



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

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

(Reference: [Inquiry into Urban Forest Bill 2022](#))

Members:

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

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 6 OCTOBER 2022

**Secretary to the committee:
Ms K Mickelson (Ph: 620 50199)**

By authority of the Legislative Assembly for the Australian Capital Territory

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

WITNESSES

BURKEVICS, MR BREN , Conservator of Flora and Fauna, and Acting Executive Group Manager, Environment Heritage and Water, Environment, Planning and Sustainable Development Directorate.....	34
COX, MS KIRRA , Acting Executive Branch Manager, Strategic Policy and Programs, Transport Canberra and Business Services, Transport Canberra and City Services	34
FATSEAS, MS MAREA , Chair, Inner South Canberra Community Council	14
HAMMER, MR JOSHUA , Workplace Advisor, Housing Industry Association Limited.....	27
HOPKINS, MR MICHAEL , Chief Executive Officer, Master Builders Association of the ACT	20
IGLESIAS, MR DANIEL , Executive Branch Manager, City Presentation, City Services, Transport Canberra and City Services Directorate.....	34
JACKSON, MS NICHELLE , Director, Canberra Town Planning.....	27
JOHNSTON, MR RICHARD WALDRON , President, Kingston and Barton Residents Group.....	14
KANOWSKI, PROFESSOR PETER , Professor of Forestry, Australian National University, and Co-Chair, Forestry Australia ACT and Region.....	1
LAUSBERG, DR ADELE , Acting ACT Executive Director, Property Council	27
MACCALLUM, MR ALASTAIR , Property Council of Australia	27
Oakey, MS HELEN , Executive Director, Conservation Council ACT Region.....	7
STEEL, MR CHRIS , Minister for Skills, Minister for Transport and City Services and Special Minister of State.....	34
WELLER, MR GREG , Director, ACT and Southern New South Wales, Housing Industry Association Limited	27
ZEIL, MR JOCHEN	14

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Amended 20 May 2013

The committee met at 9.05 am.

KANOWSKI, PROFESSOR PETER, Professor of Forestry, Australian National University, and Co-Chair, Forestry Australia ACT and Region

THE CHAIR: I declare open this public hearing of the Standing Committee on Planning, Transport and City Services on the inquiry into the Urban Forest Bill 2022. Before we begin, on behalf of the committee, I would like to acknowledge that we are meeting today on the land of the Ngunnawal people. We respect their continuing culture and the contribution they make to the life of this city and this region. Personally, I would like to note that we are meeting on stolen land and that sovereignty was never ceded.

This bill was referred to the committee on 3 August 2022, and the committee decided to inquire into it on 11 August 2022. The committee has received nine submissions, which are available on the committee website. Today, we will be hearing from nine witness groups: Forestry Australia; the Conservation Council; Kingston and Barton Residents Group; Inner South Canberra Community Council; Mr Jochen Zeil; Master Builders Association of the ACT; Housing Industry Association Ltd; Property Council Australia; and the Minister for Transport and City Services, the conservator and directorate officials.

The proceedings are being recorded and will be transcribed. They will also be broadcast and streamed live. If you are taking a question on notice, please use the words, “I will take that as a question on notice.” That will help our secretary to chase those up.

We will begin with our first witness, Professor Peter Kanowski, from Forestry Australia. Thanks for joining us today. Can I remind you of the protections and obligations afforded by parliamentary privilege, and draw your attention to the privilege statement that you received? Have you had a chance to look at that?

Prof Kanowski: I have.

THE CHAIR: Professor Kanowski, we do not have very much time today. If you have an opening statement, you can make one, very briefly. Alternatively, we can skip straight to questions. We have read all of the submissions quite carefully. Are you comfortable with us—

Prof Kanowski: I have an opening statement, but I can come back to whatever we miss at the end, as a closing statement, perhaps. Would that work?

THE CHAIR: Let us do it as a closing statement. The other thing we can do is table statements. If there is something that you have prepared, you are most welcome to table it, and we will incorporate that with the submissions. We are quite conscious that it is a really important topic and there is quite a lot of material to get through.

Prof Kanowski: Sure, yes.

THE CHAIR: I will ask the first question. I was interested to note your expertise and what you said about whether we need a requirement to plan native species over exotics, how we are treating natives and exotics in this legislative system and whether we need to protect our natives more than exotics. What are your views on that?

Prof Kanowski: First of all, thank you, Chair and committee members, for the opportunity to appear. As well as being the Professor of Forestry at the Australian National University, I am also the Co-Chair of Forestry Australia, the professional group that represents foresters and forest scientists.

The issue of native and exotic trees is a perpetually thorny one. I think that we need both. They serve different purposes. Canberra has had a series of waves of afforestation—the Weston era, which was primarily exotic, the Pryor era, which was primarily native, and subsequently we have had a greater mix.

The value of natives, essentially, is in biodiversity services. In particular, older native trees, older eucalypts, are very important habitat and food sources. They are not the only native trees that are good as urban trees. Eucalypts in particular have some downsides as urban trees, because of their propensity to shed their limbs at inconvenient times and in inconvenient places.

We have a city that currently has a character that is defined in different places by natives or exotics, and sometimes some of both. As a general principle, we want to continue that. Some exotics are well adapted to our environment and they are well suited to the stressors of urban life, if I can put it that way. On the other hand, if we were to, for example, shift the balance towards more exotics and fewer natives, we would suffer the loss of biodiversity values that many Canberrans appreciate—our bird fauna, in particular, and lots of other native wildlife.

The tagline for Forestry Australia is “The right tree in the right place at the right time”. You can see how that applies in the urban context as well. Looking out into the courtyard behind us here, there are some trees there. You could imagine planting a stand of radiata pine in there; they would occupy the space, but it would be inappropriate.

One of the challenges we have in the current urban renewal process is that we do have trees that are not well suited for the place in which they are planted or the environments that have developed around them. We need to be able to change over those trees, without prejudicing the environmental services that the population of trees deliver.

The core answer to your question is that we need native trees because of their biodiversity values, but we need them in the right place, and we need to manage them well.

THE CHAIR: I do love that: the right tree in the right place and at the right time. I will hand over to Mr Parton.

MR PARTON: Reading through your submission, I formed a view that if I were summarising your submission in a sentence—and I am putting this to you to get you

to correct me, or otherwise—it would be that you support what it is that this bill is trying to achieve but you are not sure that it will achieve that.

Prof Kanowski: I would give you an HD for that, if I were assessing that summary.

MR PARTON: Are you concerned about how this will be enforced, where the resources will come from and what the actual outcomes will be at the end?

Prof Kanowski: Yes. Thank you, Mark; that has crystallised our core concern. With respect to the reasons for that, we support very strongly the principle of what the bill is trying to achieve. But the devil is in the detail, I think, in terms of how the approvals are given for removal of trees, what the right balance is between very cumbersome and too easy a set of processes, and what the canopy contribution cost is set at. There is the balance between too little, and it does not really matter, and too much, and it probably creates some perverse outcomes.

It is hard to calibrate. Canberra is a unique city. We have a unique tree heritage. I think that, generally, we undervalue that. One of the concerns, and one of the points that I will make in the conclusion, is that we need to see the urban forest as an asset and treat it as such. The bill recognises that, but the detailed implementation will determine how effectively it works.

MR PARTON: You have alluded, on a number of occasions—even in this hearing, and certainly in your submission—to the number of trees that have ended up being unsuitable; they are not really the ones that we should have planted, but that it is difficult then to change that. Do you think this bill has given enough credence to that problem and how we solve it?

Prof Kanowski: I think it has recognised that problem and it is trying to solve it, and I think we should solve that problem, because the wrong tree in the wrong place, if I can put it that way, is a bad advertisement for trees and the values that they have. In our submission we suggested that, in whatever form the bill ultimately is adopted, it needs some close monitoring and review after the first couple of years, in order to understand whether we have those settings right.

With respect to the intent of allowing some flexibility in managing trees in the face of redeveloping Canberra, if I can put it that way, that principle is fine. The issue is: how does it play out in practice? I am not a parliamentary draftsman; I can quite understand that, from reading the bill. In any case, it will be the implementation, through the various administrative processes, that determine whether it achieves its objectives.

In my professional arena, we talk about adaptive management, and that is the principle by which we are supposed to try and manage our forests. I foresee very much the same situation here. We should give it our best shot with the bill here, but we should be very watchful of how the outcomes play out and whether they are what we are trying to achieve.

THE CHAIR: You mentioned the idea of a two-year review, on the basis that a lot of problems are, in actual fact, operational. We know what the problems are; we do not

quite know whether this system will manage them. Do you think that the best way to approach it would be to factor in a two or three-year review, so that we can look at it, and come back and review what needs to change?

Prof Kanowski: Yes. We might get it very close to right or we might find some unexpected outcomes. One of the challenges is that there is a very important issue of scale here; that is, the trees that matter for all of the environmental services that they deliver to residents are generally ones that are very proximate. If you are living in a particular place, what matters to your quality of life and to many of the ecosystem services that those trees deliver is where the trees are in relation to where you live, where you work or where you walk. One of the things that will be challenging to keep an eye on is how this bill plays out in particular places that have different characteristics, in different parts of Canberra.

There is scope, I can see, for flexibility in that; it needs that. I think that how it will play out is uncertain. That is why we think that a review after two or three years would be really important.

MS ORR: I have a follow-on from that idea of talking about, when you apply it, especially across Canberra, how there will be variances in the tree canopy. Currently, there are already variances in the tree canopy. How do you best see the objective of getting a consistent and good coverage across all of Canberra being achieved?

Prof Kanowski: I could say hire more foresters, as I am a forestry professor. One place to start is to not lose the canopy in the suburbs that have good canopy cover. We have a dozen or so suburbs with more than 30 per cent canopy cover at the moment. We want to hang onto that. That is one dimension of this bill; we want to make sure there is not a perverse outcome by allowing a significant loss of canopy in those suburbs where we already have good canopy. There is the challenge in those suburbs, there is the middle range and then we have the more recent suburbs where it is hard for a parrot to find a tree.

I am aware that the government has committed to planting in areas and suburbs that have poor canopy coverage, and that program has started. I do not think that it is sufficient to meet the goals, at the rate it is going. We also have some significant design issues in those new suburbs. Even the most ardent tree planters could not find places to put trees on leased land because the plot ratio occupied is so great that there is no space to put significant trees.

In our submission we said there is an intersection between the development guidelines and rules and this issue, very clearly. We cannot just look at it from a tree perspective; we have to look at it from the development rules perspective.

MS ORR: How important, or not, is it to have trees on leased land—say, in backyards, outside public unleased land?

