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AND EXTERNAL TERRITORIES

Reference: Role of the National Capital Authority

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JOINT COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES

Wednesday, 17 September 2003

Members: Senator Lightfoot (*Chair*), Senator Crossin (*Deputy Chair*), Senators Hogg, Lundy, Scullion and Stott Despoja and Mr Causley, Ms Ellis, Mr Johnson, Mr Neville, Mr Snowden and Mr Cameron Thompson

Senators and members in attendance: Senators Crossin, Hogg and Lundy and Ms Ellis and Mr Cameron Thompson

Terms of reference for the inquiry:

To inquire into and report on:

The role of the National Capital Authority. In particular the Committee will consider:

- the role of the National Capital Authority as outlined in the Australian Capital Territory (Planning and Land Management) Act 1988;
- the Authority's overall management of the National Capital Plan;
- management issues relating to designated land under the National Capital Plan; and
- the relationship between the Authority and Territory planning authorities.

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Committee met at 6.07 p.m.**MILLER, Mr John, Executive Director, Canberra Business Council****SLOAN, Mr Craig, Chairperson, Canberra Business Council**

ACTING CHAIR (Senator Crossin)—I declare open this second public hearing of the Joint Standing Committee on the National Capital and External Territories. Our inquiry is into the role of the National Capital Authority. I will now turn to the proceedings at hand this evening. We have four witnesses before us, the first being the Canberra Business Council. Good evening and welcome. These are legal proceedings of the parliament and warrant the same respect as proceedings of the parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of parliament. The committee has before it your submission, which is No. 32. Are there any corrections or amendments that you would like to make to your submission?

Mr Sloan—No, Senator.

ACTING CHAIR—The committee prefers to take evidence in public, but if you want to give confidential or private evidence you can request that that occur and the committee will give consideration to that request. Before we ask you any questions about your submission, would you like to make an opening statement?

Mr Sloan—Thank you very much for the opportunity to be here today. As our submission states, we at the Business Council represent more than 300 direct businesses in Canberra and, through our 39 kindred organisations, represent over 5,000 other businesses in and around Canberra. We are a peak body, and the role of the NCA is crucial in how Canberra is formed and promoted as not only the national capital of Australia but also a business centre for the region. We have had great delight in being able to put this submission together for your consideration.

In summary, the Canberra Business Council supports the NCA and the role of the NCA as the principal body to oversee the national capital development through the National Capital Plan and believes that the act adequately sets out the roles and functions of the National Capital Authority. The council acknowledges the work done by the NCA. Obviously, with the introduction of self-government, appropriate steps were put in place. However, as times change, the role and function not only of the NCA but all other bodies affecting the Australian Capital Territory need to change as well.

Part of that role is obviously looking at planning. We note that a lot of the concern—and, I suppose, the press—surrounding the NCA relates primarily to its planning role and approval process. We acknowledge that that is there, but say that the NCA—certainly at a bureaucratic level—and the ACT government planning body tend to work generally quite well together. It seems that there are a lot more issues to resolve at the political level.

The council, through many of its submissions—including budget submissions—both at the ACT government level and federal government level, has always supported an increased role for the National Capital Authority in promoting and marketing the national capital itself. I think that is a role that the National Capital Authority does quite well. The Business Council has urged—

and continues to urge—that this function be given a higher priority and appropriate funding in order to create a greater sense of national pride in the national capital, in which all other jurisdictions are major stakeholders. Our budget submissions have always looked at ways of increasing that role. That is not to say that money should be thrown at the NCA without consideration of what happens in the ACT government arena. There is obviously some responsibility on that front.

With respect to the designated areas, the council—like other bodies, including the Property Council of Australia—has supported a streamlining of the approval process for developments where there are overlapping responsibilities between the National Capital Authority and ACT Planning and Land Management Authority. This is essential to remove the uncertainty and delays that have occurred previously, and continue to occur for various projects.

The council believes that the NCA properly manages the National Capital Plan and that the plan itself is, appropriately, the territory's major planning document in respect of areas of national interest. The council believes that the National Capital Authority should become involved in issues affecting Canberra's role as the national capital beyond the immediate confines of planning policy and decisions. For example, the authority could have—and express—views on major infrastructure development, on the basis of the quality and capacity of such infrastructure that judgments be made about Canberra's standing as the visitors' capital city.

The National Capital Authority and Planning and Land Management Authority relationship is the area that we are all seeking greater clarity on and streamlining. We at the Business Council would seek a clear delineation of responsibility for the planning and approval process that would provide greater certainty for all parties concerned. In summary, the council understand that the national capital belongs to all Australians and are supportive of the continued role of the National Capital Authority as a statutory body to ensure a safe and effective mechanism for managing territory land on behalf of the Commonwealth and for the promotion of the national capital. The council believe it is vital that areas of uncertainty are removed in the relationship between the National Capital Authority and ACT Planning and Land Management Authority, whilst recognising the dual functions of the national capital.

ACTING CHAIR—Mr Miller, did you want to add to that?

Mr Miller—No, I think it has been adequately summarised as per our submission.

ACTING CHAIR—Thank you. Mr Sloan, you talk about an increased role in the NCA in promotion and marketing. Is this a role they would play alongside the Tourist Commission or do you think that the NCA should have responsibility for promoting that zone in its own right?

Mr Sloan—I think the NCA currently does the job—and probably sees itself as having the job—of fostering and developing a national capital. Part of that rests not only in the planning of the national capital but also in selling and promoting that to all Australians, so that we have a national capital that all Australians can be proud of and that can hold centre stage anywhere in the world.

The role tends to get a little confused when you look at the National Capital Authority's role of promoting national assets compared to the role of the ACT government and its bodies,

particularly Australian Capital Tourism, in promoting the ACT. The Business Council has been advocating for some time—and is currently working towards this with other industry bodies—finding the correct nexus: no duplication of effort; from a tourism point of view, all parties talking the same language; and resources being shared to help each other achieve what are, essentially, the same goals.

ACTING CHAIR—Is there progress on that front or do you believe there needs to be some assistance or guidance to try and streamline this?

Mr Sloan—There is progress. I think the issue of promotion of the national capital is not that dissimilar to some of the issues surrounding the planning side. A lot of it has to do with the way the NCA communicates with industry and with the ACT government and its agencies. Similarly, how does industry and the ACT government and its agencies communicate back to NCA? I think it is fair to say that, from the Business Council's point of view, it would probably be more a communication issue as opposed to clearly outlining its set objectives or roles. The Business Council has been trying to foster—even on the tourism side—the bringing together those parties to make that happen.

There is no doubt that there is a feeling that the NCA at times can be the big brother and look down on ACT government agencies and say effectively, 'We know what's best for you,' as opposed to, 'Let us work with you.' That is a feeling that some of our members have expressed to us, and is one that we would obviously sit down and work through with the NCA team to try and overcome that, but I think the goodwill on both sides is certainly there. It is not like they are out there, quite angry and competing with each other. I think the missing link is probably more in communication. What we are working towards is to try and make sure the communication lines are there and that the scarce resources that are needed to promote the national capital can be supplied without being duplicated.

Mr Miller—I reiterate what Craig has said there. In our discussions with both the NCA and the other agencies within the ACT government, the will is certainly there to achieve more positive outcomes in any case. Sometimes it is a little hard to work our way through that fog but I think the bodies are getting there.

