

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON PLANNING AND ENVIRONMENT**

**(Reference: draft variations 173 and 187)**

**Members:**

**MRS V DUNNE (The Chair)  
MR J HARGREAVES  
MRS H CROSS  
MS R DUNDAS**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**FRIDAY, 14 FEBRUARY 2003**

**Secretary to the committee:  
Ms L Atkinson (Ph: 6205 0142)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

**The committee met at 10.48 am.**

**STEPHEN BARTLETT** was called.

**THE CHAIR:** Mr Bartlett, you are the first person on our list. I open these proceedings. This is the inquiry of the Planning and Environment Committee into draft variation 173 and, concurrently, draft variation 187. Most of the issues in both of these draft variations have been canvassed over a number of years on a number of occasions. Because we had both of these variations before us at roughly the same time we decided, because there are some similarities, we would look at the issues together, but we will report separately on the two draft variations.

We are conducting the second lot of hearings into draft variation 173 and we will be taking evidence on draft variation 187 towards the end of the day. We don't want to go over old ground here, but really to get people's comments and take them on board. We have also asked for Sandy Blair, who is from the Heritage Council, to be here basically to act as professional advice. It will be as informal as possible so that we can have a proper exchange of ideas. If issues come up and they need clarification, we've got Sandy here, who's essentially sworn in for the day, so that we can hear about all of these things.

I begin with the usual riders. You should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections, but also certain responsibilities. It means that you are protected from legal action, such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

Mr Bartlett, thank you for coming today and for taking time to write to the committee and to present a submission. We'll start in a moment. When we start, identify yourself for *Hansard* with your name and your address. Sandy, when you start to speak, do the same, please. Mr Bartlett, you've asked to come before the committee in relation to draft variation 173. I take it you live in the area.

**Mr Bartlett:** In the Forrest precinct.

**THE CHAIR:** Please say your name and address for *Hansard*.

**Mr Bartlett:** Stephen Bartlett; 5 Sorell Street, Forrest.

**THE CHAIR:** So you live in the Forrest precinct; 5 Sorell Street is in the precinct.

**Mr Bartlett:** Yes.

**THE CHAIR:** The house that you refer to in your submission, where you said you've taken off the render and reapplied it, is that at 5 Sorell Street?

**Mr Bartlett:** That's right, yes.

**THE CHAIR:** I was quite struck by what you said in your submission that when you took the render off and looked at the brickwork you discovered that the house had been substantially modified over the years, but at the same time was considered a good example of the heritage of the time.

**Mr Bartlett:** Yes.

**THE CHAIR:** The heritage experts think it is. Do you have a feeling that they thought it was because they thought it was untouched and do you think that the fact that you've discovered that it has been significantly modified diminishes its heritage value from an owner's point of view?

**Mr Bartlett:** From an owner's point of view, the ACT Heritage Council and the heritage architects thought it was a good example because it reflects the form, which I think is a good thing, personally. But I guess what the important thing to me was, and what seems to get lost sometimes, is that the form of the house and the image of the house reflect what people want to see in the area, but it's not an original house. To relate regulations and guidelines to retaining original features is really difficult when hardly any of the houses have original features. What is actually heritage listed is the form of the properties and the general appearance, and that's quite different to the original house, or in many cases can be different to the original house. I just wanted to make that clear distinction between the two.

**THE CHAIR:** You are really here talking from personal experience. You've had issues with setbacks and the placement of garages. Where is your garage placed, and how does that relate to what it would be if 173 came into operation?

**Mr Bartlett:** The original garage was down the bottom of the backyard in the southern corner. With the house that was there, there wasn't enough room to put a double garage in there, and the original garages aren't even big enough to take one car these days. We had a long driveway going down the side of the house, so retaining a garage at the bottom of the backyard was difficult. We now have a double garage 2½ metres set back from the front building line, whereas these proposals would have it six metres set back from the front building line. If it was set back six metres, we would just have more bitumen there leading into the garage and less plantings down behind the garage, so a 2½-metre setback seemed to us to be fine. The other argument that came along was—

**THE CHAIR:** So it's set back from the building line.

**Mr Bartlett:** From the front building line.

**THE CHAIR:** Not the property line; the front building line?

**Mr Bartlett:** The front building line.

**THE CHAIR:** So the garage does not stick out into the front yard.

**Mr Bartlett:** No. Those guidelines were fine. To have something arbitrary, like there had to be a six-metre setback from the front building line, just creates a big cavity in the

southern corner of the driveway, which is cold and there are no trees or anything like that, so we moved it further forward. We had long discussions with Heritage and PALM about the garden layout required to achieve that and that all went pretty well. So it's a 2½-metre setback. If we chose to put a room there, a 2½-metre setback would be okay, but a garage is regarded as being different.

**THE CHAIR:** Is the garage attached?

**Mr Bartlett:** Yes.

**THE CHAIR:** Okay. Does anyone else have any issues they want to raise with Mr Bartlett?

**MS DUNDAS:** Just a quick question. During other public hearings we have done about draft variation 173, lots of people mentioned that they thought they weren't being consulted with properly during the development of these draft variations. You've just mentioned that you've had long discussions with both PALM and Heritage with your particular issue. With the development of this draft variation, did you feel that you were consulted, that the issues that you were raising were being taken into account, that you knew what was going on in the department?

**Mr Bartlett:** Yes, simply. Yes.

**MR HARGREAVES:** And you felt that the response from the officers in regard to the information about the intention was honest and as complete as they could be?

**Mr Bartlett:** Yes, I thought it was all pretty good. Other comments we made on the way through have turned up in the draft variation. I thought it was all pretty good.

**MR HARGREAVES:** Win/win.

**Mr Bartlett:** Yes.

**THE CHAIR:** Principally, you think that most of your comments are there or have been taken account of, but you're really concerned about the garage setbacks, and that doesn't affect you because you've already got a garage.

**Mr Bartlett:** We've already got it through, but that's not in the public spirit of things. No, I just had three things that I wanted to cover—garaging, general regulation, and just some minor things that were in the document.

**THE CHAIR:** But the message that I got from the document that you gave us is that you're principally concerned that what people see and perceive about the heritage precinct is the streetscape and the look of the houses from the street.

**Mr Bartlett:** That's right.

**THE CHAIR:** I think that it has been reflected in the discussions we've had with the Heritage Council and the officials that what we're concerned about is the streetscape, the public domain, and how the public domain interacts with the front of the house and the garage, so they're the principal issues.

**SANDY BLAIR** was called.

Sandy, do you agree that they are the principal issues that you're driving at? I want to make sure that we're on the right track as to what you're aiming at.

**Dr Blair:** Yes, certainly.

**THE CHAIR:** Please identify yourself, Sandy.

**Dr Blair:** Sandy Blair, manager of the ACT Heritage Unit. Yes, we've talked in previous hearings about the importance of those streetscape values, so I appreciate Mr Bartlett's comments about finding when he started renovations that his cottage wasn't entirely original. But I suppose from council's perspective what they would be looking at was to retain as much of the original fabric from the 1940 era of residences as possible. But I think Mr Bartlett's been a very sensitive heritage owner and has adapted his house very sympathetically. It does make a very positive contribution to the streetscape.

On the garage issue, again I think we talked last time about the importance in terms of the heritage values of that pattern of the garages set well back on the blocks, not forward of the house. Again, the principle with DVP 173 is to retain those patterns but have some very clear rules because people wanted more certainty. DVP 173, if you like, is more rule-based, whereas under the current requirements I think there is more discretion. In the case of your garage, we've worked with that and I think got an outcome that we're all happy with.

**THE CHAIR:** One of the issues raised over the time of the consultation that we've had is about the extent to which the language in the draft variation is unclear or is ambivalent—from time to time, there seems to be an interchange of mandatory and optional issues. Have you seen that as an issue? Have you come across that as a problem?

**Mr Bartlett:** I don't see that as an issue. Other people might.

**THE CHAIR:** Is there anything you'd like to add that you think that we haven't covered?

**Mr Bartlett:** Yes, if you don't mind. I'm not going to labour anything or talk about things that aren't really relevant. The current document is quite prescriptive and I sit on the side of having looser regulation and relying on the appeal system and the judiciary system to put some interpretation into it. Our experience with PALM and the Heritage Unit was that they applied the rules pretty well, pretty sympathetically, but, in the face of challenge, wouldn't go to the Supreme Court, so the only solution that you then have is to go back and impose more regulation.

Whether that's a good or bad thing is a point that is the subject of a lot of debate, but the more regulation you have, the more difficult it is for circumstances that don't fit the regulation to be dealt with. You've got lots of different shaped blocks, you've got different setbacks, you've got blocks where the garages can't be at the back, and things may change over the next 10 years as well. What's suitable today mightn't be suitable in 10 years time. If you create a whole lot of prescriptive regulation, it doesn't allow for any situations that don't fit it very well.

Also, as we've experienced and the reason that we happen to know a fair bit about it, if you're in a neighbourhood where the neighbours have got regulations that they can dispute over, they seem to do it. We spent a lot of time in the AAT arguing over things because people had the ability to argue. But if the decisions were based on less prescriptive regulation and relied more on the ability of the officers to interpret that legislation, you would have less ability to argue in my view.

**THE CHAIR:** You would actually like some judicial interpretation to take away the uncertainty, rather than the regulation that you still think creates uncertainty?

**Mr Bartlett:** Yes. I think the current regulations are pretty good and work pretty well in terms of setbacks and not building in front of the front building line. It all seems to work pretty well. The issue of multiunit occupancy and things like that can be dealt with by regulation, or site density can be dealt with by regulation. But when you start saying, as this document does, if your architectural design varies from the original it's got to be detached from the original house, well, if you can't see it from the street it doesn't matter.

If your driveway is on the southern side of the building and there's not enough room to put a double garage down the back, why should you be restricted from doing that? These days most people have a double garage rather than the old single one. They're just two examples of the more prescriptive the regulation, the more difficult it is to suit individual circumstances. That's just something that reflects how I view it, whereas if the current rules were applied and backed, I think you could get some pretty good results.

**MS DUNDAS:** Do you see the need for draft variation 173?

**Mr Bartlett:** Not in the prescriptive form that it's in. There are certain parts of it, to do with site density and multiunit developments on those sites, which nobody wants to see. I think that part of it is fine. But when you're starting to regulate the design of houses, which leads me on to a second point in a minute to do with equity, that can create difficult circumstances for people that become inequitable.

Garages and carports I've already talked about. There is a whole list of reasons that I've written—I would rather that they were treated the same as any addition to the side of the building. They're set back 1½ or 2½ metres, not a six-metre setback. In many cases that just generates poor design. It's the front of the buildings and the streetscape that's heritage listed and if you have your plantings in there and the garage is set back, then it doesn't impact on the facade of the buildings.

**THE CHAIR:** I think that's actually the nub of the issue. Is it really the public domain, the front garden and the building facade, that is the heritage listing, or is there more to it than that?

**Dr Blair:** The streetscape values are certainly the major values. In some precincts where there are original cottages that are important types and styles, there's more emphasis on retaining as much of that original fabric as possible, so it's more than the streetscape.

**THE CHAIR:** You might do that with, say, the Beaufort cottage or something like that?

**Dr Blair:** Yes. It's certainly not internal features. We don't get involved with interiors, except for chimneys which can be seen from the street and those sorts of things. But where cottages are original cottages and where they are an important example of a type, it is often important to keep as much of that original fabric as possible. So the emphasis is on streetscape, but streetscape has been a difficult concept in the AAT, with many different interpretations. So one strong driving force, I guess, for DVP 173 was to try and get some more clarity with some of those concepts which had proven to be difficult and had proven to end up in the AAT and take up a lot of time for everybody.

**MR HARGREAVES:** You talk about streetscapes, cottages and that sort of thing. The concept of the building on the block is significant, isn't it, so that's where the setback bit comes into it?

**Dr Blair:** Yes, it's the pattern of the subdivisions, the individual cottages set back on the block with enough generous landscaping, enough room for mature trees, often with garages down in the back corner, sometimes with paired driveways with the property next door. So it certainly is that pattern, which varies from precinct to precinct but only within a set parameter. There are some very common elements there which are garden city planning based.

**MS DUNDAS:** Mr Bartlett, you were going to talk about equity.

**Mr Bartlett:** Yes. Can I just finish on that point?

**MS DUNDAS:** Yes, sure.

**Mr Bartlett:** If you actually read the Forrest house precinct heritage listing, it says:

No buildings or structures shall be erected between the existing building and front property boundary. Additions and alterations may only be permitted to the sides and the rear of the houses and only if the additions are set back from the existing front building line. The original building form is to remain dominant.

I'd just encourage people to go back and remember what's actually heritage listed. There are individual houses that are listed, although this variation to the plan is trying to identify all the houses in Forrest as being individually listed, whereas the listing itself is just what I've just read out.

