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JOINT COMMITTEE ON PUBLIC WORKS

**Reference: Site remediation and construction of infrastructure for Defence site at
Randwick, NSW**

FRIDAY, 12 MARCH 2004

RANDWICK

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JOINT COMMITTEE ON PUBLIC WORKS

Friday, 12 March 2004

Members: Mrs Moylan (*Chair*), Mr Brendan O'Connor (*Deputy Chair*), Senators Colbeck, Ferguson and Forshaw and Mr Jenkins, Mr Lindsay, Mr Lloyd and Mr Ripoll

Senators and members in attendance: Senator Forshaw, Mr Jenkins, Mr Brendan O'Connor and Mrs Moylan

Terms of reference for the inquiry:

To inquire into and report on:

Proposed site remediation and construction of infrastructure for the Defence site at Randwick, NSW.

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Committee met at 11.06 a.m.

CLARK, Ms Elizabeth, Director, Property Disposals Task Force, Corporate Services and Infrastructure Group, Department of Defence

HUTCHINSON, Brigadier Peter, Director General, Infrastructure Asset Development Branch, Department of Defence

KENNY, Mr Paul, Manager, Regional Planning and Development, Corporate Services and Infrastructure Group, Department of Defence

MITCHELL, Lieutenant Colonel Douglas, Project Director New South Wales, Infrastructure Asset Development Branch, Corporate Services and Infrastructure Group, Department of Defence

CHAIR—I declare open this public hearing into the site remediation and construction of infrastructure for the defence site at Randwick Barracks, Sydney, New South Wales. This project was referred to the Joint Public Works Committee on 12 December 2002 for consideration and report to parliament. In accordance with subsection 17(3) of the Public Works Committee Act 1969:

- (3) In considering and reporting on a public work, the Committee shall have regard to –
- (a) the stated purpose of the work and its suitability for that purpose;
 - (b) the necessity for, or the advisability of, carrying out the work;
 - (c) the most effective use that can be made, in the carrying out of the work, of the moneys to be expended on the work;
 - (d) where the work purports to be of a revenue-producing character, the amount of revenue that it may reasonably be expected to produce; and
 - (e) the present and prospective public value of the work.

The committee has this morning received a briefing from the Department of Defence and inspected the site of the proposed works. The committee will now hear evidence from the Department of Defence, the Randwick Community Park Committee, Mr Craig Coughlan, the Communication Electrical and Plumbing Union, Mr Lex Davidson, the Randwick Defence Site Protection Group, the SOS Preschool, the Randwick City Council, the Moverly Precinct Committee and CH2M Hill.

I welcome witnesses from the Department of Defence. The committee has received a submission and 16 supplementary submissions from Defence. These submissions will be made available in a volume of submissions for the inquiry and they are also available on the committee's web site. Does Defence wish to propose any further amendments to the submissions that it has made to the committee?

Brig. Hutchinson—Yes, I do. On page 9 of the department's statement of evidence for the interim works the last sentence of paragraph 39 requires amendment. The amended sentence should read: 'This work has been substantially completed'—the word 'substantially' should be added—'and the land was sold in June 2003.'

CHAIR—Would you now like to make a statement in relation to your submission?

Brig. Hutchinson—The Department of Defence has declared 48.9 hectares of land at the Randwick Barracks site to be surplus and intends to dispose of 35.5 hectares by sale and 13.4 hectares to be dedicated to the community in the form of parks and a community centre. The remaining 19.7 hectares of the barracks site is to be retained for defence purposes.

The site remediation and construction of infrastructure for the defence site at Randwick Barracks was referred to the committee in December 2002 and a public hearing was scheduled to take place in April 2003. However, at the request of Defence, the proposed hearing was postponed to allow investigation of potential options to finance and deliver the proposed works and to allow more detailed development of the scope of works required for the portion of the barracks to be retained. The department will shortly be providing government with strategic options for the future funding and delivery of the disposal of the site. A consultancy is also currently under way to fully scope and cost the works required for the retained portion of the barracks including the engineering infrastructure. The intent is that the department will bring the full scope of the project forward for the committee's consideration when a government decision on the strategic approach has been determined.

Following transfer of the management of the delivery of works at Randwick from the property disposal to the infrastructure asset development functional areas within Defence, three medium works packages were developed to meet previous commitments to the Randwick City Council and to government. These works were identified to the committee in October 2003 and were subsequently briefed to the chair and deputy chair in December 2003. These works, which are the subject of this hearing, are referred to as the Randwick Disposal and Rationalisation Project: Interim Works in the department's supplementary statement of evidence.

The interim works include the Randwick community facility and Randwick environmental park, the relocation of 9th Force Support Battalion and the consequential minor rationalisation of some units on the retained portion of the barracks, and the preparation for sale of stage 1B and part stage 5/6 of the land identified for disposal. The budget for the interim works is \$8.75 million in December 2003 prices. This includes management, demolition, site decontamination and remediation, design, construction costs, payments to authorities, agents commissions and fees, and contingency. Subject to parliamentary approval, the works are planned to be completed by late 2005.

