LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PUBLIC ACCOUNTS

(Reference: Inquiry into Auditor-General's report No 2 of 2005: development application and approval process)

Members:

MR R MULCAHY (The Chair)
DR D FOSKEY (The Deputy Chair)
MS K MacDONALD

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 4 APRIL 2006

Secretary to the committee:
Ms A Cullen (Ph: 6205 0136)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry that 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 2.04 pm.

SIMON CORBELL,
NEIL SAVERY
and
PAUL LEES
were called.

THE CHAIR: Good afternoon. This resumes the hearing in relation to Auditor-General's report No 2 of 2005—development application and approval process. I welcome the minister and officers from the department. 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.

Minister, thank you for coming back again. We appreciate the opportunity to visit further some of the emerging issues. I have a few questions to put to you, some of which are related to your previous visit and others relate to material presented along the way. Is there anything you wish to say as to where the planning process is at, by way of an initial statement, before we go to the question stage?

Mr Corbell: Thank you, Mr Chairman. There is nothing further I wish to add. I am happy to answer any questions as best I can, with the help of Mr Savery or Mr Lees.

THE CHAIR: One thing that emerged through the various matters—and I acknowledge that heritage sits in CMD—is that a number of people keep talking about a cultural issue within the heritage unit in respect of the approach to planning issues. Has that been raised with you, or have concerns been expressed about it? That has come from different types of witnesses.

Mr Corbell: I am sorry; I am not familiar with the comments that have been made. It is a bit difficult for me to comment without knowing what has been said by other witnesses.

THE CHAIR: In the government's response to community concerns on the planning system reforms, you foreshadowed that the exposure draft of the new land act would be available in February-March 2006, along with the draft structure of the territory plan and sample residential codes. Is all of that now ready? Does the government have the draft of the range of reforms referred to?

Mr Corbell: The draft legislation is close to being ready for release. The time frame has been extended a little beyond that which I indicated to the committee last year, I think it was, but we are basically on track with the reform process. As you rightly indicate, the next stage is to release a draft bill for public comment. I still anticipate a referral to the Standing Committee on Planning and Environment, concurrent with the government's public consultation process.

THE CHAIR: Do we now have a better fix on the time frame we are looking at?

Mr Corbell: As I say, the time frame has been extended somewhat. At this stage I don't have a clear date for its release but I would envisage its release in the coming months.

THE CHAIR: Months?

Mr Corbell: I would say one to two months, the reason being that there are a number of quite complex legal issues still to be resolved around leasehold administration in particular which are proving to be more complex than we anticipated. I don't want to release a very rough draft bill which will raise more questions than it answers. I want to make sure that the draft bill is polished enough to be coherent and understandable and address the fairly complex issues around leasehold administration that we need to deal with. It has taken a little longer than I originally anticipated but I would anticipate that the legislation will be available for public comment around May-June.

THE CHAIR: In your evidence last September you said that if ACTPLA does not make a decision within 30 days the application would be deemed to have been refused. Does that take the pressure off ACTPLA to be expeditious in dealing with applications? If the legislation ruled the other way—that is, if ACTPLA has not made a decision within 30 days, or perhaps another time frame, the application is deemed to have been granted—would that not put pressure on ACTPLA to perform even more efficiently? I am wondering if the time frame and the onus to complete approvals will be changed in your reform package.

Mr Corbell: I know that that is the position put by some industry groups. In particular the MBA, who may have made that suggestion to the committee—I am not aware of their evidence—have on occasions put it to me that there should be an automatic approval within 30 days. I don't support that because it could result in applicants putting forward substandard or inadequate applications, being requested to provide further information and simply waiting the 30 days to get the approval. It could create a serious loophole in adequate scrutiny of development applications.

To answer your first question, no, I do not believe it takes the pressure off the ACT Planning and Land Authority. If there is a deemed refusal, the applicant has the right to seek a review of that decision in the AAT. If the applicant seeks to go to the AAT, it becomes a more time-consuming process for the planning authority in having to prepare all the paperwork, provide witnesses and so on to present a case to the AAT as to why the application was refused. The proposition you put forward certainly does not take the pressure off ACTPLA in that regard.

The other point I make is that your proposition is not supported by the facts. Over 84 per cent of development applications for single dwellings are approved within the statutory time frame and a similar number are approved for multiunit developments. The planning authority currently sets a time frame of 75 per cent of all multiunit and commercial development applications being approved within the statutory time frame. At the moment, and indeed since June last year, the planning authority has run above that and in fact sees between 80 and 83 per cent of all development applications for multiunit and commercial developments approved within the statutory time frames—well above its target.

For single dwelling development applications the target the authority sets itself is 90 per cent of all applications dealt with within the statutory time frame. We have seen considerable improvement since October last year and now the authority regularly exceeds or is within one or two per cent of that target. That shows that the 30-day rule does not result in a lack of timeliness with regard to development applications being processed.