Equity starts from the point of view that property owners have a right to use their property within the guidelines at the time, and things move and change. The more restrictions that are put on the property owner, the more effectively is the transfer of interest or wealth from the property owner to the community. An example might be that, on our block, 27 per cent can be building. Under the current guidelines applicable to everywhere else it could be 40 per cent, so that's a loss of our ability to utilise that site. The more restrictions that are put on the use of the site, the more there's a transfer from the property owner to the community. Most property owners are pretty reasonable, and that's not a bad thing. But there's a line in there somewhere where it becomes extreme.

The requirement in the report to use original materials, that the render has to be retained, that where possible use timber fascias, all of that's quite expensive and/or you can't get tradesmen to do it. So you're imposing on many property owners—not everybody who lives in the area has a whole lot of money or has money they're prepared to invest in reinstating that property. These guidelines will force them to do it when maybe they can't afford to do it.

So the question of equity is that if the community wants those property owners to retain the house in the original condition and form, then maybe the community should have to subsidise them. The point at which that subsidy comes in is just a question of judgment on everybody's part. But, again, the more prescriptive the regulations on what's got to go into those properties, invariably the more expensive it becomes to make any changes to those properties.

Another example might be that if a person wants to make a minor alteration to their property and a condition of that is that they have to reinstate all of the original front building form, which is the purpose of this, that would be very expensive for them. You might have a family with four kids and another one comes along and they need more space, they've got to add a room to the house, and a condition of adding a room to the house is substantial work on the front of the property to reinstate it. It is inequitable for that family to have to suffer that. But these changes to the plan will regulate that that's what will happen. That's a real issue of equity.

**MRS CROSS:** He's answered all of my questions.

**THE CHAIR:** Is there anything else that anyone wants to raise because we're running behind time already? Thank you very much, Mr Bartlett, for your time; most appreciated.

**MARIAN FALKLAND** was called.

**THE CHAIR:** Thank you for coming, Mrs Falkland. Please give your name and address.

**Mrs Falkland:** Marian Falkland; 28 Donaldson Street, Braddon.

**THE CHAIR:** Mrs Falkland, you'd like to talk about the Braddon heritage area and the concerns that you have in that area. Would you like to briefly outline them for the committee?



**Mrs Falkland:** Yes. I'm not quite sure why I've been invited.

**THE CHAIR:** Because you have expressed an interest in the subject.

**Mrs Falkland:** I have written many submissions to PALM and I am on the Braddon Residents Association and we have been trying for over two years to prevent a certain development taking place in our street, which is 80 per cent heritage. I've never understood why the little bit is not heritage.

**THE CHAIR:** Where do you live?

**Mrs Falkland:** I live at 28, which is opposite the playing fields of the Ainslie Primary School.

**THE CHAIR:** And you have a concern about the development at blocks 1 and 4 section 40?

**Mrs Falkland:** Yes. I happen to live on block 5, but there are two other adjoining neighbours, and many of the residents of Braddon and even far afield have strongly objected to this completely out of character two-storey. It is suggested that two-storey town houses be constructed. There have been five applications. None of them have been accepted, but there is another one in the pipeline. I repeat, it's been going on for two years. Donaldson Street is a street of single storey houses with gardens, trees and lovely birds. This particular development would be completely out of character, gardenless. It will add to the traffic problems opposite the school, the loss of amenity, of privacy, for the adjoining properties, and overshadowing.

**THE CHAIR:** Okay. Can I just clarify something with Dr Blair? Sandy, is section 40 in the Braddon heritage precinct? Looking at the map on page 19 of the draft variation, it doesn't seem to be the case.

**Dr Blair:** Can I just ask for some assistance, Vicki, with one of my staff who knows the detail of this very well?

**THE CHAIR:** Sure.

**Mrs Falkland:** Can I just mention something else?

**THE CHAIR:** While they're conferring, yes.

**Mrs Falkland:** If this proposed development is allowed to go ahead, it would involve demolition of the house next to me, which is a 1920s house. Apparently, on my block there was a similar house but before my husband and I were posted to Canberra the government at the time pulled that down. But I'm still in possession of a heritage garage. I have a brick garage with hand-applied tiles which have never cracked or leaked. I'm very proud of the garage.

**THE CHAIR:** It's not a heritage-listed garage, it's just one that is special?

**Mrs Falkland:** No, but I'm surprised about the cottage next to me, which does date to the 1920s, because I have original photographs of Canberra. I used to belong to the Canberra Historical Society and that house and Olims, the Ainslie Hotel, were about the only structures. It's in sufficient condition to have tenants in it who will pay a mighty fine price. What we're doing is objecting to the street being spoiled by this.

As for draft 173, I commend it. I do agree with what it's saying. They call our part of Braddon precinct 3, southern Braddon, and it's one of the oldest parts of Braddon. The northern and the central parts, as we know, have got B11 and B12 developments, many of them; it's becoming a bit of a concrete jungle. Our argument is: why should the rest of Braddon follow suit? We just want it retained the way it is. We wouldn't even object to single-storey occupancy.

**THE CHAIR:** In relation to the provisions of the draft variations we're discussing you are, as a Braddon resident who has an interest in these heritage issues, comfortable with the wording and the requirements imposed upon people to maintain the designated heritage areas?

**Mrs Falkland:** Yes.

**THE CHAIR:** Okay. Sandy, are you in a position to answer my question?

**Dr Blair:** Yes, Mrs Falkland's property and the development she's referring to is in the section adjacent to the heritage precinct, not within it. The precinct is bounded by Donaldson, Elimatta, Batman and Currong streets and there's always a judgment to make about where to draw the boundaries when there are similar historic properties in adjoining streets, but it's a judgment about an area that has overall a lot of integrity across all of that area.

**MS DUNDAS:** Just to follow up on that, if we're talking about the retention of the heritage values of the streetscape, the blocks in section 38 on Elimatta Street are heritage listed, but the blocks on the other side of the street could be changed quite drastically and they would still impact on the streetscape. How, then, are we going to retain the heritage value of the streetscape if one side of the street is free, as much as anything is in the ACT, of development and the other side of the street is not? How do those decisions get made?

**Dr Blair:** You might like to ask one of our PALM colleagues to comment, because obviously they fall within planning guidelines which include guidelines about the character of the area. As I said, we have to make a judgment. That is a difficult issue because adjacent developments can be difficult, but we have to draw boundaries and apply more stringent requirements to areas that have a high level of value.

**MR HARGREAVES:** Is it a case of having to draw a line somewhere and what you're saying here is we'll do a snapshot in this area of a distinct set of blocks and then we'll just allow the others, rather than saying that we will take a particular street and, whatever length that street is, we will list that?

**Dr Blair:** Yes, it's a judgment about where it's reasonable to apply stronger restrictions to keep some representative areas of the garden city planning. We can't ask for all the older inner city suburbs.

**MR HARGREAVES:** You'd end up with the whole suburb if you did that, wouldn't you?

**Dr Blair:** All of inner-city Canberra in a sense, I suppose, yes.

**THE CHAIR:** Mrs Falkland, do you understand that draft variation 173 as it is proposed would not actually apply to your house, which I gather is on block 5 section 40?

**Mrs Falkland:** Yes, I asked that.

**THE CHAIR:** It doesn't directly apply to that and your immediate neighbours because the actual heritage precinct covers sections 38, 42, and 43, and that has a distinct boundary round it, so that what might be called the stricter guidelines that are in draft variation 173 would only really apply in Braddon to that discrete area and you are just marginally outside that discrete area and other less stringent building requirements apply there, so that the issue that you have with the neighbouring block proposal to build a set of town houses is not directly the issue of draft variation 173, but is an issue for planning in a more general sense?

**Mrs Falkland:** That is why I mentioned that I was surprised to be asked, although I'm glad I was and I'm meeting the point. I will just finish by saying that there's not much advantage or pride in living in a mostly heritage street when some incongruous thing is at the other end.

**THE CHAIR:** Ms Dundas has raised the same thing. You're confronted with the issue of where you draw the line; how much of Donaldson Street, which is outside the heritage area, is reflective of what's inside the heritage area and how much does the community want to keep it. That is probably an issue not so much for this committee and this draft variation, but for the wider planning system which presents problems for the planners and for people. The person next to you can legitimately say, "I'm entitled to do that." What you're saying is, "Yes, you're entitled to do it, but can you please be more sensitive to what is around?" That's your concern because you are fairly close to this heritage area.

**Mrs Falkland:** I like the opportunity of being able to say what I think about it, and PALM must be sick of me with all the letters of objection.

**THE CHAIR:** That's all right; that's what PALM is for. Is there anything else you'd like to say, Mrs Falkland?

**Mrs Falkland:** No, I think I've said enough.

**THE CHAIR:** Thank you very much for attending and thank you very much for your time.

**ENRICO TAGLIETTI** was called.

**THE CHAIR:** Thank you, Mr Taglietti, for taking the time. By way of beginning, I ask you to identify yourself for *Hansard* and just make a general statement about the issues that you'd like to see raised with the committee.

**Mr Taglietti:** My name is Enrico Taglietti. I am an architect. I live in Blandfordia 5 at 33 Durville Crescent. I have been living there for 40 years. In relation to variation 173, I would like to bring up three points. One would be that although 173 has been introduced to clarify wording, to overcome a lack of clarity in the previous one, and it should improve on that. I'm questioning the prohibition on having a two-storey building in relation to the negative effect that a two-storey building will have. I don't think, if properly treated, they should have any negative effect.

The third problem I have is the fact that the architectural feature of the nominated buildings, or whatever they are, has taken too much power in relation to the impact of any extension if done outside the front line and so on. On the contrary, it seems that Heritage are doing a disservice to themselves in requiring that that architecture should reflect, I think they're saying, the existing one. In that case, I want to bring into view the Burra charter in relation to heritage and conservation. In actual fact, it suggests that if you want to protect the heritage value of a place, if you are allowed to do certain extensions or certain other building, those ones should clearly show that they are not part of the heritage.

**THE CHAIR:** So that what you're saying is that, in your view, the best way to maintain the heritage value is for those people who want something more in terms of dwelling space to be doing something which is notably discordant in a sense—I don't mean discordant, but it means that there's a discontinuity between the old and the new.

**Mr Taglietti:** They should have a certain conflict, a certain differentiation.

**THE CHAIR:** Rather than doing faux FCC.

**Mr Taglietti:** In that respect, I would like to qualify that statement. 173 seems to emphasise the fact that new additions and extensions should not be visible from the public domain, which is a request or a wish that will automatically say no extension whatsoever, because if you're moving into the public domain, whatever is the public domain, you may have certain aspects of revelation. It's natural. You cannot build something and say it's not there, that nobody will see it.

I'm suggesting that one change that requirement to a quantity amount of visibility, say, 10 per cent of that building will be the maximum that should be visible or that could be visible within the public domain—I say 10 per cent, but it could be five and it could be 25, whatever, but a quantity—so that when one enters into argumentation at least one can say that you can see 9 or 10 per cent, but you cannot—

**THE CHAIR:** It's not obtrusive.

**Mr Taglietti:** Yes, exactly.

**THE CHAIR:** I think you've raised a point that I have had a problem with, and it may be a personal problem. If I stand on the corner of someone's block and they've extended their property out the back, I will be able to see the outside wall from some part. From some angle I will be able to see it. From some angle, almost certainly you will be able to see the roof line.

**Mr Taglietti:** Yes.

**THE CHAIR:** So that what you're actually saying is that they've set themselves up to fail in a way by putting this requirement in.

**Mr Taglietti:** Actually, what I'm saying is that if one found a method of quantifying what is not clearly visible or what is clearly visible, and let's say 10 per cent on walking along the boundary or within the public domain, et cetera, then everything seems to fall into place. Variation 200, if I can bring variation 200 in mind, has in actual fact the right approach. The approach which may not be applicable here, most probably, should be more restrictive for heritage, but it gives clear information, information also that they will maintain the character of the garden city. 173 in those respects is too restrictive.

Talking about the same thing there, you are saying no two-storey building if there were not two-storey before, and that is what is required. Is that a valid argument, if we're saying that anyone who keeps an extension, elevation, roof, whatever, within 10 per cent of visibility, let's say? It should create an envelope which may accept the two-storey.

**THE CHAIR:** Mr Taglietti, wouldn't that partly depend upon the topography, especially in Blandfordia? There's one area that I can think of where it drops away from the street, so that the cottage at the front is still at street level, but the block drops away, so that that could afford two storeys without being intrusive into the public domain.

**Mr Taglietti:** Yes, and that's exactly what I'm saying. It depends on the design, but if in 173 one would say the accepted visibility is X, that would be sufficient. The effect of the two-storey, in fact, is sometimes advantageous to maintain a smaller footprint. It means that it really is what we're looking for. What we're looking for, or should look for, I reckon, should be to reduce the footprint, but not necessarily impinge on equity in other ways, and say that it is only 20 per cent, 25 per cent or 30 per cent of the plot ratio. A plot ratio of 35 per cent—maybe right, maybe wrong—has been adopted up till now and it seemed to work, and if you then introduce your 25 per cent footprint.

