



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

STANDING COMMITTEE ON LEGAL AFFAIRS

(Reference: [Inquiry into the management of strata properties](#))

Members:

MS C BARRY (Chair)
MR T WERNER-GIBBINGS (Deputy Chair)
MR S RATTENBURY

TRANSCRIPT OF EVIDENCE

CANBERRA

MONDAY, 30 JUNE 2025

Secretary to the committee:
Ms K de Kleuver (Ph: 6207 0524)

By authority of the Legislative Assembly for the Australian Capital Territory

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

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Amended 20 May 2013

The committee met at 9.00 am.

DIGNAM, MR, JOEL
GODDARD, MS HELEN

THE CHAIR: Good morning and welcome to this public hearing of the Standing Committee on Legal Affairs for its inquiry into the management of strata properties. The committee will today hear from individual submitters, residential and strata representative bodies, and strata complex executive committee members.

The committee wishes to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people. We wish to acknowledge and respect their continuing culture and the contributions they make to the life of this city and this region. We acknowledge and welcome other Aboriginal and Torres Strait Islander people who may be attending this event today.

This hearing is a legal proceeding of the Assembly and has the same standing as proceedings of the Assembly itself. Therefore, today's evidence attracts parliamentary privilege. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of the Assembly. The hearing is being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and web-streamed live. When taking a question on notice, which will probably not apply to you this morning, it would be useful if witnesses used these words: "I will take that question on notice." This will help the committee and witnesses to confirm questions taken on notice from the transcript.

We welcome Joel Dignam and Helen Goddard. We are not inviting opening statements, so we will now proceed to questions. My first question is for you, Mr Dignam. Mr Dignam, in your submission you talk about issues affecting defects in newly-built apartment complexes and that your experience as a strata manager is discouraging you from pursuing corrections to identified defects. Can you please tell us a bit more about that and what you think we could do to remedy such issues in the future?

Mr Dignam: Thank you for your question. I am not sure that I spoke about defects in my—

THE CHAIR: Sorry—that was you, Ms Goddard.

Ms Goddard: That question is for me?

THE CHAIR: That is correct; yes.

Ms Goddard: I was rather hoping to make an opening statement, because the email I received said that I could make an opening statement. It will take only four minutes.

THE CHAIR: Okay. We are happy for you to do that.

Ms Goddard: I am grateful for the opportunity to speak on this very weighty issue. I will probably cover four things. One is that strata management is really not fit for purpose in the ACT. Executive committees are not fit for purpose. The two issues

combined present major problems for residents, governments and the community more generally. Rather than just coming with problems, I have some proposals that address solutions.

By way of background, I have had extensive experience with owners corporations or bodies corporate, both in Canberra and in Melbourne. In fact, in Melbourne I chaired a very large body corporate which comprised 900 homes, not apartments. It also had a country club, a pool and all the things that go with that sort of thing. I was also a senior public servant, both in Canberra and in Melbourne, where I managed contracts in excess of \$13 million. Where I currently live, we are undergoing a \$15 million recladding program, which presents all sorts of challenges.

The reason I say that strata management is not fit for purpose is mainly due to the limited training of staff, particularly in the ACT. There seems to be a very high turnover. There is little or no understanding of legislative requirements—as an example, the need to seek the agreement of owners before any sort of legal action is entered into and to make contractual arrangements available to members of the owners corporation. On top of that, because there is high turnover and little training, it means that poor advice is provided to executive committees.

One of the significant examples for me is a recent example in our complex. We have an individual with some mental health issues that are causing grief for a large number of people, in so far as people are saying, “I will have to sell. I can’t live here,” but they are having trouble selling because of the cladding and someone who makes loud noises next door. Rather than tangible and useful advice, the strata manager has advised that it is a personal matter between residents and ACT Policing, even though some of the exhibited behaviour is akin to what happens elsewhere and leads to tragic and calamitous outcomes, including death. I have a friend who has to put chairs behind her door, and that sort of thing. That is appalling advice given to an executive committee.

From my experience in the ACT, executive committees are not sufficiently trained to effectively manage their responsibilities. They are volunteers. In my environment, a lot of them hide behind: “We’re volunteers, so don’t take up our time;” “We’re only volunteers, so we don’t need to really read the legislation.” It is apparent to me that a lot of people have not even read the legislation. I know it is a weighty document, but you actually do need to read it.

Our executive committee is really struggling to manage a \$15 million project. Indeed, it was quite clear to my husband and me that many of them had not read the contract about the services to be provided. Of equal concern is the delegation of responsibility to oversee the contract to a person who is not on the executive committee. That person has been delegated to manage the contract and control \$15 million worth of cladding, and he has no standing whatsoever on the executive committee. As a further example, the individual concerned sought to hide the actual contract from residents and owners. He only agreed to it when it was pointed out that the legislative requirement is that all contracts need to be made available. That is a significant problem as well. It is a \$15 million project. My and my husband’s share of it is \$100,000. As far as we are concerned, we have significant skin in the game and we need to know how our money is being spent. All these problems, when you put them together, really exacerbate it and show that there is an incompetent process which involves strata managers and ECs

together.

My suggestion for solutions—as I said, I do not come with just problems—is that we need to have significant training for strata managers and it should be compulsory. My husband and I lived in Melbourne for a while and we compared the strata manager there with what we have here. In Melbourne, they are all trained. They all have initials after their names. They are not allowed on the shop floor until they have done certain training.

THE CHAIR: I am sorry to cut you off, Ms Goddard. What sort of training is it? Is it legal training?

Ms Goddard: Real estate training to start with, and legal training—how you interpret legislation: turn left here; turn right there. There are some places where it is very clear that you turn left, you turn right or you go straight ahead. Also, there are some grey areas in how you interpret legislation. When I rang our strata manager here to complain about a bloke downstairs who was smoking and his smoke was coming up to us, I was told by the strata manager that I would need to go to ACAT. I said to the guy, “Do you know what you’ve just said? You’ve told me to take us to ACAT.” He said, “Some people just don’t know.” I said to him, “Mate, this rule has been broken and that rule has been broken.”

I will contrast that with Melbourne. The same thing happened in Melbourne and the strata manager was onto it quick smart. They rang the resident, who was a renter, and then rang the owner. A breach notice was issued. It all stopped and there was no problem. We could breathe again. There is that sort of thing. In Canberra, it would not be that hard to have something like a CIT, but people should not go on the shop floor until they are adequately trained. It starts with customer service as well. On top of that, I think we need a tsar, a commissioner or whatever you want to call them—someone who has teeth. The fact that the first port of call is ACAT, as evidenced by the experience I had, is really unfair. We should not have to spend money to resolve the problem of a bloke smoking where he should not smoke. That is ludicrous. If we had a tsar who looked after this stuff, that would be good.

Also, cladding is not an issue peculiar to us; it is across Canberra. You will see scaffolding up all over Canberra and cladding being removed. There needs to be some sort of unit in Canberra, like there is 10 miles down the road in Queanbeyan. If cladding is being removed in Queanbeyan, or anywhere in New South Wales, a government unit is set up. They organise the funding and an interest-free loan, whereas in the ACT we have a low-interest loan of 4.2 per cent. They organise all of the statutory requirements. In the ACT, we were charged \$100,000 by the government for the privilege of having to remove the cladding because it was non-compliant. That was for the building approvals and all that sort of thing. We were also charged an arm and a leg because the ACT government said that we had to recycle the cladding that was removed. When we said, “This is a bit unfair,” the minister said we should all have a warm inner glow because we are recycling stuff. I am sorry—not when it is costing us \$100,000.

THE CHAIR: Thank you. I am so sorry to interrupt. We need to keep to the time. We have a few questions that we need to run through. I will probably have that question later. If it is all right with you, we will need to move ahead. I want to ask questions

around your submission. You mentioned that many owners corporations are falling short of how well they should be functioning. What do you mean by that?

Ms Goddard: Because they see themselves as a tsar themselves. I was explaining this to Mr Rattenbury earlier. You are all probably too young to remember a song called *Harper Valley PTA*. It is about a woman who was part of the equivalent of a parents and friends association in a school. They did not like the way she was dressing or raising her children, so they told her how to do it. That is what I mean. We have owners corporations and executive committees behaving like the Harper Valley PTA, telling us all how to live our lives, what to put on our balconies and what not to put on our balconies. In our complex, we cannot charge electric vehicles because we have an executive committee who seems to think that we are going to burn the building down, when there is absolutely no evidence that this would occur in any instance outside a petrol vehicle. It is about those sorts of things: imposing their will and what they want on residents with no due care for the way residents want to live their lives.

THE CHAIR: Thank you so much. Mr Dignam, I will come to you as well. You mentioned in your submission that you have been on executive committees in the past. Could you please tell this committee what sorts of challenges you think we face here in the ACT and what we could do differently?

Mr Dignam: Thank you for your question. Broadly, the challenges I have seen come up on executive committees are basically the same challenges that you get any time you have a group of people who are trying to make something happen together. They have a range of motivations and skills. As Ms Goddard said, in this case they are also volunteers who do not necessarily have any training. In my case, I have been lucky. We have certainly never had to deal with issues like defects or \$15 million remediation costs, but I certainly have observed that doing anything proactive can be very hard. It basically requires someone who is going to champion the issue and move it forward against a lot of friction and inertia. Even reactive stuff—getting decisions on quotes and getting information about an issue they might have identified—is basically going to move as slowly as the slowest person in that group.

I do not have comparative experience. I do not know whether this is unique to the ACT, but from my analysis a lot of these issues are basically just human issues, because humans do not necessarily have the soft skills that would make them really effective as part of an executive committee. We should generally be grateful for people who volunteer to be on these committees, but that certainly does not automatically mean they have the skills or the dedication that would really make it work.

THE CHAIR: Thank you. You talked about some soft skills. What training do you think would be suitable for executive committees? Ms Goddard has some ideas, but I would love to hear your ideas as well.

Mr Dignam: This is quite challenging. As I pointed to in my submission, mandatory training might not work. I do not quite see how you could require people to do mandatory training when they are volunteering for the role. It could put people off. Voluntary training could be good, but you are sort of choosing between something that is online and pretty tokenistic, where they just watch videos, check a few boxes and click “Next”, or something that is more valuable but harder for people to get to. I do

not see great potential in making training address some of the difficulties that I have seen coming up in executive committees. As I suggested in my submission, you could perhaps create resources that may also reduce the amount of training people have. Many people are not going to read the legislation, but can we create a resource that they can easily refer to in order to answer questions they might have, such as: what is quorum; what sort of resolution needs to be passed so that any sort of action could happen; who is responsible when a fence is breaking down between two adjacent lots? Having answers to that information readily available for both executive committee members and poorly trained strata managers will go some way to making things work a little smoother.

THE CHAIR: Thank you. I go to you again, Mr Dignam. A key issue identified in many submissions, including yours, is the voluntary nature of executive roles and the apparent apathy of unit owners to become members of the executive committee. What do you think could be some of the solutions to alleviate the general apathy of unit owners to be on their executive committee or even attend AGMs?

Mr Dignam: This is a real problem. I generally find that smaller issues and day-to-day business can be done with a fairly small group, but there are some motions that require not only a percentage of attendees to vote in support of them but also a percentage of unit owners. Certain resolutions cannot actually be passed if people do not turn up at meetings. That is a real challenge. Maybe you should ask people who are not on executive committees, because, in my case, although I sometimes find it very frustrating, I would always rather be party to decision-making because it is relevant to an asset I own that is worth several hundred thousand dollars.

This could already be possible, but I do not think it is common practice. I have thought that an honorarium for a chair could be considered, but then you get into questions around accountability for that. It could be a great model if enough people wanted to be chair and you had contested elections, where people really tried to get into that position and had a vision and the skills to do it well. I suppose that, the moment you introduce a financial reward, you might take away some motivations and also introduce the wrong sorts of motivations. This is a tricky one. Maybe it would help to have a different world of people, with more free time in their lives to commit to something like this. That is a longer term project.

THE CHAIR: Thank you, Mr Dignam. Ms Goddard, do you have any contributions to that question?

Ms Goddard: I do not agree with any sort of honorarium, because owners pay enough money as it is. Asking them to pay more, particularly in my environment where we are already paying a huge amount of money for recladding, would be wrong. What needs to be made clear to anyone volunteering is the kind of commitment that they are up for, and there needs to be an acknowledgement by executive committee members that there are certain requirements that they need to meet; otherwise, they should not do it.

I do not see that we have a problem in our unit plan for people to join the executive committee. I have to say, though, that, on our committee, I have not seen too many who are under the age of 50, which is troubling me. It reflects the fact that a lot of people in Canberra are doing what I call the responsible thing when they get over the age of 60—

they downsize and leave houses and townhouses for families—but we need to do the right thing by people who have done that and not leave them like shags on rocks, having to pay a fortune for cladding and this, that and the other.

THE CHAIR: Thank you.

MR RATTENBURY: You may both want to comment on this. There is quite a discussion about training for EC members. One of the key questions the committee will need to resolve is whether we recommend that training be voluntary or mandatory.

Ms Goddard: I think it needs to be mandatory, Mr Rattenbury. People who go into it need to go in with their eyes wide open so that they know what their responsibilities are and they are not just fumbling along. It is bad enough that we have strata managers making it up as they go along, but we cannot have executive committees doing the same thing.

MR RATTENBURY: Quite a few submissions have made the opposite argument about it being voluntary. They are worried about discouraging people. It is already hard enough to get people on—

Ms Goddard: I appreciate that.

MR RATTENBURY: That is the question we have to try to think our way through.

Mr Dignam: I spoke briefly to this. Helen and I both want an outcome where we have executive committee members who are competent and fit for purpose, but then there is the question of how to get there. A variety of people responding to this inquiry might have different views. I suspect that, if you make the training mandatory, what it will mean is that the quality of the training will inevitably become lower, because you want to make the barrier as low as possible for people to jump over. I suspect I am not the only one who has experience in doing online training that is pretty trivial and widely interpreted as just an annoying box-ticking exercise before we can do the thing.

I think there is a genuine skills gap. It would be genuinely valuable for people, in their roles and in their lives, for some of those skills to be improved, but I do not think it is as simple as saying, “We will mandate that,” and suddenly we have well-trained EC members with no second-order effects. Mr Rattenbury, as you said, the committee has to think about those pros and cons and whether there is some sort of win-win solution.

MR RATTENBURY: Thank you.

MR WERNER-GIBBINGS: I have a quick question for Mr Dignam. Your submission mentioned requiring strata managers to publish data about how many complexes they manage per employee. How do you see this working in the process, and what effect would you like the publication of this data to have? Is it a chilling effect on strata commissioners or is it turning on the light for other people who need information? Should it be published on a government website or on strata committee websites?

Mr Dignam: One thing I am interested in is: why isn’t the market working to create a decent quality of strata manager? There is a lot of frustration on executive committees,

but there are still poor performing strata management companies. Can we make the market work better so that the competition and consumer interest is absolutely sufficient to raise the quality? One area that is very relevant to the quality of service is how many units are being managed by each person. I do not think that is a linear relationship. Some people are more competent. In general, probably having fewer complexes, even if they have more units, is simpler. That information is a pretty good indication of the capacity the strata manager will have to deal with a complex. Do they have 40 other people or 80 other people tugging on their tailcoat?

What I am imagining is that the information could possibly be provided to government or sourced by government from the companies operating in the ACT and then made available in a single public place. If I were on an EC that was thinking about going to a different strata management company, I would find that they all claim to be high quality and all basically make the same sales proposition on their website. Some pitch themselves by saying, “We’re a bit better and bit more expensive” or “We’re a bit worse and a bit less expensive.” One of the clear objective measures that people have an interest in is the information that is not really possible to obtain.

THE CHAIR: Thank you.

Ms Goddard: I could add to that. What Joel is proposing is a really good idea: more data should be published. If we had a tsar or a commissioner, that would make it a lot easier. The data would need to be submitted to a commissioner. But it also brings up the thorny issue of insurance companies and their relationship with strata managers. I touched on this in my submission. There is the thorny issue of commissions that are paid to strata managers when we pay for our insurance. You have to pay a lot of money for commission before you put your feet on the ground, put your shoes on and get your insurance.

There is also the thorny issue of declarations of conflicts of interest. What relationship does a strata manager have with various companies that provide services, including insurance? I have noticed that a lot of insurance companies are very close and almost in bed with strata managers. They sponsor conferences and they sponsor this and they sponsor that. There is Strata Manager of the Year, which is sponsored by an insurance company. I feel very uncomfortable about those sorts of things. That sort of information should be transparent and available, particularly for executive committees who are looking to appoint new strata managers.

MR RATTENBURY: The issue of commissions is a strong theme through a lot of the submissions we received. It is a key issue.

Ms Goddard: It is horrible.

MR RATTENBURY: I am interested in your observation about ECs tending to include older residents. There is a range of reasons for that. It prompts the question in my mind: how do renters fair in the context of strata management? Of course, the owner is the one who has the entitlement to vote. I am interested whether either of you have a reflection on the experience of renters in your buildings and ways you might improve the lot for renters.

Ms Goddard: I feel very sorry for renters in our complex. The recladding project has really opened the door to show that there is a major problem. There are issues around simply advising renters about what is going on around them. For example—

MR RATTENBURY: Because the communication goes to the owner?

Ms Goddard: Because the communication goes to either the owner or the person who manages the property. That means that the renter does not know that, for example, they are not allowed to use their balcony for 10 months because the cladding people will be on their balcony. We have had all sorts of issues like that. For example, people do not know the hot water is going to be off for six hours one day. That is terrible. Renters should be declared to strata managers so that, when emails go out, they go out to renters as well. When I suggested that perhaps bits of paper could be shoved under everyone's door to make sure people get it, because nobody checks their mailbox anymore—I mean, I do not get mail, so I do not check it—the strata manager said to me, “We're not resourced to do that.”

MR RATTENBURY: Mr Dignam, I am sure you have some views on the plight of renters.

Mr Dignam: Yes. I would echo many of Helen's remarks. I think communication is a real challenge. It is often about going through several steps. It might go to the owner who passes it on to the property manager who may or may not pass it on to the renter. That flow of information is also really difficult the other way around. When the executive committee is doing works—they might be painting the whole building—renters are often in the dark because of some of the challenges. I like the idea that there has to be some sort of information transparency so that the owners corporation can communicate directly with all residents, not just owners.

Challenges also arise when it is happening the other way, such as when a renter has an issue with their unit. Many renters who have tried to get repairs done in strata buildings will have a lot of frustration, and the owners will also have frustration because they are trying to address an issue which might be plumbing related, for example, and, not through ill will but just through the slow wheels of inertia, they get nowhere through the owners corporation or executive committee. That can be very frustrating for all parties involved, but it is much more frustrating for the renter and even the landlord, whereas owners corporations are cruising along in some cases. Again, it is not an easy one to solve.

I do not really see a viable model for giving renters direct representation in the strata space. I am not sure how that could work. It could be like some sort of observer or contributor role that does not have a voting position, but I think there will be the same issues with people not necessarily wanting to take up that opportunity or not being well-positioned to make the most of it.

MR RATTENBURY: Thank you. One issue that we are looking at is the remit of a strata commissioner. You have both made a range of comments on that. Ms Goddard, I was particularly caught by your observation that a strata commissioner should have the power to dismiss an EC and install an administrator. That would obviously be a significant thing to do and potentially quite controversial. Could you illustrate the

circumstances in which you think that might be applicable?

Ms Goddard: It would be in any number of breaches of the legislation that are consistent—for example, implementing decisions before 28 days have elapsed and you have not had a quorum, signing contracts when you are not a member of the executive committee and you have allowed that to occur or spending money in a way that is not appropriate or illegal—those sorts of things. It would be at the very end—probably three strikes and you are out.

MR RATTENBURY: As the consequence of a disciplinary process, essentially.

Ms Goddard: Yes; it needs to be. To move an executive committee or a strata manager on is nigh on impossible. It has been done in the ACT but at some great cost to owners. A commissioner needs to have teeth to be able to do that. Merely having teeth means that you might get executive committees that think, “By jingo, I actually have to read the legislation and know what I’m talking about.”

MR RATTENBURY: I am interested that you just moved between the EC and the strata manager.

Ms Goddard: I am putting the two together because, if one is incompetent and the other is incompetent, the two together—

MR RATTENBURY: Is quite a combo!

Ms Goddard: are an absolute combination!

MR RATTENBURY: Thank you very much.

THE CHAIR: Picking up on some of that line of questioning, Ms Goddard, you mentioned in your submission that strata managers are being appointed by developers. What do you think needs to be done to address this issue? This is one of the big ones in terms of a conflict of interest.

Ms Goddard: Yes. It is when a development is complete. I have outlined what the process is, and it lasts for three or four years. When I lived in a strata management place in Turner, that is certainly what happened. What should happen is that the developer appoints a strata manager for, say, six months or a period to get over the establishment of a body corporate. Units, townhouses or whatever are sold and then you have a body of people who can vote for their own strata manager. It might be about reappointing the person the developer already appointed. When I lived in a townhouse in Turner, we had only a small group of people but were saddled with a strata manager who none of us wanted and was not useful for a small development like ours, and we were powerless to do anything about it unless we spent a lot of money.

THE CHAIR: That is really concerning. Mr Dignam, I saw you nodding your head. Do you have anything to add to how we could do it better?

Mr Dignam: I do not have experience in the situation where a developer installs a strata manager as part of the initial handover. In complexes, more than once I have found

myself in a position of wanting to get rid of the strata manager and change to a different company, and I found that relatively straightforward, but I suspect it is a step that is fairly uncommonly taken.

MR RATTENBURY: Another issue that is contentious in this space is the issue of short-term rental accommodation—the likes of Stayz and Airbnb. I again invite either of you to make reflections on both your experience of that and ways in which you might consider reforming the system to address some of the negative consequences that seem to arise from short-term rentals.

Ms Goddard: It is an issue. Certainly in our complex it is an issue, particularly in summertime and around Summernats. Summernats attracts a different group of people to the group of people that we get around Anzac Day. We are close to the War Memorial. It causes grief. It is not easy to find a solution to that, aside from the perennial breach notice to the owner. The system should be tight enough that, when owners rent out their place for Airbnb or whatever—a short-term rental—there should be a mechanism whereby the owner can be contacted out of hours and told to fix the problem, whether it is people yahooping around a swimming pool or whatever it is. There has to be a mechanism to contact the owner and the owner has to take responsibility. Sadly, we do not have many owners that take that responsibility.

MR RATTENBURY: Thank you. Mr Dignam.

Mr Dignam: It is an interesting question and, in some ways, it goes to the remark Ms Goddard made earlier, that you also do not want executive committees overstepping their power and telling people how to live their lives. Regarding the question about whether they should have the option to basically ban short-term renting in a whole complex, I do not have an answer as to whether that would be overstepping. Certainly, in some cases, particularly whole home accommodation, where the host does not live there, there is a greater risk of basically imposing non-economic costs on the other people living there. There should be some way of trying to reckon with that. I quite like the suggestion that, at the very least, being able to let the owner know that the current people are not good guests might be some form of accountability towards that.