THE CHAIR: Mr Savery mentioned previously that at the predesign phase nearly 13 per cent of applicants seek extensions. I asked what percentage of those sought further extensions because of the process. Mr Savery said that more than one extension of time or more than one request for information would be unusual. He undertook to get back to the committee with some hard data on that number. I do not think I have seen that information, but I could be incorrect.

Mr Corbell: I sent you a letter on 19 October last year.

THE CHAIR: Thank you for that. I am sorry to have wasted your time. Also in the September hearing Mr Savery referred several times to the complexity of the system as a major factor in causing uncertainty and delays and said that you were trying to simplify the system. Minister, I believe you made reference to removing requirements in relation to development applications for single dwellings in new suburbs. Can you expand a little bit further on other major changes that you expect will be seen in the simplified system?

Mr Corbell: There is quite a range of reforms. They cover development assessment, impact and environmental assessment, the structure of the territory plan and, finally, leasehold administration. There are major reforms in each of those elements of the planning system. With regard to development assessment, which I guess is most relevant given the scope of your inquiry, the other significant change is the creation of development assessment tracks. At the moment, many developments in Canberra, regardless of whether they are single dwelling, multiunit or commercial developments, go through a similar process of assessment.

We have proposed a process whereby development will be assessed according to particular tracks. They will be called code, merit, impact, prohibited and exempt. Development proponents will know what sorts of hurdles they have to jump over in each of those development tracks. For example, the prohibited track is basically the territory sending a signal to development proponents to say, "Forget it. You are not going to get this type of development to occur in this area; it is prohibited." The example is given of a factory or light manufacturing facility in a residential area. It is prohibited; forget it.

The second is exempt. I have given you the example about new dwellings in new suburbs not needing development assessment or approval as long as they meet certain criteria. I am sorry; that is not quite correct. Exempt covers structures such as pergolas, garages and so on which don't need development approval. Then you have code, where you get your approval without the need for a development assessment. I am sorry; I am getting that around the wrong way. You will have to forgive me; it has been a little while since I looked at this. Exempt is where you don't need development approval, such as dwellings in new suburbs. Code is where you get an approval but as long as you meet certain prescriptive criteria there is no third party notification, there is no third party appeal, and getting your development application is a very straightforward process.

The next is merit, where a proposal has merit but still has to go through a few hurdles. There will be a level of public notification; there may be a level of third party appeal involved because it is outside of the general code but it is still worth considering. The final stage is impact. That is not prohibited but it is probably the highest hurdle you have to get over. There is a full range of assessment; there is third party notification; and there is third party appeal because it is outside of code and it is outside of merit. It can still get up but you need to put it through a lot more tests.

Those five development tracks will make it much easier for both proponents and people who are interested in development or have concerns about development in their local area to understand the hurdles that developments have to go through. We are trying to create certainty there by making clear what types of development fit into what types of tracks and what the expectations are. If you build according to code, basically there is no third party appeal and there is limited public notification. If you go outside of that code and you want to push the boundaries a bit, we are going to allow that but there will be more tests involved, more public notification, more impact assessment and more rights for appeal, depending on whether you are in merit or impact. That is a very significant reform which is consistent with the national best practice model for development assessment put forward by planning and local government ministers around the country, developed by the Centre for Developing Cities at the University of Canberra, sponsored by the Development Assessment Forum, which is a government industry body.

The other major reforms are to do, first of all, with the territory plan itself. If you know the territory plan at all at the moment, you will see that it is covered by a lot of different land use policies and area-specific overlays. It is quite complex and area-specific. We will be simplifying the territory plan, reducing the number of land use policies from over 30 to around a dozen. So the number of land use policies will be significantly reduced. That will make it clearer to everyone what can and cannot happen in particular areas.

Impact assessment will also be dramatically reformed. The current preliminary assessment process, which is basically a one-size-fits-all type of assessment approach, has proven to be a clumsy and unwieldy beast. We are trying to structure an impact assessment process which is better focused on the best type of impact assessment for that particular project. Some types of projects don't need full-blown impact assessment in every regard but others do. So we are trying to create a structure that delivers that so it is not only a timely assessment process but also a comprehensive one suited to the individual development proposals.

Finally, in leasehold administration the government is proposing to simplify the way in which leases are issued, particularly in commercial areas. We are seeking to issue leases with the broadest possible range of uses. At the moment, leases are often issued with very restricted uses. For example, you can build 10,000 square metres of office space and a shop but, if you want to do anything else, you have to go back and vary your lease and pay change of use charges et cetera. That is tedious, time consuming and, in the government's view, an unnecessary level of bureaucracy.

THE CHAIR: Do you expect that there will be less change of use charges having to be applied as a consequence of that rule?

Mr Corbell: On new leases, yes. Obviously there are all the existing leases. Those leaseholders have rights under the existing system; there is no proposal to change that. If leaseholders under the existing system want to do something which is currently not provided for in their lease, they will have to purchase those rights, pay change of use charges and increase their development rights.

THE CHAIR: Does that put them at a disadvantage against new developers?