**THE CHAIR:** We've actually found that there's quite a difference between Blandfordia and, say, Corroboree Park or Alt Crescent because the topography there is very uniform, whereas you're actually suggesting that perhaps we need a horses for courses approach. In Alt Crescent it would be entirely inappropriate, perhaps, to have a two-storey dwelling at the back because it would stick up. But somewhere where the topography allowed for the falling away of the block, it shouldn't be ruled out without really being considered.

**Mr Taglietti:** Yes. Also I am saying that if you're putting a percentage on visibility, it doesn't matter if the block is flat or the topography has nothing to do. If you're having a block which is raising and if you apply that you cannot see it more than 10 per cent, it will be obvious that the second part, at the back, would be only one storey, it cannot be anything else. But if it's going the other way, then maybe.

**THE CHAIR:** Are there any other issues that you would like to raise with Mr Taglietti?

**MS DUNDAS:** Just quickly, a question about consultation in the development of draft variation 173. Do you feel that PALM and the Heritage Unit consulted with you, as a resident of a heritage-listed area, and took on board your issues or were able to discuss what was going on with you?

**Mr Taglietti:** Sorry, PALM and?

**MS DUNDAS:** The Heritage Unit, who developed draft variation 173. Do you feel that you were properly consulted in the development of this draft variation?

**Mr Taglietti:** Yes and no, but I never expected to be consulted, to a certain extent. Why should I be consulted? I am the one that should organise if I have some—

**THE CHAIR:** But did you know enough?

**MS DUNDAS:** Did you feel informed?

**Mr Taglietti:** I knew enough, yes. Yes, no problem with that.

**MS DUNDAS:** How did you know enough? Why was that?

**Mr Taglietti:** I suppose I could say it's my profession. I cannot do anything without knowing. Without having a few arguments, too.

**THE CHAIR:** Is there anything else that you'd like to raise, Mr Taglietti?

**Mr Taglietti:** Most probably, you should keep in consideration the Burra charter, which in actual fact is the international charter dealing with heritage, et cetera.

**THE CHAIR:** Thank you. Sandy, do you think that members of the committee could obtain a copy of the Burra charter? Thank you very much. Thank you very much for your time, Mr Taglietti.

**ERNST WILLHEIM** was called.

**THE CHAIR:** Mr Willheim, thank you for your time. Please identify yourself for *Hansard*. Would you like to give a short exposition on the issues that you would like to see the committee address in draft variation 173?

**Mr Willheim:** Thank you, Madam Chair. My name is Ernst Willheim. I'm a resident of Forrest. I live at 77 Empire Circuit, Forrest, which is on the corner of Melbourne

Avenue. My comments are, of course, confined to the proposals relating to the Forrest precinct, and I'd like to deal with four issues or four aspects of the proposals—those concerning garages and carports, the proposals concerning fencing and driveways, street furniture and the role of the Department of Urban Services, and then the equity issue that's also been raised this morning.

I preface what I want to say by just drawing it to the attention of the committee that these are, in a sense, ordinary houses. They're all ex-guvvies and they're on ordinary blocks. They're not the mansions or the huge blocks that are in the other private parts of Forrest. I think that's relevant when the committee looks at the equity issue.

Second, the houses were built 75 or more years ago and, of course, circumstances have changed and family needs have changed. One of those needs, for example, is that many families now have two cars and they need accommodation for two cars. Security is a consideration and, I guess, after 18 January, fire risk is also a consideration. In that sense, I want to put to the committee that you can't lock these houses up in a time warp. Needs change and families have a need for car accommodation, they have a need for security.

The third preliminary point I want to make is that many of these houses, and ours is one, have unsympathetic additions that were put on in the 1950s and 1960s. I want to put to the committee that the proposals are too prescriptive; they don't take account of existing variations. For example, in our case, we want to replace a very unsympathetic 1950s or 1960s tin/metal carport, but we find that every aspect of what we want to do runs foul of the proposals.

**THE CHAIR:** The 1950s tin has value, too, obviously.

**Mr Willheim:** One of the things I want to put to the committee is that, if what an owner wants to do is more sympathetic to the heritage character than an existing structure, that should be a relevant consideration, and that's something that was completely missed in these extraordinarily prescriptive proposals.

As I say, we've got an ugly tin/metal carport that was put there in the 1960s. We retained an architect to come up with an alternative because that carport is ugly. The first thing that the architect came up with as most sympathetic to the heritage character of the house was exactly what has a line through it on page 15 of the document. Our architect's view was that the most sympathetic proposal, having regard to the heritage character of the house, was exactly what this proposal would prevent. Obviously, people's views differ and these are matters of judgment but, as I say, I think what's here is much too prescriptive.

The next suggestion the architect had was a carport with the ridge height following the existing ridge height of the roof. Again, the rules here say that you have to have a ridge height that's lower. Our view, and the architect's view, is that in doing it that way it looks like a tacky structure that's tacked on and is again unsympathetic to the house.

Then we had a problem with the setback. The existing structure is not set back the requisite distance. The layout of the house is that we can't set it back. Just by way of example, there is the old garage, shared with the adjoining property, at one end. Because

of changes that had been made well before we bought the house, and we moved in there in 1981, that area is no longer accessible. Our old garage isn't accessible; the neighbours' old garage isn't accessible. The carport is, in fact, on the other side of the house, but it goes right up to the boundary.

We believe we can put up something that's very sympathetic to the heritage character of the house with a brick pier that matches one of the piers of the house and so on, but it wouldn't have the requisite setback. Again we say that these things are just much too prescriptive.

You can't put up double garage doors. Everybody knows that security is a consideration these days. It is certainly a consideration in our area. Views may differ on the aesthetic appeal of double garage doors and whether they are consistent with heritage characteristics. But to say to people living in this area that you can't have your car locked up is a pretty tough sort of burden on those people. We've got an open carport and our cars have been broken into on a number of occasions. It's pretty tough to say to people that they can't have a system where they can lock their car away when everybody else can.

**THE CHAIR:** On another level, it may also affect the insurance on your car because one of the questions you are asked when you insure your car is whether it is garaged or in a carport.

**Mr Willheim:** Yes. Again, we bought our house long before it was heritage listed and these restraints weren't there then. We suggest that that's an unfair imposition on people. But a critical point that I want to make is that there needs to be flexibility so that if what you want to do now is an improvement on an unsympathetic addition from a few years ago, then that should be a fundamental consideration, even if it doesn't fit in entirely with what heritage people would prefer.

Let me say something about driveways. They have to be single width. Again, lots of families have two cars. Concrete is not to be permitted. Isn't that getting to an almost absurd level of detail? We happen to have a concrete drive at the moment. I don't happen to like it very much, but to impose that level of prescription!

One of the problems we face if we remove the concrete is that the neighbour has very large trees and roots will come up. Concrete will probably withstand those roots, but bitumen certainly won't because part of the drive is bitumen and one of the problems is that those roots come up through the bitumen. There's not enough flexibility to allow for individual needs.

**THE CHAIR:** I stop you there to ask Sandy for some clarification. What are the prescribed and proscribed materials for driveways?

**Dr Blair:** In general, it's bitumen, gravel, surfaces that are more permeable.

**THE CHAIR:** Bitumen is not very permeable, is it?



**Dr Blair:** In the driveway, bitumen's the preferred option. It's an attempt to get away from large areas of concrete in hard landscaping; so in driveways bitumen, but in other areas of landscaping we would encourage people to have permeable surfaces, which is part of retaining a garden city, allowing shrubs and trees and so on to grow and having surfaces that allow for that rather than having large areas of concrete. Obviously, in driveways where cars need to drive back and forth, you need a harder surface. Jen is just confirming it, but the specific requirement is 2.4(e), which says subdued charcoal or earthen tones, gravel, brick, clay, concrete pavers or bitumen are preferred surface finishes—preferred, not mandatory.

**Mr Willheim:** But it goes on to say, if I can draw it to your attention, Madam Chair, that stamped concrete, for example, shall not be permitted. You can now have dark stamped concrete which is made to look like stone and so on, and that would be the strongest surface, but it shall not be permitted. That is an extraordinary imposition on people.

**THE CHAIR:** What's the problem? I can see the point you might raise, that masses of uninterrupted grey concrete are a problem, but one of the things that I was thinking about when you were originally talking was that you could put down stamped or patterned concrete that gave the impression of a more permeable surface. What would be the problem? Is the issue permeability or is the issue the look of the thing?

**Dr Blair:** It's the look as well.

**THE CHAIR:** It's the look as well, so what's the problem with stamped concrete of an appropriate sort?

**Dr Blair:** I guess the experience we've had working with owners and working with these driveway issues is that that has not worked well and that it doesn't give you those softer earthen colours.

**THE CHAIR:** What about a red-brick stamped concrete driveway? Sorry, I'm being devil's advocate here. If I had a red-brick paved driveway, would that be okay?

**Dr Blair:** Yes, if you used the paving with those earthen—

**THE CHAIR:** So, if I had a red-brick stamped driveway, what would be the problem?

**Dr Blair:** I guess it's that the technology of working with concrete doesn't give an adequate appearance and it doesn't look like those original earthen bricks, the softer appearance of those other sorts of materials. I mean, concrete, even stamped concrete, is quite harsh and there are issues about how it will wear and, if you have a stamped red-brick appearance, how well it will retain that.

**THE CHAIR:** That is an issue.

**Dr Blair:** Experience has shown that those sorts of materials haven't performed very well and that you're better off going with those—

**THE CHAIR:** Bitumen.

**MS DUNDAS:** How do you find the balance, as Mr Willheim has pointed out, between retaining the trees in the streetscape that then destroy, because of their roots, the softer forms of pavement for your driveway? How does the Heritage Unit look at addressing those problems?

**Dr Blair:** The issue of roots that might—

**MS DUNDAS:** Because we're retaining the trees and we're having soft driveways, you then create hazardous pathways up and down the streetscape that you're trying to retain so that the people can enjoy it. How do we address those problems?

**Dr Blair:** We'd certainly be sympathetic if there were such problems and we'd look at those case by case. But it has not, in my experience of working with the specific requirements, been a big issue. As in the issues about garages and security, what we try and do is work with owners with a range of options and get them to choose an option that is most sensitive to the heritage values. It often does not mean there is one prescriptive solution. There are often a range of things that you can look at that will achieve the objectives and we're trying to steer them towards the most sympathetic one.

**MRS CROSS:** Sandy, does that mean that you're prepared to be flexible? I've got to say that bitumen in extreme heat can be rather difficult and can leave a lot of residue. Given that trees do cause damage and it does happen—we've seen a lot of it around this city—would you be prepared to consider an owner putting in coloured stamped concrete that blended in well with the environment, if that's what the owner preferred?

**Dr Blair:** If it could be demonstrated there were problems with roots that couldn't be solved in other ways, and I think we'd need to go through those arguments—what's the issue, what are the solutions?

**MRS CROSS:** Do you base your decision on whether there would be potential tree damage versus what the owner would prefer?

**Dr Blair:** Both those issues. I think the owner's views, but also the issue of the tree and its health and the issue of the appearance of the driveway would all need to be considered.

**MRS CROSS:** But you would be open to it.

**Dr Blair:** Yes.

**Mr Willheim:** I draw your attention again, Madam Chair, to the fact that this clearly uses the word "shall" and I would ask the committee to reject that completely.

**THE CHAIR:** Yes. One of the issues that have constantly arisen and one of the things that we have before our mind is the use of mandatory language in the draft variation, but it seems that it is the spirit and intent of the Heritage Unit to come to some accommodation. There is a contradiction there which we need to address.

**Mr Willheim:** Then you look at fences. There are restrictions on the fences that people can have which don't apply elsewhere. Again, security is a consideration and it seems that people living in the heritage area are not entitled to the same security as people living elsewhere. Then you look at the materials that are permitted for fences. I don't have a particular personal interest in this, but I wonder whether the Heritage Unit has any advice from the fire authorities when they propose things like brush fences and so on.

**THE CHAIR:** I think brush fences are going to become very unfashionable very soon.

**Mr Willheim:** I just wonder how much thought has gone into this.

I said I wanted to say something about street furniture. The proposals refer to remnants of original street furniture and the remaining examples should be retained. I want to refer to what I believe is a most extraordinary experience I had in seeking to have some heritage street furniture retained. It is, in a sense, a trivial point but I think it's quite important.

There are in this area some street signs which are like aggregate. They were constructed with a pipe inside and aggregate concrete on the outside. There was a broken one on our corner and, after some unsuccessful calls to the department, I wrote to the minister asking for it to be repaired or replaced. I wrote a few times. Repeatedly my correspondence was lost, which rather worried me. That can happen once, but once it happens again one wonders.