THE CHAIR: Thank you. I have one more question. We have just two minutes for both of you. Mr Dignam, you made some comments around a strata commissioner. What additional role do you think a strata commissioner could perform?

Mr Dignam: There are maybe two key things that I would like to see a strata commissioner thinking about. One is getting a top-to-bottom understanding of what is actually happening in the space. This inquiry is beginning that work. The strata commissioner could look over all the submissions and they could review the hearings, but, ideally, they would be sitting in on meetings. They would be attending the complex and talking to strata managers and members of executive committees and people who are not members of executive committees to really understand the sticking points. A lot of those issues would ideally be solved through non-regulatory measures. The other part of the role I see is the development of resources. That might be: “Here’s a guide to who is legally responsible for different issues. Here’s a guide to quorum and 28 days notice”—or whatever it might be. Maybe the third issue would be collating data and making it public, as I mentioned earlier, to help people make more informed decisions

in the market.

THE CHAIR: What should a commissioner not do? What is an absolute no-no in terms of the roles a commissioner would perform?

Mr Dignam: I did not come with many prior views. Having heard some of the ideas, I would be wary of them becoming a legal authority that is creating direct legal accountability around committees or managers. That would not be an absolute authority; that would be subject to being contested. We would not want a situation where the commissioner is caught up in various disputes, such as: “You’ve knocked off this executive committee, but they’re fighting back in the courts” and “The strata manager is suing you for defamation” or whatever else it may be. I come from a kind of behavioural economics approach. There is a lot of potential to find nudges and things that will make the right path easier for people who do not necessarily require a heavy hand. That can actually be harder but much more effective. That would be the best terrain. I am not sure that trying to shoehorn people through a regulation or the threat of compliance measures would be effective. I think it would be quite resource intensive.

THE CHAIR: Thank you very much. Ms Goddard, do you have a comment to make?

Ms Goddard: I have a differing view. I think that the strata commissioner should license strata managers in the same way that the government is dealing with developers. The government is reeling in developers. Why not license strata managers as well? In that way, we know that they have met some threshold to pass themselves off as strata managers. Anyone can be a strata manager. I could even be a strata manager, and God help us all if that happened!

MR RATTENBURY: I reckon you would be pretty fearsome!

Ms Goddard: That is all I have to say.

THE CHAIR: Thank you so much. That has been a really useful conversation. On behalf of the committee, I thank you for your attendance today and your contribution.

Ms Goddard: Thank you.

Mr Dignam: Thank you.

Short suspension

BLAIN, MR MARSHALL
CAHILL LAMBERT, MS ANNE AM
ECKERMANN, MR ROBIN AM

THE CHAIR: I welcome Anne Cahill Lambert, Robin Eckerman and Marshall Blain. I want to confirm that you are appearing as individuals.

Mr Eckermann: Yes.

THE CHAIR: In your submission, you talked about issues around defects in newly built apartment complexes and your experience with the strata manager discouraging the pursuit of corrections to identify defects. Can you please talk a bit more about that and why that was really challenging for you?

Ms Cahill Lambert: In our pre-reading, we were told that we could make an opening statement. Should I do that now?

THE CHAIR: Yes, please do so.

Ms Cahill Lambert: As you would have noted, our recommendations regarding key issues in this inquiry relate to the strata commissioner. Our submission is quite different from everyone else's, in that we have taken an approach that governance around strata management in our jurisdiction should allow for the appointment of a commission comprising, say, three commissioners. That gives the opportunity for commissioners to come from a different background, rather than just the real estate sector, the strata management sector or whatever. That is because at the moment the sector is so fraught with self-interest, incompetence and a range of other interests that do not allow for good governance. We think that if one commissioner were appointed, there would be no possibility of recalibrating the sector to ensure a high-quality and effective sector that is growing by the week.

Our experience in our large strata management company—I do not have the experience of those who have just appeared—is that what they did not know, they made up. Our current strata managers are terrific, professional and ethical, which is totally different from what occurred with our previous managers.

Executive committees, which you have spent quite a while on, are hit and miss. There are some who say that, because they are volunteers, they should be given leeway, and we agree with that, up to a point. But, as I have said previously in other venues, we do not volunteer for things that we cannot do. There are some on our executive committee who are just as bad as the strata manager in the past. They could not care less about the law, legislation or regulations. They should not have unchecked power, and we are concerned that there is no real accountability. They operate with complete impunity.

On the issue of mandatory education, which you touched on previously, I volunteer, for example, on the clinical ethics committee at Royal Adelaide Hospital. I am required, as a volunteer, to go through a whole heap of steps to be committee-ready. I volunteer in my church. I need to have a working with children card and various other things. In the real world, everyone is required to be prepared for, and qualify for, whatever the volunteer role is. I do not see why this should be any different.

A three-person, part-time commission, supported by a full-time secretariat, would have the benefit of balancing out the competing interests and, hopefully, would bring a whole picture to bear, rather than a sectional interest.

It is our strong view that strata managers must be appropriately qualified, which has also been touched on, including undergoing continuing professional development; that is, not just the initial qualification, but they need to continually develop, in line with legislation being amended and so forth. That is all I have to say by way of opening remarks.

THE CHAIR: Thank you very much. That was really useful. Picking up on what you talked about around executive committee training, my understanding is that you think there need to be some minimum standards there. Are there any contributions about what those minimum standards could be? I note there have been concerns that, if you were to impose any kind of training, it would discourage people from wanting to volunteer. Are there any thoughts on what those minimum standards could be, in terms of—

Ms Cahill Lambert: At least to have read the legislation; that would be a good start, wouldn't it? And a good understanding of the sector, so that they do not make stuff up when they do not know. I have detailed in our submission that a course could be developed with the sector. This would be one of the jobs for the commissioners, to get people working to develop something with CIT, the University of Canberra or whatever—to develop a suite of subjects for people who are either strata managers or executive committee members. You could run a monthly course on how to be an executive committee member. It would not be very hard: read the legislation.

MR RATTENBURY: In your submission you say there are several providers who run such courses at the moment. Who are they?

Ms Cahill Lambert: I think they are interstate, mostly, in New South Wales.

MR RATTENBURY: A private training provider?

Ms Cahill Lambert: No, I think there is a TAFE course in New South Wales. I would have to go back and check. There are courses that you can do. They are short courses; they are not five-year PhDs.

THE CHAIR: Do you have anything to add, Mr Eckermann?

Mr Eckermann: I think there are some people gearing up to offer training in the ACT as well, but it is a challenge to get volunteer EC members to commit to that. If there was some form of government support for EC training, it would help the whole sector. It would pay good dividends.

MR RATTENBURY: What would that government support look like, in your mind?

Mr Eckermann: I know one complex that has raised the idea of a small concession on rates that would go to the whole body corporate if they have a suitably accredited and qualified executive committee. It could take other forms.

THE CHAIR: Mr Blain?

Mr Blain: I have had about 30 years experience across all strata in Canberra—commercial and residential. I have held all of the office-bearer positions. I have met some of you before—Mr Rattenbury—and I think that this hearing is about a sector that is in potential crisis. You will end up, at the end of this hearing, with a shopping list of risks. You will end up with a shopping list that will traverse the whole ACT, economically, politically and socially.

What you need to focus on is a real, non-Canberra solution. It needs to be brave, and it needs to address the core problems that you have in strata property management. The secret to this is getting the minister on board, the Chief Minister on board, and how you take it to them—socialise it with them.

If it was me, I would go up to the minister and say, “Minister, we need to talk.” This report documents risk—huge, unresolved risk—for this ACT government, on both sides of the chamber. It is economic risk because it leads to the construction industry. It is political risk because the ACT government is at the leading edge of units plans. With its middle housing development, it will fuel more units plans and, with the new land releases, the 26,000 homes, 90-something per cent will be units plans. This is a sleeper waiting to stir, and the government needs to be on the front foot with this.

I truly believe that a strata commissioner is a good idea, but you need an office of the strata commissioner. What the ACT government has proposed and funded for is a middle-ranking public servant, APS6 equivalent position, as a strata commissioner. Having known, worked with and dealt with all of the strata firm heads, including those that have come into Canberra, they have been through lots of economic cycles; they are tough. They are shrewd. They are businesspeople. They will eat an APS6 for breakfast. You will be setting up that public servant to fail, and that is morally wrong.

There is a political dimension, there is an economic dimension, there is a social dimension, and there is a moral dimension as well, to actually do something meaningful here.

I do not agree with training for executive committees. Most of the people in Canberra come from lots of different backgrounds. They have all made business decisions; they have held academic positions, professional positions or public service positions. They have all made decisions in their lifetime.

I would propose a certifier—a certification process outside the strata commissioner role that will certify the governance processes of each body corporate in a rolling three or five-year cycle. It becomes educational. It does not fail them; it just means the auditor looks after the books—the invoices coming in, the money going out, tick—but it is not looking at governance. The public service commissioner can look at governance, but you need a certifier role to give a stamp on those body corporates so that when a body corporate unit comes up for sale, you have that stamp. You have a five-star design rating—or a six-star now, I think it is. You need now a star rating on body corporates, with a certifier, and that creates another role in that sector, and jobs.

When you get to the office of the strata commissioner, the number of issues that you face are so multidimensional that it will not take one person. You need an office. That person, the commissioner, needs to have personal gravitas. You need to appoint someone that can deal with all of these strata companies and their heads, and they are tough nuts. You need someone with the personal gravitas that will cover strata management knowledge, real estate knowledge and legal knowledge. They will need to have facilities management knowledge as well. You will not get that in one person; therefore you need an office.

If you look at the number of strata lots in the ACT, one in three people are living in strata. When you look at the number of lots against the census figures, you could be looking at 50 per cent of people, within 10 years, living in strata. That is a big ask, and that is a risk that is out there, rolling, and someone is going to get hit very badly.

That strata commissioner needs to be someone who knows all of those fields, something in them, but who is at arm's length as well.

THE CHAIR: Thank you; that is really useful and powerful. Going back to your comments around non-ACT solutions, can you talk to some of those solutions? I would imagine one of them is the strata commissioner, but are there any other non-ACT solutions that you think we can be looking at?

Mr Blain: When I say ACT government, I mean a political solution, or an easy solution that will band-aid lots of different areas. This needs a game-changer role, with the person leading it. The risks are also such that, if I was the government, I would be offboarding it, outside the government. It would be a separate body—funded by the government, housed by the government, but independent. It is certainly doable. It could be cost-neutral. If you look at the number of units, at \$100 a unit levy, that is \$8 million a year; at \$150 it is \$12 million a year. That is more than enough to make it cost-neutral and to be effective.

THE CHAIR: That is really useful.

Mr Eckermann: There are a lot of resources focused on strata in different agencies across government, and pulling them together would also alleviate the cost of creating a strata commissioner with resources and teeth.

MR RATTENBURY: What are some of those places, Mr Eckermann? You obviously have a bit of a list in mind.

Mr Eckermann: They are scattered through EPSDD, JACS and various other agencies, which all get caught up in strata in one way or another.

MR RATTENBURY: Access Canberra as well.

Mr Eckermann: Access Canberra as well.

Ms Cahill Lambert: And, of course, ACAT, because the first port of call for people at the moment is to ACAT, even for trivial stuff. You cannot get anything done unless you go to ACAT. I think there are lots of savings to be made there by having a commission.

I am calling it a commission rather than just one commissioner, because I will buy three commissioners, please. With ACAT, you would save a bomb, I think.

MR RATTENBURY: It also speaks to an unmet need, because I also hear from a lot of people that they do not want to go to ACAT, because going to the tribunal feels very formal and a bit intimidating.

Ms Cahill Lambert: Yes, it is. I have done that once, and it was patronising. The decisions are not published. There is no process that anyone can follow through.

Mr Blain: The quality of ACAT is checkered. That is the best way I could politely describe it.

Ms Cahill Lambert: You are going to jail, directly to jail, and without passing go!

Mr Eckermann: There is potentially a very interesting role for artificial intelligence in supporting the UTMA. It is a very complex piece of legislation. You could imagine that some of the queries that ECs might raise could be automated, to a degree.

Mr Blain: I started to feed submissions into an AI portal, Sunrise, used by Harvard, and it was quite revealing. You only needed about six or eight submissions to be fed in. The key factors coming out were human factors. I think we need to talk about mental health as well.

MR WERNER-GIBBINGS: I have a question for Ms Cahill Lambert. Your recommendation is that the UTMA should be amended so that strata managers and management companies are prevented from charging commissions for all contracts. Could you elaborate, please, on your vision for this working most effectively?

Ms Cahill Lambert: I do not know too many sectors where you get commissions before you get out of bed. Insurance is one, where a truckload of money is going out the door of individual owners to pay a commission to a strata manager before we get an insurance policy. We already pay strata management fees; then we have to pay an amount on top of our insurance levy so that the strata manager gets a cut. I pushed, in our body corporate, for that to be published, and there was great pushback about that, but we discovered that there is a huge amount of money going out the door for that.

I cannot find out what else we are paying commissions on, but I would like a blanket statement in the UTMA that says, “No commissions are payable.” Nothing good comes from secret commissions, does it? I have never found anything that has been good about such a thing. If that is key income for the strata managers, the strata management model has a problem.

MR RATTENBURY: You referenced the issue of casual vacancies on the EC. Members basically appoint a new EC member without having a process. I have not come across that in the legislation before. I was surprised. Can you elaborate on that a little?

Ms Cahill Lambert: I was surprised about that, and shocked, because it means you just appoint your mates—the same people. Having said that, there are people who should

not live in body corporates because they have this human element of not being able to cope with community living. They want the front doors of every house to look the same. They want it to look the same as the house that they downsized from, and that is not life.

The other part that is linked to that, Mr Rattenbury, is time-limiting executive members. For example, in our body corporate, we have the same office bearers that we had on day one. It means you do not get any fresh ideas. Again, there are no young people involved—no young people at all. We are an apartment complex of 350-odd, and no young people are involved. That is just silly. I want a process where you call for nominations to fill a casual vacancy, if that is what you want to do. That is the first thing. That should be in the UTMA. The second thing is time-limiting executive members to, say, six years, five years or whatever. It happens in every other stage of life—except the ACT Assembly.

MR RATTENBURY: I was interested in that point. Is there a risk of losing some of that corporate knowledge?

Ms Cahill Lambert: I do not think there is. I know there would be a different view. With the idea that you are struggling to get volunteers, you are not, if you make it attractive and have a diverse group of people. I bet that, if you went around each body corporate in Canberra at the moment, you would find the same underlying profile. With due respect to male colleagues, they will be white, male and over 60. Let us do a little survey, but I reckon I am right.

MR RATTENBURY: That is probably a fair assessment, yes.

Ms Cahill Lambert: We should have some diversity, with young people. Our body corporate has just two women. I said, “That’s not good enough.” Diversity is not welcome.

THE CHAIR: How do we attract young people? Strata is a really daunting topic for some.

Ms Cahill Lambert: It is.

THE CHAIR: How do we attract young people? I anticipate that some of the young people who live in the buildings are renters and not owners, possibly. How do we attract them to—

Ms Cahill Lambert: We use the things that they use, which is the technology, not the old “snail mail”. One of the things that happened in our body corporate two years ago was that the strata manager—the strata manager, not the executive and not the owners—decided to introduce a rule that said you had to nominate a week or a fortnight in advance of the annual meeting to be on the committee. Young people are not interested; they do not know what they are having for dinner tonight. We need a process that uses the technology that young people use. When we got to the meeting, the chair refused to take any nominations from the floor, which is—

Mr Blain: It is wrong.

Ms Cahill Lambert: It is wrong.

Mr Blain: And it is illegal.

Ms Cahill Lambert: Absolutely, and it was wicked, because we had a young person who was keen and enthusiastic, and a woman. Wow! Using the technology is one of the things, and asking young people why they are not going on the executive committee or anything else. Ask them why they are not doing that.

MR RATTENBURY: Mr Eckermann, you drew a really useful distinction in your submission around lithium-ion battery charging. You drew an important distinction between those batteries that sit in an EV and those that sit in scooters and various other devices. Do you want to elaborate on that point? A lot of people have misconceptions and fears around these things.

Mr Eckermann: Certainly, I am aware that some ECs have just taken the simplistic and not well-informed view of banning EV charging in their complexes, and that is not supported by the evidence at all. I think there is a need for public education on that front to discourage poor decisions like that. There is also a need for more public EV charging. I raised a few things like that in my submission. I certainly support all the things we have discussed today—the need for EC education, the need for a strata manager with teeth, accreditation of the strata managers and, importantly, a fairly major overhaul of the legislation.

Some of the problems we see have their origins right back in the development and planning process. I will give a couple examples of that. I live in a complex which has a small boutique hotel on one face of the quadrangle. There is no segregation of parking for hotel guests versus residents, and that has led to problems. We have had occasions of theft. Someone of nefarious intent could book a hotel room for a couple of hundred dollars and at 3 am have access to 300 or 400 vehicles, probably some of which are unlocked. No alarms would go off if they smashed windows et cetera. We have actually had that situation.

I will give another example of a failure at the planning stage, which I am sure will come back to bite all of the complexes involved. On Constitution Avenue, the sole outlet for some 2,000 vehicle spaces is a tiny little intersection feeding onto a narrow and congested part of Constitution Avenue. That should have been foreseen and the developers should have been made more accountable for coming up with a better solution there. There are problems like that at the planning and design stage.

Coming back to EV charging and the risks of lithium-ion batteries, particularly in e-scooters and e-bikes, planning solutions there could include things like a safe room that is very accessible to the fire brigade, that has appropriate equipment for fire suppression, and in which people could leave e-bike batteries and things charging in a secure, controlled way.

MR RATTENBURY: You also made a point, which I had not really reflected on before, that section 107 of the UTMA specifies that the terms of a residential tenancy agreement take precedence over the rules of the body corporate or the owners

corporation, to the extent that there is any inconsistency. Have you seen examples of how that has practically manifested?

Mr Eckermann: No, I cannot speak with any legal competence there, but I am very conscious that there is a breakdown in the passage of obligations from an owners corporation to a landlord owner to a tenant, especially with short-term rentals. For example, there is no obligation on the owner to communicate the rules of the complex to a tenant. As the previous witness suggested, during times like Summernats, you can get pretty riotous things happening that are in complete breach, and there is very little recourse because the tenants are gone in a few days. There are legislative reforms that could reinforce that chain of responsibility, and accountability down that chain, from legislation to owners corporation to owner to landlord owner and to tenant.

MR RATTENBURY: While I have the floor, Mr Blain, I appreciated your remarks. It is exactly why we are having this inquiry. It is a very important issue for the city, and I appreciate your comments.

Mr Blain: I have more.

MR RATTENBURY: I imagine!

THE CHAIR: I do have one question for you. Hopefully, this elucidates more responses and comments. You mentioned trust issues with strata managers and linked it to present training. You also mentioned a lack of transparency. What are some of the basic changes we could make, to make that process a bit more transparent?

Mr Blain: From the strata manager to the client?

THE CHAIR: To the client, yes.

Mr Blain: The key thing is the transfer of moneys—commissions. That seems to be the real problem. There is the disclosure of commercial relationships between, say, strata manager and insurance companies, and trades as well. There is talk amongst the trades that, to get work with a strata manager, it will cost you a fee. They all deny it, but that is the way that it works. A lot of those that are not on the books charge a call-out fee, but if you go with a trade that is part of the strata management family, there is no call-out fee; they then quote. There needs to be complete disclosure of their books, of who they employ.

I refer also to transparency in the contract terms. They are very one-sided towards the strata manager. I know of instances where strata managing firms have point-blank refused, and said, “The SCA standard contract is set in stone, and we do not change it.” A contract is negotiable. It must be equal to both parties, without bias. Quite often it is very hard to explain that to the owners, you have inertia, and you try to get the owners to then move on. Transparency is an issue, but there are bigger issues out there, I think. Can we talk about mental health at some stage?

THE CHAIR: We can talk about mental health, if you have comments around that.

Mr Blain: The AI program, as I said, brought out the fact that there is a lot of angst.

You are going to end up with a shopping list of angst, and lots of issues where people are having trouble living in close quarters. It brings about issues. People rub up the wrong way.

People have described strata as the fourth level of government, and they elect people on committees et cetera. Over the many stratas that I have been involved with, I would say there have been degrees of friction. Some have been regarded by the strata sector as toxic. I have seen, and I have had people send me, a text message that said, “Please look after my wife,” and that person disappeared. What do you do when you get a message like that? It was driven by strata issues.

I know of a strata where strata issues, I was told, were a factor in that person’s suicide. This is how bad it gets. If you have a strata person in the EC who is commanding control, they can cause a lot of harm. There are a lot of mental health issues out there caused by people, and they are very concerned.

Where do they go? You used to have an office of regulatory services. That has now gone. It used to be staffed by people like Caroline Cogger, who has been promoted. It does not exist anymore. I recently phoned Access Canberra to ask a simple question about, “Where do you register rules these days from a special resolution?” We had five of them. There were four phone calls, and no-one in Access Canberra knew anything about strata. I got put through to people like gaming, gambling and associations. In the end, I wrote to Minister Cheyne, who then dutifully passed it to Minister Steel, who then had someone phone me, six weeks later, to say, “You can register at the Office of Land Titles.”

You do a search on Access Canberra for strata, and you get two listings—fair trading court decisions and owners corporation management agent licensing. That is the sum total of the Access Canberra search engine. You are leaving all of these executive committees and owners with nowhere to go for a single source of truth. Access Canberra is not meeting the needs of people in units plans by a long shot.

The person who I spoke to in the end was very helpful, and they have since produced a webpage, because I said, “You need a landing page.” That landing page leads you to this document, which was produced in 2018. This is their how-to guide, “Unit Titles Management in the ACT 2018”. There have been major legislative changes since then, in 2020 and 2022. This is what the ACT government has there, as the single source of truth process.

We really need a lift within these directorates and a focus on where people go to when they have problems. ACAT is really difficult for some people. It is very confrontational.

Ms Cahill Lambert: And slow.

Mr Blain: Slow, and costly.

THE CHAIR: Thank you. Would you mind tabling those documents?

Mr Blain: I will table both of these, yes.

THE CHAIR: Thank you; that will be really useful. I note that we have three minutes left. Are there any observations or anything we have not touched on that you would like to mention?

Ms Cahill Lambert: Can I add to Mr Blain's comments? Mr Blain commented that EC members have been senior public servants, or whatever they have been, in this town. There are members across town who have not made big decisions in their lives. I said, for example, at one of our EC meetings, "We need to get the auditor to tell us what they are going to do in their quote." The chair of the committee said to me, "That's not what you usually do when you're asking for a quote from an auditor." I have appointed probably five auditors in my life in NGO land. I realised, of course, because she had been a public servant—not a senior public servant but a junior one—that she had no experience whatsoever in that sort of space.

Going to the mental health issues, even though she has a dog, she has threatened people with fines if their dogs urinate in our quadrangle. If they do whatever, people pick it up and so forth, but she does not even want the dogs walking through there. She said to someone last year, "I'm going to have to fine you if your dog keeps urinating in this square." She had her dog standing next to her. The woman then said to her, "I'm going to make sure you fine yourself as well, because your dog has just done a wee."