Mr Corbell: It depends how you view it. With new commercial leases we will sell the broadest possible bundle of development rights. We will say, "This land is being released in the city centre for commercial purposes. We will sell that lease with a broad range of uses consistent with the uses in the territory plan. You can do commercial, you can do shop, you can do restaurant, you can do bar, you can do whatever the territory plan says you can do on that land." This means that that leaseholder pays a premium because they are buying a broader bundle of development rights. The advantage they get is that they don't need to vary their lease probably for the foreseeable future because they have a very broad range of development rights.

As to how new leaseholders are comparing with existing leaseholders, existing leaseholders have the rights they purchased when they purchased the lease—either from the territory or from the previous leaseholder. They can choose to vary the lease at any time. Essentially, they could choose to purchase the broad bundle of rights that new leaseholders have and pay the same premium new leaseholders will be paying.

THE CHAIR: So it is equitable.

Mr Corbell: So it is equitable. It will be interesting to see how the commercial property sector reacts. I would be surprised if we saw many existing leaseholders going all out and purchasing the whole bundle of rights available to them just in case they need them. I think it is more likely that they will do it on a case-by-case basis in the same way they do now. They will vary their leases on a case-by-case basis as they put together a development opportunity or tenancy opportunity that meets their needs and the needs of their clients. The opportunity will be there and it will be an equitable arrangement. Those are the key reforms.

THE CHAIR: I appreciate that. I have a micro question on the sort of thing I hear, as I am sure you do also. A restaurateur told me he wanted to put an awning on his business at Woden. It went through but it took eight months to achieve it. Do you envisage, under the reforms coming into play, that those sorts of extreme time delays, when there really has not been an issue raised, will be a thing of the past?

Mr Corbell: This is a problematic issue at the moment. I don't know the details of the case but I can anticipate that that is an encroachment issue, where the lessee wants to put an awning or covered area at the front of their shop or premises which goes over land which they don't own.

THE CHAIR: I think they had leasing for outdoor cafe purposes and then there was the issue of putting the awning on.

Mr Corbell: Yes, but it is territory land. They are wanting to put a permanent or

semipermanent structure over the top of territory land. When the previous Liberal government amended the Unit Titles Act a little while ago, it removed the provisions around encroachments. Since then we have had to direct sale land often with easements of less than a metre to allow them to put encroachments up such as awnings, airconditioning units, signs, balconies or anything that encroaches over their boundary line—you name it. That is not a desirable way to manage this, so last year I instructed ACTPLA to resolve the issue. Amendments to existing legislation are being put together to permit those encroachments again without the need for the current lengthy process. I acknowledge that that is an issue. It is an unforeseen result of amendments made to existing legislation by the previous government but it is something we are now addressing.

THE CHAIR: It sounds as if there will ultimately be a good outcome.

Mr Corbell: Yes, ultimately, but I know it is a source of frustration to some business owners in Canberra.

THE CHAIR: Thank you.

DR FOSKEY: Interestingly enough, over time this inquiry has become a bit of a look at planning reform. I guess many of the issues raised by the Auditor-General are in a sense being covered by the planning reform. Nonetheless, I want to follow up on some issues raised by the Auditor-General. She raised issues around the procedures for tracking development proposals. I understand that you have a new software system or something or other. Are you finding that you are getting some efficiencies through changes that have been made?

Mr Savery: We have two pieces of work under way in relation to electronic work flow practices. The first is the new on-line electronic development application system which, in most cases, enables people to lodge their applications electronically. Apart from receiving the final form of approval in hard copy—the legislation doesn't allow us to do electronic approvals at this stage—the bulk of the transactions along the way are managed electronically. That includes, for instance, the referral process to other agencies. That enables us, through our electronic systems, to send material without having to use hard copies.

You might have read recently that we have been successful in obtaining $2.4 million from the commonwealth government through Austrade's regulatory reduction incentive program. Over the course of the next 12 months, which is the time frame in which we have to develop the system, that will enable us to create a new platform—that is what the information technology engineers tell me—upon which in the future we can construct a range of work flow systems—be they for the territory plan, development applications or leasing applications—that all sit side by side and are all able to communicate with each other. To draw a comparison, today we have a number of business systems that work in isolation of each other. You have to drill into each of them to find out where a particular procedure or a particular process is at, whereas under the new system you only have to go into one part and it will identify where the parallel activities are.

I am sorry if that sounds unnecessarily complex but the system being developed will be leading-edge technology. The people in Austrade are looking at this with a great deal of

interest in respect of its applicability to other jurisdictions. In the submission we made to seek funding, we estimated that we could save small business somewhere in the order of $4½ million per annum in improvements to our practices within the planning system.

Mr Corbell: It is one of the unsung achievements of the authority that they have been successful in getting support from the federal government of over $2 million.

THE CHAIR: It is good to see the commonwealth being so supportive of the ACT government.

