LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING AND ENVIRONMENT

(Reference: Planning and Development Bill 2006)

Members:

MR M GENTLEMAN (The Chair)
MR Z SESELJA (The Deputy Chair)
MS M PORTER

TRANSCRIPT OF BRIEFING

CANBERRA

TUESDAY, 13 FEBRUARY 2007

Secretary to the committee:
Dr H Jaireth (Ph: 6205 0137)

By authority of the Legislative Assembly for the Australian Capital Territory

WITNESSES

The committee met at 1.30 pm.

DUNSTAN, MR DAVID, Senior Policy Officer, Planning System Reform Project, ACT Planning and Land Authority
GIBSON, MS BETH, Manager, Planning System Reform Project, ACT Planning and Land Authority
LAVIS, MS JACQUI, Director, Deputy Chief Planning Executive and Director Planning Services, ACT Planning and Land Authority
SAVERY, MR NEIL, Chief Planning Executive, ACT Planning and Land Authority

THE CHAIR: Good afternoon and welcome to the ACT Legislative Assembly's Standing Committee on Planning and Environment. This afternoon we are receiving a brief from ACT Planning and Land Authority officials on the Planning and Development Bill 2006. Whilst it is not a public hearing or inquiry, we are recording the briefing for Hansard and so, for that purpose, I will read out the Assembly's card. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the resolution agreed to by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings.

Before the committee commences taking evidence, let me place on the record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence given before it. Parliamentary privilege means special rights and immunities attach to parliament, its members and others, necessary to the discharge of functions of the Assembly without obstruction and without fear of prosecution.

While the committee prefers to hear all evidence in public, if the committee accedes to such a request, the committee will take evidence in camera and record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly. I should add that any decision regarding publication of in camera evidence or confidential submissions will not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

So good afternoon to members of the committee, members of the Assembly and officials from ACTPLA: Jacqui Davis, Neil Savery, Beth Gibson and David Dunstan. I will pass over to Neil Savery to begin with.

Mr Savery: Thanks, chair. We are here to present to you an update of where the Planning and Development Bill is at, and also to give some information in relation to the development of the new territory plan, with which I think members of the Assembly are familiar through the reading of the bill. It is an integral part of the operation, not only of the legislation but the whole planning system reform project.

The committee would be aware that the bill and explanatory statement, as well as the government response to the P&E committee report, were tabled prior to Christmas and due to be debated soon in the Assembly. As a matter of procedure, those items can be found on the legislation register, although we note that the government

response document, whilst it is referenced in *Hansard*, actually does not appear to be available from the web. We are going to follow that up to establish why it is not accessible. Obviously we can make it accessible through other means, but it might mean that people who have an interest in that document have not necessarily been able to have access to it to this date.

In terms of the next steps, apart from the Assembly obviously debating the bill, the scrutiny of bills committee will consider it and reply before the bill is debated, and in light of that report amendments to the bill may be necessary. ACTPLA has also identified what it considers are desirable amendments to the bill to clarify ambiguities and to ensure that the bill matches the final form of the territory plan, which has been progressed concurrently with the development of the latter stages of the bill. I think it is fair and reasonable to expect that there could well be some government amendments recommended, but that is still subject obviously to both minister and government consideration.

The authority is also currently working on consequential amendments to other territory legislation that arise out of the new bill, if it was to be passed, and that is occurring in consultation with other agencies, and also the development of a suite of regulations that would be introduced concurrently with the legislation.

The bill and the consequential amendments and regulations are planned to commence together as a package, along with the new territory plan, so it is a fairly substantial body of work that will be completed and introduced at the same time. Again you would be aware that the bill enables the territory plan, as part of the transitional process, to be introduced by legislation, rather than by way of a variation through the processes that most of us would be familiar with at the current time.

The complete draft version of the territory plan and its suite of codes are likely to be released at the end of March. That is still to be determined by the minister, but that is the timetable that we are working to, which means a very concentrated effort on the part of many people within the organisation. We have undertaken some preliminary consultation with key individuals within the community and within the industry through the form of some focus groups or workshops, in part to give them a familiarity with some of the content of the territory plan and its general structure but also to elicit some information on some of the measures that are appropriate within those codes and within the territory plan generally.

In doing so, we are endeavouring in principle to maintain what we call policy neutrality. In other words, in the conversion to a new structure we are not intending from the outset to completely change the content, so that, for instance, an individual who currently enjoys the status of their land being residential should not find that through the structure of the new territory plan it is industrial. So the intent is for the general policy framework and the rights and privileges that people enjoy under the current territory plan to remain under the new.

It is inevitable, however, through the new structure and the fact that the codes are being updated, that gaps are being found, other material is redundant and being removed and also, as we move from land use policy areas to zones, that there are subtleties and changes that arise as a result of that. That is one of the key reasons why

the territory plan should be the subject of a consultation process, which is what is envisaged at the end of March/start of April and we will be intensively advertising that and trying to encourage, through our stakeholder networks, participation by members of the community and industry groups in general to go through the territory plan in some detail and identify any errors that we may have made, which could be simple translation errors, any concerns that arise out of the policy settings that might have changed as a result of our updating the territory plan and the introduction of codes.

Once we have completed that it is not intended that there be any further public consultation on the territory plan, and certainly not on the Planning and Development Bill. However, if individuals or groups have particular issues that they wish to raise, they should obviously be trying to contact us and, in fact, some of them already have. So, as a result of the bill having been tabled, individuals have taken the opportunity to apprise themselves of its detail, and have raised some issues with us that we have indicated that we will discuss further with them, and if we believe it warrants it we will raise it with the minister and, ultimately, with the government to determine whether or not any further amendments are warranted to the bill.

MR SESELJA: On the time frame, is it still the plan for the new territory plan and the act to commence on 1 July?

Mr Savery: We are still working to that timetable. I think it is fair to indicate that the minister is certainly having regard to whether or not that should be moved, not only as a result of representations that have been made to him from outside of the organisation but also as a result of us identifying the constraints that exist in trying to complete the territory plan and the codes within the time frame that has been set.

It is not proposed to formally consult on the suite of regulations because many of them are going to be a literal translation of some of the material that already exists, but in developing some of those regulations we are likely to hold discussions with key stakeholder groups who are likely to be affected by those. That typically affects the industry groups, which in the main have an intimate and daily interaction with many of those regulations as they affect development applications and the processes around them.

