



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON PLANNING, PUBLIC WORKS AND
TERRITORY AND MUNICIPAL SERVICES**

(Reference: [Inquiry into draft variation to the territory plan No 306:
residential development, estate development and leasing codes](#))

Members:

**MS M PORTER (The Chair)
MS C LE COUTEUR (The Deputy Chair)
MR A COE**

TRANSCRIPT OF EVIDENCE

CANBERRA

FRIDAY, 6 JULY 2012

**Secretary to the committee:
Ms V Strkalj (Ph: 6205 0435)**

By authority of the Legislative Assembly for the Australian Capital Territory

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

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Amended 9 August 2011

The committee met at 1.34 pm.

MEWS, MR GREGOR HELMUT, Active Living Coordinator, National Heart Foundation, ACT Division

THE CHAIR: I declare the second public hearing of the Standing Committee on Planning, Public Works and Territory and Municipal Services on draft variation to the territory plan No 306: residential development, estate development and leasing codes. The committee will be holding five additional public hearings on this inquiry during July, and details are available on the committee's webpage or through the secretariat.

On behalf of the committee, I would like to welcome Mr Gregor Mews from the National Heart Foundation, ACT Division, to the table. I draw your attention to the protections and obligations afforded by parliamentary privilege and draw your attention to the blue-coloured privilege statement before you on the table. Could you confirm for the record that you understand the privilege implications of the statement?

Mr Mews: Sure. I confirm.

THE CHAIR: Thank you very much. Mr Mews, would you like to make an opening statement? We have an hour or thereabouts.

Mr Mews: In terms of my opening statement, I would say that health is really important in terms of planning and is essential to ensure a vital, productive and balanced community.

THE CHAIR: Thank you very much, Mr Mews—very short and to the point. I invite Ms Le Couteur to start the questions.

MS LE COUTEUR: I agree with what you say about how cities are laid out is very relevant to how we move and active transport. Do you think that this variation is going to make walking, cycling and bus travel easier in the new estates of Canberra? Is it going in the right direction?

Mr Mews: In general, we are focusing, as part of that piece of draft legislation, and looking into the estate development code. In the broader planning context, when we are talking about a healthier community, particularly we are concerned with physical activity levels in the ACT. In my presentation we go deeper into that. We particularly focus on that. We get the biggest benefit at the estate development level. Walking and cycling are particularly important at that level for connectivity purposes and other design features. I am more than happy to talk about that as part of the presentation.

THE CHAIR: Would you like to do the presentation now? It will give us some more questions.

Mr Mews: Before I start the presentation, I am an urban planner and urban designer. That is my profession. The presentation today is entitled "Healthy and active community design". Quickly, what I try to highlight in the presentation are four key points which are particularly important when we are talking about health in the design context, which is important to inform that piece of legislation.

First of all, the design of a new estate has an impact on people's health. It can be good or bad. To make an estate healthy and active takes a concerted effort from the government, business and the community to make it happen. We have to get the priorities right in the whole game. Active living design principles are a key indicator or a key role in having a good integrated design approach to that.

In terms of design, I put in five Ds which are relevant. They are density, diversity, design quality, distance to transit and destination accessibility. Please interrupt me if you have questions as we go along.

THE CHAIR: Thank you, Mr Mews. We will.

Mr Mews: In my capacity with the Heart Foundation, I am looking after a project called the active living project. To sum it up in one phrase, it will help to work towards a built environment which supports a more active Canberra community. This has been made possible through the ACT government.

Since I came to Australia, I have often seen that kind of urbanism in many communities. When you have a closer look at a picture like that, you are very familiar with that here and very used to it. However, when you think about the human scale, when a person is walking along that corridor, do you ever think that people would feel comfortable with that and that that would be a place of choice to be in and spend time in or is it really a place where they are using the car as a convenience to go from point A to point B?

Actually, in terms of the urban fabric, although we provide housing for these people along that corridor, it does not provide the comfort in an environment where you encourage people to be more active on a day-to-day basis. It is more a sedentary behaviour pattern that is promoted. That is the community in New South Wales, just to give you a small indication of how things have been executed in Australia since, let us say, the second half of the 20th century.

Coming back a bit more to an ACT context, these are part of some newer estates where I am trying not to show you the standard business as usual but what the challenges are. The challenges in one part are: where is the feeling of closeness, of comfort? In the picture to your left you see the big white median strip. Unfortunately, that is what we call not really quality space because it does not have proper use. It is just purely waste, unfortunately, and we could do that better.

It has a purpose there. There is one car parking on it. However, in the design purpose it is never intended to be that. We can make these spaces much more efficient. We can get more use out of them. As well, on the other picture we see the fringe of a new suburb that has been already cleared. The ecological value of that is fairly diminished, even for kangaroos. It is not a fattening habitat where they can properly graze. That has been kept up by the sprawl which occurred behind it.

Another example is in the south of Canberra where we went and did presentations to the school children about healthy design. What we see here already is that they have put light bike racks in place. However, unfortunately the building design level, the

detail level, is not there. You see that the bike racks are placed next to a concrete wall. No-one ever will look after them. The problem is that if you have a really expensive bike you would never want to leave it there because you know that probably after a while someone will come and take a wheel off it or something like that. We can do better than that in the broader sense.

What you see in the newer estates, depending on the size of the development, is that the detail level is very much standard as usual. It is very sedentary. There is no diversity as we would like to have it in a healthy community. I will talk later a bit more about it. But I just give you a sense: if you capture an average person's daily lifestyle, you live with your family on a new estate somewhere in the north or in the south of Canberra. You have your vehicle in the garage. You spend your time in there. Unfortunately, the new houses for a family model, the backyards are fairly small. We have rather tokenistic facades in the front that have little balconies on them and the huge garages. So people are encouraged, particularly in the cold winter months when it is normally dark—you would rather go into your garage, go in your car, drive out to your workplace and get in and you come back and you do the same.

There is no interaction with the public role unless you are already conscious or participating and saying, "I make a deliberate choice to go for recreation." However, it does not encourage specific activity as part of the daily routine. Often some older estates do not have footpaths required. Some estates have road reserves, which makes it really easy to get there by vehicle. However, due to poor lighting the footpaths, if they are there, are not really accessible for people in the broader sense.

Developers are really creative on the one hand and often what you see is that they are coming up with something like that now. That is an example from Queensland but it just gives you an indication of how they are trying to overcome and make their properties more profitable and trying to sell them better. So you get a fuel voucher for two years. You get \$10,000 of fuel. If you do the maths, that does not get you that far. However, it does not do much in the long sense. We are talking about families here who probably pay the mortgage over 35 years or something.

I think that does not cover that range. So in terms of planning we could do things very differently and much better. If you look at the Canberra context and what we have at the moment, you have probably seen already the state of the environment report, which says how much our footprint is growing in the city and where we are heading with the extension of the current lifestyle.

However, I would also like to emphasise that the Canberra house size increased from 149 square metres to 213 square metres over the last 20 years. The Australian average house size is one of the largest in the developed world. At the moment, in terms of giving you an indication of the housing diversity which we have in Canberra, 75 per cent of Canberrans currently live in detached housing.

The ACT consumption of electricity and gas has grown more quickly than its population. Houses and cars account for 94 per cent of Canberra's greenhouse gas emissions, and Canberra is about 10 times less dense than Melbourne or Sydney and is one of the lowest density cities in the world.

THE CHAIR: Just to interrupt you, Mr Mews, you are saying that we are increasing our use of electricity as a population?

Mr Mews: We do, with our lifestyle choices.

THE CHAIR: And did you say we have larger homes than other places?

Mr Mews: Yes. We have one of the largest average home sizes in the developed world. So we are very close with America at the top.

THE CHAIR: So despite some of the smaller blocks that are on offer—

Mr Mews: That just reminds me, that is in an Australian context generally. In the ACT around 75 per cent of the market is detached housing, which is one housing type only. And the other types, when we are talking about more compact types, at the moment in Australia we are in the exploration phase. We are trying to do it smarter and we are trying to be experimental in how we can find efficient ways to bring more people closer.

However, given that Australia has been extremely efficient in providing one type of housing, which has been due to the availability of cheap, non-renewable resources, we could afford that lifestyle and we have become extremely good at supplying a huge amount of population with that housing choice. That is very good on the one hand because you have equity in providing the same type for everyone. However, it comes with the challenges we have in the 21st century—and I am talking in particular of the health challenge—and that comes at a price. We have to do things a bit differently than we have done.

Talking about the health choice, our lifestyle has changed. We do not have the same activity habits we used to have or for which the human body is made. Our lifestyle is becoming increasingly sedentary. Because the ACT is a bureaucracy city, a lot of people are office workers. And we have managed to engineer physical activity literally out of our daily routines. And the health message is so simple, and everybody knows it—30 minutes a day and you are actually on the good run to become healthier.

So what we have to do now is not just put it in as an extra separate lifestyle choice. Because households are very busy with so many things, they are thinking: “Put another 30 minutes on top of that? I don’t have the time.” We need to create a healthy environment which provides physical activity as part of that routine and not as a separate lifestyle activity on top of that, although that is great and I encourage people to do that. However, we can do better in an environmental sense.

In the Australian context, that is what the media is now saying: we have nine million Australians who are ticking fat bombs. That is from the *Age*. That is partly due to nutrition, it is partly due to our sedentary lifestyles. The point I am making is that it is an inherently complex issue. Cities are already a really complex fabric which we need to manage. As part of my capacity I am trying to just look into the built environment side.

Nationwide at the moment, to put it into raw figures, obesity and lack of physical

activity is a key health issue and it costs the health system \$1.5 billion a year.

Unfortunately, our future generations are already getting bigger, and 20 per cent of the boys and 21 per cent of the girls between ages two and 18 are already obese. So that is something which is really alarming. We can talk about an obesity epidemic in our country. Unfortunately I am not a health professional, so I better stick with what I can do best at, which is the environment side.

However, just to encapsulate what it means for the ACT to give you a sense of the issue, the national health survey pointed out that obesity levels and overweight levels increased in the ACT from 48.7 per cent in 2004-05 to 57.8 per cent in 2007-08. Unfortunately our contact outside of the household has declined as well by 16.4 per cent between 2002-06. As I indicated earlier, our greenhouse gas emissions increased and are higher than the national average, and our ecological footprint also increased.