Prof Kanowski: I would argue that it is very important. With respect to putting all of the responsibility onto public land, I spoke a moment ago about the proximity of trees to where people live being important, in terms of the services that they deliver. If we shift all of our trees out of house blocks and onto the streets and parks, we will have a

very different distribution of canopy to what we have now. We will lose, particularly, the cooling effects in summer from doing that. One reason that this bill is welcome is that it seeks to address the issue of trees on leased land, which is a more challenging issue to address than trees on public land.

MS ORR: You mentioned the spread of the tree canopy and the cooling effect. Can you explain to us, seeing that you are an expert in forestry, how that cooling effect can work and how the distribution of trees within the canopy is important in order to get a good cooling effect?

Prof Kanowski: Mostly, it is direct shading. Part of it is transpiration. It is a bit hard to talk about that on a day like today. Part of it is just the recycling of moisture from the canopy. Most people are familiar with the shading; it depends where the tree is, what sort of tree it is, what the aspect of the house is or where it is in the street or cycle path. That is an outcome that you achieve with a small number of trees, perhaps, around a property.

The cooling effect, the transpiration effect, is from the aggregation of trees—the level of canopy across a neighbourhood, for example. We should not forget the role of trees in capturing particulates. One of my colleagues studied the eucalypts on Northbourne Avenue before the tram, and they captured very significant amounts of particulate pollution. I am Master of University House at ANU, in one of my other roles. We found that our ceiling was full of lead from Parkes Way, or from 50 or 60 years of passing traffic, before lead-free petrol. Those issues, in an urban environment, are also significant. In that case, a distributed canopy is the best strategy for maximising the benefits and minimising the risks.

MS ORR: On the tree canopy, you acknowledged in answer to some of the questioning that there is quite a difference in the form across Canberra, and that it provides different opportunities for tree canopy and tree distribution. In infill areas or in areas where we tend to have a higher density and less land mass to plant out, how can we achieve a good canopy?

Prof Kanowski: I think it is about creating the space in individual developments, or clusters of development, where there is enough space for larger trees to develop. I am sure your observation is the same as mine. I live in the inner north. The design of redevelopments often does not leave the space for a large enough tree to grow, so you have a series of small trees, if at all.

It is a matter of design, and of valuing the asset that a larger tree will be in the design principles. I have also seen examples where that has been done in redevelopment. It is about the way we are thinking about it and the value we assign to creating the space for a large enough tree to develop. You only need one mature tree per block to get the sort of canopy cover that we have had.

THE CHAIR: Professor Kanowski, we have come to the end of the allocated time, having each asked one question. You did have a statement; would you like to table your statement?

Prof Kanowski: I will happily table the statement, yes.

THE CHAIR: We would be really grateful to receive that. Thank you so much for your time today.

Prof Kanowski: Thank you very much for the opportunity to meet with you, and I look forward to the outcome of your deliberations.

Oakey, Ms Helen, Executive Director, Conservation Council ACT Region

The Chair: We will now hear from Ms Oakey, from the Conservation Council. Thank you very much for joining us today. Have you had a chance to look at the privilege statement?

Ms Oakey: Yes, thank you.

The Chair: Ms Oakey, we will probably not ask for an opening statement, because we have a lot of questions and, unfortunately, not a lot of time. We are in a very compressed section of the sitting year. We will move straight to questions. What is your biggest concern with the bill in its current form?

Ms Oakey: There are a few things. Firstly, the bill misses an opportunity to recognise the value of trees in the wider biodiversity context. Canberra is quite a small city, but it sits within a very high-value natural environment. I think that we could do more in this bill to recognise the value of our urban trees in terms of encouraging biodiversity across the landscape, from the edges of the city and right through the city.

That is not such a major concern. I suspect our major concern is the fact that the bill indicates that it has jurisdiction over areas of future urban development, but the protections in place for trees in future urban areas is not articulated very clearly in this bill, although it has been mooted to us that it will be coming in estate development planning codes in the new planning bill. But we have not seen those codes yet. We do not know what the specific requirements will be to protect mature native trees, going forward.

It is worth acknowledging and being cognisant of the fact that the majority of the tree loss that has occurred across Canberra in the last five years, according to the data that was put into the mature native tree action plan, the draft action plan on mature native trees, indicated that the majority of native tree loss occurred in new development areas and in new suburbs. Six per cent of the tree loss in the ACT occurred in new development areas, and that is because we do not have a clear framework or system under which we start to address what we do with remnant trees and mature trees in those areas, before new estates are developed. That is our second concern with the bill.

We welcome the fact that the bill drops the threshold for protected trees from 12 metres down to eight metres. But I think it is worth acknowledging that, in the context of Australian tree protection laws, even eight metres is relatively high. That may be because the ACT is considered to be a fairly green city, we already have a lot of trees and we are doing okay compared to some of the inner city environments that we see in Melbourne and Sydney. But I think it is really important that we do not back away from that drop from 12 to eight metres, because we know that, in the face of building climate resilience and all of the things that Peter was talking about with regard to pollution and urban heating, we need to value trees more highly. So dropping that threshold level is really welcome. You will see in our submission, when you compare that eight metres to what is happening around the country, that it is actually still relatively high.

THE CHAIR: That table was very helpful.

MS ORR: Would you mind running through what the average is in other places?

THE CHAIR: We have it in the submission.

Ms Oakey: Yes, there is a table at the back of our submission.

THE CHAIR: Yes, there is a table there. It runs from two metres up to eight, I think.

MS ORR: Yes, I did read that last night.

Ms Oakey: The final point is that the bill treats all trees as equal, and it fails to delineate between exotic species and native species. It is a really tricky thing to do, and in some ways the simplicity of the bill is useful in terms of implementation, but in other ways it fails to recognise the additional value that native trees provide to the environment. While native trees, and particularly large eucalypts, are not always suitable in particular parts of urban areas, because of the issues of falling limbs and things like that—we fully acknowledge that—with the value of trees as they grow, and given the speed and the rate at which trees grow, we cannot say that a tree of a certain size necessarily has the same value. A native tree may take longer to grow, but it may provide additional biodiversity benefits in terms of habitat, food and foraging opportunities for native birds and other species.

THE CHAIR: That is not really recognised, given the hierarchy that was brought out in a few submissions, including yours.

Ms Oakey: Yes. There is no real acknowledgement of the difference between native and exotic species in the bill. I think that comes from the fact that the precursor to this bill was the Tree Protection Act, which very much had just urban trees. It was really the street trees that we were thinking about, with the Tree Protection Act.

Until now, government policy has been to think about how we maintain and repair the street trees. This act actually takes a much broader perspective and looks at the entire urban forest across the landscape. It goes a long way to doing that, but it does not go the whole way to doing that. There are probably a few things that we could do that would improve that.

In the objects of the act, it mentions biodiversity and the value of urban biodiversity—but, again, putting the urban biodiversity in the wider context of ACT's biodiversity. Also, that biodiversity object is not followed through in terms of the definitions of the types of trees that are defined and how they are defined.

MR PARTON: It is very clear that you have done a lot of investigation of frameworks, laws and policies that are in place in other jurisdictions. From your examination of what other governments and councils are doing, is there a utopia? Is there a model whereby you would say, "This is really what we should do"?

Ms Oakey: Probably the ACT has the opportunity to lead the way in some of this tree

regulation work. We have that unique opportunity, again, from being a city state, so we can have uniform rules across the city, and because we have not knocked all of our trees down yet. We have a history of investment in street trees that, particularly in the early years of the development of the city, has been really powerful.

No, I do not think that there is. I know it is quite fraught with respect to what local councils are allowed to do and what state governments might want to do, and there are always loopholes that people will look for. This idea of a canopy contribution scheme has not been widely trialled across the country. For that reason, I would support the idea that that is reviewed after maybe three to five years, to see how effective it is. It is not that it has not been done anywhere, but it is unusual, and this would be an early version of it. It would be worth looking at it and seeing how it is working.

There is never a utopia because there are always pressures coming from both sides of the debate. Certainly, from reading some of the other submissions that were put in and some of the concerns about lowering the tree threshold level, the complexity of implementation and the slowing down of development, there will always be that tension between what people want to protect and what they want to develop, and that is an ongoing tension.

One of the things that we need to acknowledge, both through the planning law and through this law, is that unless we actually change the law and strengthen the laws, we are at risk of losing our tree canopy, and we are at risk of building suburbs that do not have enough space to put enough urban greenery in to protect people going forward. This is about people's wellbeing and the wellbeing of the environment, longer term. Both of those are deeply interconnected, of course.

MS ORR: Can you elaborate on what you mean by construing the urban forest within the wider landscape, and practical ways that that could be achieved?

Ms Oakey: The objects of the act talk about biodiversity. The objects of the act refer to contributing to biodiversity in urban areas. We were trying to acknowledge there that the biodiversity of the urban areas is integrated with the biodiversity across the whole region. In actual fact, it would not only contribute to biodiversity in urban areas but also enhance biodiversity outcomes right across the ACT. That is because of the connectivity that we need to see across the urban landscape.

For example, if we look at the future urban areas that might be developed in the western edge, and we look at the Murrumbidgee corridor, there is work emerging that shows that there are connectivity corridors for species from the Murrumbidgee corridor right through to Black Mountain. Yes, there are biodiversity outcomes at Black Mountain, but there are also wider biodiversity outcomes for species across the south-east landscape of New South Wales, and this bill has a role in contributing to those outcomes.

That corridor, the Murrumbidgee corridor right through to Black Mountain, goes from the Murrumbidgee corridor, up through Molonglo, the Molonglo River corridor, up through Kama Nature Reserve, up to Mount Pinnacle and across to Black Mountain. People are still investigating what those flows of landscape, urban landscape and woodland habitat can provide in terms of wider biodiversity outcomes. It would not

be a big tweak to the objects; it would be a small tweak.

MR PARTON: I know that some are concerned that there is only one date to achieve this target, and that perhaps there should be some interim dates with graduating targets. What is your view on that?

Ms Oakey: Are you talking about the tree canopy target?

MR PARTON: Yes.

Ms Oakey: We do not have a formal position on it, but I think it would make sense, even if we do not think about interim targets, to think about a regional focus. There are some areas of the ACT that are significantly disadvantaged in terms of the tree canopy coverage—areas that were developed where there are limited opportunities. While there are limited opportunities in private space, we need to be maximising them in public space.

With our new urban areas, the ones that are currently being developed, we need to have a real focus on how we put things in place to maximise tree coverage as quickly as possible. Ginninderry are doing a better job of that, perhaps, than some of the other urban areas.

There are other areas, such as areas of Gungahlin, where the development went through, the block sizes are small, and the public space between the blocks is small; so the actual coverage is small. That is evident in the research that was done a few years ago that fed into the tree canopy target.

