that other work in terms of the strategy work and the systems work, but we are not losing sight of the fact that we need to get onto that other work.

MS ORR: I am going to come back to that, but the other part I wanted you to clarify for me, so that we are on the same page, is that this is the entire system.

Mr Ponton: Yes.

MS ORR: In a nutshell, can you tell me what the system takes in?

Mr Ponton: In the ACT the system is more than development assessment. It is looking at how we incorporate strategy into the planning system and how we achieve that clear line of sight from strategy, the big picture thinking, through to individual blocks. That is a key component of what we are considering because at the moment—and this is articulated in the discussion or the directions papers—people will look at the rules that relate to their block, but they cannot necessarily see how they have translated from a strategy document to the ACT planning strategy 2018. As I said, whilst we are trying, through various strategy planning variations, to reflect other government policy, there is not a clear line of sight through to the climate change strategy or the transport strategy. That is part of the system thinking that we are doing to make sure that all of that policy work is reflected in the statutory document.

MS ORR: I go to the part where we were talking about, I guess, that level of comfort that by the time you get to the decision it will be an outcomes-based decision that meets expectations for the most part.

Mr Ponton: Yes.

MS ORR: I know you cannot please everyone all the time. You said that that is the work you are still looking at doing, or that is the next part of the work. Can you give us some insight into where your thinking is on that or what you see as being the next questions that need answering?

Mr Ponton: We have been putting in place some tools to assist with getting to more than an outcomes focus. That includes the design review panel. In terms of what the design review panel is tasked to do, it is not necessarily to just be focused on the rules. Theoretically, whatever goes to them is compliant, so they are focusing on a range of other considerations. We are looking at what we can do in terms of guidelines to provide guidance to people, examples of what we consider to be good outcomes, so that people start to visualise. Linked to that is some other work that we are doing around demonstration housing, for example. We are trying to use a range of different tools to get people to see and understand what we mean by a high-quality development.

MS ORR: Just on the design review panel, I have had really good feedback from people in the community who value that process. One question that does come up, though, is that there is a perception that sometimes the review panel put up their report and there is no clear indication as to how that is incorporated or what changes are made as a result of that. Are you looking at whether what comes up through this process is actually reflected, so that it is not just a case of saying, “We’ve gone through the steps”?

Mr Ponton: I am pleased to say that that is already happening. The government, through the Ninth Assembly, amended the legislation so that the advice of the design review panel must be considered by the planning and land authority. In the documentation that is submitted with the development application, you must provide the advice of the design review panel and a statement as to how you have responded to that advice.

That was in response to community feedback. It was exactly that—that they were not able to see how the design review panel’s advice was being reflected. It also was not a document that was notified with the DA. We had always intended that we would get to that point, but our immediate intention was to establish the design review panel, get it operating and get legislation before the Assembly so that it would be necessary for the assessment team to consider that advice. The next step, which obviously is now in effect, is the community, through the DA notification, getting to see the advice and the response.

MS ORR: I did want to ask a bit more about district level planning, but I will sit tight for the moment.

THE CHAIR: We might circle back, if that is okay, or we will run out of time. Mr Coe and Ms Castley, you may only get one question, so pick a good one. Would you like to open?

MR COE: Do you mean one question each?

THE CHAIR: I suspect that, given the time, you are likely to get only one question, so prioritise.

MR COE: Sure.

MS CASTLEY: I have none on planning.

MR COE: Does the government have an adaptive re-use policy?

Mr Ponton: I am sorry?

MR COE: Does the government have an adaptive re-use policy?

Mr Gentleman: In the planning space?

Mr Ponton: There is not a policy, no.

MR COE: There are policies about densification and policies about all sorts of other things but not about how we better use our existing assets as a city?

Mr Gentleman: No. I think those decisions are made as we go through the planning process. Early on, we look at the assets that are available and then the pressure on the assets as we grow as a city. All of those discussions we have had at the early stages. If we are looking at the changes to density along transport corridors and town centres then there is going to be pressure on the existing assets. Those discussions have already been had at the initial stage and they will be built on as we go through to do the planning for that density.

MR COE: So were any—

Mr Ponton: The existing planning system—if I may, Mr Coe—does not preclude adaptive re-use, but it is not a key policy.

MR COE: Are there any LVC concessions that are given for adaptive re-use?

Mr Ponton: Not currently, but there were, as I recall. I would need to clarify that. I think that quite a number of years ago there were some.

MR COE: I think that is right. There might have been a disallowable instrument or something along those lines. I am just wondering how the ACT government got from a point where there was a policy or some recognition of the importance of better utilising the city's current assets rather than knocking down a 10-storey building just to replace it with another 10-storey building—why the government would not have such a policy—and what happened to move away from past concessions for LVC.

Mr Gentleman: That is some research I will have to do, I think, with Treasury and CMTEDD as well, but I am happy to take that on notice.

MR COE: Do you accept that it would be preferable, from a waste point of view and from an asset point of view, to better utilise existing assets rather than knock down?

Mr Gentleman: Sometimes, but not in every case. There are assets, for example, that are quite old in the ACT. Sometimes it is a better opportunity to rebuild rather than reconstruct from what is there at the moment. I think we saw that particularly with Northbourne flats; they were incredibly cold and inefficient.

MR COE: I am particularly talking about commercial.

Mr Gentleman: Okay.

MR COE: That is primarily where it is at. You do not tend to have people wanting to go from residential to commercial.

Mr Gentleman: That is right.

MR COE: It has been put to me that if you have to pay the LVC then you have got to recover that, and the best way to recover that is by going with a new build and really trying to max it out; whereas if you did not have that hefty LVC, the economics of a project would change considerably and the idea of adaptive re-use would become more attractive in more instances.

Mr Ponton: Perhaps, Minister, we could have a conversation with our Treasury colleagues, given that this is potentially more of a tax policy question, and come back to you. We can take it on notice.

MR COE: It is a tax policy, but of course it also goes to planning.

MS ORR: I have got lots of planning questions also.

THE CHAIR: Sure. Mr Coe, is it all right if they take that on notice and come back?

MR COE: Yes. Thank you.

THE CHAIR: Ms Castley?

MS CASTLEY: I have nothing for planning at this stage.

THE CHAIR: Lovely. I will run the one on planning and then hand over. I was interested to see that the merit assessment team is being enhanced. I am wondering whether that is a temporary measure or a permanent measure, how it fits into the revised planning system and whether it means our merit track will be expanded. I am interested in quite how that fits in.

Mr Ponton: The short answer to the question is that the additional resources that were provided by the government in 2020 are an ongoing allocation of funds. We have employed those people and they will continue to remain in that team, which has allowed us to work through the backlog that we had. There are a number of reasons for that backlog. Part of it is that we are starting to see more complex development applications and they are taking longer. This allows us to deal with those issues in a more timely manner.

Moving forward, in the new planning system the team will remain focused on assessing applications. Whether they are merit applications remains to be seen. One of the things that we are looking at through the new planning system work is whether or not we shift from the DAF model, the Development Assessment Forum model, to a track-based system of exempt code merit impact. It might be, for example, that we could have a stream that is complex versus less complex.

THE CHAIR: Yes. The categorisations will probably change.

Mr Ponton: Indeed. We are working through that in terms of the options that are available to us. That will then form part of the briefing to the government. Having said that, these are some of the things we may wish to test with the community and industry before we go down that path.

MS ORR: There has been a lot of talk about Gungahlin and the planning out there, particularly around the town centre and the remainder of what is going to happen regarding DV364. I moved a motion in the last sitting which called on a range of things. I am assuming you have read that motion and are familiar with it?

Mr Ponton: Absolutely.

MS ORR: Great. My question to you is: with DV364 and that motion now being passed by the Assembly, what do you see the next steps as being?

Mr Ponton: We are currently finalising a package for the minister to consider in relation to DV364. In doing so, we are working our way through the resolution of the Assembly. We will reflect that resolution in that advice to the minister. Then, of course, it will be for the minister to decide whether he wishes to proceed to the point of referral to committee.

MS ORR: What implications do you see there being? There was a lot of discussion about mixed use, and we have just spoken about outcomes and so forth.

Mr Ponton: Yes.

MS ORR: Do you see there being not implications but opportunities?

Mr Ponton: In terms of the resolution of the Assembly?

MS ORR: In terms of the motion and DV364, and moving towards more of those outcomes for the community. I think it is fair to say, Mr Ponton, that there is a feeling that a lot of work was done in the lead-up to 364 and people are actually quite happy with that and what went through the planning refresh and the consultation for that. I am just making sure that, I guess, the sentiment that was captured and that I think did reflect the community wish, for the most part, does realise itself a bit more in what comes through in the territory planning and whether there is an opportunity with what is coming forward to better realise that, especially considering that we are looking at doing a whole of heap of stuff with planning.

Mr Ponton: Indeed. We are still working our way through, as I said, the resolution of the Assembly and thinking about that in the context of the progress we are making with the planning review and the reform project. I do not think that we are in a position right now to say exactly what that briefing to the minister will entail because we are still working through that ourselves as we develop our thinking to respond to that.

MS ORR: So it is being considered. A briefing will go up to the minister. I appreciate the you cannot pre-empt the minister's decision on that, so I probably cannot push you any further than I have. It is up to the minister whether it gets referred to committee and progressed. Can you also clarify for me how the—

Mr Ponton: Sorry, can I clarify?