It is not just about the environment; we are talking here about productivity. The federal government acknowledges it now as well. Congestion, which is in bigger capital cities, is related to unproductive behaviours, which affect workplace health as well. I will go later on in the presentation very quickly to what it means as part of that if we incorporate physical activity more into our daily routines.

That is a quick graph which correlates in the international context the obesity epidemic and prevalence in some countries to others and how that relates to walking and cycling and transit habits—what we call active travel. If you look at the graph, for instance, on the far left side you see the US and Australia, which have a fairly low level of walking, cycling and use of public transport compared to other, more compact traditional environments which experienced most of their growth before the age of cars. These people actually have a much higher level of walking and cycling trips as well as a much lower level of obesity prevalence. However, obesity prevalence is the result of being physically inactive. We consider physical inactivity as a non-communicable disease, which means it does not have anything to do with getting the message out. People just do not get it because they do not even see it as a disease. However, it is essential in order to prevent obesity.

This slide is just another breakdown to some countries which shows you the different percentage in how many people walk and cycle and how the built environment can support that better. Again, the US and Australia are fairly low on that side compared to many other countries such as Austria, Germany and the Netherlands, which have a much higher split in terms of that. But you have a copy of that in front of you as well.

The question is: where do we start to draw a line? Do we just want to keep pushing and doing business as usual, or do we say that we have to start doing things a bit more efficiently and that we can do better?

That slide is a quote from Hans Christoph Binswanger, a Swiss economist, and he said that the cause of our current ecological crisis—or health crisis, no matter how you take it—lies in our inability to set and follow adequate limits for the economical use of our world. That means we should value things much more which are outside of the very minimalistic view of economic rationality than we have done so far. So if we open our eyes and take things much more holistically, we provide more efficient

solutions to that.

What does it mean for healthy cities and for active travel? We know in Australia 10 per cent of all car trips are less than one kilometre, which is a 10-minute walk, while 30 per cent are less than three kilometres. That is a great deal of people who already can make their lives better.

In terms of planning, the last 10, 20 or 30 years we have been trying to shift the road hierarchy away from putting cars first and to put people first. I have also included a quote on the handout as well, which you can read into a bit further. If you can create cities for people, you get the best benefits.

This slide is a picture of the sustainable transport plan in the ACT, which came out in 2006. They found exactly that that is the best on offer, so we are already on the right track here. We identified that the best benefits from walking are up to three kilometres, and we can use cycling much more often. There is already a benefit which we can build on and utilise. Car use only just starts making sense for trips three kilometres and beyond.

This chart provides you with a feel for the complexity, and that is why I have included that chart. I do not expect you to read all that, but it shows you how complex it is when you deal with the human mind. There are so many complex things which pop into their heads when it comes to making choices about how we behave in an environment.

As long as we acknowledge it, it is a mutualistic issue and not one planner can do that. Whole team work is required. The traffic engineers, the landscape architects and the architects have to work together. It is community empowerment. They have to come up with solutions. Businesses have to chuck in their bit as well what we can do from the government side to push it, together with the NGO sector.

Let me come back quickly to what is the problem of our current car use. We are aware already of the environmental issues that it has and the effects on the urban sprawl. We do know now the economic matters that constrain that as well, which is congestion caused, despite all the road building, high infrastructure costs and sprawling suburbs, loss of productive rural land, loss of urban land as well as higher levels of physical inactivity—obesity and overweight. So there is a direct cost in terms of the economy.

Socially, it means a huge loss in terms of street life, community, public safety and so on. However, if we were to decide to do business as usual and just do a more car-centric planning approach, how many benefits do we get? On one side, we are reducing traffic congestion. However, we know that we are just shifting the problem. So we will get that on the other hand, then.

If we chose to have more renewable power solutions for cars and also have pollution reduction, we would tick two boxes, which is good but it still does not do the full job. The biggest benefits we get is if we get a mode shift towards active travel. Then we also address the parking issue, consumer cost savings, better mobility options, which is inherently an equity issue. We also have in the ACT now an ageing population. We know that many people as they get older they want to do more things locally. They

will not be able to sustain adequate health to provide safety in their car traffic because their actions are much slower. We have to cater for them.

In an urban context, what we should consider more often in future is to try a cocktail approach—a mixture of things. Having a part of the trip on the bike or walk; then take public transport; maybe jump in a taxi; do car pooling with friends; then go back. How we can actually get that happening on a spatial level is a big challenge here. We are still dealing very much with the urban footprint, what we have done with the traditional car-centric approach. To retrofit it is not easy.

What I would like to highlight very quickly is the document that a Danish cycling embassy recently put out. One graph in there is particularly compelling. It shows the impact on individuals and society. They have looked into three different effects and the impacts on life expectancy. The exposure to air pollution, that was a loss in life quality. However, it is up to 0.8 to four lost days in your life.

In terms of the effects of accidents happening in the city, that would be five to nine lost days in your life. However, if you would be more physically active on a day-to-day basis, that gives you 90 to 420 extra days in your life, which is brilliant. It is such a treasure. We should utilise it much more in future. That is really more about an efficiency measure than anything.

If you look down below, dealing with transport policy in Europe, what we have started to see now in Australia—the new transport for Canberra plan looks into that as well—is how we can reverse that. We have to put public transport, cycling and walking first and have to make it, especially in the suburbs, a bit more difficult to get into the car because you are already comfortable in that. There are studies and evidence out there that show that if you go slower in your local neighbourhood and you get out there, there is usually a 10 second increase in your travel journey, which is not that much.

Other studies include the recent Grattan Institute report about the social city. It shows you that if people commute much longer, they become much more unhappy or dissatisfied with life. This is what happens if their journeys are getting longer. That is one example up here that you see from Germany. Down there you see an example from the US. But both actually show you exactly the same. Also, what we have to be mindful of, particularly for new estate development codes where we put people, is that people's behaviour changes in the day time as well on weekends.

Spatially, on the weekends usually people do things much more locally if they decide not to take the car or to take public transport than during the week. That has also an impact on the travel behaviour in the city.

There is one interesting new study that I found. If you were to tell ordinary drivers that they have to drive less and to ask them what they would do, they would say that if the prices are higher, I will use my car less. They would say that they would try hard to combine things and do things more efficiently or use public transport, which is 19 per cent in that survey.

Then you go down to car pooling and so on. Before people actually start trading

vehicles for bicycles, it is one per cent. That gives us a huge challenge because we are dealing here with a culture change. Not just planning can deal with that. That is an issue that we all have to work together on. We have to work on messages, on education, on road safety to get that happening. So planning can do just so much in that regard.

We know what a healthy built environment looks like and how we can get there. At several places around the globe it is happening. We have these zero carbon housing projects, these pilot projects, these experimental things that appear. There is an example in Europe. It shows you that you have a diversity of housing choice in a walkable catchment. You have wide footpaths. You still provide space for vehicles. However, you do this in a small car movement environment that is cycling friendly. You have a mixed use environment where people actually linger and sit and dine outside.

Most recently, a good example of what happens in the ACT is the Canberra brickworks site development. It ticks many of these master plan options that we are trying to incorporate with a huge amount of public open space in there as well. So they were really trying to get it right in that master plan concept. Down here you see an Australian example, which is in Adelaide—Christie Walk. It is a nice little compact housing choice. It is very energy efficient and it is located in the city centre of Adelaide.

We do get some experiments right. But what we have to do is to learn from them and try to replicate them much better.

Also, there is a study that the government released in the ACT that was commissioned by a consultancy. It shows you what we are dealing with here in terms of closeness in the city. It shows how Canberra looks at the moment, how Canberra can be envisioned in the future, how London compares and Washington compares to that.

That shows you in that blueprint the space in between. In order to create a compact environment where people feel safe, convenient and comfortable, we have to bring things closer together. It is almost like a comparison to an open wound. When you cut it and the wound is really big and open, it takes a long time to heal until it gets smaller. That is almost what we have to create now with our built environment.

When the wounds, the cuts, are very small we can deal with them very easily. It is not too bad. If they get too big, we will really have an issue to close them and we have to work really strategically and smart to get them there. That is a long-term issue. In an urban environment, you can talk about the urban built form and what happens between the buildings, the public realm.

The street environment is different from a square environment. You are talking about two dimensions. We have just walks and space in the middle, which comprise the comfort. There is fear of enclosure in a city. There are lots of studies that show you the ratios of what is the best outcome for people not to feel enclosed and therefore to have a human scale where people are actually more prioritised.

In Australia, because of the open, wide country, we have been very spoilt in having so

much space. We have been very spoilt because for such a long time we had resources very cheaply available. We could afford them. However, we do not know what is coming in the second half of the 21st century. Before that we have to be prepared to bring people closer together.

A lot of guidelines came out. One of them is Link and Place, which shows you what we mean in terms of the footpath width and how that spatially has an effect. If we provide more space for people in a slower environment, we create much more place status. A street has two functions. It has a movement function and a place function. Some streets are better off just for movement, like a highway. You really want to rush through. You do not want to be in a mix. However, in an urban context we want to put people first so that streets have much more of a place function, as we have here in Civic, with City Walk. That has a big impact on footpath width. We have to think about it in the estate level as well.

As indicated, this shows pretty much a correlation between a freeway, which has very much a movement function, and a pedestrian mall or a shared space. In a residential street, you want to have more of a place function. That is where people live. That is where they want to mingle. That is where they want to meet their neighbour. That is a place where they should embrace their lives and build their community. Speed is essential in that. There have been a lot of studies done. There was the Grattan report here in Australia. If you are in a slower car environment, people talk more often. They interact more often. They create a community. There is social cohesiveness. If you provide higher car speeds, less interaction will happen.

In terms of engineering and accident rates, if you want to talk about safety in suburbs, you have to talk about speeds or at least the design outcomes of the environment which support a certain level of speed at a neighbourhood level. I am not saying we should drop every speed but we have to have a clear road hierarchy and speed hierarchy. We know that if a person is hit at a speed of up to 30 kilometres an hour, the level of damage is fairly low. However, if you hit him at 50 kilometres an hour, there is a huge difference. This is contentious because people never want to be inconvenienced. With current lifestyles, they want to get quickly from A to B. However, there are far greater benefits in getting that balance right in the road hierarchy. That is where we are really trying hard to retrofit it now.