This is the stupidity of some of this stuff. These people are legends in their own lunchboxes. This is the biggest thing they have ever done in their lives, and they make people's lives miserable as a result. They put signs up around the quadrangle saying, "No dogs here," or whatever. There are some very clever dogs that live in our apartments that go and urinate on those signs. It is silly stuff that makes people's lives miserable, and therefore it affects their mental health, because they can. The power goes to their head.

Mr Blain: I would like to put on the record the work of the OCN ACT. I disclose that I was on that committee in 2022, to help them with risk management. Without the OCN ACT, under Gary Petherbridge, the ACT government would be a long way behind in the units plan strata world legislation. Gary has not been recognised properly enough.

THE CHAIR: Thank you very much for your contributions to this hearing. On behalf of the committee, I would like to formally thank you. You have taken no questions on notice, so you are free to have an early mark.

Ms Cahill Lambert: You will be pleased to know that, even though I am from a large family, I think only two of us lodged submissions. There was potential for plenty more!

Hearing suspended from 10.20 to 11.20 am.

MAXWELL, MR RAY

THE CHAIR: Welcome, Mr Maxwell. Please confirm you are appearing as an individual.

Mr Maxwell: Yes, I am.

THE CHAIR: Thank you. Please note that as a witness you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. If you wish to make an opening statement, please keep it to one or two minutes as we only have a short time and lots of questions. We will now proceed to questions. Do you have an opening statement you would like to make?

Mr Maxwell: I do have one. I made it five minutes because somewhere I saw—but I will try and keep it down.

I would like to thank you for the invitation, of course, and any consideration you might give my submission. I see the inquiry as a great opportunity for the ACT to move the multi-unit strata industry into a better future for both project delivery and ongoing strata ownership and management. The submissions show people are crying out for a better way, and as one noted, “It is time for the industry to stop muddling along.” I agree. I reckon there were calls for more training for strata managers 30 years ago in the Queensland experience, so I ask please, no more muddling along.

Other submissions, including mine, seek to get people involved who know what they are talking about. They identify the need for independent advice, and I have identified that missing entity is the role of an owners’ representative. I consider the owners’ representative, amongst many duties, should be the person who is preparing all service contracts in consultation with the owners’ corporation and the committee.

The submissions also identify issues across two basic phases of property development, the first being the design and construction phase, which leaves too many properties with a wide range of design and construction defects. For this phase, one aspect the committee could consider is deliberative development, such as that set out in appendix 6 of my submission. I could have given this concept more emphasis because one of the advantages of deliberative development is that both design and construction defects are minimised. Importantly, the concept would provide a competitive project delivery structure leading to long-term higher standards of construction across the whole multi-unit residential building industry.

The second property phase is the ownership and operation phase where a bunch of mostly amateurs and their randomly elected committee, many with good intentions and abilities, are basically abandoned to manage a major property capital investment. They need help, sometimes nominal, sometimes increasingly substantial. Submissions by strata managers correctly make clear it is not their role to undertake the ownership role of the corporation or its committee. However, the idea that a couple of usually key committee volunteers have to commit substantial management effort and hours of work on behalf of all strata owners is both unfair and, I suggest, can be delusional given the backgrounds and motives of some of the characters involved.

As I have noted, there is often lots of managers but not much management when the chips are down. I see the owners' representative as someone to act only in the interest of strata owners, not just the owners' committee, but all strata owners. Appendix 1 of my submission sets out a proposed structure for this role. In effect, the role is a sub-form of the commissioner's role, but in the field, on the job, so-to-speak, funded directly from the owners' corporation levies. The industry needs both roles, the strata commissioner and head office and in the field, licensed owner representatives with a relevant, qualified background in both building and legislation, and as I said, funded from levies.

I have also set out the need to understand the difference between stakeholders and service providers. I identify there are only two stakeholders in strata, one being the strata owner, the primary owner, on the basis that they are the party who fund the entire development, including developers' and builders' profit. I identify the government as the ultimate owner, as it is government, on behalf of society, that establishes the flow of money and resources to a plan-built environment and ultimately inherits the outcome. All the rest are service providers, including developers, builders and strata managers.

I consider it is important that any reform be driven primarily by the property owners, the real stakeholders, but of course, with consideration and reference to contributions that service providers might and can make. There is much to be said and addressed in this whole scheme of things, Madam Chair, but I am going to end it there and thank you very much for hearing me out.

THE CHAIR: Thank you for your opening statement and your submission. You have touched on a few issues, but I thought perhaps I would open the questions by referencing—you mentioned the creation of a owners' representative and you have mentioned it again in your opening statement. One would think or consider that an owners' representative may cause additional red tape. How do you see that function working and what are the things we need to be looking at setting up so it does not cause an additional layer of red tape?

Mr Maxwell: I do not see it as red tape, but I see it as a necessary professional function available to principally the owners' committee. In a way, it is a parallel to the way in which the strata management role developed out of the need for accounting and bookkeeping. That has become a paid professional service and what is missing is the paid professional service of owners' representative.

THE CHAIR: What would be required to set up that role, what sort of mechanics?

Mr Maxwell: I was involved in what I call the miniature Canberra in Queensland for 20 years, where I was committee secretary for most of that period, and we were looking to go to freehold. It was not just me, but amongst our members. In seeking to go to freehold, our intention was not to have a structure that is being proposed or operating in places like Queensland and I think here, where the committee, through appointing the services of a owners' representative, and between the two of them, appointing all the other entities required to service the property, including the strata manager—the bookkeeper, as I call it—and any other services that are required. What has been developed out of the development industry is what I call a form of state capture, where

they have constructed a scheme that captures basically the rent seekers out of the capital of the multi-unit industry, out of the multi-unit ownership.

MR RATTENBURY: Can I just follow on from that? Help me to understand it better. Based on your opening remarks, and I was really interested in reading your submission around this role of the owners' representative, the question I had jotted down to ask you was: what is the difference between that and the strata manager? You have sort of alluded to it, but I would have thought that the whole point of the strata manager is they are the paid people to do the work for the OC. So can you just help us delineate that a bit more clearly?

Mr Maxwell: Well, I guess you have different sorts of buildings. You have buildings that do not need site management, you have buildings with site management, residential and then you move into the larger mixed-use type of property. There is sort of a loss of focus, I think, across the needs of those classes of property. Just talking to where there is a need for a site manager to service the property, you do not need a strata manager. There is a person to be employed to just fulfil a role of running the needs and the property on a day-to-day basis.

The other person you need is a bookkeeper or an accountant. It is a small business, you know. For a 20 or 30 unit property or a 200 unit property, as I am in at the moment, all we need is somebody to do the books and an auditor to check the books, I believe. It has not been mentioned anywhere and where I was—I have sold out of the property now—we established a procedure for the committee members to sign off on all expenditure.

Strata owners are not interested in that sort of thing. They are trying to run a different empire and I do not see the need for it. We need a bookkeeper to do the levies and the accounting. You need somebody on site who knows the property and what we are looking at doing. You look for somebody to engage who has some sort of building experience because it is all about running a property and all the things associated with that. But then the whole process needs somebody outside who is an independent professional, understands the building game and understands the legislation and they have—well, I have set out a structure where there is obviously a balance of powers between the committee and the owners' representative—but they can be called on by the committee and they are accessible by all unit owners as needs be, on a limited basis, to keep things on the rails.

MR RATTENBURY: So just to test that slightly further—I am just trying to find your diagram again, but does that mean you think you actually do not need a strata manager?

Mr Maxwell: From my point of view, no. The property we had, to give you an example, is 180 units, residential precinct. If we were going to freehold, and I mentioned an experiment in my submission, that was stage one of a two-stage process. The intention was, when we got to freehold—stage one was to get somebody employed familiar with the idea because until we got freehold, which was a year or two away—to convert it to a proper structure, as I set out in my submission, with authority and a balance of powers with the committee.

That was not just me. I talked this over with the people that I lived around, including

the committee. We never got to that because the property still has not been converted to freehold, but if I were setting up a property, that is what I would do. I might mention another thing: I was there 20 years, and over that 20 years, we had, I think it was seven significant strata managers who were across Australia or internationally. None of them provided the kind of relationship that the unit owners needed.

MR RATTENBURY: Going to your diagram on page 8 of your submission—sorry to keep pressing this, I just want to make sure I am very clear by the time you leave us—you have the owners’ representative and the onsite manager as two different boxes on that diagram.

Mr Maxwell: Yes.

MR RATTENBURY: Are they separate roles?

Mr Maxwell: The onsite manager and the owners’ representative?

MR RATTENBURY: Yes.

Mr Maxwell: Yes. Well, I am talking here about a building that needs an onsite manager.

MR RATTENBURY: What does the owners’ representative do that is not that, then?

Mr Maxwell: The owners’ representative is not there. They are only called upon on a needs basis, depending on the demands of the property. The owners’ representative in that diagram, to have a viable income, would need to be looking after five, 10 or 15 buildings.

MR RATTENBURY: Okay, thanks. I am clear on that.

MR WERNER-GIBBINGS: My question is also about the owners’ representative: has that concept been trialled elsewhere or implemented?

Mr Maxwell: Not that I know of, but I would say the reason I came to put that together as an idea was earlier—

MR WERNER-GIBBINGS: We are looking for ideas. I am just seeing if there is—

Mr Maxwell: Yes. I actually had a similar role earlier in my career. As I say, I had five years in sewerage and I was looking after the work in 15 towns in western Victoria. To have that role you needed to have what was called an EWS, an Engineer of Water Supply and Sewerage. You had to pass two exams; one was in the engineering field for water supply and sewerage work, and the other was powers and duties. I could see that was the role of an owners’ representative because that was what I was doing, in going around those towns. So for instance, I was overseeing two or three new sewerage schemes. At the end of those schemes, there were 500-odd houses to be connected. There were a whole lot of small contracts developed, which included plumbing and the housing work and modifications to housing just to connect them up to the scheme. So a bit of building work and plumbing work and batches of contract were laid out. I saw

that role as a type of owners' representative, sitting between the owners of the houses and the contractors.

MR RATTENBURY: I recall you spoke in your submission about short-term rental accommodation as a particular issue. It is one that has certainly caused angst here in Canberra around the impact it has on residents on an ongoing basis when you get the short-term visitors. Can you elaborate your thoughts on this issue and how we might address it? Or is there a model in Queensland that you have seen that works or in other jurisdictions?

Mr Maxwell: I do not think there is a model in Queensland. It is just my thoughts. It is a problem that is all over the world, really, and particularly with the arrival of people like Airbnb. Developers like to have as broad a market as possible, so they are selling units to people who are both in the investment field for short-term accommodation and residential. The uses are not really the same and do not have the same expectations.

So I am suggesting there is enough flow of population into a community to develop two types of building, splitting what I show in my submission as class two into two classes; one of which is purely for residential where there is no provision for short-term letting, and the other providing for short-term letting and actually meeting the services of what the strata management type industry needs, which is long-term management contracts. The residential type building is purely residential and can set up the kind of structure that I talked to before.

THE CHAIR: I have one more question because you spoke a lot about owners' representatives and we have expanded on that a bit, but I wanted to ask you, in your own view, what are the sorts of issues that you see facing the strata industry presently? I think you touched on it a bit during your opening statement, but I wanted to get some more comments from you around that.

Mr Maxwell: One comment I would make, and I like the phrase—it is obviously one thought of by lawyers—is no cause terminations for strata managers. I think that is extremely appropriate. I noticed the SCA in their submission make the point:

The value of a strata business is directly related to the security of management tenure...

I see that as a form of management rights, which exist in Queensland, as totally inappropriate for residential property. The idea that somebody can be contracted into your building and hold a contractual right over the interest of the property, to me, seems totally inappropriate. Nobody in the rest of normal working society has protection from being told that "We do not really want your business anymore. We would prefer to use somebody else." So I say quite properly, there should be no cause termination capacity for body corporates in residential property. I am talking about purely residential, not something that is a large mixed-use structure where it is a different ballgame altogether.

THE CHAIR: Thank you, that is really useful. I think we are at time. Are there any additional comments?

Mr Maxwell: No, I think I have said most of what I want to say in my submissions.

I think, if I were doing it again, I would have perhaps put a little bit more emphasis on the concept of delivery development as providing a competitive structure for delivery of multi-unit properties, alongside the existing structure which is more of a free-will laissez-faire approach, which leads to so much of this problem with defective construction.

THE CHAIR: Again, officially I would like to thank you on behalf of the committee for attending today. You have not taken any questions on notice, so thank you again for attending and for your contribution.

Mr Maxwell: All right. Very good, thank you.

Short suspension

KIRSCH, MS ERNESTINE, Member, Braddon Collective

TANG, MR NELSON, Committee member, Woden Valley Community Council

THE CHAIR: We welcome witnesses from the Braddon Collective and the Woden community council. Thank you for your attendance today. Please note that as witnesses you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly. If you wish to make an opening statement, please keep it at one to two minutes, as we only have a short time, and we have lots of questions for you. We will now proceed, if you would like, with your opening statement, if you have got one.

Ms Kirsch: Thank you. I did not time it, so stop me if I go over time.

THE CHAIR: That is okay.

Ms Kirsch: Thank you for the invitation to appear today. I am here as a representative of the Braddon Collective. We are a volunteer community group, and we are made up of Braddon residents. A key focus of our group is to promote walkability and liveability in Braddon, including through place making activities, which simply aim to make Braddon a great place to live.

In the last census, Braddon had the second highest population density of all Canberra suburbs, and 95 per cent of Braddon residents in the last census lived in apartments or townhouses. With that statistic, it means the majority of Braddon residents, whether they are owner-occupiers or they are renters, will be affected by strata management issues. We have made a fairly comprehensive submission to this inquiry, and it is based on the lived experience of Braddon residents. We did invite residents to give us their stories, effectively, which hopefully we conveyed in our submission.

In summary, we make ten recommendations to the committee, and we support the proposal to create the role of strata commissioner in the ACT. Our submission highlights a general lack of understanding within the community about strata management and a lack of understanding about the respective roles of owners corporations, executive committees and strata managers. We offer the following suggestions to improve this understanding. We recommend the updating of an existing resource which was put out by the ACT government. It is online. It is called *Unit titles management in the ACT: What you need to know*. We have asked that this be updated. It was written in 2018. We have asked that it be mandated that it is distributed to prospective buyers, existing owners and EC members. We also recommend a short mandatory online training course for EC members.

We raise that there is a lack of understanding about strata levies. We state that there must be full disclosure of all strata levies in real estate advertising, and this includes special levies, not just the annual, ongoing levies. We also ask for improved access to strata records so that strata levies are not an unwelcome surprise to a new owner.

We make a recommendation that the ACT government sets a mandate for a strata management company to be clearly identified in relation to an apartment complex. It is currently difficult, if not impossible, for a member of the public to work out who

manages an apartment complex on behalf of owners.

Lastly, the issue that seems to be of greatest concern to the community is the quality of services provided by strata management companies currently. Community members are looking for a strata management company that is responsive to requests, that can be trusted to have oversight of legal and financial matters, and that can manage the budget.

Our recommendations to improve the quality of strata management are: to mandate that all strata managers hold a suitable qualification, which could be at TAFE certificate-level; that the managers code of conduct, which is currently under the Unit Titles (Management) Act, includes penalties for breaches of the code; and that the ACT government investigates ways to ensure strata management companies provide services in an independent and impartial way, and that these are in the interests of the owners corporation. This should include the decoupling of insurance products from management services, which can often be the highest cost within a budget for an owners corporation.

I am happy to answer any questions that the committee may have on any of those aspects of our submission. Thank you.

THE CHAIR: Thank you very much. That is really comprehensive, and it has gone through some of the questions that I have, but I am sure that the rest of the committee members will have some questions. I want to touch on a few specifics, if that is all right, just so we can draw out some of these examples in some of the recommendations you have made—to give more meat on the bone. You mentioned in your submission the issues around fair financial agreements in mixed-use buildings. What sorts of issues have residents raised with you, and can you please elucidate those issues?

Ms Kirsch: I think that may have come up in Nelson's submission; I am sorry. I don't know if he wants to make his opening remarks, and then we can sort out who said what.

Mr Tang: I am happy to answer that now, Chair. There was a range of feedback from community members who attended our public hearings in Woden Valley Community Council, and very general feedback in terms of things that were not done by strata management. An example is the kickbacks that strata managements are getting; there is lack of transparency in that respect. It is a fact, I think, that people understand that strata managers have a tough job to do, but it is that they also have a lot of power. In getting the right services, when they subcontract and in those sorts of scenarios, they are getting a kickback, and people would like to know what it is. There is that lack of transparency.

THE CHAIR: Thank you; that is very useful. Sorry, did you have an opening statement?

Mr Tang: I did prepare an opening statement.

THE CHAIR: Do you want to go? I am more than happy for you to proceed, of course.

Mr Tang: Thank you, Chair. I am representing the Woden Valley Community Council, and we are an organisation that represents residents and businesses—any organisation, really—that are based in the Woden Valley. We cover from the south in Torrens all the

way up to the north in Curtin, and that includes a lot of high-density areas. Our major town centre is Phillip. It has got a lot of high-density complexes that are newer, but our individual suburbs, including Curtin and Hughes—pretty much every single one of our suburbs that we represent in the Woden Valley—have older, smaller complexes of medium density, I would say.

There was a lot of interest from the community council to make this submission. We held two public hearings—one online, one in person—and that was followed through with about a dozen emails and three follow up in-person or phone call meetings to prepare for the submission.

There was a wide range of views from all of these consultations. Two pieces of key feedback I would relay back to the committee. There is a lack of trust from members of the public in their strata managers, which they put in comments about their strata managers. It is about ulterior motives that strata managers may have in executing their contract. As I have mentioned earlier, it is about those subcontractors—and whether or not they are getting a kickback. There is a wide acceptance, from what I have been hearing from members of the public, that there are kickbacks, and they want to know what they are.

The other key piece of feedback is about the competence of strata managers. As far as the public meetings went, the understanding was that, currently, strata managers have to complete a course that is the equivalent of being a property manager or a real estate agent—they seemed to be clumped together, and it is quite weird to us. We thought that a formal qualification that is a bit better would really help address that competency.

I do have examples for both, and I have also a range of other written submissions, but I thought these were the two most important ones that I would like to share with the committee.

THE CHAIR: Thank you.

Ms Kirsch: May I just add to the kickbacks concept you have raised? I did mention specifically insurance products before, but we did have one member of our community who reported to us that their strata management company had been bought out by a larger company and that this larger company happened to be the insurance provider for the building. We see this as a conflict of interest, and the person who raised it said it was a conflict of interest—

THE CHAIR: Conflict of interest, absolutely.

Ms Kirsch: and they said that each year the insurance for their building was renewed without any consultation with the EC members, and it was just accepted that there would be a large premium rise each year and, of course, that premium rise goes to the company who owns the strata management company. I want to give that as a specific example that was raised with us.

MR WERNER-GIBBINGS: Mr Tang, how are you?

Mr Tang: Very well. How are you, Mr Werner-Gibbings?

MR WERNER-GIBBINGS: I am all right; thanks very much. The portfolio limits for strata managers to ensure they have capacity to manage properties effectively. Has the council, or the people who wrote the submission, done some further thinking about how such a limit would be placed on strata managers effectively or how that would realistically play out?

Mr Tang: I think, Mr Werner-Gibbings, the major concern is that strata managers at the moment are fielding too many properties, and there really is no limit on what ratio a property manager has for each property. The feedback that we have received is that it is not rare to see some property managers managing 20 complexes. That was verbal evidence. I have not looked into that specifically, but that is the kind—

MR WERNER-GIBBINGS: There is a word we heard; it was “anecdota”.

Mr Tang: Yes. That is the sort of feedback we have been receiving. From a reasonable point of view, if you think about it, that is a lot to manage.

MR WERNER-GIBBINGS: Yes.

Mr Tang: There is an issue here, and that is where the submissions are coming from.

MR WERNER-GIBBINGS: Okay; thank you very much.

MR RATTENBURY: I want to ask about renters.

Mr Tang: Yes.

MR RATTENBURY: I imagine in Braddon a lot of those apartments would be for renters as well.

Ms Kirsh: Yes, I did not bring the stats, but it would be high percentage, yes.

MR RATTENBURY: We can assume it is quite a lot. I am interested in your perspective on how renters are represented in strata. Did this come up much in the feedback from your members? Are there any particular recommendations you have for the committee in that space?

Ms Kirsh: It was not something that was raised by the people who contacted us. I think it is difficult legally, because any decisions that are made at an AGM, or a general meeting, by their very nature are financial decisions that affect owners. I think it would probably be looking to other jurisdictions, perhaps, to see if there is a way around this. I do not think giving voting rights, for example, would solve that problem. Again, legally I think there may be a barrier to that, but I cannot imagine it is the first time the issue has been raised, and I would hope that other jurisdictions have come up with a solution.

MR RATTENBURY: Sure.

Mr Tang: What I would say about renters and strata management is that it is actually

quite controversial in the consultation process. There are renters who have provided feedback who definitely want a say on how their strata property is being run. I also think that it is a difficult issue here in how you balance the rights of owners in that context. One suggestion made to the council was that you give two voting rights to each unit: one for the occupier, one for the renter. Of course, that model comes with its own complexity, but it is something that we have discussed, and it is certainly controversial. I would not say it is straightforward.

MR RATTENBURY: We certainly had evidence earlier that simply improving the communication to renters would be valuable, because they often do not know what is happening in the building. I do not know if that is something that you have had feedback on?

Mr Tang: Definitely.

MR RATTENBURY: It is probably less contentious than voting rights.

Ms Kirsch: Yes. I am fortunate. I live in a small complex, and we do communicate as a complex, but I understand that would be more difficult in a larger complex when there are more owners and more renters involved. Perhaps, also, if there was greater understanding by members of executive committees on their role and that communication could be a piece to play in that, then maybe that would be a potential solution to the problem. If there was some way executive committee members had a full understanding of what their responsibilities are, I feel that that would be part of it.

MR RATTENBURY: Again, in the context, particularly, of Braddon, but I am sure in Woden as well, have you had feedback from your members on the impact short-term rental accommodation is having in the management of buildings and the peace of residents who live there? This is for things like Airbnb and Stayz and these kinds of things.

Ms Kirsch: It was not raised by anyone who contacted us. We ran a short survey to ask for feedback, ready for our submission, and that was not raised at all.

MR RATTENBURY: Interesting.

Mr Tang: No feedback on short-term rentals in the Woden Valley at this stage.

MR RATTENBURY: That is fine. Thank you.

THE CHAIR: Thank you very much for that. We have talked a lot about strata managers, and I wanted to get your experience on executive committee members and whether or not you think they are well aware of their rights and whether or not you think there is more to be done to help them. What are those things we could do that could help executive members be aware of their rights and responsibilities?

Ms Kirsch: Did you want to go first?