Then I got a letter signed by the minister saying that he'd been advised that the sign was no longer there. Of course, it was there for everybody to see. That made me wonder whether somebody advising him had some ulterior motive; I don't know. So I wrote to the minister and said, "Look, it's there, Minister, please come out and have a look at it and form your own view on whether these sorts of heritage signs should be retained."

Two days later there was a team of workmen who had come out to remove it. I talked to them and said that I had been corresponding with the minister. They showed me their instructions and the instructions were marked urgent. The correspondence with the minister had been going on for about nine months.

**MRS CROSS:** What year was this?

**Mr Willheim:** This was on 17 and 19 December.

**MRS CROSS:** Last year?

**Mr Willheim:** Yes. Two days after my letter asking the minister to come and look for himself there was an urgent instruction to remove it. You will realise that, as a resident, I wonder what's going on amongst those who advise the minister. The committee might want to look into that. In any event, I would encourage it to support the retention of street furniture.

**THE CHAIR:** I think it was one of the issues that were raised in the previous hearings. There was a feeling amongst some of the residents that a lot was being imposed upon them to maintain their domain, but that perhaps the same effort was not being put in by the government in the publicly owned domain.

**Mr Willheim:** In this case, I have written to the minister asking that what was pulled out be retained so that if ultimately somebody agrees that a copy should be made they have something there to copy.

**THE CHAIR:** These are the ones that the actual sign itself is of pressed metal.

**Mr Willheim:** Yes.

**THE CHAIR:** Okay. Do you have the pressed metal sign? Do you have a street sign?

**Mr Willheim:** No. There's a modern street sign. The letters that came back kept saying that we don't need the old sign because there's a modern street sign. I kept saying that that was not the point, that this is part of the heritage character of the area.

**THE CHAIR:** Didn't Joseph Heller write a book about this?

**Mr Willheim:** Then I get a letter back saying it isn't there any more.

Just generally, perhaps following up Mr Taglietti's comments, it seems to me that a fundamental problem with these things is that this is just too detailed and too prescriptive. Let me say by way of background that I'm now retired, but I spent 30 years in the Commonwealth Attorney-General's Department and held some very senior positions, including acting many times as chief general counsel, and was involved in getting up many legislative schemes. If I had taken something like this to an attorney-general, and I worked with every attorney-general from 1967 to 1998, I would have been told to take it away and come back with something which comes up with some principles.

To have detailed rules like this, in my mind, just doesn't give the flexibility that you need for the problems here, where each house is different, most of the houses will have had various kinds of changes made to them over 75 years. What you need is a basic set of principles allowing for flexibility and allowing for a balance between retaining the heritage character of the area, which I believe most people living in the area will want to retain, and contemporary needs.

I would suggest to the committee that you not approve this whole approach. It's the wrong approach to regulation. The approach to regulation should be one of setting out the core principles, not having such detailed prescriptive rules. It's a bureaucratic approach which, I think, doesn't achieve the real objective and it's not workable.

**THE CHAIR:** Your comments have been reflected quite widely in the hearings that we've had so far.

**Mr Willheim:** I'd also echo the comments made by the first witness that, in a sense, this is all about restricting what people can do with their homes. It doesn't take account of the financial burden on people. In my case, I'm retired. My main income is commonwealth superannuation. It's adequate, but we don't regard ourselves as wealthy. The costs involved in a lot of these things are much higher than the costs involved in a non-heritage listed home that is, in part, for a wider public benefit. I think there is a case for looking at whether, for example, the difference between what one might call conventional costs and heritage costs could be assisted or something like that. Thank you.

**THE CHAIR:** I think that that's something we should take on board. Thank you very much for your time, Mr Willheim.

**JOHN CONNORS** and

**SUSAN WIGG**

were called.

**THE CHAIR:** Welcome. Thank you very much for your time. If you could introduce yourself, as has been the case before, and give a brief exposition on the issues that you'd like to see raised with the committee about draft variation 173.

**Mr Connors:** My name is John Connors. This is my wife Susan. We'd like to thank the committee for allowing us to come to speak.

**THE CHAIR:** Give your address, please, for *Hansard*.

**Mr Connors:** We live in No 1 Stokes Street, which is part of Blandfordia 5. I'd like to take it all the way back to a statement in DV 173 that was sent. It says, "The resultant composition of architectural and landscape elements form a cohesive streetscape that the community values." There's a reference over the page, "Industry representatives, precinct residents and the general community were invited to attend one of a series of consultation workshops held during October 2000 to discuss proposed revisions to the conservation objectives and development controls for the precincts. During these workshops, all participants agreed that the precincts had special values that should be conserved." I certainly wasn't informed of those workshops and, being a resident of the area, I certainly would not have agreed.

**THE CHAIR:** What is it that you don't agree with?

**Mr Connors:** I do not agree with the statement that it has special significance. I believe that the whole area has changed so dramatically since it was first laid down and built that it no longer truly represents what it intended to be and I cannot see any special heritage significance. I do not believe that this represents the community view at large. I attempted to contact ACT Heritage to get a copy of this document, if there was a document, and I have, as yet, not received that, so I come here unprepared, I'm sorry.

**THE CHAIR:** When did you contact Heritage for a copy?

**Mr Connors:** Not until yesterday, I'm sorry. I did not receive these documents until late last week and I, unfortunately, have not been able to read them until this week; so I am poorly prepared, I apologise.

**THE CHAIR:** We all have time constraints.

**Mr Connors:** We do.

**THE CHAIR:** You are in Stokes Street.

**Mr Connors:** I'm in Stokes Street, No 1 Stokes Street. I believe that this ultimately reflects a very small proportion of the community, a vocal minority, as I have indicated in previous correspondence, and not the community as a whole. Certainly it does not, in my view, represent the view of the community that live in my area. It represents a number of zealots that live in my street but, apart from that, most people generally feel that this is over-restrictive and unnecessary.

**THE CHAIR:** Would you like to enumerate on the things that you think are over-restrictive?

**Mr Connors:** My first concern is site coverage. I think it is unreasonable that we who live in this area of Blandfordia 5 should be restricted to a site coverage that is less than for the rest of the community in Canberra. That's the first thing. I'm highly against that.

**THE CHAIR:** Sorry, just while we're here. Sandy, could you tell us, what's the average block size? We're not talking about the large—one, two or three-hectare—blocks here; we're talking about ones of 1,000, 1,200 or something like that?

**Dr Blair:** Yes, that's the case.

**Mr Connors:** They're proposing to restrict that to 27 per cent or 27½ per cent, whereas for the rest of the community, I believe, or my understanding is, it's 35 per cent. Not only that; they will then restrict us or plan to restrict us to a single-storey dwelling, so that there is no way that one can adequately build a satisfactory family home. My wife is pregnant. We hope to have more children. In the modern world, with the need for a two-car garage because that's the usual situation these days, the restriction to 27 per cent, which includes garaging, is too restrictive if we are limited to a single storey. That's the first area that I'm strongly opposed to.

The next thing is the restriction on the use of reasonable modern architectural devices that particularly maximise energy efficiency, water efficiency and things like that, which are part of the Australian reality. These areas were built with no view to energy efficiency, nor the use of a north-facing aspect or things like that.

**THE CHAIR:** Or knowledge of it, probably.

**Mr Connors:** These principles were laid down by the ancient Greeks, so I think the knowledge was available; it just was not utilised.

**THE CHAIR:** Not in Canberra.

**Mr Connors:** That's correct. If you go throughout Italy and all of this, architecture has been around since Pythagoras. I'm not going to go on for very long. I think it just restricts us. I think it has decreased the value of the block. I would sell gladly if I believed that I could get reasonable value for it. If ACT Heritage would like to buy it from me, I would be more than happy to give it to them.

**THE CHAIR:** I think I'm hearing that you are strongly echoing what Mr Willheim said about the restrictiveness and the level of detail, rather than the broad principles.

**Mr Connors:** No, I object to the broad principles. I don't think it's of heritage value. But, going beyond that, I would then reiterate what Mr Willheim very eruditely went through. I don't plan to string that along here.

**THE CHAIR:** What you're actually saying is that you actually question the heritage value of all of the precinct?

**Mr Connors:** All of Blandfordia 5, yes. That's statement No 1.

**THE CHAIR:** That's a fairly controversial statement.

**Mr Connors:** I like to be controversial. I think this is being forced upon us by people who don't live in the area and, apart from one or two people, as I mentioned, most people in the area are not in favour of this. People want to live a normal life. They want to get on with their lives, they want to have families, we want to have reasonable comfort.

**THE CHAIR:** I don't want to be seen as putting words in your mouth, but they also don't want to end up in the AAT or the Supreme Court if they want to extend their homes.

**Mr Connors:** The amount of acrimony that is going on in my street right now due to AAT procedures is unpleasant.

**MS DUNDAS:** Early on in the piece, you talked about meetings going on in the area that you didn't know about.

**Mr Connors:** No.

**MS DUNDAS:** I'm interested in the consultation process over the development of the draft variation. Did you feel that you were informed, able to participate, that your views were taken on board?

**Mr Connors:** No, I don't, but I'm participating now, belatedly. But no, I was not informed about these so-called workshops that were being held back in October 2000; I was not aware of those. I think this is a fantastic forum and thank you very much for

allowing it. I just think the whole document, as has been described by the previous speaker, is just overly detailed, overly restrictive, and puts a gross burden on the residents of that area.

**MS DUNDAS:** Can you elaborate on why you believe that the Blandfordia 5 precinct no longer retains heritage?

**Mr Connors:** As I mentioned before, I believe that things have changed so dramatically over the years. Most of the houses have been added to, often poorly added to, with poor architectural principles and things like that, with a little bit tacked on here and a little bit tacked on there, and very few of them actually reflect what it was originally intended to be and very few of them have had true aesthetic appeal, in my view. I walked around it this morning. Some of the parks and things like that are nice, the verges are nice. I think the layout of the whole area is nice, but the houses themselves, generally speaking, if you go there yourself, are not very appealing.

**Ms Wigg:** I think the primary premise of a cohesive appearance to the area is flawed. If anyone takes a walk around our particular area, there's a distinct lack of cohesion in the architectural developments from one house to the next, to the next. If the aim is to maintain a cohesive appearance in Blandfordia 5, then that's already failed in my view.

**MRS CROSS:** Do you believe that the variation will have a positive or a negative effect—I already know the answer; a negative effect—on your property value?

**Mr Connors:** It already has.

**MRS CROSS:** Can you tell me how that's the case?

**Mr Connors:** I'm trying to move. Ideally, I'd like to stay where I am. My parents live next door. There is a special situation there, which is marvellous. My mother is there, the grandmother of my future children, and it would be a fantastic situation, but I'm afraid to attempt any sort of extension because of what I know has happened around me, so I have looked at properties. Any property you go into, you ask, "Is this heritage listed?" As soon as that is yes, people's interest disappears.

**MRS CROSS:** Is that right?

**Mr Connors:** Completely true.

**Ms Wigg:** From a practical point of view, we have a two-bedroom home with no garage accommodation of any kind, nor carport, at the moment. We have a lounge and a dining room and an original 1930s kitchen which I guess we could renovate without any problems at the moment, but to spend money renovating internally without making some provision to enlarge the house to accommodate a growing family, I think, is money poorly spent.

**MRS CROSS:** When you bought the house, was it a heritage-listed house?



**Mr Connors:** I was very naive. We bought the house in 1993 and the idea of heritage had just come in, or had been around for a little while. We were not aware, nor did I have money at the time to take advantage of the fact that people at the time were extending quite generously, and people in the area have done so.

**MRS CROSS:** Do your mum and dad have a garage?

**Mr Connors:** Yes, they have a single garage.

**MRS CROSS:** And they have a better kitchen?

**Mr Connors:** Yes, they have done up the kitchen. We could move in there, maybe. I'm not sure how they would cope.

**MRS CROSS:** I wasn't suggesting that, Mr Connors, and don't tell your parents that I did, because you live in my electorate.

**THE CHAIR:** Just by way of clarification, when did this area become heritage listed, Sandy?

**Dr Blair:** It was interim listed in 1996 and it went onto the Territory Plan in 2000, so it was listed in 2000.

**THE CHAIR:** So you were there before.

**Mr Connors:** I wish I'd had the money before, yes.

**Ms Wigg:** Can I just say one thing: all we're wanting to do is build a four-bedroom home, with a reasonable desire to increase energy efficiency and utilise some of the north aspect of the block. That would appear to be very difficult if, particularly, the plot ratio legislation is enforced as currently outlined in this document.