MS ORR: Yes.

Mr Ponton: The minister would either decide not to proceed with the variation or to refer. He cannot decide just to proceed and not refer.

MS ORR: Okay. So it may or may not go to committee. You have made me lose my train of thought, Mr Ponton.

Mr Ponton: Sorry.

Mr Gentleman: It is the shirt!

MS ORR: The shirt.

Mr Ponton: It was an important clarification, I thought.

MS ORR: It is an important clarification. That is what I was going to ask. Can you please clarify where the interim effect of that draft Territory Plan variation is up to? My understanding is that it was previously notified.

Mr Ponton: The interim effect of that variation has lapsed. There will be an opportunity for the minister to consider that at the point that it is referred to him. Ultimately, it is a matter for the planning and land authority to sign the instrument. The interim effect should continue but, as you would expect, we would do that in consultation with the minister. It would be at the point that he receives the briefing to consider the response to the Assembly resolution referral to the committee that a decision would be made in relation to interim effect. It may be that interim effect is not continued or is not reapplied. It could be reapplied in full or it could be reapplied in part. We are currently, again, working through the feedback that we have received and the Assembly resolution, and we will be forming a recommendation to the minister in relation to those three options.

MS ORR: Okay. Can you just run me through the mechanics of it, because it is quite technical? I guess the obvious question is: how has the interim effect lapsed if it has been notified and what is the process behind that?

Mr Ponton: If the interim effect is applied at the point that it is first notified then it will last for 12 months. After the 12-month period, it lapses. The reason that it is 12 months is that within that time you would ordinarily expect that the matter would be referred to the minister, because that is giving you 12 months to seek the views of the community, respond to the views of the community and provide a brief to the minister, and then potentially progress to committee and allow the committee time to inquire. But, as I said, at the point of referral a further decision is made. That is why it is 12 months.

In this case, due to various reasons, including the fact that we had an election in October—and, obviously in terms of referring things to ministers and committees there is a bit of a period where that does not or cannot occur—it has pushed beyond the 12-month period, and now there is a decision. Whenever we apply interim effect, if somebody is making decisions on that at that first point they do so knowing that that could change. The reason that it could change is that the minister might decide not to proceed with the variation or the interim effect could lapse.

MS ORR: So it gets notified, it has interim effect and that lasts for 12 months. In this instance we had some pretty significant things in the form of COVID and the election and it just was not possible, under the circumstances, to see that process through. So it had to be notified a second time and that is where the process will pick back up, potentially, depending on the minister's decision that it be referred to committee. If the committee inquires then the committee can have more of an input into that through the process. If you are putting in a development application, though, what are you being assessed against?

Mr Ponton: If you lodged a development application for those sites today, you would be assessed against the Territory Plan as it currently is, in effect. If interim effect is applied at a future point then you will be assessed against the new Territory Plan as though it were varied.

MS ORR: Let's just say it is still in process—a decision has not been made. What are you assessed against?

Mr Ponton: The point of the decision is the plan that applies at the time. If you lodged six months ago and a decision was due today, we would apply the Territory Plan—

MS ORR: As it stands today.

Mr Ponton: as it stands. But, had we made a decision six months ago, it would have been as though the plan had been varied.

MS ORR: Okay.

MR COE: I just have a quick follow-up supp specifically on that.

MS ORR: Yes. I will just check my notes.

MR COE: Were any DAs assessed according to the draft variation?

Mr Ponton: I do not believe so; lodged, but not assessed.

MR COE: Therefore, 364, as it was presented in 2019, is dead in the water?

Mr Ponton: For now.

MR COE: That is right; as lodged in 2019. So it will not have any effect on any DA that has been lodged?

Mr Ponton: At this time, unless there was a decision to reapply interim effect. But if we make the decision today—

MR COE: That is right, but I am just—

Mr Ponton: If we make a decision today, it is as per the current—

MR COE: So nobody took advantage of this draft variation for a DA?

Mr Ponton: As I understand it, the DAs that were lodged are not affected by the fact that interim effect has lapsed.

MR COE: So they were working on the old rules all the way.

MS ORR: They would have been fine under both.

Mr Ponton: Yes.

MS ORR: Those are all my questions. I think they have been covered.

THE CHAIR: Are you finished?

MS ORR: Yes.

MR COE: I want to go back to Gungahlin. The government has a preference for a lot more residential in east Gungahlin, as per the draft variation that has been presented. What concern is there that you would be severely restricting the commercial viability of Gungahlin town centre?

MS ORR: I think we had this debate in the last sittings.

Mr Gentleman: I was just going to point to that. There was quite a detailed debate about how the community feels. I think all of us here know the history of Gungahlin. I worked there in the early 2000s in real estate. We have seen it grow from a small area to a much larger residential area, but with little growth in the commercial sense. The debate that we had in the chamber focused on those changes and what people would like to see for the future of Gungahlin.

MR COE: But in terms of what was put forward in this annual report period, obviously the draft variation is very residential-centric. I am wondering what the

rationale for that was, given that, for a long time, the community has been crying out for more commercial. What drove this?

Mr Gentleman: The original focus for Gungahlin was as a large residential area.

Mr Ponton: I might ask Ms Cameron to come to the table, and she can elaborate.

MS ORR: Can I just clarify? When you say “residential” and “release”, what are you referring to?

MR COE: DV364, which is in 2019-20.

Ms Cameron: I acknowledge the privilege statement. The question was about whether we have a strong preference for residential or commercial in Gungahlin town centre?

MR COE: That is right, or whether you agree that that would pretty much guarantee the key outcome of DV364 as presented.

Ms Cameron: There were two drivers to introducing residential development in Gungahlin east. One of those is fairly straightforward, in that the planning strategy points us to having 70 per cent of all our future growth in the urban footprint, around town centres and transit corridors. So there is that driver.

There also was the driver that in 2011, when the first Gungahlin town centre variation happened, there was projected commercial demand of 200,000 square metres of commercial floor area. By the time the 2018 refresh came around, that was obviously extremely optimistic and had not been realised, so there were further projections, and a more realistic figure of 100,000 square metres of commercial floor space was accepted. That is including about 13,500 square metres of small-scale commercial, predicting up to another 25 or 30 within the next couple of years. Setting aside 65,000 square metres in Gungahlin is specifically for large-scale commercial development. That was the mix that was settled on, on the basis of demand forecasts.

MS ORR: What was the horizon for those demand forecasts?

Ms Cameron: Sorry?

MS ORR: What was the time frame for those forecasts? How many years forward were you looking?

Ms Cameron: It is going to be reviewed by 2024, so five years from the start of this.

MS ORR: Is the forecast just for a five-year period or is it for longer than that?

Ms Cameron: I am not sure of that; I am sorry.

THE CHAIR: Would you like to take that on notice?

Ms Cameron: I can, yes.

MR COE: I was on the planning committee a while ago when the Gungahlin town centre planning report was published. The two proposed office precincts are the very two areas that are proposed to be varied under this variation. This is a report of 2010; it is not as though we are talking about NCDC Gungahlin studies of 1985. We are talking about this government in 2010. What is wrong with the report that ACTPLA did in 2010 that would need us to pretty much throw out the whole chapter on commercial issues?

Mr Ponton: I do not think it was wrong. We have heard from Ms Cameron that the forecasts were revisited because demand has changed over time. Over a 10-year period, things can change. It is important that we go back and revisit the inputs into that planning policy work. Have I understood you correctly, Ms Cameron?

MR COE: What I heard with regard to the infill policy was that it was an ACT-wide infill policy. Given that you have tens of thousands of square metres of land there, you go, “Hey presto! It is done.” When you look at the viability of Gungahlin town centre, there is a reason why the Gungahlin town centre planning report of 2010 put a real focus on having commercial uses in those two spaces—because the rest of it has been taken up for residential. It seems to me that you have an ACT-wide policy and Gungahlin is carrying the can for it.

Mr Gentleman: I would not say that that is the case. We have had a lot of urban infill along the city areas—Northbourne Avenue—and the town centres.

Mr Ponton: Indeed.

MR COE: If the government did not have a 70 per cent infill policy, would this DV be going ahead or would it still be as per the plan for Gungahlin to be commercial?

Mr Ponton: I might just say that the variation was not driven by the fact that we have the 2018 planning strategy; the variation was the result of a planning refresh that occurred in Gungahlin. That was at the request of the Gungahlin community. What we were doing in terms of revisiting the planning in Gungahlin was listening to what we were hearing from the community: that they wanted us to revisit the planning policies. That was done. As a result of that, we have revisited the inputs, the modelling, the projections et cetera. That has resulted in the variation that was DV364.

MS CASTLEY: I am new to this, so please excuse me if I ask the wrong question. The figure has dropped from 200,000 to 100,000 square metres for commercial space. You said that that has been accepted. Who accepted that?

Mr Gentleman: There was less appetite for commercial space.

Ms Cameron: It was based on the modelling that was done.

Mr Ponton: It was accepted by the planning authority, providing advice to government.

MS CASTLEY: You mentioned that you are revisiting it because people have said

there needs to be a review of the planning of Gungahlin. What did they say? Did they want more jobs or fewer jobs?

Mr Ponton: At the time, as I recall, the catalyst was development that was occurring in the north-west corner of Gungahlin.

MS CASTLEY: Which is?

Mr Ponton: Which is the Infinity towers.

MS ORR: Where Ruby, Mezzo and all those are.

