

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON PLANNING AND ENVIRONMENT**

**(Reference: Karralika)**

**Members:**

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

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**WEDNESDAY, 21 APRIL 2004**

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

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

Submissions, answers to questions on notice and other documents relevant to this inquiry which have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127)

**The committee met at 1.04 pm.**

**PHILIP LAWLER** was called

**THE CHAIR** (Ms Dundas): I welcome Mr Philip Lawler. 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 certain 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.

Thank you very much for joining us today. This is being recorded by Hansard so that we have a written copy of it. It is also being broadcast through offices in this building, including the media offices, and through public service offices if they so wish. We expect that we might be joined by the media later today. If you have a problem with that, you need to let us know.

We are trying to keep very clear that the focus of this inquiry is on the planning associated with the Karralika redevelopment and the consultation process in relation to that. The underpinning health issues have been raised but they are not our primary focus; in fact, they are not part of our terms of reference as a committee. So we are trying to stay on the planning stuff.

Could you please introduce yourself and state your position and the organisation you are from, so that Hansard has that on the record. We will start by asking you to make an opening statement, if you so choose, and then we will move on to questions. Do you want to make an opening statement?

**Mr Lawler:** I had not planned on one, no. My name is Phil Lawler. I am the Chief Executive Officer of the Alcohol and Drug Foundation of the ACT, commonly known as ADFACT.

**THE CHAIR:** Okay. We will move straight on then into questions if you do not have anything that you want to start off by saying.

**Mr Lawler:** Well, I suppose all I can say is that my evidence as far as the planning process is concerned is going to be limited, and that is why ADFACT did not put a submission forward in the first place. We concentrated on other activities such as speaking to the concerned residents over the last three months; that is where our priority has been.

**THE CHAIR:** Then let us go back into some history. We have been looking at some documents, dated 2001 or earlier, on a feasibility study being done in relation to Fadden and Isabella Plains. Can you let us know when you first decided that there needed to be a refurbishment or an expansion of the facilities at Fadden?

**Mr Lawler:** I am not aware of exactly when the decision was made to investigate the feasibility of the Fadden site. I have been with the organisation only about 18 months, and this was well under way before then. The site itself is in need of refurbishment and I

assume that at the same time as the people who were involved then decided to do a refurbishment of existing buildings on the site they also decided to look at addressing the shortfall in rehabilitation places within the ACT.

**THE CHAIR:** The 2003-2005 strategic plan talks about the Fadden redevelopment and your annual report also mentions the redevelopment. What kind of process was happening in ADFACT in terms of changing the site and looking at planning? What was your involvement in the planning process in that sense?

**Mr Lawler:** We got involved in the planning process probably 12 months ago when we were asked to become part of a working group with the department and the consulting architects. Our involvement was primarily to ensure that the design of the site was going to meet the services that we were going to try and deliver from that site, mainly internal layout, accommodation and the clinical office area and that sort of thing. That work went over many months.

**THE CHAIR:** When those discussions were taking place about what the redevelopment would look like on the site, what you were trying to get functionality wise, were there any discussions about the consultation that might be required with surrounding neighbours in terms of how the site would change?

**Mr Lawler:** The consultation area was discussed towards the end of that process, probably around, if I recall correctly, October/November last year. So at that stage we had worked on a design with the prime focus on meeting the service delivery. We were very mindful through that process not to create a facility that was going to sit on a ridge line for everyone to see. We kept a low profile with the saddle in that ridge line; all parties in that working group were very mindful of that. Then, as I said, in October/November it was discussed about how we would as a group progress this through the planning process. At that point, when it was suggested that one of the options was that we could put it to the planning minister, under I think reg 12A, I did not have any concerns because the site had never attracted any sort of attention; there had been no complaints from the community or anyone else and we were not changing the purpose of the site. So I did not raise any concerns and the department went forward then, I believe, with whatever paperwork was necessary to—

**MR HARGREAVES:** Which department was that, please?

**Mr Lawler:** ACT Health.

**MR HARGREAVES:** Right, thanks for that.

**Mr Lawler:** That is who were working with, yes.

**MRS DUNNE:** Could I just go back a bit, Mr Lawler? You said that you got involved in this working group about 12 months ago. When the working group was put together, how far was the concept of the refurbishment of Karralika down the path to what was sort of presented to the community in January? Were you still at the stage of saying, “We need to do something” and then working through the process, or had the coalition of ADFACT and ACT Health come up with, “We need this sort of size facility on the site”? How much through the iteration were you when you started this planning consultative

group?

**Mr Lawler:** It had already been decided that we would endeavour to have a 60-bed placement facility there.

**MRS CROSS:** By whom—decided by you?

**Mr Lawler:** No.

**MRS CROSS:** By health?

**Mr Lawler:** Yes, and that we would have a purpose-built child-care centre on the site. That had already been decided, and it progressed from those reports that were mentioned earlier. Then we got involved in asking, “To meet that requirement, what would we need on the ground?”

**MRS DUNNE:** Okay, so when you started on this planning consultative committee 12 months ago, the bare bones of the proposal were pretty much as it was presented to the community in January—60 beds, a child-care facility—

**Mr Lawler:** Yes.

**MRS DUNNE:** So, before that consultative planning committee was put together between ADFACT and health, who else was involved in that?

**Mr Lawler:** The consulting architects.

**MRS DUNNE:** So it is ADFACT, health and the architects?

**Mr Lawler:** Yes.

**MRS DUNNE:** Where had the proposal come from that the Karralika site in Fadden should become a 60-bed facility with a child-care centre? Did somebody come up with the idea or did it evolve? I suspect the answer is that it evolved. What was the evolutionary process before you got to the planning consultative committee?

**Mr Lawler:** Some of this is assumption on my part because the concept papers that were put together are dramatically different from what we see today. There was always an indication that there was a need to provide additional beds; how they came up with 60 I cannot answer.

**MRS DUNNE:** Do you know who came up with 60?

**Mr Lawler:** No. I have asked that question outside this forum.

**MRS CROSS:** Mr Lawler, you said that you have been with ADFACT for 18 months approximately, that you have been involved in the planning process for 12 months and that you were aware, approximately more than a year before the community found out, roughly what the concept was going to be. Were alternative sites put to your organisation to consider?

**Mr Lawler:** No, there were not.

**MRS CROSS:** There were not any alternative sites?

**Mr Lawler:** No.

**MRS CROSS:** So the site that has been discussed and conceptualised is the only site that was put to your organisation for this facility?

**Mr Lawler:** That is right. My understanding is that, as I said, there were questions raised about the existing site needing refurbishment and someone has taken the opportunity to say, “Well, we need additional beds so, rather than just refurbishing, let’s look at replacing”—as it turns out, replacing some of the buildings and extending the site.

**MR HARGREAVES:** This consultative group that you had was ADFACT, health and the architects. When did the planning people—the ACTPLA people; PALM as they were then—actually enter into the fray as far as you were concerned?

**Mr Lawler:** They would have been involved around the October/November period. We were not a planning consultative group; we were a design working group. ADFACT had nothing to do with the planning application of this development because it is not our call.

**MR HARGREAVES:** Okay, so can I just clarify my understanding: this sort of user group came up with what they would like to see solve the problem of drug rehabilitation as it presented itself, after which the user department, health, got together with planning and off they went; and that is when ADFACT sort of fell away. Is that how the process worked?

**Mr Lawler:** That is correct.

**MRS DUNNE:** When I was saying “the planning consultative group” I meant little “p” planning rather than the big “p” planning approval stuff. For the clarification of the committee, can you clarify the relationship between ADFACT and ACT Health? You provide a service to ACT Health on the site. Who owns the site?

**Mr Lawler:** The territory owns the site. My understanding is that the site was bequeathed to the territory some years ago to be used for health services.

**MRS DUNNE:** And ADFACT’s role is as a contracted provider of drug rehabilitation services on that site and at other sites?

**Mr Lawler:** That is correct, yes.

**MRS DUNNE:** This goes back to my other question. I suppose I am trying to get the answer of who decided that you needed a 60-bed site there. It does not seem to have been necessarily ADFACT’s idea that they needed 60 beds to best provide the service, but rather—and this is probably speculation—that health decided that we needed 60 beds and that was the site to do it on. If you ever get to build the 60 beds there, that would change your contractual arrangement significantly and there would be a new contract—

**Mr Lawler:** That would be the case.

**MRS DUNNE:** to take account of the fact that you have got different physical circumstances.

**Mr Lawler:** I should also mention that the current arrangement with the site at Isabella Plains and Fadden—we use both sites to run the Karralika program—is basically a nightmare for us because the facility does not allow us to maximise the beds that we have got. This development of Fadden would give us an opportunity to run one program off the one site, would give us increased bed availability and then would allow us to run additional programs out at Isabella Plains.

**THE CHAIR:** The current purchasing contract that you have with health is due to expire at the end of this financial year. In terms of negotiating a new standard contract, has that been based on an expanded Karralika facility or a maintained size Karralika program?

**Mr Lawler:** ADFACT did some work. I got the managers to do business cases late last year around the expanded services and possible new services for Isabella Plains and they were submitted through the department on Treasury templated submissions. However, discussions in the last few months have been around funding arrangements for existing services beyond 30 June this year and not the increase.

**MRS CROSS:** ADFACT established a website in January of 2002 and from March 2003 until August they carried the architects' plans and the media releases that related to the Karralika redevelopment on that website. There did not seem to be any sign of confidentiality relating to this project while this website was up and running with the plans. Then, suddenly on 22 August 2003, just before the DA was submitted, the website carried the message that ADFACT was currently under construction. The disappearance of this form of communication at this time does seem a bit odd. Can you explain that to the committee?

**Mr Lawler:** I cannot explain the date of August 2003 because I actually put that “under construction” signage up well before then, and not based on anything we were doing at Fadden. The site has got incorrect information on it, it is outdated and I am about to release—in, hopefully, the next six weeks—a brand-new site, with correct information, an expanded publication section and everything else.

**MRS CROSS:** That website has been shut down for eight months, which is a long time to shut down a website, especially when we have got this redevelopment proposal up and running. One could look at it a little bit cynically and say that it is a bit odd, but I will accept what you have said that you are rebuilding it.

You mentioned earlier that you were involved in the planning process for 12 months and that from October to November 2003 there was a design to meet service delivery. Is that right? You were working on a design to meet service delivery in that time? Given that the DA was submitted on 8 September, what was going on after the DA was submitted regarding service delivery, your involvement with health and how to meet service delivery?

**Mr Lawler:** What I meant was that months prior to that we were working on design for the delivery of services. I thought that it was October/November, but you are telling me that it was September, so it obviously had to be August when we talked about the way that this application was going to be processed.

**MRS DUNNE:** Could I just clarify something that Mrs Cross asked? You said, Mr Lawler, that the “under construction” sign went up on the web page earlier than the date that Mrs Cross mentioned. Can you perhaps get back to the secretary with when it went into “under construction” mode?

**Mr Lawler:** I certainly can do that. The documents that are there show the new logo.

**THE CHAIR:** These ones? The annual report?

**Mr Lawler:** Yes, the annual report and the new logo at the top of the annual report. When we commissioned the marketing firm to change our logo and change our stationery suite, that was the time I gave instructions for it to be closed down. The old logo was on another document. I can see from here; it was just a round—

**MRS CROSS:** There was obviously no problem on the confidentiality issue because I have heard various people say that this was a very sensitive confidential project but your organisation had no problem informing the public what this was about via the internet because you had the plans on the net and it was discussed on your web page what it was about. You were not concerned about informing the public; therefore the notion of sensitivity and confidentiality really was a little bit of a furphy—but not for you.

**Mr Lawler:** I cannot comment on that. I will have to check that and I will come back to the secretariat. I am not aware that there were any plans on that website.

**MR HARGREAVES:** I have a couple of questions. I understand that the reason why the website was shut down had nothing to do with the plans that were contained within it—they were a completely different set of reasons—

**Mr Lawler:** They were because I had changed—

**MR HARGREAVES:** all because you had incorrect information on it, as far as you were concerned, and the time had come to update it.

**Mr Lawler:** Incorrect and outdated information, not a user-friendly website and served no purpose, in my mind; that is why I closed it down and, as I said, we were at that stage working through a new stationery suite logo and we were coming to the conclusion of actually having the website completed and launched some time in the very near future, hopefully.

**MR HARGREAVES:** Good. I just really wanted to get basically a one-word answer to this one and it goes to something Mrs Cross was alluding to about the sensitivity. Of course, you would be aware that the minister was advised to apply section 12 of the Land Act—

**MRS CROSS:** Regulation 12.

**MR HARGREAVES:** regulation 12 of the Land Act to say that the consultation would be limited and all that sort of stuff. Did ADFACT suggest the application of regulation 12?

**Mr Lawler:** No.

**MR HARGREAVES:** The consultation process: you called it a consultative group of you, the architects and health. Was that consulting each other about the content of the service to be delivered, or did it have a wider brief to consult with other people?

**Mr Lawler:** It was just that group, those three elements, and it was purely to look at what the design needed to be to meet the service delivery—nothing else.

**MR HARGREAVES:** So it was just a consultation among experts in the field of drug rehabilitation to come up with something to start with. When you were looking at that, did you have any conversations, formal or informal, with, say, other members of the community with regard to what might occur?

**Mr Lawler:** The answer would be yes.

**MR HARGREAVES:** Okay. Did you include in that group, for example, members of the Assembly?

**Mr Lawler:** Not that I recall, but that is not to say that we did not.

**MR HARGREAVES:** I certainly have to say that you did not consult with me, so that rules one out.

**Mr Lawler:** No.

**MR HARGREAVES:** I am just curious to know whether or not any members of the Legislative Assembly for the seat of Brindabella might have been aware about the same time of the proposed redevelopment of Karralika. What I am going to is the consultation phase; that is what I am really concerned about. Did you, for example, have any conversations, formal or informal, with Ms MacDonald, or Mr Smyth?

**Mr Lawler:** Not prior to that planning process taking place. Certainly this year I have spoken to many people, including members of the Assembly.

**MRS DUNNE:** You did not speak to members of the Assembly before this became a public issue?

**Mr Lawler:** If I did, it certainly was not a formal sort of presentation.

**MR HARGREAVES:** What about an informal basis?

**Mr Lawler:** No. I do not recall speaking to anyone from the Assembly other than the minister.



**MR HARGREAVES:** You do not recall having conversations with Mr Smyth about the Karralika proposal before it erupted into the public arena?

**Mr Lawler:** No. I did have a conversation with Mr Smyth at a function. I had known him in a previous life and I mentioned that I would like the opportunity to brief him on ADFACT—where ADFACT was and where it intended to be as an NGO in this community—and asked whether he would take a brief from me after Christmas.

**MR HARGREAVES:** Was the matter of the redevelopment discussed at that time?

**Mr Lawler:** No. I might have mentioned the fact that we were planning a redevelopment expansion of Fadden and expanding services, but it would not have been in any detail. At that time, he said that he would certainly take that brief after Christmas.

**MR HARGREAVES:** And did you have a chat with him after Christmas?

**Mr Lawler:** I certainly did.

**MR HARGREAVES:** Roughly when?

**Mr Lawler:** Just after this became public it would have been. I could find out because it will be in my diary on the computer.