Mr Corbell: Absolutely. A $2 million grant from the department of industry, science and technology is not a small grant. For that to go to an ACT government agency, because of the benefits the commonwealth saw in savings to small business from regulatory reduction, I think was a real endorsement of the direction the authority is going in. The team at ACTPLA and Neil's leadership on this have been very good. We need to highlight the fact that we can do things better when it comes to regulation of these sorts of planning issues as they affect small business. The savings to small business are potentially very significant.

DR FOSKEY: But small business will not be able to key into this program. Hopefully it will just create efficiencies that allow processes to be shortened. Is that it?

Mr Savery: No. They will be able to key into it in the sense that they will be able to monitor where their application is at any point or look at other processes involving the planning authority. If they see a blockage somewhere, they can get on the phone, ring someone and ask, "Why has this been over here for the last 10 days?" What is holding it up?"

DR FOSKEY: Will they need an in-service course to use it?

Mr Savery: No; I don't think so. It has been described to me as basically a web-based tool. Effectively, it is getting onto a web page and navigating your way into the system. The system hasn't been designed yet so I can't tell you how you would navigate it.

DR FOSKEY: But you know it is possible to create this system.

Mr Savery: Yes, absolutely.

DR FOSKEY: Does it exist in other jurisdictions?

Mr Savery: No, not in Australia. This will be leading practice in Australia. That is why the department is so keen to look at it. Singapore certainly has this system and was the source of a lot of our information. It is probably worth pointing out that, under the same fund, somewhere in the order of $13 million has been granted to three other proposals involving local governments or groupings of local governments that are proposing to develop new electronic development application software. As a small jurisdiction, the advantage for us is that we are developing this platform, which others may want to borrow and adopt in the future, but we can wait for these three other projects to devise their new electronic development application system. We can then borrow that and sit it on top of this new platform. In fact, the EDA is a far more expensive piece of work to

do. The biggest one, which is being funded to 108 councils across Australia through the development assessment forum, is worth about $8 million.

THE CHAIR: Who has the intellectual property rights?

Mr Savery: I haven't seen their contracts and specifications but my expectation is that the project sponsors will have intellectual property rights. I can speak in respect of our own project.

THE CHAIR: I am sorry; I meant yours.

Mr Savery: We will share the intellectual property rights. Austrade are not seeking to put some sort of blanket over these that prevents us from talking to or sharing the information with other parties; they see these projects as very much leading practice. If anyone else can take advantage of them once they are developed, they are happy for that to be the case.

DR FOSKEY: Can I just check that you will review the installation of the Chris 21 and make sure that you don't come across any of the issues that have been met there by another department?

Mr Corbell: Chris 21 of course is a human resource package, not a development assessment package.

DR FOSKEY: It is things like making sure there is follow-up and that you are not left with a bill at the end of the installation of the software.

THE CHAIR: I suspect that that is because Dr Foskey and I heard that the Chris system was on time and within budget within the relatively short time we have been here. Obviously you get a bit nervous when you find that that is not the case. I am sorry, Dr Foskey.

DR FOSKEY: That is okay. I am sure that is taken into account. One often makes assumptions that prove to be wrong. Leafing through the other evidence given at hearings, the architects were very concerned about the idea of outsourcing the approval of development applications for buildings on greenfield sites to an external consultant through a private certification system. That raises issues about how we will maintain high-quality, sustainable design and innovative good building under the new system. Do you have any thoughts on that?

Mr Corbell: I haven't heard the architects' critique but I imagine their concern was that it would be outsourced to people who are not architects. That tends to be the position of the Royal Australian Institute of Architects. I do not think they would be opposed to private certification per se; their position would be that it is fine to have private certification as long as they are architects. That is no surprise; it is an entirely reasonable position for an organisation that represents architects to put forward.

Mr Savery advises me that that type of certification can only occur in the code track, which is very prescriptive: ie, the building must be within certain tolerances such as setbacks, front, rear and sides. It must be a certain height and so on. So it is really for

your standard single dwelling building which is meeting all the prescriptive requirements of the code track. It is naturally the sort of environment in which an architect is probably not going to be working. An architect will want to do something a bit more interesting and different. Architects don't like being told how to design buildings. They regard that as their job—and, again, that is a matter of professional pride. I do not think the critique takes account of that particular aspect of the planning reform process—that certification will only occur in the code track where there are prescriptive measures that guarantee an approval in a timely way.

DR FOSKEY: I suppose architects are the only group of professionals trained in building design. Their main concern was the suburban environment.

Mr Corbell: It is not true to say that architects are the only people trained in the design of buildings. There is a range of other quasi-professions that deliver building designs for builders as well. Building designers, as they are commonly known, are another profession—people who have trained as draughtspersons, effectively—who have built reputations and business activities in designing buildings. It is a fiercely fought area between the architectural profession and the building designing profession as to who has the right to design buildings. As a jurisdiction, we do not prescribe that buildings must be designed by architects. Therefore, it is wrong to say that architects are the only people who can design buildings. That is not the case in the ACT or, indeed, almost everywhere else in Australia. You do not need to be an architect to design a building.

DR FOSKEY: I do not know that that was what I said. I guess the important issue is maintaining high-quality, sustainable design, whoever delivers it.