In summary, Defence seeks to dispose of surplus land at Randwick Barracks and seeks to optimise the return to the Commonwealth, balanced against providing appropriate facilities and an amenity for the public and continuing to provide appropriate facilities for our units and our people.

CHAIR—Thank you. The Public Works Committee Act 1969, referred to as the act, states that a work which stands referred to the committee must not commence before the committee

has considered and reported on the work. Commencement in this context includes the preparation of contract documentation. According to Defence's submission No. 27 the Army relocation works have already been completed—paragraph 31; the construction of the community centre commenced in November 2003—paragraph 35; and limited remediation works have progressed on the overall site—paragraph 25. Given the provisions of the act, can you explain why Defence commenced works that stand referred to the committee without awaiting the committee's report on the full proposal?

Brig. Hutchinson—Yes. The works commenced after there had been an internal Defence transfer of responsibility for this project from the Property Disposals Task Force to the area that I look after, the Infrastructure Asset Development Branch. In line with attempting to improve management procedures of the past to provide greater transparency for our processes into the future, my area had a different approach to what had gone before with this project. We notified the committee of that approach in the letter to you of October 2003 where we actually looked at the three elements of works as being separate medium works projects. In hindsight, the different approach should have meant a removal of the original referral from 2002. However, that had not occurred. We acknowledge the committee's view that we needed to conduct this inquiry and that is why we are here today.

Mr BRENDAN O'CONNOR—I can recall this matter coming before the committee early last year, and indeed there was a scheduled hearing on 16 April last year. There has been, therefore, almost 12 months delay in our capacity to examine the project. In particular, I would like to make reference to your request in 2002 to gain the committee's approval to commence the remediation and preparation for the sale of so-called stage 1A of the Randwick Barracks disposal as a separate medium work on the grounds that revenue from the sale of that portion was necessary to enable Defence to meet its 2003 revenue targets. I think that was the basis upon which the request was made. Following a comprehensive briefing on the works, as I recall, the committee gave its approval for that portion of works to proceed on the understanding that the remainder of the project would be subject to full committee consideration. My question to the witnesses is: given that Defence was aware of the committee's requirements with regard to the reporting of medium works, why was a similar course of action not pursued in relation to the works subsequently identified as separate medium works?

Brig. Hutchinson—I think the issue is one of a temporal disconnect, in that we were proceeding concurrently with the development of the projects and with the referral of my letter of October 2003 to the committee. Somehow those two occurrences actually got slightly out of sequence. I think there was an issue of about 10 days between when a contract was let and when my letter to the committee actually came forward.

Mr BRENDAN O'CONNOR—I am mindful of the fact, Brigadier, that you have come into this process somewhere in between—not at the commencement—but the work had commenced before the letter dated October 2003.

Brig. Hutchinson—The contract was let for the community centre and for elements of the Army relocations before I had actually signed off on the letter to the committee, and the time difference there was in the order of 10 days to two weeks. I would have to check the exact dates of the contract being let.

Mr BRENDAN O'CONNOR—Are you aware that those actions on that occasion constitute a breach of the act?

Brig. Hutchinson—I guess I was acting in good faith. I was trying to be transparent in the process—

Mr BRENDAN O'CONNOR—It is not a personal reflection on your conduct—as I said, I am mindful of when you came in; it is more a question of the defence department's actions. Don't take it personally, is what I am saying.

Brig. Hutchinson—I accept that the committee has pointed that out to us, and we are looking to move forward and to try to ensure that we avoid those issues in the future.

Mr BRENDAN O'CONNOR—For the record, could you explain why the project was transferred from Defence's Property Disposals Task Force to the Infrastructure Asset Development Branch?

Brig. Hutchinson—The project is actually being managed as an integrated team. But the lead of that integrated project team switched in mid to late last year, probably around the August period, from my colleague Michael Pezzullo, who is the assistant secretary for strategic planning in a state development and is responsible for the property disposals team, to my area. We still have an integrated team; it is just that the lead has changed.

Mr BRENDAN O'CONNOR—I will stop there, Madam Chair, to allow others to ask questions.

CHAIR—Senator Forshaw?

Senator FORSHAW—I am more interested in hearing the evidence of those who are coming later and then Defence's response.

Mr JENKINS—In the context that we are today looking at interim works which then lead to the overall development, I am interested that a decision was made to do the development on the grid pattern, which I now understand has a heritage, historical basis. I suppose my interest in the grid pattern is that sustainable development sometimes goes against modern design. At what stage in the whole thing are we locked into the grid pattern, which then leads to some of the measures you have had to take because of criticism from the neighbourhood?