We have been good with segregation because it has been easy to travel so much. For instance, here is your school, here is your supermarket, here is where you live, here is your friend's place, and you had all these journeys. Now it is an art to make much more efficient use of it and bridge them and bring them all together, what we call integration. That will take time.

We have a choice. Either we continue doing business as usual and put spatially the car first—and you can see from that graph how much you can take up; that is a suburb in Atlanta in the US; it illustrates very well the spatial dimension of what we can do—or we really want to use that space very efficiently and bring people together and expose them to each other and get a healthy sense of urbanism happening?

That is a model of a big intersection in Montreal, where they have tried to make car movement much more efficient. They have actually also shortened travel times. By

removing the traditional loops and putting in a huge park, separate bike lanes, a footpath and clear intersections. It works brilliantly.

The Heart Foundation recently commissioned work from academics around density and health. That also has a very important message in it. No matter how we do the density debate—and we achieve density by having 75 dwellings per hectare—there are several different ways to do that. We have often been developing one type of housing but it is not healthy because people want to have diversity. They want to feel interested. If you have a complex environment, it is like you are going out exploring. You have much more fun.

That is why many people, when they go to Melbourne and walk through the inner city of Melbourne, see the great diversity of different architectural types, little art works happening, little interesting spaces in between which they want to explore. They really want to engage with it. They do not want to drive from one place to another because they miss out on all these interesting things in between.

The housing model in the middle can achieve that. It can achieve a choice for families, with a backyard. It can achieve apartment living for all members of the community as well as for other members who need to have access to public transport. Or you have a high-rise building which supports sedentary lifestyles and which sometimes can have a dehumanising effect. If you are up on the 15th floor and you are trying to call your family member who forgot their wallet, they will never hear you when you open the window and call out. There is not that healthy sense of communication. Ultimately, there are other issues with wind tunnel effects, overshadowing and all that sort of thing.

What has the Heart Foundation done in collaboration with the Planning Institute of Australia and the Local Government Association? We have put together a package called “Healthy spaces and places”. That is an online document and I encourage you to have a scroll through that. It shows Australian case studies of things we have actually got right already in terms of a healthy environment. We are trying to share that information.

However, it draws upon 10 key design principles which are important for a healthy community. They are active travel, which I have just elaborated on, the aesthetics and the quality of the urban environment. You want to give people an experience—how we can deliver that. Connectivity is important. When you have a footpath and it is missing in the middle—already people are not forgiving and they will not use it. There are also environments for all members of the community. We know we have to look at younger and older people in the community, as well as everybody in between.

There is mixed density; I have just talked about that. There are mixed land uses. How do you create active street frontages? If you want to create more places between A and B, where people want to see and experience something, you have to think about having some shops, some services, within walking distance between places. It is not easy. We know the market responds in the long run. Sometimes there is more demand, sometimes less. Therefore, housing choices have to be highly adaptable. That is another model in terms of urbanisation work we have done in that regard.

In regard to parks and open spaces, the ACT is brilliant. We have more than 40 per

cent of open space in Canberra. That is a high open space amount. We are talking the same amount of open space as Berlin, and that is a city of 3½ million people. We get that right. What we have to do now is protect that and keep that for future generations and use that space, which we have used for the urban footprint, and use that asset much smarter.

Safety and surveillance: as I said, lighting is important. If you have an estate environment where people are outside and want to be outside, you will get passive surveillance already happening. If we are able to achieve, for instance, a more vital night life area and, in some centres, a 24-hour life, you create safety around the clock.

Social inclusion: if you have people out there in neighbourhoods which watch each other and look after themselves—they bring out the garbage bin when the neighbour is on holiday—we want to see that more often. If you have a greater level of social connectivity and cohesion, you will get a much healthier community and they are supporting things much better.

What we have done in the Heart Foundation is now ACT specific. We developed an active living impact checklist for developments. I highly recommend that you have a look at that document to find specifics which can be applied to individual development levels. For instance, when you subdivide a block, how do you accommodate better access to living choices? This work, as you can see, on the one hand sits pretty much on a local level, not on the estate level, as we are talking about today. However, there are elements which might be inspiring and which might inform your decision if you are happy with the document or not.

What I would also like to highlight—and you have not got a copy—is the Heart Foundation’s business case which we put forward. We commissioned Dr Rodney Tolley to do some work for us. That is called “Good for business”. That looks into making the business case for walking and cycling in the urban context. What is in here is for businesses which are active and should have the best interests to create a walkable environment. The evidence says that if people are doing things much closer and walking and cycling, they are much more likely to spend money than if you catch people who go in a car from point A to point B because they are just going there to spend it on B and nothing in between. I will leave a copy for your consideration.

THE CHAIR: Thank you for that.

Mr Mews: You are welcome. From a child’s perspective, an awful lot of work has been done in that field as well and it informs so much of what we have done already in the past that was really good and how we have to remind ourselves of how we can do things better in the future.

On that graph you will see two charts, one of a kid that was driven to school and the other of a kid walking to school. I would like to ask you which kid you reckon was walking to school and which was driven to school. Do you have any suggestions?

MS LE COUTEUR: I think the coloured one might be the walker.

Mr Mews: It is actually the opposite. You see the big road and the kid that was driven

to school saw the school, saw a couple of houses in green in the middle—that is it—so that really reduces the public space to a minimum. It shows you that there is something. That is in the built environment where we have these massive long glass buildings. It is designed for cars. There is no love for detail.

However, if a kid walks, it explores—it explores a dog, a swing, a tree, some leaves on the ground; there are footpaths or roads. There are all these little things to explore, which make the space in between worth while and liveable. That is what we have to think about if we want to create spaces for our children. That is where they learn most for their lives—not from being stuck in a car. When we have good access to schools, we have to think about how we get kids walking or cycling more often to school. That has to be an important part of an estate development as well.

I have some more Australian encouraging examples: how important supporting infrastructure is—benches every couple of hundred metres for older people who need to be able to sit down because they cannot walk as quickly as young vital runners when they are running to catch a bus or whatever. You need to have functional urban space. Sometimes I see it now here in Civic, and it is really good to see—people sitting and playing music, which is a great confirmation that there is a place function happening, which is functioning to a good degree now. We need to see that more often in many parts of the city.

Imaginability: when we are experiencing public space and people walk through a city, you want to see not just the traditional standard playground, which is everywhere. Kids have creative minds and, as you will see from this, taken in Sydney, if you create just a couple of blocks somewhere they will climb and explore it. We have to provide diversity. Here is an older housing block in Surry Hills in Sydney where we got it right. You have these small townhouses, there is walkable access and around the block access for the vehicles which have to be there. However, it is a people-centric approach. It is a detail which celebrates the best of human life. For the people who live there are spaces where you can be private, there are spaces where you can look after each other. You can play outside and feel safe and you are very close to public transport to go into the city. So we got it right for a long time in Australia. But because vehicles and fuel were extremely cheap it made it so easy to cater to that standard housing model that we have seen so often. That is why Australia has become extremely efficient at rolling out one type of housing.

Now we have to see how we can create that diversity. I am not saying that now we should just do that. We should create everything. There will always be people who want to drive to their home, who want to have a big McMansion. However, we know that in the future we are going to have more people who will want to be closer to services, who do not want to live like that, and we have to think about them as well. Coming back to the earlier stage, 75 per cent are in here.

There are some questions I would like to encourage you to ask yourselves when you look into the estate development code and the draft variation. Have all these five Ds been addressed in a sensible way for you—the density, the diversity, the design quality, the distance to transit, and the destination accessibility? Would that new code support a human scale and has attention been paid to new types of bicycle infrastructure? Are they shared zones or shared spaces? Shared spaces are not the

same as shared zones. Separated on-road bike lanes: now we are putting in the city cycle loop, which is an on-road separate bike infrastructure: is that incorporated in the definitions or not? What about a bicycle highway? There has been talk that we are trying to connect Molonglo to the city, maybe on a convenient bike highway. Is that reflected in there?

Flexibility around performance-based development outcomes under a solid plot plan framework: a plot plan framework means you need to have good regulation in place. However, there is always the threat of over-regulation. It is a good balance that we have to get right, because just through experimenting we are able to change and drive innovation as well.

Consideration of the environmental effects such as wind, noise and sun and shade as well as how does a new estate development or even buildings respond to natural cross-ventilation, to slope orientation. Effective speeds: there are tables in the document looking into the speeds and I ask you, for instance: in a slow-speed environment, is it really 40, 50 or 60 kilometres or is it sometimes, if you want to create more space for people, lower than that? Appropriate categorisation of open space topography? The National Capital Authority is looking into a project called the national capital open space system where their categorising is much more refined. A median strip does not have the same quality as a park and they are redefining it. Maybe there are opportunities to harmonise it.

Consistency, adaptability to processes in terms of the strategic cycle network plan, which the government is starting to do: is the balance achieved between innovation and over-regulation to allow these experiments to achieve best health outcomes for the ACT community and are there incentives for good design excellence?

When I finish I always put this one up, which is Albert Einstein on a bike. He was a wise and smart man and if he could cycle why can't we?

THE CHAIR: Thank you very much, Mr Mews. I will just go to members for questions.

MS LE COUTEUR: All of this is really great and the direction in which we should be going, but do you have any suggestions—I know you gave us a list of things we should look at—as to how this variation should be changed? That is a big question.

Mr Mews: If I were working as part of the statutory role I would be in a much better position to go into the details. However, in my capacity we are trying to enable the best outcomes that meet the broader context of what we are trying to achieve. All I can do in my capacity and with the resources we have is to highlight the evidence to you—what the academics say, what the community wants and how that might inform that piece of legislation. There are great things in there and they have been trying really hard to get it right. However, of course no-one can know everything, but there are things that can be potentially harmonised or can have a revisit. That is up to you to decide as the elected members of the community.

MR COE: Broadly, do you think that the ACT should be doing greenfield estate developments?