MR PARTON: It is easy to understand, isn't it, how we have ended up in that place. when you look at all of the—

Ms Oakey: Yes, it is easy. It is common sense. There are certain risks to seeing the canopy target going backwards instead of forward. One is what we do in new developments, and the other is what we do when we do urban infill developments. We need to be a bit more creative about doing some precinct planning for urban greenery in infill developments.

We probably need to think about looking at some regional targets, and we need to look at some regional strategies—implementation plans that are more regionally focused. The inner north and the inner south will have very different challenges over the next 20 years to, say, Woden, Gungahlin or even Molonglo Valley.

THE CHAIR: Do you have any views about where the canopy contribution fund should be spent?

Ms Oakey: Where it should be spent?

THE CHAIR: Yes, where and how; what should we do with it?

Ms Oakey: I think it is in the bill that the canopy contribution fund should be able to be spent in such a way that is not literally spent on a tree. We need particularly to

invest, potentially, in understorey, in native planting. You can get cooling, and you can get biodiversity outcomes and cooling, from things that are not necessarily trees—trunks with tree canopy. Native bush will also provide cooling. We need to think about the understoreys, particularly.

The other thing about understorey is that it has a wonderful opportunity to reduce the need for mowing in urban areas, if we have native understorey. With native understorey, we can use it for grasses and plants that do not take a huge amount of maintenance. They add to biodiversity. They also sometimes prevent or discourage people from being under trees in areas where native trees might be quite large and have leaves that are dropping.

We could establish native tree pockets within the city and move away from this idea that we live with exotic trees with green grass underneath, everywhere. It does not have to be like that right through the urban environment. We can have different types of urban environment. I think that the tree canopy fund could go towards some of that. It is what it is; it goes towards reinvesting in planting and maintenance, and potentially supporting community groups to have custody and stewardship in areas across the city.

THE CHAIR: Do we have any environmental justice opportunities with it, given that we have such disparate tree levels in different areas? Unfortunately, our suburbs with the highest ESL population also have the lowest tree canopy coverage.

Ms Oakey: As I was saying earlier, the government strategies around fulfilling the urban tree canopy probably should be regionalised. That kind of addresses that—looking through that lens regarding what people have and do not have, and where we need to invest the money, absolutely.

If we have regional strategies, it is a bit more horses for courses, rather than just applying the same thing right across the city. It is interesting that, even at the rate at which the government is aiming to roll out the planting at the moment, they are really challenged, in terms of resources, regarding making decisions about putting the right trees in the right places, and ensuring that we are potentially creating native versus exotic habitats in particular places. The rate at which the investment has happened has made it difficult, at a directorate level, to be able to keep track of everything that is going on. It is an incredible investment.

That is probably one of the key things about this and about the whole scheme: it requires some investment of staff resources, expertise and time to make it happen properly; otherwise people will be frustrated. That includes the approvals processes that people like the MBA and the HIA are talking about. We fully support the fact that they do not need to be logjammed. We do not want logjams on the processes; we want those processes to be ticking over smoothly.

I do not agree that the planning act did not integrate with this act. I think it already is. I do think that it is slightly challenging to have both this act and the planning bill in draft form at the same time, and not see the full regulations and the full integration. It would be ideal if it had happened together. The planning act currently points to the Tree Protection Act. The new planning bill will point to the Tree Protection Act, or it

will point to this act. They are integrated; but, at a bureaucratic level, things need to be running smoothly.

THE CHAIR: Thank you very much for that excellent answer. Ms Orr, do you have one last question?

MS ORR: Yes, I do. You mentioned the contribution fund a few times, and how it is a bit new as a concept in Australia. Can you run through what you think are some of the opportunities and some of the challenges to watch out for in that fund?

Ms Oakey: It is about making sure that it is invested to get the best outcome. One of the risks is that government pulls back its core investment in these kinds of programs, because we are moving into this space of a hypothecated levy. I think that the government need to be prepared to step up and top up whatever needs to be topped up, to make the whole thing work properly. I do not think they need to be walking away from their obligations regarding government funding.

It is hard to predict what the problems will be, but I think that is a good reason to support the review, particularly of that aspect of the bill, how it is working and whether it incentivises people to do the right thing or whether the amount of money is too small to prevent people from removing trees.

I did not hear the beginning of Peter's evidence, but one of the things that we are cognisant of is that the amount that has been put in for the tree canopy levies does not necessarily reflect the value of trees to the community. Our view is that those amounts may actually be too small to disincentivise tree removal. I know that other people will come in here and argue that they are too big. We need to find the sweet spot so that people are incentivised to try to look for better solutions when they are doing a development, rather than just paying the money and whipping it out.

When you are investing a lot of money in a new development, even if it is just a single residential house, and you have budgeted \$350,000 for your house, when somebody says to you, "You should try and save that tree, it's a beauty, but if you don't, it's only going to cost you 500 bucks," what is 500 bucks, in the context of that bigger budget? It is not very much, really. People probably spend more on choosing an up-market version of tiles for their kitchen.

We need that sweet spot to be right in terms of disincentivising removal, and being creative about how we develop blocks to maintain trees. That is probably one of the biggest challenges with it, both from a developer perspective and from an individual perspective. We do not particularly think that those amounts are high enough to stop that happening, especially with the big development blocks, where the profits are significant.

It is easy to cry foul on housing affordability every single time that we try to make housing development rules stronger—whether it is energy efficiency or whether it is putting space aside to plant trees. We need to be cognisant of the complexity that underpins housing affordability, which is way more complex than a few additional charges around improving the quality of our housing outcomes.

THE CHAIR: Thank you very much. I am sorry that we do not have more time.

Ms Oakey: That is absolutely fine.

THE CHAIR: Thank you for your well-considered submission. That was great.

Short suspension.

FATSEAS, MS MAREA, Chair, Inner South Canberra Community Council
ZEIL, MR JOCHEN
JOHNSTON, MR RICHARD WALDRON, President, Kingston and Barton Residents Group

THE CHAIR: I now welcome Mr Richard Johnston, Mr Jochen Zeil and Ms Marea Fatseas. Thank you very much for joining us. I am hoping that you have all had a chance to look at the privilege statement and I thank you for acknowledging that. We will move to opening statements.

Ms Fatseas: Thank you. I am the chair of the Inner South Canberra Community Council, and I would like to focus specifically on the accountability of the ACT government to deliver on its commitment to 30 per cent tree canopy cover for ACT urban areas by 2045 and to deliver suburbs that are liveable for people and other species.

In the exposure draft of the bill, the object was to achieve a target of 30 per cent canopy cover by 2045. By the time the bill was submitted to the Assembly, there was no longer a stated year by which the 30 per cent canopy target would be achieved. The absence of an interim target was bad enough in the exposure draft, but the removal of even the long-term 2045 target signals a lack of commitment to accountability. Taken together with provisions in the new planning bill that will enable tree management plans to be overruled, it means that Canberra residents are likely to see both increased destruction of the treescape and vegetation that they have told us in surveys they value most about where they live, and a lack of future proofing against global warming, with no guarantee that sufficient tree cover will be in place to prevent or minimise the negative impact of the heat island effect.

The ACT government must ensure that its policy of 70 per cent of dwellings in urban infill areas is accompanied by a commitment through the Urban Forest Bill to maintain and expand the urban forest. It should reinstate its 2045 tree canopy target and also require annual or biennial reports on the number of native and exotic trees planted and mature, native and exotic trees removed and the tree survival rate of the planting; an interim target date by which the tree canopy cover target will be increased to, say, 25 per cent, perhaps by 2035 on the pathway to achieving 30 per cent by 2045; and regular heat island and tree canopy cover mapping by suburb to ensure progress is being made. Other states have more ambitious tree canopy cover targets, including the 40 per cent by 2040 target for the city of Melbourne and 40 per cent for greater Sydney.

The ACT government must be accountable through legislated measures for enhancing and maintaining the bush capital's urban forests for current and future generations. Thank you.

THE CHAIR: Thank you. Mr Johnston, do you have an opening statement?

Mr Johnston: Just very quickly, I wanted to pose one question.

THE CHAIR: Yes, sure.

Mr Johnston: I presume the committee would have seen the detailed submission that we put in.

THE CHAIR: Yes, we have; thank you.

Mr Johnston: And also the follow-up one that I put in on Monday.

THE CHAIR: Yes. We have received both of those. Thank you.

Mr Johnston: I would like to very briefly highlight two issues from those. Firstly, I made the comment that we unfortunately have not had a lot of time and resources to go through the bill in great detail, apart from one issue that I will come back to in a moment. What would have been very beneficial to us would have been if TCCS, or the promoter of the bill, could have actually responded specifically on the points that we made, rather than us having to find our way through quite a complex piece of legislation. That does not appear to have happened on any level of detail which would have been useful anyway. So, if it is possible for the committee to ask TCCS to respond to the points we are making, that would be really helpful to everybody, I think.

The other point I wanted to focus on was the first key point from our submission, which is about trees on public land, which seem to be treated differently to trees on leased land. The first issue we had—and this goes back to our detailed submission—is that, instead of the conservator looking after all trees, the conservator seems to have a very limited role in terms of trees on public land, both under the draft bill and the current bill as presented. It is quite difficult to find out who is the decision-maker under the bill. It took me until getting right to the end of the bill, under the dictionary, when it actually says that the director-general is the decision-maker for trees on public land, not the conservator.

We questioned why trees are treated differently on public land to leased land. That is an ongoing issue, and I think I heard Helen Oakey talking about some of the interfaces between this bill and the planning bill. I have tried to pick out some of them in my follow-up submission. There are issues about the interface between the two pieces of legislation, the planning bill and this bill, and the bureaucrats involved, if you like.

On the one hand, there is the conservator. The conservator seems to operate through delegations to people in TCCS. The conservator also reports to the Director-General of the Environment, Planning and Sustainable Development Directorate, which is also the planning authority. There are real issues here. I have given you a little case study that we are currently dealing with about how the planning authority and the conservator do not see eye to eye necessarily and the main motivation—at the moment at least—for the planning authority appears to be facilitating development outcomes, not necessarily looking after trees.

THE CHAIR: Thank you, Mr Johnston. We will pass briefly to Mr Zeil to see if he has an opening statement, and then we will proceed to questions. I am so sorry, but only have 10 minutes left.

Mr Zeil: Just briefly, my short submission goes to complaints management. I want to draw your attention to a question that I have. Under the ACT Tree Protection Act 2005, breaches of the act were not pursued, and I think you should enquire as to whether that is so, why it is so, and how the new bill would improve on that situation.

MR PARTON: So your biggest concern is compliance?

Mr Zeil: Yes.

MR PARTON: That echoes Professor Kanowski.

THE CHAIR: Absolutely. Thank you all for those statements. That is the topic I was very interested in asking about, but I am actually going to put a question to Mr Johnston. You have a lot of material in your submission about transparency and public accountability. Can you tell us—just in a few words, so that I can pass over to one of my colleagues—how you think this bill could be improved so that we have better transparency and public accountability in here?