Mr Sloan—An example is the proposed Australia Day celebrations next year, where the Prime Minister will announce the Australian of the Year here in Canberra, followed by events that evening. The NCA have done all the planning. They are driving that whole process, which is a magnificent thing for the ACT, but the communication back from the NCA to government and then industry is not there at the moment, so much so that, when we spoke to the ACT Treasurer, he was not aware of the nature of this event and what contribution the NCA was looking for from the ACT government. We are working to bridge that gap, which is what came out of our meeting with the NCA. That is one small example. If we can build those communication channels, then a lot of that should be alleviated.

Ms ELLIS—I would like to take the comments that you were making a moment ago a bit further. Do you truly believe that it is only just a matter of communication? If that is the case, how do you change the attitude of the NCA when there is no legal requirement for it to be done? I am just surmising from your comments, and correct me if I am wrong: is it a good arrangement for the territory at large—the whole of Canberra is the national capital, not just the parliamentary

triangle—to rely on goodwill in the relationship between the entities of planning and approval and promotion? Should we rely on something a bit more substantial than goodwill and open communication?

Mr Miller—You are always going to get different roles and responsibilities and they are clearly there at the moment. The way it is set up at the moment, you need to rely upon some of that goodwill, unless you make other arrangements by other means to make these things happen.

Ms ELLIS—I guess that is the crux of the question.

Mr Miller—Yes. That is a matter for government to consider.

Ms ELLIS—That is why we need your opinion.

Mr Sloan—Goodwill can only go so far. When you are dealing with the assets that the Commonwealth has invested over many years in Canberra, it is essential that if the NCA are the body that have the responsibilities for looking after and promoting those assets, then there needs to be certainly some commitment, other than simply goodwill, to reinforce that they are responsible and accountable for promoting Canberra in the way that we see fit. Obviously when they look at their role, part of that is a funding commitment. How far they can go with their responsibilities in promotion? If most of their effort is centred around the planning and approval process of their assets, the promotion of the national capital we see as vital.

Certainly the NCA, in whatever form it has, must have that accountability to government. It also has to have a relationship with the ACT government quite clearly outlined as well. This is not simply from the NCA's point of view. I would think there would be a contra arrangement back and commitment from the ACT government and its agencies towards working with the NCA in making the goals of the NCA occur as efficiently as possible. That is part of the problem we have. Everybody is talking about the same objectives, whether it be those sitting within the NCA, the minister for territories or the ACT government. The crazy part about it is: where is the line that we just do not seem to be able to cross?

Ms ELLIS—Madam Chair, correct me if I am wrong, but I think it has been pointed out to us already that no official of the ACT per se sits on the NCA board.

Mr Sloan—I believe that is correct.

Ms ELLIS—That, to me, would be an ideal example of perhaps some of that openness. I am not blaming the NCA. I am just saying if that is a reality, is that a good thing, given that we are all living in the one town together? That may be one way of breaking down some of what you are talking about.

Mr Miller—Going back the other way, yes, I think there are some roles where equally NCA could be represented within the ACT.

Ms ELLIS—You mention the approvals processes and developments, where there might be overlapping responsibilities between the two planning entities. The NCA do not just look after this triangle; they have other plots of land around the town they look after as well. Given the

breadth of your membership, I would assume that you would have some members you represent who have in fact been thwarted to some degree in planning and development by dealing with two different planning authorities. Would that be a safe assumption?

Mr Miller—That is a fair assumption at varying times.

Ms ELLIS—I do not want recognisable examples but could you give us some of the examples of the sorts of frustrations? Do we believe that that is a good thing; if not, is there a way we can deal with it? Do you have some ideas about what we could do about it, given that the two planning authorities have completely different approaches? Public consultation at the ACT level is quite different to the NCA level. There is a different regime for notification. If you have something straddling the two, it must be very frustrating. Do you have any views on how we could attend to that, or is it okay to leave it as it is?

Mr Miller—People are looking for some change there. Some of the businesses operating within the ACT environment look at the planning and approvals process within NCA and aspire to that particular model. That is something the ACT need to address as well. There is no question about that. Certainly in a time element there is a critical time lapse for some businesses in trying to get approvals. By the time they go through a second or third hoop with some of these approvals processes, these projects become questionable for some, and they are frustrated by the current arrangements.

Mr Sloan—As John said, there is no doubt there is frustration out there. As an organisation, it is almost irrelevant how real that frustration is; two or three are badged in a negative light. We have seen that over time. At the bureaucracy level, things may not be too bad between the two planning bodies in this region, but certainly from a political side things are thrown in the muddy water and mud seems to stick; it does on both sides of the camp. As you well know in this town, it certainly can stay there for quite some time. From the council's point of view, it really is trying to streamline and clearly identify the responsibilities of the NCA and the ACT planning and approval body—who should be responsible for what piece of land—so that we do not have this duplication of processes.

We do not agree that the NCA should look after just the parliamentary triangle. Canberra, as the national capital, is far more than that parliamentary triangle, and I think the NCA has a very valid role in looking after all designated land that it has. It should have approval over the land that it is responsible for, but part of giving it that ultimate approval should be that it must tie in and work closely with the ACT planning body, so that we have streamlining of the approval process.

Ms ELLIS—Are you saying that they would have the ultimate say?

Mr Sloan—If we have a recommendation to do away with the dual approval process—and it is on designated land—I think the NCA should be able to make the ultimate call on planning approval.

Ms ELLIS—What about the converse view that all designated land goes to the ACT authorities for approval? I am not advocating that—I am not advocating anything—but if we are going to look at one, look at the reverse.

Mr Sloan—Sure.

Ms ELLIS—What if all designated land was handed over to the ACT to look after? That would also remove the dual planning process.

Mr Sloan—Yes, it would.

Ms ELLIS—I am being provocative.

Mr Miller—You are, indeed, and you are doing a great job!

Ms ELLIS—Let us flesh it all out. If we are going to look at it, we should look at all of it.

Mr Sloan—I think you have to. That is obviously the counterargument that would be put, and quite rightly so. I do not think it really changes the argument that there needs to be cooperation and close working ties between both those parties. Whoever has the ultimate responsibility would need to be able to work closely with the other party to be able to achieve that. You would think on designated land that the NCA would still have to have a say.

Mr Miller—It is designated for that reason.

Mr Sloan—Otherwise you come down to saying, ‘Just let the NCA concentrate on the parliamentary triangle.’

Mr CAMERON THOMPSON—Your main focus is on marketing Canberra and the role of the NCA in that. How do you think Canberra currently stacks up against other capitals across Australia?

Mr Sloan—In its marketing?

Mr CAMERON THOMPSON—Yes.

Mr Sloan—We are in a very unique position here in Canberra in that the territory government and a body such as the NCA both have a common goal and should be focusing on the same thing. Our view in the Business Council is that there is not enough money put in by the ACT government towards tourism and marketing. We would want the NCA to continue its role and work closely with the ACT government and agencies and, of course, industry as well. John would be in a better position to discuss how it stacks up to other capitals.

Mr Miller—There has been a lot discussed at a local level about how well we fare in promotion. The NCA’s role, where they assist, obviously helps, but there is some concern within the local industry that we are not well enough promoted, although we have a benevolent media who do a good job for us quite often by mentioning Canberra, but not always favourably. We probably lag behind other areas in the way in which we are promoted.

Mr CAMERON THOMPSON—Are there specific aspects of marketing engaged in by other capitals that you think would be appropriate here and which we are missing out on in Canberra?

Mr Miller—We are a smaller jurisdiction, and we do quite well for the numbers of visitors that we get to the territory. Obviously, the fact that we are the national capital is important to our being and to our tourism industry. By and large, for what we have and what we have to expend on tourism and promotional marketing, we do quite well compared to other jurisdictions.