Mr Mews: The Heart Foundation does not have a professional view on greenfield or infill, so probably that is a question which we should have off the record in my personal capacity. What we are trying to achieve, no matter whether it is a greenfield or an infill development, are the best health outcomes for everyone who wants to live there, regardless. If people choose to live in a new estate, for affordability reasons or for whatever lifestyle reasons, they should have the opportunity to have the best health outcomes as part of the design outcome. In the urban infill context, that is why I think our active living impact chapters would add value, because that will look at the development level at how we can add more value to assist people who choose to live there to meet better physical activity outcomes.

MR COE: For good reason the ACT government usually outsources the development of estates and construction in general. How do you see many of these objectives being met if the government is not the landowner, architect, developer and constructor?

Mr Mews: It is complex. Let me draw some examples from places overseas, because that is where my history lies. You do have existing neighbourhoods that have always been in the hands of private industry and they have to work within the regulatory framework, and the regulatory framework can provide always the minimum where you can try to shift the whole urban fabric. Where the market can add value is in being experimental to become even better and more efficient in providing the best outcomes.

For instance, the city of Freiburg in Germany is a little town, fairly similar in size to the ACT and very interesting in terms of the settings—lots of parallels. The city had some big involvement in one development, which was Vauban, which was an energy-efficient medium compact density environment where they were working really closely with business and the community to achieve that outcome. It involves ongoing consultation, which has to happen, and the government can take great leadership in that work and empower the community, work together and bring also the developers to the table to say: “Okay, we know that is the issue. We are trying to be smart about this. Let’s work together to achieve it.”

It happens in the ACT already. We have developers, Efkarpidis, on two sites. They are trying to do innovative things around the Belconnen markets. There are great things happening at the moment. We have already New Acton coming up. They are trying to achieve good things in their own experimental state. The government can take leadership, and overseas they have often done it. If the market does not respond as yet, because it is still easier to do the other model, government can take leadership. For instance, take the Canberra brickworks site development. That has been driven by the Land Development Agency; they have tried in terms of the master planning level to do really good work there and they have outsourced the design company to do these plans and it was a very collaborative effort to get it up and running.

Now is the next interesting phase: who comes and implements it? That is a whole different arm of it. Given that I am an urban designer, not a builder or an architect, I cannot really respond properly. Other people might be able to respond more in detail on that. But in terms of the network and the grid pattern which has been laid out there, that can potentially be very healthy and government can play leadership in providing

that and supporting that.

East Lake development would be technically another leadership project where the government has put a lot of effort in. In the beginning if you try to change something it always comes at a price. However, providing that leadership, educating the community and businesses and making transparency around this information after it has been put in place, it is easier to retrofit. Australia has been extremely good with the housing there. We found it was an extremely good cost-effective model to put in. Then we can roll it out and then it becomes cheaper. It is like the mass production of good products: the first iphone was probably hugely expensive and the second version of the iphone became more affordable and the third one. Everybody loves it now and it is going on.

It is the same with a good prototype: the first one never meets cost effectiveness. But it is extremely to show leadership in where the market can go or where the city development can go, and that can have a beneficial effect for the whole city in the long run or the whole country. That is what we are trying to do with the healthy spaces and places—showing good examples where we are getting things right for healthy developments throughout the country and sharing that information, making the transparency, letting people learn from each other and embracing best practice. Does that answer your question?

THE CHAIR: Thank you. It is half-past two so we have run out of time. Members may have other questions that they may wish to put to you. If you receive those, could you please turn them around in good time. We will be sending a transcript to you, so you will be able to look at that and see if there is anything that is grammatically incorrect or whatever.

Meeting adjourned from 2.31 to 2.41 pm.

HOWARD, MR JERRY, Deputy Executive Director, Master Builders Association of the ACT

DOWSE, MR GLEN, Director, DNA Architects

MacCALLUM, MR ALASTAIR, Director, AMC Design and Management

THE CHAIR: Welcome to this next part of the public hearing into draft variation No 306. I welcome all of you here this afternoon, Mr Howard, Mr Dowse and Mr MacCallum. I draw your attention to the blue-coloured privilege statement before you. Could you confirm for the record that you understand the information in that document?

Mr Howard: Yes.

Mr Dowse: Yes.

Mr MacCallum: Yes.

THE CHAIR: Did you have an opening statement?

Mr Howard: Yes, we do. Thanks for the opportunity to present. Firstly, I would like to introduce Glen and Alastair on my left. Glen and Alastair are architects, and they have had extensive involvement in the design of buildings for 20 years at least. I will also give you some background on the Master Builders Association. We are an industry association. We are part of a national body. We have got about 1,100 members in the ACT, and they represent a broad sector, including professionals such as Glen and Alastair, commercial builders, civil contractors, residential builders, subcontractors and suppliers. So we have a fairly broad church. We have consulted widely with our members on DV 306 since its draft inception.

I would like to make some comments on the previous planning system, because sometimes we have to look back before we can go forward. I believe that we made some significant changes to the planning system in 2008, and that also involved extensive consultation with industry. I believe at that time we implemented what was DAF best practice principles. We implemented a system of code track. ACTPLA at that time was under severe strain to actually deliver, and the planning minister at that time and the chief planning executive certainly delivered outcomes that we believe were very conducive to developing and implementing an efficient planning system.

It is, therefore, disappointing that a few years on we are now being confronted with another system. We have had, as I said, extensive input into that system. I reviewed some of the comments that have come back as a result of the submissions, and we firmly believe that the previous system just was not given enough time to settle in.

We really are, I guess, at a loss as to why we are now confronted with essentially what is just about another new planning system. We do believe that this system, if implemented in its current form, has the potential to essentially drive a lot more applications through the merit track process. That would put greater strain on ACTPLA. It will actually take ACTPLA's valuable resources away from the task that they should be doing—strategic planning—and we will be dealing with more applications through the merit process.

It also has the potential essentially to drive lots of applications back through ACAT. We will essentially have decisions made by ACAT which, of course, has been the constant cry from our industry because of excessive holding costs and delays. What we want is some certainty.

I think this is what we are calling for here: this is a significant change. This is a significant change that warrants an independent review. We believe that such a review should really look at the benefits. What are we trying to achieve with this system? What are we trying to achieve with the potential implementation of DV 306 if it actually does get through the next Assembly? What are going to be the benefits? What are going to be the benefits to the end users and what will be the negative impacts for the territory, given that we have to compete with cross-border planning systems?

We know that we are struggling with housing affordability. We have got chronic shortages of accommodation in the ACT. We have got a carbon tax that has just been implemented. We have uncertainty in the industry. We are heading into very uncertain times. Land sales are dropping. I believe that we are almost at a tipping point. So we should be very careful before we implement any new planning system.

We have, of course, great concerns with the interim effect provisions. I am still at a loss to understand that if a developer purchases a piece of land for redevelopment and that developer purchases that land under the previous rules, all of a sudden—essentially, overnight—the rules change and he is actually governed by the interim effect provisions of a planning system that still has not gone through the Assembly. It has the potential to stay in place for two years without being actually voted on by the Assembly.

I know that we are working within the legal process and it allows for such things to happen. But we are getting comments back from our members to suggest that they are not proceeding with any infill RZ 2 developments now because it is totally unviable.

Therein lies a lost opportunity for us to create densities close to local centres. We believe that no greater densities will be achieved in RZ2s than in RZ3s or RZ4s. But there is an incredibly great market for what we call smaller, lower to medium sized developments close to local centres. People just want to downsize. They do not want to move into high rise multi-unit developments. They like to move into developments where there is a body corporate of, say, six or so. They are close to local centres. The body corporate costs are not expensive. Essentially, I believe that the changes to the RZ2 provisions just about kill the potential to create a viable outcome in RZ2 zones.

There is, of course, also the issue of the government's objective of delivering 50-50 greenfields versus renewal. Yet I find it rather strange from the MBA's perspective that we essentially then proceed with rules that are absolutely detrimental to actually satisfying that objective. Again, I guess that is what we are saying. We need to seriously review this document.

I also have issues with existing owners' rights. We will probably give some examples of these where some of the provisions have applied to blocks in excess of 500 square metres. I am still unclear actually as to the effect potentially that DV 306 could have

on existing owners' rights, because it is a complex and confusing document.

We are practitioners and we have a reasonable understanding of the industry and how setbacks work and how solar interlocks work. But I do feel sorry for the practitioners out there in the industry who will be actually struggling with this document and trying to understand it and make it work.

The existing owners' rights are certainly something that I am unclear about. I have had discussions with Glen and Alistair. For example, if you were doing an extension to an existing building and if your block of land is 500 square metres or greater, then my understanding is, having read through the guidance notes, that in adding that extension you would have to comply with the rules proposed in DV 306 with building block criteria, solar access and fence requirements.

That is grossly unfair, because that person bought that land under a leasehold system where you had very simple rules. You had no block orientation provisions. You had setback requirements that were 1.8 and 2.7, or six feet and nine feet as they were. It was very simple to understand. It was a very uncomplicated system. You could build your building from one boundary to the other boundary. The whole idea of the 2.7 was that it allowed you to drive a car down the side. How simple were those rules?

Now if they want to extend that building, given the constraints they are going to have with where they can extend that building—and remember that we are also about retaining existing stock and upgrading existing stock—they will find that they will no longer be able to have that extension, that 1.5 metre setback. Glen and Alistair will clearly explain that. So their rights to their land that they bought have been totally compromised.

The other concern I have relates specifically to land that was sold at Molonglo under 301 and 303 provisions. These have been superseded now by 306. With the slightly sloping topography at Molonglo we have examples of the built environment already out there—partially built houses—where you can clearly see that they have had to lower the actual building into the site to actually comply with the interim effect provisions.

That is okay for the adjoining neighbour but it gives a totally unsatisfactory outcome for the person who is going to live in that place potentially for the rest of their life. You essentially create a position where there is poor drainage, poor building outcomes. You are looking out onto retaining walls. You have narrow blocks. It is just a very unsatisfactory outcome.

I have even offered the minister a guided tour, which he will take up, to have a look at these examples. You are quite welcome to come on the tour too. I think there has to be a balance between desirable planning outcomes, solar access requirements and the built outcome. I can assure you that the people will very soon forget that they had to have their house dropped into the site to achieve satisfactory solar access outcomes for the adjoining neighbour when they are essentially to their detriment. What I am challenging is that there has to be a balance there.