Brig. Hutchinson—I will start and then pass across to Ms Elizabeth Clark from the property disposals area to cover the whole answer. My understanding is that elements of the grid pattern are being retained, but not the entire grid pattern from the previous site. That is part of the heritage side of things. With the development, though, we are looking very closely—and this is part of the development plan—at modern techniques for flow through the area, for the traffic control within the area, and that has been integrated into and balanced against the requirements of the heritage plan. So there is a compromise between the heritage plan and modern development techniques, but I will ask Liz Clark to expand on that.

Ms Clark—In developing the applications to go to council for the future development and look of the area, Defence were involved with appropriately qualified town planning consultants in developing a master plan for the area. That would have been done cooperatively with the council as well. In that process, they would have identified criteria that they would wish to continue into the future. In this instance it is the grid pattern, or at least part of that pattern, that would not only fit in with the surrounding area but also take into consideration modern town planning techniques for things like bus routing through the area, so the road pattern allows for buses to travel down the roads and the corners are appropriately located so that buses can actually turn corners. So those modern urban planning techniques are taken over; however, we do not completely forget about the past but take that message through—in this instance, it is the pattern of the site. None of the buildings on the area that is due to be disposed of are being retained for historical purposes, but at least we can take through the road pattern.

Mr JENKINS—To continue a theme that moves towards ecological issues, I would describe what I saw this morning as having aspects of a post-industrial site located next to some bushland with great potential—and that leads to some challenges. In relation to the area that I have labelled post-industrial, outsiders and people working on site have put to us questions about retention of the trees and replanting. I ask for those questions on the bushland or the environmental park and the other components of the interim works be taken separately.

Ms Clark—In relation to the park, we are working very closely with the council to remediate that area. Some embellishments are going to occur in that area. In the park itself, we have removed lantana and other noxious weeds. We are trying to improve that area prior to it being transferred to the council at a later date. We have removed perhaps 10 trees throughout the whole site. So we are trying to keep any removal of vegetation—trees et cetera—to a minimum, but you have to balance that against the fact that, if we are to remediate the soil, we have to remove the trees to actually get to the soil. So we are trying to keep that to an absolute minimum but also ensuring that we are going to improve areas as well.

Mr JENKINS—Is part of the remediation the planting of vegetation of any description?

Ms Clark—There is a requirement for landscaping in the development of the areas that will be on sold, and there is embellishment as part of the work that we are doing on the park area as well.

Mr JENKINS—What process has been undertaken in the planning stage of the removal of contaminated areas and what work has been done so far on that removal?

Brig. Hutchinson—We have worked to meet all of the planning requirements of the state government and local authorities—and I will ask Liz to give a bit more of the detail. In outline, we have been looking to meet the government's ecologically sustainable development requirements to the maximum extent possible—in particular, the principle that we should look to reuse as much of the material and the elements on site as we possibly can. We have been working with some leading edge, state of the art developments in remediation of contaminated soils—soils that have been contaminated with asbestos. We have been in consultation with the authorities and with the experts in this area to develop a process where we can actually remove the contaminated material from that soil so that we can reuse that soil on site. Tests have been conducted which prove that process.

On top of that we are looking at things like the reuse of the concrete. There are a lot of concrete slabs and so on that are on site and we are looking to crush that concrete, remove the steel and so on from it and then reuse the crushed rock for road base on the site. They are just two of the measures that we are taking to look at the ecologically sustainable development of the site and meet those government requirements.

Ms Clark—In relation to examining the level of contamination on site, extensive studies have been undertaken across the site by environmental consultants that have been engaged by the department over many years. To determine the type and the extent of any contamination, the notice of intent documents the extent and type of contamination and also recommends various strategies for its remediation. How do we do this? The process to determine the extent of contamination involves two phases. The first phase involves a historical analysis and desktop study of what has happened at the site whilst it has been used by the department. That involves a lot of research. Practices have changed over time, and we endeavour to find as much documented evidence as we can about what the site has been used for.

On top of that, we devise a testing regime which focuses very much on what we have found and where contaminants may exist. We then go into phase 2, which is a further analysis of the initial results through bore sampling and testing the soil and examining those results. Another phase gets better definition of the type of contaminant and the level that we have in that area. Depending on what those results are, we proceed further to determine an appropriate strategy for its remediation and whether it can be dealt with on site or whether it has to be removed to an appropriate landfill facility. It is quite an extensive sampling process.

Mr JENKINS—How transparent has this process been? To what extent have stakeholders such as neighbours and those who are working on site been consulted?

Ms Clark—The information is readily available if anybody wishes to inspect it. We have given the opportunity to people to come and have a look at the documentation in relation to the results from those findings.

Brig. Hutchinson—The other side of that is that the processes are examined by an independent auditor who acts basically as the representative of the state authorities. The legislation requires that we have the auditor to check off all the processes that have occurred and to sign off on everything that has been done to say that it meets the legislative requirements and, at the end of it, that the land is fit for its intended future use.