**MR HARGREAVES:** I guess where I am heading is that some people, some agencies, believe that the consultation process—and I think this is an incorrect assumption on their part—can be by speaking to the local representatives and making them aware of it, to see whether there are sensitivities involved. If there are, they have a reaction this way; if there are not, then they have a reaction another way. I will be saying the same things to other departments and other people coming today—did they do that?—so as to get an idea. For example, you would expect people such as Mr Smyth and me to have an idea of whether or not a proposal is likely to have an adverse community reaction or not. It is a reasonable thing to use us as a litmus test, if you want.

**Mr Lawler:** I would say that I would have mentioned the Fadden redevelopment and possibly what that would represent to us as an organisation, to grow and to provide more services in the ACT. But, as I say, the conversation lasted only a few minutes and basically I got the answer I wanted, which was that he was prepared to take a brief after Christmas. I add that at that point I did not even think that it was my position as a representative of ADFACT to be briefing anybody, because a planning process is not my responsibility.

**MR HARGREAVES:** I think your assumption on that is correct: it would have been the brief of either the department of health or planning, but certainly not ADFACT.

**Mr Lawler:** Correct.

**MRS DUNNE:** Because you were not the proponent?

**Mr Lawler:** No.

**MRS DUNNE:** You are the agent of the proponent?

**Mr Lawler:** Yes, and I must say that I was very pleased to be invited—and still today feel that way—as the contractor, to be a part of a design process. That gave us an opportunity to produce something that we could use.

**MRS CROSS:** The drug rehabilitation area is fairly new for me; I have only been involved in this for a couple of years so you will have to forgive me if my questions sound a little bit naive. I am aware that the ACT desperately needs drug rehabilitation beds, and I do not want to go outside the terms of reference, but with this expanded or refurbished facility or whatever you call it did your organisation discuss, seek approval and get approval from health to introduce pharmacotherapies into their program, including methadone? Was that part of the planning consultation to expand the profile of Karralika?

**Mr Lawler:** For Fadden?

**MRS CROSS:** Yes.

**Mr Lawler:** No, definitely not. Karralika is an abstinence based program and will remain so. If we were to change that program, we would change the name.

**THE CHAIR:** Mrs Cross, that is bordering on our terms of reference quite dramatically.

**MRS CROSS:** That is why I thought I would check, Madam Chair. I have one more question. This has been brought to my attention and I need to clarify it: was Honeysuckle Creek discussed as an alternative site?

**Mr Lawler:** I am led to believe that Honeysuckle Creek was discussed some years ago as a site, before ADFACT moved into Isabella Plains.

**MRS CROSS:** Thank you.

**MR HARGREAVES:** Madam Chair, can I share with the committee, and for the record, something about the emergence of the Honeysuckle Creek issue?

**THE CHAIR:** Briefly.

**MR HARGREAVES:** I will be very brief. In about 1991 or so, I was the director of rehabilitation and aged care and was seeking what is called a convalescent home or slow-stream rehab—call it what you will—and I entertained the thought of trying to snaffle the Isabella Plains facility from the drug and alcohol unit, as it then was, to use it for such a facility. Advanced then was a theory that we could create a drug rehabilitation centre at Honeysuckle Creek; that is the origin of the planning suggestion. It came out of this little black duck's head.

**THE CHAIR:** Thank you very much for that, Mr Hargreaves. Mr Lawler, the purchasing contract that you are currently operating under with health has a note in it in relation to a feasibility study into the possible expansion of the Fadden premises to be undertaken and funded by the department of health in the 20001-02 financial year, so

before you commenced. You have already said today and there has been a lot of discussion about the fact that the facilities needed upgrading. I think it is even in your own report. They had been there for 13 years without any real upgrading; they were getting general maintenance but they were quickly being run down.

In your discussions about this whole project, was the option ever put forward of just doing a refurbishment as opposed to doing an expansion and a redevelopment? The purchasing contract quite clearly talks about an expansion study being done as opposed to just a refurbishment study or refurbishment being carried out. Were you saying, “Well, let’s just get the refurbishment happening?”

**Mr Lawler:** No, that was never the case. As the service provider we were pushing to get the extra beds. It was always refurbishing the homestead, because it was the only building basically staying, and the rest of it was a redevelopment. Where some of the confusion may come is that when the scoping work was done, some time back, it was a two-stage thing. It was actually talking about Fadden and also incorporating a refurbishment of Isabella Plains. I think that is where some of the confusion has come.

**THE CHAIR:** So Isabella Plains was going to be a refurbishment?

**Mr Lawler:** It has had some refurbishment done already.

**THE CHAIR:** So that work has already been done?

**Mr Lawler:** Some of it has been, yes.

**MRS CROSS:** Madam Chair, I have a supplementary. If that is the case, your understanding until it became an issue was that what was going to happen in Fadden—I’ve never met you before; this is the first time we have actually met—was a refurbishment, not an expansion and new buildings, or was your understanding refurbishment plus new buildings?

**Mr Lawler:** Refurbishment of the homestead and new buildings.

**MRS CROSS:** Did you ever see the letter that was sent to the residents saying that it was just a refurbishment, with no mention of new buildings? Have you seen it?

**Mr Lawler:** I have, but I didn’t see the letter before it went out.

**MRS CROSS:** But it was made clear to you by the department. The department of health or planning?

**Mr Lawler:** Health. I haven’t had anything to do with planning.

**MRS CROSS:** So your contact was just with health and it was made very clear to you all along that this was not just about refurbishment but it was also about the development of new buildings on the site; is that correct?

**Mr Lawler:** Yes, it is, and a previous life of mine was national property manager with the Defence Housing Authority, so I understanding what refurbishment and

redevelopment mean.

**MRS DUNNE:** Have you subsequently seen the letter that went out to residents?

**Mr Lawler:** Yes, I have.

**MRS DUNNE:** Could I ask you for your opinion on whether you thought that the letter that went to residents was an accurate representation of what was proposed to happen on the site?

**Mr Lawler:** In regard to the definition of—

**MRS DUNNE:** It says refurbishment. I can't remember the words.

**Mr Lawler:** Then it is incorrect.

**MRS DUNNE:** It is incorrect. It says refurbishment.

**Mr Lawler:** It does say refurbishment and that is incorrect because it's a redevelopment.

**THE CHAIR:** You've said that you were quite pleased as a service provider to be involved in the design brief for the site. Were the actual residents of Karralika involved in those discussions about what would be an appropriate facility at that site?

**Mr Lawler:** Our current clients?

**THE CHAIR:** Sorry, clients might be the better term.

**Mr Lawler:** They certainly were. The staff were as well. I used to give updates at our staff meetings and, as plans were being produced, I used to brief the staff and we did speak to our clients, because it's their home, basically, while they're there, to get their input to making sure that we were picking up on the right things about, in particular, accommodation, the internal design and whether it would support families and single people, et cetera. All through this process, there was certainly no secrecy from ADFACT's point of view. We didn't even think about the fact that this should be a commercial-in-confidence sort of activity.

**THE CHAIR:** The services provided through Karralika both at Fadden and Isabella Plains are not services that you've been secret about in the past.

**Mr Lawler:** No. In all of the programs that we run—Karralika is only one of our programs—we try to keep a low profile within the community.

**THE CHAIR:** But it's not a secret.

**Mr Lawler:** No.

**MRS CROSS:** Mr Lawler, how many meetings did health have with you to discuss this project during your time with ADFACT, during the last 18 months? I know that you said in your testimony earlier that you have only been involved in this for 12 months, but

you've been with ADFACT for 18 months.

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

**MRS CROSS:** Roughly how many meetings? Were you having meetings weekly, fortnightly, monthly to discuss this with health? Did they initiate them? Did you initiate them?

**Mr Lawler:** No, they were driving the process and we were just an active participant in the process. I suppose we would probably meet once a month over the months that were involved. There again, I can actually send that information back from my diary.

**MRS CROSS:** Please.

**Mr Lawler:** The architect would then be instructed to go away and enhance something or change things, as you would normally do in a design process.

**MRS CROSS:** I don't want to interrupt your flow, but was the architect involved in every meeting with the health officials from the beginning of your involvement, in the 12 months?

**Mr Lawler:** Yes, they were.

**MRS CROSS:** The architect was involved. How long did those meetings go, roughly—an hour?

**Mr Lawler:** An hour, two hours, depending on what we needed to talk about.

**MRS CROSS:** If you could provide that information, that would be great.

**Mr Lawler:** Certainly.

**THE CHAIR:** Mrs Dunne, do you have more questions?

**MRS DUNNE:** No, I think Mrs Cross and I are basically on the one wavelength. I think that most of the issues that I want to raise have been raised.

**THE CHAIR:** Mr Hargreaves, any more questions?

**MR HARGREAVES:** No, I am a contented little member.

**MRS CROSS:** I might just ask one last one, Madam Chair, if I may. Could you also advise the committee, when you come back to us, on the frequency, duration, calendar of those meetings, the level of the health department officials as far as seniority is concerned and also who was involved from the architect's firm, who was representing both health and the architect's firm at those meetings, please?

**Mr Lawler:** Sorry, there was something else I needed to provide the secretariat as well.

**MRS DUNNE:** About when the web page went dead.

**THE CHAIR:** If we could get that information within a week. Is that possible or do you need more time?

**Mr Lawler:** It will be there this afternoon.

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

**MRS DUNNE:** Before we go, does anyone have a copy of the letter that went out?

**THE CHAIR:** Linda is getting it.

**MRS DUNNE:** I want to go back to that. Sorry, I thought I had it with me, but I came away with the wrong pile of papers.

**MRS CROSS:** I have one upstairs as well.

**THE CHAIR:** I am trying to keep within the terms of reference now. There aren't many organisations such as ADFACT in the ACT that provide the level of service that you provide, are there?

**Mr Lawler:** We're only one of three that provide rehabilitation beds, the Salvation Army being the other organisation and Ted Noffs for children, yes. We are probably the biggest NGO in the drug sector outside the alcohol and drug program run by health.

**THE CHAIR:** So you continually report to health under your purchase service agreement. Does that report include the amount of demand that you're not meeting in that sense, in the terms of the number of people who want to access your facilities but can't?

**Mr Lawler:** Not formally, no, because the current contracts are on outputs. They will be changed under the new contract arrangements, which will be not just on beds but around performance measures, outcomes, and we've certainly gone a long way internally to prepare ourselves for that. But I can say to you, though, that I have an active waiting list within the Karralika program of 20 people at any one time.

**THE CHAIR:** So you are not quiet about the fact that there are people who are looking for the services that are provided at Karralika but cannot access them; you're continually letting health know that you would like bigger facilities?

**Mr Lawler:** Certainly. I'd assume that that's why it was agreed that we would provide the 60 beds.

**MRS CROSS:** Mr Lawler, I don't know you very well, but I get from what you've said today that you genuinely care about providing good services to people that need them in the community.

**Mr Lawler:** Certainly.

**MRS CROSS:** It is a planning question I'm going to ask you. Would you die in a ditch if

this didn't go through in Karralika and if you were given an alternative place to satisfy the great concerns that the community in those areas have with this site, given that initially they were led to believe that this was just a refurbishment and they don't have anything against the concept, from what I've heard from them, apart from the fact that it is now turning into a big project? If you would consider it, have you thought about alternative places that you could discuss with the planning minister, and what are they?

**Mr Lawler:** To answer the first part of your question, the priority is to provide more beds. So, at the end of the day, I wouldn't die in a ditch if Fadden didn't go ahead. It would make life difficult for us, because we have our transition and halfway houses on that side of town as well and Isabella Plains is on that side of town. Logistically, it allows me to operate those services and support the various programs. If, as suggested by Mr Smyth, I were to build at Gungahlin, it would provide additional costs and play havoc with my resources to have to support a program at one end of Canberra, even though we can get from one side to the other fairly easily. So that's what Fadden represents to us.

**MRS CROSS:** When was that suggested to you by Mr Smyth? Are you talking about Mr Brendan Smyth?

**Mr Lawler:** Yes.

**MRS CROSS:** When was that?

**Mr Lawler:** At a meeting I had with him this year, when I briefed him.

**MRS DUNNE:** I think he is on the public record as talking about greenfields sites, other results.

**MR HARGREAVES:** Roughly when was that meeting?

**Mr Lawler:** It would have been after the 19th. I came back off leave to be confronted with this, so it would be after 19 January.

**MRS DUNNE:** Now that I have the letter, I would like to read the second paragraph, which goes back to the point that I made before. This is the letter to residents that was circulated to 10 or 11 households. The second paragraph reads:

The work is required to refurbish the interior of the existing Karralika Homestead but will also involve the replacement of several of the existing outbuildings with new ones and the addition of new facilities. There will be no change to the existing purpose of the Karralika facility, which currently serves as a residential rehabilitation facility.

Do you think that that is an accurate representation of what was being proposed?

**Mr Lawler:** Yes, what you've read is an accurate representation.

**MRS DUNNE:** You are refurbishing the existing homestead, but "involve the replacement of several of the existing outbuildings with new ones". What are the existing outbuildings?

**Mr Lawler:** There are two accommodation blocks and the arts and crafts and a laundry that were proposed originally to be demolished and be replaced.

**MRS DUNNE:** So you think that that is an accurate representation of what's happening? Do you think it's the full story?

**Mr Lawler:** That was what was planned, to retain the homestead and to demolish the other buildings and replace them with new ones.

**THE CHAIR:** But there was also the discussion about the addition of new facilities. Is that of a child-care centre facility?

**Mr Lawler:** The child-care centre is a new facility, yes, but it is currently run out of the homestead and it would have its own state-of-the-art child-care centre on that site.

**MRS DUNNE:** So there is currently a child-care facility on site.

**Mr Lawler:** Yes.

**MRS DUNNE:** But it's in the homestead.

**Mr Lawler:** That's right, and the homestead would actually be converted to the clinical support staff, case managers, et cetera.

**MRS DUNNE:** I may be going out of the terms of reference but, for completeness, I think I need to ask the question. Is there anything that is proposed to go on the site, if the site is redeveloped, that isn't already there? Is there a service that is not being provided and that would be provided or is it just an increase in the quantum of the services?

**Mr Lawler:** Yes, it's an increase in the services. Sorry, you're talking about the number of buildings as well?

**MRS DUNNE:** No.

**MR HARGREAVES:** Are you changing the nature of the services?

**MRS DUNNE:** Are you changing the nature of the services or are you just providing more of the same services?

**Mr Lawler:** Providing more of the same services, and running the services off one site, not two.

**MRS CROSS:** With no addition to services at all, no change in the types of services you're providing?

**Mr Lawler:** No. The Karralika program will be expanded in its current format.

**THE CHAIR:** You said that you would be running it from one site as opposed to two, moving the work that is currently being done at Isabella Plains to Fadden. Is that what you meant?



**Mr Lawler:** Correct.

**THE CHAIR:** What would then happen to the Isabella Plains site?

**Mr Lawler:** Then we would introduce new short-term programs at Isabella Plains.

**MR HARGREAVES:** So all you're doing, really, is you're providing more of the same for a greater number of people at Karralika. People from Isabella Plains will be the ones who will go to Karralika and you are taking the opportunity to restructure the services at Isabella Plains?