Mr Ponton: That was the catalyst, but in undertaking a planning review or refresh, we were not going to look at just that part, because it is important that we look at the whole if we are going to do a planning exercise; we need to do it well and do it properly. We went back to all the important inputs into the original planning—looking at demand for commercial, demand for residential et cetera. That then informed the variation itself.

Mr Gentleman: If you look across Canberra, you will see that in almost every other town centre there is a large federal government department. There does not appear to be any appetite from the federal government to lodge a department in Gungahlin. So the predictions that we had earlier have changed. Unless there is some rethink or interest from the federal government to put a big department there, we are simply doing what the community expects us to do because of the lack of that department.

MS CASTLEY: Are there ACT government departments in all the other areas of Canberra?

Mr Ponton: The ACT government have offices in Gungahlin, Dickson, the city and Woden.

Ms Cameron: And Tuggeranong.

MS CASTLEY: Being the largest jurisdiction, why has it not been obvious that we would need or welcome an ACT government department in Gungahlin?

Mr Gentleman: There is one.

MS CASTLEY: Yes, but more than one. We are growing faster than the rest. How is it that it has been forgotten?

Mr Gentleman: It is growing to a point, but it will grow shortly to the end of the residential area. We are now looking at Molonglo as the newer residential area; we will be looking at that too. We have an office space in Gungahlin; we will be looking at other opportunities.

Mr Ponton: I should point out that I believe Belconnen also has the ACT government.

MR COE: Can you please table the modelling that you made mention of? Can you

send that to the committee?

THE CHAIR: Take that on notice.

Ms Cameron: Sure.

MR COE: Thank you.

THE CHAIR: We might shift track. We had some major fires in the Orroral Valley and that had a huge impact on the habitat, the bush, the wildlife. I am wondering if you have done any assessments of the flora and fauna and whether any of them have changed status—whether they have become threatened or whether you think there might be a need to reassess those.

Mr Gentleman: Yes; we have done quite a number of assessments and work, particularly on the fire front, Namadgi National Park. I will ask the directorate officials to go through that for you.

Mr Rutledge: I acknowledge the privilege statement. We are in the process of doing some of those assessments. When you have that level of devastating fire, it instantly creates new challenges. We had a large part of the park burnt out and then the rain event immediately afterwards created a lot of silt and washed through. There has been damage to catchments; there has been damage to flora and fauna. Also, post fire there is a great ability for weeds and pest animals that are not normally there to come on site. The park has been closed for some time. We have had a series of pieces of work done on the ground—fence repair, making campgrounds safe and that sort of stuff.

The parks and cons service have been working with the conservation research team, which is in the environment portfolio. Daniel will be able to outline a few of the things we have been doing in conservation research, but we will probably pick this up further when the Minister for the Environment is here, later in the hearings.

THE CHAIR: Would you prefer me to hold that question?

Mr Rutledge: No; Mr Iglesias will cover off most of it, but if you have a detailed question—

THE CHAIR: I want to ask specifically about the threatened status assessments that have been done and any action plans you might have developed to deal with that.

Mr Iglesias: I acknowledge the privilege statement. We have commenced a number of activities in the park which aim to get a feel for how the plants and animals are responding. We are lucky in the ACT that we have some very unusual vegetation types, given that we have elevation all the way from 600 to almost 1,900 metres. We are lucky to have some of the very few subalpine habitats that exist in Australia. Those habitats have a number of species that occur nowhere else.

Two species come to mind that we have identified as being key to assessing how they have done after the fires. We have a small animal called a broad-toothed rat, which occurs in the high alpine bogs. It really does depend on those bog climates. When

I say an alpine bog, I mean an area that is quite wet, that holds water in what is called sphagnum moss and releases it slowly into the system. Some of those ecosystems have been affected by the fires. We are looking to rehabilitate those. It will take a long time, but we were very successful in doing it in 2003, and we have the tools to do it. We have started on that.

This particular rat lives in these habitats. We have only just started the assessment. It takes time to get a feel for how the population is responding. We are finding it very hard to find any rats at all. That was predictable. We are hopeful that with the passage of time we will detect them. That remains to be seen. Our monitoring will return to these sites over a period to see whether we can detect any recovery.

THE CHAIR: That is for one species. We do not have anything like a comprehensive analysis of how many species might be affected, then?

Mr Iglesias: We do. We have a very good understanding of the population make-up of each of these ecosystems. But what we do—

THE CHAIR: So you have picked out which ones you think might be—

Mr Iglesias: Exactly. We pick the keystone species that almost act as an indicator for the whole ecosystem. We are also looking closely at the two-spined blackfish, which is an unusual fish that lives in our river systems in the high country. It is susceptible to the movement of sediment into rivers. We know that after the fires we got all that rain. That is a good thing and a bad thing. For the high systems it could be a bad thing if it pushes sediment into these creek lines and rivers and smothers the habitat of these fish. We are hopeful that that impact is very stochastic—it happens and it goes; it gives the opportunity for the fish to survive. But, again, we are very early in the detection. It is probably a question you could ask me again in 12 months and I would be able to give you a more comprehensive response.

THE CHAIR: In 12 months, would we have action plans for the species?

Mr Iglesias: The ACT declares a number of action plans for its endangered species. I could not tell you whether—

Mr Rutledge: Ms Clay, we might pick this up in Environment. This is probably beyond Mr Iglesias's responsibilities.

THE CHAIR: That is fine.

MS ORR: I have a question on Gungahlin. The community and recreational facilities review is currently going on for Gungahlin. I would value some additional information on what this review is looking at and the process that is currently underway. When will the community have input and what will that input look like?

Mr Ponton: We will ask Mr Fitzgerald to come to the table.

Mr Fitzgerald: Sorry, can you repeat the question?

MS ORR: It is on the community and recreational facilities assessment in the Gungahlin district. I understand that there is some work going on right now, as we speak.

Mr Fitzgerald: Yes.

MS ORR: I want to get a good idea of this work—what they are looking, the scope, what we can expect to see come out of the work that they are doing, and when the community will have input and what kind of input they will be able to have.

Mr Fitzgerald: SGS are undertaking the work. Their scope, as it exists, is comprehensive. It goes across sporting, religious and community facility type needs. We have purposely not tried to restrict what is in scope at this stage; we think it is an early preliminary data collection exercise.

The consultant is starting to engage with stakeholders. The stakeholders that we picked are broad in their classification. We have Barnardo's, PCYC and a broad range of different stakeholders that we are seeking to engage with. All of that is leading up to a point where we can have a really informed conversation with the community. We understand where the needs exist, but that will not be the limiting factor when we go to the community around where to next.

MS ORR: This is a study for the whole of Gungahlin? I know that the tender document specifically identifies two sites, but it is not just those two sites; it is the whole of Gungahlin?

Mr Fitzgerald: Correct.

MS ORR: When you say it is a data collection exercise, can you explain what that means? To be honest, I do not follow what that is.

Mr Fitzgerald: It is around usage and need, looking at demographic data mapped against projections and the like, particularly when it comes to sport and recreation, community health facilities and that type of thing. It is using that demographic data and not just looking at demand for service within the Gungahlin area but looking at whether there is an overflow due to lack of service.

MS ORR: One hundred per cent there is.

Mr Fitzgerald: It is about having that background data to see where the pressure points are so that we can engage with the community on what we know to be the real issues as they stand at the moment.

MS ORR: So it is looking at the demographics, looking at what is currently there and being used, looking at what is not there but is close by. The netball courts are one example. All that information is going to come to you as a data and a desktop review. What are you going to do with that?

Mr Fitzgerald: There are two immediate needs that we have with that data. One is that there is a site in Casey for release as a community facility. Part of that will start

the conversation with the community about what that Casey site looks like.

MS ORR: I can tell you that everyone has a view on what should go there.

Mr Fitzgerald: Indeed, which is why we have started with data to start the conversation. If we start with preference, I think we might get a different outcome and a very diverse outcome as to what people think should be there. Secondly, we will start to look at the potential for sites within the Gungahlin town centre for the future development of a community facility.

MS ORR: What do you define as a community facility? What is in that scope?

Mr Fitzgerald: There is no scope for that at this stage. That is partly what we want the data collection to do—to understand, when we go to the community, what they see as their community facility, their community centre. What is that? Is that a Communities@Work-run centre? Is that a multicultural, multipurpose centre? That is the sort of conversation that we want to have.

MS ORR: What stakeholder engagement has happened so far throughout the process?

Mr Fitzgerald: Through the current process?

MS ORR: Yes. Not stakeholder engagement. What input can the community have to this process?

Mr Fitzgerald: We are still defining the exact community consultation process, but whether that takes the form of reference groups or other mechanisms or forums in which people can engage, acknowledging that we are still in a—

MS ORR: So the current review that is doing the data collection is to inform a much broader process?

Mr Fitzgerald: Absolutely.

MS ORR: And there is a level of input, but it is selected or targeted input in the first instance and there will be an opportunity for much broader community input?

Mr Fitzgerald: Yes.

MS ORR: If I had a constituent come to me and say, “Haven’t the decisions already been made, because this first piece of work has been done?” would I tell them that the second part is just going through the motions or is it a case where the community genuinely can have input?

Mr Fitzgerald: In my view, and in the view of the directorate, it is the case that no decisions have been made and the community engagement will inform what the final facility is.