Mr Johnston: I think it goes back, to some extent at least, to the bureaucratic arrangements. I have great difficulty with fathoming who is supposed to do what, particularly when you have got different people exercising delegations for nominated offices. I think it would be very helpful if that could be sorted out. Thinking about how you might do that, it is difficult to get away from the concept of having the conservator be the decision-maker in all things under the bill to do with trees. It does not make any sense at all to me that some other bureaucrat who might have different motivations is in charge of, effectively, everything relating to trees on public land. So I think in vesting essentially all the power in the conservator, I think there probably needs to be some bureaucratic mechanism to give the conservator more independence as well, rather than reporting effectively to the planning authority, who has totally different motivations in terms of facilitating development.

THE CHAIR: Are there any specific things that should be reported publicly that this bill misses out that we have in other jurisdictions as publicly reported under the tree protection systems?

Mr Johnston: Sorry, I do not really—

THE CHAIR: That is okay. Thank you for that point about the conservator's independence. That is excellent. I will pass over to Ms Orr.

MS ORR: Thank you. What suggestions do you have for achieving a consistent tree canopy across Canberra?

Ms Fatseas: Well, for a start, I think we need to have a legislated target of 30 per cent, and I think that we should be looking at trying to get to that target for as many suburbs—well, all suburbs preferably—as much as that is possible. It is going to be really difficult for the new suburbs, but I think that is why we need that discipline of a legislated target, which we have lost in the draft that has been provided to you in the Assembly.

It should not be just a 30 per cent canopy target across the whole of the ACT; it has to be where people live. What is the point of collecting money through the canopy contribution scheme only to put trees somewhere where people do not live? That is what affects people now and in the future in terms of their amenity and their wellbeing.

So I think that it has to be city wide or urban area wide but also at a suburban scale. That is why the ISCCC has suggested some particular reporting requirements that will ensure that, on the way to achieving that overall target, we have a way of actually reporting annually on plantings and loss of mature, exotic and native trees; an interim target, say by 2035, so that with the urban infill of 70 per cent we do not actually find that we lose them all in the next 10 years and that we have got to make it all up in the 10 years from 2035 to 2045—that is not really what we want to see; and that there is regular evidence-based material, heat island and tree canopy cover mapping, so that we have got an evidence base to see how we are progressing in achieving our targets.

Mr Johnston: I would perhaps add something, from the point of view of my area. The Kingston and Barton area is actually the highest population density area of Canberra but unfortunately the tree cover in Kingston and Barton is relatively low, particularly in the new development areas. That is largely a product of the design of areas like the Kingston Foreshore, where there is not a lot of public space for trees, generally, throughout the development area. And, unfortunately, there is virtually no new tree provision being allowed for in the development areas themselves on private land.

There are real issues about that. I did not want to say anything about variation 369 in fear of perhaps antagonising the committee, but we still have a strong view that variation 369 or that tree cover on private land is totally inadequate. I recognise that the committee, I think, has made a commitment to review the performance of 369—which is great—but I am very confident you will find that it is almost having a negligible effect in terms of providing more tree cover. But it comes back to this interface between the urban forest bill and the planning bill and the way planning is performed.

THE CHAIR: Thank you for that. We have made a public commitment to review it. Mr Parton, do you have a question?

MR PARTON: Yes. Marea, I get the sense, reading your submission, that initially with the lack of an interim target date for the 30 per cent and then with the removal of any date at all, that you almost have a sense that there is a concession of defeat before we have started. Is that your view, or not?

Ms Fatseas: Exactly. If you compare it to the ACT government's approach to the 100 per cent renewable electricity by 2020 target, it was a very clear target date as a discipline to get action. If you look at the federal government's target of 43 per cent greenhouse gas emission reduction by 2030, there is a date. When you take the date out, there is no discipline, and I think it means that the government has no real commitment to that target.

MR PARTON: I would concede that I have got some concerns with your views—and you have mentioned them this morning—regarding the tracking and the identifying of a particular loss of trees on an annual or a biannual basis. I fear that, if we did that, it would tie up a hell of a lot of resources, and I am not sure that we would get bang for buck for it. I think that there has to be more, but I fear that your proposal would be quite expensive.

Ms Fatseas: Well, if it is not annual or biannual, every few years. But the thing that we do not want to see is a rampaging through the urban forest in the inner suburbs on the basis that it will all be all right by 2045.

MR PARTON: I take that on board, yes.

THE CHAIR: Mr Zeil, I would love to ask you about enforcement I think we have tougher offences in this bill than we have in the old act. But I am interested in your view on whether the bill is likely to lead to better compliance and better enforcement and, if not, is it a resourcing issue? What do you think we need to do to actually make sure this works?

Mr Zeil: I think it is an attitude problem in the administration.

THE CHAIR: Interesting.

Mr Zeil: Talk to the tree protection unit. I have rarely seen more frustrated civil servants.

THE CHAIR: That is interesting. Do you mean like a cultural problem with the staff, with the staff, with the views or—

Mr Zeil: I do not know. We have complaints units that do not follow up on what the tree protection unit has said and waiting for a year to have a very clear breach even acknowledged. Like Helen said, you need really tough fines. Apparently, there is no consequence for people like builders, building certifiers and architects that breach that act.

THE CHAIR: Ms Oakey's view was that the fines probably are not high enough in the context of the costs of development. So there is whether the fines are high enough and whether the canopy contribution fund costs are high enough but also whether we are actually applying them. It is probably both aspects.

Mr Zeil: The main thing at the moment, I think, is that breaches are not pursued.

THE CHAIR: Breaches are not pursued, yes.

Mr Zeil: And there is a certain urgency to it. I would like to share something with you.

THE CHAIR: By all means, you can table it and we will accept it, yes.

Mr Zeil: It which makes very clear what is happening in the suburbs at the moment.

THE CHAIR: Thank you.

Mr Zeil: Houses are too big—full stop. Do you need four copies?

THE CHAIR: Yes.

Mr Zeil: What it shows is basically aerial photographs of what is happening in old suburbs with new developments side by side with what was there before.

THE CHAIR: Thank you. I am so sorry to say that we have come to the end of our time. I would just like to thank you all for coming in and for taking the time to put in some really detailed submissions. That is excellent. And thank you for giving us your expertise and your operational view of what is happening on the ground. That is really useful. We are seeing the minister later on. So we have actually got a lot of material to put to the minister and the directorate, which is very helpful. Thank you.

Mr Zeil: What is your time line?

THE CHAIR: We are due to report by 22 November. Because it is a statutory report, we have extremely tight time frames. We probably will not report until 22 November. It will probably be on the last day. So it is quite a tight turn around.

Mr Zeil: Thank you very much.

Ms Fatseas: Thank you.

THE CHAIR: Thank you.

Hearing suspended from 10.06 to 10.14 am.

HOPKINS, MR MICHAEL, Chief Executive Officer, Master Builders Association of the ACT

THE CHAIR: I welcome Mr Michael Hopkins, from the Master Builders Association. Thank you for joining us today. There are a few housekeeping matters that I will go through. Firstly, could you please advise whether you have seen and acknowledge the privilege statement?

Mr Hopkins: Yes, and I acknowledge that.

THE CHAIR: Great. The proceedings are being recorded and will be transcribed by Hansard and will be published. They are also being broadcast and web streamed live. If you are taking a question on notice, please state that you will take this as a question on notice. That helps our secretariat to follow up and make sure that we log that. Mr Hopkins, is it okay if we move straight to questions?

Mr Hopkins: Certainly.

THE CHAIR: Thank you; that will be really quite useful as we have limited time. You say in your submission that parts of the tree protection legislation might fit better in the ACT planning framework. We have heard from witnesses this morning saying that there is a lot of enthusiasm for this new system, that there is a lot of urgency and desire for better tree protection given climate change and the loss of habitat and biodiversity; and that there are good reasons to press on. There were also a few witnesses who stated a desire to have a review of the system, maybe in two years or maybe in three to five years, on the basis that the best way to tell if it is working and well integrated is to have a look at it when it is operating. What is your view on that?

Mr Hopkins: You raised a few points. First of all, we would agree with a number of the other witnesses in that we support the intent of the bill. Secondly, I think it should almost be commonplace for any new bill or legislation that is implemented that government have some sort of role in monitoring whether it is achieving its objectives. I do not think that that should be seen as a unique feature from this bill. It would be good practice for any new bill or any new legislation that we do that. So we would certainly support some sort of ongoing monitoring and auditing regime to check that we are achieving the stated objectives.

In terms of our position about this fitting within the planning reform or outside the planning reform, I think in practice our position would be that there are parts that would fit in both. Our focus has been how this bill will impact new development undertaken by our members in the property and development sector, which is principally done on leased land. So our focus has not been as much on the public land, the road verges and those parts of the city which are generally controlled by the ACT government or maybe the National Capital Authority.

If we think about a scenario where there is a new development proposal, our position would be that the planning system should be the primary legislative instrument used by government to control the ultimate form of development on there. Any architect, building designer or developer looking at a new block of land with a development

concept in mind, will have multiple opportunities and constraints that they will be weighing up about how they come up with the ultimate design and highest and best use for that site. The presence of existing trees is just one of those many opportunities and constraints that exist. There is a whole range of other things.

For the most part, our Territory Plan and our planning bill have codes that regulate the majority of those issues. So it is odd that we would create a whole new bill, with a whole new set of objectives, to deal just with the preservation of trees in isolation, rather than taking a more holistic approach, particularly given that we are right in the middle of a major reform of our planning system. As we were saying before, we are expecting to see a draft Territory Plan within a matter of weeks. We think it is quite odd that government would take out one specific issue about tree protection and deal with it separately to how every other planning issue—like I said, opportunity and constraint—is going to be dealt with through a future planning system.

In terms of some of the other comments that might have been made around parks, public spaces and road verges, I understand why the planning system and the Territory Plan might not be the most effective to deal with those. But, in terms of how the bill will apply to new development, our position is that the Territory Plan and the planning system is better suited to achieve the objectives of this bill than having a separate piece of legislation.

MS ORR: Sorry, Mr Hopkins; can I just clarify that those comments are very much made through the context of your membership and your membership's interests and priorities, given their work? I think you said earlier that it is on new development and development per se; it is not looking at the broader context that this bill will be operating within.

Mr Hopkins: Our comments are through the prism of a new development proposal, yes.

MS ORR: So not necessarily to be taken in the context of the broader bill. There are quite a lot of objectives and a large scope within the bill itself, and I was just a little bit—

Mr Hopkins: Except I would add to that that, if you add up all of the small individual development applications that are undertaken over the whole city, the culmination of those will have a very large impact on the broader objectives of the bill. So while we might look at how the bill applies to individual development applications, which by themselves, are very small pieces of the overall city development, cumulatively, they are a very major part, I think, of the objectives of this bill.