**Mr Lawler:** Correct.

**MRS CROSS:** At the moment, there are 20 beds? Are there 20 at Karralika?

**Mr Lawler:** There are 44 over two sites.

**MRS CROSS:** No, just in Fadden.

**Mr Lawler:** In Fadden we only utilise 17.

**MRS CROSS:** The letter says, "While there will be some increase in the level of activity on the site, once construction and landscaping were completed the facility would retain its essential discrete and low-profile character." I don't know about you, but going from 17 to 60 is not "some increase". How would you interpret that? If you were a resident and you were reading that, wouldn't you be a bit stunned if you heard that it was going from this to this, which understates the increase from "some" to "extreme"?

**Mr Lawler:** Yes, you could say that. The fact is that we used to accommodate 25 people, adults, on that site and we made a conscious decision to take out bunk beds and that sort of thing and there's not a lot of privacy up there now in the way it's designed. But when we talk about 60, 20 of those placements are reserved for children.

**MRS CROSS:** This is for the child-care—

**Mr Lawler:** Of the 60 beds, 20 are reserved for children because we run a family program. We're going from 17 to 40 adults.

**MRS DUNNE:** With the potential to have 20 children on site at any one time.

**Mr Lawler:** Yes. When we talk about a 40-placement child-care centre, those other extra places are for children off-site, other agencies including government and non-government departments, to cater for children with special needs. It might just be respite care for carers and that sort of thing.

**MR HARGREAVES:** So, the way the letter is written, it's a bit clumsy about not indicating that child care is 30 per cent of the figure anyway, but what we're talking about in numbers specifically is really an increase of 23 people.

**MRS DUNNE:** It's a 100 per cent, more than a 100 per cent, increase.

**MR HARGREAVES:** It's 100 per cent, which makes it sound like there are Mongol hordes coming over the hills, but, in fact, we're talking about 23.

**MRS DUNNE:** It's 100 per cent, not 200 per cent.

**MR HARGREAVES:** Yes; we're only talking about 23 people.

**Mr Lawler:** If you want to play with the figures, you could say that we've had 25 there in recent years.

**MR HARGREAVES:** An increase of 15, less than 100 per cent.

**Mr Lawler:** Yes.

**MRS CROSS:** Madam Chair, I want to reiterate something Mrs Dunne just said. She said that it will also involve the replacement of several of the existing outbuildings. In reading this, one would assume that if you take out one old one and put a new one in its place, new facilities, it could mean a child-care facility in the new building which replaced the old. Were you aware from the consultation you had with health and the architects in the course of the 12 months that part of the plan was to add new buildings, additional buildings, on top of the ones that were being replaced or refurbished? Were you aware that on that block, which goes down this way, there were other big buildings going on? Were you were aware of that?

**Mr Lawler:** Certainly.

**MRS CROSS:** You were. If you were reading this as a resident you would think that it sounds a bit misleading, but later—

**MRS DUNNE:** Can I share that with you? Mr Lawler, when I first read this, apart from knowing where Karralika was and probably having driven past it once in the past 20 years, I read it as replacing existing outbuildings—"outbuildings" says to me toolsheds or an outside loo—with new buildings, meaning perhaps that you're going to put in a better toolshed, a chook run or something like that. That's the plain reading of the words to someone who doesn't know what's going on at the site. Just to finish off what Mrs Cross has asked, how many buildings are being demolished? You said there is a laundry and some residential—

**Mr Lawler:** There's a laundry which you would class as an outbuilding, because it is about the size of an outside toilet, and there was a significant craft shed or building, I should say, on the northern corner of the block, and that's where the child-care centre is proposed to go.

**MRS DUNNE:** That's on the Fadden side.

**Mr Lawler:** So that goes when the child-care centre goes in—on the Fadden side, yes. If you move around the block on that northern side you've got two existing accommodation blocks. They will be demolished and replaced by two new ones. Then we move further

down to the Macarthur side, the sloping side of the block, and you've got two new buildings there.

**MRS CROSS:** Do you mean the vacant one where there is nothing there at the moment?

**Mr Lawler:** Except an old water tank, yes.

**MRS DUNNE:** So that on the Macarthur side you're not actually demolishing any buildings.

**Mr Lawler:** No, there's nothing there at the moment.

**MRS DUNNE:** You're just putting in new buildings, okay.

**Mr Lawler:** We're building two new ones. Moving back onto the southern side of the site, there would be a dining room, kitchen and rec room.

**MRS DUNNE:** Which is not replacing an existing building.

**MRS CROSS:** No, it's not.

**MRS DUNNE:** Sorry, you are not pulling down a building to put in a new rec room.

**Mr Lawler:** No.

**MRS DUNNE:** There's nothing there now.

**Mr Lawler:** We're taking the demountable out of the equation.

**MRS DUNNE:** So there is something there.

**Mr Lawler:** There is an office demountable there, but that goes.

**MRS DUNNE:** Okay. I just wanted to get the full picture.

**THE CHAIR:** To wrap up this discussion, you said earlier that you weren't involved in the consultation process—that was planning's work, ACTPLA's work or health's work—because you were an agent for the proponent, not the proponent. Considering how this has progressed over the last six months and looking to the future, do you think that as the provider of the services at the site you should have been involved in the consultation process or at least had a say over what information was sent to the neighbourhood around?

**Mr Lawler:** As I indicated before, at the time—and we're all educated after the fact—I didn't raise it as an issue because the site hadn't attracted any negativity over 25 years, we weren't changing the purpose clause of the site and it was a process available to be used, so I didn't raise any concerns with the architect or ACT Health and I let them run with it.

**THE CHAIR:** Obviously, you still want some work to go ahead at the Karralika site,

whether it's an expansion or at least a refurbishment of the buildings that are out there. In future, will ADFACT be asking to have a greater say in the community consultation process?

**Mr Lawler:** Would I?

**THE CHAIR:** Yes.

**Mr Lawler:** I suppose if I'd known that this was going to happen, I probably would have been the first to put my hand up to say, "Let's throw it down a normal process." I just want to make it quite clear that everyone that was part of that design team, the department included, I always felt that we acted in good faith, that we were trying to put a facility together that wasn't going to create an issue for the surrounding suburbs. We certainly wanted to keep a low profile and that hasn't happened, but that was always the intent of all of those players.

**MRS CROSS:** Have you had an opportunity to talk to the residents since this became an issue?

**Mr Lawler:** I certainly have.

**MRS CROSS:** And how have you found those discussions?

**Mr Lawler:** The more discussions that we have, the stronger the rapport has been built. I've spent the last three months talking to people, whether it be residents, representatives from the Karralika Action Group. We've become very plain with each other and we've had some very productive meetings. They weren't to start with, certainly, but we've worked through a lot of the issues and I'm confident and I believe that they are confident that we can still get some good resolve out of this.

**MR HARGREAVES:** I wish to ask a couple of questions on this community acceptance bit, if I may. Did you say that as more conversations are happening between your organisation and the community of the Fadden-Macarthur area, individually and in groups, you have detected a change in the attitude? Is it the same as it was when you started, are people still opposed to it, or are people changing now that they have more information? How do you see it?

**Mr Lawler:** My belief is that there are still some people that are still strongly opposed to any development there. There are others that have now seen the design, for instance, and are not as concerned. Others are concerned with the planning process and remain concerned about the planning process, not only for this development but also in general.

I've spoken at Lions and Apex, whoever has asked we've gone to, and, as I say, with the residents themselves, with members of the Assembly who have walked the site, and I have certainly passed the message out that I was prepared to make time available for anyone, because my push was to get people to understand what ADFACT is about and what the program is about and to take away the mystery about increased crime, syringes and everything else. This is an abstinence-based program, so we were very keen to do it and we have haven't been criticised for the response times to the action group in particular, 24-hour turnarounds for 11-page submissions and that sort of thing that we've

done. My clinical director and I have worked extremely hard in the last three months.

**MRS CROSS:** Would you agree, then, that there has been a great gap in the consultation process, Mr Lawler, in the fact that the health department included yourself and the architect but forgot the community along the way and that, had they included the community along the way, we wouldn't be here, maybe?

**Mr Lawler:** After the event, the answer to that would be yes; but at the time, as I said, everyone acted in good faith and used that process.

**MRS CROSS:** Yes, I understand.

**Mr Lawler:** And we've now discovered that that was not the case.

**MRS DUNNE:** I think I'll have this question for the proponent as well. At any time before this letter went out in January, did you ever think that when you actually went public the community might be concerned about the scale of change? Did it ever cross your mind?

**Mr Lawler:** No, it didn't, and that's why I didn't oppose the process that was being recommended. At that time I thought—I hark back to 25 years of presence on the site running the same program—we were going to improve the site. If you look at the site, it's not the nicest piece of work to look at and what we were going to finish with was a modern facility and we could then continue on with our work.

**MRS CROSS:** Do you find it an acceptable type of facility for a residential area?

**Mr Lawler:** If the design is done properly, it can be, yes. And the fact that we have a low profile, and we have had a low profile.

**MR HARGREAVES:** I don't want to go into the health policy bit. I'm really into the consultation process. One of the points made at the public meeting and to this committee was that the scale of the facility was taking it from low-level residential into an institutional approach to drug rehabilitation. Firstly, how do you feel about that? Secondly, has the acceptance of the program within the Fadden community really depended on the fact that it is so low key and is not actually in the middle of the suburb but on the edge? How does that community acceptance go with those two types of facility?

**Mr Lawler:** It certainly was part of the concern from ADFACT's point of view early in the piece that information was being put out there in the community that was incorrect, and part of our work was to try to get the right information, facts and figures out there. But yes, when it was stated that we were replacing a residential property with a large facility, I wouldn't mind having the homestead as a little residential property. It's a quite significant house size and, with the other accommodation blocks that are there and the art and craft rooms that are there, there is a significant presence on that 10,000 square metres site already.

**THE CHAIR:** That concludes our time with you today, Mr Lawler. Thank you very much for being part of this inquiry and for answering all of our questions. We look

forward to getting the responses that you agreed to take on notice.

**Mr Lawler:** Not a problem.

**THE CHAIR:** Thank you very much. We will plough straight on and call on the officials from ACTPLA.

**SIMON CORBELL** and  
**NEIL SAVERY** were called

**THE CHAIR:** Thank you for appearing before this committee today Mr Savery and Mr Corbell. I have to read this statement to you before we begin. 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 certain legal action such as being sued for defamation for what you say at the 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.

Today we are looking at the consultation process in relation to the redevelopment of the Karralika site in Fadden. We are very conscious of our terms of reference, both as a committee and for this inquiry. We are trying not to stray into the discussion about the underlying health imperatives. We hope that that does not influence the discussion. It is specifically about call in powers and the consultation process in relation to the Karralika facility. As you are probably aware, this is being recorded for *Hansard* and is being broadcast around the building as well. Mr Savery, Minister, do you want to make an opening statement?

**Mr Corbell:** I do not, Ms Dundas.

**Mr Savery:** Neil Savery, Chief Planning Executive of the ACT Planning and Land Authority. My only comment is to draw the distinction between our role and that of ACT Health in the process. As an independent statutory planning authority, at the time we received an application that had been exempted from public notification. Obviously that will be part of your examination.

Our role was not to make judgements about the consultation process; we were confined to the limitations as a result of the exemption process. It is important that the committee understands that, given the separation of power for the statutory planning authority, our role was to undertake the process of assessing the application without any judgement about the consultation processes.

**MR HARGREAVES:** But it is your role, is it not, to worry about the consultation process once that involvement of the planning authority kicks in?

**Mr Savery:** Until it kicks in?

**MR HARGREAVES:** After it kicks in.

**Mr Savery:** In terms of anything that happens prior to the application being lodged.

**MR HARGREAVES:** But that is none of planning's concern.

**Mr Savery:** That is correct.

**MR HARGREAVES:** You mentioned in there that it was—I have forgotten the words used—I presume the use of the reg 12 thing—that was done prior to—

**MRS DUNNE:** Exemption.

**MR HARGREAVES:** Exemption, thank you. That was done prior to planning and land authority coming into the picture, was it?

**Mr Savery:** If I recall correctly, Mr Hargreaves, the application had been lodged, or was about to be lodged, with ACTPLA. At that time it was exempted consistent with the provisions of regulation 12.

**MR HARGREAVES:** There is a question being asked by committee members, Minister, and it falls to me to ask it. What is the genesis of the exemption? You usually act quite appropriately on advice received and say, “This is a good idea or a bad idea.” Who was it that suggested that it be exempt?

**Mr Corbell:** ACT Health initially raised the issue with me.

**Mr Savery:** That is my understanding. Going back to your earlier question, the exemption occurred after the formation of the authority on 20 October 2003, and it was first raised by ACT Health as an option.

**MRS CROSS:** When was that, Mr Savery? When was it raised by health?

**Mr Savery:** I do not know the date that it was raised.

**MRS CROSS:** Just roughly.

**MRS DUNNE:** So the exemption was made on 24 October?

**Mr Savery:** No, 20 October.

**MRS DUNNE:** Sorry, 20 October.

**MRS CROSS:** The Minister said it was raised with him. Was it raised with you directly Minister?

**Mr Corbell:** It was raised in a brief to me.

**MRS CROSS:** Can you just expand on how it was raised and what suggestions were put and why?

**Mr Corbell:** The department of health provided me—if I recall correctly—with an update on the proposal to build the extension at Karralika, consistent with what was funded in last year’s budget. In that brief they raised the prospect of exempting the proposal, consistent with the provisions of regulation 12, and asked me to note that advice. I think they also asked me to agree to that contingent on advice from ACTPLA that it was possible to exempt the application. I subsequently received advice from



ACTPLA that it was consistent with the provisions of regulation 12 and I exempted it.

**THE CHAIR:** Mr Savery, can you expand on that, in that ACTPLA had to consider whether or not this redevelopment of the Karralika facility at Fadden fitted into the provisions of 12A of the Land Act.

**Mr Corbell:** Can I clarify that. I am the decision maker in those circumstances.

**THE CHAIR:** But you asked for advice from ACTPLA.

**Mr Corbell:** If I recall correctly, I received advice from ACTPLA as to whether this development could fall within the meaning of regulation 12, and the advice I received was that it did.

**MRS CROSS:** From ACTPLA to you.

**MRS DUNNE:** Do we have that advice?

**Mr Savery:** We provided that advice to the Minister on 27 September and our recommendation to the Minister was that it was in the public interest.

**MRS CROSS:** It was in the public interest?

**Mr Savery:** Yes.

**THE CHAIR:** Can you provide us with the considerations that went into that recommendation? How did you reach the decision that—

**Mr Corbell:** It is in the brief. You would have a copy of that document. It has been provided to the committee.

**THE CHAIR:** I am also allowed to ask a question.

**Mr Corbell:** I know; I am just making the point that it is in that document.

**Mr Savery:** It is best for me to read from the report. It states:

Due to the sensitive and confidential nature of the facility that was proposed the notification process that would typically be undertaken could adversely affect the internal working operations of the facility, which has now been operating from the site for over 20 years, and result in the design of the new facilities being compromised, or delay the expansion of the program to the extent that the rehabilitation program would not be capable of meeting current or identified needs. It is considered that the above reasons are compelling enough to justify the exemption of the proposal.

**THE CHAIR:** Did you have discussions with ADFACT?

**Mr Savery:** With whom, sorry?

**THE CHAIR:** With ADFACT—the service provider on the site—about the confidential

nature of their facilities?