Mr CAMERON THOMPSON—You are looking for a greater contribution from the National Capital Authority. In what way would you like it to change? Rather than just talk about dollars, what is this outcome you are seeking?

Mr Miller—The greater level of cooperation that we alluded to in the earlier part of our submission would be one of those ways. If there was a greater level of cooperation between the local agency—that is, the ACT government—and the NCA, that would go a long way towards helping to coordinate the way in which we promote ourselves nationally.

Mr CAMERON THOMPSON—I understand that is the process, but I am looking at the goal, the end point that you are seeking. What are you trying to achieve by getting a greater contribution? I understand the need for cooperation and all that. You say we get a lot of free media that others do not get.

Mr Miller—Adverse!

Mr Sloan—That does not really help us.

Mr CAMERON THOMPSON—What is the goal? On TV you get ads for Victoria and for Queensland—

Mr Miller—A greater national pride is certainly one of the things that we would be looking to achieve. We are the national capital and we probably are not viewed the same way as maybe Washington or Paris or some of the other international cities. Those capital cities are certainly not viewed in that way. One of the goals we are all trying to achieve is a greater level of national pride—not having so much the preconceived ideas that maybe our parents and grandparents held of Canberra. I think it is very important that we help develop national pride, and that is one of the reasons why we seek that cooperation.

Mr Sloan—How do we do that? Ideally, in this town, we should have one tourism body that speaks and promotes Canberra as the national capital and Canberra as a place of business and tourism overall. The NCA clearly has a role up to a point, but it then has to hand the baton over to ACT industry and government agencies to carry that on. That is obviously separate to this inquiry in terms of, ‘We have a beef with the ACT government. They should be spending more on tourism and making some commitment to the tourism dollar.’ We have always advocated that they need to work more closely with the NCA. In earlier discussions we talked about their having representatives sitting with the NCA on a committee, board or whatever to help promote the national assets of the Australian Capital Territory and vice versa—the representatives of the NCA sitting on local tourism boards—to make sure that we are all talking the same language.

As I said before, we need to make sure that the scarce resources that we currently have are being utilised efficiently. We would like to see the NCA not being scared to cross the line into the promotion of Canberra, getting involved with the promotion of Canberra, as opposed to the

national assets which it directly holds responsibility for. Part of that is being involved on whole of Canberra and whole of ACT tourism bodies.

Mr CAMERON THOMPSON—In terms of planning, I am interested in comparing the situation in Canberra to that in other capitals. Is the planning process that we have decisive enough, with enough direction, compared to other capitals, or does conflict between these bodies delay things too much?

Mr Sloan—I think the delay factor is critical. As to being decisive, I think the bodies generally work quite well together. It probably is frustrating for a lot of people. It depends on what is being decided or discussed at the time, but it really is making sure the common goal of the ACT government and that of the NCA, through representing the minister for territories and obviously the government, is consistent. From a planning point of view, it is trying to streamline that process. There is decisiveness after quite an extensive period of time. As I said, in terms of the bureaucracy level, the agencies generally work quite well together and can decide on things, but the duplication of the process is where the delays come in, which are frustrating for developers and, certainly, our members.

Mr CAMERON THOMPSON—Thank you.

ACTING CHAIR—Thank you for your attendance here tonight. If there are any matters that we need additional information on, the secretary will write to you. You will be sent a copy of the transcript and you can make corrections or editorial changes.

Mr Sloan—Thank you very much.

[6.38 p.m.]

CONWAY, Mr Peter Michael, Executive Director, Canberra Property Owners Association Pty Ltd

ACTING CHAIR—The next participant is Mr Conway from the Canberra Property Owners Association. Welcome to this inquiry. You would be aware that these hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of parliament. The committee has not received a submission from the Canberra Property Owners Association. Do you have a submission that you want to lodge this evening?

Mr Conway—We forwarded a two-page statement which we were going to speak to.

ACTING CHAIR—We have some notes.

Resolved (on motion by **Ms Ellis**):

That this committee receive into evidence a statement from the Canberra Property Owners Association Pty Ltd.

ACTING CHAIR—The committee prefers that your evidence is given in public, but if at any time you want to give us some confidential evidence, you can request that your hearings are held in camera and we will consider that request.

Mr Conway—Thank you, Senator.

ACTING CHAIR—Before we ask you any questions, do you have an opening statement that you wish to make?

Mr Conway—First of all, you will have to excuse me as I am suffering from the Canberra flu. If I die halfway through you will understand. We welcome this opportunity to make a submission. Since self-government a decade ago, a lot of the problems that were first visited upon self-government are now coming home to roost—the land that was handed over to the territory at the time and what became known as designated Commonwealth land. We feel that a lot of the issues confronting us now could have been better resolved at the time but, given the history of self-government, the various legislative assemblies and federal parliament since that time, we cannot revisit the past. We would like to put forward some positive proposals, as we have in our brief notes.

I am disappointed that Mr Thompson has just left. He raised the question of marketing Canberra and I thought he made a very interesting comment. On the planning side of the issue, I would like to see the National Capital Authority, apart from the tourism comments that were made previously about there being a tourism venture for Canberra, represent and push Canberra as the nation's capital and make comment in the national media about our leasehold system. One of the biggest issues in Canberra in getting financiers and others to come to Canberra is our leasehold system. Both the federal parliament and the local parliament now acknowledge that

99-year leases in the territory are automatically renewed. We find that in dealing with business and banks interstate, in particular, the leasehold system in the territory confuses them no end. We have had situations where people have been trying to borrow money interstate and it has been refused or there has been a lag in that time. From a planning point of view, it would be a major positive step if the NCA were to take out major ads in the *Australian Financial Review* saying, 'Come to Canberra. We may be a territory under the Australian Constitution but you have nothing to fear with the leasehold system.' The 99-year leases are automatically renewed in the territory for \$220.

There are some other issues I have written in the notes. The association members looked at the possibility of having one planning body and complementary legislation but we accept the vagaries of the Hare-Clarke system in the Legislative Assembly, and also trying to get something through the House of Representatives and then the Senate. It would be nice but it is not going to happen. It was interesting hearing the previous speaker. We also think one of the major deficiencies is that there is not joint cross-fertilisation of the National Capital Authority Board and the ACT Planning and Land Authority board. We think it would be a major benefit to us all if there could be some melding of the two bodies so we could appreciate and understand what is occurring.

Our other major issue is the way that land is released in Canberra. There are three bodies—ACTPLA, the local planning authority that releases land on behalf of the ACT government; the NCA, which does have some control; and the federal Department of Finance and Administration. In the last decades of self-government the federal department of finance under both Liberal and Labor administrations decided to release land on the market without advising the local agencies of that effect. Representing local Canberra property owners, we have found that we really are the meat in the sandwich when that happens. We do not know whether we can buy land, whether we should acquire a block of land.

For example, today—and it is quite timely—the ACT government announced it is going to release some land in West Civic. Do we go ahead and acquire that land? Do we put in a tender? At the same time, just down the road we have Anzac East and Anzac West, two portal buildings at the end of Anzac Parade. We do not know what the federal government or the department of finance have in mind for those buildings. There were rumours in the market about their becoming the new Federal Police headquarters. We have also heard that they would be excellent residential buildings. If they were to be released tomorrow by the federal department of finance, that would blow any chance of the ACT government or anybody else wanting to acquire Civic West land. The two are not talking to each other. In terms of planning, there is not only the NCA but the federal department of finance and ACTPLA.