THE CHAIR: And how do you propose for that to go forward? Will you be inviting them? Can they write to you?

Mr Savery: Yes, and we have already provided as part of the tabling process an indication of the suite of regulations. Whilst we have not indicated what the content is, we have provided an outline of what the total suite of regulations is, and we have essentially invited, through our stakeholder networks, those groups that have interests in particular regulations to contact us if they want to go through some of the detail. But, as I say, a lot of it is going to be a literal translation of what currently exists.

If there are major changes between the Planning and Development Bill as tabled and as exhibited, you would expect that those matters will be raised through the debate process and brought forward by the government, and obviously other parties at the Assembly may bring forward their own set of issues that they want debated and

discussed that may ultimately result in further changes or drafting changes needing to be made.

We are anticipating that you want to ask us a number of questions, in particular around some of the matters that you raised through your report and how we have responded to those. We felt it would be better, rather than to anticipate and predict those, which might result in us going through the whole lot, to leave that to you to ask questions of us.

The one other thing that I would like to just quickly mention, in anticipation of the bill and the territory plan coming into operation, whether it is 1 July or some other date, is a significant ramping up of the implementation program, a key component of which will be education and training, and that will not be simply confined to the authority but also to members of the community and the development industry and the professional groups who have a significant interaction with our legislation, particularly planning professionals, architects, building designers and building certifiers, all of whom depend on our legislation to ply their trade and need to understand not only how to implement the provisions of the legislation but the operation of the territory plan in a very intimate way. Obviously the legal profession is a key part of that as well.

We have already started initial public awareness of the totality of the exercise and we intend to ramp that up in the very near future in parallel with the release of the territory plan. But no-one should underestimate the significance and the size of that particular undertaking. That will require a large diversion of resources on our part, and the government has given us financial support through the budget to assist us in doing that, so we will also be recruiting people who will help facilitate meetings, training sessions, help build the training package for us and then undertake the courses with our staff and other people from the broader community.

THE CHAIR: Thank you very much.

MR SESELJA: Neil, you talked about some of the suggestions we had made and said you were not going to respond to those but wait for questions. One is the issue that the law society raised and which we took up in relation to uses development. Are you able to take us through what, if any, changes are in the bill as presented to the Assembly?

Mr Savery: Certainly. I will hand over the detail to both Ms Jacqui Lavis and Ms Beth Gibson, who are more familiar with the detail than I, but, as a starting point, we certainly responded to the issues raised on uses development, not only from yourselves but also from the law society and the Property Council of Australia. It certainly appeared to us that this was the most significant issue, from a property industry perspective, in the legislation.

If I could just say that we believe that we have addressed the issues that have been raised, either by changes that have been made from what was the draft exposure bill to the tabled bill, but I do also understand that there remain some residual concerns. We had a meeting with the property council and a number of industry groups on Friday, where they identified what they considered were the outstanding concerns. We have

undertaken to meet with them next week, where we will be going through line by line the outstanding issue.

We believe, as a matter of principle, we have addressed the overarching concern, which is, if you like, the removal of property rights or the acquisition of some form of property rights. So there is, in our view, formal recognition within the legislation that lawful established use continues, uses that are identified within existing leases can continue to be exercised, but what we are trying to do is to formalise an arrangement that essentially exists under current law, which is that we assess the impacts of use.

If you want to migrate, even today, between uses on your lease but there are potential impacts as a result of your transitioning between those various uses, we assess those impacts now—traffic impacts, noise impacts. Typically, they are the external impacts of those uses. What we have tried to do through this legislation is to formalise that, acknowledge that it exists, but at the same time it works in tandem with the very significant change in culture that we are trying to promote between the operability of the territory plan with the lease and the overarching role of the legislation.

At the moment, we have a duality in our system, which I think we have talked about with you before when we have presented evidence, where the lease performs as a de facto second development approval process, and then you have the formal development assessment process through the territory plan. We are trying to regularise all of that, make the DAF model work as part of that exercise, change the culture within the organisation which sees two distinct functions between the lease and the development approval, which often creates problems down the track when the lease and development conditions say one thing and the development approval conditions say another thing. That creates uncertainty and confusion. But we understand that there appear to be some residual concerns which we think are around the technical application of that process that we are trying to put in place, and we are hopeful that we can resolve that through the conversation we are going to have next week. But Jacqui and Beth are in a better position to go through the detail.

Ms Lavis: I think Neil has given a very succinct analysis, in actual fact, of the changes and the response that we have made. It is fair to say that it is the subject of ongoing discussions between ourselves and a whole range of industry representatives. So it is not just the law society who are continuing to have dialogue with us about this; it is obviously also members of the property council and some members of other professional bodies, such as the MBA, the HIA and the like. So it is an issue of interest to a broad range of professionals who are advising clients about their future options in terms of land use and development, and there is a generic category, obviously, of people who provide that advice.

The way in which the presentation version of the legislation differs from the exposure draft legislation is that we have introduced a broad range of transitional provisions into the Planning and Development Bill which make it clear that there is an established package of, I suppose we would use the generic term, existing use rights. That is terminology that is used commonly in other jurisdictions and it is not terminology that has been so broadly used in the ACT. That, I think, is because for many years there has been a heavy reliance on the lease.

Just to add to Neil's commentary: as we understand, some of the concerns from some of those professionals are whether or not they are going to find it unduly difficult or complex to advise their clients, perhaps in relation to conveyancing transactions, prepurchase and advice, and that sort of thing. Certainly, the legislation makes provision for us to be able to offer advice in relation to things such as the applicability of the territory plan, the applicability of assessment tracks and the like. The bill has in fact, since its exposure draft version, had that provision, so that people can come formally and seek advice if, if you like, they are not confident about their interpretations of certain matters in relation to the legislation.

MR SESELJA: What will be the status of such advice? Would there be a document produced that has some formal status?

Ms Lavis: There would be written advice. There is a time limitation. I can't remember the precise time. Six months, is it? There is a six-month time limitation on that and then it would need to be renewed. We could go into some detail, I suppose, as to the technicality. In terms of the drafting guru, all of us probably would look to the end of the table. David Dunstan is the person who has tracked most closely the precise changes. If you wanted David to take you through some of the mechanics of the new transitional provisions and, I suppose, the net effect of existing use rights, David could do that. It is a question really of how far the committee wants to go with it.

MR SESELJA: Briefly, I think it would be useful because, as you say, it was the number one issue from the industry's point of view. So it would be good if we could get some of the detail.