**Mr Savery:** I cannot answer that question in terms of myself; I was not processing the application. So personally I did not have any discussions with those people. But I understand that, in forming this view, there were conversations between ACT Health and ACTPLA. I cannot say whether or not that involved the on site facility.

**Mr Corbell:** It is important to remember, Ms Dundas, that the proponent was ACT Health and that they would be the primary point of communication as the proponent with ACTPLA. They were lodging the development application.

**THE CHAIR:** I think other members will have questions on this topic and we will come back to it. I want to ask about the HQSD process. A number of concerns have been raised about how this development went through HQSD process in ACTPLA. Can you please walk us through the HQSD process. How did it work?

**Mr Savery:** In general or for this particular—

**THE CHAIR:** For this particular development.

**Mr Savery:** It followed the normal path. Prior to an application being lodged and prior to any decision being made about whether there would be an exemption, which was not even being discussed at that stage, it was being dealt with in the typical fashion of HQSD.

**MRS DUNNE:** Can I just clarify something before you go on Mr Savery. Was the DA lodged before the HQSD was done?

**Mr Savery:** No, not that I am aware of.

**MRS DUNNE:** Okay, fine. Sorry. I was confused.

**Mr Savery:** There was an HQSD sign off on 8 September 2003. In simple terms, it says that the proposal “has reached the requirements of the HQSD process prior to the endorsement and noting that it is not an endorsement it does not constitute the approval of the development application in its own right”.

I have not been party to all the discussions that went on between the applicant and the ACT Planning and Land Authority going through the HQSD process. But typically it would involve sitting down with their architects looking at the ways in which the building could respond to its site context in terms of energy efficiency, orientation of buildings, setbacks and compliance with a range of policy settings within the Territory Plan to the point where the authority could be reasonably satisfied that, if a development application were lodged, not only would it satisfy the baseline requirements of the Territory Plan but also it would generally respond to our expectations around high quality and sustainable development.

**MRS CROSS:** Mr Savery, before a development application is submitted it is mandatory that an HQSD predevelopment application program is conducted in order to improve the process and outcomes for the building and design industry in the community. Item 4 of

this pre-DA assessment process is neighbourhood consultation, which is part of the process that culminates in the design response report and which leads to the lodgement with the DA. In relation to neighbourhood consultation the guidelines state that:

Proponents will be required to demonstrate how, through plans and the subsequent HQSD response report, they have responded to each criterion.

Guidance also states that:

Neighbour consultation is an important part of living in any community and is also an important feature of the HQSD program. Neighbours should never feel pressured into having no objections to a project.

Guidance also says that:

If neighbour consultation is carried out early with genuine dialogue, potential conflict later in the process can be avoided.

Guidance also says that:

Keeping neighbours updated on the progress of the design process may assist in reducing formal objections at the DA stage.

Given that all this guidance makes it very clear that neighbourhood consultation is an important part of the HQSD program, I ask why that principle did not apply in the case of the redevelopment and expansion of the Karralika facility?

**Mr Savery:** My understanding is that it did not occur because of the sensitive nature of the proposal. ACT Health had asked us to treat this in a manner that would ensure that, at the point that it reached application, some of those sensitive things had not necessarily been the subject of community understanding or community appreciation of those issues because of their concerns about the sensitive nature of the activities.

**MRS CROSS:** Mr Philip Lawler, who is with ADFACT, was here earlier. His website advertised the plans for this facility. When I asked him whether he considered this issue to be of a sensitive and confidential nature he said, “No”. He acknowledged that, yes, they did advertise it on their website. Mr Lawler—the provider of this service and I am assuming the expert in this area—said to the committee, “No, it’s not confidential.”

I questioned him on the website being stopped. The website has been dead for about eight months. But before that—for more than a year—they not only advertised the plans but also explained to the community on the net what this was about. There seems to be a conflict between what you just said—and I am not criticising you but I will ask you to clarify—about the confidential and sensitive nature of this and ADFACT’s position, which says it is not.

**Mr Savery:** It is a bit difficult to answer definitively in the sense that I am not the assessing officer. But my understanding is that the sorts of things that we were dealing with in relation to HQSD related to some of the detailed issues that ultimately resulted in our agreeing that there were matters of internal working operations at the facility that would be adversely affected. Obviously they were not the words that were used. But it is

around that concern. You were drilling into that level of detail at the time of doing HQSD that it was accepted that it was not appropriate to have widespread community consultation at that point.

When you first asked the question you made the comment that HQSD is mandatory. HQSD is not mandatory. There are now some references to HQSD as a result of the garden city variation relating to certain forms of residential development. But there is no statutory framework set out for HQSD. We have introduced some guidelines around which way it should be undertaken.

**MRS CROSS:** Thank you for clarifying that. Given that the HQSD program has to precede the lodging of a DA—and the DA for Karralika was lodged on 8 September 2003—can you explain why the sole minimal total hint of the so-called important neighbourhood consultation phase first occurred on 5 January 2004; that is, four months after the DA was lodged?

**MRS DUNNE:** In fairness, that is a question for the proponent, not the planner.

**MRS CROSS:** I am asking Mr Savery.

**Mr Savery:** Because there was an exemption issue we were not undertaking any consultation.

**MRS CROSS:** Right.

**Mr Corbell:** Madam Chair I will add to Mr Savery's answer. Mrs Cross, under the HQSD process as it currently stands—and this is subject to some review within ACTPLA and by the government at the moment—the requirement to undertake that pre-consultation is put on the proponent. So it is not the role of ACTPLA to undertake that work; it is the role of the proponent. Mrs Dunne is right: it is probably a question better asked of the proponent.

**MRS DUNNE:** That leads to the point that I want to raise. At the outset, Mr Savery, you said that it was exempt from consultation; that you were not concerned with consultation. But if this were any other development—if my next-door neighbour wanted to build an extension, he would have to consult before the DA and the building application was put in—the people in ACTPLA would have to be convinced that I, as a neighbour, had signed off and that I was happy with it.

**Mr Corbell:** They do not have to be convinced that you are happy.

**MRS DUNNE:** No, sorry. You are absolutely right Minister.

**Mr Corbell:** They have to have done it and they have had to have the conversation.

**MRS DUNNE:** They have to be convinced that I have signed off and that I had a conversation. And if I am not happy with it, my views would be taken into account and things could be rejigged. We know that none of that happened.

One of the reasons you are saying you were not concerned about that was because of the

application of regulation 12. However regulation 12 was not applied until October. From this briefing to the minister, the pre-application was submitted for HQSD on 14 March 2003 and it was signed off on HQSD on 8 September. So in all of that time there was no neighbourhood consultation and there was no legislative requirement such as the application of regulation 12 to circumvent that. Yet ACTPLA seems to have had no concerns—and presumably PALM before it; and therefore this is probably not really a fair question for you because you were not there at the time—about the lack of public consultation, even before the exemption from consultation became an issue.

Mr Savery, you may not be able to answer this now. You may have to get back to us. Why were PALM and ACTPLA unconcerned about public consultation when every other person in the Territory at the time who was doing HQSD would have had to have gone to the neighbours of the development and say, “Here’s the plans. Do you have a problem?” And the neighbour would have had to say, “I’ve seen the plans. I don’t have a problem. I do have a problem. These are the problems.” Why is that?

**Mr Savery:** I cannot answer your question in its entirety. I may have to come back to you with some further information. I do not know that it is fair to use the word “unconcerned” because there may have been some views within the authority about what consultation should or should not have then occurred. I need to check that.

I want to stress again that I was not trying to indicate that regulation 12 was in force at the time of HQSD and therefore no consultation was required. I was trying to draw the parallel to the fact that the sorts of issues that were ultimately deemed to justify the use of regulation 12 were the sorts of things about which we were in conversation with ACT Health at the time of HQSD. They were starting to look at the detailed architecture of the internal workings of the buildings. My understanding is that they were flagging the fact that these are very confidential issues. So judgements had to be made.

**MRS DUNNE:** Does ACTPLA have an understanding of the confidential nature of the workings of Karralika that would have prevented plans like these being available to members? If you look at the site plans you see triple bedrooms, single bedrooms, kitchenettes, dining rooms, lounge rooms and things like that. From looking at the plans I honestly cannot see how the confidential nature of what is happening at Karralika could be revealed by the public exposition of what is essentially a residential complex.

**Mr Savery:** I cannot answer that question at this time. I would need to go back. But again, my understanding was that there were areas associated with the counselling rooms and where rooms might be associated for non-residents—the family members et cetera—that were not necessarily wanted to be made public in terms of where they were on the site and their relationship to other parts of the building. It is something that I would need to go back to.

**MRS DUNNE:** Could you do that. On 26 September ACTPLA advised the Minister that you thought it was sufficiently sensitive and confidential that regulation 12 should be invoked. But there is very little exposition in this briefing to the Minister as to the logic that underpins that. A proponent could come to you at any time and say, “We would like to do this and we would like it to be exempt under regulation 12 and these are the reasons” and you would have to at least explore that so as to advise your minister, who is the decision maker, whether this is appropriate. You have an advice here that says,

“Minister it is appropriate”. But there is almost no argument or rationale as to why ACTPLA thought it was. Can you tell us now or can you come back to us with the underpinning argument that led to this advice?

**Mr Savery:** I will come back to you but I still stress—and it is not in those two dot points—that our view was that it was not in the public interest to divulge the location and purpose of the centre to the broader community, having recognised that nearby lessees, and generally within the local area, the operation conducted from that centre was known.

**MRS DUNNE:** Did you know that they were in the phone book when you formulated that advice?

**Mr Savery:** No, I did not.

**THE CHAIR:** Were you aware of the Minister’s press release that went out with the budget of 2003 that listed the re-development of Karralika facilities located in Fadden and talked about that process?

**Mr Savery:** I am aware of that post all this happening.

**THE CHAIR:** So even government documents per se such as a budget press release or looking into the phone book were not part of the considerations of whether this was a confidential site?

**Mr Savery:** It was because it is acknowledged generally that people in the area have an understanding of the operation. But something being listed in the phone book does not necessarily divulge the extent of that operation or what is involved in it.

**THE CHAIR:** But the press release from the Minister was quite clear that this is a \$9 million improvement for Karralika drug and alcohol service facilities located in Fadden. That is quite a clear statement of what it is and where it is happening. You can take it on notice.

I move onto another planning issue in the time that we have. We understand that at the end of January 2004 a letter from health went out to residents stating that there was an opportunity to comment on those plans were they to view them at the shopfront in Dickson. Can you explain how a confidential development application suddenly had its plans available, but only at the ACTPLA building in Dickson?

**MRS DUNNE:** Behind the door marked “Beware the savage dog”.

**THE CHAIR:** What information was decided to be exempted from that confidential course? Can you tell us how decisions were made about the confidential process being exempted. What was decided to be exempted and put on show in Dickson?

**Mr Corbell:** I will ask Mr Savery to deal with the detail of that question. But I need to give you some context around what occurred there. Following my decision to exempt the proposal, consistent with section 12, I as Minister for Health made it clear that I expected ACT Health to advise immediately adjacent residents what was occurring. Clearly they would see people walking around the site. They would perhaps see surveyors doing work

at some stage and they were entitled to understand exactly what was occurring next door.

**MRS DUNNE:** I think they had seen that long before.

**Mr Corbell:** I will just answer the question. At my request, ACT Health arranged for a letterbox drop to those immediate residents. That letter, which my office and I had no hand in putting together, advised residents of where they could find out relevant information. Given that the proposal had been exempted this was not required. In fact, some people could argue that I should not have done that because I had exempted the proposal. Nevertheless, I felt it was a reasonable balance to ensure that immediate residents, those lessees who were adjacent, had an opportunity to understand what was occurring.

**THE CHAIR:** Is that the normal process for something exempted under the 12A regulation? Would it not be on the public register?

**Mr Corbell:** There would be no notification or public advice whatsoever.

**Mr Savery:** I will expand on what the minister says. Given that we were aware that this sort of informal consultation was occurring, and that people immediately adjacent to the site were being advised of the availability of plans, we were ensuring that parts of those documents were available to those residents. As it transpired, broader parts of the community became aware of the existence of those plans.

We made a decision, in consultation with health, about what parts of the plans—going back to the internal workings issue—would be made available. I cannot recall all of the plans, but I think the elevations and the overall birds-eye view of the development—those sorts of the plans—were made available for people to look at and comment on. We received submissions as a result of that process. The development application process did not go through to completion, but those submissions would have been treated as submissions in accordance with the normal process.

**MRS DUNNE:** Can you clarify that, Mr Savery? Did you not include floor plans as a matter of confidence?

**Mr Savery:** That is my recollection.

**MRS DUNNE:** So people could not tell where interview rooms were?

**Mr Savery:** That is my recollection. I am happy to get that clarified again. I am confident that they were the plans that were not in the list.

**THE CHAIR:** Can you tell us how many submissions were received in relation to that DA?

**Mr Savery:** At the time that the DA was being processed, it was about 200. But I will come back and confirm it.

**MRS DUNNE:** When you provided plans, were they for people to inspect or to take away?

**Mr Savery:** No, to inspect. My understanding is that the 16 or so people that were notified informally through ACT Health were also given some plans: elevations.

**MRS CROSS:** You mean the neighbours?

**Mr Savery:** The neighbours; yes.

**MRS CROSS:** You mean the 10. We have confirmation of only 10.

**MRS DUNNE:** They were given these.

**THE CHAIR:** They were given the plans before.

**Mr Savery:** It was somewhere in that order. I understood that there were about 16 neighbours.

**MRS CROSS:** Minister, as you are here in your capacity as Minister for Planning, should I ask you health questions after?

**Mr Corbell:** No.

**MRS CROSS:** Good.

**THE CHAIR:** Keep them as planning questions though, until the health officials get here.

**Mr Corbell:** However you would like to do it, I am happy to give it a go.

**MRS CROSS:** I go to what Mrs Dunne raised a little earlier. Minister, your media release of 6 February this year states that ACT Health's request last year for exemption from the standard development application was a legitimate use of the prescription provided under regulation 12 of the land regulation 1992.

Given that the nature and function of the Karralika facility has been public knowledge for a long time, most recently re-affirming the government's budget media release on 6 May 2003 and in newsletters from families and friends for drug law reform and on the website of ADFACT before it shut down in August last year, the prescription of the development under regulation 12 could not really in all honesty have been made to protect the knowledge of the nature and function of the facility.

I ask why a prescription under regulation 12 was invoked when it has been made overwhelmingly clear by the residents, not only in their presentation to us last Friday but also for many months since they received the letters, that their concern is not the service but the scale of this project in a residential area? They have made that really clear.

**Mr Corbell:** That is the view of some residents. The correspondence that I have received in my office—I think you have a copy of most of that, if not all of it—shows that there is a great diversity of views from residents about Karralika. I have received a number of representations from people who in no way support the location of Karralika in Fadden.



Indeed, I received a number of letters from people surprised that Karralika existed in Fadden, even though they were Fadden residents. They were outraged that such a facility even existed. Whilst I do not for a moment say that that is the majority of the view expressed by those people who wrote; nevertheless it was a view put by residents.

It is clear that some residents of Fadden do not support the facility at all. It is clear that some residents of Fadden are unaware that the facility exists. Some residents of Fadden are aware the facility exists and have no complaint with its existing form. Some residents of Fadden support the facility but do not want to see it expanded, and some residents of Fadden do support the expansion of the facility. There is a great diversity of view.