Mr Tang: Sure. That is actually very common feedback that we have received in the council—that people who are on executive committees of strata management and

owners corporations tend to be random, eclectic people who end up on the committee. Some are more passionate than others, but you need them regardless. The idea is that certainly more education would help, but there is also the reality here that every building needs one, and sometimes it is those who are the most available to attend the extra meetings in people's lives.

THE CHAIR: There have been some suggestions around some kind of minimum mandatory training for executive committees. What do you think about that idea, and is it something that you welcome?

Mr Tang: I think that would depend on what sort of level of minimum mandatory training. If it is not too onerous, I think that is certainly something we should consider. Management of budget, for one, would probably be something that is quite positive. But if it were going to be something more than a day, I think that it would be quite hard, in reality, to put in.

Ms Kirsch: This was a very specific recommendation in our submission: firstly, to have access to resources like this, which is a plain English resource.

A publication was then shown

It is 40 pages, but it is very easy to read. At the moment, you have got to go digging on the ACT government's website to even find it. If, when you took on a role as an EC member, you were given a copy of this, I think that would be a good start. Then our next recommendation, following on from that, is that there be a short, mandatory online training course—I am not thinking anything more than an hour or so. And that it is mandated that an EC member understands what their roles and responsibilities are, and even if they end up renewing as an EC member, from one year to the next, they still have to undertake that course in the form of a refresher course.

Mr Tang: I will add that I think the community thinks that the ACT government can probably do more, as a public campaign, for strata corporations—reaching out, providing this sort of education in places where they can find information. I do not have a precise process for doing that, but it is probably just an email to the body corporate or every strata management.

THE CHAIR: Thank you, very useful.

MR WERNER-GIBBINGS: Ms Kirsch, this is an interesting one for me—highlighting the difficulties that your members have with contacting strata managers.

Ms Kirsch: Yes.

MR WERNER-GIBBINGS: Possible solutions on pinning down strata managers or making it easier to identify and contact strata managers. Have any of your members found ways that work and would be worthwhile propagating, as opposed to ways that have not worked?

Ms Kirsch: Yes; we give a very specific example in our submission, in Victoria. In the state of Victoria, it is mandated that a strata management company have a very small

sign next to the mailbox and next to the front door of a strata complex. That way, for any member of the public who needs to contact a strata management company—there could be an issue with the fence or there could be a security issue—it is very quick and easy to see who is responsible for that complex. Currently, the requirement in the legislation is that there is a mailbox available at the complex. The one at our complex, where I live, is covered in cobwebs; no-one looks at it. I certainly do not believe the strata management comes by and checks that mailbox regularly. So a random letter, in a random mailbox, covered in cobwebs, is not the solution to that problem. I myself was in Melbourne earlier this year, and the sign that is next to a front door is no bigger than this.

A hand gesture was made

I have photos in our submission here.

MR RATTENBURY: Yes; we appreciated the photos, a live exhibit—

Ms Kirsch: I do not think it is overly onerous. In fact, some complexes in Canberra already have those signs, but it is not mandated.

MR WERNER-GIBBINGS: That Victorian model, as it were—was that effective, or did that seem to work?

Ms Kirsch: I certainly feel it is effective, but I myself have not lived in Melbourne, so I cannot comment on that directly.

MR WERNER-GIBBINGS: Thank you.

MR RATTENBURY: I wanted to ask you about decision-making in body corporates. Obviously, they can be quite large, from a handful of units through to several hundred. But, certainly, for the large ones, we are getting plenty of evidence about them having a large group of people, who are often quite disengaged and there is low attendance at AGMs and the like, and the difficulties of managing the group around that. Do you have any views on how we might address decision-making to enable body corporates to get things done? The feedback tends to be that it can be really hard to move things forward—complex decisions and the like.

Mr Tang: I have only got a quick comment. This did come up in one of the conversations. For a lot of the AGMs, for example, there is a requirement that an AGM be held and that a certain percentage of people turn up. If that does not happen, then a follow-up AGM takes place, and that is allowed to have a smaller capacity. I guess, from that example itself, it would be helpful if that sort of ratio requirement might be looked at. I do not think there is a perfect, precise ratio here, but I think, at the moment, it may be the case that you just have to count the people who turn up at that particular AGM; that is my quick comment.

MR RATTENBURY: Sure.

Ms Kirsch: I think I would just point the committee back to our emphasis on education, generally, in the community. I feel that if there were a general understanding of what it

means to go to an AGM and to make a decision, there might be better attendance at these meetings. Currently, I do not think most people understand how the process works and what role, if they are an owner, they have to play in that process.

MR RATTENBURY: Thank you.

THE CHAIR: We have heard this morning some comments around a lack of representation across age groups. I wanted to get your views on that—obviously, Mr Tang, you are very involved, which is good—and whether you have got more older people represented on the executive committee as against younger people. If that is your experience, what do you think we could do, essentially, or what settings do we need to calibrate so that younger people are more interested in being on the committee?

Mr Tang: I think, generally speaking, that is always an issue. It does not matter what kind of organisation it is. Younger people tend to work and have more commitments, and there are people who are retired, for example, or semi-retired, who have more time to do other things. Getting interested in things is a particularly important way, but another reality that we have to acknowledge is that not everyone is going to be interested in managing body corporates. There are a lot of people who are passively satisfied without being in that area. It is the opportunity for them to get involved, if we need them to, so looking at things like holding after-hours AGMs and having more options via virtual means. They are all things that contribute towards allowing people to participate.

THE CHAIR: That is very useful, thank you. There were some comments around that, as well, this morning. I have got one more question before I move on, if that is okay. There was a lot of commentary, again this morning, around a commission-based incentive for strata managers. How prevalent is this and is there transparency for owners in your experience or in your view?

Mr Tang: The quick answer is that we do not know, because I do not think there is any transparency in terms of what is happening now. There is a common perception, in all the feedback that I have received, that kickbacks happen, and we do not know how much is going on. An owners corporation pay a strata manager to do things, and the only option at the moment is to move on to the next strata manager, but that does not mean that the new strata manager is going to be any better, because we do not have that information. That is certainly something we are pushing for—that transparency in how strata management operate.

Ms Kirsh: And as I mentioned earlier, the only issue that was raised directly with us was around insurance products. I do believe that is stated in a strata management company's contract, but there is still a sense of unease amongst the people who contacted us about how expensive insurance is and that there is a direct connection—certainly, in the one example I gave you before—between the owner of the strata management company and the insurance company themselves. That does not sit well with the people who contacted us.

THE CHAIR: That seems like a conflict of interest. We have got time for one more question if anyone has a further question?

MR RATTENBURY: No, I am done. Thank you. I particularly appreciated from the Braddon Collective the very practical real-lived examples you put in there for us. There are some really grassroots responses there, so thank you for that.

Ms Kirsch: Thank you.

THE CHAIR: Have you got any final words? Is there anything we have not touched on that you would like to bring to our attention?

Ms Kirsch: The strata commissioner concept is something that we strongly support, but, as I am sure other submissions have noted, it does need to be adequately funded if it is going to work. We feel that, if there is an office of the strata commissioner created, then that office could have a role to play in the training and education aspects of strata management that we have highlighted in our submission.

THE CHAIR: Thank you for those final comments.

Mr Tang: I think I would just add to Ms Kirsch's comment that we also think that a strata commissioner, or someone who can enforce any breaches, would be very helpful. I just want to add that one thing I have not covered is that we are calling for the ACT government to strengthen the laws around strata management to put an onus on strata managers to act in the best interests of residents and body corporates.

THE CHAIR: Thank you. They are very useful last comments and observations. On behalf of the committee, I want to officially thank you for your attendance today and for all the work you put into your submission; we really appreciate that. We have not taken any questions on notice. We are more than happy for you to stay or to leave—whatever you would like to do.

Mr Tang: Thank you.

Ms Kirsch: Thank you.

MR RATTENBURY: Cheers, thanks a lot.

Committee suspended from 12.11 pm to 1.21 pm

AGNEW, MS ROBYN, Member, Partnership for Executive Committees in the City
BRACK, ASSOCIATE PROFESSOR CRIS, Belconnen Alliance for High-Rise Apartments

GREGG, MS ANNIE, Founding Member, Partnership for Executive Committees in the City

THE CHAIR: I welcome witnesses from the Belconnen Alliance for High-Rise Apartments and the Partnership for Executive Committees in the City. Please note that, as witnesses, you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. If you wish to make an opening statement, please keep it to one to two minutes as we only have a short time for lots of questions. I am happy for you to make an opening statement if you have one.

Prof Brack: I have prepared one. The Belconnen Alliance for High-Rise Apartments represents 11 high-rise towers, over 3,000 apartments and 8,000 residents within the Belconnen town centre. We have the biggest high-density residential area in the ACT. We know there are substantial benefits—social, economic and environmental—for such high-density strata living when it is well-designed, regulated and fits into the wider community, not just the plot of land. However, we fear that a lot of historic strata development has been ad hoc, and the legislation’s understanding of good strata is antiquated and possibly even irrelevant.

The rapid development of high-density mixed towers in the Belconnen town centre certainly has outpaced the Belconnen town plan, and we are concerned that already a substantial number of new towers have been approved or have begun construction without really appreciating what is going on. We therefore welcome the government’s commitment to improve the relevant legislation, management and support for these strata communities.

We believe the single most important improvement will be the creation of a well-resourced independent authority, such as a strata management commission, that would provide credible leadership and oversee the regulatory improvements. The commission and its staff would be vital to promote understanding and promote the appropriate approaches that are sympathetic to all the needs of our vertical suburbs. In particular, we hope the commissioner could help improve the equity differences between the strata residents versus the non-strata residents—in particular, tax burdens and lack of incentives. There are the power differences. Developers often promise to provide some common facilities and do not do it, and then the purchasers have no power to obtain recompense. And we need better management of the owner-tenant-investor conflict better than is currently done in ACAT.

THE CHAIR: Thank you for that opening statement. Does anyone else have an opening statement?

Ms Gregg: Thank you. PECC is a partnership of 18 strata complexes that represents more than 6,000 constituents positioned in the city’s CBD. We broadly support the OCN’s position and emphasise the four following priorities, including a fully-resourced and independent strata commissioner who reports directly to the ACT Assembly, requiring realistic staffing and resourcing, and whose duties are not to be incorporated

with the building commissioner. Current budgetary allocations for this position are totally inadequate and concerning as they do not reflect understanding of ACT strata needs. There needs to be accredited education and mandatory tiered supervision for registered training strata managers, not solely relying on online education but incorporating mandatory supervised apprenticeships by qualified experienced strata managers. We advocate a minimum education level of a certificate IV for strata managers and a diploma for principals and licensees. Also, EC education is critical but not to be mandatory. It is challenging enough to recruit volunteers; however, provision for house rules to provide incentives for EC engagement should be made. Finally, there needs to be legislative reform to oversee the regulation of short-term rentals, which have a disproportionate impact on strata building communities, especially socially and economically.

Legislative reform is also needed for the reduced quorum rule and independent data management. The UTMA needs to be rewritten from scratch, not just amended, as has previously occurred. With 91 per cent of future dwellings in the next five years coming under unit title, current legislation and staffing is woefully inadequate. The government is putting the cart before the horse with those strata property projections. Already a severe shortage of skilled building and strata managers exists, and the government needs to revise the entire strata framework to meet future strata demands.

THE CHAIR: Thank you for that opening statement, Annie. Robyn, do you have an opening statement?

Ms Agnew: No.

THE CHAIR: I will start with my first question. Thank you for the submissions. I want to get your views on some of the biggest issues that you have seen come to light in terms of the membership that you represent. What are some of the issues that you have identified or have been raised with you?

Ms Agnew: The biggest issues—

Ms Gregg: STRs.

Ms Agnew: Definitely the short-term rentals. As Annie mentioned in the opening statement, they have a disproportionate impact on the fabric of the building. There are the residents who live there, and yet owners corporations are powerless to regulate any activity of a short-term renter, other than to issue the owner with notice of breaches of the house rules. We would like to be in a position where we could set a framework for how a short-term rental might operate. The OCN submission went into some detail on how that might be done.

Ms Gregg: I should probably add that there is an unusual situation—a consequence that has occurred as a result of amendments to the Residential Tenancies Act. I can only give you anecdotal information. One of the issues that has occurred is that a tenant can rent a property, never live in it and use it as an STR, so they run it as a commercial enterprise. Because you have no onsite engagement with owners of people who run STRs, you are powerless to get anything done quickly.

Prof Brack: The biggest issue for BAHA is that we are all in very high-density properties. The smallest property in our complex has 300 apartments or 250 apartments. The biggest has over 500 apartments. I do not think that it is appreciated that it introduces a whole range of complexities. We have had people camping in the foyer. You might say, “Oh, so people camp in the foyer,” but you have inconvenienced 500 apartments by having one person camping in the foyer. We are not allowed to police our own common area.

We have a lane. It is ours, but we have no authority to control it. If we have one person parking in the lane and blocking it—and, in that particular case, they can block it for 1,100 apartments—we cannot do anything about it. We can ask the police. They can register it as an abandoned vehicle, and three weeks later we can get it towed. The complexities of high-density properties really add a whole new nuance, and I think they have not been considered, because it is new. That is our big problem with Belconnen: no-one thought about the density; it just happened.

THE CHAIR: Regarding the specific example you raised around parking, can you give an example of how regulation could perhaps help with that?

Prof Brack: We have been told that the lane is ours. It is part of the community title scheme, and part of the DA was that it is open for traffic, so we are not allowed to block it off. It is about the merge between public and private property. If someone parks on your private property, you cannot just take the car away or do anything to it. We are not allowed to do anything to it, but we are obligated to let them go there. It is confounding in that it is in the common space of the community title. The unit plans go to the responsibility for maintaining it and doing all the security on it, but they do not give the authority to work on it in many cases.

THE CHAIR: To deal with whatever issues arise?

Prof Brack: Yes.

THE CHAIR: Thank you. That is really useful. You mentioned a lot about a strata commissioner. There has been a lot of conversation about that this afternoon. There is consensus that it is something that we need to establish. You have also mentioned some of the things that a strata commissioner should do. My question is: what would you consider a strata commissioner should probably not engage in if the position were established?

Ms Gregg: That would be in terms of the developers of the building. This is why we did not want a strata commissioner. There was discussion at one stage that a strata commissioner position would also involve a building commissioner, and we think that there is a conflict of interest with that. A strata commissioner could be used as a source of consultation, but they should be quite separate. Maybe we should not reinvent the wheel and, instead, look at other jurisdictions to see what has worked and what has not worked, because they have been going a lot longer with those sorts of positions and have learned from their mistakes and also their successes. Do you have anything to add to that?

Ms Agnew: No; I do not think so.

Prof Brack: Having that person could help balance the powers between the developers, the builders and the tenants. One of the annoying inconveniences is that the builders will present something in the plan, get it approved and not build it. The owners buy it, and then we create the owners corporation. The owners corporation, because it postdates construction, cannot talk about what the builder did not do. If you want to do anything, individual purchasers have to fight the builder, and that means an individual purchaser fights a very rich and well-resourced developer. It does not work. We have tried. We went through different ways of approaching it. Our legal company fell over after two years of trying to get a class action together and we lost what we had been promised. We are hoping that a commissioner could help make that more equitable.

Ms Gregg: One of the real challenges for the government when we get a strata commissioner is trying to reverse the general perception that, when you buy into strata, you immediately buy problems. There are certain companies that, anecdotally, people will not buy from because they know that so many problems have occurred after the build. My own building is involved in a multiple appellant case that is a benchmark for getting defects fixed. It has cost us a considerable amount of money. Even the tribunal ruling was that we should not have been put in the position of getting someone to do the right thing in what has been purchased. That is becoming far too common when people buy property, especially off-the-plan property. You are not only buying the property; you are also buying the future law cases along the way.

THE CHAIR: That is interesting. Thank you for that observation.

Prof Brack: The other equity issue is that there is a difference between owner-residents, owner-investors and tenants, and that is not well-organised. ACAT look after tenants and the owners corporation looks after the owners. I am hoping the commissioner might provide some sort of mixing point for that which is not adversarial but helpful.

THE CHAIR: Thank you for that observation as well.

MR WERNER-GIBBINGS: I have just two quick questions. One is for Professor Brack. You mentioned that better planning could or should reduce the number of defects and legal disputes. Do you have examples of how building defects have impacted residents in Belconnen towers? It can be anecdotal.

Prof Brack: Not for my precinct. We are quite new. We have a huge list of defects. There are actually three volumes of defects. Most of them are not deadly. We do not have anything like the—

Ms Gregg: They kind of range, from something—

Ms Agnew: That is what our building has.

Prof Brack: Yes. Some of the other people in the BAHA have the cladding problems and structural defects. We spent a lot of money. We got structural engineers to look at ours. There are annoying things. They did not complete waterproofing. They used the wrong sized stones on the roof, so the birds throw them off, and we have to repair that. So we have ongoing costs. We have a garden which has no access, so, to clean the

garden, we now need lift towers and things like that. There are annoying things which add to the burden of maintaining the whole precinct. That is my personal experience. I know that some of our colleagues have had quite large special levies raised to fix particular major problems that have a deadline.

Specifically regarding planning, when you plan a building, you should also plan for the area around it. You cannot just say, “There is the tower. It all fits in there.” We now have 800 new people and they are going to be around it, so: “How are you planning that? What open space do they have? What common areas do they have? How is the green space going? How is the traffic going?” Often the response is: “You have a driveway to the road; you’re fine. We don’t need to worry about that any further.” That is the sort of planning. One of my backgrounds was looking at urban forestry and good construction. It is more about how you place the buildings and how they fit into the environment, rather than just about the building itself.

THE CHAIR: Considering everything in totality. Thank you, Cris.

MR WERNER-GIBBINGS: My other question is to the Partnership for Executive Committees in the City. Your submission speaks about implementing mandatory strata manager training and qualifications. We have heard about that already a couple of times today. Could you provide an expanded take on your experiences of why that is necessary and the qualifications that you think would be needed or would make it a utile—

Ms Gregg: For strata managers or for the—

MR WERNER-GIBBINGS: For strata managers—implementing mandatory strata manager training.

Ms Gregg: I could speak to that because I have some history with it, especially with the revision of the Agents Act that came through in 2003. Anecdotally, I found, because I was part of the reference group for that, that, even though salespeople and property managers were required to undertake just short of a certificate IV for registration, strata managers were omitted. That was a mistake that I actually pointed out to the Solicitor-General, who understood a property manager to have the same role as a strata manager. You asked me to tell the truth, and that is the truth. I was told then, in 2002, that it would be picked up in the next tranche. It is now 2025. In that timeframe, it all became too hard to bring strata managers into registration, which has been asked for. Adjunct groups—for example, the Strata Community Association—has brought in training. Training has literally been left to anyone who may get involved, and that has been very dangerous because, even in mandated training for salespeople and property managers, the standard has varied greatly. So there has been an enormous vacuum.

In the vacuum that has also occurred in existing requirements, it has very heavily relied on online training. That has shown to have a consequential deficit in the skill level that arises, which is why we suggest that it is mandatory that they have supervision as well as online training, to ensure that you actually see that they know what they are doing, rather than just having them do an online course, ticking a box and being given a piece of paper.

There have been significant challenges with registered training organisations delivering real estate training in the past. That has been tightened up, but there is still an issue with what is going to be delivered and what controls can be implemented to ensure that the complexity of what is required for strata managers to operate is addressed. In my opinion—and I have considerable experience with this—it is far more complex than for sales people and property managers, because of the complexity of the communities and the buildings themselves. I thought I knew a reasonable amount. Getting involved showed the holes that I had in my knowledge—knowledge which I know most strata managers do not have. They have to pick it up anecdotally, and that is not good enough for the challenges that come out of these buildings.

Ms Agnew: There are some excellent strata managers—

Ms Gregg: Yes; there are.

Ms Agnew: but there are also some that do not understand the legislation and do not understand the implications of not complying with the legislation. We have found in the past that, if we were not a little more alert, we would have breached some of the requirements of the act unintentionally by relying on advice.

Prof Brack: I do not think the BAHA itself has too many problems with the manager's training per se. All the ECs get together and chat, so, if someone does have a problem, we often correct it for them. The problem seems to be in the turnover. When you turn over, it does not matter what kind of formal training they have; they need the on-ground experience. When you turn over your strata manager too fast, that is what you lose. I am not sure that formal training would ever help that, but, if there were a career path for them, it might make them less transient.

Ms Gregg: The turnover is a massive issue.

THE CHAIR: Thank you for that. I will pick up on what you mentioned, Cris. What we have heard today is that there is lack of sufficient training for strata managers, and you said that is not an issue for you.

Prof Brack: It has not been a big one for the BAHA. We have not tended to focus on that on my committee. But, because we all have very large complexes, we have been attracting the “larger” managers. We probably have a different cohort of managers to some of the smaller apartment blocks. For us, the bigger issue is the turnover, not the implicit training.

THE CHAIR: I was going to ask about the sort of training your managers get. That could probably go on the record as one of the things that we could probably consider in terms of training for strata managers, but, if that is not something that you are across—

Prof Brack: Our manager was stepping up. I am in the Republic precinct, which has 1,200 apartments and five towers. We had a dedicated strata manager from a company and they really wanted to make sure we worked, so we think they put an awful lot into us. They offered free training to the executive committees, so we were all trained by them and trained in the rules et cetera. I think I grew into it well, and the company seems to be well-trained as well. To an extent, the rest of the BAHA is not quite as

lucky, but they have, again, larger companies doing it for them. There are a few exceptions. I can see some frowns over there to that generalisation. Our executive committee is now fairly experienced, and, to an extent, we may know more than a new manager, so we train them. There is that coming and going.

Ms Gregg: A point about training that needs to be made regarding turnover is that, one of the problems is that, because there is no regulatory requirement to operate as a strata manager, they are put into the job to learn on the job, and, somehow or other, training lies broadly in the stratosphere over that. Workload is one of the issues in strata management because you cannot offer service when you are in crisis, and a lot of inexperienced people get into crisis fairly quickly, which then makes them unproductive, which makes them highly stressed—ergo the turnover. In my opinion, it is very closely related to the type of training that they are given and how they are actually managed by their principals. That becomes a real issue. We had two disastrous strata management companies. I found a really good one, but now they are challenged. They are so good that word has got around. The labour pool is very depleted in Canberra, for so many jobs but especially for strata managers. And, because there is no regulation, you can be a strata manager tomorrow, if you would like. There is a challenge for you!

THE CHAIR: It sounds like a lot of work.

Ms Gregg: It is a lot of work and it is very complex.

THE CHAIR: Interesting. Thank you very much for that.

Ms Agnew: You are dealing with human beings on top of all of that.

THE CHAIR: Yes. There is the human factor and then the regulatory burden and all of those things. I am sure it is a very challenging job. Professor Brack, in your submission you talked about controls. What kinds of controls do unit owners have over who their strata manager is? And how do we find a good one?

Prof Brack: The owners corporations, via their executive committee, hire the strata managers. They are the ones who put them in, and, once they are in, you have to vote on it at the end of the contract. Again, my precinct is unusual in that we have five unit plans that all have to work together. We have to have the same strata manager, so we had a quite complex process with interviews and what have you. Ours was a very big and complex one. For the other strata unit plans, basically the executive committee makes the decision on who to have.