Mr JENKINS—While I would usually defer to a local member, such as Senator Forshaw, I have a couple more questions on this line.

Senator FORSHAW—I am a senator, not the local member.

Mr JENKINS—Well, a local member—a person who represents the area. I think the department would be aware that later in the day we will be taking evidence from people who have concerns about processes, including the union which is concerned about ongoing consultation, so it may be easier when you come back to have those things clarified. One of the comments that has also been made is that in the staging of the project there is the appearance that we have gone from a whole-of-site remediation to a staged remediation. From the sense of the

committee's work, at what cost is this staging, in particular with the remediation? There are other costs and benefits from the way the project is going but I am asking particularly about the remediation.

Ms Clark—Do you mean why are we staging it rather than doing it in one hit?

Mr JENKINS—Is there a disbenefit in doing it in stages?

Brig. Hutchinson—We are doing it in stages for a couple of reasons. The first reason is that we are tied to certain commitments which we need to meet. We have commitments to the Randwick City Council to complete a certain amount of works in order to meet the requirements of the development applications. That includes the Randwick environmental park, the community centre and a number of other commitments which are listed in the submission but which are not required, necessarily, up front. We also have commitments to government to meet our revenue targets as part of the disposal. That is one reason.

The other reason is that it is a large site and we are learning as we go about the development of some of these processes. As we do that, we are also looking at the funding mechanism. Obviously it would be a large capital outlay. We want to develop ways of potentially avoiding that large capital outlay. It is taking us some time to develop those processes and to put that to government for approval prior to completing the project.

Senator FORSHAW—As Mr Jenkins has just said, we will be interested to hear your responses later to the community concerns which we have had put to us in the submissions. But I have a couple of questions now on this remediation process. Firstly, how would this site be classified in terms of the level of contamination generally, compared to other industrial sites that may have been rehabilitated in Sydney, including defence properties? On a scale, is it high, low or medium risk? Secondly, is the process that is going to be followed here one that has been used on other sites in Sydney or elsewhere? You were talking about a state of the art, cutting edge approach, which is different to something tried and tested. Could you comment on those two issues?

Brig. Hutchinson—I guess the tried and tested approach would be to remove everything from the site, which would have consequent problems in that the material has to go somewhere and, depending on where that material goes, someone may eventually have to look at ways of removing the contaminants anyway—even from landfill or that sort of thing. So part of the issue is that perhaps we would just be passing the problem off to somebody else through that traditional approach of removing everything from the site.

Senator FORSHAW—Except that Defence, I would have thought, would still be ultimately responsible for at least the cost of the remediation, treatment or disposal even if it occurs somewhere else. It is not necessarily germane to this, but this is not a cost issue, then, that you are considering—or, rather, an economy issue.

Brig. Hutchinson—No, it is not a cost issue—that is not the only issue: obviously there are costs and there are the principles of an ecologically sustainable future and everything else. I am not sure about the responsibility for material that has been removed. My personal feeling would

be that if we were paying somebody to use it as landfill that would be transferring the risk of that material to that landfill, but I would have to seek separate advice.

Senator FORSHAW—That is not an issue here anyway in terms of the way you are proceeding. To come back to the question I was asking, can you point to other sites where this process has been used and been demonstrated to be safe, efficient and world's best practice or best industry practice?

Brig. Hutchinson—As to the detail of your question, I will ask Liz to make a few comments, but my feeling is the actual detailed expertise for that particular area lies with the independent site auditor. So I would prefer to defer the detail of your question to that witness, who I believe is appearing later on. I think that that is probably where the technical argument should occur.

I do not really have visibility over how we compare with other sites. The visibility I have is that what we are doing to this site will meet all of those legislative requirements and, despite the fact that it may not be the traditional way of doing things, we are actually moving this way not through a cost issue or anything else but because we think that this is the way to move for the future in terms of economically sustainable development, meeting those principles of maximum reuse of materials and everything else. As a side benefit of that, there may actually be some cost benefits as well. It could actually be a win-win situation. Perhaps Ms Clark could expand on that.

Ms Clark—The brigadier is quite right: I do not think it is appropriate for us to make a call on how clean or not clean it is in comparison with other sites; that should be left to somebody who is very experienced in that process on a much wider scale than just our site. Asbestos is not restricted to Defence; it is a much broader problem generally. That, to some degree, has led to the strategy we are looking at here. Ross McFarland from CH2M Hill is the auditor and he is one of the foremost authorities on dealing with asbestos, particularly here in New South Wales.

The site has fragmented asbestos sheeting in the soil as a result of past practices when, literally, in some parts asbestos sheets were put on the ground and just broken up and bulldozed into the top level. So what we are trying to do is look for a strategy and a remediation approach that can remove those fragments and appropriately put them into a licensed landfill. But we do not actually have to take the entire amount of soil on the site. It would be extremely expensive to take to the tip, but also I am sure we are in an age where we can deal with this a little bit more efficiently.