THE CHAIR: Thanks, David.

Mr Dunstan: I think that one of the main changes is that the protections afforded to existing use under existing leases in the transitional provisions of the bill have now been extended to new leases, so there is no substantive difference in protections afforded to new leases as opposed to existing leases. In particular, you are probably aware that under the new development assessment system there are the tracks—exempt, code, merit, impact, prohibited. If the territory plan says that a particular use is prohibited and that use is permitted on the lease, that use can still be activated, but it must be assessed under the impact track. That protection in the exposure draft was available to existing leases. That has now been extended to new leases.

One of the central points, both in the exposure draft bill and in the presentation bill, is that there is an exemption that applies, such that you do not need an approval to exercise use if that use does not involve building work that, of itself, would require a DA. The wording of that exemption has been clarified. That exemption applies again to both existing and new leases.

One of the issues that were raised in consultation with the law society, the property council and others was clarification about what happens if a use that has been approved is interrupted for a time. The presentation version of the bill now goes into some detail to make it absolutely clear that, where a use has been approved, that use remains approved and remains legitimate and legally valid, notwithstanding that that use is interrupted for a time, notwithstanding that the lease is transferred to someone

else, notwithstanding that the relevant lease expires and is renewed, or expires and you are into the six-month grace period for renewal of leases.

That was probably one of the key changes, I think, sought by stakeholders in consultation. In making that change we have also, in parallel, made clear what happens to use in regard to uses that are authorised by licences as opposed to a lease. Licence has been a lesser legal authority, if you like. If the licence expires, then there may be a need to get a new use approval if you want to renew the licence. So it is different in that sense from leases. That tidy up was made in association with the amendments that I talked about earlier in connection with use approvals and leases. I think those are probably the main changes.

I should perhaps note as to the exemption that I talked about for use approvals, where the exercise of the use does not involve building work that of itself requires development approval, that exemption for new leases is in the regulation which I think this committee had seen earlier in previous discussions.

MR SESELJA: Just to summarise for my own purposes concerning the way that you have now changed the legislation: if, theoretically, you had a commercial property which had various uses on the lease, a change from, say, a hairdresser to a TAB, which would not require any significant work that would ordinarily require approval, then there is no real process for approval from ACTPLA's point of view.

Mr Dunstan: There is no need to obtain approval for the use. You can exercise your use.

MR SESELJA: Okay. But if it is something obviously more substantial, you still have to go through the development application process.

Mr Dunstan: Yes.

Ms Gibson: For the building component.

Mr Savery: Which, as I say, is reflecting what we are doing now.

MR SESELJA: Yes, it is the current practice. In terms of change of use, has that been clarified? I think that one of the concerns was that that somehow might be applied where a use is taken up. Has it been clarified that that simply will not apply in these sorts of cases where people are changing use within an existing lease?

Mr Dunstan: The bill has been drafted in a way that the protections that we have been talking about apply whether it is brand new use or whether you are just changing from one use to another. Again, if no building work is involved, then no use approval is required.

Ms Gibson: So that the bill trigger is the need for building work that isn't otherwise exempt, and that allows us to assess the impact.

Mr Dunstan: I forgot to mention that another key change in the bill is that the transitional protections at the back of the bill that are afforded to existing leases now

apply irrespective of whether the relevant use had physically commenced prior to the operation of the bill or not. As long as the use is on the lease and it is an existing lease, it gains those protections automatically.

MR SESELJA: One of you mentioned—I think it was Neil—that some of the sticking points still were in relation to the technical application. Just briefly, what are some of those sticking points?

Ms Lavis: May I start the answer on that one? One of the issues, I think, that come out in the many conversations we have about this topic with various members of industry is that there are embedded in the circumstances, if you like, that David has just outlined a number of checkpoints which can potentially be invoked. So, because of the permutations that might occur in relation to the range of uses that might be on a lease, the date of approval, whether something is going to be in a particular assessment track or not, what I think broadly some industry representatives are saying is that there are a number of matters which they are going to have to verify and advise their clients over.

That is really no different than the complexity of advice that has to be offered to people at the moment. A lease document is not a lay down misere, if you like, in relation to being able to tell somebody, "Yes, you can go ahead. You can buy that property in confidence. You can exercise that use. You can undertake that development." All of those things at the moment are subject to different types of processes in terms of verification. What we have done in some of the creation of administrative process that will flow from the legislation is actually reduce a number of the things that could potentially trip people up. You might get a reasonable way down the track at the moment and discover that, in fact, there is a small lease variation clause that you might need to be able to invoke your development, for example. So the duality of the system which Neil described at the moment does have a number of points where people can actually be tripped up.

The level of complexity of checking, we believe, is reduced. There is, if you like, the potential to have a single list of matters that you have to check, but it is not a one size fits all and never will be, because of the age of leases. As you would be aware, they extend over an 80-year time frame, and so old leases are always going to be different from new leases. We think the permutations that we have created through the transitional provisions and the provisions that have also been made within the body of the bill do cover the cases that will occur.

Mr Savery: On the technical matters, though, that may or may not be outstanding, we were literally only given the document on Friday by the representative from the property council, and we are going through it. We have agreed to meet next week. For all we know it could be something as simple as language or where the various provisions are located within the legislation, or it could be something more difficult. We are working through that at the moment.

Ms Lavis: There is obviously a certain amount of interpretation that will be done by the private sector, by the private legal profession. They have made assumptions in a couple of places that some material will be detailed in regulations, whereas in fact it will appear in the territory plan. That is just a process, I think, of all of us becoming

familiar with the body of detail that will be contained in the bill, the body that will come in regulations and the body that will actually appear in the territory plan. When the territory plan material is available on exhibition, some of that will be much clearer for people's understanding.

THE CHAIR: The committee made a recommendation in its report, recommendation 13, that the draft bill be amended to enable the Assembly to extend the time available to an Assembly committee for inquiry and report on the draft plan variation beyond six months. The response from the minister was that that was not agreed. Did the authority do any further work in regard to that?

Mr Savery: The authority obviously gave advice to the minister. Our advice to the minister was not to support that and I will tell you the reasons why. It mainly relates to the whole principle of speeding up the planning system and taking comparisons from other jurisdictions where committees not dissimilar to yours have time frames in which to respond to certain statutory processes. For instance, South Australia, where I came from before here, has a 28-day time frame for its committee to consider amendments to development plans, as they're known in South Australia.