Mr Ponton: Going back to the earlier part of that conversation, I might just add that I would expect that this would be really important input into the relevant district-level

plan for Gungahlin.

MS ORR: Is it fair to say that this first bit of information is identifying all the gaps in the second parts about prioritising?

Mr Fitzgerald: Yes, I think that is a fair assessment.

MS ORR: I have another question here. It says that there is a tool being developed by EPSDD in November to measure community and recreational facilities. I am assuming that it has been developed. It sounds like quite an interesting tool. Is there any information you can provide on that tool—how it works and how it is going to be used to inform the process?

Mr Fitzgerald: Nothing that I can provide, but I can take it on notice.

MS ORR: Okay. How are you going to be identifying sites? You mentioned the Casey site; you mentioned the town centre. Are there any other considerations in looking at where we might put things?

Mr Fitzgerald: There is a need to look at a stocktake of all community facility zoned land and look at need. There have been a number of community facility zoned land areas that the government has provided, particularly to religious organisations, over the last 12 to 24 months. Looking at how they will be developed into the future is important.

Our focus at the moment is on the town centre because we see that there is a commitment from government to deliver a community facility within the Gungahlin town centre. There are three sites, we believe, that fit the needs that we see at the moment. If what we get out of the SGS report suggests otherwise, we will have to reassess the site specifics.

MS CASTLEY: How long is this all going to take? Do we have a date when the data will be available, and will you make it available to us?

Mr Fitzgerald: I hope to be able to make it available. It is obviously a very technical set of documents. I think it works best if we can have all our cards on the table and the community can see the data we are working with so that they can make an informed decision or be part of the conversation.

MS ORR: Once this initial data collection stuff is done, when do you hope you can have that community conversation?

Mr Fitzgerald: The hope is certainly within the mid part of 2021.

MS ORR: So fairly soon after it?

Mr Fitzgerald: Correct, yes. Because we see it as quite an involved process with the community, the sooner we can get to that point the better. The sooner we can start the engagement with the community will mean better outcomes. We are obviously subject to budget funding as we go through, but 2021 will be defined by talking to the

community, understanding and hopefully getting to a point where we can get into that pre-feasibility early design work.

Mr Ponton: If I could clarify a comment in relation to the benchmarking tool, that tool is for internal EPSDD use.

MS CASTLEY: Has money been allocated for a community facility, and when do you think we will get it?

Mr Fitzgerald: At the moment we have been allocated the feasibility funding and we have \$100,000 to do that work. We would expect, through future budget processes, that we will seek the additional funding for the construction.

THE CHAIR: I will ask the same question to Minister Steel later on: how are we coordinating our land management in urban areas and parks areas? I have had a lot of feedback from the community and Landcare and ParkCare groups that we have a lot of problems because different land managers are not trained the same way and are not working together—so somebody might mulch on urban street kerbsides and the weeds then spread into the parks or somebody might be mowing and spreading weeds around. We are not coordinating the different people that work on the land. Have you got any thoughts on how we are going to manage that?

Mr Gentleman: PCS work with TCCS on issues such as weed infestation and management of environmental issues. Mr Iglesias will be able to give you the work that we do on our side and how we communicate with TCCS.

Mr Iglesias: If we think about the whole of the urban Canberra environment we can define it as having natural and cultural values as the key issue and we can also define it as recreational and amenity. Within the parks space we prioritise those areas in the urban environment to complement, wherever possible, the TCCS side of the fence, if you like, which is not so much the natural and cultural values but recreation and amenity. We often have nature parks that are near recreational reserves, and that allows us to focus a lot of the pressure where the environment can take it, in the recreational reserves.

I think there is quite a lot of dovetailing in relation to public land management. You mentioned mowing. We work very closely with TCCS to identify which areas need to be mown in terms of fire fuel management. That appears in the bushfire operations plan that we manage, and TCCS will deliver the work on the ground on the land they manage. So we manage the whole lot, which includes the TCCS bit, but they go off and do their bit for us. We do not do it. We work very closely there.

THE CHAIR: That sounds like the right strategy, but what I am hearing about individual sites from people who love their areas is that we are planting non-native grasses that need a lot of mowing and when we mow those the weeds are drifting over into the parks. Can we have a bit more of a process of PCS educating TCCS about a different way of managing our urban spaces so that they are more in keeping with our nature spaces? Is that being done?

Mr Iglesias: It is, wherever possible. Both agencies understand that there are certain

plants that we cannot introduce into the environment because they will take off and become weeds. Oftentimes, we do not know what those plants are until it actually happens. We can capture 80 to 90 per cent of them ahead of time, but some species are, for all intents and purposes, suitable and then turn out not to be.

On the weed side we are very good. We talk to each other and we understand what each of us is doing. But we have to realise that TCCS are managing for amenity. It is important to introduce plants into those parts of the territory that can be maintained easily, that are hardy and can take a bit of punishment. That is not necessarily the plants we would like in the system because they do not have much natural and cultural value. But if the roles were reversed I would probably do the same thing because I would be looking to deliver a degree of amenity for the public.

THE CHAIR: But look at some areas like Ginninderry, where they have had a bit more success at doing native plantings and reducing the need for mowing.

Mr Iglesias: There are plenty of places we can do that as well.

THE CHAIR: If we can do a bit more of that. We have a lot of experts in the community, in our volunteer citizen science groups and our Landcare and ParkCare groups. If they have good ideas for their particular areas—people are constantly coming to me with ideas about little urban empty spaces—how do they get that information through so that we can change our mowing regimes and the way we are managing those little pieces of land?

Mr Iglesias: We support upwards of 40 ParkCare groups, who are people exactly of the type you are describing. They have a lot of the local knowledge, and we value that and use that as much as we can. There will always be a degree of conflict between what people would like to have and what we can deliver. We acknowledge that and we sit at the table and try and deliver what we can with what we have got. I would always encourage people to bring their ideas to either TCCS or us, or to both, because invariably, if we cannot do exactly what has been requested, we can at least try and come to an agreement.

MS CASTLEY: You mentioned ParkCare groups. The report says they are getting \$210,000—FrogWatch and those sorts of things. I assume that has been given to them.

Mr Rutledge: This is an environment minister question, but the answer is yes, it has been provided.

MS CASTLEY: And then there is \$724,000 in the future years.

Mr Rutledge: Yes, and they are being provided the promise of that funding, which is probably the longest they have been used to receiving. There are interface issues—you get 40 volunteer groups and you get the conflicting priorities or the different priorities of TCCS and us. Funding for the volunteer groups has been an ongoing issue and often raised, and this investment is a good investment in that it eliminates at least one of those pressure points.

With the extraordinary weather we have had this year with the rain, weed infestation

across all of those environments is at an all-time high. So that has added to the challenges both for the volunteers to get out there and do it and for us and TCCS to do it.

MR COE: What is the government's plan to put housing west of the ACT, particularly west of Molonglo and west of Weston Creek?

Mr Gentleman: We are looking at the western edge development into the future; we have done quite a few studies on the western edge so far. It is our preference point for future greenfields development, and we will continue that work. We need to do due diligence before it can be released to the SLA and we will do that process through cabinet when cabinet funds it.

MR COE: Does the Labor-Greens agreement restrict any policy options for the ACT government with regard to greenfields developments out there?

Mr Gentleman: I would not say there is a restriction; we would simply be just as careful, as indicated in the agreement, about the important environmental opportunities we see on the western edge and ensure that we keep those into the future.

MR COE: Obviously, the government spent a fortune buying up farms to the west of the ACT. Will all those be used for housing?

Mr Gentleman: That is a matter that still has not been decided.

MR COE: It does go to the business case of buying those farms, but that has obviously been litigated a fair bit.

Mr Gentleman: It was not just the government that made the purchases; private enterprise made purchases too.

MR COE: That was very much highlighted in the audit report.

Mr Gentleman: Yes.

MR COE: With regard to all those hectares of farms that the ACT government owns, do they all have working environment management plans?

Mr Gentleman: I think they do.

Dr Brady: Some of them have land management agreements on them.

MR COE: Do all of them?

Dr Brady: I would have to check, Mr Coe, if I could take that on notice.

MR COE: Is it a lease condition that all the farms in the ACT have a land management plan?

Mr Gentleman: They have an agreement.

Mr Ponton: Land management agreements.

MR COE: So do all these farms that the ACT government now owns have land management agreements?

Mr Gentleman: We will take that on notice.

MR COE: You cannot say categorically yes?

Mr Gentleman: I do not have the figures in front of me.

MR COE: Given that it is a lease condition and these farms—

THE CHAIR: Mr Coe, they are taking it on notice.

Mr Ponton: I am sure the answer is yes, but I think it would be prudent for us to be absolutely certain before we gave you that answer, Mr Coe.

MR COE: So are all these properties on leases to the ACT government, leases to an agency, or are they unleased territory land?

Mr Gentleman: All leases are managed by the government, the ones we have purchased.

Mr Ponton: Yes, I believe they were purchased by a government entity. But, having said that, we will take that on notice and come back to you so that we ensure that we give you a correct answer.

MR COE: Is it titled land or have those leases been retired or surrendered and therefore it goes into the broader pot of unleased territory land?

Mr Ponton: We could provide that to you.

MR COE: I think they might be significant as to land management agreements.

THE CHAIR: Thank you for your time. I remind everyone that members can submit questions on notice for up to five days and that we look forward to receiving the responses.