**THE CHAIR:** Just out of curiosity, I've got a map that has block and section numbers, not street numbers.

**Mr Connors:** We're block 6 section 4 or block 4 section 6. I think it might be block 4 section 6.

**Ms Wigg:** Near the corner of La Perouse Street, Murray Crescent and Stokes Street in Griffith.

**THE CHAIR:** So you're one back from the funny triangularish corner block?

**Ms Wigg:** Yes. That is John's parents'. It's 1,000 square metres, it's not a large block, which means that the size of the house would be quite small.

**THE CHAIR:** And the front windows face north-west.

**MRS CROSS:** That's a pretty good size for there.

**THE CHAIR:** Are there any other issues you'd like to raise?

**Mr Connors:** No, we'd just like to register our objection to the whole business.

**THE CHAIR:** Is there anything else that the committee would like to raise? Thank you very much for your time.

**Mr Connors:** Thank you for your time.

**MS DUNDAS:** Can I ask a quick question of Sandy? Could you please provide us in a written document with information on when or if the different precincts were listed as heritage?

**Dr Blair:** Sorry.

**MS DUNDAS:** When all the different precincts that are part of this inquiry were listed on the interim heritage register and when they were then put on to the Territory Plan.

**Dr Blair:** Yes.

**ANN HOWARTH** was called.

**THE CHAIR:** The next people on our list are Mrs Bird and Mrs Howarth, as the National Trust will not be a starter.

**Mrs Howarth:** I'm here, but Mrs Bird is not available today.

**THE CHAIR:** Thank you. Ms Howarth, you're here to talk generally about draft variation 187; is that correct?

**Mrs Howarth:** That's right.

**THE CHAIR:** That's the Red Hill precinct.

**Mrs Howarth:** That's right.

**THE CHAIR:** Please introduce yourself and state your address for *Hansard* and give a brief exposition of the issues you'd like to raise.

**Mrs Howarth:** Thank you. My name is Ann Howarth. I live at 22 Mugga Way, Red Hill, and I'm here as a representative of the Old Red Hill Preservation Group. First of all, thank you, Madam Chair, and your committee for allowing me to appear here. The reason I'm here is because the Old Red Hill Preservation Group of residents has been involved in the conservation of this area since 1993 and always we're very keen and keen to put our point of view, so I take the opportunity and thank you very much.

The main point I want to bring up is that we believe to protect the heritage significance of the area one house per block is imperative and that an overwhelming majority of the residents in the area have been supportive of variation 187. I'm sorry, I keep saying Old

Red Hill, because that's how it started, and I think then various people called it Red Hill housing, Red Hill housing precinct and Red Hill precinct, so if I go to Old Red Hill, I apologise.

**THE CHAIR:** Yes, we know roughly.

**Mrs Howarth:** We're concerned that Canberra's heritage is continually being eroded, and much of it has been due to speculative development, and that there's no doubt—we're not concerned about this, but there's no doubt—that beyond the heritage areas accelerated development is going to occur. But what we think, in that case, the heritage areas that do exist are going to be more important and we think it's therefore more important to conserve those areas for future generations. The ones that are present at the moment, we think, should be conserved and they'll become more and more significant in the bigger picture in the future, we feel. The process that has resulted in variation 187, as I said, began in 1993 and it's involved numerous hearings, submissions, et cetera.

**THE CHAIR:** No doubt about it; it has been tortuous.

**Mrs Howarth:** Absolutely; you're aware of that.

**THE CHAIR:** We're all across that, so we'd actually like to go into the issues rather than the background.

**Mrs Howarth:** I'm not going to go into it. I'm trying to be brief. Very briefly, in 1994 the ACT Heritage Council included Old Red Hill as Red Hill precinct on the ACT's interim heritage places register, and then in 1997 the oldest part of the area was listed on the register of the National Estate compiled by the Australian Heritage Commission because it has been recognised as part of Australia's natural cultural heritage and that it deserves to be conserved.

We've had support from various organisations, but one recent supporter was Professor James Weirick. He spoke at the last planning committee meeting, which was into variation 114 a couple of years ago. He is recognised as an expert on Walter Burley Griffin and Canberra's heritage and is professor of landscape architecture at the University of New South Wales. He actually presented a 1½-page submission to that planning committee which I'd like to leave with you, with a copy of his resume, if that is possible.

**THE CHAIR:** That is possible.

**Mrs Howarth:** I have several copies. One of the points that he made in this little submission is that he said, "In the case of the Red Hill housing precinct the qualities of an exceptional garden suburb of the 1920s are at stake. I believe the key to conserving the precinct is a one house per block policy." He made that statement in this piece of paper and at the hearing he actually gave a submission and answered various questions. He said that to find anything comparable to Red Hill would require viewing examples in the United States dating from the 19th century, so he felt that it was important. Other people have said similar things, but this is the most recent and I thought, therefore, if I left a copy of this and a copy of his CV it might be helpful for the committee.

**THE CHAIR:** And the committee is in a position to review the transcript of the 141 hearings. I understand the point that has been made, and it's been made very forcefully. I don't think that there's very much debate about that. But I would like to present a devil's advocate scenario.

**Mrs Howarth:** Please do.

**THE CHAIR:** You have a plot ratio in Red Hill precinct, as elsewhere, but currently what you have on many of the blocks is, in many ways, a modest cottage on a very large setting.

**Mrs Howarth:** Yes.

**THE CHAIR:** So that you have lots of green space around and things like this. What has happened in this precinct is that, with the plot ratio that goes with the planning regulations here, you've had people come in and take the modest cottage out of the green setting and take advantage of the plot ratio to put in a fairly large and imposing house at the front of the block.

**Mrs Howarth:** I can think of a couple of examples, yes.

**THE CHAIR:** I can think of a couple of examples and I don't want to give specific examples because I don't want to be critical of what was there in the past or is there now. Would it be possible that the overall heritage look and feel of the place that you had 20 years ago might be better accommodated with two dwellings with the same plot ratio?

You're plot ratio is 27 per cent. Instead of having a house of 300 squares, you could have two 150-square houses with appropriate setbacks and things like that that actually gave you a better feel from the street and a better feel for the neighbours, because they don't actually have a monolithic dwelling, without being critical of any particular architecture.

You've taken away a small dwelling, and most of the houses originally were quite small. Some of them were not. But you've taken away relatively small dwellings and taken advantage of the plot ratio to create something which is significantly larger. Is it not possible with the right regulation to maintain more of a feel with two smaller dwellings than with one big one?

**Mrs Howarth:** There are two points to this question. The first is that these blocks are huge, so if you have a plot ratio of, say—can somebody remind me exactly; is it 27?

**THE CHAIR:** What is the plot ratio, Sandy?

**Dr Blair:** There is a sliding scale, depending on the size of the block.

**THE CHAIR:** Okay, so it's one of the sliding scale ones.

**Dr Blair:** There is not one answer.

**Mrs Howarth:** Let's say 20 per cent.

**Dr Blair:** It would be higher than that, but yes.

**Mrs Howarth:** But let's say 20 per cent, because that's low. The blocks vary in size.

**THE CHAIR:** Some are as much as a hectare.

**Mrs Howarth:** Exactly. That's the one I was going to go to, which is 11,000 square metres, 2½ acres. It's a huge block. If you say 10 per cent, that's 1,100 square metres. If you say 20 per cent, that's 2,200 square metres, which in the old style is 220 squares. That is a huge house.

**THE CHAIR:** Yes.

**Mrs Howarth:** Therefore, you can actually accommodate a huge house, but it's only 27 per cent, if you see what I mean. It's one house. There might be 200 squares of house, but there are 800 squares of garden around it; I think I've got the numbers right. So there's one house, but there's still this huge garden around. It's still a park, it still has huge trees. That 2½-acre block, which is a hectare, is an enormous block and it takes a long time to walk the boundary.

You notice on that block that there are an enormous number of large trees. On an average residential block in Canberra, you probably couldn't even have one of those trees. But this particular block, like a lot of other blocks in the area, has huge trees, and that's one of the advantages of this area, the huge trees. That part of the question is that you can have a huge house and, sure, it might look out of place on a smaller block, but that particular block can take it, because there's so much ground around it. It still has 80 per cent of ground around it, so we're still saying that if we go up to 27 per cent, you've still got 70 per cent of garden around that block.

The second point is if you had two dwellings. Say you had two dwellings of a smaller size. For example, let's go to an average block size in that area, which is, I think, actually 7,000 square metres, which is still a huge block of land in Canberra. Actually, the ones along Mugga Way are all about 5,000 square metres. If you put two houses on that block and you don't even subdivide them in theory, legally subdivide them or unit title them, if you look at the block of land, where there was one house before and there are now two houses, so visually the block of land is subdivided.

Visually, you're looking not at one house in a large park, you're looking at two houses—sure, in a large park—but each house is in a smaller park, if you see what I mean, because you'd still have that one house. You can't tell me that, if you have one house, the gardens are going to change; somebody one side of the house will go for, say, native and the other one will go for exotic, so you're going to see that there are two houses on two blocks. It will never appear as one house on a block. On a large block it's going to be two houses on two blocks, even if they're not unit titled, because they are going to be two separate houses, they're in two separate gardens, so visually the whole area becomes smaller, if you understand what I mean. Am I being clear or not?

**THE CHAIR:** Yes, you are being clear and I wanted to put the proposition that has been put forward that you could have the same plot ratio and still have the same effect. I think you have put forward an effective argument that that may not be the case, yes.

**Mrs Howarth:** Yes. We understand that, even with the smaller blocks, if you go doing things like that, it does end up that the area does not look as it was before, and the advantage of this area is the gardens, the huge trees and the lots of garden space that attract visitors to the area. A lot of the gardens are open for fundraising for charity and things like that and it just wouldn't be the same. Does that answer that?

**THE CHAIR:** Yes, it does. Sandy, could you give us a little history of the precinct? I don't know that we've asked this before.

**Dr Blair:** The Red Hill precinct?

**THE CHAIR:** The Red Hill precinct. When was it designed, for what purposes, by whom, et cetera.

**MS DUNDAS:** While that's going on, can I just ask a quick question? In your submission to the draft variation way back, I think in 2001—

**Mrs Howarth:** That sounds about right.

**MS DUNDAS:** After 114 and that debate.

**THE CHAIR:** We have to commend you on your persistence. We come into this fresh, but you've been doing it for years.

**MS DUNDAS:** There are a number of submissions that mention unhappiness with the caveat that the draft variation does not apply to applications lodged before 12 July 2001, and you made the point that there are 72 blocks in the area and 72 dwellings. Are there still 72 dwellings and is that continuing complaint about 12 July 2001 still there?

**Mrs Howarth:** I'm not sure that that one still is there, because the reason we had that complaint is because there were a couple of applications before PALM, and one particular application was for a dwelling on the corner of Flinders Way and Monaro Crescent, so it's on the roundabout directly opposite Boys Grammar. That particular application was for a dual occupancy in the front garden. It was lodged before the magic date. We were concerned about two things: where did the magic date come from? The second thing is that if the Legislative Assembly had decided that there should be one house per block, as it had so decided, why risk the heritage significance of the area by adding a dual occupancy, especially on a corner which was a dominant corner of the area.

Anyway, this particular dual occupancy, now that you've mentioned it, I can't remember how many residents objected, but there were between 20 and 30 objections to this particular dual occupancy. PALM refused the application. The owner took it to the AAT and the AAT refused the application. The applicant took it to the Supreme Court.

**THE CHAIR:** This is the one that was petitioning the High Court.

**Mrs Howarth:** Yes. It went from the High Court back to the Supreme Court. The Supreme Court has now rejected it and we're just waiting to see if he does anything else. This is the sort of thing that we've been doing ad nauseam.

**THE CHAIR:** I actually know; the history is all flooding back.

**Mrs Howarth:** That is just one example.

**MS DUNDAS:** The complaint about that particular date, 12 July 2001, was about that particular development.

**Mrs Howarth:** It was about two things. One point was: where did that magic day come from? Why decide suddenly on 12 July 2001, or whenever it was, especially as the Legislative Assembly had decided that there should be one house per block. The other thing was that there were applications in the pipeline and we knew that, if there were applications in the pipeline and they were approved, okay, the Legislative Assembly had already decided that there should be one house per block, but we were going ahead with these applications anyway, and they could end up with dual occupancies, which would affect the heritage significance of the area.

**MS DUNDAS:** So there are still only 72 dwellings for the 72 blocks?

**Mrs Howarth:** No, I did a count; there are 70. About 10 are embassies, so there are 60 dwellings, about 60 dwellings.

**THE CHAIR:** But there's still one per block.

**MS DUNDAS:** There has been no dual occupancy?

**Mrs Howarth:** There is one dual occupancy. It belongs to Peter Blackshaw, who is a real estate agent. He had the only block of land that was listed on the ACT Heritage Council's register as having a significant garden and his application to the AAT was approved, the only garden on the ACT Heritage Council's register that was listed as significant. He had his block cut in half, so that garden was effectively cut in half. I can't believe it. It was an old Brackenreg garden. That is the only dual occupancy.