Once having raised issues, time frames can be changed, and there are all sorts of extenuating circumstances. So we felt, and at this stage the government agreed with our advice, that an open-ended arrangement for the committee was not appropriate. When time frames are being put on every other part of the process, including us, which we have always had, but referral authorities in particular, and other time frames are being imposed in respect of referral of territory plan amendments or variations, we felt that it was appropriate to put some sort of target on the deliberations of this committee at this stage. That is reflected in the bill and the government agreed with the advice.

THE CHAIR: And that can be debated when it comes to the Assembly.

Mr Savery: Yes.

Ms Lavis: If I might make a comment on that: one of the options that is available under the concept of inquiry and report is, of course, for the committee, if it believes that there are matters that are unresolved or warrant further investigation, to make that advice in its final report. Of course the committee does take that option from time to time in a range of its reports indicating that further investigations might be required in X, Y and Z.

I suppose the concept of extending beyond a six-month time frame might mean that the committee believes that there might be some mechanism itself it wishes to attempt to resolve. But, if you like, feeding areas of suggested further investigation back into the system via a reporting framework with a six-month reporting time frame is, of course, an option that is available.

THE CHAIR: Okay. The other question I have is in regard to third party appeal rights following a decision not too long ago in the Supreme Court here in the ACT. Did the authority look any further into that process?

Mr Savery: Yes. The authority has looked into that process and made recommendations to the government which the government is currently giving consideration to. I cannot elaborate; sorry.

THE CHAIR: Okay.

MS PORTER: You mentioned in your introductory remarks that there had been some consultation around the codes and one of our recommendations was that we implicitly address social aspects of sustainable development in the codes. I was just wondering if you could let us know how that consultation around redevelopment of the codes went and what kind of changes might be in there.

Mr Savery: I will let Jacqui respond. This is an area that Jacqui has a particular interest and expertise in, but I think it is correct to say that it is not just embedded within the codes; the legislation itself contains some broader principles to give imprimatur to that level of social analysis.

MS PORTER: Okay.

Ms Lavis: Neil is right: there are a number of points where that matter is picked up; it is not just in relation to codes. There are three broad areas. The first is that the definition of "environment", if you like, now includes full recognition of the social parameters of sustainability. So the definition of "environment" and "environmental effects" does include the option for matters of social sustainability to be addressed at the various points where the terms "environment" and "environmental effects" are referred to.

The second is a developing thinking on the concept of social impact assessment. That has been raised by a number of parties throughout conversations on the provisions of the bill, the provisions of environmental impact assessment and also in some instances in relation to decisions around leasing, particularly concessional leases and the future of concessional leases.

So the set of regulations that will refer to the mechanics of environmental impact assessment and strategic environmental assessment will include a set of parameters or requirements—I will use the term "prescriptions"—around social impact assessment and what type of information is required when a particular decision of the authority impacts on social factors, be they demographic factors, factors around the distribution of land uses or the changes to leasing provisions which might have been granted on a concessional basis. So those are two sort of broad areas that are covered under the legislation.

In terms of the territory plan, the work we are doing at the moment on the territory plan I think has thrown up two or three areas where we need to make sure that codes and the plan itself have regard to matters of, if you like, social sustainability. The first, broadly, is in relation to—I suppose I will use the term "matters for consideration", which is a term that appears in the territory plan at the moment. We are not using a generic set of matters for consideration in the territory plan but we are aligning those with the zones and the codes.

So if you have a situation, for example, where there might be a change to a community facility, or something of that nature, there will be a set of parameters built into the code which have to be considered in the context of a development application. We have also introduced a specific code for community facility development. We looked at a number of options around the way in which we might tackle the provision, design and siting of community facilities, and we have quite recently decided that the exhibition version of the territory plan will have that provision.

I think we have tackled the broad issues that have been raised with us about that topic at a number of levels, legislatively, in the regulations and in the territory plan. So I am hopeful that the suite of material we have introduced there is going to cover some of the concerns about decision making, and decision making taking adequate account of those factors.

Mr Savery: I think it is appropriate to also mention that for the Canberra spatial plan the legislation calls up the requirement for there to be a strategic plan or a strategic policy framework for the territory. The day that the legislation becomes operative it will be the Canberra spatial plan. A future government might want to develop a different plan. But the spatial plan, you will appreciate, takes into account transport, land use and social planning. So the importance there is not so much that the Canberra spatial plan prescribes a social outcome for the territory, but by providing some broad overarching spatial framework and broad planning principles, including social planning principles, the way that the structure of the territory plan is to operate is that any policy change must have regard to that overarching strategic policy framework. So I think at all levels, as Jacqui said, there is a much stronger emphasis being placed not just on social issues but on environmental and economic issues.

MS PORTER: I thought—I am not really sure—that there was some sort of confusion on the way the tracks were represented and there was a chance that someone could be on a particular track within the draft legislation but could fall into another one as investigations were going through or as the process was going through. I may not be interpreting it right; I am sorry if I sound a bit confused.

Mr Savery: We know this issue.

MS PORTER: You know the issue I am talking about. So how has that been addressed?

Ms Lavis: David, do you want to address some of the mechanics of how we have addressed moving between tracks, or do you want me to tackle it from the territory plan perspective?

Mr Dunstan: I am happy to perhaps start on some of the mechanics.

Ms Lavis: Perhaps if you do the mechanics, I will then go back to the territory plan.

Mr Dunstan: Yes. Perhaps the most common scenario where this issue might arise would be where a proponent puts in an application which is ostensibly in the code track but it does not actually meet the code requirements for that track, and if it had been lodged as a merit application it could well have been assessed under the merit

track.

In that circumstance, where there has been discussion with the stakeholders and internally on this, we felt that the best approach was to say, "If the application is in the code track but it does not meet the code requirements, the application in that circumstance is refused." The proponent then has two choices: modify the design of the proposal so that it does comply with the relevant code requirements and can legitimately be lodged and assessed in the code track or, option 2, revise the application and say, "No, I want to stick with the design as it is, but I will lodge it as a merit track application and ask for it to be assessed through the merit track, taking into account the merit criteria of the territory plan."

In either of those circumstances we are looking at an administrative policy to allow us to discount the application fee that the proponent must pay when it lodges the second application following any such decision. I think that was one of the more common scenarios and we propose to deal with it in that administrative manner.