Ross will be able to expand on the process that we have identified. It is a sieving process. As part of that process they ensure high standards of safety for anybody involved, especially in relation to the equipment they wear and the monitoring of fibres in the air while they are doing it. I think Ross will be able to give you a short explanation of the process this afternoon.

Brig. Hutchinson—Perhaps if I were to go through the actual details of the steps that we take in the process it might be of interest to the committee in explaining the levels of what we do.

Senator FORSHAW—I am not a technical expert either. Certainly there is a clear indication that the community would be concerned that assurances that are being given can actually be backed up—and I am not suggesting they cannot be. For instance, were there options considered

and did Defence make the decision about which method would be used, or was this all left to the independent auditor? In other words, who recommended this process of remediation?

Ms Clark—As part of the court case and the council's concerns in relation to the level of the contaminant in the soil, it was determined that we would be required to go through an appropriate process and that we would work with the New South Wales Department of Health in determining how we would make a call—and how the auditor would make a judgment—on what the site could be used for in the future. We were quite rigorous in adopting strategies for testing the soil, a process to clean it and then independent validation by the auditor; and for him to be working with the Department of Health to ensure they were confident that the soil was suitable to remain on site and to be used into the future. So we have been very rigorous in looking at the method we used and at how we actually measured the outcome of those results on the soil. That was done separately to the department. We were involved with the process, but how that process was refined to achieve a level of confidence for not only the auditor but also the Department of Health and the council was quite extensive.

Brig. Hutchinson—I would like to expand on that. I think perhaps I have put a little bit too much emphasis on the independent auditor. The process up front was developed in consultation with the Environmental Protection Authority, Comcare, the Labour Council, the New South Wales Department of Health and the local council themselves. So there were a number of key stakeholders involved in that initial development of the process. The second point I would like to make is that Defence has made all contamination documentation available to the community through a number of briefings, such as to the community centre, the SOS Preschool, Moverly Green child care centre and so on. Invitations have been made in newsletters to contact the site office to view documentation and obtain copies of the summary of asbestos results paper. A catalogue of all project documentation with regard to contamination assessment was also provided to the New South Wales Labour Council. So there has been community consultation in all of those areas.

CHAIR—Thank you. I would like to continue with the issue of the contaminated land, because it seems that a primary aim of the works at Randwick Barracks disposal site is the remediation of contaminated land for future public sale. I notice that in your submission No. 1, in paragraph 30 you refer to the asbestos cement sheeting but in paragraph 79 you refer to contamination occurring across a reasonable portion of the site and to other contaminants, located in discrete pockets, which include heavy metals, petroleum hydrocarbons, polycyclic aromatic hydrocarbons, slag fragments and metallic wastes. I wonder whether you are aware of the specific health risks associated with each of these contaminants that have been identified on the site.

Brig. Hutchinson—With each of these contaminants that have been identified on the site, I will go through, in outline, the process—and I think Ms Clark has already covered part of that process—of conducting a survey to find out where these contaminants may have been located. We have gone back into the history of the site to find out what was actually involved on the site and where those contaminants could have been located. We have then drilled into, and examined in more detail, those specific areas where we expected we could find contaminants. We have also done a random survey of other areas to provide us with some level of certainty.

CHAIR—I understand that. You say in your submission No.1 at paragraph 31 that the disposal property has been subject to comprehensive and structured contamination studies.

Brig. Hutchinson—Yes.

CHAIR—I asked whether you understand the health risks or whether you are aware of any health risks that come from those particular substances which you have outlined in your submission.

Brig. Hutchinson—The department is aware of the health risks that are associated with those contaminants. Each of the contaminants has been treated in a specific way appropriate to that type of contaminant. So, for example, if they need to be completely removed from site, they have been completely removed from site. If additional areas around those contaminants have needed to be removed then those issues have been looked at as well.

CHAIR—But they have not been removed yet, have they, in all cases?

Brig. Hutchinson—No.

CHAIR—That is in process. I guess what I am leading up to is that it is understandable—given that there is not only asbestos cement sheeting on the site but also these other contaminants, albeit in discrete pockets—that some members of the public have asked for a map detailing the precise extent and nature of the contaminants across the site. They have not been able to get this. Are you able to provide a map detailing this? If so, can you make that available to the public? Can it be posted on your web site so that people can get a better idea of where these pockets of contaminants are and so that they can be assured, when you have gone through the remediation process, that this has been dealt with so as not to pose any risk to the future use of the land by the public?

Brig. Hutchinson—In answer to the previous question, when I indicated that those decontamination results were made available to the public through that same process, I meant that the issues you have just mentioned are also available. So, for example, where we have found these other types of contaminants that are mentioned there, we do have indications on maps of where those contaminants have been found. In fact that was included in the statement of evidence.