Mr Corbell: Yes.

DR FOSKEY: I note, for instance, that that is not even a component of the current architecture course at the University of Canberra, because they do not have anyone to teach it. So you could be an architect or you could be a building designer and still not have a clue about how to do that. You might be good at delivering a cheap building and it might last for 15 years.

Mr Corbell: I agree.

DR FOSKEY: So the issues really go beyond that. Anyway, the architects raised that issue with us and I am quoting them. I want to check on another issue that they raised. It is that they were participating with the University of Canberra in a feasibility study on mounting a course in planning, which they thought might commence in the second semester of this year at the earliest. I am encouraging the Assembly to become a barracker for that course. I am just wondering whether you have any information on the state of play there.

Mr Corbell: Mr Savery might be able to give you a bit of an update but, before he does, I am very supportive of the efforts to establish some level of training in planning at the University of Canberra. It is a weakness for our city that we do not have a tertiary institution in our city that provides professional education for people to become planners. The University of Canberra recently held a roundtable on the possibility of developing a course. The conclusion reached, I think, was that an undergraduate course was not

viable, but some form of postgraduate course may be.

I am not aware of what has happened since that time, but I have indicated to Roger Dean, the vice-chancellor at UC, Professor Brian Roberts and a number of other academics at UC who have an interest in this matter that, as planning minister, I am very supportive of any moves to establish some level of professional education in the planning profession in Canberra. The bottom line is to find out a way of making it stack up for the university to offer it in terms of how much it would cost to run the course and what sorts of fees they would get for it, given that it probably would be a postgraduate course and therefore a full-fee-paying course. Mr Savery might be able to give you an update on where that is at.

Mr Savery: There probably is not too much more I can add to what the minister has already said, although by coincidence I was with Professor Brian Roberts today at the launch of the new water-sensitive urban design guidelines and I asked him whether they had put in a proposal for training in respect of the Planning Institute of Australia's certified practising planner certificate which will come into effect on 1 July. He indicated to me that they had not, but I did take it from the conversation we had that there isn't any prospect of a planning course being established in this calendar year. I believe that the minister is right in saying that the outcome of the roundtable held last year, which we participated in, is that an undergraduate one is unlikely to be feasible; so it is much more likely to be postgraduate.

If I could just go back to that certified practising planner proposition of the Planning Institute of Australia: in effect, all new graduates wishing to enter the Planning Institute of Australia will have to undertake these compulsory units in order to have the additional accreditation of being a certified practising planner, and any current members will have five years in which to meet that same requirement if they want to have the same level of accreditation. This is really bringing the planning profession up to speed with engineers, architects and surveyors, who have similar accreditation courses in addition to their actual degrees. I think that is a very positive message.

Mr Corbell: With your indulgence, Dr Foskey, I come back to the issue of building designers and architects. I know that it is an issue of ongoing discussion and I have certainly encountered it from time to time since I have been minister, from both sides of the argument. I think that the important thing to stress is the point that you made, and I agree with you absolutely, that it does not matter who does it, as long as they develop a good outcome in terms of the livability and sustainability of the building. I think that in this regard it is not so much who designs it but really what the client wants. The architect will ultimately, at the end of the day, build what the client wants and can afford. The building designer will do the same thing.

Obviously, some clients are very good and let the architects go for it or let the building designer go for it and do something which is unique, but other people have very fixed views about what they want in a home and what they do not want in a home, and architects and building designers ultimately have to respond to that because they are the people who are paying their bills and paying for their services. So I think that it is as much about community education about what people should be looking for in a dwelling in terms of its sustainability and its livability as it is about who is actually doing the drawing.

DR FOSKEY: Often a client will want outcomes and not be sure of what is necessary to deliver those, and that is, assumedly, where the professional comes in and where standards come in as well, but that is an interesting discussion probably for another day.

Mr Corbell: It is, yes.

DR FOSKEY: The HIA raised the issue of community consultation getting in the way of innovation, while we are on about that, and gave Karralika as one example and the redevelopment of Goodwin Homes as another. They just presumed that overconsulted residents are trying to slow down the process. However, I would argue and have argued that these examples might have been handled better if ACTPLA had taken a more proactive position in the consultation, rather than just meeting its statutory consultation requirements; that is, perhaps brought the community in at an earlier stage. You can leave that as a statement or comment on it if you like.

Mr Corbell: I am happy to comment on it. As I probably said to you before, Dr Foskey, at the end of the day the Assembly, through legislation, tells our planning authority what the requirements are for consultation. The Assembly sets those and the executive sets those, subject to veto by the Assembly. So I make a regulation which is subject to veto by the Assembly, or the Assembly passes legislation which sets out what the requirements are in terms of public notification, and that is the way it should be. The authority is there to do its job, consistent with the legislation.