Last Saturday the federal Department of Defence announced that they were looking for 20,000 square metres of office space over the next four years here in Canberra, and asked for tenders. I am unaware whether any of our members at the moment could compete for that amount of office space, acquire a block of land and get it through ACT planning legislation to meet the Department of Defence requirements, whether it be in Tuggeranong in Ms Ellis's electorate, in Belconnen or here in Civic. We do know that one group that can do it under National Capital Authority approvals is the airport. They could start building such a building tomorrow.

Once again, there is this disproportionate approval process between NCA land, Commonwealth designated land and ACT land. If we could somehow have a welding of the two, it would be marvellous. I wish you well in your deliberations.

ACTING CHAIR—I would like to ask some questions about the land release, just to help me get a handle on what happens. Are there sometimes issues in relation to the land release where the buck is passed between the three bodies or is there duplication of requirements? From your point of view, is it not clear what each of the roles of those three bodies are and where you as a property owner might fit into that?

Mr Conway—We understand they are three individual roles, but we find that the three do not talk to each other and there is no legal requirement for them to do so. That is why we mention here that we would like to see the National Capital Authority in an umbrella role, undertaking some sort of economic impact statement, if I can use those words. If the department of finance is about to release some land in the Canberra market, then it should be able to talk to ACTPLA and say, ‘This is about to occur. What other land have you got on the market, ACTPLA?’ so that we as the local residents can work out where we are going to go in our major purchases. Without that, it makes it very difficult to borrow money and it makes it very difficult to know what to acquire or what not to acquire.

ACTING CHAIR—I am aware of the problems with the 99-year lease. I come from the Northern Territory, and that is not an uncommon situation up there. Are there many examples of where people have not been able to borrow from banks because this has been a restriction on the contract?

Mr Conway—It has happened to several of our members. It is the timing of it. Ultimately, the money would have been approved. One of the major banks, as you would appreciate in the Territory, is now taking its head offices to Sydney and Melbourne. They do not have local players on the ground that understand the system. It has meant that people that are wanting to acquire have had to go to Sydney, and it has taken an extra week or two. If you are going to a major auction for a major land release, it is the delay in the process and that lack of certainty in making the bid.

ACTING CHAIR—Yes, I see.

Ms ELLIS—Mr Conway, I want to take you further on this one point. I want to be clear about this. As we all know, there has been many a debate in the ACT in the past about the adequacy of the leasehold system. From my perception, it has usually been because people just do not understand how it works, rather than it being unacceptable. Is that the point you are making?

Mr Conway—Most definitely. We understand to change it would be a constitutional change and extremely difficult, but it is exactly explaining to people outside the territory that there is no problem in having a leasehold.

Ms ELLIS—What you were suggesting in your earlier comment was that, if there was one good thing sitting up there obviously in lights for the NCA to do, it could be—for argument’s sake—the promotion of Canberra as a good place to invest in this instance.

Mr Conway—That is correct. We see no disadvantage. Central London is leasehold. Singapore is leasehold.

Ms ELLIS—Exactly! There are many examples around the world.

Mr Conway—There are no problems with people wanting to buy in the middle of London. Leasehold there can be down to five, 10 or 15 years.

Ms ELLIS—Could you elaborate a little bit more on the question of land control, land release and the approval system? I did this a little bit with the witnesses before you. There have been some very graphic examples in the last few months of massive releases of land—very large tracts of land—by the Commonwealth onto the market, with no regard at all, as far as I understand, to the ACT government and planning processes for future development and planning in a strategic way. Is there anything else that you want to say about that particular aspect of the planning process?

Mr Conway—A classic example here in a very practical sense is the Landmark development, which is in Barton between the Ottoman Restaurant and the lake. That was released just after both the federal government and the ACT government had agreed to do a land swap for the Museum of Australia and Kingston foreshore development. Once that had occurred, the Kingston foreshore development was seen in terms of land tax and stamp duties by the ACT government as a major contributor to the economy. Out of the blue, the department of finance—unbeknownst to anybody—said, ‘Right, we’re going to auction this block of land.’ I believe that auction has put back the Kingston foreshore development by some two or three years in the sale process.

Ms ELLIS—Because of its impact on the marketplace?

Mr Conway—Yes, it had an immediate impact on the marketplace. As I said, with those two portal buildings—Anzac East and Anzac West—if they came on the market tomorrow unannounced—and we cannot get a direct answer from the Commonwealth—the effect on residential and other purchases or potential development of Civic would once again be put on hold.

Ms ELLIS—I asked this question of the previous witnesses and I want to ask you as well. Because you are representing a large group of property owners—people who have to deal with a planning regime every time they do anything—it is very evident to us and to a lot of other people that the regimes under which the two planning processes operate are quite different. State Circle and the recent variation debate there is an ideal example, but there are many others. Public notifications, neighbourhood notifications, restrictions and all those sorts of things are quite different between the two authorities. From the property owners’ point of view, what is your constituency’s view on how you can tread down each side of this fence of planning when that impacts on them?

Mr Conway—If our members were looking at purchasing any property—large property we are talking about—at the moment, regrettably, a lot are saying you would only acquire land that was under national capital land, Commonwealth land. The local planning process is too tardy, too slow and too litigious. The airport is the best example at the moment. The acquisition of that

property was an excellent choice for that developer, in terms of wanting to proceed and develop a transport hub, a hotel, a motel or whatever on that site. We acknowledge that the current government and previous ACT governments have been minority governments and subject to cross-bench arrangements, but in terms of acquiring land, if you were an outsider coming to Canberra, you would buy designated Commonwealth land under NCA control.

Ms ELLIS—I understand why you are saying that, but I want to be provocative here as well and push this argument a bit. Given that we have ACT self-government and given that the ACT government has control over the majority of the space in this territory, in terms of planning, sales, development and approvals—and this might be something you cannot answer—is it fair to say that that is the best thing, because you do not happen to like the regime in place or the processes in place at a local level? Is it the easier way out?

I do not know whether you would be willing to answer that, but that is a fair judgment one could make, given that there is a lot of criticism from ACT residents about their inability to be involved in the planning approval process of the NCA. State Circle is a prime example, where the people living there have had—and we could debate this with the NCA, but we have had the debate—little say in what was being proposed over their back fence, because it happened to be the NCA running the show there. You could not get away with that in another part of Canberra. I understand, with the greatest of respect, that you are representing your constituency, but isn't there another one as well?

Mr Conway—Most certainly, and that is the dilemma we are confronted with when we make the choice to acquire some land for an office development in West Civic or out at the airport. The easiest program at the moment would be to go to the airport. However, I also understand the difficulty for people living in the inner north and Jerrabomberra and the problem that they are going to face with potential aircraft noise and the like. It is a dilemma, and I think it will take some time locally to work that through. We acknowledge the dilemma. From an outsider's point of view at the moment, if designated Commonwealth land comes up for sale, that is the easiest way to proceed.

Ms ELLIS—I can understand why you say that, but I do not know that that is quite the answer to the overall planning processes for the ACT, if we want to be judgmental about it.

Mr Conway—No.

Ms ELLIS—I think we have gone as far as we need to.

Senator LUNDY—I have one question. You do make a comment in your correspondence, Mr Conway, about the airport and the planning in relation to the airport. You make the comment that the airport is a magnet for government tenancies and, as such, is denuding the town or group centres of potential development:

Indeed the airport has become a major group centre, providing retail services well beyond the proposed transport hub concept. Can you elaborate on that point, please?