Ms Agnew: As an example, for our building we went out to tender to six companies, and then former public servants, like we were, shortlisted and interviewed people prior to appointing a strata manager. That has to be approved at a general meeting. The appointment of a strata manager has to be taken to a general meeting. In the end, all owners make that appointment.

Ms Gregg: For us it was a similar process, but we benefited in that I had a lot of inside information about how they operate. This town operates very often via word of mouth, which benefited our last decision. It was again very rigorous to ensure that we covered

as many bases as possible. It is very similar.

Ms Agnew: When you look at the money that you put through a strata manager to all of your contracts, you will see that hundreds of thousands of dollars, if not more, flow through the company. It is really important that we are careful about how we select them. You have to be accountable to the owners at the end of the day.

Prof Brack: For completeness, the very first strata manager is appointed by the building's developer. For your first year or several years, you work with whoever they appointed, until you get your owners corporation together. The first one is appointed by the developer and then you can change.

Ms Gregg: It is quite difficult to sack them too. Even though they have been incompetent, it is quite difficult to get rid of them.

THE CHAIR: There was commentary this morning around essentially having some time lapse for the first strata manager that is appointed and having the owners then appoint subsequent strata managers. In your opinion, do you think that is a worthwhile idea to pursue?

Prof Brack: It is complicated by the fact that the owners corporation does not exist until the building is released and you have all the details. Then you have to get the meeting together and get your executive, and then you can start something down the track. Our first annual general meeting was about four months after the building was released. Something has to run before that, and the developer gets to do all that. Our first budgets—for example, our first sinking funds—were all done by them. The sinking fund was way inadequate. That is apparently a general rule. They make the sinking fund so that it does not include the major costs that will come up. As soon as we take over, we double the levies and everyone complains et cetera. There are some interesting things like that. It is a grey area which will cause problems.

Ms Agnew: The building developer engages the first strata manager. For us to engage a new strata manager is probably a six-month process. Perhaps there could be something in the initial contract—maybe a one-plus-two arrangement so that, at the end of year 1, you could decide whether to continue or you could say, “Actually, we want to go out to the market and find a new provider.” If you were happy, you could continue.

THE CHAIR: Thank you for those valuable contributions. Is there anything else that you want to mention that we have not covered—perhaps a burning issue that you would like us to take note of?

Ms Agnew: No; I think you have everything. Thank you for the opportunity.

THE CHAIR: Thank you so much. On behalf of the committee, thank you for your attendance today. You have not taken any questions on notice, but feel free to stay if you want to observe the rest of the hearing.

Short Suspension

ILIFFE, MS JILL, Secretary, Owners Corporation, Units Plan 439, Isaacs
RITCHIE, MR DAVID, Chair, Executive Committee, Units Plan 119, Urambi Village

THE CHAIR: The committee would like to welcome witnesses from units plan 439 and units plan 119. Please note that, as witnesses, you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. If you wish to make an opening statement, please keep it to one or two minutes, as we have a few questions to get through. I am happy for you to start with your opening statements, if you have one.

Ms Iliffe: Our submission is on behalf of the owners corporation of units plan 439 in Isaacs. The units plan contains nine class B units and has been successfully self-managed since 2012.

We wish to make four specific comments on the terms of reference. The first one is on the role of strata managers. The requirement for strata managers to have specific educational qualifications for the role is supported by our owners corporation. Fifteen years ago, the OC found itself in a position where we had four strata managers resign over a two-year period because of the aggressive attitude and behaviour of one owner.

Our last strata manager was so incompetent that it was scary, which prompted the OC to explore the self-management option. Appropriate remedies and penalties should be included in the act for non-compliance of a manager with the strata managers code of conduct. In taking over management of UP 439, the OC was unable to access prior records, meaning that the UP has no history before 2012. Managers should be required by law to provide OCs with relevant records once they cease managing the UP, for whatever reason. Our OC has now established a password-protected website where all relevant documents are uploaded and stored, and accessible to all owners.

Complexes which are self-managed by owners in a voluntary capacity should be clearly excluded from any changes to legislation governing strata managers who are contracted and paid for their services.

Secondly, with respect to the role and responsibilities of executive committee members, including training and skills required, the OC agrees that executive committee members should have the necessary education and skill to competently fulfil their role on behalf of the OC. Individuals, however, bring to these roles a range of education, skills and experience, often at a high level.

The OC suggests that the development of a set of competencies for each EC position is more appropriate than educational courses as such, so that an EC member who can demonstrate competence in the major functions of their role may only need to upskill in particular competencies. The OC further suggests that access to the competencies should be open to all members of the OC who may wish to upskill themselves, with a view to a future EC position. Obtaining a specific set of competencies or undertaking a particular education program should not, however, be mandatory, in our view, for EC members.

The third thing is the remit for a potential strata commissioner in the ACT. The OC

strongly supports the creation of an independent statutory position of strata commissioner in the ACT, with adequate staffing and funding. The commissioner should be responsible for developing a set of competencies for each of the EC positions and online modules for ECs or other members of the OC to undertake, and for developing guidelines or providing legislative advice in response to OC requests. They should be empowered to enforce codes of conduct and to provide a disputes resolution service for simple strata complaints, with the power to compel parties to participate in mediation and authority to make adjudications, in order to relieve pressure on ACAT, so that it can be more responsive.

Lastly, in writing new or amending existing legislation, every effort must be made to ensure that the legislation is fit for purpose for all those covered by the legislation. One size does not fit all. Legislation which governs multistorey mixed-use class A complexes is not easily translated into legislative responsibility for small class B complexes.

A good example of this is the requirement for the OC to develop a maintenance plan, with the majority of listed areas in new clauses 4A and 4B of section 143, part 13 of the Unit Titles (Management) Regulation 2011 only applying to class A complexes. There is no guidance provided for class B complexes as to what a maintenance plan might cover.

If the intention of the legislation or any changes to it is to cover both class A and class B complexes, it needs to be written in such a way that owners corporations which are comprised of class B units can easily interpret and comply with their legislative obligations. Legislators should ask themselves how each clause or each section applies in a range of scenarios—for example, small self-managed class B complexes.

THE CHAIR: Thank you for that opening statement. It was very comprehensive. David, do you have an opening statement? I remind you to limit it to one or two minutes.

Mr Ritchie: I will speak quickly. Having moved into the role of Chair of the Executive Committee of Urambi Village, what struck me almost immediately was the mismatch between the legislative requirements, including penalties, and the fact that members of the executive committee are volunteers. Often, they are busy people. They have families, a job and studies to be getting on with, yet they are subject to what are quite onerous provisions of the act.

It is my experience that a lot of people I have approached about serving on the EC say, “No thanks, not for me.” So how do we overcome that position? It seems to me that a large part of it lies with training. I have mentioned in the submission the sort of subjects that could be covered in that training. The training could take the form of a course which is done elsewhere by one of the tertiary institutions or online modules so that EC members can upskill themselves. There is a third one which slips my mind at the moment.

The other requirement, it seems to me, is that the legislative arrangements, the regulatory framework, need to be accessible online. They need to be up to date, categorised if possible, and indexed, so that if you are in doubt about something, you simply look up an index and find out where the information will be.

The third thing—it now comes back to me—is that it would be useful if there was a helpline or an individual that people could talk to, get in touch with, who would either know the information or point people in the right direction.

I will make two other very quick points. One concerns voting on resolutions in executive committees. I think there are what I have called “undemocratic provisions”, in that poll voting allows large property owners to have a disproportionate weight in the vote. That is what it is meant to do, but it gets away from the one person, one vote provision of Australian democracy.

The other one is that there is now a requirement for special resolutions to be passed by three-quarters of the voters. That is a move up from two-thirds. As I say in the submission, special resolutions are harder than electing a pope.

Finally—this may have been brought to your attention before—there is a perverse incentive in regard to insurance. Insurance companies provide a commission to the managing agent, which can be up to 20 per cent, and that seems to me to indicate that the managing agent seems to be working on behalf of the insurer rather than on behalf of the owners corporation.

It can be got around, it seems to me, quite easily, in that the role of the managing agent in insurance can be simply a fee-for-service provision within the managing agent contract. At the moment it does build in a perverse incentive, so that a managing agent in fact—I do not say that this happens all the time—has an incentive to choose the highest cost insurance and the insurer who will provide the highest commission. It is an incentive which, it seems to me, needs to be dealt with.

THE CHAIR: A bit of a conflict of interest there, isn't there?

Mr Ritchie: Yes.

THE CHAIR: We will go to Mr Braddock.

MR BRADDOCK: You both mentioned training. I am trying to gain an idea of the scale or scope of training that you are talking about. Are we talking about a day's worth of training, a week or a month? How much training do you think is required?

Ms Iliffe: Certainly, my view is that we need to have competency-based training which allows people to identify the training that they need. With respect to the training in which they can demonstrate competency, they do not really need to do that; they need to undertake the training in which they are deficient or not competent.

For an executive committee, if you had a position of secretary, for example, which is my position, you might have seven or eight key competencies that related to that role. For an EC, you might have some competencies that were across the three roles. Perhaps a one-hour module for each of those competencies that you can do in your own time to upskill yourself would be quite sufficient for an adult who is willing to take on that sort of position.

MR BRADDOCK: Mr Ritchie, would you agree?

Mr Ritchie: I think so. I probably had something more wide-ranging in mind. I thought there could be a course developed by one of the tertiary institutions in Canberra, which would be a term-long course. I am not sure how many hours a week, but it would cover a range of issues. It would cover legislation, the regulatory framework, as well as things like conflict resolution, how to chair a meeting and the various challenges that executive committees face.

Bear in mind, too, that the membership of ECs churns over quite substantially over time. People will come to an EC—in fact, one of the office-holder positions—without much past experience. It would be good for them to be able to tap into a module which would give them a broad range of understanding of how an EC works, and what the legislative framework is—most importantly, the legal obligations that they will have to meet, which are substantial.

Ms Iliffe: I have been brought up with competency-based education, so I am more comfortable with that.

MR BRADDOCK: Are you aware of any other jurisdictions that offer such a style of courses and whether those are successful models?

Ms Iliffe: No, I am certainly not. We could have done with it, when we took over self-management in 2012, which we were really forced to do because it was so scary. For us, as a very small, nine-unit complex, it was a steep learning curve. For other owners corporations managing large, multi-storey, mixed resident and commercial premises, it would be a different story altogether. In those cases, you would lean towards a more formal course being available.

As I said in my presentation, there needs to be recognition in the legislation that there is this size and then there is this size. We are this size and it needs to fit us, as much as it does anyone else. I think that is missing in the legislation at present. We really struggled, and we struggled to find somewhere that could give us advice and guidance. Until we managed to discover OCN ACT and became members, and we could receive that advice, it was quite difficult trying to work out the answers on some of our legislative responsibilities. A self-help line attached to a commissioner would be really useful for us to have available.

Mr Ritchie: The only one I have heard of is in New York, where the tertiary institutions do have a term-long course on how to run an owners corporation. The other thing to mention is the possibility of online courses which are available for members of the EC to dip into and then complete the course in their own time.

THE CHAIR: David, just picking up on your comments, there seem to be two approaches here. One is competency-based training and the other is more intensive training. Picking up on your comments earlier around the voluntary nature of ECs, how do you think we could incentivise ECs to engage in participating in this more intensive training, considering that you do not want to put too much workload on people when it is already a voluntary-based process? What do you think we could do in that space?

Mr Ritchie: That is a good question. How do you incentivise people to join an EC in the first place? That is a very big question for a village and outfit such as ours, where people are working; they may have kids. It is difficult. If it was set up and people saw that it was there, and maybe there were night courses and so on, they might be inclined to increase their competencies by doing it, and gain a sense of self-satisfaction out of doing it.

In terms of other incentives, it is hard to think off the cuff about what they might be, because we are talking about volunteers. There would be participation in the management of the village, in our case, and the sense of community that it gives you—making a contribution to the life of the village.

Ms Iliffe: If the education was available, the experience I have had with EC members is that they would be really grateful to have something that they could access, so that they felt more comfortable in their role. Mostly, people like to get a certificate. They do not look for incentives—not when you are in a volunteer role.

THE CHAIR: We have heard so many good things about self-managed complexes like yours, but I am sure you have challenges. What are some of the challenges that you have, if any, and how could we address those?

Ms Iliffe: The first challenge was understanding our role and learning about the legislation. As I said, at that point, we had to do it ourselves. We did not really know where to turn. That is where the availability of education would have been a significant advantage. For class B complexes, one of the biggest challenges is that people buy into class B complexes without thinking that they are buying a little house and they are responsible for the maintenance of that property. There is also a disconnect with their obligations, and the rules and regulations regarding living in a community. That is difficult for some people to come to terms with.

Many people that buy into class B complexes think that the owners corporation is responsible for the outside of their property, without realising that, in a class B complex, they are responsible. That can cause some difficulties. We now, in our welcome letter to new owners, make that clear. We have a set of house rules that we provide them with, which spells things out in plain English.

There are also people who buy in who should not really be living in a small, close community. They do not appreciate that, in that environment, the majority position is the position that is held and, if they are in the minority, they do not feel very comfortable. They are probably the biggest challenges—understanding what their responsibilities are, and their limitations and obligations, and living in a community and living close together, but not really separate from their neighbours.

THE CHAIR: Who do you think is best placed to provide that information to the new owners?

Ms Iliffe: If you had a commissioner, that is the sort of stuff they would be able to do—have those guidelines. Also, if you had that information available for estate agents when they were selling properties, people could go into them knowing what their obligations and responsibilities were. We have people who get really upset because you are not

going to repair their roof, because it has not been maintained. They get really upset because they thought that was the owners corporation's responsibility. If they were given that information in the first place, they could make an informed decision about whether they really wanted to buy into it or not.

Mr Ritchie: Could I ask a question? Have you found a good definition of class A and class B—the difference between them?

Ms Iliffe: Yes, I have. We had to search for a long time. The one that we came up with was a combination of a couple. We now have it in our house rules.

Mr Ritchie: Does it have legislative or regulatory support?

Ms Iliffe: It can be defended by legislation—different parts of the legislation, yes.

Mr Ritchie: This could be something that the regulatory apparatus actually covers. That is my suggestion.

THE CHAIR: A definition?

Mr Ritchie: A definition between class A and class B. If you try to find it, you have had better luck than I have; that is all I will say.

MR BRADDOCK: I would be interested in hearing more examples of where the legislation written for class A is difficult to interpret for class B. You provided one example earlier. Can you provide me with any more examples that this committee might be able to utilise regarding what changes are required in the legislation?

Ms Iliffe: There are others. One is some examples that are given; you have a section saying that the owners corporation is responsible for this and this, and there is a little example that, in class B, if they pass a special resolution, they may take responsibility for this or that. There are things like painting the outside of buildings or maintaining the roof. The legislation leads some people to make the interpretation that this is our responsibility, and we just need to pass a resolution and you are responsible for that, whereas that responsibility is not built into our sinking fund at all. They do not understand that you would need to have a special levy for all of that.

There is very little guidance for class B units. Most owners understand that, in a class A complex, the owners corporation is responsible for the outside. They do not understand that they are responsible for the outside in class B, and things like that. I do not think that needs to be put into the legislation, but there needs to be some guidance available so that OCs do not have to explore lots of articles to try and come up with their own definition or their own explanation.

THE CHAIR: That is really useful; thank you. I have one more question. It is about something that you mentioned, David, in your submission around ACAT. I want to get some examples of your experience with ACAT and possibly how we can manage some of these issues.

Mr Ritchie: It would be useful if a mediation body was set up. I understand that is

something that a commissioner might do. It would mediate in the traditional conflict resolution style. My only experience of ACAT has been that it is a very legal body—there is a case for and a case against, and then a decision, rather than teasing out the particular points of view and trying to seek a reconciliation in a mediation framework.

It would be a mediation that would sit under ACAT. Of course, ACAT would still exist. I noticed that ACAT, in its submission, it seemed to me, staked out its own ground as a mediation body, but that simply is not my experience. Other people may have had a different experience. Indeed, setting up a mediation body would relieve that obligation on the part of ACAT and allow it to be much more the legal instance that my experience shows that it is.

Ms Iliffe: We have had exactly the same experience. With little things that could be sorted out, if there had been the power on the part of the mediator to compel people to participate in mediation, that would have avoided taking things to ACAT. Our experience with ACAT was not satisfactory, anyhow, because they did not ever resolve the issue. In fact, they did not dismiss the issue, either; they just—

THE CHAIR: Left it in limbo.

Ms Iliffe: Absolutely left it in limbo. I certainly support what David said about having a mediation service that was focused on mediation and that could compel people to participate, and that could adjudicate and come up with a solution.

THE CHAIR: It sounds like something that currently works in the family law space, where you have mediation before you go to court, and that mediation is compulsory. Thank you very much for your contributions. It has been really useful to hear your experiences. On behalf of the committee, I want to formally thank you for your time today.

DROVER, MR TREVOR, Member, Executive Committee, Altitude Apartments
KOWALSKI, MR ADAM, Treasurer, City Plaza Apartments
PIKE, MR JON, Chairman, Executive Committee, Glebe Park Residences

THE CHAIR: Good afternoon, and welcome. Please note that, as witnesses, you are protected by parliamentary privilege and are bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. If you wish to make an opening statement, please keep it to one or two minutes, as we have quite a few questions to ask.

Does anyone want to make an opening statement?

Mr Drover: I would like to make one. Thank you for holding this inquiry into strata management in the ACT and inviting me to participate today. One of the key requests at the town hall meeting held by the strata community during the last election campaign was for the establishment of a strata commissioner. All participants, from all parties and Independents, supported that proposal. The independent office of a strata commissioner could go a long way to supporting those living in strata buildings—something that Access Canberra is not doing at present. The strata commissioner must be an advocate for the owners and residents of strata premises.

A single strata manager will oversee a portfolio of strata buildings, perhaps 40 to 60. This is a complex task and there are currently no requirements for them to have any experience or qualifications. Anyone can be employed as a strata manager, without knowledge of the UTMA or how strata buildings function. This needs to change. A strata commissioner could establish minimum requirements to license strata managers.

Executive committee members volunteer to oversee the running of their owners corporations. It is difficult to attract EC volunteers. They come into the role with no idea how complex and time-consuming it can be. There is a massive knowledge gap when new members join an EC and a steep learning curve if they stay. EC members need training resources. A strata commissioner could provide online material and regular information sessions to help fill this void.

A company would not pluck people off the street and place them on their board of directors, yet that is how an EC is often formed. My apartment complex has a budget of over a million dollars a year that we oversee without any training and often little experience. With another 23½ thousand units forced to be built in the next five years, there will be a lot more inexperienced strata managers and EC committee members coming on board. The establishment of an independent office of strata management strata commissioner could help in so many ways.

THE CHAIR: Thank you, Trevor.

Jon, do you have an opening statement?

Mr Pike: Yes, just a short one. By way of preface, I have served on the EC since 2018 and I have been chair for the last five years. I want to put things in context. The Glebe Park Residences consist of 188 units, four of which are commercial. In terms of ownership, we have about 30 per cent owner-occupiers. The rest are investors of some

sort. They could be people who potentially want to move in later on. They could be people who have just invested. Some have long-term residents and there are a number of short-term rentals. It is interesting; you need to view each complex in the context of how it is formed, how it is managed and the like.

You may have already covered some of these things. Our concerns basically are about the licensing and training of strata managers, and the increased burden put on executive committees, with more and more regulations coming into place. Other things are happening. They are well intended, but they are distractors, and they are certainly increasing the workload of EC members.

There is the complexity of the UTMA. Often there are conflicting or ambiguous statements in there, which are subject to interpretation. We have had some lawyer types who question everything that you ever do, in terms of the UTMA and their interpretation of it, versus everyone else's interpretation. Another one is the management of short-term rentals. It is an issue for most apartment blocks that have these—increased noise, extra wear and damage, and lack of guidance to prospective tenants.

The last thing that I want to mention is something that I did not include in our submission—building certification. It is a concern for me that building certification has been outsourced. The developers and builders get the building certifier. If they are looking for future work, obviously, they want to comply or seem to be supporting their paymaster. Frankly, it is a corporate governance function that should never have been outsourced in the first place.

THE CHAIR: Thank you; that is really useful.

Adam, do you have anything to say?

Mr Kowalski: We are facing very similar issues to Jon and Trevor, so I will not cover that off again. In summary, we are supportive of the establishment of a strata commissioner in the ACT.

THE CHAIR: Thank you very much.

Picking up on what you said, Jon, around short-term rental accommodation, you have highlighted some of the issues. Do you believe that individual owners corporations should be allowed to regulate this, or would it be better regulated by the government?

Mr Pike: Short-term rentals will not go away. That is the first thing. We need to have them better managed. I have found in our complex that people store keys in lockboxes and letterboxes. People are given a code and they find their way there; then they do not know where to go. They are wandering around the building. They find the car park eventually, get in there, get into the wrong lift and cannot get out, because they do not know where to go.

If people are going to have short-term rentals, they need to be properly managed. When the person arrives, they should be shown where the apartment is, where the car parking is, and any facilities, on the way in. Just putting something in a letterbox and hoping

they can find their way is not really good service for the customer, and it certainly does not support us. I will not go on about noise, security and other issues that exist with those.

There has been a suggestion that short-term rentals should be banned; alternatively, that you should not have short-term rentals under 30 days, or something like that. I do not think that would work. I think that, when they do have short-term rentals, they need to be properly administered and managed by the managing company or the owner, if they are doing it correctly.

Mr Drover: On short-term rentals, we have some in our complex. At the last AGM, we brought in a rule against short-term rentals—not specifically against short-term rentals, but it was targeted directly at them. It is about compliance with the law. Under our Crown lease, we are a residential building, not a commercial building. Having regard to past experiences with ACAT definitions, a residential building is a building in which apartments are let for three months or more, and short-term rentals definitely fall under that. We are complying with the Crown lease by banning short-term rentals.

Mr Pike: Just out of interest, has that been tested?

Mr Drover: No. We have lots of legal opinions on it, but it has not been tested. The residential, I think, has been tested, in the Australian Hotels Association case. That has been tested and has gone to the High Court, so there is a good chance that it will succeed.

THE CHAIR: How do you police that?

Mr Drover: We do not. It is only a month since we had our AGM, so it has not been tested at all.

THE CHAIR: Adam, do you have any comments about short-term rentals?

Mr Kowalski: Yes. We are facing the same issues with security, with keys being left in combination locks and things like that, which some residents are concerned about. We are also facing some complexity in that some owners are making unapproved changes to the layout of their units, to add additional bedrooms for short-term leasing. It means that it falls into a tricky space in terms of approval, as to whether it is a building matter. That seems to be an issue that we are facing as well.

MR WERNER-GIBBINGS: Mr Pike, your submission referred to strata managers being reluctant to implement key performance indicators. Could you please elaborate on that for the committee? What changes do you think would improve the outcomes—changes to the process or changes to leverage on strata managers—to recognise the KPIs and implement them?