That might be enough from me in my opening comments but I do have some positives

out of this. I do not want to harp on all the negatives. I think the secondary residence is a great initiative. The secondary residence I believe should be larger—I think potentially 90 square metres. That does actually fill a gap in that we have abolished the dual occupancy policy of allowing two residences on one block.

Those blocks require subdivision. Again, it does not make it a viable proposition because the additional costs associated with creating easements and creating additional infrastructure essentially do not make it viable to subdivide the 800 square metre block for dual occupancies in RZ1 zones. The questions we do have, of course, are around the lease variation charge. This has not been clarified as yet. Will the secondary residence incur a lease variation charge?

MS LE COUTEUR: No. We asked Minister Corbell that one.

Mr Howard: It won't; good. That has the potential to kill this off. I think that is a great initiative.

Mr Dowse: Does that depend on the initial lease, though?

MR COE: They were not definitive about it. They said that in most instances it would not.

Mr Dowse: Yes, because there are two types of leases.

MR COE: Yes, they were not definitive about it. I am sure that if it was good news such that everybody in Canberra could do so without a lease charge, they would have said so.

THE CHAIR: I am sure that the committee will discuss that. We have the option of asking further questions and the minister is appearing before us again. So we will have another opportunity to clarify anything that has come out of our first discussion with him the day before yesterday. We will have a number of things that are coming out of these discussions now that we will want to ask the minister about when he appears before again.

Mr Howard: So we do support that as a great initiative given our chronic housing shortage, given our chronic student accommodation shortage. We hear about it time and time again. We have got an incredible undersupply of affordable housing. This actually has some great benefits especially if we build in adaptable features. It will allow ageing in place, it will allow younger families to take over the principal residence and it will allow ageing parents still to live close to the family unit, which I believe is so important.

This was one of our strong criticisms of the abolition of the dual occupancy policy. We have land in Canberra, our greatest resource, totally underutilised, especially in Kaleen, Giralang, Hawker—massive blocks of land totally underutilised. You can now build a secondary residence that does not have to be associated, that does not have to be actually resided in by the family members. So you have the potential to rent that out to non-family members.

We believe that is confirmed. We also agree that there are some provisions there with increased setbacks that are positive. We believe that the integrated housing is good. It depends on which side of the fence you sit on. You can get a very stale type of outcome from integrated housing development. I am sure that Glen and Alastair will have some comments to make on that.

Overall, we do believe that this is a massive change. It has the potential to have some serious impacts on our industry, on housing affordability. It has the potential to deliver unsatisfactory outcomes even though the intent may have been to actually deliver better outcomes. Therefore, what I am calling on in my opening remarks is that we would really welcome an independent review of this system before we actually proceed. I will now hand over to Glen and Alastair. They have some presentations that will probably simplify some of the terminology that I have used to try to explain the issues around solar access.

THE CHAIR: Thank you very much, Mr Howard. I think we will go straight to the presentation. As we go through that we can ask questions as time allows.

Mr Dowse: Yes, it is probably best if we have questions as we go. Alastair and I will probably approach this in a little bit more detail on specific issues, which will give you some direct questions to take back to the minister. I will look more at the lower scale single residence and Alastair will concentrate more on multi-unit and commercial.

Before we go into this, though, we are talking about the document and what we are ending up with, which is becoming incredibly complex to the point where people are forced to see professionals like Alastair and myself rather than being able to look at the document themselves and understand it. That is adding considerable expense. Building designers and draftsmen are having trouble with the complexity, and we are getting a lot of feedback, particularly from practitioners and clients working in the Molonglo area, that they are very unhappy about the amount of money they paid for a block of land and their expectations not being met regarding the size of house they would expect to get on the block for the money. That is mainly due to the solar setback requirements. So we will go into the solar setback a lot, but there are a lot of other issues in the document that we need to consider.

This presentation concentrates on looking at what is happening in the Molonglo area. A typical house on a typical block, both single storey and double storey, you can see from the plan layout that it is your average house with garage to one side—on a medium-size block there is quite often zero setback—a courtyard along one side of the house and then a house stepping around the rest of the block creating a couple of other spaces. So, typically, the open space is about what is needed to meet the requirements of private open space.

I have taken this house and then applied it to all the different orientations, so I will show you before and after. This envelope is the before envelope, so we see that it has 45 degree planes in the front zone. You move around to the back and you have a 30 degree plane on the southern rear zone, and you can get a pretty average house on that well within the envelope.

If you rotate that around to other orientations, you can see that there are no real problems there. This is an east-west block, so south to the right-hand side of the block. You can see here the concession for the garage on the boundary. The concessional zone will take it up to three metres rather than the standard two-metre setback. But even with that, the single-storey house fits at the setbacks on a flat block. You can see this zone here where the gradient is penetrating the envelope. So that house is already being pushed a little bit further away from that southern boundary on a standard block. The other orientations for that are pretty right.

If we look at that then with the new requirements on it, that slide represents the new solar envelope—1.8 on the side boundary running up at 30 degrees in this case—you see that the garage on the boundary is no longer viable, and this is what Jerry was saying. Particularly in Molonglo, designers are looking to put a garage to the side of the block. You want to minimise the setback off the fence, because it is otherwise a waste of open space. So they are saying, “Well, dig it in.” You can see with this, we have got on a standard garage 1.2 to 1.5 metres outside the envelope. So you are looking on a flat block to push that garage in one to 1.5 metres. If you are serviced high in the front of the block or the rear of the block, there is only 1.2 down. You are not going to make it with stormwater into that. So you are into pump-out situations with a lot of complexity and a lot of cost.

MS LE COUTEUR: Could I just ask, does this relate in any way to this spot?

Mr Dowse: Yes.

MS LE COUTEUR: Because I assumed it does. Are you going to tell us where we line up?

Mr Dowse: Those ones, some have been done by Alastair’s office, some by Tony Trobe’s office and some by my office. So we will go through those as well, because it is important that we explain that.

But this tool here is a crude but effective way of showing you in quite a lot of detail different orientations. You can see with that house, once you come around to, say, a north-south facing block, it fits well within the new envelope. If you run around the other orientations, say, the same house on an east-west block, and if you did it completely the wrong way and put the garage on the north, you would be fine, but we do not want to encourage that at all.

If you then look at a sloping block, this is a one-metre slope across the block, which is more common than a flat block. A one-metre slope we would consider a fairly flat block. Typically, what you would do is cut and fill. You would sink your house in, say, half a metre—half a metre cut, half a metre fill—so the results are only just achievable now under the current conditions with a garage on the boundary. If you look at the impact of that with the new requirements, you are heading towards 1.8 metres out of the ground. So what that is illustrating to us as designers is that we have to be moving away from the southern boundary. That is on an east-west block, which is the preferred orientation for blocks, because it gives us the maximum solar access.

So what we are doing is compromising northern space, and we think that is a particularly bad result of 306. We should be encouraging more northern yard, even if it is shaded in the middle of winter. Try and keep the sun off the house. The northern yard is not used as heavily in winter, but in summer it is. In summer the sun is at a much higher angle, so not in the shade. A southern yard is useless. We do not want to put our clothes out there because they will not dry. We can park a car in there sometimes. We can put a water heater in there. So to increase southern yard space is a waste—a complete waste. So we have gone from two metres down to 1.8 metres. Two hundred millimetres makes quite a bit of difference in actual setback distances. If you think about 30 degrees, 200 millimetres is an extra 500 millimetres in required setback.

If you have a look at other orientations on a sloping block, they are not as bad. But if we go to two storeys, which is what we have been pushed to for smaller and smaller blocks, you can see that a typical house represents what the minimum site setbacks would be and then how the envelope overrides the site setbacks. You can see with this one an allowable 300 millimetre setback does not meet the height envelope under current situations. If we got to the new rules, you can see massive impact there. You can see immediately that what that is showing is that we get the wedding-cake effect of houses. So we are pushing two-storey elements much further toward the northern side of the block. And you get a row of houses like that and we are going to end up with the situation where we are trying to control garages, and they are discouraging garages from dominating the streetscape. What we will end up with is repeat housing dominating the streetscape. You can see that for people to get a reasonable size house on their block, it is a very restricted upstairs zone.

MS LE COUTEUR: What are you regarding as a reasonable size house?

Mr Dowse: Well, a three to four-bedroom house—a family house.

MS LE COUTEUR: And what sort of square metres? A three-bedroom house when I grew up was 100 square metres. I am thinking these houses might be bigger than 100 square metres. You must have some idea what you are designing.

Mr Howard: I think the point there is that if somebody pays \$400,000 for a block of land at Molonglo and you have got 110 square metres of house, as a developer you will go broke.

MS LE COUTEUR: Can I ask an informational question? What size houses are you looking at? I just do not know.

Mr Dowse: This was based on, say, a 500 square metre block. So you are looking at a 200 to 250 square metre house. An average three-bedroom house, without a garage, would be, say, 160.

Mr Howard: I would say the challenge is that they are trying to maximise their GFA because they have paid so much for the land. It is a kind of a catch 22 situation.

Mr Dowse: You want to maximise the amount of open space you have got on your block too. So you want to constrain your house to a smaller footprint; therefore you

want to go second storey.

Mr MacCallum: Presumably what you are looking at here is a four-bedroom dwelling, with a double garage, a kitchen/main family area and a secondary living area—would that be a reasonable description?—and perhaps a main bathroom and an en suite.

Mr Dowse: Some of the other examples we will show you in a minute are actual house plans.

MR COE: I imagine that a four-bedroom house, en suite, double garage, second living space, must be a fairly typical house in Forde or in Molonglo?

Mr Howard: Absolutely, that is about—

Mr Dowse: Not in Forde. The setback provisions in Forde are very different to the rest of Canberra, and they work extremely well. If we could get urban outcomes like Forde in the rest of Canberra, I think we would all be very happy.

THE CHAIR: What is the difference?

MS LE COUTEUR: Tell us. What should we be looking at?

Mr Dowse: Forde went down to as low as a 1.5 setback on the northern boundary, upper floor. So it is half the setback. It is more in line with New South Wales design and siting controls. It is very different to the rest of Canberra.