CHAIR—Has a map been made available to the public so that they can see where these contaminants have been or are? Later, of course, they can be assured that they have been removed. Can that map be posted on your web site so that people can see the areas that are being talked about?

Brig. Hutchinson—As I said, the map was included in the statement of evidence. It has also been made available through the notice of intent, to the Labour Council and at the public forum. I just mentioned those other issues, and if the public needed further information than that, people can contact and visit the site office—and there are signs to the site offices around the site—to gain access to any of that material that you have mentioned which actually details what we have found and what we have done with it, so the public can pick those things up. But certainly we could put that information on a web site, because it is already out there in the public forum.

CHAIR—I do think it would be useful for the public to be fully informed. Otherwise it does give rise to ongoing questions and suspicions, I suppose, about how this matter is being dealt with. Finally, before I ask the deputy chair to ask some more questions, which I am sure will hinge around some of these issues, is Defence confident that the contaminated land can be remediated to a point where it can guarantee that it is safe for future public use?

Brig. Hutchinson—Yes, the department are confident that we can meet the legislative requirements for the certification of that land as being fit for the purpose, for the intended use.

CHAIR—Thank you. I will hand over now to the deputy chair for some more questions.

Mr BRENDAN O'CONNOR—Thank you. I am also mindful of the schedule and keeping to it. I have a question in relation to the remediation and also the transfer of asbestos and other toxic wastes. As I recall in the confidential meeting we had, the proposed cost for moving asbestos was, in the scheme of things, relatively modest. I am mindful of the fact that we have now made reference to Mr McFarland, who at some point soon will be giving evidence. As I understand it—and I just want Defence to correct me if I am asserting a wrong proposition—Mr McFarland's job would be to review a proposal put by Defence. I do not think it is the case that Mr McFarland would be preparing the proposal for dealing with contaminants. How was the proposal formed? I do not think that any of us here are particular experts but I suppose I am looking to find out where the defence department went to come up with the proposal that was then put to Mr McFarland for him to review whether it was acceptable or not. Brigadier, whilst you indicated that cost is not the primary factor—although there could be some cost savings as a result of this practice—were other proposals about removal of the contaminants put to Defence that were in excess of the cost that has been estimated for this approach?

Brig. Hutchinson—On the first issue, the cost that was presented at the confidential cost estimate this morning related to internal movements of that material on site, not to removal of that material off site. If we were looking at removing the material off site, the costs would be in the order of many millions and not in the order of—

Mr BRENDAN O'CONNOR—We do not want to go through the actual details but it would be helpful to have a relatively precise estimate for the movement within the boundaries compared with the movement from the site to off the site. I hear what you are saying—you are talking about an extraordinary difference in costs—but it would be nice to be getting the zeros within a closer estimate rather than just speculating how many zeros it will cost.

Brig. Hutchinson—I will take that on notice and provide you with the details. But I will expand on it a little bit more. The internal movement was to meet the buffer zone requirements, and the concept would be that material is moved on site. Once we come up with the final disposal strategy for the site, our intention at this stage is that we would look to remediate that material on site. But if an alternative strategy were to be adopted then we would need to make allowance for that strategy in the dollars that are allowed for that total project disposal. I will find out the dollars; I will take that on notice. In terms of the second part of your question, where you were talking about the process and the independent auditor and everything else, the actual proposals were initially developed by our environmental consultants. The environmental consultants in this case were HLA Envirosciences, Coffey Geosciences and GHD.

Mr BRENDAN O'CONNOR—They are not here today.

CHAIR—As there are no further questions for Defence at this stage, thank you.

[12.00 p.m.]

COHEN, Mr Neville, Vice-President, Randwick Community Park Committee

CHAIR—Mr Cohen, on behalf of the committee, I welcome you. The committee has received a submission from you. Do you wish to make any amendment to the submission that you have made?

Mr Cohen—I have just a couple of extra comments, Madam Chair.

CHAIR—Perhaps you could make those. We invite you to make a brief opening statement to the committee and then the committee, I am sure, will have some questions for you.

Mr Cohen—Thank you. I have a little further historical background. As you know from my submission, our concern is purely with the community centre, the old one and the new one. I have stressed in the submission the unique situation that the Randwick Community Centre has had. It goes back to the Whitlam days when the government at that time decided—I think very wisely—that some land surplus to defence purposes could be handed back to the community. As a result of our efforts we got the centre that is in Bundock Street. At the same time, there were some other community centres set up. One was in Marrickville and I think there was another one in Burwood and perhaps others. To the best of my knowledge none of them have lasted the distance, as it were. We have been going for 27 years and, if it were not for this new proposal, we would probably go for the next 27 years. It is a unique situation for a volunteer-run community centre to have been so successful, not to have drawn on government funds in any way at all, except for a couple of very minor matters, and it has been a great tribute to the many people over those 27 years that we have had a successful community centre.