MS ORR: So, if I have understood your comments correctly then, you said you agree with the objectives of the bill but you do not think the bill is necessary, or you think it should be done through the planning.

Mr Hopkins: In terms of how it applies to new development sites, yes, our position would be that—

MS ORR: So everything is very much through that one qualifier.

Mr Hopkins: Yes; that is right.

MS ORR: Yes, that is what I am getting to, yes.

THE CHAIR: Substantive?

MS ORR: Substantive, sure. I am actually going to deviate from my pre-planned questions. We have had quite a few people raise in their submissions and in the hearings earlier the tension that is there—and I think implicit within your answer to the previous question—around developers, new builds and maintaining trees. I think it is fair to say—and this is my characterisation or summary—that people say, “Well, developers just do not care about trees and will just take them down because they see them as a hindrance.” Based on what you have said, there seems to be a different perspective from your side and through your membership. Can you give a response to that sentiment that developers are not going to be looking to protect trees so, therefore, we need really strong regulation to do that?

Mr Hopkins: There are a few points there. This is not the first time someone would have said to me that there is a perception that developers just enjoy knocking down trees, similar to what you described to me before. No-one who has made those comments so far has produced any evidence to back that up. So, while it might be a high-level perception, I think given that we are doing an enquiry in detail into a piece of legislation, we need more evidence than just one statement to test whether that is actually true.

I think what is more true is that, when a block of land is sold by the ACT government, generally with an expectation advertised on the ‘for sale’ sign that this site might be suitable for X number of dwellings, when a developer purchases that block, they have a reasonable expectation that what was advertised can be achieved. They then go about the difficult task, with their expert consultant and design teams and professional architects who are experienced in managing these issues, to manage a whole range of competing issues.

I do not think it is fair to say that their first objective is to knock down every tree on the site. I think their objective is to come up with the highest and best use for that site and manage all the various opportunities and constraints that they have to get to that point, and to navigate an approval system where the proposal is going to be approved.

In many cases, existing trees are going to be an opportunity on a development site which developers will do everything to preserve. In other cases, existing trees might be seen as a constraint and there is really no alternative but to clear them to make room for the development they are proposing. There is not a simple answer in every case.

MS ORR: You have outlined quite a few of the priorities there, and it is obviously quite complex. In that dynamic, how do we make sure that, when a developer or builder is making a judgement call in the scope of their priorities, that public interest of a strong tree canopy is also maintained?

Mr Hopkins: That is what the Territory Plan does. That is what all of the codes and all of the regulation in the Territory Plan do. It is an expression of the government's policy. The developer might make those judgements in the application that is put forward, but it is ultimately the government, expressed through its Territory Plan and administered by the planning directorate, that approves that development and ultimately makes those judgements.

MS ORR: Sure. The development happens at one point in time, though, and I think it is fair to say that the dwelling and the development exist for a lot longer than the actual point where it is developed. I guess my question to you is: how do we contextualise these at-point decisions in that broader overarching longer-term objective?

Mr Hopkins: Well, again, I think the Territory Plan does that. It sets out those longer-term objectives for the city, and it has a hierarchy of very high-level, city-wide objectives through to district level zone objectives and individual development codes, which I think bridges that gap between what you are talking about, which are the very high-level, city-wide objectives, and how that would be implemented on an individual development proposal.

MS ORR: It does at a point in time when you put in a development application. I agree with you on that point. I guess my question and what I am getting to is what happens outside of those times that you are doing a development application. How do we make sure that these objectives are being maintained?

Mr Hopkins: If we want to take the example of someone building a house—which may or may not require a development approval but let us say it does—and it is approved and it is built, that is not to say that the owners may not want to add, extend, remove and do other things to that dwelling which might potentially involve clearing trees, which would trigger subsequent applications. So that assessment would be done at the end—

MS ORR: Potentially it depends on the development, but yes.

Mr Hopkins: Yes.

MS ORR: Being conscious of the time, I will hand over to Mr Parton.

THE CHAIR: I think that is an excellent idea; thank you. Mr Parton.

MR PARTON: The development approval system in the ACT has found itself under pressure over a sustained period of time. I note your concern that the change in the definition in this bill of a 'regulated tree' is likely to generate a significant increase in the number of applications to remove trees. How significant an increase and what do you think the impact would be on that development approval process?

Mr Hopkins: In our view, it would have made more sense that, when the bill was open for public comment, that information was provided by the government. There should have been a regulatory impact statement done on this bill so that we could

actually answer the question that you are asking me, because how would we know? We were told verbally in one of the information sessions that we had with government that there might be a more than 100 per cent increase in the number of applications generated. But, again, I suspect that is a very high-level estimate.

Our point is that, if there is any increase in the number of applications, it is going to further clog up what is already a back-logged system trying to deal with hundreds and thousands of various development applications, from major to minor, and this is only going to add to that. We have not seen any additional resources provided to the directorate. We have not seen any industry education or training provided that would assist industry manage these applications.

From looking at the information we have got, we have a bill that, at one point, is going to see a spike in the number of applications which neither government or industry appears to be ready to manage.

MR PARTON: Michael, I guess, the desired effect of the bill, though, is that it does not drive an increase in the number of applications, because developers make the decision to just retain those trees and so they do not make an application to remove them. If that is the case, if that effect is achieved, do you question the ability of the government to accommodate 70 per cent of new dwellings within the existing urban footprint?

Mr Hopkins: The questions that all of you are asking me to highlight the inherent conflict that exists here when you go about undertaking a new development. It highlights that we are all trying to weigh up multiple objectives when we are assessing new development applications. But you are right: one of those objectives clearly set by the government is that we will accommodate 70 per cent of our new growth within the established area.

I do not have any evidence to support this, but I am guessing that a large part of our existing tree canopy exists within that established area. We have not seen any assessment of how this bill is going to impact the achievement of that 70/30 rule, and we thought that would have been a very important question to answer by the government before proceeding with this bill.

On the face of it, our concern is that, if we are to fully achieve the objectives of this bill, we will not be achieving the 70/30 objective, which is another important priority of the government. So how do you manage that conflict? That is not a question for the MBA to answer; that is a question for the government to answer when it is devising its system of planning rules and tree protection laws.

THE CHAIR: We do actually have mapping of canopy coverage. I do not know quite what was released in the consultation on this bill, but it is suburb by suburb. We have heard from quite a few witnesses that maybe there needs to be better reporting and reviewing—and how that would be done, I am not sure.

I am interested in the notion that protecting trees would necessarily impact on an ability to develop within our existing urban footprint. Is the problem protecting trees or is the problem the types of development that we want to do? Is the problem that we

want bigger houses, and we could build smaller houses, town houses or apartments and keep trees? Is it actually, fundamentally, the problem of the tree protection bill that we are looking at or is it a problem of other push factors and other cultural ideas?

Mr Hopkins: Yes, I do not think this problem is going to play out so much in the new greenfield areas. If you look at most of the new greenfield areas, in fact, most of the trees are cleared as part of the creation of the subdivision, often by the government themselves, leaving a vacant block to build a house on where I do not think trees are going to be a constraint because in most cases, we are starting with a fairly vacant site.

The concern will be within the existing established urban area where there are, I think, a lot of established trees, and we will be wanting to accommodate more than a single house but maybe a block of town houses or even a quite high-density block of apartments. And what are we going to do if half of those development sites are covered by trees? Is the objective to preserve the trees and accommodate less development or is it to accommodate more development and remove the trees? Like I said, there are multiple answers to this, which ultimately have to be answered by the government when they set their policy objectives.

THE CHAIR: We do have, in this bill, though, quite a nuanced approach of what trees are protected and when they are protected, and when you contribute to a canopy contribution fund instead. We have also heard from a lot of people about the necessity for suburb-by-suburb canopy coverage and making sure that, with the heat island effect, we do not have some vast areas of land with no trees and some areas with lots of trees. Do you feel that this bill has not struck the right balance? Is there something specific in the bill that is not balancing that properly?

Mr Hopkins: At the first point, there has been no analysis provided publicly that really helps me answer that question. I would hope that all these questions have been answered and we are concerned about something that is not going to eventuate. But the consultation period on this bill was extremely short. The turnaround in reviewing submissions was extremely short, and the level of information provided to us to comment on was extremely minimal.

This goes to a really important part of all of the various reforms that are happening in the building development space at the moment. We should be focused on quality reforms and getting these right and not just rushing them through quickly. I would have thought this is a perfect example of taking a little bit longer to get this right, particularly given that we are about to go through a major planning reform process, or we are halfway through it, rather than rush this bill through a few weeks before a new Territory Plan is released.

THE CHAIR: Ms Orr, supplementary or question?

MS ORR: Yes; just a supplementary on that. Mr Hopkins, you were talking about having trees or having infill, and it almost sounded like you were setting it up as a one or the other. How do we have both?

Mr Hopkins: How do we have both? That is a question for government. If the SLA sells a block of land, a thousand square metres—

MS ORR: Actually, Mr Hopkins, I do not entirely agree with you on that; I am sorry. Your membership has a huge responsibility in delivering these properties. It gets handed over to them, yes, and government sets the policy. We agree with that. But my question to you is not how we deflect to someone else but what role your membership has in making sure we achieve both, rather than just saying someone else needs to change the policy so we can do what we need to do.

Mr Hopkins: My point is that the policy is unclear at the moment. One part of government says the policy is to maximise the urban development on that site, and another policy of government says it is to preserve trees, protect the climate and manage the urban heat island effect. So it is government that has not reconciled those competing objectives. At the end of the day, our membership will strive to do the best designed and built projects that they can, according to the rules that are set by the government. My problem with this bill is that multiple directorates of government are all telling us that they want different things and you cannot achieve everything on every site.

MS ORR: Mr Hopkins, I understand how you can see those as competing things, but they can also be complementary in that you want to maximise the density of that block whilst still maintaining an urban amenity and an environmental amenity. Looking at your membership, you said you have got design experts. I guess the point I am getting to is: at what point is it the case that the decision gets made by them as to how that is implemented?

Mr Hopkins: Sorry; can you just repeat the last part of that?

MS ORR: At what point is there a responsibility taken by your membership—by developers, by builders, by all the design professionals that are there to apply their craft—in order to come up with the how-to on a site-by-site basis?

Mr Hopkins: I think it is fair to say that our members have that responsibility on that site-by-site basis, and they will take that responsibility of designing a particular development, according to those rules, site by site. The trouble is that, if you take that rule and expand it across 10 years of development, you do not achieve the objective of government, which is not necessarily a responsibility of individual developers, to accommodate 70 per cent of our development within the established urban footprint.