Short suspension.

Appearances:

Gentleman, Mr Mick, Manager of Government Business, Minister for Corrections, Minister for Industrial Relations and Workplace Safety, Minister for Planning and Land Management and Minister for Police and Emergency Services

Chief Minister, Treasury and Economic Development Directorate
Pryce, Mr David, Deputy Director-General, Access Canberra
Green, Mr Ben, Executive Branch Manager, Construction, Utilities and Environment Protection Branch, Access Canberra

THE CHAIR: We are rolling into our next session with the Minister for Planning and Land Management. When you answer your first question I ask that you acknowledge the privilege statement.

MS ORR: Can you speak to us about lease regulation?

Mr Green: Sure, and I have read and acknowledge the privilege statement. The primary purpose of this session, to my understanding, is to look at planning regulation with respect to what is known as controlled activities. From your perspective, that is probably constituent matters raised with respect to non-compliance with Crown leases, unclean leaseholds and unapproved structures. It does not cover building regulation; that is Minister Cheyne's responsibility, with Access Canberra. So it is purely around planning compliance and not development assessment, which was the previous hearing.

THE CHAIR: How many controlled activity complaints did you receive in 2018-19 and 2019-20, and how long, on average, does it take to investigate a controlled activity complaint?

Mr Green: In 2018-19 we received 200 complaints relating to planning, and in the 2019-20 financial year we received 312 complaints. The length of time taken to investigate complaints varies. With Access Canberra, we have a risk-harm-based approach to regulation, and that means we do not just jump to investigating a matter; we generally undertake a preliminary assessment of the concerns that have been raised by the relevant citizen. Where we undertake that preliminary assessment and it warrants further investigation we would undertake that. We have some standard time frames which it is our intention to comply with.

A lot of the planning-related complaints are driven from constituents and often there is an element of neighbourhood dispute involved. That is when we become involved in these types of matters. We look to try and mediate as best we can and provide people with the opportunity to seek voluntary compliance in the first instance. But where that fails we move to formal enforcement actions.

We have found in the majority of cases that that formal enforcement action is often not required for things like unclean leaseholds and concerns being raised by neighbours. Engagement with us over a short period generally results in that particular person making changes to their practices.

THE CHAIR: How many of those end up in ACAT?

Mr Green: Not a great deal, in terms of action that we take. Certainly, if we were to move to take an enforcement action—that might be a controlled activity order which forces action to occur—there is an appeal right for the person that has been subjected to that order. So very few end up in the tribunal.

THE CHAIR: Because you are not using orders that often?

Mr Green: Yes. By way of example, the controlled activity order process under the Planning and Development Act requires notice to be given to the party beforehand, which is a show cause notice. In the 2019-20 financial year we issued 16 show cause notices. On 10 occasions we moved formally to the order process.

THE CHAIR: What is the nature of most of those complaints?

Mr Green: We are doing some analysis at the moment. The majority of complaints are neighbourhood issues with respect to unclean leaseholds, so people leaving various items on their property that are causing an amenity concern. Very rarely, if at all, have we come across safety concerns with respect to unclean leaseholds—things like chemicals and the like. What we see are visual amenity matters. A lot of concerns are raised about long grass in particular. I was listening to the previous hearing around the climate conditions at the moment. Certainly, from our perspective, that is not a matter we trigger as an unclean leasehold under the planning side of things. We work very closely with our colleagues in ACT Fire & Rescue to determine whether there is a fire risk and also with Transport Canberra and City Services where that is required.

MR COE: What work have you undertaken with regard to vacant blocks—that is, blocks that are obviously well past their commence and complete lease conditions?

Mr Green: With respect to vacant blocks, if there is a breach of commence and complete provisions, it is not a controlled activity as long as they are paying the extension of time fee. Previously we have had direct engagement with owners of those parcels of land that may be existing in some of the suburbs that were built over 10 years ago—for example, some of the suburbs of Gungahlin. But generally most people are paying the extension of time fee.

The engagement more recently around those parcels of land has been with respect to maintaining it, making sure that it does not become a dumping ground for other members of the community and making sure that it is adequately fenced if those practices are occurring. So at this point in time there are no direct compliance activities occurring unless it is as a result of a complaint being made.

MR COE: Are you saying that it is actually not a breach of the lease to not develop? You just pay a penalty?

Mr Green: That is correct. Schedule 2 of the Planning and Development Act was amended specifically in relation to lease and development provisions.

MR COE: Is the penalty that is paid actually being paid, or is it just being accrued?

Mr Green: That would vary on a case-by-case basis. As I mentioned, we are not in a position at this particular point in time to be targeting individuals. It probably has not been appropriate over the last 12 months to do that. But there are people that pay and there are people that accrue.

At the end of the day, there is another provision within the Planning and Development Act, section 298, which places restrictions on people being able to sell vacant land and requires the Planning Authority's consent to do so. It would be picked up at that time in terms of any outstanding fees that they would need to pay, because it would result in that parcel of land not being able to be sold.

MR COE: There are still a number in Amaroo. There is a very obvious one in Franklin and just all over the place, I guess. I think the interpretation for a lot of people is that it is actually against the lease, rather than there just being a penalty or a charge for it. In terms of the requirements to keep a lease clean, how do you enforce that? If there is long grass and it is long every three months, are you sending a letter every three months to the owner of that lease to say, "You need to go and mow the grass"?

Mr Green: The way that we manage unclean leaseholds is that, on receipt of a complaint, we will undertake an inspection of that site. At this particular point in time, an operational policy has existed for a number of years that if 30 per cent of the land visible from the public domain is covered in items, excluding long grass and overgrown foliage and the like—if it meets that criterion, then we would look to take action. That action would be to work with the relevant occupant or owner of that site to seek voluntary compliance in the first instance. With respect to long grass, as I mentioned earlier, we refer those matters primarily to ACT Fire & Rescue, because the harm and the risk of harm being caused is more in relation to fire than it is with respect to other matters.

MR COE: There are a couple of well-known cases in Kaleen. One in particular is known to most of Canberra and certainly visible from outer space. Is there a long-term plan on this—and not just a plan; is there actually going to be action?

Mr Green: There has been action in relation to that matter. There have been controlled activity orders issued. There has been an ongoing controlled activity order—

MR COE: As there has been for a decade.

Mr Green: I understand that. I am just working through what we have done to date and most recently. There is an ongoing controlled activity order which requires that particular owner to keep their site clean. Most recently, earlier this year, we were working with TCCS, because the territory land was also being covered in items. We had reached a point where we were about to obtain a warrant from the court to forcibly go into that site and clean it up. Then the owner of that property cleaned it up of their own volition. My officers went back last week and the property has returned. So we will commence that process again of trying to enforce it.

MR COE: As you are all aware, I have had many people from that street in my office, some of them in tears, talking about the impact on their life over decades. I cannot overstate the impact this is having on the mental health of neighbours—and quite possibly the occupant; I do not know. It would be very refreshing to have some tangible outcomes.

Mr Green: I certainly agree with that. We do have a strategy in place and, without speaking too specifically of what that strategy is, the powers that we have available to us can also result in termination of leases. So we will work through our strategy with respect to that site.

Mr Gentleman: I have seen some success in areas down in Tuggeranong in the past, particularly around motor vehicle repairs at home, where Ben's team has gone in and used their enforcement opportunity and it has been cleaned up. The Kaleen one is just quite a difficult one.

MR COE: Yes and, as I said, there is a second one. It is not quite as bad but still pretty bad.

MS ORR: With the extension of the leases that we were talking about before, is that an indefinite extension as long as you are paying the fees, or is there an actual limit on that?

Mr Green: That is my understanding of how the law was crafted, yes.

MS ORR: That it is indefinite?

Mr Green: It is indefinite.

THE CHAIR: You mentioned termination of lease as the eventual outcome in these processes—did I get that right?

Mr Green: I mentioned that that is an option available to us.

THE CHAIR: That is interesting, because it is an ongoing problem. There are quite a lot of Mr Fluffy blocks that are experiencing the same issue really.

Mr Green: In terms of remaining vacant and not being developed?

THE CHAIR: Remaining vacant and under-utilised land but also deteriorating land. Is that being looked at?

Mr Green: It is not. I refer to my previous answer around lease provisions, as Ms Orr just mentioned. If you are extending your lease under the building and development provision, which is quite clearly defined in the Planning and Development Act, and you are paying your fees, then there is no pathway for regulators to do anything about those sites—except for unclean leaseholds which may come up.

THE CHAIR: Do you also have the same role in commercial leases in shopping centres and things?

Mr Green: Only to the extent that it is with respect to the Crown lease for the property. For example, if the Crown lease for a particular commercial centre required the land to be used for a shop and it was being used for another purpose, whatever that may be, then we would potentially become involved in that matter.

THE CHAIR: And if it is being used for no purpose and falling into disrepair?

Mr Green: It would depend on the lease. There are some Crown leases which have provisions in the back of the lease where the lease can be determined. What that means generally is that there is a provision that says that if they have failed to use the lease for the purpose for which it was granted for a period of 12 months then we have an ability to take action.

THE CHAIR: And what sort of action do you typically take?

Mr Green: That would be action under the Planning and Development Act, the controlled activity order process. The difficulty and challenge with that is that if they use it for its purpose for one day, the clock starts again.

THE CHAIR: Is that typically the response?