I think that it is unfair to expect our planners to anticipate where a development application will or will not become contentious and consult accordingly. For example, up until the last month or so before a decision on Ainslie was made, at Goodwin Homes, there was virtually no public concern about it. The point I am trying to make is that it is very difficult to anticipate where you should do more consultation. For example, ACTPLA could letterbox an entire district every time there is a development application for that district—in Woden, in Weston Creek, in inner north and in inner south—and 99 per cent of the time everyone would say, "Why are you wasting my time sending me a letter about this development application? I have no problem with it. Why are you telling me about it? It is a waste of time and resources."

DR FOSKEY: You could put up a billboard as well.

Mr Corbell: But there would be one per cent of the time when someone will say, "Thank you for letting me know and I am interested." The point I am trying to make is that you can have discretion about consultation but at the end of the day you have to have a minimum set of standards which are easy to administer and apply in a consistent manner. That is what any planning system should be about. It should be consistent. It should be applied equitably across the board. That is why we have put in place these notification requirements. That is the reason, I think, that we are putting in place the proposals we are through the planning system reform project to say that one type of development has one sort of notification and another type of development has another sort of notification, third party appeal and so on, making it clear and up-front.

DR FOSKEY: What is that but an assumption about which developments are likely to be more controversial?

Mr Corbell: You are right: the development assessment tracks do set out what the expectations are. So, for example, if someone is redeveloping their own home in a residential area, is keeping it to one storey and is keeping it within the setbacks for siting, rear boundaries and so on, there is no public notification and there is no third party appeal because they are building it to code, they are building it to the rules that we have all agreed are reasonable. But if someone comes along and says that they want to build two storeys and they want to have fancy gables and whatever, something that is out of the ordinary—

DR FOSKEY: Take up your north light; look into your backyard.

Mr Corbell: That sort of thing. That is not code. That is either merit or impact and in those circumstances public notification starts to kick in and third party appeal starts to kick in, depending on how significant the departure is from code. We are trying to make these arrangements very clear through planning system reform and I think that it is a major advance on what we do at the moment.

DR FOSKEY: Will there be a review of those changes within a reasonable time and a bit of an adjustment if it turns out that there is a huge community outcry—for instance, those changes to suburban houses not covered by the code, which I am not sure that they would be?

Mr Corbell: There will be a residential code. So anything in the residential land use policy will have a code associated with it.

DR FOSKEY: When did you say that we are going to see this draft legislation?

Mr Corbell: The draft code, probably in May or June.

DR FOSKEY: Will it be looked at by the planning and environment committee?

Mr Corbell: I anticipate that I will be referring the draft bill to the planning and environment committee for inquiry and report.

DR FOSKEY: That's good. Do you want to say something about that, Mr Savery?

Mr Savery: If I could, I would appreciate that. Not wishing to go over what the minister has already said, I think that it is important to stress, given your introductory comments to the question, that, in being more strategic about the way in which the authority consults, the way that the new planning system is being devised is very much on the basis of what the minister has indicated; that is, that we put emphasis on the design and development of the codes to provide guidance and a level of certainly not only for the community but the proponents as well that if you operate within the setting of the codes there is less community engagement in the development assessment process. However, if you wish to step outside what the code prescribes, there has to be an expectation that there will be wider community consultation.

That is a very specific response to that comment about being more strategic. I think also that often we fail to recognise all of the previous consultation that has gone on within the

planning process before a development application is even lodged. So, looking at some of the guidelines we produce, the water-sensitive guidelines were released today for nine weeks consultation, but they have already been through a process of informal consultation. The Hackett guidelines have just been put out for how the new centre might operate there.

DR FOSKEY: I agree that that was a good consultation.

Mr Savery: The new concept plans for everything that is going on in Gungahlin. I do not expect that everyone is going to agree with the outcomes, but there is a huge body of consultation going on at any one point in time. When it comes down to the development application, it is our view—I think that is why the legislation is drafted the way it is currently—that all of the preceding work has given people the opportunity to help inform the debate. When you get into an individual development application, you are really looking at what is the effect of this particular application on another individual within a fairly immediate proximity, whereas what we find is that there are people who still want to debate the policy because they never got their way with the policy, so they try to engage themselves through the development application process. The new code structure actually removes the ability of people to frustrate development applications because they did not get their way with the policy debate, and that is the way it is designed to work.

Mr Corbell: I think that is an important distinction. The policy debate has to be had in the public, in industry and ultimately in the Assembly as to what can happen where. That must be a public process and it must be a process that engages the Assembly in some way and engages the community. But once that is decided, the planning system should not be hijacked as a way of revisiting the policy debate. Individual development applications which are consistent with the land use policy should not be hijacked because someone is unhappy with the policy decision about what land is used for what. We do see that increasingly and the distinction that the government is trying to draw is that decisions about land use are different from decisions about developments that are consistent with land use.