**THE CHAIR:** We have to move on and that's all history.

**Dr Blair:** Can I just make one further comment? The area also has a representation of Canberra's and, indeed, the nation's best architecture and some of the leading architects, including Mr Taglietti, who designed the apostolic—

**THE CHAIR:** The nunciature. But it is not in the heritage area. There's an excision in the map. Is the nunciature in the heritage area?

**Dr Blair:** Because it's national, not ACT government. It's not the territory's responsibility. It is heritage, but it's not the territory's responsibility.

**THE CHAIR:** I see. That's why it has been excised from that map there. The nunciature is there and the excision is because it's actually on the national heritage list and therefore not your responsibility. I often wondered why it was excised and that answers that question.

**Dr Blair:** But there is also the work of many other leading architects, like Robin Boyd and Ken Oliphant, who were building around Canberra. It's shown in Griffin's original 1980 plan for Canberra, Red Hill, and the concept was of larger houses on landscaped blocks. It's always been an area where dignitaries have lived and bought very fine architecturally-designed houses, so the heritage values are very substantial, both as an area, but also some of the individual architecture of the houses.

**THE CHAIR:** Unlike draft variation 173, we're not actually attempting to preserve an architectural type, but more the overall feel for the house in a large park-like setting. There are no FCC-type houses that we are saying we want to preserve. Not the streetscape and the feel of the actual architecture of the original house, from the Robin Boyd house or whatever; that's not the issue. It's not the built form so much as the growing form.

**Dr Blair:** There are some individual houses that are picked out as well.

**THE CHAIR:** Are they listed?

**Dr Blair:** Yes.

**THE CHAIR:** But the point I'm getting at is that, as opposed to, say, Reid, where you've got a whole lot of FCC houses of various sorts, you're not actually aiming to preserve the interaction of a streetscape with a whole lot of facades of a particular type; you're more interested in the overall natural—it's not really natural because it's planted; they are gardens—and particular houses which may be heritage listed either nationally or locally.

**Dr Blair:** Yes.

**THE CHAIR:** Okay. In some cases the architecture is not important and in some cases it is.

**Dr Blair:** Yes.

**Mrs Howarth:** There was another point that I wanted to bring up very quickly. The debates in the Legislative Assembly which occurred when Simon Corbell proposed the two motions that resulted in PALM being directed to provide policies to allow one house one block clearly demonstrated that that was the wish of the Assembly at the time. Our group heard the debates and were pleased with the support. I'd just like to read a couple of quotes, and I have some quotes that I'd like to leave with the secretary, if that's all right.

**THE CHAIR:** Yes, that would be good.



**Mrs Howarth:** But just a couple of points. In promoting the motion, Mr Corbell said:

By approving dual occupancy development in the precinct, however limited it is, as a city we will be moving towards a slow, but gradual, undermining of the heritage significance of the precinct and its place in the planning heritage of the garden city ...

Ms Tucker said:

The Greens will always seek to encourage well-planned, well-considered urban planning and sensitive and targeted urban consolidation of existing urban areas over the development of greenfields ...

In this case we have very large blocks which are assessed to be a rare example of the garden suburb as envisaged in the 20th century ... While we would not support a whole city of large blocks, we can see the case for retaining an example of this planned zone of homes in a park-like setting.

She also said:

A brief glance at the plan shows that this precinct has been laid out as a separate precinct from the beginning. The vision of the garden suburb has survived so far.

Just briefly, because I know that you're time is a point, when the second debate happened on 14 February 2001 it was clear from the debate in the house that the Legislative Assembly was frustrated because PALM had not followed it's wishes. For example, Ms Tucker said:

The issue of dual occupancies in the Red Hill heritage precinct has gone beyond a planning matter to one about Assembly procedures. In June of last year, Mr Corbell put up a motion recommending that the executive direct the ACT planning authority to review the Territory Plan—and this is a key point—to provide for a development intensity of no more than one dwelling on any block within the Red Hill housing precinct.

And then she said:

However, PALM did not follow the intent of the motion.

The intent of the motion was absolutely clear, that is, that the Territory Plan should be changed to allow for only one dwelling. That's it.

**THE CHAIR:** I'd like to take this opportunity to put on record what the process is. I don't want to go over the history of who did what to whom, but eventually the Assembly asked the minister to direct PALM to do a particular thing and what is happening here today is approaching the end game in that process. I just need to put it on the record because there is some concern in the community that this is taking too long, but that motion set in train this draft variation and nothing can happen without the draft variation because of existing conditions in the Territory Plan.

Although the successful motion was passed some time in 2000, this is the process. It has been lengthy and has been made more lengthy as we're a different committee from the previous committee. But this is the process that the previous Assembly started and our committee has a role in bringing to conclusion. It will eventually go back to the Assembly and then it will be tested in the Assembly as to whether that is still the view of the Assembly.

Not to preach on this or to tell you something that you might already know, but I want to use this opportunity to put on the record for the community that this is a process that is almost always long. I know that the community wanted this resolved some time ago, but we have to go through this process. The motion in the Assembly was not enough. The motion in the Assembly does not change the Territory Plan. This process changes the Territory Plan.

**Mrs Howarth:** Thank you, Madam Chair.

**THE CHAIR:** There being no other issues that the committee wants to raise, I thank you, Mrs Howarth, for your attendance.

**KEITH STOREY** was called.

**THE CHAIR:** Are you here, Mr Storey, to talk about draft variation 173?

**Mr Storey:** Yes, that's on Blandfordia. In particular, I want to talk about Bass Gardens.

**THE CHAIR:** First of all, please introduce yourself and give your address for *Hansard*, and then you may make an opening statement.

**Mr Storey:** My name is Keith Storey. I'm convenor of ACT for Trees.

**THE CHAIR:** We have had a submission from you.

**Mr Storey:** On 15 December. It was a joint submission with the Friends of Bass Gardens.

**THE CHAIR:** I read it last night. I'm across the issues now. Would you like to give a brief exposition on the issues that you'd like to see discussed?

**Mr Storey:** Yes. ACT for Trees is a group concerned about the management of parks and private open space in the ACT. We're also concerned that there is a lot of bad planting and there is a lot of bad design. Our basic principle is the right tree in the right place, but we're concerned about the visual environment. As our first project, in about May 1998, we had a management plan prepared for Bass Gardens. Particularly, we were concerned about the lack of care which had been taken with that park at the time.

**THE CHAIR:** Are you still concerned with that?

**Mr Storey:** No, not with the action we've taken and the production of two plans. One was the preliminary management plan and the other was the final management plan,

which was prepared under a grant from the Heritage Unit. We had two grants—about \$8,000 and a bit more as a supplement—which enabled us to brief, first of all, Carol Cosgrove to prepare one on the heritage significance of the area and Dr Robert Boden to prepare the conservation management plan. We've been right through the process and in the letter that we sent we were concerned about two things. One is that linking the park with, shall we say, the heritage document didn't give enough emphasis to the significance of the park itself. I rate this as an outstanding area.

**THE CHAIR:** I have to say that, in rereading it last night, I was given an appreciation of the park in Bass Gardens which I had never really had before.

**Mr Storey:** Yes. Whilst we're saying, first, that the park itself should be given some special status—whether that will still be in the same document for Blandfordia—perhaps there is a need in the ACT to have a special heritage status for parks. I think there are very few of them, actually. It is certainly, in my view, in the category of Telopea Park. Other areas that might be put in would be Collins Park—but perhaps not—and a number of other very small parks. I wouldn't expect Corroboree Park to come into that same type of category, but still it's a very important park in the heritage value of that area in Ainslie. So that's the first thing, to give Bass Gardens sufficient status and to recognise, on behalf of the Assembly and the people, that it is a special spot.

The second one is that, unfortunately, the way planning schemes work, because this is done under the planning legislation, they always like to include uses that land can be put to at a later stage, or while that area is still a park. They've suggested that the area can be used, and I think this applies to all of the open spaces, for two broad categories: one is community use, which you will all realise covers a tremendous range of things, and the other is a municipal facility or depot, which again can include things like a works depot, telecommunications transmitters, dishes for telecommunications, a whole range of particular facilities. I should mention community facilities range from simple things like preschools through to hospitals.

**THE CHAIR:** And funeral parlours now.

**Mr Storey:** That's our major concern. It's a matter of still keeping Bass Gardens as a park but eliminating those particular uses. There is provision in the act to prevent development taking place unless it's in accordance with a management plan. Now, the management plan—I think it's been approved, hasn't it?

**Dr Blair:** Yes, it has been put before the Heritage Council.

**Mr Storey:** Because this document argues quite strongly that there should be none of those other uses in the park, it may be possible to do it by other means. The essential thing is that it's an urgent matter that needs to be thought through and that's the whole point of our argument today.

**THE CHAIR:** On the point you make about making it a heritage park rather than a neighbourhood park, is there such a classification, as we currently have it, for a heritage park or would we be creating a new classification?

**Mr Storey:** There's no official document about what a neighbourhood park is, but it has certainly been used in this document. There was another document done. I suppose there are general thoughts that nearly every park that's within a neighbourhood is a neighbourhood park. It would include things like sports fields associated with schools, for example; they would come under that category.

**THE CHAIR:** Yes. Sandy, is there a particular classification to take in heritage parks?

**Dr Blair:** Not so far as I know. The protection would come through its being included within a heritage precinct and then having a conservation management plan.

**THE CHAIR:** So we don't have to mount the barricades to stop a municipal depot going in there in the near future?

**Dr Blair:** I don't think so.

**THE CHAIR:** Can you assure me of that?

**Dr Blair:** If you read 1.2 (a) in draft variation 173, it does talk about—

**THE CHAIR:** This is the Blandfordia bit.

**Dr Blair:** Yes.

**THE CHAIR:** What pages?

**MS DUNDAS:** Page 8 of the Blandfordia bit.

**Dr Blair:** It's 1.2 (a), under "Conservation Objective".

**THE CHAIR:** When all the bits are actually being printed up, can we have the pages about Blandfordia called Blandfordia or section 1, pages 1 to 12, with section 2 being about Corroboree Park? It's a real pain, I have to say.

**Dr Blair:** Yes, point taken.

**THE CHAIR:** We're in Blandfordia and we're on 1.2 (a).

**Dr Blair:** It says that Bass Gardens Park may include the provision of recreational and community facilities and municipal depots, which is what Mr Storey is concerned about. But it goes on to say that any development should reinforce the access, et cetera, in the park and that new community facilities and municipal depots should only be permitted where they are consistent with the conservation management plan that has been endorsed by the ACT Heritage Council.

**THE CHAIR:** But what Mr Storey is saying is that, if we really truly don't want to put a municipal depot on it, why are we talking about it as a possibility? Is that the nub of the issue? And what you are actually asking us to say is, "No, never, not ever, not a municipal depot."

**Mr Storey:** Partly. If this document is agreed, which argues that there shouldn't be any of those facilities in it—

**THE CHAIR:** So we shouldn't even be raising the possibility.

**Mr Storey:** If that's agreed in some way, will it last? It's only the decision of the heritage committee, and again against the Planning Authority.

**THE CHAIR:** So what you're actually looking for is some guarantee in the paperwork?

**Mr Storey:** Yes.

**THE CHAIR:** People have talked about whether or not we're restrictive or prescriptive here. You're actually saying let's go down the prescriptive road because of the value of Bass Gardens.

**Mr Storey:** Yes.

**THE CHAIR:** In your submission to this committee, you've talked about the fact that there is no barbecue, no tap, et cetera. Would you have a problem if they put on the power or put on the gas and had a barbecue there and had a tap?

**Mr Storey:** There could be, in some ways, even a better description of those things that are appropriate to parks, rather than the broad categories that are being used. You realise there have been quite a number of concerns in parks when what we call community facilities have been put in them. In some cases it's quite all right; in some cases it could be the wrong thing. I point out that one of the important things about this park is that it's a good model for park management in the ACT because it has no irrigation whatsoever and the result of this is the native grasses. It's a marvellous mix of introduced grasses and native grasses, and I think this is a further indication of its importance. Certainly, we're strongly against putting in irrigation and most neighbourhood parks would have irrigation.

**THE CHAIR:** Yes, but it must be dry at the moment.

**Mr Storey:** For watering, if they're having it, certainly. Little things like that would be appropriate, but you can say those in words.

**THE CHAIR:** Yes.

**Mr Storey:** It would say drinking facilities or bubblers.

**MRS CROSS:** Mr Storey, why do you not like having barbecues in the park?

**Mr Storey:** Shall we say that I think it would be reasonable, in future circumstances, that there could be a list of types of activities that might come, the question largely being that under heritage this plan has status for three years. We would say that none of those facilities are justified in the next three years. This plan would have to be reviewed. I take it that all these plans will be reviewed every three years.