I probably should underline that, once a proposal has been fully developed and the design is set and an application has been made, as far as the law is concerned one track and only one track applies to that proposal. As I said, if the application has mistakenly been lodged in the code track, we are looking at refusal and suggesting a re-application with a discount fee.

MS PORTER: Okay.

DR FOSKEY: With a fee?

Mr Dunstan: With the second application, the follow-up application, the regulations set the fees and the regulations will be set so as to take account of the fact that the person has already lodged an application of some description for that proposal.

MR SESELJA: Is there a reason that you would not allow for a circumstance where you can move between tracks without having to be refused and relodge? That was one of our recommendations and you said in response that it could be achieved by other means. It sounds like it is not quite being achieved. You are taken out and finish and then you come back in.

Ms Gibson: If I could address aspects of that, I think this is one area in which Mr Savery indicated there might be some government amendments. After further consideration, especially in light of meetings that were held on the territory plan, I think it is fair to say that the people administering the system think it is, overall, just cleaner to do it this way rather than doing it the other way whereby you would, say, shift issues of fees, people's rights to be notified, perhaps some lack of clarity on what they could make submissions on and not make submissions on. When we started working it through I think it became probably a bit too complicated for ease of administration and probably fairness to all other parties. So what David has been describing, I suppose, is a slight shift in thinking as we go through the implementation phase and consider all the administrative issues associated with it. On this particular issue, it may be that there will be some further need for clarification in the bill on that.

MR SESELJA: So, just to clarify it for me, the position David is putting is with a view to what may be in the government amendments; it is not as the bill is—

Ms Gibson: As articulated there. We may make a particular government amendment about refusing things in a code track when they do not meet the code.

THE CHAIR: I should have asked people at the beginning of the briefing to remind us of their name and position when they answer questions of the committee for the benefit of Hansard.

Ms Lavis: If I might add a couple of points to that: first of all, this issue of moving between tracks was something that was the subject of some confusion when Queensland introduced its integrated planning act. In fact, after 18 months or so the government had to introduce a provision of the type that David has just described, that there was a mandated refusal if there were non-compliance with the code. Of course, with the work the ACT has done, based on the development assessment forum model, we have taken codes to another level again. So I think it is important that we protect, if you like, the clarity around codes and the way codes are used.

That was also borne out in some of the focus group feedback we had from November when we road-tested some of the potential codes under the territory plan. Neil referred to this process earlier. We had overall a group of about 40 people in various combinations who actually went through draft material on the codes, and the overwhelming message that came back to us was that we had to be very clear about the material for code assessment as opposed to material that was going to be used in merit assessment.

The mechanics we had been using where you were cross-referencing between code material and merit material was considered to be in need of amendment in terms of the way it was used, and when development is in a code assessment track there was a very strong preference expressed that we should have a single document where you could run through the rules and say, "Yes, I comply with all of those." If you recall, there was a very strong direction for single dwellings in greenfields areas to be able to run through that system.

We have taken all of that on board and I think the overriding message is that, if something is in the code assessment track, we need to really sequester that information so that people can very clearly access that, and the administrative process that David has described actually facilitates that. I feel very confident that the stakeholder usability of the system David has described is going to be very high.

MS PORTER: I have a question relating to something that you said before, Mr Savery, when you were talking about the fact that once this is rolled out there will be a great need to educate people about what is in it then and how it will work, because there is so much work being done and there will be so much for people to absorb. You talked about a wide advertising campaign, I thought, in relation to that. I am not sure whether it was in relation to that or something else. How wide would that advertising campaign be and what kind of advertising?

You also talked about educating different sectors or different stakeholders and you

talked about developers, but I did not hear you say anything about the person in the street who is also obviously a stakeholder. I presume that you also meant those people. The reason I am asking you all of these questions is that recently I was contacted by a number of constituents in relation to an entirely different matter, but a planning matter. It appears to me that because it was not on their radar at the time of the introduction of a previous policy—there was wide consultation at the time, but it was not on their radar at the time—as far as they are concerned, there was absolutely no consultation, no-one was asked and there was no education of anybody about it. Of course that is not true, but how do we get it on the radar of people who are not necessarily paying attention?

Mr Savery: There are a number of parts to your question, and what you are illustrating through your example is symptomatic of what occurs in most jurisdictions with major planning policies. I think it is true of policy generally. It is very difficult to connect with members of the community who may not have an interest in that particular issue but, when it comes to affect them personally maybe two to five years down the track, then it becomes very intimate and it can be sensitive and emotive. The authorities turn and say, "We consulted. We gave you the opportunity. You did not participate. You can't now turn around." But that does not cut any ice at the time the particular issue is taking place in their backyard. There is no magic cure for this. We will endeavour to do the best we can in connecting with those people who will have an interest in this.

You may recall that possibly the first time I met with the committee on the topic of the new bill I was unapologetic that this was going to be a top-down process because, without being offensive to members in the audience or elsewhere, the lay person isn't all that interested in the detail of the legislation. It is the people who deal with the legislation on a day-to-day basis—the lawyers, the planning professionals, the building surveyors et cetera—who are going to go through this with a fine toothcomb. There are clearly going to be some members of the community who will take it upon themselves, because it is an interest to them. They are the ones that we really have to address first and foremost, as well as the people who work within the authority, because they are the practitioners who are going to have to use this—it's their toolkit—every day of the week.

So, again, I am unapologetic about the fact that our training and education program is going to be focused, both internally and externally, on key user groups. But, through a parallel process, we want to alert the community to the changes that are going to take place, more so with the territory plan than the legislation, bearing in mind that the legislation has been the subject of 18 months worth of work, several processes or rounds of consultation. I think, if we reflect back on that consultation process, we were reasonably successful with what is dull and boring material, when you talk about legislation, in getting quite a degree of interest from the community. I can't remember: were there 300 responses on the draft bill?

Ms Gibson: No, the formal responses were about 30, but through meetings and conversations at meetings we probably recorded over 800 individual comments from all sectors of the community on the bill.

Mr Savery: It was a very wide campaign. I know, for example, with the Weston

Creek Community Council, which we used, and we would propose to use again, to assist us in communicating the release of the territory plan, and we have been meeting with community councils as part of the process, that the number of staff who attended that particular briefing session on the legislation outnumbered the members of the public, yet the community council had letterboxed the entire community, something like 7,000 or 8,000 people. So it is a difficulty.

When I talked about advertising, in effect, I meant public notification. We will do what we can to alert the public through the media and through the networks that we have with community councils and with our industry and professional stakeholder groups to the fact that this is about to occur. But there will also be targeted elements of it, as we have already commenced with the focus groups, which have already provided us with enormously useful information.