Mr Green: We very rarely get complaints about that particular issue in terms of not using it for the purpose for which it was granted for 12 months—putting aside vacant blocks for existing shops or whatever it may be. It is very rare that we get complaints made.

THE CHAIR: I am surprised. There are a number of cases of shopping centre squatting, lease squatting. That seems to be a pretty common problem, certainly in Belconnen but I think all around Canberra. So I am surprised that you do not get many complaints about that. Could you report the complaints? Could you come back and say how many complaints you have had of that nature and what the outcomes were?

Mr Green: It would be difficult for us to do. It would require a manual search of each complaint to be able to provide that information.

THE CHAIR: Sure. But if anybody is concerned about that, all they need to do is report that through and then you would investigate and start the control order track?

Mr Green: If there are complaints about that, we would undertake a preliminary assessment and assess whether there is risk and harm that would result in us undertaking regulatory action.

THE CHAIR: That is interesting—thank you.

MR COE: I understand that this is not the output class that relates to the land information system itself. Is that correct? However, I am sure you would call upon the land information system a fair bit in your work. With regard to the digitisation of leases and the like, are you able to access searchable leases at this stage, or is it still the scanned but not text-recognised leases?

Mr Green: Crown leases sit with the title, and that is a function of the registrar-general. We certainly have access to leases in that format—

MR COE: They are not searchable though, are they, in terms of actual text of the leases?

Mr Green: I do not know the answer to that question. The way that my team has engaged with the system in the past is that a document that is presented as a PDF, effectively.

MR COE: That might be a string of questions for another output class. My other questions are primarily stats related, so they are probably best on notice anyway.

THE CHAIR: Thank you for your time, Mr Green and Mr Pryce. I think you have taken a couple of things on notice. We look forward to seeing those, and I understand that we will be lodging some more.

Mr Gentleman: Thank you, Chair and committee members. Mr Coe, it is our last time in estimates. All the best.

Appearances:

Vassarotti, Ms Rebecca, Minister for the Environment, Minister for Heritage, Minister for Homelessness and Housing Services and Minister for Sustainable Building and Construction

Environment, Planning and Sustainable Development Directorate

Ponton, Mr Ben, Director-General

Brady, Dr Erin, Deputy Director-General, Planning and Sustainable Development

Sendaba, Ms Bethel, Executive Branch Manager, Building Reform

Fitzgerald, Mr Bruce, Executive General Manager, Development and Implementation

Chief Minister, Treasury and Economic Development Directorate

Edghill, Mr Duncan, Chief Projects Officer, Major Projects Canberra

THE CHAIR: This afternoon we will hear from the Minister for Sustainable Building and Construction and from her officers. I will ask all the witnesses to acknowledge the privilege statement if you have not already done so today. I am assuming everyone has had a chance to read and review that privilege statement.

Ms Vassarotti, thanks for joining us today. My first question to you is about the loose-fill asbestos blocks, the Mr Fluffy blocks, that we have got scattered around and about. We have quite a lot of blocks that are remediated but unsold. There are a few scattered around Belconnen. They are probably all around Canberra. The annual report specifies how many of these blocks have been remediated and sold, but it does not tell us how many vacant Mr Fluffy blocks there are that are unsold. I am wondering whether you have that information and if there are any intentions for long-term unsold blocks.

Ms Vassarotti: As you know, we have been working over a number of years, since 2014 when the scheme opened, and we have made quite significant progress in relation to the scheme. In relation to that specific question, I will hand over to Mr Fitzgerald. Then we can run through the specific numbers.

Mr Fitzgerald: I acknowledge the privilege statement. At this stage we have two blocks that are unsold. They have been through the remediation process and are awaiting a sales process. Some of those blocks that you refer to are waiting on development applications. They have been sold to the private sector and we are now waiting for the development to commence. We do not have a number on how many vacant blocks exist. We can take that on notice and see if we can get the data.

THE CHAIR: It might be useful to do that assessment. I think you are right; I am probably looking at sold, undeveloped blocks.

Mr Fitzgerald: We did transfer a number of blocks to Housing ACT as part of the growth and renewal program. Some of those blocks, particularly, are looking at development applications, looking at what their future use is. So there is probably another six months of some of those blocks being vacant before we start to see action

on the site.

THE CHAIR: But we might see something in the next 12 months, by the sound of it.

Mr Fitzgerald: Absolutely. There are no blocks we currently have that we have not been able to sell either to a government agency or to the private sector.

MR COE: With regard to the buyback scheme, are there any that are left? Are there any properties that have still not complied with the buyback?

Ms Vassarotti: As of 18 February, there are 35 of the 1,027 residential blocks that have been identified that are still on the register. Eight of those are owned by the territory. Twenty-seven of those are privately owned. What we know in relation to those is that one of the 27 is expected to be settled by the end of February; 15 have an expected settlement date of 17 August, which is the closure of the buyback program date; one is considering whether they are going to come into the scheme; and currently we know that there are 10 that are not participating in the scheme. They are the figures we have.

Mr Fitzgerald: The property listed to be settled by February has settled, so there is another property that is now owned by the territory.

MR COE: With the 10 that are not participating, what is the government going to do?

Ms Vassarotti: The scheme is scheduled to finish on 17 August. We consider that that will be the closing date. We had extended that because of COVID but, given that we now see people being able to participate, we think that that will be the end of the scheme. We are at the moment considering what will happen after the scheme closes. We consider that we will need to be doing something in relation to properties that are still privately owned. We also recognise the fact that over the last couple of years we have identified a very small number of properties that have been affected. So the government is currently looking at mechanisms and what we will do once the current scheme is closed.

MR COE: This is a question that I have been asking for a long time, as you can imagine. I guess it has always been anticipated that there will be a residual. So the thinking must be pretty well advanced as to what the options are at that point.

Ms Vassarotti: It is very much under active consideration right now.

MR COE: I understand that—as it would have been for years. So what are those options?

Ms Vassarotti: We know that we will need to have some mechanism moving forward. I have had the responsibility for this since November, so—

MR COE: That is why we have officials here. I would love to know what the options are.

Mr Fitzgerald: In 2019 we released the Pathways to Eradication Package, which had,

amongst other things, increased safety protocols related to the management of those properties, increased requirements for asbestos management plans—display boxes for those—and an updating of the register to show whether they are in compliance. As part of that package we also allowed transition assistance for people to access funds early in the settlement process. We put in place an occupation prohibition so that properties cannot be transferred, so that their current owner is the last owner of a Mr Fluffy property. Then in 2025 we will look to compulsory acquisition. That will be heavily dependent on the individual circumstances. We acknowledge that a number of those 10 are just looking to live out their years in their home. So at a period in time when they pass away, we will look to how the estate manages that property, with a view to demolition.

MR COE: Of those 10 properties, are there mortgages on any?

Mr Fitzgerald: Yes.

MR COE: Have you had discussions with the banks or the financial institutions about the status of those mortgages? They pretty much become unsecured. What does that mean for the bank and, most importantly, for the mortgagee?

Mr Fitzgerald: Early on in the scheme we talked to the banks about the fact that we effectively provide a safety net. We have notified the banking sector that the scheme will close, as part of our stakeholder engagement. Individual circumstances and the equity that people have in their homes is something that we are not aware of. Each circumstance will be different.

THE CHAIR: I would like to ask a question about alternative dispute resolution in the residential building space. The annual report states that legislation to put in place ADR is coming up; is that right?

Ms Vassarotti: We have legislation that enables us to do alternative dispute resolution, but more work needs to be done in relation to putting that into practice. I will ask Bethel to provide some further detail.

Ms Sendaba: I acknowledge the privilege statement. Yes, Minister; that is correct. The Building and Construction Legislation Amendment Bill was passed at the start of 2020. That would enable the establishment of an alternative dispute resolution system for residential building disputes. It has a commencement date of 1 July 2022.

THE CHAIR: That is a long lead time.

Ms Sendaba: Yes, that is correct. There is a fair bit of additional consultation and establishment of what is a new process, and a fair bit of detail that we needed to work through. That is why it had that lead-in time. The legislation was passed at that point in time, just to enable the power to be there. It has then given us the ability to go away and do that additional work that we are working through now, to actually establish the scheme.

There is a lot of detail that we still need to work out in relation to the exact model of that alternative dispute resolution—whether it will be binding and whether it will

become a mandatory part of any process, say, before you take a dispute to ACAT. There is a fair bit of community consultation and industry consultation that we need to undertake. But there was a strong desire. We have heard feedback from both the building sector and the community about a desire to have that process in place.

THE CHAIR: I have heard the same. It is interesting; we are getting a lot of disputes in ACAT, which was meant to be our less formal, simpler resolution process. It now seems to have turned into a QC-represented, highly litigious zone in this space. Is the new ADR legislation designed to cut through that process?

Ms Sendaba: Yes, it is our hope that it will have an impact in that regard. Building disputes can be quite complex by nature. Not only are they technical but there are multiple parties involved. Disputes may also be brought not just by individual home owners or landowners but by practitioners in the building sector who have not been paid, on the basis that work has not been completed and there is some dispute about that. We will need to consider matters not just on a contract basis—what has or has not been delivered—but in some form of technical review, if required, to assess whether work has met those requirements. Our intention is that this is an alternative process to a legal process. Civil proceedings might also occur outside ACAT.

THE CHAIR: How will we make sure that we do not end up with a third court process, in effect, rather than a genuine ADR process?