DR FOSKEY: Similarly, though, it is really important that ACTPLA ensure that the development does actually follow the agreement that the developer has made with ACTPLA. One of the sources of complaint that we hear is that a decision is made and then the developer just goes ahead and pushes a wall out or does this or that. We have heard about that a number of times and that, I guess, is where the concern about the private certifier can come from. Does that person have teeth? Whom are they beholden to and whom do they answer to? If they are paid by the developer, you can have a bit of a guess. That is just a concern. I will add that there are people who simply do not understand the policy process and who think that they can come along at this point. Not everyone is trying to undermine something or get their own way. Some people simply just do not understand or they come along too late, having just moved into Canberra and missed those steps.

Mr Corbell: It is a very common human reaction—you do not pay attention until it affects you immediately—and I understand that.

DR FOSKEY: Tell me what we can do about it.

Mr Corbell: Most people are like that. But, as I think you would appreciate, Dr Foskey, policy processes are complex because they are dealing with complex issues. They have to deal with a whole range of views, a whole range of expectations and outcomes, and what we are trying to put in place is a good urban governance model. That means that decisions about land use are ultimately made by the people's elected representatives, who are accountable for their decisions, and decisions about the development that happens consistent with that land use are done by the professionals that we employ to administer our planning system. That is best practice, that is the way it should be done and that is the system which, in effect, we have in place now and which we will be strengthening through planning system reform.

DR FOSKEY: I want to move on to heritage issues.

THE CHAIR: I have something in that area. Minister, you and Mr Savery referred in the previous hearing to the importance of the applicant being confident that an approval is authoritative. In that context, I am just wondering, with the rules affecting trees, heritage, access and road infrastructure, what the impediments are to giving ACTPLA the responsibility for making sure that all the requirements are met, environmental, heritage and so, and I am just wondering what progress you feel you have made in making ACTPLA a one-stop shop.

I do not want to get into a discussion here as this is meant to be a hearing, but I am mindful of the people who come to me sometimes with issues with Actew, which seems to run its own race from time to time. In fact, I have one matter on which I still have not had a response from them, and two members have taken it up. I do not find that ACTPLA responds in that way but, on that general issue of people being able to go to ACTPLA and feel confident that things are being dealt with and settled, where do you see the position at the moment?

Mr Corbell: The role of referral agencies is a challenge in all jurisdictions and it is a challenge in Canberra. By "referral agencies" I mean those other government entities that have to give approval for things associated with a development—as you say, Actew, roads, waste, trees and so on. The government's response to that in our planning system reform process is to tie referral agencies into the time frames that apply to ACTPLA and the applicant. Referral agencies must reply on a development application as to the areas where they have responsibility. For example, if a development application involves waste collection from a multiunit development, NoWaste ACT must respond within 15 days—that is the proposal—of the referral being made to them with what their advice is and what their requirements will be, and then ACTPLA can make a decision based on that advice.

We are also seeking to ensure that referral agencies, as much as possible, actually develop codes for what is acceptable in terms of a design response—for example, what is acceptable for a waste enclosure in terms of collection, turning circles for vehicles and so on that would allow waste to automatically say, "That is fine. It is the code. We are happy." The proposal is to have those time frames because, at the moment, referral agencies have no time frames, other than heritage; so referral agencies, other than heritage, can take as long as they like in deciding whether a proposal is consistent with their requirements for the thing for which they are responsible. That leads to significant frustration, both within the planning authority and for proponents.

THE CHAIR: Do your reforms deal with that?

Mr Corbell: Our reforms deal with that by putting a time limit on how long referral agencies have to reply, 15 days: once only, 15 days, that's it. If they do not do it, ACTPLA will make the decision for them. I think that that is a good process and a good discipline to put on referral agencies. That is consistent with the government's direction not to create a one-stop shop in terms of all the different agencies being within the one organisation but to make sure that behind the counter all the other government agencies respond and give timely advice to ACTPLA so that a decision can be made and the applicant has to deal only with the front counter of ACTPLA and, effectively, what is called a virtual one-stop shop, even though not all of the government agencies are in the one entity.

THE CHAIR: Thank you, minister. I have no further questions of you.

DR FOSKEY: That is interesting, because you did say that things are different with heritage at the moment. I am not sure whether that is because the Heritage Act 2004 took heritage items out of the land act and set them up in a separate register. One of the features of that act is the interoperability of the heritage register with ACTPLA's lease management and development processes so that heritage requirements would no longer be an impediment to the planning process. The new system is now in place and information on heritage listings or guidelines should be automatically provided and the heritage council should deal with or provide advice on any proposed activity within a statutory time frame, consistent with ACTPLA's requirements. ACTPLA and heritage staff were also supposed to take on joint training sessions to facilitate the interoperability of the regimes. Did all that happen? Has it all worked out as you would have hoped?

Mr Savery: In response to the first part, in terms of the interoperability of the register with the territory plan process et cetera, all of the steps that were required of us under the legislation have taken place, which has resulted in the information within the territory plan being removed by way of variation. That has now been deposited with the heritage council, so they are now entirely responsible for running a register. They are obligated to provide us with timely information and advice about any new listings, and we have a permanent member of staff, a senior member of staff, who participates on the heritage council, not as a member, so that they are advised or become aware very early in the piece of any changes or possible listings that are taking place.