We actually have here, and we can provide it to you in a condensed form, a diagram that tries to illustrate the size of the task that we have got ahead of us. The top part, the orange part, is the legislative processes; all the implementation that will be involved over the next few months; implementation of issues that arise out that exercise, and we can start to group those; and then the actual communication, education and training program below.

If we are just focusing on that as a result of your question, it is not just a case of the legislation and the territory plan, but at the same time you may appreciate that as a result of previous recommendations made by this committee, recommendations by the public accounts committee and recommendations of the Auditor-General, we have built into this some very focused exercises for staff relating to development approval processes, core competencies, and urban design and sustainability workshops. We have tried to pick up over the course of the two years commentary that has been coming into the authority and to the government through formal processes, but also through observations made by members of the public around areas that we believe we can improve on so that when this legislation comes in we will be better able to implement not only key reforms but also targeted areas that we think we might have been deficient in and people have made observations about. So that is all built into that training and development package.

DR FOSKEY: I guess it is no surprise that the two issues that I am most interested in are community participation and sustainability. To pick up Mary's point, there has been a bit of an effort over the last couple of years to build the role of community councils as a one stop shop, I guess, between planning and the community. I do not see anything in the legislation, though you can direct me to where I have not yet looked, on how the community councils are going to have a role in the new arrangements. Mr Savery, as you have said very clearly, you do not apologise for its being a top-down process. Nonetheless, this is a community with a really strong interest and quite a bit of expertise in planning issues, and often you could say that the people who live there might be experts, to some extent, on their own neighbourhoods. It has been suggested to me that we actually need a new part 3.7, which is about advisory and consultative bodies, and that would include and embed community councils as part of the planning process. At the moment, they must be wondering where they stand. I would like to hear how we can continue what is really quite a diminished form of public participation anyway.

Mr Savery: The relationship with the community councils is an informal process and is not proposed to be formalised through the new legislation. This harks back to the debates a couple of years ago around the winding-up of the LAPACs and the minister's intention at the time to establish some alternative whose name does not quite come to mind, which did not eventuate.

DR FOSKEY: Community planning forums.

Mr Savery: Thank you. Arising out of that we entered into arrangements with community councils not to become a one-stop shop but to become a conduit and a vehicle through which we could receive information, distribute information, but as a first point of call where we could discuss some of the major issues that they are experiencing within their communities and that we were trying to undertake or are undertaking as part of government programs. Our community consultation processes for large policy exercises do not confine themselves to the community councils. But the experience has been over the last 12 or so months a very positive one with the community councils where they have proactively assisted us. But, as I say, it is not intended to formalise that through the legislation and I know that is not the minister's intention either. You were talking about part 3.7 within the territory plan, which is something that is currently under review through the territory plan process—

DR FOSKEY: No, actually in the legislation.

Mr Savery: or through the legislation.

Ms Lavis: I think it would actually be.

Mr Savery: Okay. Well, I am answering the question. I thought they were two separate points. It would be a government policy as to whether or not the minister wants to formalise any arrangement with the community councils, but that is not currently on the agenda as far as I am aware.

DR FOSKEY: On another issue around public consultation: clause 62 provides for a public consultation period of only 15 days. You have already talked about the difficulties in people knowing that an issue is there on their doorstep and 15 days certainly seems too short to me. I wonder if you could make it 28 days.

Ms Lavis: The provisions, if you read on, obviously indicate that we can extend the consultation period. The 15-day period is a consistent time period used throughout the legislation. I think it is fair to say that when we have something of the complexity, say, of the new Molonglo development area, or something of that nature, we are going to be sensible about that, bearing in mind that for a number of these territory plan variations the statutory consultation period whereby the map might be changed or the clauses of the territory plan might be changed is not the only consultation that occurs.

We frequently had consultation that might have taken place in relation to, for example, the development of the structure plan. To continue to use the Molonglo development area example, we have had a highly interactive process around the development of the structure plan that has involved a broad range of people, both from the immediate

physical community, if you like, in the vicinity of that site but also including a broader range of interests. So by the time you get down to the statutory period around a map change or a set of provisions in the territory plan you might have had two or three consultation exercises just simply to gain input, I guess, in the interactive way that I suspect might be envisaged here.

If I could also make some comments on the community councils and the way in which they operate: one of the sort of fora, if you like, that we used is the planning and development forum where community councils have the opportunity to interact with the members of the development industry, the professional bodies and the like. We find the fact that we have got an ongoing relationship with a number of people having a broad range of views or a holistic set of views about development and planning enormously beneficial.

There is a lot to be said for the type of consultation and communication that you have where we have developed relationships with people. Over the last two to three years I think the authority has been quite innovative in that we have developed relationships with a broad range of people in the community and that a number of those people feel quite comfortable in bringing forward new issues to us for debate.

For example, within the last couple of weeks Neil and I have had an opportunity to have a range of views presented to us about affordable housing. It is a very topical issue and one which I am sure will exercise this committee's mind before too long. As a result of people feeling comfortable just to put their views on the table in a very specific way—so a range of views, everything from potential consumers of affordable housing, in terms of people trying to buy property, right through to the spectrum of organisations like the HIA and MBA taking responsibility for delivering a housing product—we have had a range of really quite specific views given to us. The fact that people feel free to raise those outside, if you like, a definitive consultation structure about that topic is a measure of some of the relationships we have been able to develop. If you had a more prescribed format for consultation I would be fearful that that might not occur.

DR FOSKEY: Well, you could always give it a go.

Mr Dunstan: If I could add one point quickly to that question: I draw the committee's attention to clause 411 of the bill. We have been talking about the involvement of community councils as part of the planning process. The bill does recognise that community councils and other community organisations have a role at the individual development assessment part of the process in connection with third party appeals. Clause 411 specifically provides that associations like community councils can make an application, make a third party appeal, on the basis of material detriment, material detriment being defined as an issue that is relevant to the objects of the association of their relevant community organisation. So if an issue arises and it is relevant to the objects of the association and all the other requirements in connection with third party appeals are met communities can be involved in that part of the process as well.

THE CHAIR: Thanks, David.

MR SESELJA: Recommendation 42 of the committee, which was agreed to, is

obviously not in the bill as presented. Do we expect that that will be one of the government amendments? That is in relation to clause 259.