We are most concerned to see that the history of the project has been preserved and we have already had all our written records archived onto CD-ROMs so that all the material will be available for study in the future. We have also made an approach to the University of New South Wales, and I am hoping that we will find a research person there who wants to take on the history perhaps as the PhD thesis or something of that nature. Term has only just gone back this year and I am hoping that we will get someone to come forward and perhaps write a history of the entire project.

The other concerns that I have raised in the submission are very simple ones. I think they have historical significance and they are also, interestingly, not going to cost anything—or, if anything, very little. We have asked for some recognition in the new centre, be it a plaque or a historical display—we would leave that to further discussion perhaps—but somewhere to put down on record that the community centre existed in the Bundock precinct for the last 27-odd years. It ought to be recognised that it is not simply a community centre but one that has served the community—and, incidentally, one which has probably saved the local council tens of thousands of dollars in providing housing for organisations and so on. It has never been used as a moneymaking project. The rooms have been let out only to community or non-profit organisations, which is not to say we did not charge them rent. There again, we have something

unique in any enterprise: we charge rent on the basis of what people could afford and we have never had a single complaint about that. It worked very well.

To summarise, we have three recommendations in paragraph 15. The first is that the work of the community centre be recognised in some tangible way. The second is that when there is a public function to launch the community centre—and I am sure Randwick council will be doing that—it should be done in conjunction with the old organisation so that a continuity is seen to be taking place as far as the community facility is concerned. The third item, which people might think rather strange, is the name of the new suburb. On the documents that I have seen it has been put down as Banksia Grove. I think somebody has thought: ‘It sounds okay. Yes, there’s Banksia and so forth.’ I have some problems with that. Firstly, there is already a suburb called Banksia, and these days we have Upper Banksias and Lower Banksias and every other thing to make it sound more important. I just think a suburb called Banksia Grove may well be confused with an existing one. But, more importantly, I think there is a historical connection with the name ‘Bundock’. I have said here that it was named after a local councillor who apparently was a bit of a character. I do not know what it was all about but obviously it was enough to get his name on a street—and you have to be pretty good to get your name on a street these days.

We are trying to see that that whole concept is preserved. If the suburb were called Bundock, people know of the Bundock Street Defence area, the Bundock Street community centre, the Bundock Street precinct, and there are committees of Bundock Street interested parties, residents—to use that current word, ‘stakeholders’. I think it would be a good thing for that name to be carried forward. It does not offend anybody; it does not cost anything. I think it would be historically interesting. I do not want to add anything more to that, Madam Chair.

CHAIR—Mr Cohen, thank you very much. On behalf of the committee, we recognise the tremendous work you and other members of the community have done in keeping this community centre going and in serving the community in this way. It is obvious that there is a great sense of pride and a great sense of community here for it to have continued for 27 years. Is the general community, in your view, supportive of the changes that are to take place on this land?

Mr Cohen—I can speak only on behalf of our committee. We see our work having come to an end, and we do not mind putting down the load. The people who are really concerned are the present and future tenants of the centre. As far as I understand—in fact, I know for a fact—they have been consulted about the sorts of things they have wanted, the requirements of the rooms and so forth, which have their names on them, although I must hasten to add that I understand these are not set in concrete; they are just concepts, as it were, on the plans. Because consultation has taken place, I can only assume that they are all more than happy that they are going to have a brand new, up-to-date, smart, beautifully furnished and beautifully lit building, rather than existing in buildings which have served a purpose but which certainly you would not want to build the way they look now.

CHAIR—So you have been happy with the consultations that have taken place?

Mr Cohen—At all levels, yes—more than happy.

CHAIR—And, from your point of view, your community is pretty happy about it?

Mr Cohen—They have been very supportive.

Senator FORSHAW—Is it your understanding that this would actually be declared a suburb, as distinct from being regarded as part of the Randwick suburb and maybe given some other title such as an estate? Will it actually be a suburb—do you know that?

Mr Cohen—I understand so—only from looking at plans where I see ‘Banksia Grove’, ‘community centre’, ‘town centre’ and various things. It is a huge development as far as new population is concerned, so I have taken from that that it is going to have a name and that it is going to be a new area of Randwick. It is not just going to be Randwick South or whatever. So, if it is going to have a name, we are suggesting the name of Bundock. If it is just going to be called the ‘old Navy land’, fair enough.

CHAIR—I am sure that we will have an opportunity to ask Defence some questions. I understand that the naming of this area is a matter for the Randwick City Council, but we will certainly put the other questions to Defence at a later date I am sure. Thank you very much.

Mr Cohen—Thank you Madam Chair and committee.

[12.10 p.m.]

COUGHLAN, Mr Craig Francis (Private capacity)

CHAIR—Mr Coughlan, welcome on behalf of the Joint Public Works Committee.