Ms Sendaba: There are lots of different models. Part of our work at the moment is looking at best practice in alternative dispute resolution. There are different ways that you can do it. You can take a carrot-and-stick approach. Certainly, we are looking to have a system that people are entering into in good faith and that is really an alternative process. There are different models that we are looking at. As I mentioned earlier, would it be mandatory or would it just be an optional thing that both parties decide to enter into as a mediation process, for example? And would it be binding?

THE CHAIR: It is probably too early for you to say whether it is going to have rights of representation, rights of appeal and all of those sorts of systems?

Ms Sendaba: They are all the types of things that we are considering—

THE CHAIR: Yes, still working through it.

Ms Sendaba: and we want to ask the community about that as well.

THE CHAIR: I should ask again in a year?

Ms Sendaba: Please do.

MR COE: Minister, I asked Minister Gentleman this question. I am keen to hear your perspective on an adaptive re-use policy for buildings in the ACT. Is it on your agenda?

Ms Vassarotti: In terms of current buildings and adaptive use? It is not something that we have had detailed conversations about, at this point. Certainly, the focus to

date has been on looking at the buildings that we have—issues around building quality. I might have to defer to officials about whether or not there has been any specific work. Across some of my other portfolios, I am really interested in adaptive use.

MR COE: I am surprised that there are not incentives, or at least a level playing field, with regard to trying to convert existing buildings into more palatable uses, rather than knocking them down. The lease variation system, in addition to aspects of the planning system and indeed the Building Code, often makes it tricky.

Ms Vassarotti: Certainly, the focus, in terms of built form and buildings, has really been around making sure, with the buildings we are building now, that we are able to retrofit buildings in a way that is fit for purpose, in terms of things like environmental standards and accessibility. That is certainly where my focus has been, rather than looking at some of the specific issues around adaptive use.

MR COE: I have been to some building openings where they have heralded their great environmental credentials, but, in effect, they have discounted the fact that they knocked down what was a reasonable building beforehand, and the embedded carbon in the construction is pretty significant. A simple request would be to put it on your radar.

Ms Vassarotti: Yes, I think it is a really useful one, particularly as we look at the issues around the environmental impacts of building—issues around energy efficiency and zero emissions buildings. These are issues that will—

MR COE: Not just once built but also in construction—

Ms Vassarotti: Absolutely; the whole of life.

MR COE: and the embedded—

Ms Vassarotti: It is a useful thing to put on the radar; thank you very much, Mr Coe.

THE CHAIR: I am pleased to hear that you are looking at building quality in terms of some of the changing climate situations that we are having at the moment. I asked a similar question this morning of Minister Gentleman. How are you changing our standards to deal with the extreme heat, smoke, fire and hail—all of the emergencies that we are likely to see becoming more like business as usual, unfortunately?

Ms Vassarotti: Some work has happened in recent times in relation to this. The 2019 National Construction Code looked into this issue. It looked at improvements around how individual dwellings are assessed in relation to some of their compliance and how they operate in winter and summer. We also have some ACT appendices in relation to this that have looked particularly at how we embed some of our fairly nation-leading policies in renewable energy and ensuring that a wide range of electrical appliance options are there.

Again, there is more work to be done. Certainly, with the work that is being done within the building ministers' meeting in relation to the new code in 2022, there is a

real opportunity here. We will be looking at how we can push the boundaries in relation to this and ensure that we have climate resilience. In terms of some of the detail, I will defer to the officials.

Dr Brady: The primary mechanism in Australia for setting standards for buildings is through the National Construction Code. That is developed nationally, overseen by the Building Codes Board. You will be aware that there have been royal commissions in response to various natural disasters that have occurred. Coming out of those there have been specific recommendations referred back to the Building Codes Board, to look at the code for things like fire standards. It is a live issue that we are collaborating on with our colleagues across the jurisdictions.

The code has a primary purpose, in terms of building standards, for things like structure and fire. Energy efficiency is a more recent area of priority for the code. When it comes to things like bushfire standards, for example, in the past the primary driver has been that buildings enable people to shelter for long enough that they can then escape. The idea of fireproofing, or building buildings so that they can withstand particular disasters, is a more recent consideration. This is a very specific matter; the Building Codes Board are looking at fire standards. Smoke, for example, is another one that is—

THE CHAIR: I was going to ask about smoke, because the 2019 review would not have taken smoke into account, but the 2022 review should.

Dr Brady: Yes, the code gets updated on a three-yearly cycle. The work is happening constantly for the next cycle. There is quite a long lead-in time in developing the technical standards, and the policy decisions that need to come before that, to enable those changes to be made.

Smoke is an interesting one. It is very much related to energy efficiency as well. Energy to filter air is one thing. We want to seal our buildings, but at the same time we want to make sure that we do not have, in the ACT, condensation issues, for example. There are lots of trade-offs to be considered. Again, that is something that is on the radar for future iterations of the code.

THE CHAIR: That will only apply to new buildings, obviously.

Dr Brady: Yes.

THE CHAIR: There are a lot of new tools and IT going on in ACT government, as there should be at any time. We were interested to see that there were new tools about the ongoing work to audit and inspect building projects. I would like to ask a few questions about that. First of all, apparently it is an award-winning auditing tool. Why is it so amazing, and what was the reason for it coming in?

Ms Vassarotti: It was certainly part of the first stage of the building reform process that was kicked off in 2016. That was one of the specific initiatives in relation to that. I will defer to the officials, because they were part of the team that participated in developing these award-winning tools. It is good for them to talk about something fabulous.

Dr Brady: The award, I understand, was in part because of the innovative way they were able to use GIS technology to match location data with specific buildings, making it easier to record audit results and keep track of them, and specific actions arising out of that.

The tool itself was developed within EPSDD. There was close collaboration with the regulator, with staff coming over to help in the development of that. It is to give the regulator a tool that they can use to keep track of compliance against all of the specific provisions within the Construction Code and for particular buildings.

THE CHAIR: We can even use that for enforcement?

Dr Brady: Yes, it is about enforcement, and it is about creating additional tools and various resources for the regulator.

THE CHAIR: I am assuming it is data entry onsite by staff?

Dr Brady: Yes.

THE CHAIR: That does sound like an improvement, yes.

MR COE: Where are things at with regard to implementing an engineer registration scheme?

Ms Vassarotti: We are still in the development phase in relation to that. Work has been done in relation to industry, and looking at the different models that are operating in different states and territories. There are quite different approaches that are being taken. It is about assessing what the different models are and what will work best for this jurisdiction. A key issue is: how broad is the net in terms of the engineer qualifications? That is certainly one of the areas where there has been a different approach in different jurisdictions. That is one of the key things that is being looked at, at the moment.

MR COE: What is the time line? Obviously, there are other jurisdictions that are fairly well advanced.

Ms Vassarotti: There are.

MR COE: And some are implementing.

Ms Vassarotti: Yes.

MR COE: There is a suite of semi-ready-made options for you.

Ms Vassarotti: Yes, absolutely. We also have New South Wales that are yet to implement. In terms of a time line—

Dr Brady: At the moment some consultants have come onboard to help us do that detailed regulatory and policy analysis, comparing against the different jurisdictions.

Once we have some feedback from them, and some proposals on the table, we will be able to go out and do some broader consultation. There has been a lot of targeted engagement over the last six months with the key professional associations involved. Engineers Australia consult professionals. We have had multiple conversations with them.

There are also some key national developments that have only arisen in the last 12 months. Some real guidance on those has emerged in the last few months in relation to proposals for automatic mutual recognition. As well, the national registration framework for practitioners in the building industry came out of the national *Building Confidence Report*, with preferential criteria for registration of licensed practitioners for a range of different professions.

A draft framework went out. The Building Codes Board put that out for consultation last year. There was a lot of feedback on that. There is still a lot of detail to be worked through in relation to the ins and outs of very specific qualifications that are considered. Both that and the automatic mutual recognition will be really important inputs to our work. One thing we have heard very clearly is that we do not want to have vastly different schemes in operation in other jurisdictions. Again, that is a challenge, because we are all operating within different regulatory frameworks. We are trying to honour that as best we can, because the more efficiently that system can work, the more effective it will be.

We have had some really good engagement with those professional bodies. Alongside our Chief Engineer, who has been assisting with those conversations, I think we have really moved it forward in the last six months.

MR COE: The position of the Chief Engineer is now sitting in Major Projects; is that right?

Dr Brady: Yes.

MR COE: What is the rationale for that?

Mr Ponton: That is as a result of the change to the admin arrangements some time ago. It is probably a question best asked of the Chief Minister.

MR COE: How is the planning directorate managing without having the Chief Engineer in the directorate?

Mr Ponton: We work very closely with our colleagues in Major Projects, as we do across the service.

MR COE: Does the Chief Engineer have the same scope that the role had before?

Mr Ponton: Correct.

MR COE: In terms of how the Chief Engineer would be engaged for issues such as this, even from a simple cost-centre point of view, I imagine this is quite time consuming for the Chief Engineer to be overseeing this sort of project, which I would

expect—

Dr Brady: This is a policy project being led by the policy team within EPSDD. The Chief Engineer is a partner in that for us. The day-to-day administration of running this and programming it is the responsibility of the directorate.