MS ORR: I think the Chair is about to wind this up.

THE CHAIR: Yes. I am so sorry, but we have run out of time. Thank you very much for joining us.

Mr Hopkins: No worries at all.

THE CHAIR: And thank you for your submission as well.

Mr Hopkins: Thank you.

Short suspension.

WELLER, MR GREG, Director, ACT and Southern New South Wales, Housing Industry Association Limited

HAMMER, MR JOSHUA, Workplace Advisor, Housing Industry Association Limited

LAUSBERG, DR ADELE, Acting ACT Executive Director, Property Council

JACKSON, MS NICHELLE, Director, Canberra Town Planning

MACCALLUM, MR ALASTAIR, Property Council of Australia

THE CHAIR: I now welcome our next witnesses, Greg Weller and Joshua Hammer from the Housing Industry Association Limited, and Dr Adele Lausberg, Nichelle Jackson and Alastair MacCallum from the Property Council of Australia. Thank you very much. Can I get you all to state verbally if you have seen and accept the privilege statement? Have you all had a chance to have a look at that?

Mr Weller: Yes.

Ms Jackson: Yes.

THE CHAIR: Thank you very much. We would like to dispense with opening statements, but I would welcome anyone to table anything that they have prepared and we will take it as a submission. As that seems to be okay, I will hand straight over to Mr Parton for the first question.

MR PARTON: I am going to ask this question to Mr Weller, but I would suggest that anyone else on that panel should feel free to add to whatever Mr Weller gives us. Earlier, Helen Oakey, from the Conservation Council, was somewhat dismissive of the suggestion from groups like the HIA that the changes in this bill will potentially have an impact on the cost of housing, on housing affordability. She was of the belief that we should consider the other effects of the bill and that we should pretty much dismiss the concerns regarding housing affordability. How would you respond to that, Mr Weller?

Mr Weller: I guess I would say it is essential, particularly in the environment we are in. We understand that we have a housing crisis in Canberra. It is not unique to the ACT; there are problems across the nation. Housing affordability is a very big challenge, and we have seen that particularly over the last two years. When it comes to housing affordability, over many decades, it has been death by a thousand cuts.

Each piece of regulation adds a little bit more every time, and we see this when it comes to redevelopment on sites. I will keep my comments to single dwellings, primarily. We have seen this from members over a number of years where they get held up in a process and tied down, and quite often the tree will eventually be removed because it is what is standing in the way of a reasonable development that would be otherwise consistent with the planning system.

In fact, the dwelling that is being knocked down may not be able to rebuild as it is, because of, I guess, the lack of thought about the species and the situation of trees that were planted there before. So, when we find it goes through a DA process, we could be looking at six months, and that is six months of people paying additional rent and

six months of holding costs for the land. All of these things add into the cost of housing. As I said, it is death by a thousand cuts.

I will talk about one of our key points we would like to make today. Very much in 2019 when this discussion started, the rhetoric from the minister at the time was around a fairer, more streamlined process. That is what we would like to get out of that, and I am not sure the bill that we have ended up with has delivered those initial intents of saying where we are going to develop in brownfield areas and where there is tree removal required. We have not put enough focus on how we are going to compensate for that deficit now we have removed a tree. Rather, in the bill, the focus is on how much red tape and cost we can add onto that.

Mr MacCallum: Can I add to that response? I am assuming that we are doing a Q&A thing to try to get to some responses quickly, and I am assuming PCA and HIA together have got the 25-minute time limit.

THE CHAIR: Yes.

Mr MacCallum: Can I give you an anecdotal example to try to answer your question?

MS ORR: You can.

Mr MacCallum: What I would like to do in response to that question is give an example. I will pick an urban infill project, which is for Goodwin Aged Care in Farrer. For that site, which had a six-metre fall across it, to be suitable for that sort of ageing in community retirement solution, we needed to level a large proportion of that site to achieve two clear levels. We would have well and truly reduced the tree canopy coverage from, say—although it is not defined yet—25 per cent of that site. We did preserve probably 90 per cent of the trees to the street. But, in order to achieve what is a \$120 million redevelopment, which included 150 independent living units and 110 aged-care beds, we had to level that site to start again.

In doing that, and, if you like, not being hamstrung by what this legislation might have obliged us to do, we then have allowed for urban intensification in Farrer, allowing people to retire and move out of their homes in that location, to allow that suburb to be recycled. That, to me, is a very real example of how this legislation is somewhat blunt in being—and I speak as an architect—allowing us to masterplan a solution that will allow for urban infill densification, increased dwelling numbers and an ageing population. That would be my response to that—

MR PARTON: Are you suggesting that, under the framework of this bill, you may have had to attack that problem in a different way and that it is possible that you just may not have been able to pull it off?

Mr MacCallum: I do not disagree with the principle of a tree canopy coverage at all; it is how we get there that I am concerned about. That new development had substantial new plantings, bearing in mind Canberra originally had very few trees here. That will come again but it would have limited our solution dramatically, yes.

MS ORR: Mr MacCallum, that is a really good example and a little bit of what we were getting to with Mr Hopkins in how we start to make these decisions, because, when you get down to an individual development, you are thinking site specific on one site.

Mr MacCallum: Indeed.

MS ORR: You made a series of decisions which meet a range of objectives for that particular site. My question, though, is: if that is replicated across every site in Canberra and we see a massive decrease in the tree canopy, how do we overcome that loss so that we are still getting a good outcome overall for achieving all objectives, not just one or the other?

Mr MacCallum: There is no loss in tree canopy, in my perspective, ultimately, with that project. In fact, what it had is a lower-rise solution originally that has now turned into a six-storey solution, which actually has more space. So I am just going to contend that there will be that canopy, if not more, in the future.

MS ORR: So when you talk about that canopy—

Mr MacCallum: So it is the timing question.

MS ORR: Okay. Let me just clarify then to make sure that it is all correctly understood. So you have removed trees in order to build a six-storey building structure—

Mr MacCallum: Five of them, but yes.

MS ORR: Five-storey—

Mr MacCallum: No; five buildings.

MS ORR: Okay, five buildings. It is quite a big development.

Mr MacCallum: Which is just to make that point, I guess.

MS ORR: So, essentially, by going up you have reduced the footprint so that you can put in greenery that, in the future, will provide a canopy cover.

Mr MacCallum: Absolutely.

MS ORR: So what you are saying is that there has been no overall loss, in your opinion.

Mr MacCallum: I would say that there has been an improvement as well as densification. I guess the point I am trying to make, which I hope is answering your point too, is that I am worried that what we have got here with the legislation is going to conspire against an integrated solution. That is my concern. I want to get to the same result, and I think we all do.

MS ORR: Mr MacCallum, how can the legislation be improved to give that longer-term outcome that you are inherently arguing for and the flexibility that you seek and lead to better outcomes?

Mr MacCallum: I would love the chance to provide a more sophisticated response to that, but I think there are too many uncertainties around this legislation at the moment. You have to resource this a lot better if this is going to be the aim. For starters, we need very capable people in there, in a market that does not exist in terms of an employment base, to help a developer—in this case it is a not-for-profit—have the confidence to move forward with a feasibility that understands the cost of removing those trees and understands the risk around eight-metre high trees now being regulated.

That was already a complicated project. There would need to be a lot of capacity built around that process for me, personally, to feel confident that we could have that client progress meaningfully and cost effectively towards that investment. That would be my first answer.

THE CHAIR: I might ask a fresh question, but it is actually on the same topic. We have a bill that actually does have quite a lot of different options. The default setting is to protect trees, particularly mature trees, and then replacement and then payment to a canopy contribution fund. We are hearing about a development of \$120 million, and we have heard from a lot of other witnesses that the levels of fines and levels of canopy contribution fund are actually far too small to be significant. And, when you start looking at the sums of money spent on development, it certainly sounds intuitively correct that these small amounts of money probably are not adding a huge amount to the cost and are not adding a huge amount to the affordability. I do understand the delays in that the application process adds some time, which strikes me as a staff resourcing issue.

What actually is the problem? We all agree that we want better, high-quality, more intense urban infill, so we are not sprawling. We all agree that we want trees and no heat islands. So we all agree on all of this stuff. Is it the length of time that these applications take? Do we just need more staff processing them? Is it the actual dollar figures, which seem to be really quite small in the context of development? Is it a bit of training for industry just to upskill on the fact that now we are not even leading the pack but we have eight-metre trees—a bit like some of the other councils and many of them have moved to one and two metres, so we are pretty generous? What is actually the problem? What actually is the bit that is going to add cost and make it too slow and too difficult to comply with?

Dr Lausberg: I will respond very quickly and then I might throw to Nichelle for some of the details. You mentioned the resourcing. That is something that was mentioned consistently in the rest of the submissions, including ours—about the concern that there are already existing delays.

Just to pick up on the housing point, any deterrence for investors or people wanting to contribute to finding a solution, anything that is seen as a deterrent, is just going to step us back, which is why we have here with us Alastair, from the Social Sustainability Committee, and Nichelle, from our planning committee, because we

recognise that everyone needs to be working together.

Any delay or any deterrent to these things going faster is not good and it takes the ACT out of people's sights, and that is a concern we have about the capital flow as well. So that is unpacking that side of things.

The other bit is just picking up on the equity piece about the costs and some of the community groups who would be looking to do developments. Excuse me if I am talking out of turn. We have been trying to absorb the bill—and I think Michael might have mentioned the time frame. We have done the best we can but there are some things we were not totally clear on.

Around the costs for community groups wanting to develop, or mums and dads wanting to develop, and if there is a tree in the way, an issue is the lack of certainty, which Alastair picked up on, about that and moving forward. Like you said, we all want to get the same result. Again, perhaps I am mistaken, but there are a few areas that seem unclear to us—and any uncertainty is another deterrent.

THE CHAIR: Specific areas in the bill? Is there anything specific that needs to be clarified?

Dr Lausberg: Nichelle, I might throw to you for this one, if that is all right.

Ms Jackson: Touching further on Adele's point about equity, looking at the canopy contributions—and I note your point regarding the relatively small apparent number of those contributions across the zones—I do note that the average financial contribution appears to be quite different between different zones across the ACT. My view is that that perhaps is a blunt instrument, considering that different sites have different tree canopy coverage across the ACT. I also note that some zones that might facilitate community development, as Adele alluded to—say, RZ1 development for redevelopment and infill—perhaps have rates of contribution that are a little bit out of step: for instance, \$2,000 per tree as a contribution in the community facility zone versus \$6,420 in the RZ1 zone.

Whilst these numbers may appear small from an equity perspective—and Mr Weller touched on this before—the haphazard and perhaps unplanned planting of trees across sites in those zones, where those sites are being reconsidered for development may then prejudice whatever the design outcome might be considered on those sites because of the differences in those tree contribution rates, and it might be a disincentive for certain development outcomes on the sites.