I make the point about confidentiality. The regulation refers to the provision of confidential services. It does not refer to confidential location. It is very important to make that point. Regulation 12A refers to the use of premises for the provision of confidential services. It does not say that the location is and of itself confidential or secret. It does say that, where the Minister deems it to be in the public interest, the proposal should be exempted from public notification, third party review.

Because the premises are used for the provision of confidential services it can be exempted. It is not about whether people knew it existed. Of course people who live in Fadden knew it existed. The people who live next door knew what it was. They have known about it for years. I have never suggested otherwise.

But the regulation refers to the use of premises for the provision of confidential services. In those sorts of situations you have to make a judgement as to what extent it is reasonable to say, "Generally, we want to keep this proposal low profile because it does provide confidential services and we don't want to be advertising to the whole world in a very blatant way that the facility exists or is expanding because of the nature of the confidential services provided."

**THE CHAIR:** What Karralika does and what is proposed with the site at Fadden is clearly listed in both the ADFACT annual report for 02/03 and the ADFACT strategic plan for 03/05.

**Mr Corbell:** Well I put it to you, Ms Dundas, that I doubt that the ordinary member of the public is queuing up for a copy of the ADFACT annual report.

**MRS CROSS:** That is not the point. I have a follow up to my question.

**MRS DUNNE:** It is a public record.

**Mr Corbell:** The point I am making is that I am not suggesting in any way that ADFACT or Karralika is a secret facility.

**THE CHAIR:** Or that they provide a secret service.

**Mr Corbell:** They provide confidential services. They provide services to people, some of the most—

**MRS DUNNE:** But with respect, Minister, so do you in your office.

**Mr Corbell:** Can I answer the question? The point I am making is this: drug and alcohol rehabilitation services are provided to some of the most marginalised and most vulnerable members of our community. The fact that someone is undergoing rehabilitation because of a drug or alcohol addiction is a matter which carries with it extreme stigma in our community. It can affect the capacity of the person effectively to reintegrate himself or herself into our community.

It is my view that we should provide every support to people who are receiving drug and alcohol rehabilitation and that they should have confidence that the difficult and painful process that they are going through is occurring in a discreet and private way. That is exactly why I exempted the proposal.

**MRS CROSS:** Minister, just a little earlier you mentioned that there were people in the community—and the way it sounded you were apportioning percentages—33 percent—

**Mr Corbell:** No, I wasn't apportioning any percentages; I was just making the point that there were a great variety of views.

**MRS CROSS:** All right. Minister, given that you seem to respect the democratic process, would you accept that a petition of over 1,300 signatures from people against this, versus 50 or 60 from the group who are for this—and that's only the people who were sourced in the space of 10 days from residents in the Macarthur/Fadden area—represents an overwhelming protest against the way this consultation process was handled by your departments?

**Mr Corbell:** It represents a strong protest.

**THE CHAIR:** Mrs Dunne?

**MRS DUNNE:** I'd like to go back to the issue of confidentiality. Mr Savery, is there another means of ensuring the confidentiality of things that need to remain confidential? I take your point that, even if you don't get to take this away, people might be able to work out the layout and say where the interviewers' rooms are or where the psychs are, and that might be a matter of some sensitivity.

Would there have been a way of keeping that information confidential by, say, exempting the floor plans from public consultation whilst creating more public notification than was given? Is there some middle ground between giving the community everything and using regulation 12? If, for instance, ACT Health was the proponent and didn't want the floor plans of the main treatment clinical area to be divulged—and I would accept that as an issue worth consideration—is there some other means of keeping that exempt whilst not exempting from scrutiny the whole project?

**Mr Savery:** It's difficult. You would like to think that a process that involves the community in consultation would still enable you to keep certain information or withhold certain information that may be of a confidential nature.

**MRS DUNNE:** As long as it's explained why.

**Mr Savery:** But my experience is that, if there's a particular issue that the community either know is being withheld or are seeking further information about, then either by way of freedom of information requests or some other form of lobbying, they'll inevitably seek access to that information. You have to make a value judgment because there's nothing prescriptive about this that says what should or should not be withheld. You have to make value judgments at the end of the day.

If this had gone through the full public notification process or, let's say, the standard procedure, it would have been very difficult if we had made a judgment about certain things that we wanted to withhold. Then, if the community had demanded it, there wouldn't have been ultimately some mechanism through which we would have been required to provide it.

**MRS DUNNE:** Is there nothing under the application of regulation 12 of the Land Act that would allow the exemption of certain materials so that the minister could exercise a defined exemption rather than a blanket exemption?

**Mr Savery:** I'd have to check that.

**Mr Corbell:** Mr Savery can check that, but I don't believe there is. The regulation is quite clear that it exempts any proposal deemed by the minister to fall within the provisions of regulation 12 from the requirement for public notification and therefore for third-party review.

**MRS CROSS:** Do you believe that regulation 12 was aptly used in this situation?

**Mr Corbell:** Yes.

**MRS DUNNE:** What public interest was there?

**Mr Corbell:** As I put to you earlier, the provision of rehabilitation services for people who are recovering from drug and alcohol addiction should, because of the serious social stigma associated with alcohol and drug addiction, occur in an atmosphere of privacy and confidentiality. If the provision and the extension of certain facilities within the centre had been made more widely known in terms of the layout and the location, people would have been able to compromise the confidentiality of the services that are being provided.

**MRS DUNNE:** Can I follow up on that?

**Mr Corbell:** So I believe it was in the public interest. I believe that making the plans available, particularly the internal plans, could have compromised the effective delivery of those confidential services.

**THE CHAIR:** With all due respect, Minister, most of those arguments could apply to the development of a prison in the ACT as well.

**MRS DUNNE:** Yes.

**Mr Corbell:** People who are in prison go before the courts, and there's a public process.

**THE CHAIR:** But the services that are provided in a prison—

**Mr Corbell:** People who are undertaking rehabilitation from drug or alcohol addiction may or may not have been through the criminal justice system in one way or another. I think it's appropriate, because of the extreme stigma associated with drug and alcohol addiction, that they receive their services in a private and confidential manner.

**THE CHAIR:** Mrs Dunne?

**MRS DUNNE:** On that very subject, Minister, over successive governments a considerable number of drug rehabilitation beds have been provided in other institutions, like the Ted Noffs Foundation, where they have had new buildings and refurbished buildings. Was there an exemption of this sort of material for refurbishment and rebuilding of, say, facilities for the Ted Noffs Foundation or for the Salvation Army, who both provide residential drug rehabilitation services?

**Mr Corbell:** I'm not aware of the exact details around Ted Noffs. I don't think that the Ted Noffs proposal at the time involved any new construction. It simply involved the refurbishment in the existing government building.

**MRS DUNNE:** So there was no development application for the refurbishment?

**Mr Corbell:** I'm not aware that it occurred under the term of the previous government, so I couldn't tell you exactly.

**MRS DUNNE:** Could you check for us please, Mr Savery?

**Mr Corbell:** I could certainly clarify that for you.

**MRS DUNNE:** Thank you.

**Mr Corbell:** There has actually been a real lack of investment in residential care beds in the ACT, and that's why the government has put in \$9 million to provide those additional beds.

**THE CHAIR:** Minister, where—

**Mr Corbell:** I'm just answering Mrs Dunne's question.

**MRS DUNNE:** You're not actually answering the question anymore; you were actually going outside our terms of reference.

**Mr Corbell:** Mrs Dunne, if I try and confine myself, as far as I'm in the know there have been no other proposals of this nature.

**MRS DUNNE:** So Mr Savery is going to check with them about whether there were previous DAs and whether they were treated in the same way.

**THE CHAIR:** I'm very conscious of the time—because the minister is there, it changes

our timeframe slightly—so I would like to focus on the terms of reference in this inquiry, which talk specifically about the use of the call-in powers by the Minister for Planning. That was a proposed course of action that the minister put forward in relation to the new development. Considering the amount of concern that was raised in the community by using regulation 12 for a confidential process, how did you think, Minister, that using the call-in process would allay the concerns that were raised in relation to a confidential process?

**Mr Corbell:** I took the view that there was a level of community concern about the process that had been used. I'd received that feedback directly and indirectly. Clearly, a number of members of the Assembly were concerned about the process that had been used, so I decided that a way through this impasse that would still allow the facility to be built in a timely way—or, indeed, for an approval to be rejected in a timely way—was for the Assembly itself to express a view and for me, as the minister, to then exercise my call-in capacity, cognisant of the views of the Assembly.

I essentially took the same approach that Mr Humphries took, when he was planning minister, in relation to the controversial Manuka Plaza proposal, where, at the end of the day, the Legislative Assembly debated and passed a motion indicating its support or otherwise for the development of Manuka Plaza. Then the minister called it in accordingly. That occurred in 1996—I'd just become a member of this place.

The whole reason that Mr Humphries, as planning minister, did that was that it was a contentious and difficult issue. The government of the day took the view that it didn't want the matter held up for months and months of protracted wrangling over what was the right decision. It would put it to the Assembly, the Assembly would express a view and the minister would call it in appropriately. I was proposing the same course of action for Karralika. What happened with Manuka Plaza, with the exception of two members, I think, was that the Assembly supported the development of the Manuka Plaza proposal and Mr Humphries determined the application accordingly.

**THE CHAIR:** Minister, I put it to you that one of the major concerns in relation to the redevelopment at Karralika was not so much the redevelopment per se as the consultation process around it. We heard evidence that people would have been quite happy to sit down and talk through their specific concerns and work towards an outcome that may have resulted in expanded facilities at Karralika that looked a little different. That process of consultation might have been sidestepped by the use of call-in powers. Even though a debate in the Assembly might have expressed a view one way or the other, it would have left out that specific consultation on site plans.

**Mr Corbell:** With respect, that's not correct. Under my proposal the DA would have to have been formally lodged and publicly notified and an opportunity for formal consultation would have had to occur, as it would for a standard DA. The only difference would be that at the end I would determine the application and there would be no opportunity for third-party review. But the normal consultation processes that go with the normal lodgement of the DA would have applied in those circumstances.

**MRS CROSS:** Minister, when the Isabella Plains facility underwent redevelopment and refurbishment a few years ago, was that exempted, like Fadden?

**Mr Corbell:** Again, I wasn't minister at the time. This government wasn't in—

**MRS CROSS:** Well, I wasn't here in 1996 and you brought up the Humphries' issue.

**Mr Corbell:** Just answering your question.

**MR HARGREAVES:** Neither were we.

**Mr Corbell:** I'm not aware. I'd have to check for you, Mrs Cross.

**MRS CROSS:** Can you find that out? You say in your statements that it's all about balance. In the ALP document Labor's planning and land management policy for Canberra is the statement:

Labor recognises it is important for residents to have their say on planning issues and believes that direct consultation with residents can be improved through a more grass roots focus on individual suburbs...

My concern with all this has been what is perceived to be a flawed consultation process, or a lack of a consultation process, which has angered the residents of an area. How do you balance the concern of 5,000 residents that, despite the fact that a planning process existed for more than 12 months, which included an architects firm, ADFACT and the health department, it is recommended at the 11th hour that you use regulation 12? That could be perceived—and I'm not saying it is—as trying to get around the fact that there was a flawed consultation process, or none.

How do you balance the sentiments of 5,000 people who have made it very clear that they are not against drug and alcohol rehabilitation, or any form of rehabilitation, but feel that their government is ignoring them as constituents in favour of a small group of people that could benefit from a facility like this in another location? How do you balance that and explain that to 5,000 residents?

**Mr Corbell:** These are matters for judgment, Mrs Cross. But a residential facility for drug rehabilitation is by its very nature the sort of facility you put in a residential setting—it's a residential facility. It's not a detention facility. It's not a facility where people are incarcerated against their will, which is a different type of facility. It's a facility in a residential setting where people go of their own accord to go through the final stages of their rehabilitation from drug or alcohol addiction. The point I'm seeking to make to you, Mrs Cross, is that a residential facility has to go somewhere in the ACT in a residential area.

**MR HARGREAVES:** Minister, can I follow that up?

**MRS CROSS:** May I just finish my question, Mr Hargreaves? How can we, as legislators, and you, as a member of the executive of this government, instil confidence in the Canberra planning system when it appears that we are ignoring the sentiments of a significant amount of people in the community? How can you instil confidence while talking about the way Simon Corbell, the Minister for Planning, is going to handle the planning regime—versus what he said it used to be, which was very arbitrary and where call-in powers and other things were used to bypass the sentiments of the community?

How can you now explain to the community that your system and your use of regulation 12 are better?

**Mr Corbell:** I think you're asking me to engage in a political debate, and I'm not quite sure whether that's assisting—

**MRS CROSS:** I don't have to be political.

**Mr Corbell:** the committee in its inquiry. Let me try and answer the question this way. Governments have to make decisions about what is broadly in the public interest. That necessarily means that sometimes you will make decisions that do not please significant numbers of people. That's a consequence of being in government. I can give you any number of examples. Governments are not elected just to be popular; governments are elected to do the things that are right. Ultimately, I as a minister am responsible for making the judgment about what is broadly in the public interest—not the interests of one particular group over another particular group. That's what I've sought to do.

I believe it is broadly in the public interest to have additional rehabilitation beds in the ACT, and I think we all agree with that. I also believe that it is broadly in the public interest that the Karralika facility at Fadden has the best location. It is a large block. It is in a very pleasant setting. It is in a facility run by a very well respected organisation, which provides effective, competent and very successful drug rehabilitation activity.

I made those judgments, and I am happy to stand by those judgments. It's not about 5,000 people here and 10,000 people here or 300 people there; it's about what is broadly in the public interest. That means making those judgments knowing that some people will be upset by them.

**MRS CROSS:** Has the government considered any other locations?

**Mr Corbell:** And that is the consequence of being in government. Some people, some of the time, will be unhappy with a decision you make.

**MRS CROSS:** Does the government have any other sites in mind if this falls through?

**Mr Corbell:** The government's preferred position is that it occurs at Fadden. We will work through those issues now with the local residents. That may result in some scaling back of the facility, if that's the issue that is still coming through, and we'll work through those issues. No, the government has not considered alternative sites at this stage.

**MR HARGREAVES:** I have a question about clarification. I understand that a statement has been made here in committee today that 5,000 people are opposed to it. Yet I recall two things happening in hearings today. The first one was Mr Lawler saying that, since he has been in dialogue with certain sectors of the community, some people have shifted in their position—

**MRS DUNNE:** Is this a question or a sermon?

**MR HARGREAVES:** It's leading because there has been preamble. I take issue, Mrs Dunne, with your talking about speaking for 10 minutes and running the clock down. I

can talk to you about that, too.

The issue for me is the many different types of view. Minister, you mentioned that there were people who were totally opposed to any development there—aged care facility or otherwise; there were people who were concerned about the consultation process, and that seems to be the majority of people; there are people who didn't know it existed—and there are probably people there who still don't know it exists; and there are people who do know it exists and are quite happy for it to, now that they have more information.

That surely doesn't constitute 5,000 people—the entire population of Fadden and Macarthur—who are totally opposed to this issue. When you're considering whether to go with an issue and thinking about something in the public interest, surely you take into account the fact that there is a diversity of view in every suburb. In fact, it has not come out in this hearing so far that there is a diversity of view in that community.