Mr Conway—Yes, most certainly. It is not our own view. The ACT government has recently issued a paper *Towards Canberra: the spatial plan*—the planning of Canberra. You can see in

that diagram the old Y plan, which was called the 'Development of Canberra'. In future planning the ACT government has allocated an extra spot, which is the airport. The planning regime out at the airport demonstrates to us that the plot ratio regime, the height restriction—before you arrived, Senator, I had mentioned that the Department of Defence called for a tender for 20,000 square metres of office space here in Canberra in the next four years, with the national headquarters coming to Canberra. Of the people that I represent here tonight, there are very few who would be able to put that amount of property on the market, but the airport could do it tomorrow. That is because of the planning regime that exists out at the airport.

Senator LUNDY—For the record, what is the planning regime that applies to the airport?

Mr Conway—There is the issue that Ms Ellis has just raised: there is no need for full-on, public notification. In regards to the lease for the airport, if I could wave a magic wand and have it on my house in Braddon I would be absolutely delighted—if I was so minded. It allows residential, commercial, hotel, motel, office—

Senator LUNDY—Who governs that lease and who sets those conditions for that lease?

Mr Conway—At the time of the sale it was set by the federal government of the day, the department of finance that sold the lease.

Senator LUNDY—What status does it have under the National Capital Plan, given that it was federal land that was sold?

Mr Conway—It is private land now and it is under the purview of the National Capital Authority. We understand another lease variation has been put forward to the National Capital Authority to further enhance the range of the use of that land. It is the leasehold system, in a sense, but it is Commonwealth under the National Capital Authority. The purchaser of that land is doing what he is entitled to do on that parcel of land under Commonwealth law. The company that runs it, as you know, is a local company. They are sponsoring a whole range of sporting arrangements, airlines and the like. But we understand it is likely to be sold shortly to a major international consortium. There are two airlines very interested in getting into Australia—Emirates and Singapore. If that were to occur, then we would be facing real problems as local Canberrans. It is a private parcel of land under the control of the National Capital Authority.

Senator LUNDY—This is the first time I have heard about the possible sale of the airport. On what do you base those comments?

Mr Conway—It is an airport that is privately owned. It is our understanding that, long term, the process is to—as any property owner would—have it leased to as many outlets as possible, so that when you put it on the market you have every potential operation on that block occurring. It could be leased for 25 years to the Department of Defence; airport terminals booked in to three or four airlines; international airport; hotel, which the lease allows.

Senator LUNDY—Sorry, I thought you said that they were planning a sale or you thought that they were preparing for a sale.

Mr Conway—We understand that the airport is available for sale. The process at the moment is actually ensuring—

Senator LUNDY—Sorry, is it on the market, as much as airports can be on the market?

Mr Conway—I understand it is, but you had better talk to the owners.

Senator LUNDY—In the real estate pages for airports!

Mr Conway—Yes. It is on the market, I understand, as an airport; a transport hub and associated arrangements.

Senator LUNDY—All right. Thank you.

ACTING CHAIR—Thank you, Mr Conway. If there are any matters that we need additional information on our secretary will write to you. You will also be sent a copy of the transcript of your evidence. You can make editorial corrections if you think that needs to occur.

Mr Conway—Thank you, Senator.

[7.06 p.m.]

COONAN, Mr David John, Vice-President, Australian Capital Territory Sustainable Rural Lands Group Inc.

LOWE, Mr John, President, Australian Capital Territory Sustainable Rural Lands Group Inc.

TULLY, Mr Evan, Treasurer and Public Officer, Australian Capital Territory Sustainable Rural Lands Group Inc.

ACTING CHAIR—Welcome Mr Coonan, Mr Lowe and Mr Tully. These hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of parliament. The committee has received your submission, which we have numbered 45, from the ACT Sustainable Rural Lands Group Inc. Are there any corrections or amendments that you want to make to your submissions?

Mr Lowe—No, I think those submissions are right. There is a typo but we can fix that.

ACTING CHAIR—The committee prefers to take all evidence in public but if at some stage you want to give private or confidential evidence to the committee, you can ask for that to be the case and we will consider your particular request. Before we ask you some questions, did you want to make an opening statement?

Mr Lowe—Yes, Senator. Thank you very much for responding to us. We apologise very much for our late submission and also what we think is probably an inadequate submission, given the importance of the function of this committee.

All of our members are leaseholders of rural land in the ACT. If you look to the west of the ACT, we form virtually a continuous line immediately to the west of the ACT, with several members in the Tidbinbilla Valley. All of our members have been burnt out by the 2003 fires and three of our members were burnt out in the previous year's fires as well. We are finding dealing with all these inquiries a little bit hard to manage because I think this inquiry is the 10th inquiry in planning and management in the ACT that has arisen since the 2003 fires. It is very hard to deal with that.

I have a few comments. I would like to endorse and maybe come back to some of the points that Mr Conway made previously. A lot of the problems we have are similar to the points he has made, except we have them to a far greater extent, I believe. I will make some general comments. We have had difficulties dealing with some functions that we face in the ACT, and our leasehold and recovering from the fires has brought them particularly into focus. We have dealt with both the local planning and the National Capital Authority planning. We have come to a view that we do not believe the National Capital Authority's function should be limited to the layout issues of the ACT.

As it is intended in the National Capital Plan, it should embrace quite vigorously the principles and the standards that are laid down in the Australian Constitution. The ACT environment, in relation to the protections of an individual's rights, property owners' rights and property holders' rights and the coordination of planning, should be exemplary. I do not think that is the case at the moment. The ACT government in a way is not equivalent to the most popular states as it lacks the checks and balances which are a part of the structure of New South Wales and Victoria, in that there is no local government, there is a unicameral structure of parliament. There is, in our view, a lack of electoral accountability through the Hare-Clarke system and there is no head of government representative.

We are concerned that the ACT is not meeting the first of the principles of their own submission, which is accountability. In our experience, over probably the last 10 years—but certainly since I have come and perhaps more since the early 1990s—the ACT government has been very unwieldy. There are certainly too many responsibilities for the individual ministers and, as a result, we find the bureaucracy and megadepartments are very unresponsive and are likely, we believe, to be subjected to manipulation in the way they go about their business. The tendency is for the government to fall back to legal processes to solve problems, rather than to sort them out by negotiation. As a result, it falls short on principle and seems to be more concerned with power within the bureaucracy.

Evidence of this—and I think Mr Conway was saying the same thing—is that since self-government the growth in the ACT has been somewhat disappointing in terms of the overall economic management and the growth in confidence within the ACT community. The economy is still 70 per cent dependent on government and I think it was 68 per cent prior to self-government, or around about the same figure. Much of the development is going on in the region around the ACT and not in the ACT. The comments about the airport are clear evidence that there is a problem.

The ACT is here because of the other states and exists to support the federation of Australia and, we believe, the ACT, notwithstanding that self-government should continue to be subject to overriding review by the federal parliament in all respects of its activities. It is a little bit different from the Northern Territory, in that the Northern Territory has responsibilities solely for its own functions. Canberra is really the showcase for Australia and its self-government should fit that objective; it should be a showcase of self-government.

Of particular concern is that all our members are old lessees, in the sense that we are full-time farmers. We have one member who is in his 90s, three in the 70s and a couple who are younger. The result of us standing up to the ACT government in the way that they have dealt with our leases is that we have found the government to be unresponsive and vengeful. In the last 12 months we have found that others are having the same experience. We have been approached to help them but, because of the traumas of the fires and the difficulties we are having in dealing with all of that, we have been unable to respond very much to that sort of request.