Mr Pike: In our complex, we had one strata manager for, I think, six years. We decided to test the market. We tested it and, in that second testing, we were seeking people to have KPIs, to manage their performance. In general, people say, “We’re willing to do it,” but when you get down to brass tacks, they are less likely. They do not want to be measured in terms of their performance—responsiveness to owners’ or residents’

inquiries, or the number of inquiries. All of those things actually let you understand the level of activity and our ability to respond.

I wrote some down in the submission, and I cannot recall them offhand, but the general thing I got was that they did not want their performance to be measured or assessed at all. Indeed, one of the comments made earlier was that there will be an increasing number of apartments coming in. Strata managers end up managing more than one apartment block, in general. The strata management companies say that there is a backroom full of people that will assist them, and everything else. Frankly, I am finding that the strata manager is referring to the EC more and more stuff for decision, rather than being able to deal with it themselves. They are abrogating responsibility and transferring it to the EC. Again, that would be one of the reasons why you would want to measure performance.

Mr Drover: We introduced KPIs into our contract four years ago. We have been measuring that against our strata manager—ad hoc, unfortunately. We should have a more focused approach. We found that our strata manager failed to reach an average rating for the last two performance reviews that we have had with them. With a third one, we can cancel our contract with them. Needless to say, they are not happy about having the rating system that we have. It is up to the executive committee to insist on incorporating the KPIs into the contract when they hire a strata manager.

THE CHAIR: On those KPIs, the KPIs are written into the contract. Can you give some examples of what those KPIs could be? You have mentioned responsiveness to the owners and things like that. Are there any other examples of what the KPIs could be?

Mr Drover: We have about four or five pages.

THE CHAIR: Comprehensive.

Mr Drover: Yes, it is comprehensive, looking at the financial aspects, the management aspects, responding to requests and basically adherence to the law. Our strata manager failed to send out the minutes of the AGM within the defined time limits, which could leave us open to dispute and things like that. With executive committee meetings, they have to send out the papers at least seven days prior. Quite often, they send them the day before. You rate them on those aspects.

THE CHAIR: The tangible things as well.

Mr Drover: Yes. Mainly adherence to the law, for starters.

Mr Pike: Certainly, timeliness of issuing minutes and the quality of minutes. I have a female friend who lives in another apartment complex, and their minutes comprise a list, saying, “The EC decided this, this and this,” and that is all. Most of our minutes are four pages long. You are trying to increase transparency for the owners, so that they know what is going on. The quality, as well as timeliness, would be an issue in that case.

THE CHAIR: Do you see the role of a strata commissioner, for example, as

standardising those KPIs?

Mr Pike: I would see that as an important step. The reason is that, left to their own devices, people will develop a range of KPIs and everything else. Some will overlap; some will be slightly different. But if you could standardise them and say, “These are the ones that are mandatory,” and have a report card in which they report against those or are assessed against those, certainly, that would be useful.

MR WERNER-GIBBINGS: I have a separate question. Mr Kowalski, thanks very much for your submission. In the submission you mentioned that a standard strata manager contract with recommended fees could be established. Fees will vary significantly in a market, based on a variety of factors. Are you in a position to elaborate on how this might work in practice, from your perspective?

Mr Kowalski: We would see it as being advantageous if there was a standard type of contract. We feel that the current contracts that are generally issued are quite skewed in favour of the strata manager as opposed to the owners corporation. We are talking about insurance policies and things like that. Sometimes there are commissions, kickbacks and things like that, which are part of a contract. We have found it to be tricky in the past when we have been faced with things like increasing insurance premiums, and we are bound by the terms of the contract in being able to go and approach the market independently where there is a relationship in place with the strata manager and the insurance broker. That also seems to be the case with some trade providers and things like that.

We feel that, if there was a standardised contract developed by the strata commissioner, it would give a level playing field across the whole sector.

Mr Pike: Can I add a comment about insurance? We have mentioned it previously. Our insurance costs are rising and have been rising year on year. Part of it was related to the combustible cladding on our building. But when that is remediated, which is happening at the moment, I do not expect our insurance premiums to go down in the slightest. There is no incentive for the broker or the strata manager to seek lower quotes.

Also, in larger buildings, there are very few insurers that will take on the whole building, so you have, more or less, a small market operating. Certainly, we have looked at possibly avoiding the broker and going straight to the insurance company directly, but that can have adverse impacts, in terms of the strata manager not wishing to process claims unless it is included in the contract, which goes back to your point. A lot of this stuff is a minefield that ECs have to work their way through, and a lot of it is not covered by the UTMA. It just does not exist. Certainly, it would assist to have a strata manager providing guidance and guidelines to ECs.

MR BRADDOCK: Mr Kowalski, in your submission you talked about amendments to the UTMA to allow OCs to make rules about short-term rental accommodation services. Are you looking for the ability to ban or just the ability to regulate and inform those rules? My apologies if the question has already been asked.

Mr Kowalski: I think we are just looking for a consistent approach. We do have some owners that have purchased their units for short-term rentals and so on. As I mentioned

before, a current issue that we are facing is that we have some owners who are conducting modifications to their units to add additional bedrooms, without approval, for the purpose of short-term accommodation. That is causing issues with other owners, who are not happy with that because they feel that it impacts the value of their units. We are having to look at potential ACAT processes or engaging lawyers to get advice. They are the kinds of issues that we are facing.

MR BRADDOCK: I apologise if this question has been discussed previously: are you looking to not allow short-term rental or some way of managing it so that its impact is manageable for the complex?

Mr Kowalski: Putting something in place so that it is manageable, and maybe having a central reference point so that we can refer owners to that.

Mr Pike: I would like to add something about executive committees. The owner-occupiers basically end up being the majority of the executive committee. Our EC comprises five individuals. Four have been on the committee for at least three years. I have been on it for longer—eight years. In terms of committee training, once someone is elected to the committee, we—being me—take them through a basic induction—what the UTMA is, where to find things, and take a walk around the building, because they will hear terms that they have never heard of. If you are occupying a unit, there is a lot more that goes on, in terms of air conditioning and fire alarms—it goes on and on—that people have no familiarity with at all.

A lot of this is not associated with understanding UTMA or the duties. The duties are actually spelled out in the UTMA. It is more about them understanding what their position is and how we manage in the committee. For instance, we have six EC meetings a year. Some have only two, or less, or more. But even then, we do a lot of business outside the committee meetings because timing demands that things happen. If someone has a leak in their balcony, and it is pouring into their kitchen, you cannot say, “Wait until the next EC meeting.” Decisions have to be made offline and recorded. How do we do that, and how do we get consensus if they have questions?

In terms of training, I do not think there is an instant panacea—do a course, or whatever. It is about understanding your responsibilities, understanding the UTMA, and understanding the building and the complex that is involved. As I said, I do not think there is an instant panacea.

THE CHAIR: Thank you for that very useful observation.

I am going to pivot a little bit and talk about issues in other submissions. One of the particular issues that I am interested in talking about is the division of water bills and levy contributions. Submissions have mentioned that residential units are seen to be effectively subsidising commercial units, essentially. Do you think there is enough consideration in the Unit Titles (Management) Act of all the different demands, and do you think that needs to change?

Mr Pike: I will talk about it from my observations. I do not find any difference. They are all unit title holders, or they have a unit entitlement and the like. There are some special provisions associated with things. We have a restaurant which has to have a

grease trap; we have to have that. We clearly outlined in that case that they are responsible for the maintenance and clearance of it, even though we had to provide it as part of the building. I do not think residential people are subsidising any of the commercial units at all.

Mr Drover: We do it in a smallish way. There is one water meter that comes into a residential complex. That water is spread amongst all of the unit holders. A commercial business like a restaurant uses significantly more water than a one-bedroom apartment, say. In some ways we are financially subsidising them. We had a NABERS energy rating done on our building recently, and we got six out of six stars for electricity, but only four out of six stars for water usage, because we cannot encourage people to conserve water when they can use as much as they want.

THE CHAIR: That is really useful to know.

Mr Pike: A dry cleaning business will do the same thing.

THE CHAIR: What do you think we can do in that space to manage or push and—

Mr Drover: The regulations will change, so future residential buildings will have individual water meters coming onto them in, I think, 2027 or 2028. But it would not be viable to retrofit them to existing residential buildings.

THE CHAIR: In the meantime there is really nothing that any of you could do. It is just the cost.

Mr Drover: It is one of the many things.

THE CHAIR: It is what it is.

Mr Pike: There are a lot of things, when you join a community, that you have to understand. Obviously, with noise, people can have parties, but if it is excessive people can take action. Generally, when you join a community and you have close living, you need some forbearance. Everything is not fair.

MR BRADDOCK: Mr Drover, I am interested in terms of your attempts within the Altitude Apartments to install electric vehicle charging infrastructure, and how you have installed some common chargers on common property. What will be the next step that you will look at, in terms of doing that? What are the challenges you are facing?

Mr Drover: We were fortunate to be part of the electrification for EVs in through the building—looking at putting in a backbone of cables for charging. They had the pilot without consulting the strata community. They had some requirements there for making decisions in three weeks, when we should have had two or three months to make that decision. It was done on an equitable basis, so if we were going to put EV charging in, it was going to be available to everybody, whether they had a car or not. They got a commercial installer to come in, JET Charge. Their quotation for installing the backbone into our building was \$1.7 million, which works out at about \$4½ thousand per apartment, plus you would have to put in another \$2½ thousand to install your own charger at your own charging point, your parking point.

MR BRADDOCK: I am assuming that is level 2 charging to each point?

Mr Drover: Yes, level 2 charging, so looking at seven kilowatts per hour. They were using the scheme, putting cables to every parking spot. There is another cheaper method of doing it, which I have sourced in Sydney, and some people are doing it here in Canberra. It is called flat cable. There is a set of cables for every parking spot, the backbone goes in and puts it in, and people can hook up to that. That came in at a million dollars cheaper, but it is still too expensive for an apartment block.

We would be looking at rolling out incremental changes, if we do it. The three chargers that we have in our building at the moment are currently servicing 14 cars. We can probably do 30 or 40 on those three chargers, before we need to expand. Given the cost of electrifying the whole building, it would be a much cheaper opportunity to put in another three chargers at some point down the track.

Mr Pike: Just out of interest, who manages the charging? How do you book it and everything else?

Mr Drover: It is done by an app. You just roll up; you have an app on the phone—

Mr Pike: And you pay for it.

Mr Drover: or a card and it is billed to your credit card. The charging company reimburses us for the electricity at the end of each month. That is at no cost to the owners corporation.

Mr Pike: One of the UTMA things is that the owners corporation should not run a business, and that could be construed as a business.

Mr Drover: We cannot make a profit; that is the way we say it, yes.

MR BRADDOCK: Can I confirm: you said flat cable?

Mr Drover: It is called flat cable. In electrical terms, it is a busbar, but it is just a flat cable that is fitted to the ceiling or the wall of an apartment complex. To install cable trays in our building would cost nearly \$400,000, to lay the cables in, so that is an immediate saving of \$400,000 because you do not put that in. You do not need to put that in. There are techniques out there to cut the costs for people who want to install.

MR BRADDOCK: Do you have to enhance the electrical infrastructure to draw in more current off the street?

Mr Drover: This may seem really strange. Our building was built in 2013, and it came with an EV charging distribution board in the building for up to 160 amps, so that will do quite a few chargers. As part of the JET Charge study, we found we had plenty of electrical capacity, so if we did install more chargers, you would have load management installed. It would monitor the electricity being used and we could then cope with a lot more. But we have a lot of capacity.

MR BRADDOCK: Thank you for that information.

THE CHAIR: I have one last question. My sincerest apologies; it was probably covered in your opening statements. I thought it would be really good to hear from you, since you have a mixed-use complex. I know you have mentioned short-term rentals being one of the issues that you face as a mixed-use complex. Are there any other issues that you have identified that you face as a mixed-use complex?

Mr Drover: The only problem is that the restaurants can be very messy, with getting rid of rubbish. That is the only problem we have encountered at our place—rubbish disposal, and the accumulation of rubbish between collections from the restaurants and coffee shops.

Mr Pike: Nothing, really. There have been issues, no doubt. The restaurant is currently suing for bankruptcy. They have not been operating. The one next to that subdivided his unit into two separate lots and two businesses. He then rented out, separately, his car parking spots, not to the owners of the business. Is it legal? Probably not, but it has happened. Generally, we get along. The only thing that does not happen is that the UTMA says we should have a member of the commercial units on the EC. No-one is stepping forward. Indeed, trying to get people onto the EC is the hardest thing.

Mr Kowalski: From our perspective, it all seems to work quite well. We do have some issues with rubbish. As Trevor mentioned, with restaurants producing more rubbish, there is the timing of the pick-ups and things. There is the water consumption issue as well. We do have a single meter. Restaurants do use a fair bit of water, but it is a case of swings and roundabouts. I personally own both a residential and a commercial unit in our complex and I see both sides, and it all seems to work quite well.

THE CHAIR: We have about three minutes left.

Mr Pike: Can I raise one issue? I raised it in my submission, and it is this business about reduced quorums. If you do not get 50 per cent of the eligible voting members at a meeting, you have to wait for 28 days until the motion is ratified. Effectively, that is 28 days without an EC, because the EC is terminated at the time of the AGM. Decisions still have to be made. That has to be corrected in some form.

I suggest that they change the ruling for the reduced quorum. As I said, with 188 units, we have never, in 15 years, had a quorum, even when we had to raise a special levy for the remediation. There just was not enough interest. We are bound by a rule that should not be applicable. Make it 25 per cent, or something like that, which is more manageable. Again, we are still stuck with that 28-day limbo in which decisions are made and officially there is no EC. It is an anomaly.

Mr Kowalski: That is something we have raised in our submission as well.

Mr Drover: We introduced a rule at the last AGM to get around that one, on legal advice. You are basically paralysed for 28 days. You cannot make any decisions; you cannot do anything. We have introduced a rule to bypass that.

Mr Pike: Let us know what it is!

THE CHAIR: I was not sure if it was a question I could ask!

Mr Drover: I am selling our house rules! We have some real gems in there. Incentives for paying or subsidising people on the executive committee: we have that one, too.

THE CHAIR: Thank you very much for your contributions. We really appreciate your attendance today. We will now break for afternoon tea.

Hearing suspended from 3.09 to 3.28 pm.

CRAWFORD, MR WILLIAM, Chair, Executive Committee, Ori Building, Braddon
DEASY, MR MARK, Committee Member, Creswell Apartments, Campbell
HUMPHRIES, MR PETER, Chair, Executive Committee, Sentinel Apartments,
Belconnen
McDONALD, PROFESSOR LEIGHTON, Chair, Executive Committee, Creswell
Apartments, Campbell

THE CHAIR: Welcome. It is really exciting to have you here. Please note that, as witnesses, you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. If you wish to make an opening statement, please keep it to one to two minutes so we can get through all the questions and all the interesting topics we have. Does anyone wish to make an opening statement?

MR RATTENBURY: Otherwise we will start hitting you with questions.

THE CHAIR: We are happy to start with questions.

Prof McDonald: I think questions are fine. If there is anything the questions do not cover, we can perhaps make a closing statement.

THE CHAIR: Thank you. I will start the questions, if that is all right. There has been mention of a strata commissioner being properly funded. I want to get your views on what you think the role of a strata commissioner would cover and areas you think a strata commissioner should not venture into. Who wants to start?

Mr Humphries: First of all, it was really encouraging to see that the idea of a strata commissioner had, I suppose, tri-party support. Everyone supported the idea. That was excellent to see. The fact that this inquiry is happening is really important. Clearly, people are put off. I am sure you have heard this all day. People are often reluctant to buy into a body corporate because they see that they are trouble, and often they are. From my point of view, the big thing about a strata commissioner is going to be dispute resolution. They are going to be a point of first contact for residents, strata committees and strata managers. These are all areas at the moment, as you know, that are fairly free-floating. Being able to bring it all together into some sort of cohesive whole will make a huge difference to the quality of life of a lot of people, which is why it needs to be properly resourced. There is a lot in that.

Prof McDonald: If you are going to have something like a strata commissioner, it will be a new office. Part of the problem that we have had in our building arises from structural imbalances of power between various actors in the building. In thinking through where you want the commissioner to have powers, I would think closely about where those structural imbalances might be. One of the issues that comes up in our experience is relatively light-touch regulation of what commercial units do within a mixed use development. On one side you have volunteers, like all the people in front of you today, who often lack any sort of relevant experience. We are not repeat players; we are often new to this area. We very often act as the regulator. Enforcing breach of owners corporation rules is incredibly time-consuming and difficult to do. You have the regulator who is almost by definition weak, and then you have commercial

enterprises that are galvanised by their economic interests to be strong actors.

I did not come with a list of things that a strata commissioner might do, but for a body like an executive commission to throw its members' time into trotting off to ACAT—even though ACAT is much more accessible than a court—is not really an ideal solution. Nobody wants to do that, even if you have a bit of relevant expertise. You do not want to spend your time that way or the money of the owners corporation by outsourcing a lot of that work.

That would be my general response to how to think about where the commissioner would fit in. You have to really think about where executive committees are likely to be in a position of repeat weakness within the life of the building. Enforcement of rules is one of those areas. Another area in which we have had particular problems is where we have commercial enterprises. We acknowledge that they can add vibrancy and walkability to a neighbourhood, which is why those developments have advantages, as well as the disadvantages that Peter was talking about before. There can be dysfunction, but they can still be very attractive places to live.

Mr Humphries: Absolutely.

Prof McDonald: But, on the other hand, in our experience, we had an instance where, at the time the development was approved, it was approved on the basis of commercial units being equipped by the building in a certain way, but, for a variety of reasons, including regulatory uninterest, the commercial units in our building have been able to expand their operations in a way that does not really fit the way the building was designed. For example, we have large permanent structures built on a shared car park to increase kitchen facilities. You have people trotting in and out of the building into a covered car park, which is a guest car park, and people have used their car parks to build large cool rooms, effectively, for food storage, amongst all that carbon monoxide, traffic and whatnot. A commissioner could at least help the negotiation and navigation of the regulation of those sorts of issues.

The last one has been a big problem for us. I think there is a structural imbalance of power. There are the commercial entities and the residents, who are numerous in the building, but, in terms of unit entitlement, they are not necessarily in the driver's seat when it comes to noise from commercial entities, particularly hospitality entities. Obviously there is going to be some noise—that is accepted—but it is all about regulating disputes about a reasonable level of noise. At the moment, if you look at the standards for noise—from the EPA or whatever the ACT equivalent is—there is no real mechanism to deal with what I would describe as crowd noise. You can have a large number of people gathering outside and making noise from time to time, particularly if they speak over outdoor speakers. It is very difficult, from a regulatory point of view, to have it tested. Again, a commissioner could perhaps help in navigating some of those issues. There are other ways to do that, such as including standards and whatnot, but there are those sorts of imbalances in mixed use developments that I think you really need to look at—where you have a lot of people living there, but, structurally, there is not a lot of power to fix the problems they encounter on a day-to-day basis.

MR RATTENBURY: I took from your submission that you think there needs to be a legislative response. You can have a commissioner who can seek to correct that power

imbalance, but, if there is no legislative platform—

Mr Humphries: It has to be legislative.

MR RATTENBURY: You had a number of specific recommendations around requiring DAs to change a parking space to a cool room, and those kind of things.

Prof McDonald: Absolutely. The idea that a structural change like that does not need some sort of approval from regulators seems to be very unusual to me.

Mr Crawford: Doesn't it require the approval of your executive committee?

Prof McDonald: It did, but, at the time it granted that approval, the executive committee was basically the developer.

Mr Deasy: This was a pre-2020 developer—"All in favour of say aye." The developer owns all the unit entitlements and gives special permission for cool rooms in car parks, which double the capacity of hospitality venues, which makes it easier to rent them. There is a saying in artillery: quantity has its own quality. When you double the venue's size, you have created a different venue.

THE CHAIR: That is correct.

Mr Deasy: When you have a hundred people on the footpath drinking, that is different to a handful of people.

MR RATTENBURY: Mr Deasy, are you saying they got approval for a certain building and, before they sold a unit to anybody, they essentially changed that through the OC rules?

Mr Deasy: Yes. In any normal block, there are the ground stairs. A large part of what would be considered common property is the footpath and the yard. That is not common property—that is theirs—on which they put a shed, which they got prior approval for, and they turned the car parks into cool rooms, which doubled their capacity. In theory, the owners corporation can vote and fix that. In practice, when you have very large entitlements that are commercial operators, they exercise much more solidarity amongst themselves than atomised individual owners—50 per cent owner-occupiers and 50 per cent investors. Because of where we are, we have lots of DHA properties. Even the limited gene pool of people who are owner-occupiers do not have solidarity amongst each other, because an issue at one end of the building is not necessarily felt at the other. But, when you look at the act, it assumes that people who are living in a mixed use development wilfully join a cooperative or a co-op or a commune and that we all vote together in each other's interests. It does not work that way. The commercial operators, on the other hand, work together a bit more. So we try to get the house rules changed, such as not allowing external speakers on balconies. You currently cannot smoke on balconies, so let's have another rule for balconies and yards: no external speakers.

Our first floor is entirely Hindmarsh. The developer is there and turned up to their very first AGM in 10 years. They had never been to an AGM. They turned up for one reason only: to vote against the house rules. They do not have external speakers; they are a

nine-to-five commercial operation. But, exercising solidarity with the commercials, they turned up and made sure that it did not happen. That is in the rules. A strata commissioner, to follow up on those points, would be a one-stop shop. When an EC member is on their journey of self-education and you have a noise issue, you go to Access Canberra and they say, “No. It is the EPA for noise.” Regarding licensing, how is it that a place gets a liquor licence until midnight seven nights a week in a quiet residential area? Who do I check with on that? I go to the EPA and they say, “No. That is for Access Canberra,” or somewhere else. All the rules are out there apparently, but they are distributed and they are very difficult to find.

The point about access to justice has already been made. It is odd that, if an owner has an issue, they need to take the owners corporation—that is, themselves—to ACAT. There has to be some kind of pre-ACAT—I am not sure what the word is—lower level justice.

THE CHAIR: Mediation.

Mr Deasy: That is the word I was looking for. Somewhere to take your questions, because at the moment it is very difficult. There are building standards as well—the types of businesses that go inside mixed use developments. You can pose the question: is a mixed use development a residential building with some commercials or is it a commercial building with some residences? As per the power comments made already, it feels as though you have been a victim of bait and switch. You moved into a residential development, but you soon realised that it is a commercial operation for which you are a captive part of the market.

THE CHAIR: Those are very interesting observations.

MR RATTENBURY: Mr Crawford, in your submission you made an observation. You said there is a “lack of interest in the general ownership” and that the AGM has a requirement of “fifty per cent plus one attendance”. You observed that it means that most meetings start half an hour late—according to the rules.

Mr Crawford: Exactly; yes.

MR RATTENBURY: You have suggested perhaps a lower threshold. In the counterargument to that, people would worry about meetings being stacked by a certain group of people getting together. I am interested in your reflections on that. I do not disagree with your point, but I am interested in how we think about it from a legislator’s point of view.