**Mr Corbell:** Mr Hargreaves, that is correct: there is a diversity of view. To highlight the point, I recently attended a meeting of the University of the Third Age in the Woden Valley. I was taking questions on a whole range of issues from both my portfolios. A question came up about the Karralika facility. At that meeting there were 50 to 60, mostly older, Canberrans, as there inevitably are at a U3A meeting. The overwhelming sentiment I got from that meeting—sentiment is all it was, but you make judgments on that—was disappointment that the provision of these beds had been held up, and they expressed that view to me.

**MRS DUNNE:** Are you sure you weren't talking about aged care beds?

**Mr Corbell:** We talked about that too, Mrs Dunne.

**MR HARGREAVES:** Don't bring your self-interests into this, please, Mrs Dunne.

**THE CHAIR:** Can we let the minister answer this? There are time constraints.

**Mr Corbell:** I'm simply making the point that wherever I go in Canberra there is a diversity of view on any planning issue. We use the term "balance". As minister I have to make a judgment because on balance I seek to do the best thing for the city of Canberra and for the community of Canberra. That's what I always seek to do.

**THE CHAIR:** Mrs Dunne, you had a few questions.

**MRS DUNNE:** Yes, just to finish off with the ACT Planning and Land Authority. Mr Savery, going back to the HQSD issues, I know that you didn't do the review in relation to HQSD, but do you know things like what the plot ratio is for the site? This is a community facility; there are different requirements on different land uses. Does the proposal, which is encompassed in these large piles of plans, meet all the guidelines? We know that they don't meet the guidelines on consultation, but do they meet all the guidelines in relation to orientation? Looking at the floor plans, there are some problems with solar access. Do they meet the plot ratios? Do they meet all of the general guidelines for the building that would normally be applied in an HQSD process to a facility on community land?



**Mr Savery:** My answer to that is that a member of the HQSD team, Doug Brooks, has assessed that proposal and endorsed it. There's a memo to that effect that says, "The proposal is hereby endorsed as meeting the authority's requirements for such documents," which would take into consideration those matters you've raised. I'm not familiar with them personally, but that doesn't then mean that, when the application is lodged, there may not be other matters that have to be taken into consideration that may or may not cause parts of that proposal to be modified in some way.

**THE CHAIR:** To follow up on that, we received a number of submissions to this inquiry that raised concerns about traffic studies, social impact studies and the environmental impact. There was confusion about the number of native trees on the site and what the tree study indicated in relation to that.

**MRS CROSS:** Definition of a tree according to Mr Corbell.

**THE CHAIR:** So, in terms of the HQSD process and those studies being done, without giving me the same answer that you just gave Mrs Dunne, can you go back and check that they were all completed and that they complied with the regulations as set down by ACTPLA?

**Mr Savery:** Some of those matters that you've raised weren't all contained within the HQSD process. We never completed the assessment of the application, so there may well have been things that you've raised there that we would have still required to be addressed.

**THE CHAIR:** We'll have a last question before we let Neil go and let Tony come up.

**MRS CROSS:** Thanks, Madam Chair. Firstly, I want to talk about the car-parking spaces and the traffic issue. Last Friday KAG gave us this statement:

They said, a 23 space car-park is a planning requirement and as clients don't have cars, about 12 will be used by staff. The fact is, 23 spaces is already grossly insufficient. Isabella Plains, a centre with 30 clients currently has only 6 parking spaces, and requires at least 30. When KAG visited the centre, there were 24 cars and buses parked on the street and on an eroding vacant block. A facility catering for upwards of 100 people during the day would require at least 60 spaces.

Has there been an underestimation of what car parking will be needed? That's the first thing. The second is the traffic issue that Ms Dundas just raised:

They said, there will be no significant change in traffic on Bugden Avenue. The fact is, traffic will be going in and out all day, just as it does at Isabella Plains. However, there will be twice as much, because this facility will be more than twice as big.

Public interest is a good thing, and I understand that the minister has to make difficult decisions, but do we ignore the effect of this traffic on a residential area when it will obviously be significant?

**Mr Corbell:** Mrs Cross, I will just generally say that there are frequently assertions about traffic impact. I presume that you're quoting from the comments of a resident or from KAG.

**MRS CROSS:** This is from the KAG presentation last Friday.

**Mr Corbell:** Clearly, that group has a view about the traffic impact. Traffic impact would be assessed as part of the development application process. Whether the assertions made by KAG in the document you quote from are accurate is another matter.

**MRS CROSS:** Have you no comment on the effects of the traffic?

**Mr Corbell:** I'm not familiar with the detail of the traffic impact.

**MRS CROSS:** Wouldn't you consider that detail, as minister in the planning process, when you use a regulation that you say you use because it's in the public interest?

**Mr Corbell:** No, I wouldn't.

**MRS CROSS:** Why wouldn't you consider the negative impact of traffic and car-parking spaces on a residential area?

**Mr Corbell:** I would expect that that would be assessed as part of the development assessment process. Use of regulation 12 does not exempt the proposal from the development assessment process; it only exempts the proposal from public notification and third party review. The normal development assessment process would still occur, and I as minister would expect that to occur—as I'm sure it would—and it would be done by ACTPLA.

**THE CHAIR:** Thank you, Minister. I think we've asked as many questions as we can today of Mr Savery and ACTPLA representatives. We'd like to thank you, Neil, for your time here today. I call on the department of health to join us at the table.

**MARK KENDALL** and

**TONY SHERBON** were called.

**THE CHAIR:** Dr Sherbon and Mr Kendall, were you present when I read the statement to Mr Savery and the minister in relation to your conduct at this hearing?

**Mr Kendall:** Yes, I was.

**Dr Sherbon:** I wasn't here at that time; however, I am familiar with the statement.

**THE CHAIR:** You're aware of what it contains, and of your responsibilities to the Assembly?

**Dr Sherbon:** Most certainly.

**THE CHAIR:** This is part of our inquiry into the Karralika development—the use of call-in powers and the consultation process around that. This meeting is being recorded for Hansard and is being broadcast around the building to various public servants and the media. We are trying to keep a focus on the planning side of this development, rather than the underpinning health imperatives of what happens at the Karralika site. Did you wish to make an opening statement, Dr Sherbon?

**Dr Sherbon:** No, thank you.

**THE CHAIR:** We'll go straight into questions. As the proponents of the redevelopment of the site, we've got all our documents before us. The service purchasing contract between the Department of Health and ADFACT discussed a feasibility study into the possible expansion of the Fadden premises to be funded and undertaken by the department of health in the 2001-02 financial year. A lot of concerns have been raised about the Fadden site on the issue of refurbishment and upgrade of those buildings versus redevelopment and expansion. Although you weren't with the department of health in 2001 and 2002, can you provide some form of analysis as to why the planning decision was made to do an expansion of the facility as opposed to just doing an upgrade? And can you state when that decision was being made?

**Dr Sherbon:** I believe the source of the need for the expansion of drug rehabilitation services has been outlined by Minister Corbell, but I will just recap. As you're aware, like any other society, the ACT is not exempt from the difficulties encountered by people with drug and alcohol problems. There was a substantial increase over the course of the 1990s in illicit drug use in particular.

ADFACT have provided services over the course of many years. Since 1978 they have developed a great deal of experience in the provision of rehabilitation services to those with drug and alcohol problems. Their advice to the previous minister was that they had noticed a significant increase in demand, not only an increase in the numbers of clients but also the complexity of clients in relation to their circumstances vis-a-vis family and parental responsibilities. Their advice, if you look through the files over many years but particularly in the years around 2000-01, was that there was in fact a need for an expansion of their services and, as a result, their facilities. The previous minister

instructed the department to undertake a feasibility study to formally evaluate the health need, and that feasibility study was completed.

**THE CHAIR:** Was that the feasibility study report of October 2001?

**Dr Sherbon:** Yes.

**Mr Corbell:** That's correct. Perhaps I may interrupt Dr Sherbon for a moment. I think it's worthwhile for the committee to be aware that, on 12 September 2001 in response to a letter of 13 March 2001, the then Minister for Health, Mr Moore, indicated that he was supportive of the proposal overall that ADFACT had raised with him at that time, and he agreed that it has the potential to be an extremely cost-effective investment for the ACT in the longer term. He went on to say:

In particular, I agree that the ACT needs more residential rehabilitation beds and a methadone to abstinence facility would enhance existing services. In the context of the development of the new prison, your proposal is both timely and exciting...I am very glad to see ADFACT progressing its agenda in such a worthwhile and considered way.

I'm happy to table a copy of that letter for the information of the committee.

**MRS CROSS:** Madam Chair, this is irrelevant. The terms of reference of this planning committee relate to the flaws in the planning process.

**THE CHAIR:** Mrs Cross, I asked the question as to when the decision was made to change it from a refurbishment of the existing buildings to a redevelopment of the site.

**MRS CROSS:** All right.

**THE CHAIR:** I think Minister Corbell has just told us that it was somewhere between March and October 2001.

**MRS CROSS:** It sounds as if he's trying to blame the previous government for his own flaws.

**Mr Corbell:** No, I'm not blaming anyone. I'm simply saying that the previous government and this government have taken the view that the extension of the existing Karralika facility, to use the words of Mr Moore—and they are words that I entirely agree with—is an extremely cost-effective investment for the ACT in the longer term and that, as he was supportive of the proposal, so am I. That's where it came about. The previous Liberal government had exactly the same level of support for this proposal as this government.

**MRS CROSS:** That is at Fadden and MacArthur.

**THE CHAIR:** I don't think that's in question.

**Mr Corbell:** Mr Moore was specifically referring to the changes to and expansion of Karralika at Fadden. I'm happy to table a copy of that.

**THE CHAIR:** Dr Sherbon, you and the minister mentioned a feasibility study report and the minister has provided us with a copy of that. The feasibility report includes a discussion of methodology and consultation in relation to the redevelopment of Karralika, which is both a Fadden and Isabella Plains site. A client representative group was established for project consultations, comprising three representatives of ADFACT and two representatives from the then Department of Health, Housing and Community Care. Nowhere in this feasibility study have I been able to find a community impact discussion, discussions with the neighbours of the site or how this redevelopment would impact on the surrounding neighbourhoods. Do you think it's good process for any department to develop a feasibility study for a redevelopment of this size and not look at how it will impact on the surrounding area?

**Mr Corbell:** Before Dr Sherbon answers that I make the general statement that it's normal, during the feasibility process, for the feasibility assessment to look at the technical and economic feasibility of putting together any particular capital work.

**THE CHAIR:** Shouldn't it also raise questions about how the issue would need to be progressed sensitively through the community with an awareness of the site and its surrounds?

**Mr Corbell:** That is not the normal role of a feasibility report. A feasibility report looks at the technical and economic justification for the project. It is used to inform a budget decision as to whether or not the government should support the investment of taxpayers' money in such a proposal.

**THE CHAIR:** When do you expect a discussion to be had about the community consultation process? Do you think it should happen only at the development application stage?

**Mr Corbell:** That would normally be expected to occur where the government is investing in capital works that are subject to public notification.

**THE CHAIR:** So there's no problem with a development proposal going forward to such a degree and all this work being done—the HQSD project; a feasibility study; a whole process that started in early 2001 progressing until 2003—without any discussion in the surrounding neighbourhood?

**Mr Corbell:** As I said, a feasibility study is there to inform the government as to the technical feasibility, the service demand issues and the economic justification for investing taxpayers' money in a capital works project.

**THE CHAIR:** The question I asked was a little broader than just the feasibility study. It's a process that started in 2001 and it got to the end of 2003 before there was discussion with the community. Do you think that's a good outcome?

**Mr Corbell:** I think I've answered your question. Normally the expectation would be that that would be dealt with through the development approval process.

**MR HARGREAVES:** Mrs Cross made a point about refurbishment versus redevelopment, the scale of the thing and the community's perception of that scale. It has

disturbed me for some time that there seems to be a perception by some committee members and by members of the community that they have been misled because of the use of the word “refurbishment” versus the word “redevelopment”. I’ve been having a look through some of these papers and I want the minister’s view on this.

**MRS CROSS:** I can read English!

**MR HARGREAVES:** I can’t read Greek, though! The capital works program that went forward and got the tick for the money in the first place talks about redeveloping the properties that accommodate Karralika and about how redevelopment will assist the territory. The press release the government put out on 6 May 2003 says:

The Stanhope government will fund a major redevelopment of the Karralika facilities...in Fadden, with some minor works also to be undertaken at the Isabella Plains site.

It then goes on to talk about estimated expenditure for the Karralika refurbishment over two years and a little later on it again talks about refurbishment. It seems that in predominantly all the documents, bar this press release and the letter to the Fadden residents, the terminology is “redevelopment” or “major redevelopment”. If people have obtained copies of these papers there would be no doubt that this is a significant redevelopment of the site and not just a slap of paint up the wall of the cottage. Are we seeing either selective use—picking out of the word “refurbishment” versus “redevelopment”—or interchangeability of the word, which in hindsight may have not been quite so appropriate?

**Mr Corbell:** I’d say two things about that. The first is that I doubt whether anyone would think that \$9 million is not a significant investment in the site—and it will involve significant works. I think it is fair comment that those words have been used in an interchangeable way. That may have led to some confusion on the part of people who had concerns about the proposal. I regret that but the government in no way sought to downplay the extent of the work that was going to occur.

**MRS DUNNE:** Rather than ask the minister a question I wanted to draw the committee’s attention to the letter to ADFACT that the minister just read from, signed by Minister Moore on 9 September 2001. In the second paragraph the minister said:

I’m supportive of your proposal overall and agree that it has potential to be an extremely cost-effective investment for the ACT in the longer term.

I would also like to point out that the feasibility report from which sprang this other one—which is why we’re here today—was signed off and prepared by the consultants on 15 October. When the minister was saying he was supportive of the proposal there was no feasibility study to go with that. So I think it is unfair and inappropriate for this minister to say that the previous minister’s comments in relation to the general proposal as opposed to the feasibility study, which didn’t exist, was an endorsement of his course of action. It is inaccurate, to say the least.

**MR HARGREAVES:** Are you suggesting that the previous minister has put an endorsement on a project that he had very little detail about? He has written in a paper, under his signature, that he agrees that the thing has the potential to be an extremely cost-

effective investment. He has signed that letter without seeing the feasibility study to go with it.

**MRS DUNNE:** The feasibility study wasn't published.

**MR HARGREAVES:** That speaks mountains for Mr Moore!

**MRS CROSS:** Mr Hargreaves, we're only dealing with English here. I think you need to read the former minister's letter.

**MR HARGREAVES:** I have quoted it in English.

**MRS CROSS:** Madam chair, may I ask a question?

**THE CHAIR:** Excuse me, members, let us focus on our terms of reference at the moment.

**MRS CROSS:** Minister, I don't know whether this is to you or to Dr Sherbon. The letter that the six or 10 residents received from ACT Health states, in English:

The work is required to refurbish the interior of the existing Karralika homestead, but will also involve the replacement of several of the existing out buildings with new ones and the addition of new facilities. There will be no change to the existing purpose of the Karralika facility...