Mr MacCallum: It targets the zoning of that reduced setback to the front of the block to ensure protection of the private open space to the rear. I guess it is quite a targeted thing.

Mr Dowse: But in my opinion, it has been an incredibly successful urban outcome, and the people that live there absolutely welcome it; whereas if we take some of the other ones, particularly what is coming up in Molonglo and if you look at Harrison, which probably preceded Forde, it is not a particularly good outcome. These rules that we are looking at now with 306 will not come anywhere near being able to achieve anything close to what Forde was. Building bulk scale, streetscape, even solar access in Forde is pretty good, from what I have seen. I have a lot of friends there. I have done a lot of buildings there.

With this, once you look at a two-storey house on a sloping block, you have got pretty much no opportunity to do a two storey. One of the good things that did come out of 306 was getting rid of the nine-metre setback in the rear zone. That was a concession but it is hard to use. Other orientations you can get away with. What we are doing is encouraging builders and owners not to buy east-west blocks. Look for a north-south block if you want to get a decent house. That is the wrong answer because you are really restricted with a mandatory garage location in most subdivision plans.

Mr MacCallum: Or it is the right answer but presumably the people that sell those blocks of land will need to expect a lower yield on that site to achieve those outcomes.

Therefore, it has implications for the cost of the sale of that land.

Mr Howard: And the LDA.

Mr Dowse: The big points of that presentation there, I guess, are decreased density, pushing houses towards the north of the block, which we think is a particularly bad outcome, and, if you could imagine, the impact of these outcomes on existing blocks for redevelopment, extension et cetera. Those blocks are generally on much steeper, sloping sites than we are developing now.

Mr MacCallum: As a matter of interest, on Glen's point about existing blocks of land or existing suburbs, it can also drive quite a strange outcome relative to an existing pattern or character to the development. Glen spoke about a wedding cake-style dwelling which, I think, often looks quite strange but which will look quite different in an older suburb, to have to comply with these new rules and get quite odd looking buildings relative to what has been built originally.

MS LE COUTEUR: In the older suburbs, I would assume that if you were building the same size as the existing housing you would not come up against these rules. You would be able to rebuild the existing house if you so chose. You are going to have a difference of appearance anyway in your hypothetical situation.

Mr Howard: Not the way I read the rules.

MS LE COUTEUR: Do you think you could not even rebuild your existing 100 square metre—

Mr Dowse: You would not be allowed to rebuild. You could rebuild if you have got, say, enough approved dual occupancy or something like that. The rules do allow you to rebuild to that extent but they do not mention, that I have seen, rebuilding to same setbacks or height.

Mr Howard: In our supplementary comments, this was something we require clarification on. We are unsure.

MS LE COUTEUR: I am as well, since I have read your submission. I thought that was the situation. I also would have thought that, given the older houses were smaller compared to the blocks, in general they would not hit out against these—

Mr Dowse: True, but they are built right to the setbacks.

MS LE COUTEUR: They certainly are built to the setbacks.

Mr Dowse: They were not, on one boundary, but in most cases, on one boundary, they will be in trouble. It will be like the controls when we moved from 1.8 and 2.7 setbacks to 1.5 and three. We were never allowed to build in the same setback. It will be the same with the height controls. The current height controls that we work with are different to what those original buildings were designed to. In the latest version of the territory plan that we are working to—it used to be a 7.5 setback and then a 12-metre zone for the front zone—we have lost that. It is six metres and then 12 metres.

There is a 1.5 in the current version which was supposed to be neutral. The rules do apply, as written.

Mr MacCallum: I think when you get into the rules, they are quite detailed, and we can provide more clarity on that. There is even, from our perspective, ambiguity amongst some of the rules and solar diagrams, which in itself make it confusing. They are in the submissions that have been provided, probably in more detail than we need to, that we are aware of.

MR COE: Thirty or 40 years ago in suburbs like Kaleen, Giralang, Kambah and Wanniasa, the land in a house and land package represented may have been 15 or 20 per cent of the overall price. In situations like this, what sort of percentage do you think the land value would be?

Mr Dowse: Fifty to sixty.

Mr Howard: And beyond.

MR COE: It is already 50 per cent in some instances, is it not?

Mr Dowse: At a thousand dollars a metre, we have got the most expensive land in Australia.

Mr Howard: The land to building factor in Florey, when most private development started, was one-third of the total cost. Now the land factor in some instances can be almost higher than the actual build cost. It does get back to purchasing expensive blocks of land at Molonglo and trying to maximise your GFA. It is difficult to try to convince people because at the end of the day you are looking at about a one million dollar property there and you cannot get a one million dollar property with 100 square metres.

Mr MacCallum: To touch on the last point in relation to rights in existing suburbs, that is an example of a dwelling that was approved in Narrabundah under the previous system and now, with the new solar envelopes, what that encroachment would be. Where there is a criterion to argue for that, that gives the proponent the opportunity to take that risk. With a single residential development, that may not end up in ACAT anyway. So it comes back to ACTPLA to make that call. It certainly highlights the difference, perhaps, between what was allowed a few years ago and what would now be allowed. This diagram here is the 30-year ago controls.

Mr Dowse: No. This is the 2008 territory plan pre DV 306.

Mr MacCallum: That is looking at setbacks as well as solar envelopes. The blue is setback, with red being the solar on the left.

MS LE COUTEUR: You said earlier that this was going to have an impact on density and you had worked it out. Can you provide the committee with some information about what you have worked out in terms of density impacts? It is interesting.

Mr MacCallum: When you say “density” are you referring to yield in a broad sense for a suburb?

MS LE COUTEUR: Yes.

Mr MacCallum: Sure, we can, based on this issue of north-south sites versus east-west sites.

MS LE COUTEUR: And if you could put in your assumption in terms of the size of house that people are wishing to build on it, because I assume the two are related.

Mr Dowse: Let us call it the average house that you can build now on a block out in the new suburbs. Under the new rules you will need a wider block, a larger block, to build that same house, I guess is where our density concerns come from to do with single residential. Multi-unit is very different and we will touch on that in a minute. As you can see by those envelopes, an east-west block needs to be much wider to get garage, entry, living room, which would be your average. You can get blocks with more than that, but that is what you need to have on a reasonable block of land, I believe.

Mr Howard: In the subdivision they have really implemented far more stringent guidelines now for block orientation as well. But, as Glen or Alastair said, that really then is the challenge, because you are going to get reduced block yield. When you get reduced block yield it pushes up the price of the land. In a perfect world these guys would love to get every block perfectly oriented, because they could deliver a great outcome without any real challenges, but there is a cost for that and somebody has to pay it.

Mr Dowse: And you have to take into account terrain factors. We cannot just put a grid on, like Sydney or Melbourne, to get perfect blocks. You need to take into account terrain so that you minimise cut and fill, obviously.

Mr Howard: And ironically as we move further into Molonglo we are going to be challenged with increasing sloping topography, which is presenting even greater challenges.

MS LE COUTEUR: Yes, significantly sloping.

Mr Dowse: We might just have a quick look at medium density—

Mr MacCallum: Just before that, I have a couple more points on single residential. From our reading of rule 33 it suggests that car parking is going to be discouraged in the front driveway for visitors, and we do not understand that, as that has always been a useful way to provide visitor car parking. We have also noted that a ramp down to a garage cannot start forward of the building line; again on particular sites that is very prescriptive. If you are trying to chase the site down and you cannot start before you get to the building line you simply reduce the amount of developable site, really for no good reason, in our opinion. I will talk a bit about this when we talk about larger scale development.

The document, we understood, was to be policy neutral, but a number of elements that have come in are clearly not. For some time we have been talking to ACPLA about the issue of a basement under a two-storey dwelling not having really any impact on the bulk and scale of that and yet it is not allowed. We also believe as we focus on single residential that that provision, given other things are not policy neutral, should be brought back to—

Mr Dowse: If I can just correct that slightly, a basement is allowed but a basement garage is not allowed, under two-storey—

Mr MacCallum: Yes, a basement garage, to be specific.

Mr Dowse: But basement does count to GFA, and there is no reason why we would leave out that control.

Mr Howard: The point we made in our submission, that in sloping topography that gives a much better outcome if you can get the garage under to suit the conditions of the site, then you do not notice any change in the bulk because you are following the topography.

Mr Dowse: The reason for the control was obvious. It was to stop three-storey facades. But it was a very crude way of doing it and it has ruled out a whole lot of opportunities that would have otherwise been allowable and still met the two-storey facade.

Mr MacCallum: I guess if we move to higher density development, picking up on Jerry's comments about a fifty-fifty push in the ACT—that is responsible to do that—we believe DV 306 encourages urban infill. It is a complicated issue. It is a political issue. The document previous to the territory plan used to talk about desired future character; it now just talks about desired character. But if you pick a suburb like Braddon, for example, it is a suburb in transition, so the rules become quite prescriptive and imply that the built form is going to remain in a way that it used to be. I think there is a diagram in some of the information you have received—we do not have it here—which shows, for example, a site like Braddon. It says “comparison” in quite large letters on the right-hand side.

MS LE COUTEUR: Do you remember it enough to be able to talk us through this?

Mr Dowse: I have a copy of it here.

MS LE COUTEUR: Okay.

Mr Dowse: That particular development is in the Northbourne corridor, in Lyneham, just behind Macarthur House, to put it in perspective.

MS LE COUTEUR: Yes, I think I have seen it.

Mr Dowse: It is a commercial zone and with that development we were able to go boundary to boundary. There is a whole street of similar buildings there now. The yield was 12 units on quite a small block with a basement. Under the new rules you

can see there the representation of what would be required for the envelope. We would not be able to come anywhere near that sort of development, which would then have made that unviable. So it would remain single residential.

MS LE COUTEUR: You have got pink and blue. What do they mean?

Mr Dowse: Pink is pre-existing and blue is pre and post 306.

MS LE COUTEUR: But you did not build to either of those, because it was commercial?

Mr Dowse: Yes, because it was commercial and we were able to negotiate with the planners. They gave us scope to achieve a better planning outcome for a streetscape.