We have also supported the heritage council in the development of 150 citations for outstanding properties, which, I understand, represents only about one-third of the cases they have on their list to look at. We have been able to assist them in trying to remove some of the backlog that exists. I am not sure where that is at at this stage, but it is meant to lead ultimately to further registrations or clarification of whether those properties should be listed. Obviously, they go through the appeal process under the Heritage Act.

The 15-day referral process is working. That is the one that the minister referred to that was put into effect through legislation, and we have, effectively, used that as the benchmark for our planning system reform project for other referral authorities. As far as I am aware, we have not encountered any problems with that. The one that has not taken place is joint training and development. In part, that is because there have been some

changes to the staffing arrangements within heritage.

I had a meeting with Ms Maxine Cooper and Mr Robert Neil last week to start talking about some of the interfaces between planning and heritage that need resolution. In fact, one thing that we are talking about is that under the new structure of the territory plan we will have a thing called an overlay. We think that there is merit in the heritage register, which will still be administered separately, having an overlay inserted into the territory plan so that if any one of you, or an officer at the counter, wants to find out a heritage listing you do not have to go to the register as it will be in the territory plan. We could do other things by way of overlay as well: Aboriginal heritage sites and other types of things.

DR FOSKEY: Will that be able to be incorporated into the geographic information system?

Mr Savery: Yes.

DR FOSKEY: So that people will not need to go to the desk to see that.

Mr Savery: No. In fact, we have a software tool called ACTMAPi which at the moment is only internal to government, all government agencies. ACTMAPi will not be an interactive tool; in other words, a member of the public would not be able to get onto the system and manipulate it. We are really road testing it at the moment within government and we hope that it will be able to go live as a web-based tool. The territory plan would be one part of the information you can access, but there are a range of other datasets—fire-prone areas et cetera—that reside within other departments that are all layered inside ACTMAPi. Emergency services are already using it as a critical tool.

DR FOSKEY: Do you anticipate its going to the public at some point in time?

Mr Savery: Yes. It is being designed and developed so that it becomes a public information tool. In fact, at the Royal Canberra Show last year, we had it on show at one of our exhibition booths and we had people come and play with it. It is all about testing it and bedding it down before we release it. It is certainly intended to be a public tool.

Mr Corbell: These types of web-based tools are very valuable for public information. It is worth stressing, of course, that the territory plan is already on line, so you can get that land use information already on line, but the benefit of integrating it with other datasets through a tool like ACTMAPi is very valuable.

DR FOSKEY: We have talked about the work with the Heritage Act and so on. Are there similar links with the tree legislation? That seems to be one of the problem areas, or it did seem to be one of the problem areas.

Mr Corbell: I think that it is fair to say that there are a number of hiccups that need to be worked through in getting that legislation adequately incorporated with new planning legislation. The government is aware of that issue. Certainly, the intent is to ensure that there is consistency in terms of time frames and decision making between the tree legislation and the planning legislation.

DR FOSKEY: Do you think that there is a role for the Office of Sustainability in creating sustainability benchmarks, or should that remain the domain of ACTPLA?

Mr Corbell: It depends on what you mean by sustainability benchmarks. My view is that it is the role of the Office of Sustainability to inform whole-of-government thinking and decision making on sustainability measures and benchmarking, but then individual agencies need to go and apply that in their areas of responsibility. Obviously, it is not reasonable to expect the Office of Sustainability to understand all the intricacies of every part of sustainability policy in every part of government. The ACT Planning and Land Authority has the expertise in terms of buildings, subdivision design and so on. I think that the role of the Office of Sustainability is a very important one in setting the whole-of-government framework and expectations around sustainability policy and giving direction to government agencies on how they report and measure progress on addressing sustainability issues.

Mr Savery: Again, it does depend somewhat on the definition of benchmarks, but I would put it this way: the authority itself does not set any benchmarks, because they are set by government policy, but they tend to be more in the form of what I would describe as minimum standards, because what we do is regulate, and as regulators, in accordance with COAG decisions, particularly in relation to building codes, the intergovernmental agreement sets what are regarded as minimum standards. There may be other areas of government or through government policy that what one might describe as benchmarks are set, but that is generally the sort of environment in which the planning authority operates.

DR FOSKEY: I have finished my questioning.

THE CHAIR: I thank you, minister, and I thank your officers.

Mr Corbell: Mr Savery has some more information to provide.

Mr Savery: You may recall that when we first met in September of last year or a bit later, I submitted for your information a first round of short-term reforms which were, in part, in response to the Auditor-General's report. Since that time, there has been a second set of short-term reforms. These are in addition to the planning system reform package. Can I submit the second lot?

THE CHAIR: Yes.

Mr Savery: I can advise you, with this in mind, that, of the 22 original recommendations in the auditor's report, 14 have been implemented in full and eight are in the process of being attended to, in the main through the planning system reform project.

THE CHAIR: We will treat that as an exhibit. I thank you for your attendance.

The committee adjourned at 3.12 pm.