The 2001 and 2003 bushfires have highlighted the management problems and the inquiries to date—the McLeod inquiry and the various other inquiries going on—have raised serious concerns as to the adequacy of the management response to those bushfires, both in the planning and in the initial response. We believe there is much yet to come in those things and I think it

reflects on the management of the ACT. We believe it is somewhat of a disgrace that the national capital burnt on 18 January.

We are very concerned that the ACT government is not as sympathetic to its citizens as it should be. The many planning activities that have occurred since the fires have caused additional anguish and concern to all the victims. I speak for both urban and rural areas. Many people in the suburbs to the west of Canberra went there for the particular ambience and they are very concerned about the planning that is going on which seeks to try and make fundamental changes to the structure of Canberra.

I think there is no realisation within the planning organisations of the impact that these things are having on the victims of the fire. There are many thousands of these people; it is not just 500 households. It is creating a great deal of uncertainty in their minds about what Canberra will be like in the future. Also, going to a number of meetings of different groups throughout the ACT, there is a very big concern as to whether in fact the points they are making are being heard by the ACT government.

Most of the people who have been victims have been unable to respond in a constructive way to these inquiries. Our own submission reflects that and we apologise for that. Their own advisers to the ACT government in this area, in response to the bushfires, are saying that it is going to take a long time for people to come to terms with it and perhaps several years, perhaps as long as seven years, for people to come to terms with the financial restructuring that each of these individual households is involved in. Yet planning for the spatial plan, the Hollway inquiry into the non-urban land uses, has gone on unabated. In fact, the spatial plan has actually extended its scope and seems to be getting up even more steam. We are very worried about it.

The consultation has been ineffective. The non-urban land review—which is the Hollway inquiry—really comes up with virtually no change to the government owned land outside the urban areas. The government owns and manages 80 per cent of the land outside the urban areas. All the change is focused on the rural areas. I think there is 0.5 per cent of a change in the ACT government land-holdings. We are very concerned that the Minister for Planning is really not taking much of a directive role in this and looking to ways in which the government owned land can be managed better.

Unfortunately, we also have to say that we cannot understand the attitude by the Minister for Planning towards two of our members who were burnt out in both the 2001 and 2003 fires. They have spoken out about their concerns and the result of that was that an offer of a 99-year lease—which was previously endorsed by the National Capital Plan and by the local territory planning, right through to June of this year—has been changed by the Minister for Planning to an offer of a 20-year lease, and we are very concerned that it might be a case of victimisation by the minister against people standing up to him.

We also would like to report to the committee that we have had contact with people from the New South Wales disaster areas. They have been supportive and very concerned about the way in which the ACT instrumentalities responsible for rural lands have been non-responsive to concerns since the fires. We do have some very big leasing issues which predate the fires. We sought the assistance of the Chief Minister and the Minister for Planning to resolve those. We know that they have written to all manner of people since 18 January, but they have not written

back to us, other than to direct that all our communications should be to the Government Solicitor's Office.

What they have done is not very helpful at all. In fact, the Minister for Planning at a meeting on Monday said to the group that he did not expect there would be any confidence in what would be happening to the rural area, at least until the end of the year. If there is going to be any change in the way the rural land is going to be used, it will have to go back to the federal level, which means that we are looking at a number of years of uncertainty and difficulty and lack of confidence, and all the problems that Mr Conway referred to here.

We believe that, as the system is maturing, self-government in the ACT has become less accountable, less transparent and less responsive to the electorate. Regrettably, we think the need is greater for an increasing degree of oversight so that Canberra can be exemplary as a national capital in the fundamental social and citizen rights aspects of the Australian federation. That is not what is happening now. It is critical that, in administering self-government, the ACT should follow the just and fair intentions of the Australian Constitution which are prescribed in the self-government act, and this is not being done. In a recent letter to the *Canberra Times*, the Minister for Planning confirmed that this was the case and that he was appropriating lessees' rights for the public benefit, without compensation.

Hence, the National Capital Authority's role may need to be rethought and should be clearer, in not just looking at administration but also looking at making sure the administration is not inconsistent with the principles set down in the Australian Constitution. Maybe the committee could look at how a mechanism along those lines might be followed up. We are happy to discuss any of these aspects with you, if you wish.

Mr Coonan—We have something to add concerning Mr Conway's submission. He made a very interesting point about leasehold. He said that 99-year leases were automatically renewed. Indeed, under the Commonwealth legislation and in Edmund Barton's introduction speech to parliament and the debates that occurred back when Canberra was first formed and the Constitution was formed, there was every intention that leasehold would be renewable. The only problem is that, under ACT government administration, leasehold renewal for rural is not automatic. They have attempted to preclude the renewal of people's leases, which were clearly already being renewed by the Commonwealth government under Commonwealth administration—and clearly they have a right to renew.

The ACT government took a step in the parliament to amend the legislation that said, 'We must have a new lease issued upon the surrender of the old lease.' They have amended that. My family have been in this town for 40 years. We came here and bought a lease in good faith that had a right to renew. Simon Corbell, post these fires, has deliberately and intentionally gone in and said, 'You can no longer have a 99-year lease offer. You can't roll over the existing lease you've got.' The only lease my family has been offered is a 20-year lease, and at the end of it the compensation provision does not recognise that there is any future option of a lease. My family would be foolish to consider taking up that offer. Under the expiry of our current lease, we would be due some money.

Under the Commonwealth law, it is rural land. It has not been changed to become suitable for urban development yet. There is a process there. The ACT government is exceeding its authority.

It needs to have something like the NCA to stop it behaving in a way where it is just totally locked into short-term dollars from developers and ignoring its role as the seat of government.

ACTING CHAIR—Thank you, Mr Coonan.

Ms ELLIS—Thank you, gentlemen, for being here and for your submission to the inquiry. I say at the outset—and I am sure my committee members, both present and absent, will not mind me doing this—that the best wishes of our committee go to not only you but all of the people who suffered as a result of the fires in January. I pass that message on, particularly to you tonight, on behalf of the committee.

Mr Coonan—Thank you.

Ms ELLIS—The difficulty, of course, is that we do not have—and neither should we have—jurisdiction over the ACT government and how it runs its business. We can take your submission and the comments you make, with the greatest of respect and intent, and refer to them and use them, but what we are really looking at is the role of the NCA in the ACT rather than the role of the ACT government, because the NCA comes under federal jurisdiction and the ACT does not, in the sense that we are speaking of. I know you understand that. Kate and I are locals, but the other members of the committee are not—although they pretend to be. For the benefit of the committee, could you explain as accurately as you can what jurisdiction, if any, the NCA directly has over any of the land you are currently on?

Mr Coonan—Yes, I can do that.

Ms ELLIS—Literally and legally.

Mr Coonan—Literally and legally, we are in both a river corridor area and land which the National Capital Authority have designated as rural. They have said to the ACT government, ‘Here are the allowable land uses and, within those allowable land uses, there is a prescribed set of things we can do.’

Ms ELLIS—The territory plan does not control you?

Mr Coonan—The territory plan must be consistent with the national plan, and the national plan says it is river corridor, which allows grazing and agriculture.

Ms ELLIS—For the whole of your property?

Mr Coonan—Yes. Now we have Simon Corbell acting against that plan, on the advice of his bureaucracy. Let us face it: this is not Simon acting on his own. Ministers have advisers within the government. What is happening here is that the bureaucracy have an agenda, and they manage to sell that to successive governments simply because they run a series of arguments. We can point to briefings where the facts are not right. What does the National Capital Authority have to do with our leases? It is very simple: the Constitution said that the land in its free state belonged to the Commonwealth.