Ms Gibson: That is commonly referred to as consent to mortgage and it is fair to say that discussions are continuing with stakeholders and the minister's office on that. I could not predict a result right at the moment.

MR SESELJA: Okay, but we could assume from the response that something will be done. This is a more basic question and I apologise—if people have got more important questions than this, please come in over the top—but it is really for the average person in the street in terms of how this is going to affect them. One of the things in the minister's announcement about the bill was focused on the streamlining of things like if you want to erect a gazebo or a garage. Just really briefly, could you indulge the committee and take us through how it will now be simpler under the new bill for, say, a simple garage or a gazebo? How will that be easier for the average person who wants to do that?

Mr Savery: That largely relates to those activities or developments that will fall into the exempt track, which is something akin to a form of self-assessment. There will be threshold tests established that will enable certain types of development which include detached houses in greenfield areas not requiring a development approval. The examples you gave may even get to the point where a building approval is not even required. Again, I do not know the thresholds but it is conceivable that a gazebo or some sort of outbuilding—for example, a shed—might not even require a building approval. But let us assume that a building approval is required: that would be the minimum in the exempt track. So again if you visualise for each of the zones a table that has exempt, a code, merit, impact and prohibited, then you look down the exempt track, you will find the types of things that are potentially exempt. And the threshold tests are located where?

Ms Lavis: Cross-reference to regulations. Would it be appropriate, Beth, for David to give a little bit more information about potential regulations?

Ms Gibson: If I could address the question of building issues: when we exhibited the exhibition version of the bill there was also on exhibition exempt development from DAs and BAs. That, as Mr Savery said, is where the main efficiencies lie for that type of development. In terms of the type, a gazebo or other sort of not main building, broadly speaking we are intending to increase the size or the width—those sort of dimensional things—so if it was a five-metre dimension now it may be a 10-metre dimension on commencement date. That is where those efficiencies lie and although we have exhibited one particular version we are still continuing to work on those.

Mr Savery: But in the balance of the structure obviously the code track itself is intended to increase efficiencies and give people the option of following a rather formulated approach to submitting a development application that almost guarantees them a relatively quick and efficient approval if they have met all of the prescriptive requirements, but not preventing them from wanting to exercise some flexibility and test some of the policy settings, which would likely put them in the merit track.

So, whilst the broad efficiencies are contained within the exempt track in terms of the

volume applications, I would argue that the whole structure of the territory plan is designed to create efficiency but at the same time flexibility if someone wants to go outside of the policy settings.

DR FOSKEY: I have another question on the sustainability issue. You use the word "sustainability" quite a bit in the legislation and it is pleasing to find that it will be extended to include social sustainability. But I am wondering about when a building is decided to be in the code track. It might be something like an extension. Would an extension be in the code track?

Mr Savery: Yes, potentially.

DR FOSKEY: But it could be an extension that might increase the energy efficiency of that house if the owners, the builders, knew that was a potential. I suppose that many of us would like that to be the case. So I am just wondering how you are going to ensure that future buildings in a greenhouse-aware age are going to be sustainable in terms of water and energy efficiency.

Mr Savery: We can only test it against the policy settings that we have, which people might deem not to satisfy the criteria of sustainable. So, for instance, in the case of energy we would be applying the five-star requirement under the building code of Australia. The minister is about to introduce the water sensitive design guidelines, which will require a 40 per cent reduction over a typical house. So that would largely account for the sort of domestic situations that we might encounter compared to, say, some of the more complex applications that are likely to fall into the merit track, that might be multiunit developments, high-rise buildings et cetera, where there are less prescriptive or prescribed requirements, either in the building code or in the planning system.

Because of the emphasis that the legislation is placing on sustainability, over time, and rapidly over time, we are going to find that an increasing number of requirements embodied within the territory plan, some of which just simply do not exist at the moment—we have not conceived of them or we have not created them—will come into the territory plan to provide not only the proponents with an understanding of what our expectations are going to be but also the assessors with the tools to determine what a more appropriate outcome is.

I have just come back from the Green Cities conference being held in Sydney yesterday and today, and there are a number of new developments happening, particularly in America, which will be taking on board and looking at the best way to accommodate those. An interesting one is potentially fast-tracking development applications that meet certain design requirements.

DR FOSKEY: I believe the Greens proposed that as part of our election platform, so that's great.

Mr Savery: I do not mean to steal your thunder; it is—

DR FOSKEY: No, you can steal it, Mr Savery. You can have it.

Mr Savery: But I think the interesting thing is still the test of what we think today might meet the targets of sustainability defined in a year's time, as we have in the last year; some of our pre-existing requirements simply do not measure up. It is such a rapidly developing science and area of understanding.

DR FOSKEY: Issues of governance also come up in relation to this legislation, and one of the things that have been suggested to me is that it might be desirable to have a code of conduct, for instance. I believe that the old PALM had codes of conduct. It might be reassuring to the average Canberra person if they knew that there was accountability, that they could expect certain things in a development approval, and I actually believe that there should be codes of conduct for the developers themselves.

You would be aware of the article that Crispin Hull wrote in relation to clause 404. Of course he is a journalist, but he did make some issues public. Clause 404 does allow for the exclusion of public inspection for some documents and it could be said that, rather than a planning process that is open, accountable and available for all to see, this clause allows developers and the planning authority to hide matters that should be rightly exposed to the sunlight of public scrutiny. I would like to give you an opportunity to respond to that.

Mr Savery: Yes, thank you. It is an important issue, but it is not necessarily—

DR FOSKEY: It is a worrying issue to someone who might have just read Crispin Hull's article.

Mr Savery: Yes, I was not, as you might appreciate, all that happy with Crispin Hull's commentary—not because he was making comment on the subject but the way he labelled some of the professionals of our organisation, the professionalism of planners generally. I will work through this code of conduct. There is a code of conduct for all staff within the authority. It is not legislated; it is our code of conduct. There is a legislated code of conduct, however, through the Public Sector Management Act, which all public servants have to abide by.

We have service standards. We as planners, and the professional institutes of most of those who work in the organisation—landscape architects, engineers, urban designers—have codes of conduct as well. If we are just focusing on planners, who will be obviously exercising a large part of the legislation, you may be aware that the planning institute has introduced certified practising planners as an additional standard that it wishes its planning professionals to adhere to.