I won't read the rest of it. When I first read this letter, not knowing anything about this facility and what was proposed, it seemed to me that this was not a big deal. It did not indicate a \$9 million facility and it did not indicate that there was going to be a massive increase in scale. It indicated to the residents read this letter: okay, they're going to refurbish it, which means improving what's there, getting rid of the outhouse and whatever's there and fixing it up. It did not indicate eight new buildings. Is it eight new buildings, Mrs Dunne? It is something like that. It did not indicate an increase in scale by approximately 80 per cent, or 70 per cent. Would you agree that the wording of this letter does not clearly indicate to the residents you were communicating with that this was a massive expansion and not just a refurbishment? There is a very clear distinction between the words "expansion" and "refurbishment". I don't see those here.

**Mr Corbell:** No, I wouldn't agree because the letter contained an attachment of architects' drawings showing the scope of the works.

**MRS DUNNE:** That's true.

**Mr Corbell:** So in the letter, from the attachment, the scope of the works was clearly shown.

**MRS CROSS:** Perhaps I could also read this to you, given that this is part of what is in the letter. It says here:

Attached are copies of architects' drawings showing the scope of works. In total, the new buildings will cover less than 26% of the site, with large, well-landscaped setbacks to all boundaries.

Do you maintain that this will cover only 26 per cent of the site? Is that still your position?

**Mr Corbell:** I don't think it's my position to comment on that.

**MRS CROSS:** That's what is in the letter from ACT Health.

**Mr Corbell:** I will ask—

**MRS CROSS:** Is that a true reflection of what's going to be there?

**Mr Corbell:** If I can answer your question, Mrs Cross, I am not familiar with all of the details of the proposal. I would assume that the percentage quoted is accurate and was accurate at the time. As we clearly don't have a proposal at the moment, it's back to the drawing board as far as scope and scale are concerned. So whether or not that is still the case is not a question I can answer.

**MRS CROSS:** Dr Sherbon, with a letter that comes from ACT Health, does your department take responsibility or do you blame the architects for the details?

**Mr Corbell:** I'm sorry, Mrs Cross. I think the question is: was that figure accurate? I'll ask my department to answer that.

**MRS CROSS:** Very good.

**Dr Sherbon:** The advice from Mr Kendall, sitting next to me, is that the architect confirmed that percentage. I have no reason to doubt the veracity of that figure in the document you have before you.

**THE CHAIR:** Specifically in terms of that letter and the work the architects did, obviously there was a functional brief that was put out for tender, an architectural firm was selected and they undertook the design process. We've heard from ADFACT this afternoon about the design process—that included health, ADFACT and the architects—to come up with the plans. Nowhere in the functional brief can I find any discussion about being the referral point for public consultations or being asked to field phone calls as part of the consultation process. The initial letter that went out to Fadden residents is from Mark Kendall from health. It specifically says, "If you've got any questions, please call the architect firm." Why was that process decided upon as a consultation process—to have those discussions fed through the architectural firm? Was that an extra requirement in the contract? Was there extra money that then had to be negotiated with the firm, if they were taking on things that were outside the functional brief?

**Mr Corbell:** It's simply commonsense to engage your architect in discussions with the public. Most developers, whether government or otherwise, do that because the architect is the person who best understands how the building is put together and is able to answer some of the very specific questions that interested people may have—for instance, "Why are you putting that floor there? Why can't you make this smaller? Why can't you make this bigger? Why can't you set that back more?" The architect is the best person to answer those questions. The letter didn't refer just to the architect, the letter also referred



to the acting manager of capital works in ACT Health. So the proponent and the architect were available for contact. That makes perfect sense because the architect is the person who understands the design issues better than anyone else, and frequently people's comments are about design issues.

**THE CHAIR:** Was the architect made aware of the provisions of section 12A of the land act? Were there particular issues? We spoke to ACTPLA and they said that there were certain decisions made later about what would or would not be made available at the Dickson shopfront. In the initial consultation process were there discussions with the architects about what they could and could not talk about?

**Mr Kendall:** The architect was fully aware of what was going on. As we would expect, he was working as part of a team to deliver the project and deal with the issues that were arising at the time. He was fully aware and probably supplied whatever ACTPLA needed to give to the public.

**MRS DUNNE:** Going back to the letter, your name is on the bottom of it. Are you the author of this?

**Mr Kendall:** Did I write it? Did I tap the keys? No, I didn't tap the keys, but I did sign it knowing what was in it.

**MRS DUNNE:** You signed off on this letter so I'm going to ask you directly, as I've asked other people who have appeared before the committee. There is a paragraph that reads as follows:

The work is required to refurbish the interior of the existing Karralika homestead, but will also involve the replacement of several of the existing out buildings with new ones and the addition of new facilities. There will be no change to the existing purpose of the Karralika facility, which currently serves as a residential rehabilitation facility. While there will be some increase in the level of activity at the site, once construction and landscaping has been completed, the facility will retain its essentially discrete and low profile character.

Were you happy at the time of signing this letter, and are you still happy, that that paragraph accurately portrayed to somebody who had not been involved in the process until they got this in their letterbox, what was going on on the site?

**Mr Kendall:** Yes.

**Dr Sherbon:** Perhaps I could add to that as chief executive of the department. Naturally, following the concern for the public over this issue, I've reviewed our internal processes. Perhaps way back in 2000-01, when the concept was first put forward by ADFACT, one could argue that public consultation might well have been entered into. But, with my colleagues, I am comfortable that officers of this department have portrayed the proposed development accurately. I stand by that letter.

**THE CHAIR:** We've been trying to get at the heart of why section 12A of the land act was utilised. We've heard that, as the proponent, it was ACT Health's decision to request that section 12A be used. Where did that idea come from? Why was it there? Why did you want to use section 12A?

**Dr Sherbon:** The formal process by which the minister was advised to pursue such an action was by way of brief, which I signed, through the minister, on 15 August 2003. That brief was authored by Alan Schmidt, who at that stage was our executive director, corporate services. That position no longer exists within ACT Health. The arguments presented to me, as chief executive, as I signed through the brief, to me were persuasive. The arguments presented to me were as follows: the service is indeed confidential. As the minister outlined in previous discussions, the health interpretation of the “confidential services” phrase within the act was based on the fact that we were quite clear that, in health services, drug and alcohol rehabilitation is one of our most confidential services. All of our services are confidential but those that are extremely sensitive, in a public sense, and require a fundamental faith by users of that service that their identity will remain confidential is something that we are very concerned about. Our interpretation of this development, as it came through the system way back from 2001, was that it was a confidential service in our interpretation of the act. That’s why we put it forward.

**MRS DUNNE:** Could I just interpose there, Dr Sherbon? Have you ever read it? You signed off on this brief that was signed off by Mr Schmidt and initialled by you on 15 August 2003. At that time did you know what was in regulation 12?

**Dr Sherbon:** I hadn’t read that particular regulation but I had an understanding from this brief. I had no reason to doubt my officer’s familiarity with the relevant legislation. I still don’t, to be frank. I have since familiarised myself very closely with the act and I’m still convinced that the service provided at Karralika is a confidential one. It is not only the confidentiality of the rehabilitating resident that is important. Those of you who have been to Karralika know that there are children of residents there. Those children have been through—in some cases—major family trauma and they too are rehabilitating. They are going to the local school; they are learning to be part of the community again. As the minister outlined, everyone in that facility is learning to come back into the community and live a productive life.

In our view it was a confidential service. Also in our view the matter had been around since 2001 and clearly had bipartisan support, in my estimation as chief executive. The previous minister had initiated the process, the current minister had very strongly supported the improvement of services, as had the government through the budget, and there’d been a clear announcement at budget time that there were going to be expansions. The media release has been quoted to us. I had an understanding, as chief executive, as did my staff, that the public was well aware, through those announcements, that there was going to be an expansion of Karralika.

On the other hand, we also believed it was important that the matter progress in this framework. The confidentiality of the clients needed to be maintained. The fact that the facility had been there since 1978 meant that there was, one would presume, a good relationship with the local community. The clients were living and working in that local community and, as I said, their children were going to school. There are a number of other reasons you can see in the brief before you. I was more than confident in recommending to the minister that he pursue the course of action open to him through the act and thus I recommended so.

**THE CHAIR:** With all due respect, Dr Sherbon, the public doesn't necessarily queue up to read budget press releases and, in the same way the minister indicated, the public doesn't queue up to read ADFACT's annual report.

**Dr Sherbon:** That's a lesson I think we've all learnt.

**MR HARGREAVES:** I can see a letterbox drop coming!

**MRS CROSS:** To more than 10 houses, hopefully.

**MRS DUNNE:** I have a question. Dr Sherbon, there are issues in this brief, which are substantially replicated in the advice from ACTPLA, that basically say, "This is confidential, therefore can you use regulation 12; this is sensitive, therefore you can use regulation 12." There is very little exposition of the nature. The minister has made some comments which are apposite and probably outside our terms of reference to some extent. However, there is still in these half a dozen pages very little justification from either ACTPLA—and I have raised this matter with ACTPLA—or from health as to why regulation 12 should be. And I put it to you that regulation 12 was initiated not because of the confidential nature and because of the needs of the clients and the client's children who were on site, but because of the nature and size of the development which, when it got out, was going to be a problem in terms of public relations. Do you—

**Mr Corbell:** Absolute—

**MRS DUNNE:** Let me finish. Do you in hindsight think that you have probably done more harm than good to the clients you were trying to protect by going down this flawed path?

**Mr Corbell:** That's not a question for Dr Sherbon because I am the decision maker; I have to be satisfied as to the arguments; I have to be satisfied as to the appropriateness of exercising that regulation.

**MRS CROSS:** So did you get it wrong?

**Mr Corbell:** No, I do not believe I got it wrong. I believe that it was entirely appropriate to use that regulation.

**MRS DUNNE:** Then if you didn't get it wrong, Minister, why didn't you stick to your guns?

**Mr Corbell:** Because it was pretty clear, Mrs Dunne, that if I didn't adjust the government's position I would have faced serious sanction in the Assembly, and I have to have regard to that.

**THE CHAIR:** Can I quickly ask: have there been other projects—keeping in mind that you can't actually tell us what they are because they are confidential projects—put forward by health that have caused you to look at using regulation 12A? It is a simple yes or no question.

**MR HARGREAVES:** Mr Kendall might be best placed, given that he is the longest

serving member of health at the table.

**Dr Sherbon:** May I answer first and then Mr Kendall may supplement. Not in my experience since I have been here. Mr Kendall may be aware of others.

**Mr Kendall:** If I might answer in part. Somebody asked a question about Red Cross and Ted Noffs. Ted Noffs was not a refurbishment. There was a suggestion that it was a refurbishment. It was more of just an occupation with a bit of a clean up to get them in there and there was no application made around that. I don't know anything about Red Cross—I can't answer that at all.

**MRS DUNNE:** Sorry, I don't think it's the Red Cross. I think it's the Salvos that operate there.

**Mr Kendall:** The Salvos was it?

**MRS DUNNE:** Is it the Salvos that operate the other residential?

**MR HARGREAVES:** Yes, Salvos. It's Mancare.

**Dr Sherbon:** Yes.

**Mr Kendall:** And no. Look, I'm just going to answer the question very simply: I have been doing capital works with health now since about 1995 and in that life there has never been a similar action taken by any project.

**MRS DUNNE:** Thank you for that. Can I just—

**MR HARGREAVES:** May I go down that little track just for a tick because Mr Kendall is the one with the corporate memory?

**MRS DUNNE:** Yes, okay.

**MR HARGREAVES:** When was the Isabella Plains facility built?

**Mr Kendall:** Isabella Plains opened in 1998.

**Dr Sherbon:** As did the extension of Fadden.

**MR HARGREAVES:** Okay. Have there been projects of that size, the size for Karralika? You are talking about \$5 million worth of stuff. What year was the Tuggeranong Health Centre, for example, opened?

**Mr Kendall:** That was about '86 or '87 or something.

**MR HARGREAVES:** No, it wasn't.

**Mr Kendall:** It was later, was it?

**MR HARGREAVES:** Yes, it was. It was probably about '95 or '96.

**Mr Kendall:** I've got to say, it wasn't one of my projects. That was actually done through the NCDC.

**MR HARGREAVES:** Okay. It was one of mine when I was working there. I wanted to know, because I wasn't involved in the capital works thing, whether we apply reg 12 to health centres, for example. No?

**Mr Kendall:** Not to my knowledge; nor can I think of a reason why you would.

**MR HARGREAVES:** Well, medical records might be a good one.

**MRS DUNNE:** I would like to drill down to who first mooted the idea that regulation 12 should be used? Whose brilliant idea was it?

**Mr Kendall:** I can't answer that. I don't know.

**Dr Sherbon:** Well the answer, in documentary form, is Mr Schmidt, given his advice to me. Now, it may well have been one of Mr Kendall's staff but, whatever the case, the process within the department was appropriate. An officer may well have recommended something to Mr Kendall, who recommended something to Mr Schmidt, who recommended to me, and I evaluated the brief and the reasoning behind the brief and a recommendation was made to the minister.

One could argue in hindsight that health has learnt of the continuing community sensitivity over drug and alcohol rehabilitation processes and I can assure you that ACT Health has learnt from this process. We recognise that the community was very concerned about the proposal. But in terms of process, I can assure this committee that within the department we felt our presentation and our advice to the minister was appropriate at that time.

**MRS DUNNE:** Just on that subject, and Mr Kendall may be able to answer this: the group that Mr Lawler spoke about, the planning and consultative group, which included ADFACT and health and the architect, who on that committee represented health? Was there always the one person or was there a—

**Mr Kendall:** The committee membership was Phil Lawler, I, a member of our services purchasing team—it would have been Fran Barry—and whoever Phil wanted to bring along. You might recall that there were three reps from ADFACT and I can't even remember who they might have been. But certainly that's the core team.

**MRS DUNNE:** That's all right. I was interested in the health representation. I asked this question of Mr Lawler and I would like to ask it of you because you are on that committee: at any time in the process of putting together these plans for a development that looks like this, did it ever cross your mind that the residents around it might be discomforted by it, that they might have some concerns?

**Mr Kendall:** In the very early stages, no. I must say, in all honesty, no, it never occurred to me.

**MRS DUNNE:** It never occurred to you?

**Mr Kendall:** No, because it was a facility that had been there for some time and we all felt confident that it was a facility that would continue to be there.

**MRS DUNNE:** Could you—and I know that you probably won't be able to answer this now—inform the committee how much floor space there is; how much of an increase of floor space is there between the current buildings on site and what is proposed in this now defunct proposal? Could you do that?

**Mr Kendall:** I can do that.

**MR HARGREAVES:** Do you want that ground floor space or total floor space going up?

**MRS DUNNE:** Total floor space.

**Mr Corbell:** Gross floor area.

**MRS DUNNE:** Gross—thank you.

**Mr Kendall:** We'll do a GFA comparison.

**MRS DUNNE:** Yes, I would love a GFA comparison because I am surprised that at no stage did you think—

**MRS CROSS:** Or did you not think?

**MRS DUNNE:** or did you not think, that this is a substantially changed development on a much larger scale, without even looking at the height, and it didn't cross your mind that somebody might think that it was a bit of an imposition on their neighbourhood? And if you didn't, why did you come up with the proposal for regulation 12?

**MR HARGREAVES:** What part of “no” don't you understand?

**Mr Corbell:** If I can answer that first of all, Mrs Dunne. No-one is suggesting—the government, the department—that it is not a substantial redevelopment. It is. Never been said otherwise.