Ms ELLIS—Yes.

Mr Coonan—In 1955, in terms of people with our leases, the Commonwealth sold every other interest in the land that it could possibly sell, provided we stayed with grazing and agriculture.

Ms ELLIS—And following self-government?

Mr Coonan—Following self-government, with the advent of the National Capital Authority and the senior plan over a local plan, it was locked into that planning regime that that area was rural and river corridor; in other words, the plan said the Molonglo Valley and the Cotter Road area had attributes that were in the national interest to keep as a rural environment. If you go to the top of Black Mountain tower and look down, you see rural. Nowhere else in the world, if you go to a national capital, are you going to get that sort of stuff.

Ms ELLIS—I understand that. I am a great supporter of the fact that we can do that, but I need you to stick, if you can, to the literal—

Mr Coonan—To the legislation.

Ms ELLIS—legal administration of your block of land today.

Mr Coonan—Under the national law, we are entitled to renew our leases.

Ms ELLIS—Who runs the lease? Is it the ACT or the NCA?

Mr Coonan—The ACT is really only an administrator on behalf of the Commonwealth in this situation.

Ms ELLIS—Is that your legal argument or is that the reality?

Mr Coonan—I think the legislation that sets up the ACT allows the ACT to be the administrator, but it constrains or limits what the ACT can do. The ACT cannot part with the land, because it belongs to the Commonwealth. The land uses that are granted by the National Capital Authority are the land uses granted by the National Capital Authority. The ACT should be working within those land uses.

Ms ELLIS—In other words, what you are saying is that, regardless of what happens 100 years from now, no territory government has the power to decide anything about the use of your land other than the Commonwealth saying you can have it for—

Mr Coonan—Until it convinces the Commonwealth to change the land use. That is the legal situation.

Ms ELLIS—We will have the NCA back and we will check that with them. We will take this transcript, put it straight to them and get it clarified.

Mr Coonan—The point being that, if the National Capital Plan had said, ‘That is an allowable land use for the ACT government,’ what right does the ACT government have to propose things that are outside that and then affect the existing lease? That is the question.

Ms ELLIS—We will get some advice on that.

ACTING CHAIR—Are you then putting forward a proposal that the NCA should have some sort of obligation to say to the ACT government, ‘Wait a minute; what are you doing here?’

Mr Coonan—Yes.

ACTING CHAIR—That they should say, ‘We are supposed to have one plan, one vision—

Mr Coonan—Yes.

ACTING CHAIR—and you seem to be stepping over the mark here. Get out of our territory and fall into line.’ Is that basically what you are suggesting—that the powers of the NCA should be strengthened to do that?

Mr Coonan—Yes. In a nutshell, we are saying that the ACT exists because there had to be a seat of government. It exists to provide a whole range of benefits to the Australian community, and the Constitution specifically reserved powers over ACT land. One of those is very clear. It did not just say the national capital triangle is the ACT for the purposes of the federal parliament. If you read some of the early history of setting up the territory, they specifically did not want just 10 square miles. They wanted to be able to control the vista and the benefit that would flow from changing land use.

When self-government occurred, the ACT was granted management control and the freedom to dispose of the leasehold title in a whole range of areas, at no benefit to the national community. The previous person—Mr Conway, I think—made the point that when the department of finance sells some national land and puts it into the marketplace it gets a gain. If you have a look at the 1971 submission that removed land rent and said that the territory should be placed on a similar footing—it did it with the Northern Territory as well—rates revenue was for the running of the territory and land lease revenue, because it had a value, was a different revenue stream.

What happened in self-government is that, for the areas where the ACT government was given management, it was handed all that with no benefit back to the community. What we are seeing now is that when the Commonwealth decides to release some land it gets a yield for the national community. The question that comes up is: if the National Capital Authority is to change a land use and there is a windfall gain for a developer, where should that go? Should it go to the developer? Should it go solely to the ACT? Should it be shared? If you want to keep the planning pure, which is the intention of the NCA policies—the policies that set up the NCA—the territory should not be getting a direct windfall. It should be accounted for in the Grants Commission. That is what we are saying—that forms part of the four points we are making.

You need to have proper oversight of the territory’s behaviour. You need to have a mechanism that keeps the planning independent and provides the benefits of the national capital to the community of Australia. Then you need to step down from that and say that, if there are changes, those changes should be shared by all the people. Anyone who has leasehold is constrained by the purposes of their lease. It has long been established that if you want to change your lease purposes you go to government and you may pay a betterment, depending on whether there is an

overall community benefit or whatever. But does the government have the right to remove someone's lease purposes without consideration?

Senator LUNDY—Do you believe the NCA concurs with your interpretation of the treatment of the land?

Mr Lowe—In what way?

Senator LUNDY—Do they agree with you?

Mr Lowe—You will have to ask the NCA.

Senator LUNDY—I guess what I am asking you is: have the NCA told you that they agree with you?

Mr Lowe—We have had some discussion with the NCA about whether this action by the ACT government in relation to our rural leases is maladministration under the NCA's purview. It is not clear that it is not—let us put it that way.

Senator LUNDY—Have they provided you with any advice yet?

Mr Lowe—Not yet. They are in the process of doing that now. What we do not understand is why there has been such a clear distinction made in the management of rural leases, particularly leases of our type which have rights that have been recognised by the High Court, and why this discrimination has been made. The problems that Mr Conway spoke about previously are exactly the problems we have—only worse, with almost no security.

We have been arguing with the ACT government now for the best part of 10 years about trying to get long-term leases. Every time we go and talk to them about it, in whatever forum, we get issues raised related to whether the same land area will be made available, whether there will be some conditions attached to the lease, whether there will be a betterment charge made or whether there will be something else made. All we want is what has been offered to every other leaseholder in the ACT, and that is the right to roll over our leases to have some security of tenure for the future. We are more than happy to enter into proper agreements for land management and all that sort of stuff.

Senator LUNDY—I certainly understand all of that. When the NCA provides you with that advice, can you provide that to the committee?

Mr Lowe—We certainly can.

Ms ELLIS—It would be helpful.

Senator LUNDY—Thank you.

ACTING CHAIR—Thank you very much for your attendance here this evening. If there are any matters we need from you, we will write to you.

Ms ELLIS—Madam Chair, can I just add something. You made some remarks, John, about the amount of effort and angst going into inquiry submissions. That is greatly appreciated—we understand that. It has been a big concern that people who suffered through the fires have been faced, again and again, with requests—from this federal parliament as well as from the local body—for information and submissions. Some people have been brave enough—or stupid enough, I would suggest—to criticise some people for not taking advantage of the inquiries under way. I have to assure you that there are people in here, particularly, who have very much defended the members of the Canberra community who may have felt that criticism. The last thing people have wanted to do is tell their story for the 100th time. I wanted to put that on the record as an understanding from our level of exactly what it is you have been asked to go through, and we appreciate that.

Mr Lowe—We would like to say that we think the federal inquiries have been very useful.

Ms ELLIS—Yes, but they have taken another effort.

Mr Lowe—Yes, they do take another effort, but they have allowed other people—not us—to lay some facts on the table that might not otherwise have come forward.

Ms ELLIS—Absolutely.

Mr Lowe—We are here because we wanted to do that and explain to you the frustrations—

Ms ELLIS—I just wanted to say that we appreciated the effort that you have gone to.

Mr Lowe—Thank you very much.

ACTING CHAIR—Thank you once again for making the effort to come here this evening.

[7.36 p.m.]