Mr MacCallum: I guess that is why I said “desired future character” because clearly different suburbs are about a different form of development and that is where I think these new rules become limiting. That is not to say that they might not be appropriate in some sites, despite our comments to date, but there are some suburbs that are clearly going to have a different form and character.

Moving on from that, my focus was a little more on larger scale development. By and large we find the new building envelopes have very little impact, and the setbacks also, apart from in a commercial zone where you are allowed to do residential, have very little impact. In the commercial zone, where you might do a mixed-use residential-commercial development we would like to see the setbacks reduced, because you often want to create a commercial frontage. The views that you are looking at here show where there might be a minor encroachment, for example, in that building envelope, but by and large a pretty minor impact. We were comfortable enough with DV 306 in that way.

We thought that there were in the rules and criteria a number of innovations that were good, and we are happy to point those out in future correspondence if required, but often we would find they were undone by a plot ratio limit or something else that caught you out later. So again from our perspective the more criteria there are with the rules the more scope there is for us to respond to a specific site issue. That is a risk the proponent then takes when they lodge a DA; it is subject to ACTPLA assessment and perhaps ultimately an ACAT review. But the criteria at least give you an opportunity, whereas we have often found that there might be an innovative rule with the criteria but a corresponding rule that undoes that. That was a source of concern.

I have some other comments more generally. In terms of high density we have provided those images, but by and large we are relatively relaxed. It was really the small scale development that suffered the most. There is talk also in DV 306 about needing entity endorsement before we are able to lodge a DA and that is a problem in that it is quite difficult often to get entity endorsement before the DA is lodged. We actively seek their input early in the piece. But whether it is resourcing issues or wanting to see a final DA, we thought it was unnecessary that that be required.

As I said earlier, in the past we have understood that DV 306 was an opportunity to bring in some rules or criteria that we felt were lacking with previous documentation

or previous ACTPLA legislation. Some of those were that there is a rule around a basement not being more than a metre out of the ground and if it is more than a metre out of the ground it is deemed as a storey. On some of the larger sites that one deals with, whether it is commercial or residential, that is impossible, so we believe there should be more dispensation; otherwise you get a silly outcome.

Mr Dowse: You start to get steps in basements on just medium-scale unit blocks. If you have got a sloping site it is very problematic.

MR COE: What do you mean by “steps”?

Mr Dowse: You need to effectively create a step in a basement to deal with that sloping land, but that even assumes that the site is on a shallow enough slope that you can deal with it. Some sites are so steep that it is impossible.

Mr MacCallum: Whereas you can otherwise keep the whole building bulk within the envelope still, you are creating silly design outcomes at the ground level.

MR COE: Yes, sure.

Mr MacCallum: There are also rules around storage in a basement being counted in the gross floor area. Again, from our experience, the rules around bulk and scale are to do with what is above the ground, not below the ground. There is some conjecture about what the definition really means, but we feel anything in the basement should not be included in plot ratio. This has been raised in the past with ACTPLA.

We also feel that, despite DV 306 existing, there needs to be harmonisation perhaps between the inner north precinct code as an example and DV 306, because they are at odds with each other. DV 306 seems to be silent on some specific legislation for areas like the inner north. It becomes quite complicated to work with and which do you run with.

MS LE COUTEUR: So there is not a clear rule as to which would take precedence?

Mr MacCallum: No there is not in terms of hierarchy.

MS LE COUTEUR: I would have thought the precinct code would override the general code.

Mr MacCallum: Indeed, and I think it is in that category of an opportunity, if DV 306 is trying to capture many things at once. As I said at the outset, we thought it was to be policy neutral. It has not been. So if it is going to be doing some things, it should be doing all things. I guess that is why, as Jerry said, we are nervous about what it does do, what it does not do and what it does not ultimately harmonise across other legislation.

Mr Dowse: Jerry touched on originally the second residence and what our feelings were that 70 square metres was not enough to make that really useful and that it should be more like 90 to 95, so a decent two-bedroom residence. Thinking about people ageing in place and elderly parents in the granny flat out the back, a 70-square

metre granny flat does not give them enough for a bedroom and a reasonable study/living space. It really is only just a bedsit, effectively. If that could be relaxed out to about 90 square metres, then people could really make use of it.

The dwelling replacement policy where you are looking to maintain a three-bedroom unit on each redevelopment site, we feel that is problematic in a social engineering context. If you can imagine a development which needs to maximise the number of units to make it stack up to get bank finance, often what we are looking at to achieve that is the single bedroom plus study. If you go then and put a three-bedroom unit in amongst that, you will not attract a family, no matter what you do. So we feel that that has got problems.

We agree with the sentiment of getting families back into those areas. So what we should be then encouraging would be to do whole developments of, say, three-bedroom units and give some sort of incentives, I guess, to encourage the market to start providing that. You would look at things like relaxation of the lease variation charge and plot ratio controls.

MS LE COUTEUR: You would, in effect, have relaxation of the lease variation charge, would you not, because that is based on a charge per unit? Presumably if they were three bedders you would have less of them than if they were one bedroom, so you would pay less, obviously, anyway.

Mr Dowse: True, but the way that it works in practice is you need to get more units to actually get over the hurdle of the lease variation charge. It has put a big barrier in front of most of our developments when you are looking at feasibility studies. Once you add that extra \$50,000 it falls over. And it is only the developments that would have made a ridiculous amount of profit that are the ones that are getting up. So you are still going to need to get the number of units. It just means that the three-bedroom unit will then compromise the others and push them to be smaller units. That is not the desired outcome. We think getting three-bedroom units back into those areas is fine as a policy. We just need to look at how it is done, because all you are getting with a three-bedroom unit in a one-bedroom unit development is a group house. So you will end up with, say, three couples, six cars, not the required outcome.

MS LE COUTEUR: I totally agree with you that that is what the three bedder will be. Almost certainly.

Mr Dowse: The agents cannot sell a three-bedroom unit.

Mr MacCallum: As has been discussed recently, the market may be changing. That, of course, may mean that there is a greater demand for them. But I think to socially engineer or force something is not the right outcome either. It is about encouraging developers to look more broadly, as Glen said.

Mr Dowse: Yes, along those same lines, we are also concerned about the block policy of a maximum of four units to a block. Really, that has its roots in articulation and breaking up the building form. The difference between five in a block, six in a block, four in a block is nonsense, really. It is about a good design outcome and articulation so that you get a high quality building.

Mr MacCallum: And each site will have its own opportunities and constraints. It does seem overly prescriptive when a north facing site may lend itself to a narrower frontage—say, a group of townhouses—where an east-west site might lend itself to a different configuration. Again, it does not seem policy neutral. It has actually gone far too far in limiting the opportunity to interpret a site in the best way.

Mr Dowse: If we had a rule that was potentially that, plus criteria where you show a good design outcome that is highly articulated, there is nothing really wrong with that, I do not think. As Alastair was saying before, if most of these rules had some criteria to allow good design outcomes, we would not have an issue.

Mr MacCallum: That is to ask a proponent to demonstrate that and for ACTPLA to assess that, but where you take away that right and you make it so prescriptive, you lose that opportunity.

Mr Howard: And I think the challenge has always been that if you prescribe, somebody will work to the pure prescription to get the approval across the line. You will just stifle innovation and you will stifle these guys' creative talents, because they will simply design something to get it approved. That is not really what the real objective should be.

Mr MacCallum: From my perspective, in summary, I believe, firstly, that this was not a policy-neutral document. Therefore, you got a big response from the industry. I think that by and large it is discouraging or penalising smaller-scale development, which is particularly important to the Master Builders Association. It is complicating things perhaps for a level of the market where, as Glen suggested, you are tending to deal with draftsmen or builders that may have their suite of standard plans that they deliver to the market in an affordable way. That is one of the problems I think with DV 306 specifically.

When it comes to larger scale development, it does not seem to be quite as onerous. But given all of the new initiatives that have been added in such as four dwellings or prescribing a three-bedroom dwelling in developments, it is not policy neutral. So we believe that other things should be brought in to balance that. That is why we feel the document is hard to provide comment on without actually getting a review done, as Jerry has said or, I guess, all of our comments being taken seriously from an industry perspective.

We would be more than happy to show you examples of where the current legislation has given good outcomes. I think finally from my perspective I would like to encourage more criteria, accepting that it is the proponents risk to work with those criteria and perhaps not to get an approval. But every site has its own specific nuances and you take that away where you only have criteria. That is what we see a lot of.

Mr Dowse: We quite often come up with good ideas like that and the planners will agree with us but they will say, "No, we are constrained by a rule and there is nothing we can do to help you with that."

MS LE COUTEUR: You said that you would like an independent review. How

could that happen? Who would be an independent reviewer? How would you end up when my understanding is that there was a reference group put together to look at 301 and 303, which became 306. The MBA was part of that. Basically, the non-individuals who are coming here to the inquiry were part of that group. Arguably, there already has been a whole period of that.

Mr MacCallum: I am not sure that today's meeting has guaranteed, Caroline, that what we then get to respond to is actually a reflection of that. I think there are a number of elements in this for us as practitioners that are quite surprising. We have no idea where they have come from. So despite industry input into that, I think it needs to be quite a technical thing that is a lot less dry perhaps for people who are not dealing with it every day but that it is informed by an understanding of what those rules mean. I think there is a disconnect between what we have received and the sort of comments that we have been providing for many years now to ACTPLA.

MS LE COUTEUR: If you had a choice between 306 or no 306—

Mr MacCallum: No 306.

Mr Howard: No 306.

Mr Dowse: Yes.

MS LE COUTEUR: That was a fairly unanimous view.

Mr Dowse: The good that is in 306 is far outweighed by the bad.

Mr Howard: I guess that we are not saying toss it out completely, because there are some good elements in it. But, as Glen said, the good is outweighed by the bad. Just to answer your question, Caroline, Sue Holliday did an independent review of the previous system back in 2008. She used to be the head of planning in NSW. If you were asking for somebody, you would need somebody of some similar ilk to actually do that—somebody who actually had a real broad understanding of the economic impacts also.

Mr Dowse: But also the economic impacts because—

Mr Howard: But also a vision for Canberra to go with it, long term—what we want out of the city.