To touch on Ms Orr's earlier question about what a solution would be, my thought is that there needs to be a consideration about what the long-term outcome might be on the site. As Alastair said previously, it might be a consideration of understanding what is being removed but also, what is going to occur in the placement and what the long-term canopy coverage will be in that precinct or on that site.

THE CHAIR: Ms Orr, I might pass over, in the interest of time.

MR PARTON: Do you sense, on that, a lack of trust from the government through

this bill that what you have said will occur, and is occurring in Farrer—that there is a lack of trust that there will be a replacement of tree canopy?

Ms Jackson: I can understand that. In my role as a planning practitioner, I can appreciate that there is a mistrust for that, because there have been adverse outcomes experienced. I believe that perhaps the focus might be on ensuring that those outcomes are adhered to—so a compliance approach.

MR PARTON: All right.

Mr Weller: I might comment on your question about what the impediments are. I think we are mostly on the same page of what we are all trying to achieve here, but there was something that we picked up a lot in the bill was in terms of how the bill will actually work in practice—and I would like to pass to Josh for a couple of minutes to articulate. When you ask what is going to slow us down, when we look into the process of how it works, we are very worried that it will mire all of this process of removal down, where it may well be that the only option in the end for a development to take place is for a tree removal to occur. But I will hand over to Josh for a couple of comments.

Mr Hammer: Thank you. On that front, I would say that there are areas here, as HIA has identified, where we believe some improvements could be made. As was pointed out before, there has been a fairly short turnaround here. There are other goals that were put forward in the explanatory statement. It was noted that a key finding from community engagement that, in addition to protecting trees, people wanted greater flexibility to manage trees on their property and an overall system that would allow for wholistic management. On that front, providing an efficient system is not necessarily inconsistent for those goals.

There are aspects of the bill that we can see as potentially causing some problems in the future. One example that we have been unable to find an explanation for is that the bill gives the conservator the power to offer a canopy contribution agreement but they do not actually have to offer the choice between either replacing the trees or paying the canopy contribution. It seems that what was contemplated by the scheme was that both of those choices would be offered.

Another element that might come back to some of what was talked about with integrating this with the Territory Plan is that there does not appear to be any real allowance here to facilitate preventing people being charged twice, effectively, with new developments that might be required to comply with the DV—variation 369. In that sense, you already have been charged and then you might need to pay another financial contribution. There could be some integration in that sense.

In terms of the delay, I would like to stress from a legal point of view that, for builders, in particular, there are not just developers who can soak millions upon millions. There are smaller builders right now, in particular, that are struggling quite a great deal in terms of individual material price increases on a job making or breaking their livelihood. A delay of a couple of months can result in those prices going up and, under a fixed price contract, typically a builder would bear those losses.

These applications where a DA is required could take a number of months. Whilst under the Planning and Development Act there is a requirement for a 15-day turnaround for the conservator's opinion, anecdotally, that is rarely upheld. Under this proposed bill, even if a conservator does initially disagree or refuse to offer a canopy contribution agreement, a builder goes and successfully petitions the Planning and Development Authority to act inconsistently with that advice, it still seems, as the legislation is currently drafted, that this needs to get sent back down to the conservator to then prove and enter into the agreement. It seems like a bit of a delay that not only will affect the builder and slow down the process but also seems to go against the intent of the scheme in that it does not provide an incentive for the conservator to enter into these canopy contribution agreements that underpin the bill readily.

THE CHAIR: Mr Hammer, thank you so much. I am really sorry to interrupt, but we have actually run over time and we need to move onto our next session with the minister and our government officials. I would like to thank everybody for your time this morning and for your really detailed submissions.

Short suspension.

STEEL, MR CHRIS, Minister for Skills, Minister for Transport and City Services and Special Minister of State

COX, MS KIRRA, Acting Executive Branch Manager, Strategic Policy and Programs, Transport Canberra and Business Services, Transport Canberra and City Services Directorate

IGLESIAS, MR DANIEL, Executive Branch Manager, City Presentation, City Services, Transport Canberra and City Services Directorate

BURKEVICS, MR BREN, Conservator of Flora and Fauna, and Acting Executive Group Manager, Environment Heritage and Water, Environment, Planning and Sustainable Development Directorate

THE CHAIR: This is the final session for today's hearing. I welcome Mr Chris Steel, the Minister for Transport and City Services, and officials. Can I check that everybody has had a chance to read the privilege statement and that you all understand the rights and obligations involved? Thank you. We will not have opening statements because of time constraints. If there is anything that you want to table afterwards, please do so, and we will add it to our records. Ms Orr will ask the first question.

MS ORR: Minister, we have had quite a few comments from witnesses today and in submissions that there is an inherent tension between infill priorities and targets and retaining tree canopy cover. Can you explain how this bill is important in achieving both and how it does achieve both?

Mr Steel: I acknowledge the privilege statement. Thank you for inquiring into the bill. It is a significant bill. It is part of a range of different measures that the ACT government is putting in place to make sure that, as the city grows and there is more and more development, we also make sure that we maintain, protect and grow our urban canopy over.

There will be more and more development applications made as the city grows. We are growing faster than we thought, based on ABS data, and there will be more development applications that, for design reasons, require the removal of trees. It is critical that there is legislation in place to make sure that we provide the right incentives to not remove trees in the first place through good, sustainable design. Also, if trees have to be removed, there needs to be a consistent framework in place to ensure that we retain that canopy cover through new plantings.

At the moment I think there is a concern in the community that, when development has been occurring, it has resulted in trees being removed and not replaced. This bill will ensure that if trees meet the criteria to be removed, they do have to be replaced, preferably onsite, by the developer, as part of their plans and development application or broader master plan—having more plantings onsite. If they cannot do that, they should make a financial contribution to the ACT government, which will be used to plant trees in the urban footprint, so that we can retain the benefit for the community.

It is important to note that this is only one part of the ACT government's work in this area. DV369 is an important measure that works hand in hand with this piece of legislation to ensure that there is room for trees to be grown on individual blocks.

That is critical. It is also critical that we protect trees and plant more, and that is what this bill does.

There is a further piece of work that is under development around making sure that, in new estates and greenfield developments, we have a significant level of canopy cover that is in line with the government's targets. That piece of work is still under development, but I understand that it is not too far away. We expect that it will align with the timing of this being debated.

MS ORR: I was going to ask how this links with DV369, because a number of people have asked about it. You are saying that there is one piece of work that sets out leaving enough room for trees, and this bill jumps in on the continual and ongoing management. Is that correct?

Mr Steel: Yes, that is right, and for existing trees. We have a large number of existing, mature trees in the urban footprint. This will extend protections to more trees by reducing the tree height down to eight metres; it is currently at 12 metres. There are also the circumference requirements around the trunk. If they do have to be removed, it will ensure that they are replaced, and to a level that replaces that canopy cover, over time.

MS ORR: We had comments from the MBA that they do not entirely understand why this cannot be done through the planning system. Can you answer that question?

Mr Steel: At the moment it is being done in an ad hoc way through the planning system, but we want to see a consistent framework. This bill will provide that. It is possible that, through a development application, when a development happens and, for design reasons, trees need to be removed, there could be conditions placed by the planning authority on a developer around tree protection or planting of a certain amount of trees to replace lost trees on the site.

That is being done in a very ad hoc way. This is about making sure that there is a consistent formula in place to support that. We recognise that, in certain areas of the city, particularly in certain areas of zoning, trees have a higher value, and there is also a higher windfall gain for the developer in removing those trees for development. We have acknowledged that through the zone modifier system in the formula for the canopy contribution framework. For the RZ5 zoning, for example, a higher amount will need to be contributed for the removal of trees from those blocks, recognising that they have a much higher value for the developer to remove them.

By bringing this into one holistic framework that covers not only trees on leased land but also public trees, we will be able to get a much better outcome, and one that will have clear accountabilities, and for us to be able to track the data around tree removal and replacement in a way that we have not been able to do before.

MR PARTON: Mr Hopkins, from Master Builders, contends that if the desire of this bill is fulfilled, it would make it, seemingly, very difficult to then achieve the specific aim of accommodating 70 per cent of new dwellings within the existing urban footprint. He seems to have formed a view that there would be enough of a disincentive for some developments that might have occurred to not occur, and that it

would then be difficult for the government to fulfil the 70 per cent criterion; it is either one or the other. What is your response to that?

Mr Steel: I do not think it is, in the way that Mr Hopkins has characterised it. I have certainly met with him about this as well. I actually think that this does enable sustainable development to occur. If we do not have these sorts of frameworks in place to retain the character of our city, it will be difficult to have sustainable development occurring in the future.

We need to have these frameworks in place now, ahead of more significant development of urban density occurring in the city. I think it will enable more development in the long run if we have this in place, because it will have community support. We will be providing space for trees to grow and enough trees to be planted onsite that will get community buy-in for that type of urban intensification that he is no doubt supportive of.

MR PARTON: He is supportive of it. Mr Hopkins also contends that, from where he sits, he certainly has not been exposed to any work that has been done by government to investigate what impact this bill may have on the desired 70 per cent of new dwellings being urban infill. You have stated an opinion that you believe that it will not have an impact, but you do not really know, do you?

Mr Steel: We have built a review mechanism into the bill. We will certainly be looking very closely, in the implementation of the bill, at what the impacts are. We are keen to work with stakeholders to understand what the practical implementation experience has been, once it has been implemented.

It is a significant change to the way that we protect trees in the city. It is building on existing legislation that is in place. We do have some understanding about how the Tree Protection Act works, which already applies to leased land and protects trees. It is an extension of that. We have the experience that we are already building on with that previous piece of legislation. We are making sure that trees are replaced.

Developers have very clear decision-making pathways. They can decide not to remove the trees and design around them on site. If they need to remove the trees for design reasons, and they have approval under the criteria, they can replace those onsite.

It is a different way of thinking about sustainable development and making sure that the canopy is actually part of the sustainable design that is undertaken. That will challenge some developers; there is no doubt about that. Some are not doing the right thing at the moment. This will make sure; and, by planting the trees themselves, they can probably reduce costs as well. It is only in the circumstances where they cannot plant enough trees onsite to meet the requirements under the legislation that they would then need to make a canopy contribution and there would be a financial impost.

MR PARTON: There was concern raised by ISCCC and some others about the removal of the 2045 target date in regard to the achievement of the target, and why an interim target was never put in place. Minister, why isn't there a target date anymore?

Mr Steel: We want this to be an enduring piece of legislation, so we want it to be ongoing beyond that point in time. I hope this is in place for a hundred years, going forward, because some of the trees will last that long.

MR PARTON: But shouldn't there be a target to be achieved?