DONAGHUE, Mr Paul Joseph, Chairman, Magnet-Mart Pty Ltd

ACTING CHAIR—Mr Donaghue, welcome to this hearing. These hearings are legal proceedings of the parliament and warrant the same respect as the parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. We have received a submission from you which we have numbered 44. Are there any corrections or amendments that you want to make to the submission you sent to us?

Mr Donaghue—No.

ACTING CHAIR—We prefer that all evidence is taken in public, but if at any time you have something confidential or private that you wish to say to us you can request that the committee go in camera and we will consider that request on your behalf. Before we ask you any questions, I invite you to make an opening statement.

Mr Donaghue—You have read my objection, I guess, to the proposed homemaker centre at the airport.

ACTING CHAIR—Yes.

Mr Donaghue—Very simply, our objection is based on the fact that our company makes commercial decisions based on the ACT plan, which is under the control of the ACT planning body, and we make many decisions in relation to that at considerable expense to us. When a homemaker centre, proposed under another planning body, comes out of left field, as far as we are concerned it is an understatement to say that it is an anomaly in the marketplace.

ACTING CHAIR—Can you expand on that? Are you suggesting that a Homemaker Centre is going to be erected in the airport vicinity—is that right—under the NCA?

Mr Donaghue—I understand that is the proposal, yes. Yes, I do. If that does come in, when we make commercial decisions on where to go, like Gungahlin or Queanbeyan or whatever, if it was in the territory plan we could take that into consideration when we made a commercial decision. But it is not under the ACT planning body, so we could not make a commercial decision on that, which might have been different to what we did.

ACTING CHAIR—Where the problems and the issues of the duplication in planning that we have heard of tonight come up, do they cause problems for people in your situation?

Mr Donaghue—Absolutely. Really, it just points up the silliness of having two planning bodies—so-called planning—in the ACT, particularly when they do not get on terribly well together. When something like this comes out of left field, it is an anomaly in the marketplace. I object to that. Following on from that, as I say, is the silliness of having two planning bodies. They should get their act together.

Ms ELLIS—Thanks, Mr Donaghue, for being here. It is good to see you. I remember you more as Pauls Home Centre.

Mr Donaghue—Yes, I still make mistakes, and call our company 'Pauls'.

Ms ELLIS—You were the pre-Bunnings Bunnings—if I could be so crude as to put it that way—way back then.

Mr Donaghue—No.

Ms ELLIS—Better than that?

Mr Donaghue—No, we are different to them, completely.

Ms ELLIS—Yes. I have to be up-front and say that I really share your concern enormously with the apparent ability, because the land we are talking about happens to be at the airport—it could be anywhere, for that matter—and is sitting under the jurisdictional planning control of a different authority to the land that you have bought at Gungahlin—

Mr Donaghue—Yes. We bought it and then resold it.

Ms ELLIS—there is a different planning regime control out there; there is no need apparently for an overall view of the ACT when decisions are made as to what to put out there. That is your major complaint, is it not?

Mr Donaghue—That is right. That is the underlying complaint I have, yes.

Ms ELLIS—Competition per se—

Mr Donaghue—Not a problem.

Ms ELLIS—You live in the world of competition.

Mr Donaghue—Yes, absolutely.

Ms ELLIS—I just want to get this clear because some people could take the view that they believe in the free market as long as it does not set up shop next door. What I want to do is give you the chance to clarify absolutely the reason why you think this is unfair. A homeware store could be set up anywhere in Canberra, under the current planning regime within the ACT anyway, and it would be competition to you. What is it that makes it intrinsically abhorrent to you—that it can be done out there—which is different to elsewhere?

Mr Donaghue—Wherever you go in Canberra, or elsewhere in Australia, there are rules. Councils make rules or whatever. There are places you can go to and places you cannot go to. So you make commercial decisions, which we have done in New South Wales, to do something on that site. In the ACT there are also supposedly rules here as to what you can do, where you can and cannot go. We know those. When they come up for tender or auction or whatever, we tender or put a price on a particular area or block. That is what we did on that site. When another

planning body authorises another thing that comes out of left field, I do not think that is playing fair on that site, as far as I am concerned.

Ms ELLIS—No forward notification; no indication on the plans.

Mr Donaghue—No. I agree with you about competition. We can set up next to Bunnings—and we are going to set up next to Bunnings down at Shellharbour next year—right on their doorstep.

Ms ELLIS—Good.

Mr Donaghue—But if that was under the planning authority and we had known a Homemaker Centre was going to come up at the airport, it would not have been a problem. We would then have made our decision, maybe, not to have gone out to Gungahlin or not to have bid that price for Gungahlin, or we might have put a smaller store there and said, ‘We are going to do something over here at the airport,’ or whatever. But we did not have the opportunity to do that. It just points up, as I said, the silliness of having two planning authorities and things coming out of left field in that area.

Ms ELLIS—It is two planning authorities, one of which follows a particular regime.

Mr Donaghue—Yes.

Ms ELLIS—It has notification and notice and designation and—

Mr Donaghue—That is right, all of that.

Ms ELLIS—a flag on the block to say what it is to be used for. The other one has no requirement of future projected use, and so on. That is really what you are complaining about.

Mr Donaghue—Yes. Maybe I have not put it all that well.

Ms ELLIS—No, that is fine. I understand.

Senator HOGG—That is very well put now.

Mr Donaghue—Okay.

Ms ELLIS—We needed to clarify that because it is very important that we understand the exact basis of the objection. I understand the objection. You have the whole of the ACT with the ACT planning authority deciding future retail development, future development of large scale, and they are not done lightly.

Mr Donaghue—No, they are not.

Ms ELLIS—Then, all of a sudden, with no projected notification whatsoever, something happened out there which was totally unpredicted. That is the point you are making.

Mr Donaghue—And we did not have the opportunity to take that into consideration for a commercial decision at that point in time.

Senator HOGG—What happens in the regime just across the border in New South Wales?

Mr Donaghue—There are rules in New South Wales.

Senator HOGG—There is a fairly strict regime there as well.

Mr Donaghue—Yes, sure.

Senator HOGG—That is all right. You are looking at the exception to the rule.

Mr Donaghue—Yes.

Ms ELLIS—This might be an unfair question—and I accept your reasoning and I understand exactly your objection—but do you have a view, despite that, as to what you think ought to happen out at the airport anyway? Let us just hypothesise and say they have a future notification and say, ‘Look, in three years time we are going to release something’—it might not be a homeware store, it could be something else—because there is discussion about the Y plan of the ACT and, all of a sudden, we have the Y plus a leg. I wonder if you have a general view about that anyway.

Mr Donaghue—I am for development always, as long as it is okay. If it is in my backyard it is not a problem at all, as long as they play by the rules. It comes back to the two planning bodies. What are they both responsible for? That is the benchmark question, I think. Once you can define what they are both responsible for, the answer to that question at the airport will unfold easily.

Ms ELLIS—Yes, that is fair comment. That is a fair answer. Thank you.

ACTING CHAIR—Mr Donaghue, thank you for your time this evening. If there are any matters on which we need additional information our secretary will write to you about that. You will be sent a copy of the transcript of your evidence this evening, in case you need to make any editorial corrections.

Mr Donaghue—Thank you.

ACTING CHAIR—Before closing this public hearing I want to once again thank the witnesses who appeared before the committee this evening.

Resolved (on motion by **Senator Hogg**):

That this committee authorises publication of the proof transcript of the evidence given before it at public hearing this day.

ACTING CHAIR—I declare this hearing closed.