**MRS DUNNE:** Minister, I asked Mr Kendall this because he was involved in the planning process.

**Mr Corbell:** I know, but—

**MRS DUNNE:** and I wanted to know whether it had ever come into the minds of the people involved on the ground planning—

**MRS CROSS:** Why don't you let him answer?

**Mr Corbell:** I am happy to let Mr Kendall answer but, as minister, I am entitled to add

some context in answering questions that are asked of my officers by this committee. Mrs Dunne, no-one is suggesting otherwise. No-one is suggesting that it is not a substantial redevelopment. My officers are here to provide you with the facts as to what occurred within the department and I am sure that they will do that.

**MRS DUNNE:** The fact that I am seeking, which I think I have found, is that it didn't cross anyone's mind. I have asked Mr Lawler, and it didn't seem to cross his mind, and I have asked Mr Kendall and it didn't—correct me if I am wrong, Mr Kendall—cross his mind that the change of—

**MR HARGREAVES:** It didn't cross my mind either.

**MRS DUNNE:** scale of this building would have caused some concern to the people who live nearby, irrespective of what was going on in the building.

**Dr Sherbon:** Mrs Dunne, with your permission chair, can I just put that into some context? It certainly crossed my mind as chief executive. As the minister outlined, there was a full understanding of that.

**MRS DUNNE:** I am glad it crossed somebody's mind.

**Dr Sherbon:** Well, it was a full understanding of the nature of the development. However, as Mr Kendall has outlined, Karralika had been there since 1978 living and working harmoniously with the community, as far as we could tell. We are certainly not aware of any major issues between Karralika and the community.

Similarly, it was our understanding that there was broad support in the Assembly for this development. There was also an understanding, albeit something that perhaps wasn't entirely reliable, that with a budget announcement the government and the community were committed to improving drug rehabilitation services.

So, yes, it certainly crossed my mind that in every drug rehabilitation service that I have had anything to do with there is always an issue of neighbourhood acceptance. But I can assure you that, having visited the Karralika site, if Minister Corbell said to me tomorrow, "Where should I put this thing?" I would say, "Exactly where it is." It is a wonderful site. It is a place for people to rehabilitate. It is in the community. It's a nice block of land with large expanses in a saddle that is not obvious from the street or, from what I could see on my visit, neighbouring houses. This development is a significant expansion. The block size is 10,000 square metres, so it is not a small block. And if Minister Corbell said to me, "Where would you put this?" I would say, "Put it where it is."

**MRS CROSS:** But Dr Sherbon, at the moment the site, the existing Karralika—

**THE CHAIR:** Mrs Cross, can we get—

**MRS CROSS:** I had a question, madam chair, and I am still waiting.

**THE CHAIR:** Could we get Mr Kendall to answer the question that Mrs Dunne originally asked of Mr Kendall?

**MRS CROSS:** All right.

**MRS DUNNE:** I think he has.

**MR HARGREAVES:** No, he hasn't.

**MRS DUNNE:** It didn't cross his mind. Can I just get a techie thing—I always get this wrong. Ten thousand square metres is 1 hectare, or is it 10 hectares?

**THE CHAIR:** I think maybe that is a question for Mr Savery. We will have to get that later.

**MR HARGREAVES:** It's a really big bit of ground.

**MRS DUNNE:** I always get it out by a degree of magnitude and I just wanted to make sure it's right.

**THE CHAIR:** Mr Kendall, if nobody thought that the redevelopment would get the community offside, why didn't a normal consultation process just happen? Wouldn't it have meant that the responses in the DA stage, the public consultation process, just wouldn't have been there? Why make a decision then? If everybody thought that the project was going to be accepted by the community, why not then just go through a public consultation process?

**Mr Corbell:** But you miss the point. It's not the point of regulation 12 to exempt a proposal because some people might be unhappy with it. That's not what regulation 12 says.

**THE CHAIR:** But that isn't what I asked.

**Mr Corbell:** But that is what you are suggesting. You are saying: why exempt it if everyone is going to be happy with it?

**THE CHAIR:** Well, everybody said that the project would be fine.

**Mr Corbell:** That is what you are asking. Can I just clarify: is that what you are asking—why exempt it because everyone is happy with it?

**THE CHAIR:** I am asking: if everybody believed that the redevelopment wouldn't be an issue with the community, why not go down a public consultation process?

**Mr Corbell:** Because that is not the point of regulation 12. Regulation 12 is about exempting proposals that provide confidential services. It is not about whether or not people are happy with the proposal: it's about protecting the privacy of the people who would use the facility. That is why regulation 12 exists.

**MRS CROSS:** Dr Sherbon, Minister: you have both said that you stand by the decision that this is a good thing to do. Do you understand that the reason that we are here today is not because of the existing Karralika site, it's because of the proposed expansion of



that site? You say, Dr Sherbon, that it's a nice block, it's lovely and it's a leafy area, yes all that, and it's a big block. But the proposed—I am looking at your brief—expansion is not taking what is there now and just duplicating it. You are taking it and adding a number of other buildings to fill the block, or to semi-fill the block, which you say—and you haven't seen it because you can only go on the plans—will look nice because it's in a nice leafy area.

The issue here is not the existing site which the community has lived with for 20 to 25 years because it is in a very discrete area; it's the expansion of that. And that is the difference between an understatement in a letter from health and why the community has become concerned; because they feel they have been hoodwinked, not because of what's there—they have no issue with what's there—but because of the expansion.

**Mr Corbell:** Well, I think I have answered that question and I think officers have answered that question.

**THE CHAIR:** To go back to the issues we were at in trying to drill down to why 12A was used, Dr Sherbon has already said today that all the services provided by health are of a confidential nature, but the decision was made that this was of a particularly confidential nature. Why is regulation 12A not more regularly used in the development of health facilities?

**MRS CROSS:** For other confidential services.

**Mr Corbell:** Well, I don't think that is a question for Dr Sherbon to answer; it's a question for me to answer because ultimately I am responsible for whether or not regulation 12A is used as—

**MRS CROSS:** But the department recommended it to you.

**Mr Corbell:** Minister for Planning.

**THE CHAIR:** Well, it appears that the department, for the facilities that it manages and that it owns and any new facilities that are being built, is not considering 12A. They made the request that 12A be applied here to you and you then made a decision yes or no. But why isn't the department thinking that 12A could be used for other developments that health is taking responsibility for?

**Mr Corbell:** I think it is worth making the point that, first of all, ACT Health does not build new facilities every day. It is not as though we are building tens and tens of new facilities every day. The government, and all governments, do a limited range of capital works. So it's not as though the occasion occurs every day; it's not as though there is this great flow of work which otherwise does not get captured by regulation 12. It's simply not the case.

Secondly, I think that, as Dr Sherbon, I, Mr Kendall and others have emphasised, there are certain facilities, health facilities that, by their nature, require a higher level of confidentiality. Provision of all health services is in confidence but some are more stigmatised than others. I think it is reasonable to say that drug and alcohol rehabilitation is an area with significant social stigma attached to it, and that is a very valid reason why

these sorts of services should be considered in a more acute light and in determining whether or not the exercise of regulation 12 is used.

For example—and the Land Act makes reference to it—there are other services that equally can be considered in this light. Shelters for women escaping domestic violence, for example, or indeed men escaping domestic violence.

**MRS DUNNE:** Which I think from memory is the only time that it has been used hitherto.

**Mr Corbell:** That is the only other occasion that I am aware of. Mr Smyth, my predecessor, exercised the power in that regard. So it is not saying that all confidential services need to be exempt: it is about making the judgement, “Are the circumstances sufficient to warrant it in this case?” And because of the stigma associated with drug and alcohol rehabilitation, because of the issues that Mr Sherbon has referred to around families using these facilities as well, it is appropriate. I took the view that it was appropriate to exempt this proposal.

**MRS DUNNE:** I wanted to drill down into the minister taking the decision that this was appropriate, and he said on a number of occasions words to the effect that protecting the privacy of the people who use the facility was important. How, Minister, does exercising your power to invoke regulation 12A specifically protect the privacy of the people who are using a facility which has a sign out the front of it, whose number is in the phone book and for which there is a web site?

**Mr Corbell:** I think we had this discussion previously.

**MRS DUNNE:** No. Specifically, how does it protect the privacy?

**Mr Corbell:** I am happy to elaborate. It protects the privacy and confidentiality of that service because its location and the specifics of the proposed service delivery, which would otherwise be able to be physically seen in the plans of the proposal, would not be made widely public. I am not suggesting that people in Fadden wouldn't be aware of it. People in Fadden now are aware of Karralika. But it is interesting: if you go through the letters which I have supplied to you, there are a large number of residents in both Fadden and Macarthur who, in writing to me, didn't even know that Karralika existed.

**MRS DUNNE:** You have perceived that on a number of occasions.

**Mr Corbell:** So it is quite clear that there is a variety of understanding and knowledge of what Karralika is, its existence and what it does, even within the most proximate suburbs. So I took the view that it was appropriate to maintain the discreet nature of Karralika's status and standing. That is why I exercised regulation 12. It prevented the posting of a sign on Bugden Avenue, it prevented the publication in the paper of a notice and it prevented the formal notification of adjacent neighbours.

I took the view that it was still reasonable to inform adjacent neighbours, and that was the purpose of ACT Health's letter to residents. But I took the view that the sign and the public notice in the paper and the placing of the plans on ACTPLA's register would not be appropriate.

**MRS DUNNE:** So if all of this had gone through and no-one had paid any attention and no-one picked it up and you started to build and you ended up with what is proposed, that is, this large configuration, which is two storeys high at various places on a sloping block—and by the time you put in the basement bits, it is 2½ high in spots—did you think that no-one would have noticed, Minister?

**Mr Corbell:** No. I have never suggested for a moment that people wouldn't have noticed. People would notice. But the immediate—

**MRS DUNNE:** I can't get through the logic that you are protecting the privacy of people when you are going to build a set of buildings that is this big. Even if half the residents of Fadden and Macarthur did not know that Karralika existed, by the time you put in the bulldozers and cut down the trees and built the eight buildings, do you think they wouldn't have noticed?

**Mr Corbell:** I think that some people—

**MRS DUNNE:** So when were you going to take them into your confidence?

**MR HARGREAVES:** Can you let the minister answer, please?

**Mr Corbell:** I have never suggested for a moment that the residents of Fadden would not have noticed. But, to be quite frank, my concern wasn't that the residents of Fadden would notice. My concern was that knowledge of the facility in the broader Canberra community should not be heightened in an unreasonable way.

**MRS DUNNE:** Do you think you succeeded?

**Mr Corbell:** With the benefit of hindsight, clearly residents of Fadden were prepared to make the issue very broadly known to the Canberra community, and they have—

**MRS DUNNE:** So it's their fault?

**Mr Corbell:** It's a simple statement of fact.

**MRS CROSS:** So they're wrong?

**Mr Corbell:** If I could answer the question. It's a simple statement of fact that the residents of Fadden and Macarthur have chosen, through those who are members of KAG and who have supported it, to make the location of Karralika and its activities very broadly known.

**MRS CROSS:** No, the *Chronicle* did that, actually.

**Mr Corbell:** If I can answer the question. That is what has occurred.

**MRS CROSS:** That and *The Canberra Times*.

**Mr Corbell:** That is what has occurred, and it has occurred at the instigation of that

group through the issuing of media statements, a website and so on.

**MRS CROSS:** No media statements from your office at all?

**Mr Corbell:** I have got no complaint with KAG doing that. They disagree with the government's decision and they have sought to publicise their position—no problem with that. I did not believe that there would be that level of concern in those suburbs and I believed it was appropriate that the knowledge of this facility and its precise location, the precise nature of its activities as you can see through the floor plans and so on, should not be made public to the broader Canberra community to protect the confidentiality of the services that were provided there.

**MRS CROSS:** Minister, ADFACT had it on its website in 2003—in fact 2002-03. It is already publicised. KAG hadn't even been informed yet.

**Dr Sherbon:** Chair, I have conferred with Mr Lawler during the previous discussion and he cannot confirm to me that the plans are on the website.

**THE CHAIR:** He has taken that question on notice and is getting back to us. But Mrs Cross, you had a further question.

**MRS CROSS:** I did—about the letter. Thank you, madam chair. May I ask—

**MR HARGREAVES:** Before you go on, Mrs Cross, may I gently remind members and the committee of the time?

**MRS DUNNE:** Yes, thanks.

**MRS CROSS:** Minister, through you to Dr Sherbon, if I may: the letter that was sent—you did say actually earlier, Minister, that you didn't have to send the letter but that this was done. I understand that.

**Mr Corbell:** Correct.

**MRS CROSS:** Can I ask whose decision it was to send the letter to the residents from health? Was it Mr Kendall or—

**Mr Corbell:** It was my decision. I asked ACT Health to advise immediate residents of what was occurring.

**MRS CROSS:** And can I ask how you or health came to the decision that only 10 would get the letter versus five or 20 or 50? How was that decision made?

**Mr Corbell:** I asked ACT Health to advise immediately adjacent residents.

**THE CHAIR:** Could members please ask question that are specific to our terms of reference? Minister, we did have a brief discussion in relation to the call-in powers and I think it would be safe to say that the proposal that utilised the use of call-in powers was not your preferred option in relation to the Karralika development. But do you think that the use of the call-in powers would have protected the privacy of the residents at

Karralika?

**Mr Corbell:** We had gone past that stage by then, Ms Dundas. Given that the proposal had become widely known in the community because of the public debate about it, I took the view that it was desirable to make sure at least that a decision on whether or not the proposal went ahead was undertaken in a timely way. So that was the rationale for proposing to exercise the call-in power. The issues of privacy and confidentiality had well and truly been passed by that point.

**THE CHAIR:** Can you inform us whether or not a new HQSD and development process is being followed by health for the Fadden site?

**Mr Corbell:** As I have already indicated, my intention in relation to the call in was that normal development assessment process would have been used, that the existing HQSD would have been used and then formal public notification would have occurred prior to exercising the call-in in rejecting or approving the application.

In terms of what is occurring now, the department has put to me a proposal for an advisory committee to be established which will involve residents' representation, representation of ADFACT and representation from the department—a range of bodies to work through the proposal from scratch, to come up with a design which hopefully will have consensus or at least broad agreement, and then that will go through the normal process. At this stage I am considering the department's proposal on that process.

**MRS CROSS:** What timeframe are you putting on that advisory committee's role?

**MRS DUNNE:** He hasn't decided whether he is going to do it yet.

**Mr Corbell:** Well I am still considering the details of the proposal, but I will be announcing publicly how that will occur.

**MRS DUNNE:** Minister, just to clarify that: since this was in the Assembly in February there has essentially been no work done on the Karralika redevelopment or the provision of drug and alcohol beds?

**Mr Corbell:** The application itself has been withdrawn, and I am considering advice from the department on the establishment of a new advisory body to help inform the development of a new proposal.

**MRS DUNNE:** So there is no work being done on a new proposal, essentially?

**Mr Corbell:** No, because we are working out how to do a far more extensive consultation process.

**THE CHAIR:** Are there any last questions, members? Thank you very much for your time, Minister, Dr Sherbon, Mr Kendall. We have appreciated your evidence this afternoon. That concludes our public hearing for today.

**The committee adjourned at 4.09 pm.**