Mr Crawford: My submission is purely from my knowledge of my building.

MR RATTENBURY: Of course.

Mr Crawford: It is a building of 76 units, so it is small, and 24 are commercial premises. The fact is that, for my building, every year we have a half-hour late AGM. An executive committee meeting is usually around 15 to 20 minutes late, and sometimes it is abandoned because of lack of interest on the part of one person who represents 22 of the commercial properties and a lack of interest generally amongst the 52 residential

properties. It is very difficult to make people interested in these things.

MR WERNER-GIBBINGS: We do not have many people saying that they are knocked up in getting people to get on executive committees.

Mr Crawford: That is right. We would need to worry about a strata commissioner, because a strata commissioner would come with legislative baggage. It would need to have standards that need to be upheld. We already have Access Canberra as the one-stop shop, in a sense. It is not a commissioner just for strata. It would end up having legislation behind it, presumably part of the Unit Titles (Management) Act or something similar. That increases the laws, and that then increases the complications with regard to being a member of an executive committee. It increases complications with regard to even holding an annual general meeting. That then dissuades people from contributing and being considered part of what is fundamentally a little village, if you like. We are a village of 72 or so houses and businesses.

MR RATTENBURY: A bit of a theme in this session is mixed use. I am interested in your experience. I am aware that your building had a lot of problems with a gymnasium on the first floor, if I am correct.

Mr Crawford: Yes; we did.

MR RATTENBURY: I was a member of that gymnasium and it ultimately moved out of the building, so I am interested in how that played out. Mr Humphries, you have talked about the issues that the tobacconist has brought for your building. We are keen to understand some of those issues in the mixed use environments—the problems that have been created and how you have gone about trying to fix them or not being able to.

Mr Crawford: The building has a lease from the government, and that lease stipulates that the building can be used for a gymnasium. That was done by the developers prior to building the building. They did not build the building, because they were not allowed, but they got a company called Bloc to build the building. The developers were the Bulum Group, and they had embedded, within the initial title—I guess you would call it that—that they could have a gym. They perhaps had an interest in Club Lime three years prior to the completion of the building. Anyway, they thought that there was interest and they designed that first floor with a very large open space that could be used by Club Lime. They have now changed that space. Club Lime left. They have now turned that space into five distinct units and sold off two. I understand that they are trying to sell the other three. It was a stupid thing to allow to happen, because a gym on the first floor—

MR RATTENBURY: It is very noisy.

Mr Crawford: It is very noisy, and that building is built in a way that noise reverberates throughout the building. It is not a brick building; it is a cement building.

MR RATTENBURY: The noise was impacting the residents?

Mr Crawford: I was four floors away from the noise and it was intolerable for me.

MR RATTENBURY: Mr Humphries, you talked about the problem with the tobacconist.

Mr Humphries: We have 240 apartments and eight commercial units. First of all, we are very lucky with our AGMs. We usually get at least a third, but I think that is because we have a high percentage of owner-occupiers.

Mr Crawford: How many units do you have?

Mr Humphries: Two hundred and forty.

Mr Crawford: And you get a third?

Mr Humphries: Yes. The lovely thing about living in a building like ours is that there is a strong sense of community, and the relationships between us and the commercial units were excellent until—and it is not about the relationship we have with the unit—we got the tobacconist. The issue with the tobacconist is that it very much pushed our insurance premiums through the roof. In fact, we were almost uninsured. I remember speaking to you about it, Shane. For a building like ours to become uninsurable would throw the whole strata market into chaos, as you would all appreciate. In the end, we got insured, but our premium went up by \$80,000 or \$90,000 and we have a clause in our insurance that has a \$250,000 excess for any sort of fire or arson in the building. So we have changed our house rules to pass that risk to the building to some extent to the unit's owners, who pass it on to the tenant.

The broader issue around the tobacconist certainly goes to the question of legality. There have been two Home Affairs raids. There are certainly issues around some of the clientele; they are fairly boisterous. And litter has become a huge problem. But the big issue has been the insurance risks for us. We were not expecting this. We only knew that there was a tobacconist opening in our building when they turned up. We have since put something in our house rules requesting the commercial unit owners to advise us if there is a change in tenancy, but, at the moment, that is all we can do.

MR RATTENBURY: I imagine you have looked into this, but there is no ability for you to vet or anything like that?

Mr Humphries: Not at all.

MR RATTENBURY: And also no ability for that increase in cost to be isolated to that unit?

Mr Humphries: It is very tricky. While we can cover the specific excess requirements, because it is specified in the insurance, the general insurance premium went through the roof and we cannot recover that cost.

THE CHAIR: You cannot determine what that cost—

Mr Humphries: You cannot apportion it. It has been a real issue. It has been an issue at our AGM. That was the big hot issue. People were saying, “Why can’t you do something about this?” You could imagine. The reality is that it is a legal business, and

there is nothing we can do about it at the present time.

Mr Crawford: Why is it a legal business?

Mr Humphries: It is legal; it is a tobacconist.

Mr Crawford: It is legal?

Mr Humphries: It is legal.

Mr Crawford: It is illegal to sell vapes.

Mr Humphries: Yes. That is another question about how they operate the business.

MR RATTENBURY: Theoretically, it is a legitimate business.

Mr Humphries: It is a legitimate business—yes.

MR RATTENBURY: Theoretically.

Mr Crawford: Legally, there should not be one tobacconist in the ACT at all, because—

THE CHAIR: That is another question for another hearing.

Mr Crawford: And there is the broader social policy debate about the use of excise taxes, but that is another story altogether.

MR RATTENBURY: Indeed.

THE CHAIR: Thank you for that contribution. Picking up on the insurance theme, what do you think we could do to help restore the balance between strata insurance, the owners corporation and the executive committee? What are some of the things we could do to help push that balance?

Mr Crawford: One possibility would be one owner, one vote. At the annual general meeting, there is one unit per vote. At the executive committee level, it is one person per vote. At the annual general meeting, we somehow manage to make it one person per vote, no matter whether they own one unit or 22 units. Then you immediately wipe out that imbalance.

Mr Deasey: It starts at the start. Imagine these buildings are people's homes first and you are talking about insurance. The reason people downsize is that they want something cheaper and easier to manage. The rules are set such that you sort of anticipate these problems. If you delete tobacco and the sorts of customers that go to tobacconists and insert alcohol, you have exactly the same thing. So reconsider. Anything that has a grease trap, for example, perhaps does not belong below houses. I am not sure whether you have smelt an overflowing grease trap before, but it is appalling; it is terrible. There is an owners corporation, so we own that infrastructure. They would hopefully periodically empty it. If they do not, you know about it very

soon. There was \$12,000 worth of damage for us to fix. Perhaps anything that has a grease trap does not belong underneath people's homes. Perhaps liquor licences could be more selectively issued. Next time you go to a city, you will see PJs. Imagine having PJs underneath your house.

Mr Humphries: Some people would like it, but, yes, I know what you mean!

Mr Deasey: You have the risk of kitchen fires; you have dozens of drunks; you have nicotine and tobacco; you are going to generate insurance issues that are preventable by better legislation. That would start with these are people's homes first. Some businesses are compatible with people's homes—

Mr Humphries: Not all.

Mr Deasey: but not all.

Mr Humphries: This is not a radical view; it has been considered in other states, as you are well aware. The exploitation of strata properties by insurance companies is, I think, beyond dispute. Premiums have gone through the roof. We cannot even claim on our insurance because, basically, the excess is \$25,000 for every single claim. So we never make a claim, and we still pay them \$200,000-odd a year. One of the things that I think could bring the market back to balance is for the government to be an insurer of last resort. If people are really stuck, that would create some balance, because at the moment there is no option to insure with one of the really large corporate insurers. They exploit the market for all its worth. I know that, in other states, it has been considered that the government becomes an insurer, only of last resort, to help balance questions of insurance. I would think it is exploitation; we are being played by the insurance companies. I do not think we would be sued for saying that. It is just a thought.

Mr Crawford: This is a good point. There is another aspect about insurance, and that is that very few insurers want to get into the strata area.

Mr Humphries: Exactly—very few, so the market is very limited.

Mr Crawford: It will become more difficult as time progresses and we will end up being a bit like properties in flood-zone areas and other things—basically uninsurable.

Mr Humphries: The problem with this is, of course, that, as the premiums go up, the levies go up, which make strata living less attractive than it should be. There are lots of good things about it, but that is one of the big issues. Once those levies start climbing, people say, "Hmm." This will be one of the things that will really push it.

THE CHAIR: Insurance is an issue that we need to look at, because, if we are looking at densification, it is really—

Mr Humphries: If you are looking at densification, you cannot ignore this issue. That is right.

THE CHAIR: It is an issue—absolutely.

Mr Humphries: You are looking at it; it is already happening.

THE CHAIR: Yes.

MR WERNER-GIBBINGS: This is perhaps more for elaboration. Professor McDonald or Mr Deasy, elaborate on decisions—which you have seen or have been a party to—made by owners corporations that have disproportionately favoured commercial owners at the expense of residential amenity. We kind of touched on it and you have talked about having a grease trap underneath apartments, but is there something that feels systemic about disproportionate favour? Is it a one-off, now and then or distinct to commercial use in mixed use properties? If the answer is yes, how you address it if it is systemic?

Prof McDonald: Are you talking about decisions that the EC or owners corporation have made?

MR WERNER-GIBBINGS: Yes.

Prof McDonald: It is probably more a case of decisions which residential members of the EC have been unable to influence or implement, such as modification of rules that increase the amenity for residents. One of the shared areas in our building is an area that leads to the waste rooms of both categories. The interests in keeping that clean are very different. Trying to have much stricter regulation or encouraging people to make sure that the transportation of waste that can drip is undertaken in an appropriate way is very difficult, even to get small changes. With respect to noise, for some residents in the building, perhaps in an ideal world there would be no outdoor speakers whatsoever. Others might be happy if at least the outdoor speakers were switched off at a reasonable time every night. Those sorts of things are very difficult for an EC to deal with without some sort of regulatory assistance.

Mr Crawford: The problem is that regulations tend to be one-size-fits-all regulations, and they go to standards, and that means lowest common standards, and they are still apart. Each building has different flavours; each suburb has different flavours. The building I am in is in the middle of Braddon. If we did not get noise from Lonsdale Street, one would walk out to a very different atmosphere. It is something you buy into. There is a suburb in Sydney called Annandale. It had a lot of newly wealthy young people buying into it and they immediately disliked the pubs with rock and roll going until 2 o'clock in the morning, so they started complaining about the pubs, but it was the pubs that made them initially interested in the suburb. Their interest in the suburb was that it was nice, cool and interesting, and then they suddenly realised that nice, cool and interesting can also have its problems. You have to juggle.

Mr Deasy: Going back to the question, “What can we do about it?” the issue is about enforcement. We can say, “You need to clean up all your spills.” We had an accident and we had a claim. There was oil. We needed to issue an infringement notice. Regarding noise and nuisance, when you say, “You’re making a noise. It’s a nuisance,” a residential neighbour will more or less respond to it and pull their heads in, unless they have an issue, but the commercial ones do not have neighbours; they have customers or no customers. We are in the weird situation where the rules of insurance mean that, if we want to take a commercial unit to ACAT, we pay. We have insurance

to defend against cases, but we need to pay for enforcement. The owners corporation is a member, so we would be taking one of our own members to court. It is structurally imbalanced. There are unnecessary impediments to what should be very simple things: do not make a mess; do not make noise. It is very difficult.

MR RATTENBURY: Presumably, that is where you imagine a strata commissioner would play a role in having an ability to enforce those kinds of breach notices.

Mr Deasy: Firstly, define it better. For example, the EPA has mechanical noise, but it does not have people noise. There are decibel limits for music and machinery. So, firstly, make the definitions much easier and then be the first port of call for these sorts of issues, where you say, “Here are the minutes of the meetings. Here is what we have done,” Provide a low-cost and easy-to-access justice option for these petty resolutions. They happen all the time and do not go to ACAT. They fester and become problems and disincentives to living there. It is an enforcement issue, and it is a definitional issue as well in terms of noise and nuisance in particular.

THE CHAIR: I want to pick up on a comment you made around paying to take the businesses to ACAT. You have insurance that covers you. Could you explain that a bit?

Mr Crawford: Yes. It goes to guidance for a strata manager. We have insurance which covers us against legal action, up to \$20 million or something; however, it does not cover us to take legal action. The commercial enterprises are really clever, they have deep pockets and they are much better organised than us. They run around us—they sort of eat us up for breakfast or whatever—and they will deal with us at ACAT very easily, but we need to pay, unless we have legal expertise, to get access to justice for basic things and to enforce things, to take it up a level. It is one of those things where you just go “Ah!”

Prof McDonald: One way to think about owners corporations and strata is that the strata corporation is another level of government. There are rules that regulate owners corporations and how people within a particular community behave. It is unlike other levels of government where there are regulators that enforce the rules. The underenforcement of rules should be entirely unexpected in that context.

Mr Crawford: We have not touched on strata managers yet. Why aren’t the strata managers enforcing rules for you?

Prof McDonald: They are not onsite to collect the evidence all the time and hear the noise when it is happening.

Mr Deasy: I will pick up on governance. Imagine that a strata manager is our full-time public service. The committee is supposed to do this. A strata manager can never fix a bad committee, but a good committee can fix a bad strata manager. That is where the power is. But a committee is no better than its owners corporation. Taking a level of governance issue and the principles enshrined in the Unit Titles (Management) Act and applying them elsewhere, at legislative elections the property owners—the people who own businesses in the ACT and live in Queensland—can vote in our elections because they have a property entitlement, but people who live here and do not own property cannot vote. If we take the principles of the Unit Titles (Management) Act to another

level, that is absurd. There is the federal election example. Gina Rinehart can vote with her unit entitlements. Most of us would consider that to be ridiculous. In the Unit Titles (Management) Act we have a feudal system: not only do landlords have rights and serfs do not; the more land you have the more votes you have, and you do not even need to live in the building.

That needs to be questioned. It is absurd. If you cannot defend billionaires voting on their unit entitlements at the federal election or Queensland businesses voting in ACT elections, you cannot defend the Unit Titles (Management) Act, the way it currently is. Voting will not fix everything—look at the other levels—but it will mitigate against the likelihood of capture by the big and the powerful.

MR RATTENBURY: I will use that as a link to go to a couple of questions I want to ask. One is about the experience of renters. We have heard some evidence that, of course, renters have no voting entitlement and cannot attend the AGMs, but also they often do not even know when there is to be maintenance in the building or a whole range of things. I would be interested in your experience. Do you have a reflection on how renters fit in your buildings or any ideas on how we might address issues?

Mr Humphries: We are really conscious of that, and I am glad you raised it. We have a welcome pack which not only includes the body corporate rules but also gives them all the contacts they need. It is absolutely important that they know who the building manager is and, if they have any issues, they are treated exactly the same as anyone else. That is pretty much how we handle it.

MR RATTENBURY: I imagine that is quite unusual, but it is terrific.

Mr Humphries: It is important because nearly half of the people who live in our building are tenants, so they are part of our community and you do not want them alienated. The more alienated they are the more difficulty you will have, to state the obvious. We make a real effort to be inclusive of tenants. We occasionally have things called resident forums, not owners forums, and they are very well attended because the focus is on who lives in this community, not who owns units. One of the obviously really tricky things with owners corporations—and we have just been talking about it—is that it is all about ownership; it is not about residents. What really makes a building a good place to be is how the residents live together. That is what we do.

MR RATTENBURY: That is an interesting idea. Terrific. Congratulations on doing that. Does anyone else want to comment on renters?

Mr Crawford: I see a difference in the care that people have for the building, between owners, residents and short-term tenants. In the places that let out to Airbnb and various others, you can see the difference in quality. Their doors are marked, scuffed et cetera. We have fewer problems with long-term—six months plus—tenants. In fact, there are almost no problems at all. Then you have the community of owner-residents. Then there is the other sort of strange community of non-resident-owners who will get excited by an AGM but are otherwise ghost-like.

Mr Deasy: We could assume that most tenants will one day become owners. It would be a good opportunity to participate in the governance of the building you are in. We

also have absentee landlords who do not vote. Those who live there and pay triple the amount—by paying rent—that owners pay in body corporate fees cannot vote. Why can't each unit have two points, if you like, or two votes? An owner-occupier gets both.

Mr Humphries: A resident vote—that is a good idea.

Mr Crawford: If it is an investor unit, the investor gets one and the tenant gets the other. They can turn up to AGMs, see how it works and turn up to committees. You broaden the gene pool of participation. Will most tenants want to? No. But those who want to should be able to. The more people learn more about how these lower levels of governance work the better the process will be going forward.

THE CHAIR: It is capacity building.

Mr Crawford: Get them in early, and then, when it comes to the time for them to buy their first place, they are going to be much better informed because they have been to the committee of the one that they were renting in. That is a good equity issue as well. We have all been a first-home buyer. We make terrible mistakes, and that could be prevented by being facilitated to a committee and voting in accordance with your entitlement.

Mr Humphries: I have a quick issue that I absolutely have to bring up because I was instructed by my residents forum to do so. This is a question in our building and many other buildings. There is an increasing number of families with children. You know about housing affordability. You know the reasons for this. We have lots of children and lots of dogs. For us in Belconnen, but it is also everywhere—and I know Cris Brack spoke about this earlier—there is the question of green space not being considered. To be a bit parochial, the lack of awareness of the green space issues in Belconnen, with Margaret Timpson Park, has been really disappointing to the community. The nature of who lives in strata communities is changing. There are more families, more children and more animals, so the way that we think about where those buildings are put and how they are supported with green space is absolutely critical. In a way, it was not so much an issue when there were basically young people and retirees. The nature of who lives in these communities is changing. I promised I would bring that up so you would consider those broader questions.

THE CHAIR: Thank you. If it gives you any comfort, it has also been raised around not just the building but the surroundings as well—thinking about it more broadly because the kinds of people who live in units changes over time.

MR RATTENBURY: Could I ask one more question?

THE CHAIR: Yes.

MR RATTENBURY: Mr Crawford, in your submission you have recommendations around revising the rules on waste collection from mixed use complexes. What is the issue in your mind?

Mr Crawford: The ACT government has a waste collection policy whereby you have to put the waste that would be collected for free on the street, which makes a lot of sense

in a green neighbourhood where you have grass verges et cetera, but, in a lot of the inner-city unit blocks, you do not have grass verges. What you have is shops, and they are predominantly coffee shops. Those shops have customers that queue from 6 o'clock to 8 o'clock in the morning, and that is the time that one is supposed to put all the waste onto the street. Also, for us on Lonsdale Street, it is a ridiculous concept because there is no parking. The garbage truck would have to block the whole street to stop and pick up the garbage. We have a back area where garbage can be picked up, but Veolia—I cannot remember the name, but it is the people who have been outsourced to pick up garbage—will not come back to pick up curb-side garbage, even though they come every day to pick up the residential waste and the commercial waste.

MR RATTENBURY: If I am correct on your point, you have to pay twice for garbage collection, because you pay as part of your rates, but then you have to pay for a garbage service as well.

Mr Crawford: You have to pay for a skip.

Mr Humphries: We do that as well. We pay twice.

MR RATTENBURY: That is the point you are raising.

Mr Crawford: You have to hire a skip for three days and get all the garbage into it. It is a commercial transaction, whereas it is a free service for the vast majority of ACT residents, because they do not exist in a situation where the front of their building has coffee shops, fundamentally.

MR RATTENBURY: I understand.

THE CHAIR: It is not an equitable process.

Mr Crawford: It is a situation where we do not get the services that other people get.

MR RATTENBURY: Thank you. I understand the issue now.

THE CHAIR: Thank you very much. We have now past time. Once again, I thank you all for participating and for your contributions. I will give you 30 seconds for any comments that you really want to raise or something we have not touched on.

Mr Deasy: I am also invested in the Melbourne Building. The point was made that people do not want to join committees. We have the reverse situation there. A clutch of big commercial enterprises are blocking small ones by doing things like: must nominate the day before; cannot nominate from the floor; poll voting and whatnot. They are capturing that and they are running it so badly that we have borrowed for insurance for four years, we have AGMs that are 18 months late, and we are not paying enough fees, and the ACT government just gave them half a million dollars to paint the outside of the building. That is how clever the commercials are. The commercials are so clever that they will convince the ACT government to give them a half a million dollars, but, if you spent 30 minutes doing a document review of how that place is managed, you would not do it.

THE CHAIR: That is interesting.

Mr McDonald: Very quickly and to end on a positive note, a little bit where I started, living in mixed use developments and as part of a vibrant neighbourhood can be fantastic. I think this is a wonderful opportunity for the committee to ensure that the experience of residents is adequately weighted in these buildings and, in so doing, actually secure the long-term viability of the commercials as well. Not all regulation is over-regulation. I think there is some scope for strata corporations to get some more assistance with respect to their residential communities being adequately considered.

THE CHAIR: They are all very useful comments. Thank you.

Mr Crawford: I would like to warn against having a strata commissioner if that commissioner is supported by a series of regulations that do not allow for flexibility. We have seen this in higher education. We have seen it basically anywhere that you have a commissioner or any sort of person like that with legal powers. They will create rules, regulations et cetera that will be forbidding and make people uninterested in joining the community that each particular apartment block has.

THE CHAIR: Thank you again for those observations. On behalf of the committee, I formally thank you for attending today and for all your contributions. You are welcome to stay, if you would like.

Short suspension

ARCHER, MR ERIC, Acting Chair, Capital Hill Apartments Executive Committee
GOODE, MS CHRISTINE, Chair, Saint Germain Executive Committee (UP4323)
KAMARUL, MS ANNA, Member, Saint Germain Executive Committee
MORGAN, MS CHRISTINE, Executive Committee, ESTATE (UP12776)

THE CHAIR: On behalf of the committee, I thank you all for your attendance today. We have many witnesses for this session. Please note that as witnesses you are protected by parliamentary privilege and bound by its obligations. You must tell the truth, as giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. If you wish to make an opening statement, please keep it to one or two minutes, so we can go through the questions we have prepared. Do any of you have an opening statement you would like to make?

Mr Archer: Maybe a couple of comments to set the scene for Capital Hill Apartments. Our executive committee currently comprises eight members, five of whom are septuagenarians, one is an octogenarian and two are youngsters under 60. So that gives you a feel about that. The turnover at the AGM is about 50 per cent. So there is no such thing as—well, there is some corporate knowledge maintained within the executive committee, but it does change so often that it is very often lost.

Our value, the value of our investment is around about \$50 million, a little bit over. Our concerns that we identified, when I wrote the submission to this committee, were; the strata manager, the executive committee, a strata commissioner and rulemaking. So those were our key areas of concern. From what I saw this morning on the screen and in listening to submissions this afternoon, those themes are absolutely rock solid for all, I think, strata entities, commercial or non-commercial.

THE CHAIR: Thank you, that is a very useful observation. Thank you for that general comment. Anyone else have an opening statement, or do you want us to go—

Ms Morgan: Probably just to follow on from that, just to set this—pardon, my apologies. No, no, you go first, that is fine.