**MRS CROSS:** The management plan?

**Mr Storey:** Yes.

**THE CHAIR:** Is that a statutory requirement, Sandy?

**Dr Blair:** Sorry, is it three or five?

**Mr Storey:** Well, those details—

**THE CHAIR:** I think it's five.

**MRS CROSS:** Do you personally have a problem with barbecues in this park?

**Mr Storey:** No. It is not seen as a park that generates that type of activity. But, for example, in four years or 10 years, yes. This document gives too much authority to the Planning Authority as against the management of that park, and the people want to know how that park is going to be managed for the next five years or three years—or forever, for that matter.

**THE CHAIR:** Yes, I think we have got the message on that one. Just a transitory management issue: because the area isn't irrigated and there's no water there, in the current drought, are any of the trees at risk? You may not be able to answer that, but perhaps Sandy could get back to us.

**Mr Storey:** Yes, I can.

**THE CHAIR:** Are any of the trees at risk?

**Mr Storey:** No, because most of the trees were selected for just this type of circumstance and they've survived, well, nearly 80 years.

**THE CHAIR:** They're only really at risk of old age.

**Mr Storey:** They'll probably go for another 100 years, some of them.

**THE CHAIR:** They haven't even reached middle age yet.

**Mr Storey:** No, they've got a long way to go.

**THE CHAIR:** Thank you very much for your time, Mr Storey.

**BRENDAN PREISS** and

**ANNE FORREST**

were called.

**THE CHAIR:** Are you here to talk about draft variation 173?

**Mr Preiss:** Yes.

**THE CHAIR:** Generally speaking or in relation to Blandfordia 5.

**Ms Forrest:** Blandfordia 5 specifically.

**THE CHAIR:** Could you both give your names and addresses and then we can go into it.

**Mr Preiss:** My name is Brendan Preiss. I live in Blandfordia 5 at 19 Monaro Crescent, Griffith. I've lived there for some 13 years, having chosen to live there after 20 years in other parts of Canberra, and I've developed an interest, for various reasons, in the fate of Blandfordia 5 and, more generally, in heritage matters.

**Ms Forrest:** My name is Anne Forrest. I live in Stokes Street in Blandfordia 5. I have lived in this city all my life and I have lived in Stokes Street for well over 20 years. I have taken an interest in heritage because of my family background more than anything else. In recent years I've been on the Manuka LAPAC, which represents six suburbs, and at the moment I'm the convenor of that.

**THE CHAIR:** Is there any opening statement you'd like to make about the issues that you think we should address?

**Mr Preiss:** Yes, if I could, I'd like to address your committee on a few issues. First, a couple of remarks about the process, because I understand there have been some concerns expressed about the process. Secondly, some things about what Blandfordia 5 is. Thirdly, flowing from that, what it is that might be necessary in Blandfordia 5 and what the residents there would desire. And that leads me to pick up some specific points in 173.

I've attended all the community meetings on heritage processes that have been called by successive governments ever since the first one about the interim heritage listing back in about 1991 or 1992 and I think residents have had a pretty good opportunity to know about these things over that 10 or 11-year period, including in those meetings all the ones leading to DV 173, which was, of course, put forward by a previous Liberal government.

The residents' views, I think, are pretty clear. I say that partly from having examined all of the 68 submissions that were lodged with PALM when they were available for public viewing and including from the meetings where, in respect of Blandfordia 5, there were some 50 or 60 people present who expressed views in support of the sorts of ideals that are present in DV 173.

My own broad view is that 173 is, I hope, better than the existing arrangement. I have some reservations about its effectiveness and they go to the degree of precision and certainty going to its prescriptions. I'll come back to that because there are some real practical issues on the ground about how these words will be read in future.

I assume that the committee is generally supportive of the heritage interest in Canberra's built environment. It's less than 1,100 houses and it's less than 1 per cent of the built

environment in Canberra and far more knowledgeable people than myself have written large amounts of material about its importance and significance, so I really am saying that I assume we start on common ground about that. If we're not on common ground about that, I think then there are some more fundamental questions perhaps that would need to be addressed.

I say that not in a spirit of criticism but because sometimes in governmental matters we get a situation where there's a degree of public support expressed for certain values, ideals and interests, but the implementation process doesn't quite match the ideal. I know that's difficult, but it can be a very awkward position to be in where an ideal has been stated and when we come to carry out the implementation there's a great deal of frustration because the instruments available are not adequate for its performance. I'll illustrate that in this heritage area in a moment. It's to the credit of the Heritage Council and the Heritage Unit that they have persevered with this process over the last few years, and the current government, of course, has carried it forward.

On the 68 submissions, in Blandfordia 5 there are about 150 separate houses. I think you might have a figure somewhere of 190 dwellings, but that 190 includes the 40 duplexes or triplexes in Murray Crescent which are a really distinct and unique part of Blandfordia 5 but not one which has received a great deal of attention in some respects through this process and not many submissions, indeed perhaps not any, I think, came from a resident in that area. So my interest is primarily in the 150 houses which constitute that residential part of Blandfordia 5. In that sense, more than 10 per cent of your responses came from people who live in those houses.

I would also draw attention to the fact that in the 68 submissions, when you go through them, you get a balance of negative views and positive views, but the overwhelming majority of views from Blandfordia 5 favour 173. Indeed, the minority view is always the negative view, because there's always the group in the middle, and we could call it the silent majority, but there's a very large group in the middle on every aspect of 173 which doesn't make a comment. I don't think you can interpret that negatively; it has to be interpreted positively, because people are not disagreeing with it. I'd just make a general point that the overwhelming body of opinion as revealed by the submissions would say, "Do this."

I think a couple of things need to be said about Blandfordia 5's characteristics. There's a very good website in Canberra called [allhomes.com.au](http://allhomes.com.au), which takes land title and PALM information about real estate sales and it gives you sales data by date, by location, by price and by UCV. I've had occasion to take out the data on this, and it runs in 10-year blocks, or runs you back over 10 years at any given point. I took it out first about 18 months ago and I've done it again recently. Over the past 10 years, there have been 160 sales in the 150 houses at Blandfordia 5, a pretty high turnover.

**THE CHAIR:** Everything has turned over at least once.

**Mr Preiss:** That's right. But even 18 months ago it was still fairly high. This high incidence of sales is interesting when you compare it to the demographics of the community. I'm happy to separately provide to the committee both the allhomes data and the ABS data, but you can get ABS data on who lives in this area. It's not single or



double income, no kids, over 65s. There's a high incidence of families, there's a high education level, there's a high income level and there's a very high incidence of owner-occupied houses. So we've got this turnover, but we've got a certain demographic.

What happens when they come in is they live in these houses which started off as modest, 15 per cent of the block cottage houses, by and large, and they refurbish them, they renovate them and they extend them. They don't, generally speaking, put a second storey on them and they certainly don't attempt to demolish them. They attempt to live in the environment that they have come into. I'd suggest to you that that's a kind of evidentiary point about what people value in this particular area over this time, and I've lived in it, as I've said, for 13 years.

I'm going to ask Ms Forrest to correct me on a couple of points here if she may, but I think in my time there might have been one demolition of a house in Blandfordia 5 and it was a house on Flinders Way that was replaced by a building designed by Dr Taglietti. This building is seen as having architectural merit, even though some people have described it as a whimsy, because it, in modern senses, reflects things to do with the housing environment. In my understanding, there were very few, if any, objections to that building being created and it certainly wasn't taken to the AAT appeal process. So, despite the fact that there are very few demolitions, that's not to say the community won't respect a new addition to the housing stock.

One of the issues that come up in this area, though, is that there are people who are attempting to stop all development. Now, the facts are that, as far as I can tell, in the last 10 years we've had no more than 10 cases go to the Administrative Appeals Tribunal about development in Blandfordia 5. So that's the first factual issue. What is the incidence of real objection and appeal that might be frustrating development activity? I've actually counted nine cases, but there may be 10.

Of these cases, when you summarise them, three of them involved dual occupancies for commercial interests and two of those involved two-storey dual occupancies for commercial interests. They were taken to the AAT stage and, of those three, two were rejected. In every other case, appeals have failed. So we've had one dual occupancy of a two-storey kind that was accepted. We've had a two-storey case accepted in recent weeks in a street where there are no two-storey dwellings that have been approved post-citation. We've had two large extended dwellings approved, much larger than the norm. We've had several of these handled by developer interests.

I think therefore we need to put this in perspective. The residents have objected to what were very large and seen to be out-of-character dwellings, some involving two-storey and some involving dual occupancy, and dual occupancy is not a feature of Blandfordia 5 at the present time. That sort of behaviour of the residents would be consistent with what they've come into—an area of single, detached dwellings which have been extended and modified, whatever, and that are primarily for family purposes.

I don't have the statistics on the extent of development approvals on large-scale renovations because I don't think PALM disaggregates them. I've certainly not been able to get them for this particular area. But in my own street, Monaro Crescent, there would only be two houses that have not been so modified and both of those were public housing; one still is.

In my own case, not to make any particular point of it, I would say that I have invested probably more than 50 per cent of the value that I originally purchased the house for in renovations and extensions. Simply on either side of me, I would say the owners have invested more than 100 per cent of the value that they purchased the house for originally. That would be pretty characteristic of every street in Blandfordia 5. So we've got a situation where people are behaving consistent with the broad preservation of heritage and they are against, however, large-scale development.

**MS DUNDAS:** You don't see that draft variation 173 would limit those design improvements in the extensions that have happened?

**Mr Preiss:** In broad terms, no. But there are some issues about, (a), the scale, the plot ratio and, (b), in particular, the hard paving, because both of those have become contentious issues in parts of Blandfordia 5. Other than that, I think they're not a particular problem.

I want to indicate also that I don't think there has been any evidence produced of an adverse effect on real estate values in this area as a result of the introduction of heritage protection arrangements from 1992 onwards and the various things that have happened since. Anybody who reads the real estate newspapers would understand there's been a high degree of capital appreciation in the inner south, particularly in these areas. It's the old story; they've stopped making land available, et cetera. But if you look at the allhomes.com.au data, which shows the UCV, in about the last 10 years it has doubled. That's an average 7 per cent return, which is much higher than the average property value in general over a long period.

**THE CHAIR:** What you're saying is that it's doubled across the inner south or it has doubled—

**Mr Preiss:** I'm saying it's doubled in Blandfordia 5.

**THE CHAIR:** You don't know how that relates to other areas.

**Mr Preiss:** No, but I'm certainly saying it hasn't gone down. In my own case, I can assure you that the UCV has certainly doubled. But just to give one illustrative example, perhaps one general comment. A couple of years ago, cottages in the area that had, perhaps, been renovated and extended to some degree during the 1970s and 1980s, in an "as is" condition were going for about \$600,000 to \$700,000. That was up on perhaps five years before when it was about \$400,000.

In the last few months, they have been hovering around the \$800,000 and \$900,000 mark. Two doors from me, before Christmas, a renovated cottage with one additional room that had been abandoned and utterly devastated for over 10 years sold for \$1.25 million. That is not evidence of a decline in real estate values in a heritage area. It sold before auction and, in my own personal estimation, while I don't claim to be an expert, it was probably 20 per cent over what it might have achieved at auction. If people want to assert that there's been a decline in real estate values, then I think we need to go and have a look perhaps more closely at the allhomes data, but I will assert that it isn't there.

**MRS CROSS:** I suppose the comparisons can be made, Mr Preiss, if each house is similar, but I understand that only some of the houses have been renovated and the rest of them have strict heritage controls on them.

**Mr Preiss:** No. This cottage was renovated in the last 12 months, having been abandoned for 12 years. It was subject to the heritage rules, whatever they are. I should indicate, however, that I live in what we refer to as area C and one of the positive aspects of DV 173 is that it brings a common heritage protection across the whole of Blandfordia 5 and in the area that I live in there is a lesser degree of protection than there is in area B, which is lower down the hill, and in area A, which is the Murray Crescent duplexes. One of the important features of DV 173 is that it brings together a common heritage boundary across the whole of the area.

**THE CHAIR:** Sorry, could I interrupt? Could somebody tell me, please, what are the boundaries of A, B and C? A is the two-storey duplexes.

**MRS CROSS:** Is that sections 13, 10 and 11?

**THE CHAIR:** Where do you live, Mr Preiss?

**Mr Preiss:** I live on Monaro Crescent, which is at the top end of area C.

**MRS CROSS:** So that's 11, 8 and 5, at a guess.

**Ms Forrest:** I can answer that question, I think. I'm looking at page 21. Section 2, down the bottom, we've just established is area A. Area B, if you start towards the edge of the page on Flinders Way, there's sections 13, 12, 4, 3, a little piece of section 23, which is actually in Forrest, and part of section 6 facing into Durville Crescent. And then the whole of the rest of it is, in fact, area C. It's interesting to note that some of the most original homes in that their facades and a lot of the original fabric are still very much intact are in area C right now, because of the huge number of redevelopments that, in fact, have occurred throughout all the properties.