Mr Steel: We have a clear policy in the urban forest strategy that has that target in it and that we will be tracking towards.

MR PARTON: When?

Mr Steel: This is one part of the policy. This implements a large number of the actions in the urban forest strategy and the living infrastructure plan, but not all of them. There is a broader suite of policy initiatives which are not legislation-based initiatives. 2045 still remains the target.

MR PARTON: It still remains the target?

Mr Steel: Yes.

MS ORR: On those targets and on the canopy covers and so forth, we have heard a little bit today about 30 per cent as a minimum, and concern that 30 per cent will see a reduction in some areas where we currently have more than 30 per cent. What do you say in response to those concerns?

Mr Steel: It is a city-wide target. There are some suburbs—Isaacs is a really good example—that have a very high level of canopy cover at the moment, down my way, on the south side. We do not want to reduce canopy cover in those suburbs. We want to try and grow canopy cover overall, across the city, to that 30 per cent mark. Some will have more, no doubt. Some will struggle to get to 30 per cent, and we will be focusing on those areas in terms of where we can boost canopy cover through our planting program, particularly in newer greenfield suburbs like Gungahlin, and particularly where there are hotspots that have been identified. We are certainly trying to focus there, in terms of tree planting.

Certainly, through this program, we know that a lot of development is happening around the city. We are trying to make sure that we do not see a loss of canopy cover in areas that do have a high level currently. This is about trying to protect the trees that we have.

THE CHAIR: We have not heard today a huge number of specific suggestions to change the wording of the bill, but we have heard an awful lot about enforcement and resourcing. That is coming from a lot of sides. We have heard concerns from people that complaints to the current tree protection unit are not being actioned and that people right now are not being fined in the way they should be. People are worried that the new regime will not be enforced any better.

We have heard concerns from the property development sector that it will take a long time to get decisions through. There are concerns that the levels of fines for canopy coverage do not stack up against the costs of development. I understand their point

regarding how long it will take to process DAs and how long it will take to get decisions from our conservator.

Do you think there has been enough work done? Do we have clear time lines? Do we have more staffing on enforcement, when somebody does the wrong thing? Will EPSDD get enough staff to process the DAs? Will the conservator get enough staff to make decisions?

Mr Steel: There are quite a few questions in that one.

THE CHAIR: How are we going to resource this so that it works for all sides?

Mr Steel: Yes. There was a measure to support this legislation in the recent budget. We have looked closely at the offences. We have carried a number of those over from the Tree Protection Act. They already had very high penalties associated with them. We have also introduced new offences, to try and make it easier to take enforcement action. There were some challenges with that; that is acknowledged.

The canopy contribution scheme and the agreements will enable that accountability and easier enforcement. I will hand over to Kirra Cox to provide some further information on how she sees that progressing, in terms of the implementation.

Ms Cox: Implementation is obviously critical. None of the elements of the bill work without detailed implementation. There are a couple of different pathways that applications can take. Obviously, there are the development applications through EPSDD. I cannot necessarily speak to their resourcing, in light of the changes to the act and the Territory Plan. They will need to consider holistically their resourcing.

There are the applications made under what would be the urban forest act, if this bill is passed. They will be assessed by the Transport Canberra and City Services tree protection unit, which has delegation from the conservator, which is a position that sits in EPSDD.

The bulk of those applications will be assessed in house. We have done some work to try to understand what that looks like, in terms of additional workload and how we can streamline the way applications are assessed. We are also looking at the system requirements for this, to make sure that there is not an unnecessary administrative load, and that our officers can focus on the specifics of whether a tree should be removed, because that is always the first test. There are criteria for whether the tree should be allowed to be removed and, if it is, it is about negotiating with the applicant on whether they can plant more trees or whether a financial settlement will be required.

Daniel Iglesias is here; he is the Executive Branch Manager of City Services, and the tree protection unit is under his remit. Daniel might want to add something.

Mr Iglesias: We are actively engaged in understanding the IT requirements around the administration of the bill. We are working on that now. We are working on a package that we might put to the minister to articulate exactly what might be needed in the future. We are looking into the future, to understand what the demands on staff

might be.

It is an active piece of work that we are doing now, in order to be prepared. We are working towards implementation on 1 July or so. We want to be prepared by that time, so that we can hit the ground running when we need to.

THE CHAIR: Will there be new FTEs for the conservator, EPSDD, processing DAs, and for the tree protection unit?

Mr Iglesias: I cannot speak for EPSDD, but we will be in a position in the coming months to understand what the FTE mix might look like.

THE CHAIR: You are scoping it now?

Mr Iglesias: Yes.

MS ORR: Minister, can you provide some examples of how the tree canopy contribution formula might be applied? That has been one of the areas that has come up. It is a newer policy and a newer thing for Canberra. How do you see that operating in practice?

Mr Steel: I might hand over to Kirra Cox to provide some examples of how the formula will apply.

Ms Cox: The first comment I would make is that the formula is established by subordinate instruments. It is established through the regulation and disallowable instruments, so that we can treat them, if needed. Essentially, we look at tree removals in two categories. There is a home owner removing a tree on their block, and they face a simple flat fee of \$600 per tree. There would be concessions available for people who need them, and payment plans. That is a flat fee and there is not a calculated cost that goes into that. A tree being removed for the purpose of a development has a calculated cost. What we are trying to calculate there is the lost value of the tree to the overall urban forest and how long that loss will take to be recovered when we plant new trees.

The minister also referred earlier to zone modifiers. That recognises that trees have different inherent value, depending on where they are. A tree in a really high-density zone that allows for apartment blocks is more important than a tree in a low-density residential area, because there will be less room for them. On higher density blocks you can build on more of your block, there are fewer trees; therefore the trees that we have are more important.

That higher cost, and that zone modifier, is there to both recognise that value and to make sure that there is a disincentive to get rid of all the trees altogether, and that it is an actual disincentive based on the scale of the development and the benefits that are going to be realised through that development.

MS ORR: That is an interesting point, Ms Cox. During the Property Council and HIA session, there was a question about equity in the costings. I think that answer goes a little way to responding, and to your thinking regarding how the costings are equitable,

while still achieving policy outcomes. Can you elaborate a bit further?

Ms Cox: Yes. Again, I would go to the purpose of a tree removal. If you are removing a tree because you are a regular family and you are extending your house to add another bedroom or bathroom, the benefit that you are getting from removing that tree is a direct improvement to your life. The impact of that tree being removed is only likely to affect you and your immediate neighbours. There is a broader urban canopy, but there is a more localised impact. We do not want to get in the way of people using their blocks. People need to build homes and they need to make extensions, so that is a flat fee and it is predictable.

Anybody who is thinking about doing a development, should this bill pass, in that context, will already know what they have to pay. There is not a calculation; they do not need to go into a canopy contribution remit in terms of finances. They can probably replant the tree right on the site. Most people, I would suggest, will probably want to, because of the benefits of trees.

Mr Steel: And they can avoid the cost of paying into the scheme if they—

Ms Cox: Exactly, yes.

Mr Steel: plant the replacement trees, which is based on two for one.

MS ORR: On the replacement trees, it was also put to us during that session that the choice had been removed for the person, in the sense of whether they pay into the scheme or whether they replant the tree. Do you have a response regarding that interpretation?

Ms Cox: I would suggest that the choice is not being removed; it will be a practical consideration. Our first preference will be the replanting of trees on the site. That will not always be possible or practicable. Our tree protection officers will consider whether there is room, and whether there are other trees on the site. If a developer has a strong preference, that will be taken into account. Having said that, if there is room for trees on a block and there is no good reason not to plant them, that is the strong preference built into this bill.

MS ORR: The Urban Forest Bill does not require that the conservator must make an attempt to offer landowners a choice between planting new trees and making a financial contribution. Is that correct? Is there still an opportunity? That is from the HIA submission.

Ms Cox: It does not provide choice; is that what you are saying?

MS ORR: Yes. The conservator must make an attempt to offer landowners choice, and the bill does not require the conservator to do that. I was a bit confused about it. My understanding is that there is a choice there, and there is not a directive that says, “You must replant the tree.”

Ms Cox: It is not possible to have a directive to say that you must replant the tree. It will be based on the circumstances.

MR PARTON: There was concern aired over the fact that the change in the definition of a regulated tree in the bill would generate a significant increase in the number of applications to remove trees, and that would add pressure on development approvals. What do you have to say, Minister, in response to that concern? Certainly, industry suggested that there was nothing from government to suggest that that had been considered.

Mr Steel: No, it has been very strongly considered because it directly relates to the resourcing that is required to help to manage the number of applications coming through. Of course, we have provided extra resourcing to the EPSDD assessment team in recent years. We will be looking closely at the level of resourcing that is required for TCCS to be able to undertake the work that is required under this bill in relation to any tree removals that come through.

Of course, we already have a lot of tree-damaging applications that come through, under the Tree Protection Act. We expect that to increase because we are expanding the scope of trees that will be protected under the legislation. We have some numbers around that. I will hand over to Kirra to talk a little bit about that.

Ms Cox: I do not have the exact numbers with me, but I would comment that part of the purpose of this bill is to recognise that there is a bit of a hierarchy in what we would like people to do. The first preference is to keep the tree. If you keep the tree, you do not need to apply for anything. So while more trees are going to be protected, we are hoping that the requirement to either replant trees onsite or make a financial contribution will start to go towards changing behaviour, and thinking a bit more creatively about how to keep the tree onsite, rather than automatically defaulting to, "I can lodge an application in six weeks, have an answer and get rid of my tree altogether." That behaviour change element is hard for us to quantify at the moment, and that is why the two-year review point is really important.

Mr Steel: The numbers that we have are that there will be 63,000 additional trees on leased land that will be protected, so it is a reasonably significant increase in the number of trees. We will be very closely examining exactly how many applications come through once the bill is implemented, to understand what level of resourcing is required to manage any tree-damaging activity applications.

MS ORR: Can I ask that a question be taken on notice?

THE CHAIR: Yes, certainly.

MS ORR: I know that we are running out of time. Mr Burkevics, can you look at page 7 of the HIA response, in 4.2, and provide a response to the HIA's interpretation of that directive? I am still not clear about that, and I would like clarification.

Mr Burkevics: Yes.

THE CHAIR: Yes. I think we have just heard two different things.

MS ORR: Ms Cox, you are welcome to do the same thing, if you feel that there is

anything to add.

THE CHAIR: I am afraid we are now out of time. Thank you, Minister Steel and officials, for coming along. When available, a proof transcript will be forwarded to witnesses, to provide an opportunity to check the transcript and identify any errors. If you took questions on notice—thank you, Mr Burkevics—we would like to receive answers to these questions within a week of this hearing. I apologise for the time frames, but they are not set by us. The hearing is now adjourned.

The committee adjourned at 11.26 am.