Ms Goode: I was going to say, go ahead with questions.

Ms Morgan: It may be something which has been addressed, or not, but our particular concern that I am here to represent is in that period of transition between completion of a new development and the owners taking occupation and forming an owners' corporation. That is a very critical transitional period where, effectively, the strata manager is there, frequently appointed by the developer, but really needing to represent the owners' corporation with quite significant issues about handover documents, defect management, et cetera in that critical period.

THE CHAIR: I will then ask you the first question to elaborate on the teething issues that you find in that transition period and what you think can be done to address it.

Ms Morgan: I think this is where a commissioner could be of significant interest. So in the circumstances of ESTATE, the building was completed, or the development was completed, around about July 2020. It was six months by the time new owners had taken occupation, had formed an owners' corporation and we had had our first meeting,

first effective meeting. So in that period of time—and it is quite a short window of time when you have the developer on site, you have the builder there and you have a strata manager appointed by the developer.

For ourselves, it was about ensuring, I think with the benefit of hindsight, that the strata manager at that point in time is clearly acting on behalf of the owners' corporation, and in terms of skills, has the necessary skillset to be able to understand the nature and content of the documentation that is handed over. So much of the subsequent defect management really is sourced at that period.

So in terms of what could be done about it from a commissioner perspective, certainly if you are looking at things like certificates of occupation et cetera, there is an opportunity potentially for certification as to what needs to constitute the handover documents and the standard to which they should be set at.

Ms Goode: Could I make perhaps a related point but that goes even a step back? We have touched on this at the end of our submission. We think that much more could be done, over time, to get the planning and standards and compliance regime really fit for purpose, or a better fit for purpose than now. There are so many stories of major defects arising with a new building. We think that a possible role for a strata commissioner, recognising there are other areas of government that deal with building standards, planning and so forth, but a possible role for a strata commissioner could be to distil the sorts of problems that are arising, the significant defect issues they are seeing and have a role for providing advice and recommendations to other areas to improve building standards and particularly to improve compliance with building standards. If you can cut it off at the pass and avoid some of the very costly things arising, I think that would be tremendously helpful.

Ms Morgan: I think a central repository of information about—

Ms Goode: Yes, about what is cropping up.

Ms Morgan: —what is cropping up, how it is being managed by various developers and builders, which I think would be of critical importance potentially for new purchasers coming in and looking at asset value. Then I think subsequently—so that would be one usefulness, and then the second is in providing assistance for those circumstances that arise where it can be challenging doing the follow-up. So not doing it on behalf of the owners' corporation, but I think providing standards, providing access to resources, information and assistance.

Mr Archer: Could I add to that? It is not just new building defects. As buildings age significant defects arise, and in addition to that, things like converting from gas to electric hot water systems and the problems and costs associated with those major outlays.

THE CHAIR: It has been mentioned that some ongoing information, a data repository, would be good to have to handover to new owners of existing buildings as well. So thank you for those observations.

MR RATTENBURY: In that vein of sort of central supply of the information, one of

the propositions put to the committee is that there be a central document hub. The point they have made is that if you change strata managers you might lose a lot of documents, or between ECs information is lost. I am seeing if you have experience of it and whether you have a view on whether this would be useful?

Mr Archer: Well, certainly for us it would be a major asset. After a number of years—we were built in 2008—so we have corporate records and as you say, with the changeover of executive committees and managers, and as we have transitioned from various platforms, so much information has been lost. Everything now is online and we do not have any records management or record-keeping system. We do the best we can with what we have, even to the extent of trying to get a laptop for the executive committee. Small things like this really make life difficult for us when we are looking to our corporate knowledge and records.

Ms Morgan: I think in terms of these standards and being able to ensure there is a minimum standard, a minimum set of documents that is relevant to any asset—and they are significant assets—often, well frequently, we work through the strata managers, but I think having a mechanism and a central repository for documentation would ensure that it is there, it is collected and it is kept to a certain standard.

Ms Goode: Our strata manager has a building link portal. We take the initiative as the EC to make sure all the documentation gets on to that. So we have a complete set of minutes since we began; we have all the contracts; we have the maintenance plan; the sinking fund plan—everything is on that hub that is managed by the strata manager. They do that for all their buildings. So I agree about a document hub of things which run across a range of buildings, or which are wider guidance documents, or templates or whatever. I think probably the onus should be on strata managers to provide the facility to have complete sets of documentation.

MR RATTENBURY: Part of the evidence we received there was—and that sounds terrific that you are so organised, but then if you were to change strata managers, what happens to that set of documents?

Ms Goode: It is written into our strata management agreement that if we change the strata manager the current one is obliged to transfer all of that documentation.

Ms Kamarul: And in their case that does happen. I have heard in recent times it has been pretty seamless, like overnight.

Ms Morgan: So perhaps there is room for, Shane, thinking about it from the perspective of what the critical documents are which absolutely are needed to ensure the ongoing protection of the asset and the history of the asset, the building of the assets. I think particularly around any significant defects that have been rectified, because sometimes—with all due respect to strata managers, they are human—there is a discretionary component of what is retained. So I think you may well choose to say for things like minutes et cetera, that it is a responsibility to keep ourselves, but I think in terms of some of that documentation that goes to the very fabric and value of the asset, there would be, I think, usefulness in having a requirement for it to be centralised and to be held.

MR RATTENBURY: Yes, and possibly a legislative requirement in the act.

Ms Morgan: Yes, yes.

THE CHAIR: And possibly, because we have heard mixed reviews about documents being kept and how strata managers are managed across buildings, standardising, essentially, the roles of strata managers.

Mr Archer: Yes, document management is a real issue with executive committees and the relationship between executive committees and the strata managers. In our experience, we have a big gap in our corporate memory because something happened a few years ago. As each chair of the committee or each committee changes annually—ours is 50 per cent as I mentioned—you do lose expertise, you lose people who are interested and who know how to manage the information. So you are constantly playing catch-up with records.

Ms Morgan: I think that also touches on an issue that comes a little bit later in the terms of reference but is also about the capabilities and skills of being on an EC, which for some people is a completely new area. It is a voluntary role. People take on considerable responsibilities and do it with great integrity, but you cannot necessarily know what you do not know. So I think in terms of those aspects of retention of value, protecting the fabric of a building, protecting it as an asset, it would be of assistance to have some legislative regime around it, just to ensure that.

Mr Archer: —which are quite onerous for a volunteer organisation.

Ms Goode: In that context of assistance to ECs, I agree, it is a big role and it is a big responsibility. We are fortunate at the moment as we have people with a range of good skills, but we are only small, only 47 apartments. Some of us are ageing, as you say. Many of us. Another area where a strata commissioner perhaps could help would be the idea that in their office or whatever, they have a panel of experts; legal, building management, engineering, insurance experts, who could be made available to ECs when they are tackling a difficult issue. I have not fleshed it out. It is just a thought. If all ECs knew they could go to this point, where there will be an expert they could call on.

THE CHAIR: To provide advice.

Ms Goode: Yes, yes to help. I mean, some of the submissions touch on other means of assisting too, guidance documentation and so on, case studies.

THE CHAIR: Picking up on ECs for a minute, there has been commentary around some kind of training, whether mandatory or voluntary, for ECs. I want to get your views on that, on whether you agree there needs to be some kind of formal training for ECs, considering that it is a voluntary role.

Ms Morgan: If I cut to the chase, given the fact that if you get it wrong then you have some legal responsibilities, I think ensuring that input equals output, that you have at least access to resources to ensure you feel competent to meet that. I think the fear factor for somebody is, “I am taking on a role. Gosh, if something goes wrong, I could be held responsible. I do not know what I do not know.” So, whether to make it mandatory or

not probably has a range of different views, but I think at least if somebody is prepared to volunteer, then they are probably wanting to be able to access something and again. It comes down to standards. Have we accessed training which will ensure we have an appropriate understanding of what we are responsible for?

MR RATTENBURY: I wanted to ask the same question about training because I think it is a really interesting one and we have had quite a range of views on mandatory versus voluntary.

THE CHAIR: Competency based, yes.

MR RATTENBURY: A point I found very compelling this morning was when somebody made the observation that for most voluntary roles you need to fulfil some sort of learning requirements.

Mr Archer: Well, can I just make—

MR RATTENBURY: The suggestion has been that a basic one-hour online course seems a not unreasonable requirement.

Ms Goode: I think not mandatory because—

Mr Archer: If I could just make a point that the EC appointed by the OC has similar responsibilities to a board of directors in the corporate sector. Whether that is fact or not, I do not know. Certainly when I volunteered to go on our EC this year I had no idea that this was, in fact, the case. I think very few members of the committee are really aware of that. And even being aware it, what does it mean, and what does it mean in its voluntary capacity? Do the same rules and regulations apply? So I think there is an absolute need for more education of the EC, of an incoming EC. Even the EC turning over annually is problematical because, as I said, 50 per cent turnover or more. Could there be a two-year turnover instead? Could executive committees run and operate on a two-year cycle rather than an annual cycle? Just to make sure that you do have some kind of corporate continuity and to be able to manage—

THE CHAIR: Retention, yes.

Mr Archer: Like government, you know, three years is just not really enough to do it.

Ms Goode: But is it not a matter of the individuals being willing to stand again?

Mr Archer: Yes, but that is so unpredictable, and particularly in a complex such as ours where the people who put their hands up are usually retired and getting on in years. There is not the same—and the younger people are not remotely interested. People who rent are not remotely interested. So it is the same few doing the same amount of work, and even on the executive committee it will be a few doing the heavy lifting, three or four. The chair, the secretary and the treasurer usually do the heavy lifting. People are on the committee for different reasons and some have really no idea what they are there for. So you have to manage this and manage it in such a way that we are not paid employees. We do not have a job spec. We have to get along with our community. We cannot get tough with people, with each other. We have to treat each other differently.

It is a very different kind of organisation and it takes quite a bit of learning to understand how it works because it is not like a normal commercial-type structure.

MR RATTENBURY: Ms Goode, I think you were going to jump in on that one as well?

Ms Goode: The only point was, I would not favour mandatory training because I think it could be a disincentive to people standing and nominating, and we do not want disincentives. The availability of training material, I think, that people can use at their own pace or do online is helpful.

Ms Morgan: I would probably—and it is unusual for me, but for this one I probably would err on the side of leaning towards the mandatory—

Ms Goode: For ECs or—

Ms Morgan: —only for understanding the personal responsibility that goes with it. I think for two factors. I think, one, if you did have a commissioner and that was a place which could make sure the adequate resources were there—I think if, on one side of the ledger, there are expectations being placed upon ECs as to what needs to be done—and that is particularly if it is a legislative requirement, “These are the expectations with respect to what you will do,”—then I think the other side of the ledger should be, “Therefore you must do this level of training in order to understand that.” Now, I do not think it needs to be overly onerous so—

MR RATTENBURY: The suggestion has been a one-hour online course.

Ms Goode: Yes, exactly. Yes, something like that.

MR RATTENBURY: So that there is an understanding of the basics.

Ms Goode: Which is continuing development and understanding, yes.

Ms Kamarul: I was just thinking about an online course. I mean, if it focused on the penalties that executive members may face if they did the wrong thing, I think that would spook people altogether. And one hour does not do anything to bring people up to speed, in my view. I have got a legal background, and I think it would take many, many hours.

Ms Goode: Different segments, you know.

Ms Kamarul: Yes, it would be a TAFE-based course or— Hopefully very inviting and hopefully easy to access. Possibly, there would be incentives built up. I do not know how, certificates or something. But to say that one hour is adequate, I think—

Ms Goode: I mean, I think there are clearly different segments—like understanding insurance is important, I think.

Ms Kamarul: Yes, important.

Ms Goode: You know, and the dividing line: What is the role of the owners' corporation in insurance? What is the role of the individual owner? There are some grey boundary areas there. There is insurance, there is building management, and designing and developing your sinking fund plan. There is a whole series of segments, I think.

Ms Kamarul: And finances. A lot of people do not really understand balance sheets.

Mrs Morgan: So maybe an hour might be a little bit light on!

Ms Kamarul: Sorry, I know that was not your suggestion.

MR RATTENBURY: Sure. No, no.

Mrs Morgan: No, no, and I agree; it is not so much about spooking and saying, "These are the things you can—"

Ms Goode: It should be about helping.

Mrs Morgan: It is more saying, "Look, these are the areas you really need to be across or ensure somebody on the committee is across". It is understanding about the differences between the owners' corporation and the EC, and the breadth that you have just given me beautifully then.

MR RATTENBURY: And please do not be too spooked by the hour. We have had a range of suggestions. It is interesting to test them with others to get a sense of people's reactions.

Mr Archer: Could I just make a very quick point? This is the absolute reality, the actual reality of an executive committee. I err on the side of mandatory training. But it could be broken down: say, the chair, the secretary and the treasurer have a certain level of training, and then ordinary committee members have another level. But I absolutely agree with you, it is not a one-hour session. I mean, it raises the whole issue of "is the system working?"

I think I made a comment in my report that, simply put, what is currently being asked of EC members might be considered as unrealistic and unreasonable, given the current level of strata management knowledge. To my mind, it is unreasonable. Does the whole thing need to be re-engineered? It is becoming so complicated. It is becoming so difficult to manage expectations, to manage these huge transitions that we are talking about from gas to electricity. It is just becoming very, very difficult.

Mrs Morgan: I think there certainly is an element that—I do not want to use this phrase of luck-of-the-draw, it is not that—the skillset on an EC can only be drawn from the owners. In our instance, we have had to manage a fairly significant defect. Now, we are very fortunate that the chair of our EC has a professional background which well positions him to understand all of the issues involved in that. If he was not there then it would be a completely different matter. So, I think I think there is that component of where the EC—if you own your own house, you get to make the decisions for yourself and the only person to complain about it is yourself—but on the EC you are making very significant decisions on behalf of many owners. So, somehow being able to ensure

a minimum level of understanding and accessibility to skillsets when they are not represented on the EC is really critical.

Ms Goode: Yes: access. Yes.

Mr Archer: And in tandem with that is the managing agents' responsibility, who are supporting the EC to manage this business.

THE CHAIR: Thank you very much. That has really been useful. I just wanted to pivot a little bit: you have mentioned it a few times, Eric, around issues and implementing environmental measures such as installing solar panels, EV charging stations and converting from gas. Can you expand on those issues and what they are? Where are the tension points?

Mr Archer: The tension points lie in the upcoming cost of Capital Hill Apartments converting from gas to electric hot water service. Not only is our plant aging and needs to be replaced, but the sheer cost and the complexity, and the shutdown time for the apartment complex of making that conversion is unknown to us. And we are very interested in seeing the work that is being done. I think there is a program that has been set up now to look at what is involved in that conversion. It is a big concern for us in our forward planning, in our budget estimates. We do not know precisely when we are going to be able to make that conversion. We do not know how much it is going to cost, and we do not know the downtime that the complex will require.

So, the issue is to do with our forward planning, and to do with our budgeting and forward estimates. We are like a shag on a rock, you know; we are squeezed to keep the levy stable, yet at the same time we are facing increased costs for the rates—significant increase for the rates, and, in fact, poor Forrest has an additional impost applied by the government.

So, we are trying to keep our costs down. We are combating a whole range of other issues as well to do with insurances. We have a big issue with our insurance provision. And so it is a question of the unknown. And we are also a bit scared of the unknown. And it goes back to who takes on a role like this on an executive committee when you are dealing with such complex issues, and time-consuming issues—and what expertise is required.

THE CHAIR: Thank you for those observations. Does any other panel member wish to add anything?

Ms Kamarul: I suppose we will canvass the issue of strata managers and education, compulsory or not.

MR RATTENBURY: Please.

Ms Kamarul: Because it seems to me that even though strata managers are agents of the OC, they often act as leaders when people on the EC have very poor awareness and background. Sometimes the people that are employed by the strata management agencies are not much better informed than the people they are trying to lead. Even though those people should be following them. I think it is absolutely essential that

there be better training for the people who are employed by strata manager businesses.

Just anecdotally: my experience with Saint Germain has been that it is incredibly well run by people who are not authoritarian, and they are supported by good people who they help to train up (to a point that was made earlier). Also, I was on an executive committee very recently of another set of units of similar size. That executive committee has delegated all its functions pretty much to the strata manager and that makes it a very easy life for the people on the executive committee, and it turns out I think this strata manager is doing a very effective job.

But I see what comes and I have the comparison: I see what comes in that system versus the one in Saint Germain. And the people in the system where the strata manager has all the information and the people in the residences have almost nothing, it is a stark contrast. But look, it might be a model that would work actually better than having to get people in individual OCs up to speed if people in the strata management area were not just people of integrity but also people who were very across all the details.

Ms Goode: So, an onus on strata managers to have a suite of training for their staff, I think, would be—is—necessary. I mean, some do. I think our strata manager does have quite a good internal training program and certainly the senior people on complex issues are very good to go to. We get good advice. But at the more operative level is where, I think, there is a sometimes a quite a lack of understanding.

THE CHAIR: That is very useful.

Mr Archer: And there is the vexed issue of provider commissions in relation to strata managers.

Ms Goode: Insurance.

Mr Archer: Insurance.

Ms Goode: If I can give our case study. It took us a lot of digging to get the information about just what the commissions were and how they were split between the broker and the strata manager. So, three years ago I took it up with the CEO of the strata manager and the result was that we got an agreement written into our management agreement that the strata manager would remit 50 per cent of their commission to us. So that has helped offset the cost of insurance. But they have now advised us that they are moving to a model where they will take no commission at all on insurance. And I think that is something that we may find is being pushed across the whole industry because it is a scandal, you know: the commission is 20 per cent of your premium and that is just wrong because the strata manager in our case does very little work in relation to sourcing the insurance. The broker does a bit more, if pushed. Anyway, we were really interested that they have taken that decision.

MR RATTENBURY: Have they increased your management fees? Because that is, obviously, a material loss of income for them. So, what is their model? Can you see what they are doing to offset it?

Ms Goode: Well, this going to come in the future—in about a year's time, I understand.

So, I do not know the answer to that.

MR RATTENBURY: Okay. Thanks.

Mr Archer: I have another case study on insurance. Are we okay for time?

THE CHAIR: Yes. Please.

Mr Archer: In March, we renewed our insurance policy. Our managing agent provided us with a list of nine potential insurers, eight of whom they said could not provide us with any insurance. There was only one. The same insurance company—who has an understanding with the managing agent—gave us one option to vote for, and said that no one else would touch us. We decided to do some investigations on our own and within the space of a couple of hours discovered that there were another three insurers who were very happy to take our business, at a significantly lower cost.

This is a real impost on the executive committee having to do its due diligence, to find out if we are getting value for money from the managing agent—which we were not. To add insult to injury, the managing agent was not happy that we had found another insurance agent. They told us that they could not they could not help us in terms of insurance renewal, answering queries, valuation, and lodging and managing any claims because they were not part of their—

THE CHAIR: Their preferred provider.

Mr Archer: Yes. So, not only did they not provide us with a reasonable insurance quote, but they then then refused to handle our business because we took it to another agent. They did not say, “Well, we will not charge you for this business”. There is no change in our managing agents’ fees.

Mrs Morgan: We really need to move on, but I think the broader issue around that—and insurance is one example—is that it is a relationship that has to develop between an EC and the strata manager.

Mr Archer: Yes.

Mrs Morgan: You have turnover on your ECs and you have change of personnel from the strata managers, and it can feel pretty much hit-and-miss until you hit your sweet spot. But that also requires considerable skill and, again, knowing what a legitimate expectation should be on the strata manager. Which, again, if you have not been on the EC, you would not know. I think that is an issue.

THE CHAIR: Yes. Thank you for those observations. Taimus, I am really conscious that—

MR WERNER-GIBBINGS: It is all good. I thought that was a really interesting conversation.

THE CHAIR: Okay. Have you got any last—?

MR RATTENBURY: We have got time for one more. I am interested in the issue of renters, whether you have many in your stratas. We have had evidence that renters are, obviously, not represented in AGMs and the like. So, whether issues have arisen within your groups around that group of people? Or are you mostly owner-occupiers?

Ms Goode: I will jump in first. We have about 20 per cent renters. Many of the renters are quite long-term. We are small: 47 units. All the renters get regular information about what is going on in the building. If they are willing to be on an email list—and most of them are—they are kept informed. We also have a once-a-month drinks gathering for residents. It varies in the numbers of people who come. Again, because we are small and we are walking around, you tend to see a lot of the people and it is a real community.

So, for us it has been okay. Plus, there are several of the owners who are renting their units out at the moment who intend to be residents, and they have shown an interest and actually come to AGMs and participated. So, I think it comes down to the fairly small scale of the development that you can be in touch with virtually the whole community.

Mrs Morgan: So if we took that up that up a step: we are 87.

Ms Goode: Yes, that is quite a lot bigger.

Mrs Morgan: Well, I think we are a reflection; the same. I liked an answer from somebody from the previous panel, that they would have a resident's forum as distinct from an owner's. I think it is that establishment of community in the complex. There is egalitarianism when it comes to communication, events, et cetera, in terms of the day-to-day what it is to live in the complex. Similarly, we will at our AGM always have representation from owners who are who are renting it out, but who will often come from interstate for the AGM.

Ms Kamarul: We would have no in-principle problem though, would we, with renters being able to attend our AGM without a voting right?

Mrs Morgan: No.

MR RATTENBURY: I guess you can permit that. It is just that some do not.

Mrs Morgan: Yes.

Ms Goode: They can certainly attend. On the voting point, I thought the discussion in the earlier panel was interesting.

MR RATTENBURY: Yes, I thought so too.

Mrs Morgan: Yes, I thought that was really interesting because I think it gives that sense of, "This is my home. This is my home, and so I have something to say".

Mr Archer: We have about a 50 per cent renting population. And I have to admit that we do not really do much for them at all. Our EC has tended to be a bit of a club in the past. The demographics of the place are constantly changing. It never used to be like that. So, I think it is really important that renters are included as far as possible in

discussions and forums. We are a village, as somebody said earlier, and we are very conscious of that. But I think it needs to be spread more widely than just the owners.

MR RATTENBURY: All right. Thank you. Cheers.

THE CHAIR: Thank you. We are running to time, and considering the time of the day, I am sure there are lots of people who would want to head off home. I just wanted to give an opportunity for any last comments, anything that is a burning issue that you think you want to mention that you have not. If not, I will go on to wrap up.

Ms Goode: Could I, very briefly? It came up in the previous session and it is in our submission: we think there are a few improvements for workability of the unit titles management act. Reducing the quorum, we think, is well worth considering. We do always get a quorum but, again, that is not so hard for us. Half-plus-one is a big ask for a big development. I do not know what it is, a third or—but some reduction could help. Because if you do not get your quorum, then, of course, you have got that 28-day delay that can defer the beginning of your levies flying in. It is quite a problem.

THE CHAIR: Thank you for that observation. With that, on behalf of the committee, thank you very much for your attendance today and for contributing your experience. Thank you very much for your time.

The committee adjourned at 5.01 pm