MR COE: Some of the concerns that come up in the submissions and also from people who we have chatted with us are that it is such a broad-ranging document. Had it been segmented into smaller and more relevant chunks, it would have been easier to give constructive commentary. When we put that to the minister, his response was that this is how you get a holistic approach to it.

Mr Dowse: No, Alastair and I have actually requested that from ACTPLA a number of times over the last couple of years. We informed them that it is too heavy a document to sit down and go through now. It needs to be broken up. If you put the whole document together for residential, commercial et cetera, you are flicking from

one document to another all the way through it the back to the definitions. Within my office, we do break it up into manageable chunks so that we can try to get most of those elements into one folder.

Mr MacCallum: I think that to understand your point, they have tried to do a lot in one document and I do not think it has succeeded, particularly so soon after DV 308 came in. We thought DV 308 was actually a very successful process and the territory plan in its current form is very good. What we would probably like to see as practitioners is annually a series of issues being presented to the industry and community to respond to. They are individual issues that are responded to perhaps on an annual basis, if you understand what I am saying. Then they are topical; they are relevant; they have been driven by a response rather than, if you like, initiated from nowhere.

Mr Howard: I guess we can understand that if there is systematic failure within a system it is the government's duty to act to fix the problem. But, firstly, we could really never understand what the problem was with the previous system. The previous system had been delivering good outcomes. There were some questions, I guess, around RZ2 and densities but most of that was around the built form and essentially some not-so-good designs and some not-so-good building outcomes.

Mr MacCallum: But that should not mean that that one issue, for example, drives a complete change to the territory plan. That in itself is misguided.

THE CHAIR: We asked the question—at least, I asked the question—about what has changed in the past. I asked this question of the minister, didn't I? I asked what has changed to drive this now. Obviously, there are environmental constraints we have now that we did not have before. There are other things in society generally and in our approach to planning that have changed from when we had the previous planning legislation.

So I asked him, "What is the greatest change for him?" He said, "The solar orientation." That was the change that was the greatest change. From your point of view, you pointed that out to us—the constraints on the different blocks with the solar orientation rules we now have. What would you suggest? How would you suggest that we respond to this change that we need to make if we are going to help people lower their electricity bill, for instance?

I get constant complaints—I am sure the other two members of the committee do too—from people whose neighbours have built something that has taken away their sun. Also, people complain when they go to look at a development, "I am going to get hardly any sunshine." These are things that are really uppermost in people's minds now. How do you respond?

Mr Howard: The irony of that, Mary, is that you can have a closed-in structure on the boundary exempt from any form of approval that can actually be higher than this solar fence.

Mr MacCallum: Or a tree.

Mr Howard: Or a tree. So solar access is a difficult one to actually protect for any single person. We also have six-star energy rating, which really is something that is actually controlled under building legislation. It is not in planning legislation. This really has the potential along the southern side to create an absolutely horrific outcome.

Mr MacCallum: That is the irony in this.

Mr Howard: All intentions are great, and I guess you have got to get your balance. And if the intent was to actually deliver better solar access, that is a great objective. But then somebody really needs to evaluate whether we will achieve that objective and at what cost. What is the detrimental cost of actually trying to achieve that? You still cannot control what your neighbour is going to do, because your neighbour can plant willows along that southern side, which they will—

THE CHAIR: I am not sure about willows. Trees, say.

Mr Howard: Willows are probably the only thing that will grow on that southern side, actually. You will not be able to dry your washing there, that is for sure.

Mr Dowse: If you look back at the previous rules, what you had was a higher density environment. So we had greater increase in solar access to the rear of the block. We accepted a compromise to the front. Everybody had the same rights. Everybody knew about it and accepted the same compromise. There was nothing wrong with that system. Whereas now we are pulling right back from that.

Mr Howard: And good design outcomes are not necessarily achieved by setback and building controls. These guys will tell you that with good, articulate design you can get great solar access into buildings with roof windows and articulation in design. That has been successfully—

Mr Dowse: You can also do incredibly bad designs, even with the new rules.

Mr Howard: Yes.

Mr MacCallum: I think that is the problem—I do not think these rules are guaranteeing the result the minister might be thinking he is going to achieve. I understand what the sentiment is, but what we have tried to demonstrate to you today is that there are some fundamental problems with those rules with different shaped sites, different orientations and with sloping sites. And that is the problem. We have rules, for example, around a minimum of three hours sunshine for multi-dwelling style of development, and they have to be achieved. If they are not then the development will not achieve approval. I am sure there are more qualitative ways if that is to be increased that do not limit your opportunity to respond meaningfully on a site-by-site basis. This has become too prescriptive, and I think what it means is not understood.

Mr Howard: And I think that what gets lost in all of this is that if you have to lower a building into the site, you have to put in a retaining wall. You are actually, as these two gentlemen said, pushing your building towards the northern boundary, which is

giving you less private open space, less space to utilise, to maximise where you can really and truly get solar access.

Mr Dowse: And you are potentially digging it in on the northern boundary.

Mr Howard: And you are potentially digging into that northern side, so you are potentially looking out into something that high to achieve that.

Mr Dowse: So it is counterproductive. We are very concerned about the rights of the landowner and the balance of that between the rights of the neighbour. The balance has swung more in favour of the neighbour. Both buying a block of land, they have the same amount of rights. There needs to be a balance. There has to be some compromise. We live in an urban environment. There are many ways to get energy efficiency into houses. It is not all solar access. So it is the balance.

MS LE COUTEUR: Do you have an idea of a better set of rules, if we just look at it from the solar access part of the equation? Obviously there is a lot more than solar access in 306. Recognising that a problem was recognised and that is why—

Mr MacCallum: I think I would prefer to see the examples of what would be deemed not to be appropriate. Because I thought the previous rules were perfectly acceptable, and we have done many, many dwellings that worked to those rules which we would be proud to show you in terms of their respect to neighbours as well as the amenity they provide the residents. I would actually like to understand what has not been working.

Mr Howard: I think that is a good point that Alastair makes: you should have a look at some of the outcomes under the previous planning requirements and look at some of the outcomes we achieved under the interim effect provisions.

MR COE: One of the submissions we received—I think it was from an individual—said, in effect, that before you make such a massive change it would be appropriate to review what is there at the moment. There is perhaps merit to that.

On the issue of consultation, had this document been broken up into five or six variations, or whatever it might well be, do you think there is a fair chance that that would actually attract more submissions and you would actually get people giving commentary based on their particular areas of expertise or their areas of interest?

Mr Howard: The first information that the government came out with was wrong, especially some of the diagrams that were so misleading. I think a lot of people lost interest because they found so many errors that they thought, “We are at least going to get something in without giving it some careful scrutiny.”

Mr MacCallum: I think to target a particular area is wise. It allows you to provide a meaningful response, knowing that you are focused on a particular issue. If there was purely a discussion around solar access—and you can see the work that we have all done collectively to respond, both directly to ACTPLA and, obviously, ultimately to you—we could have had a meaningful dialogue around that issue. When there are all these other issues embedded in it, we get nervous, I guess, as to what we are

ultimately endorsing or, in a contrary way, being critical about. We are not here to do that. We want to be constructive and work with ACTPLA. But it is so complex that I think it is too much to swallow. It is not policy neutral. That is the problem.

Mr Dowse: Fundamentally you need to start with what the basic right is on a block of land, and should be, to build a single storey house. Your setbacks need to start with what is a reasonable single storey house, a reasonable distance off the boundary, not just on a flat block but on a slightly sloping block. That is reasonable, that is what is going to overshadow the neighbouring block. It might be a little more than the 1.8 fence, but we have got to say, "That is the standard that is reasonable." For two storeys, you are putting it out there. You really are starting to impact on the neighbouring block. You start bringing a lot of controls in for the upper floor. What I was trying to show before was that single storeys are quite a monster under the new rules.

Mr Howard: And I am not sure what controls they do intend to put in place to control it because you can now build a fence on the boundary 2.1 metres high and it is exempt from the development and building approval. You can build a class 10 structure three metres high on the boundary and it is exempt from the development and building approval. In response to your question, Ms Porter, you can do that now. You can do a development in Molonglo, go back out there after it is all built and totally stuff up your neighbour's solar access.

Mr MacCallum: Picking up on Glen's point too about the basic right of a single storey dwelling, block sizes are getting smaller by virtue of affordability. Then you actually need to understand what is a basic right for a two-storey dwelling on what is in fact a smaller block. That is also equally important to understand. Part of that is not just about solar access but about the built form and the character of the development. We are getting some pretty weird developments.

Mr Dowse: And everybody has those rights. Each block owner has those rights.

Mr Howard: In Molonglo, they will maximise views as well. They get that from a two-storey element as well. They want to maximise things. "So much for this." Maybe they want to maximise views, maximise everything.

Mr Dowse: And we need to densify the city. We need to come to terms with a reasonable system.

Mr MacCallum: We hope that has not been too confusing.

THE CHAIR: There is a lot of food for thought for us. Members may want to put some more questions to you.

Mr Dowse: We would like to come back and answer questions at a later date.

THE CHAIR: If we have time, you can do that. As you can imagine, we have only got a limited number of dates.

Mr Dowse: I appreciate that. We have put a lot of time into this and we are available.

THE CHAIR: We need to get this completed. The secretary could write to you and you could answer the questions in writing if we have not got time to have this impromptu discussion we have had today. You mentioned that you invited the minister to go out. Has he accepted, did you say?

Mr Howard: Yes, he said he would.

THE CHAIR: When is he going to do that? I am thinking in terms of when he is coming back to us, whether that was before or after—

Mr Howard: We have just got to organise it with him.

THE CHAIR: You do not know?

Mr Howard: No.

THE CHAIR: We will find out when he is going out to see you. It would have been very interesting to have an inspection. I am not quite sure whether members could fit that in.

Mr Howard: We just wanted some more development to actually kick off in Molonglo, because that is really where this is being implemented.

THE CHAIR: We will have that discussion about a site visit. We will be sending you a copy of the transcript. You can have a look at that and see whether there is anything there that has not been caught quite properly by Hansard. We will get those questions to you should we have some more. Thank you very much for appearing before us this afternoon.

Mr Dowse: Thanks for having us.

THE CHAIR: This hearing is adjourned.

The committee adjourned at 3.58 pm.