THE CHAIR: We have had a lot of really good progress in terms of education and a lot of different strands that feed into sustainable buildings. I have been really pleased to see Actsmart's work in recent years. We have begun to settle policy on a lot of things. We know we want to get off gas. Mr Coe was trying to urge us to do it a bit sooner than 2023, earlier today, which I was delighted to hear.

MR COE: I am not quite sure that was the interpretation.

THE CHAIR: It is a great idea. We know that reverse-cycle heat pumps are better than wood-fired heaters. We know we want more efficient appliances. We know we want better buildings, better orientation and better insulation. I am pleased to hear the new issue flagged of scope 3 emissions—what sorts of incentives we will have to re-use the buildings we have or make sure we recycle that material and recover the energy. There are a lot of different strands to this. I am interested to see how all of that is tying together into the sustainable buildings portfolio and the input into the BCA review at the moment. Are we putting all of that together in a cohesive way?

Ms Vassarotti: I think we are. We certainly see the Building Code as a really useful tool to bring some of that work together, in terms of built form and what our standards are. Certainly, with the commitments that we have made through the parliamentary and governing agreement, in relation to where that work goes nationally, we have flagged that we want to capture some of that work in an ACT appendix, if we feel that there are specific things. Gas is a really good example of that. Through the standards process and the code, I think we have a really good, robust tool in terms of pooling some of that work together, from a standards perspective.

Mr Ponton: In relation to portfolio responsibilities within EPSDD, it was, I suspect, a conscious decision to put all of the various eggs into EPSDD, in the various policy aspects. A lot of what you are talking about cuts across a number of portfolios, in terms of sustainable building and emissions reduction planning. All of those areas sit within my responsibilities. What I would expect that the government expects of me is to make sure that all of those threads are pulled together and that the implementation is properly directed to the relevant portfolio minister.

There is certainly a lot of this work that will be within Minister Vassarotti's responsibility. As we heard earlier, some sits within Minister Gentleman's responsibility. Other work will sit with Minister Rattenbury. Importantly, all of that policy work sits within EPSDD. As I said, I think that is a conscious decision to make sure that it is well coordinated.

THE CHAIR: On just about everything that I see, the education side is being delivered by Actsmart, so it does make sense that the initial build would be housed in the same portfolios. It is one way to link it up, I guess.

MR COE: Minister, have you or your directorate had any input into managing the lead paint in schools?

Ms Vassarotti: I have not been involved in that conversation. I will ask if the directorate has been involved in that. That sits outside my areas of responsibility.

Mr Ponton: No; that would be a matter for the EPA, I suspect.

MR COE: What about flammable cladding? I am guessing that the policy sits with you but the implementation is elsewhere? How does that work?

Ms Vassarotti: Cladding sits with me, but Major Projects is the responsible agency, rather than EPSDD. In relation to policy elements, my understanding is that EPSDD carried a responsibility around the cladding policy and once there was a determination around the policy settings, in terms of both public and private schemes, it was transferred over to Major Projects, reporting straight to—

MR COE: What about government buildings?

Ms Vassarotti: They are also dealing with the private schemes.

MR COE: Major Projects?

Ms Vassarotti: Yes.

MR COE: I have some specific questions for you and Mr Edghill. How many government buildings currently have cladding?

Ms Vassarotti: It is 23 buildings. I will ask Mr Edghill to provide some more detail.

Mr Edghill: As the minister mentioned, there are many ACT government buildings with different types of cladding on them, but there are 23 buildings which have been identified as requiring some form of rectification works.

MR COE: Are they across all agencies? Are we talking health, education, community services and the tenants?

Mr Edghill: Hence the reason for Major Projects Canberra's involvement in it. The buildings themselves, while not being publicly specifically identified, reside in different agencies across government. Having the rectification works undertaken by Major Projects Canberra allows us to undertake those rectification works as a program of works rather than individual directorates needing to undertake that work.

MR COE: Is there is a single contract in place for the rectification?

Mr Edghill: All of the 23 buildings have had testing and design works undertaken. Contracts were put in place for that testing and assessment work. That was after a procurement process late last year. Now we are on the cusp of beginning the physical rectification works themselves. There are 11 buildings where, very shortly, we will sign a contract to begin those physical works. That will be procured through an

existing ACT government panel. The remainder of the buildings are going through internal processes with a view to procuring the physical rectification works shortly.

MR COE: With the ones on the panel, is there a request for a quote or is it a single select? How is that going to be undertaken?

Mr Edghill: It is my understanding that it is not a single select, on the basis that it is being drawn from existing ACT government panels where there was a procurement process undertaken. We go to panellists and seek a quote for them to undertake the work.

MR COE: The reason I ask this is that if the building is not public and you are not necessarily able to get the same level of competitive tenders in because you are not advertising the work that needs to be done, how do you ensure value for money and how do you ensure transparency?

Mr Edghill: By two mechanisms. The first one is that the panels that we go to and the panel rates that are inherent in those panel contracts were the subject of a procurement process when the panels were established in the first instance.

MR COE: What panels are we talking about here? Are we talking about general construction or the removal of flammable cladding?

Mr Edghill: I can get the exact name of the panel for you if I take that on notice.

MR COE: Yes; thank you. But just for the purpose of this discussion, are we talking general construction?

Mr Edghill: General construction.

MR COE: Not necessarily specialist cladding removal?

Mr Edghill: No, but part of our assessment of whether a panellist is appropriate to approach and appropriate to undertake the works is about the capabilities of those panellists. Because we deal with many of these companies on other projects across government, we have an understanding of where the capabilities reside across the market. But it is also about satisfying ourselves as to the appropriateness of the proposals which are put through, utilising the panel rates.

When we undertook the design and assessment process of the government buildings, part of that process also involved having a quantity surveyor give us a cost estimate to repair those buildings, so we can contrast that against the quotes that we get in from the panel.

MR COE: So there were quotes? When you say panel rates, what do you mean by panel rates?

Mr Edghill: My understanding is that when the panel was created, the panellists also bid back to the territory their construction rates, their prices.

MR COE: That is right. Which goes to general construction?

Mr Edghill: Yes.

MR COE: As opposed to very specialist stuff. I just wonder how applicable those rates are.

Mr Edghill: The work to be undertaken is not necessarily particularly specialist. The fire assessment side of things has a particular skill set which is required. But taking down panelling or putting up new panelling which is not potentially combustible is a fairly common skill set across the market.

MR COE: Eleven are being worked on or will have a contract issued relatively soon? Or has it been issued?

Mr Edghill: It has not been signed yet, but it is imminent.

MR COE: That will go on the contract register as per usual?

Mr Edghill: It will go through ordinary processes—

MR COE: What is the time line for the other 12 buildings?

Mr Edghill: With the first 11, we are looking at the March-April time frame to get construction works underway. With the remainder, we need to go through internal procurement approval processes; they are likely to be a couple of months afterwards. We are aiming to have the totality of the works completed for all of the buildings by the end of next financial year, 30 June 2022.

The name of the panel is the project management agreement panel.

MR COE: Why does this come to your portfolio, Minister, rather than the minister responsible for Major Projects Canberra?

Ms Vassarotti: I think that is a question for the Chief Minister. However, this is absolutely related to building quality; this is a key issue around building quality. I am very comfortable with the responsibility sitting with me. Again, it strengthens the links that we were talking about. We were talking about the Chief Engineer. This arrangement gives the opportunity for us to be working across portfolios. I see it as a strength. That would be my answer to that.

MR COE: What about the concessional loans scheme for private buildings? Where is that at?

Ms Vassarotti: We are actively working on what that scheme will look like. We are looking at quite a different risk profile and different set of arrangements than those of some of the other jurisdictions, particularly New South Wales and Victoria, which have gone down quite different pathways. We are looking at the best approach in terms of concessional loans. We have been working quite closely with industry and talking with industry about issues such as eligibility and what is appropriately in

scope. And then there are the mechanisms around concessional loans.

MR COE: Is there going to be a requirement that all panels that are deemed flammable must be removed? Obviously there are different risk profiles. A single-level commercial building that is only occupied for eight or nine hours a day has a totally different risk profile to a five-storey apartment building with people asleep in the middle of the night.

Ms Vassarotti: They are exactly some of the conversations we are having at the moment. At this point the private scheme is a voluntary scheme; the responsibility remains with private owners in terms of responding to their risk.

MR COE: That is right. But there is not going to be a requirement for certain panels to be removed, rain, hail or shine?

Ms Vassarotti: This is a voluntary scheme in terms of the concessional loans scheme.

MR COE: That is right. I understand that, but what about the actual removal of the panels?

Ms Vassarotti: In relation to issues such as fire risk, there is a general compliance regime. The building occupations registrar is probably able to speak to this. As with any issue, if there is an issue of risk, that needs to be assessed, but there is not a specific requirement on particular cladding.

MR COE: So there is no categorical rule in place that all designated panels must be removed?

Mr Edghill: Again, without policy responsibility sitting with us, no, there is no such rule that exists at the moment. In terms of other jurisdictions, if I were to look at Victoria, for example, it may be different, for the reason that you mentioned. If it is a potentially flammable piece of cladding on a letterbox out the front, for example, that poses very little risk, so there is not a requirement to replace that.

THE CHAIR: That is all for today. Thank you, Minister Vassarotti, Mr Edghill, Mr Ponton, and Mr Fitzgerald. There were some questions taken on notice. We would like the responses back within five business days. The panel might lodge some more questions on notice, particularly Mr Parton, who could not be here.

The committee adjourned at 4.46 pm.