**THE CHAIR:** What you're saying is that under the present arrangement there are different levels of protection and requirements and 173 imposes a uniformity, the uniformity of regulation.

**Mr Preiss:** Correct, which is highly desirable. Basically, everything downhill from the Bass Gardens rise is in the greater protection area. It's unclear, frankly, to me what the final basis was for these distinctions. It may be unfair to say this, but one view taken by some is that area C was left with lesser protection to allow more room for development activity.

I'm going to refer to a document here which is the conservation study of Blandfordia 5 undertaken by the Commonwealth Department of Administrative Services in 1990, in association with the then ACT Heritage Unit. In those days, the Commonwealth department had an association with the Australian Heritage Commission. In this document, the recommendation at that time, in 1990, was that there should be a common

heritage protection arrangement and I've never been quite clear why, in 1992, we got to this staggered arrangement, but one of the positives of this is that they're now proposing to finally recognise it.

**THE CHAIR:** I think that we've flagged that as an issue, but I don't know that we have the time or the need to go into who did what to whom in 1992.

**Mr Preiss:** No, fine. But it's good that we've done it.

**THE CHAIR:** You've been very eloquent on the issues in favour of the general thrust of it. Are there issues that you have concerns about?

**Mr Preiss:** I'll flag the issues now. The continuation of a general plot ratio of 35 per cent in common with the rest of Canberra will be the loss of the unique character of the area, so I strongly support the reduction.

**THE CHAIR:** Would you like to give the reasons why you think that?

**Mr Preiss:** Because the character of the area is historically one of the small house on the larger block, 15 to 20 per cent of the block, and we will lose it, it's as simple as that. If we are serious about heritage in an area of 150 houses, let alone the 1,000 houses that we're talking about, we ought to have a lesser plot ratio available. I know there can be debates about whether it's 25 per cent, 27½, 30 or whatever it is. The difference between 30 and 35 is not that great. You've possibly had a tour already, but if you go down La Perouse Street now and look at a house that's being built there, ostensibly within the 35 per cent, you wouldn't believe that there's any room around it for even a bunch of camellias.

**Ms Forrest:** I don't know whether it would assist if, at that stage, I actually showed you the plans, which demonstrate what's about to be built, which is 34.9 per cent, and may give you an idea of the implications. It's just the plans of this one particular house. They went to the AAT. It's the one that Brendan's referring to and it's been approved.

**THE CHAIR:** While we're talking, can we circulate it because we're going to run out of time.

**Ms Forrest:** Yes, that's fine.

**THE CHAIR:** I know that my committee members have other commitments.

**Ms Forrest:** You can actually keep them.

**THE CHAIR:** Okay, we can refer to those later, thank you.

**Mr Preiss:** So plot ratio is important. I support a reduction; 27½ is better than anything else, perhaps.

Another key issue is the issue of driveways. There's a lot of hard paving going on in front of houses. The 40 per cent soft landscaping is, I believe, the minimum. Again, if

you drive down La Perouse—I should have said Grant Crescent on this one—and look at some of the hard paving in the front areas of La Perouse, they've got semicircular driveways. There's no front; there's no heritage garden concept whatsoever.

I am particularly disturbed about the fact that, as far as I understand, the PALM analysis of the 68 submissions does not mention submissions that raise concerns about dual entry, semicircular driveways, on Flinders Way. PALM, I believe, has an undeclared agenda in relation to Flinders Way, which is a boundary road, and has permitted, on more than one occasion, additional driveway entrances and semicircular driveways. In 173, specific mention is made of this being a concession for Flinders Way and, indeed, for corner blocks.

One interpretation of this is that it will facilitate dual occupancy. I, in my submission, which is available, of course, to the committee, specifically raised the Flinders Way concern to ask, or indeed to make submissions on, why it was different from the other boundary streets, each of which carries heavy traffic, each of which carries buses, several of which have topographical change, they move up and down, whereas Flinders Way is almost straight and has practically no up and down, a minor part at the intersection of La Perouse.

Of course, I've never received any information about the justification for the Flinders Way double-entry driveway, dual driveway system. I simply say that there has been no justification, in my view, advanced for that. The driveway issue is mentioned at page 13 of DV 173, I should have said. I can't explain it to you any further, except to say: why is this necessary? No justification has been advanced for it. My understanding of the PALM analysis is that they have declined to even comment on this submission.

**MS DUNDAS:** I have a question on a small point in what you've just said on the impacts of the double entrance driveways and that kind of thing. Do you believe that the heritage value of Blandfordia 5 has actually been retained over all the changes that have happened over the last 20 or 30 years in the area? Also, should the heritage values actually be enforced, in that you have problems with double-entry driveways, which go against the heritage values as you see them. Should we actually be forcing people to change back to a certain extent? Would you address those points?

**Mr Preiss:** On the first question, I'd sooner draw the line now than not draw the line. I don't believe in abandoning the precinct. I don't believe in that. I know some people have a counsel of despair on that. I don't. I think there's enough there to be preserved and to allow modest adaptation. On the second point, I think it's very—

**MS DUNDAS:** Should we go through restoration processes, perhaps?

**Mr Preiss:** I think it would be very difficult to go back, and there would be all these demands for public funding and God knows what, law suits and whatever. I mean it would be very difficult to go back. There's an old bureaucratic aphorism, therefore, that nothing should ever be done for the first time. We should never have let it happen, but let's stop and draw the line. Unfortunately, one of the things that seem to get into this, and I speak as a person who's had long experience within bureaucracies, is that a kind of false view of equity gets about, it's a kind of precedent-setting thing, that is, where

you've allowed something to be done for somebody, that's it, and after that anybody can have it. You've either got an ideal in your mind or you haven't. If you've got an ideal in your mind behind 173, we ought to draw the line now. That's my position.

**MS DUNDAS:** Does draft variation 173, in your mind, effectively draw that line?

**Mr Preiss:** It's, I think, better than what we've got now. I very quickly want to say to you I've got a major concern about clarity and certainty issues. The "may, shall, should" issue is not finally resolved and I know you're going to give some further attention to that. I've got to say to you, and this goes to my earlier comments, that when you get in front of the lawyers and the AAT, the plain words of the policy can be set aside.

The current citation policies say, for example, that original pre-1940s fabric shall be conserved as much as possible. This is utterly ignored and set aside in the reasoning of the tribunal and the lawyers. I haven't got time to go into it, but the issue of mandatory requirements was the subject of submissions by me, Ms Forrest and a lawyer in another case recently and those submissions were utterly ignored.

**THE CHAIR:** Do you think that, for the sake of brevity here, you might supply to Linda, the secretary, the references for those submissions so that we can take them into consideration.

**Mr Preiss:** I would be happy to do so. Very quickly, the reason, I respectfully submit, you have to think about this is because, in the process of going to the AAT, the Citizens Review Tribunal, which it is the current government's intention to continue under the existing legislation, it is in the end a public service review mechanism, it is not a judicial review mechanism, and where they make a decision on merits on a subjective basis—for example, about the degree of adverse detrimental effect on heritage and streetscape values—there is no appeal. Where they make a decision which might have a legal issue, that can be appealed to the Supreme Court.

So, by ignoring a submission on the mandatory nature of the specific requirements in the current citation or the relevance of the policy statement, by setting that aside and only dealing with the merits of the subjective view of the development, the citizens, even if they had the money, are blocked from further review. So, in your work on DV 173, there is a greater degree of clarity and certainty there, I believe, but if we are to achieve the objectives of greater certainty, which I understand all parties have sought, and a reduced reliance upon legal tribunals, we need to get this right. Unfortunately, some people may say that that leads to a greater degree of prescription. It may do, but if we don't have that, history tells us that people are going to push the boundaries all the time. I think that's probably enough from me today.

**THE CHAIR:** Is there anything you'd like to add briefly, Anne?

**Ms Forrest:** Yes, and I wouldn't like to detract from anything that Mr Preiss has actually said to you. I just wanted to draw your attention back to the statement by Mr Storey when he talked about Bass Gardens and the fact that in the Blandfordia 5 material in 173

this municipal depot once again rears its head for the Stokes Street park. So I very much support his approach of having guidelines or requirements that state what can be available without detracting from the heritage significance of these parks.

**THE CHAIR:** Thank you for that. We were talking about the Bass Gardens park and Stokes Street has one.

**Ms Forrest:** Yes, and it's all part of Blandfordia 5.

**THE CHAIR:** It's a park of a different order, but I take your point.

**Ms Forrest:** Yes, certainly it is. Brendan has taken you through the whole history very briefly of this. When draft variation 173 came out a long time ago, after a great deal of consultation with the community and Blandfordia 5 people, more than 45 people responded to the invitations in mail boxes to participate in the workshop that led to the framing of this and there was across-the-board support from the residents of the area who attended for more clarity which would protect the area because the register material was quite obviously failing in a handful of cases.

DV 173 came in without interim effect because of section 11 of the act and the Manuka LAPAC took that up with the minister. I have a letter here which I can leave which states that the lack of interim effect—this is the minister replying—is intended to ensure that the existing provisions in the heritage places register are protected while they are in the process of being varied.

So there's a reason why section 11 is in the act. But in the case of where something is already on the register and the material is recognised as failing and so a new draft variation comes out, section 11 should not apply to it, because there would be a very different story if draft variation 173 had come in with interim effect. It would have had a very long lead time of being tested with interim effect to see how good it was. Instead, there's been an acceleration of certain individual cases, developer driven, where we've got major redevelopments that unfortunately are setting a precedent. I think that section 11 is a very important issue.

On another issue which I think is terribly important but far too complex and I can't begin to really understand the ramifications of this, draft variation 200, as you probably all know, came out some time ago.

**THE CHAIR:** We try not to think about it. You've mentioned the word.

**Ms Forrest:** And I've got to say it again. A variation to draft variation 200 with a 23 December date on it has now come out and I actually do not understand it when it refers to heritage areas, and I'm just focusing on that and nothing else about this draft variation. It says that there will be no subdivision in heritage areas. I don't even know whether that is with interim effect as of the date that that came out.

**THE CHAIR:** I think it is.

**Ms Forrest:** Or whether it is, in fact, after May this year.

**THE CHAIR:** I'm not sure, but we can get clarification. You might like to come back on whatever day we do draft variation 200.

**Ms Forrest:** Sorry, but with draft variation 200, Mr Preiss has actually missed it because he obviously hasn't even seen it yet. Someone else was here talking about how the rules across the board should apply. No longer is it even a 35 per cent plot ratio for single houses. DV 200, as of 23 December, has a 50 per cent plot ratio for individual houses. If by any chance anyone was to abandon at least the reasonable controls that are appearing in DV 173, we would be looking at a 50 per cent plot ratio for the homes in this heritage area if it came under draft variation 200.

**THE CHAIR:** The existing protections currently stand and, if we threw out draft variation 173, the existing provisions would continue to stand.

**Ms Forrest:** But the plot ratio is 50 per cent in the new draft variation.

**THE CHAIR:** But draft variation 200 can't override heritage provisions.

**Ms Forrest:** Right.

**THE CHAIR:** Is that right, Sandy?

**Dr Blair:** Yes.

**Ms Forrest:** I would like to leave with the committee as well two plans that show a development that hasn't yet occurred in section 2, which seems to be totally neglected by draft variation 173. It's quite unique, section 2. It's been enormously eroded, but there are four corner triplexes in that there are three little units on each of the four corners. This shows you what, in fact, has now been approved. It went to the AAT and it's been accepted. I've got a photograph, just one, of the triplex as it stands and I've just given you two plans which give you an idea of what's coming.

Finally, I'd just like to say that I would urge you to put 173 forward, even with all its flaws, possibly with a recommendation that it be reviewed, that the heritage places register material be reviewed in two, three, four years time, in the light of what then occurs with 173.

**THE CHAIR:** Thank you.

**Mr Preiss:** Chair, just one quick thing, if I could mention it. Again, it's too complex to deal with, but there is, I believe, a significant problem in a kind of loophole which exists about identifying and legitimising existing dual occupancies in heritage areas. These are places which are alleged to contain a second self-contained dwelling which, on identification, can be upgraded to current standards, with whatever that involves including extra carparking, and subsequent unit titling and subdivision without public notification at any point in the process. This is just a total evasion of what the principles are supposed to be and that's an issue in its own right which, in a sense, this DV doesn't deal with, but between the mishmash of DV 173, 107, 200 and 200, as amended, we feel that there is nevertheless something behind this which has not been addressed.



**Ms Forrest:** Yes, and I should have said that in May last year, that's what Mr Preiss was referring to, in Flinders Way, in fact, there was a unit titling of one.

**Mr Preiss:** One precedent already.

**THE CHAIR:** Thank you for that. That brings the public hearings to an end.

**Committee adjourned at 1.37 pm.**