The authority has determined that it will underwrite its planners from participating in the courses so that they can be accredited as certified practising planners, which is a benefit for the authority in terms of being reassured about the quality of its planning professionals, but hopefully it will also reassure members of the public that its planners that are engaged through its planning authority also meet the higher tests that are expected of them.

In terms of the actual provision that you refer to, I might defer to one of the other members of the authority. My recollection is that that is a reduction of the restrictions that exist in the current legislation, but I will ask for clarification on that.

Mr Dunstan: I think the relevant section in connection with the article is clause 404 (5). Clause 404 (5) has been tightened. The journalist Crispin Hull suggested that the version of the bill that he looked at suggested that the authority had an unfettered discretion to withhold the publication of a development application. To put it beyond doubt that the discretion is not unfettered, this clause was amended to make it clear that the planning and land authority can only withhold the standard publication of a development application if certain circumstances are satisfied, and those circumstances are set out in subclause (5)—that is, if disclosure would amount to disclosure of a trade secret or publication would endanger the life or safety of a person or possibly lead to the damage or theft of property. It is framed in the negative. It is only if the authority is satisfied that one of those factors exists that it can withhold from publication.

For completeness sake, although I do not have the clause right in front of me, I should mention that there is another clause that has been added to the bill that says that if the Attorney-General requests that a certain matter not be publicised on the grounds of national security—for example, a terrorism threat or the like—publication can be withheld on those grounds as well. That is in answer to the issue of publication.

There is another clause I would like to draw your attention to in terms of conduct. There is a new clause 410 of the bill, which requires that staff of the authority not disclose information gathered during the work process except where disclosure is required as part of the day-to-day work of the staff person. That is a standard protection of private information clause that is now in the bill.

Ms Lavis: Just to clarify the points that David is making, the security clause is clause 405, and in that case either a territory minister or a commonwealth minister can make that deeming provision in relation to national security. David referred also to clause 410, which is just titled "Secrecy" and that is in the presentation version of the bill that we are referring to.

THE CHAIR: You suggested that this clause actually tightens it up a little bit from what was there previously. Can you give us the difference?

Mr Savery: Yes. I think it was more that the initial draft was a catch-all and did not provide any qualitative material by which people could judge our actions, and that has now been reflected in the tabled bill.

DR FOSKEY: Which is this bill we've got?

Mr Savery: I do not know, sorry. What version have you got?

DR FOSKEY: This is the bill that was tabled.

Mr Savery: Okay, yes.

Ms Lavis: Yes, that is right. David referred to it. It is page 301, proposed section 404 (5), and there are three tests that the planning and land authority have to be satisfied about before we can accede to exclusion of information in the public arena.

Mr Savery: Yes, so to put it another way, the authority has no discretion to withhold from publication unless one of those tests is satisfied.

MR SMYTH: I have a question on a slightly related matter. On 1 February the territory and municipal services minister put out a press release saying that the Tharwa DA and PA had been lodged. It has still not appeared yet on the website. How long does it take ACTPLA to put a DA up on the website?

Mr Savery: My understanding from an inquiry made today is that we are awaiting further information, and the further information will be the trigger for the formalising of that application.

MR SMYTH: So at this stage the DA and the PA have not been lodged?

Mr Savery: My understanding is that they have been received but we are awaiting further information. So technically we have got the material. We are waiting for further information.

MR SMYTH: So has it been lodged or not?

Mr Savery: It does not appear on the register.

MR SMYTH: So it has not been lodged.

Mr Savery: I do not know what the definition is under the legislation. We have not registered it.

MR SMYTH: You have not registered it, okay. Once a DA and a PA are received how quickly does ACTPLA get them up onto the web for scrutiny?

Mr Savery: I do not know.

MR SMYTH: Could you take that on notice?

Mr Savery: Yes, I am happy to take it on notice if you want to.

THE CHAIR: We are straying a little bit from the brief.

Mr Savery: Yes.

MR SMYTH: And the public consultation period starts from when it is lodged, from when it is registered or when it is posted on the web?

Ms Lavis: From when it is registered.

Mr Savery: From when it is registered. People can make submissions at any time after it is registered. We will only consider those matters up to the formal end of submission period.

Ms Lavis: Bearing in mind that the processes for a preliminary assessment and a development assessment sort of part company and then merge again at the end so that the processes of consultation and evaluation are slightly different, prescribed under the land act. At the moment there is a slightly different type of process.

MR SMYTH: What additional information is required before the DA could be registered?

Mr Savery: My understanding from the conversation today was clarification on some material with the PA. We need to understand which is the preferred route.

MR SMYTH: Okay, so insufficient information—

THE CHAIR: Mr Smyth, we have deviated quite a bit away from the briefing—

DR FOSKEY: Yes.

MR SMYTH: So insufficient information was provided to allow you to conduct your process—

Mr Savery: No, we wanted clarification.

THE CHAIR: We are now up to time. You can have a question—

DR FOSKEY: Can I ask just one more? It is about—

THE CHAIR: On the bill?

DR FOSKEY: Yes.

MR SMYTH: I thought the information about Tharwa would be of much interest to Mr Gentleman, as their local member.

DR FOSKEY: It is in regard to the process that is happening with draft variation 200, which I believe is probably relevant to this bill because it looks as though dual occupancy proposals are going to be in the code track; is that right?

Mr Savery: Well, there's going to be a code for—

DR FOSKEY: Yes, included in the list of code track examples.

Ms Lavis: It will cover dual occupancy.

DR FOSKEY: Yes, so one would hope that the review, or whatever process we have been going through, which I have been asking about a little bit, would be complete and public, because this sort of normalises, entrenches. I wonder if you could let me know where we are up to in the review. We do at this point have some concern about dual and triple occupancy proposals being in the code rather than merit assessment track.

Mr Savery: The evaluation of the garden city provisions is currently with the minister for his consideration for the release of a public discussion document. I think you are right to identify the potential for outcomes from that evaluation to be reflected in the territory plan, but there is going to be a point at which we draw a line. We will always be updating the policy and, if that evaluation process has not been completed after public consultation in time for the introduction of the new territory plan and things emerge out of it that require change, we will do a variation to the new territory plan to reflect that change.

DR FOSKEY: The first one; I thought you were trying to avoid those.

Mr Savery: I think it is fair to say it would be desirable to have that completed so it could be reflected in the policy structure, but if it does not happen it does not mean the changes would not be made through a normal process.

THE CHAIR: On behalf of all the members, I would like to thank the authority for coming in and providing us with this extra briefing.

The committee adjourned at 2.58 pm.