Mr Coughlan—Thank you. I am a resident of Bundock Street and I am also tied up with the Randwick Community Centre as secretary, treasurer and one of the trustees of the community centre.

CHAIR—We have received a submission from you. Do you wish to propose any amendment to that submission?

Mr Coughlan—No, not to the submission itself.

CHAIR—We invite you to make a brief statement in support of your submission and perhaps we will have some questions after that.

Mr Coughlan—I would like to comment briefly on the actual development site. I have been in Bundock Street for approximately 50 years, so I have seen the whole site develop almost from scratch. My parents came earlier to the place when it was a parkland. The Army was on one corner and the rest of the site was just parkland. My parents went away for a few years and came back in 1942 to find that the sheds were built. From that time I have been there, as I said, most of the time. When the site did come up for review in the 1970s a report was asked for and, as mentioned by Mr Cohen, a large report was made on the 28 hectares, at that stage, back in the time of the Whitlam government. It was left like that and we ended up with the community centre portion of it. Nothing happened to the rest of the site until about six years ago.

The site has been like that for a long time. In some respects I am rather pleased that it has happened that way, as far as the residents are concerned—and I am talking as a resident now. I think of what developments might have taken place on that site back then, and there are enough examples in the eastern suburbs that are not very interesting. I feel what is happening here presently with the Department of Defence is that they have obviously realised the site's potential and that it should be developed. It is a prime piece of land, and during the last 30 years a lot of people have had a crack at it one way or another. They have tried a tech college, public housing, bus depots and even a shopping complex. All those things have been tried in that area. When you see what is there now and what is going to be done, the fact is that there have been some problems on the site—for obvious reasons when you have buildings that have been there for such a length of time—and it has to be remediated so that people can live there. I am quite sure the Commonwealth government does not want to find out 50 years down the track that the site had not been looked after properly before it was released for housing development.

With regard to the actual site, as far as I am concerned the Department of Defence have been most cooperative. The case of the community centre has already been explained by Mr Cohen. I feel they have not overlooked the residents' concerns—and there have been concerns there.

Some concerns have been most genuine, but I think other concerns have been fabricated and people have become hysterical—I do not know what the agenda is.

Having lived there and having been involved with that area—looked at it and seen what has been done to it—I feel that the work that has been done in remediation, the current development of the A1 section that has being sold to Mirvac, and the work that they are doing on the site, is incredibly good. I base this opinion partially on the fact that I was a public servant for 32 years with the New South Wales government within the Department of Housing. So I had a fair understanding of what was involved with housing and sites. I was also involved with site remediation so I do not come just as a resident; I have worked in that area. I do not work for the department any more.

I have looked at what has happened on that site. I appeared before the Public Works Committee some time during the seventies—I cannot remember when—when the Army site had a modification and was remodelled. I appeared before that committee as well, as a resident. I said that the new work that the Army was doing—which was their tennis fields and the swimming pool in the area that is in the site there—was a very satisfactory plan for the overall area. We saw that go ahead and I am quite sure that the residents down that end of the site, in front of the Army, were very pleased with the development. Meanwhile, though, we were still left with the asbestos sheds and everything, which were there for some time.

Finally the site has been developed. I am very pleased to see the current development. Some people say, 'Leave it as it was or make it into parkland.' That is not an economical or feasible thing to do today. We have a lot of parkland. We have a lot of areas in the eastern suburbs that people can enjoy but we have seen types of development in parts of the eastern suburbs that have not been good. We could have had that facility; we have not got that. We have an opportunity here to make a model type of suburb and the Department of Defence is doing exactly that within the regulations, together with Randwick City Council. I know there were problems between the Department of Defence and the council. It seems from a resident's point of view—I am a ratepayer and a taxpayer—that the expenses in court were ridiculous, but at least it got them together.

Taking into account the requirements of council, what Defence is doing and the wishes of the residents in general, the overall site when it is completed will be a model. The Department of Defence and the people who have worked with the department—the consultants that have come out and explained things to people and held public seminars at various times over six or seven years since the department started looking at the site to see what could be done with it—need to be congratulated. I hope that when certain aspects of the site get handed over—mainly the community centre and the environmental park—the council will continue to look after and establish all of that. I know funding has been provided so that it continues.

I have looked at what has happened in the past and what is being done now. Also you have had this extra submission from the Army. To be able to relocate within their boundaries I think has saved costs and that has been an advantage as well. I think the overall development there should be commended to your Public Works Committee. I know it always comes to the crunch as to what moneys can be spent but I think this is an extremely good development and it should be used by the Commonwealth government and state governments to show what can be done on a site. The site has some minor problems of remediation but do not forget that a lot of people

thought at one stage—as a result of the rumours—that the site was covered in asbestos. It was not. The asbestos was brought in with the buildings; it was not there before. Even the concrete slabs did not have it. They were poured on top of sand. The whole thing was built in 1942 and the materials were brought in.

Unfortunately, at one stage some poor development was done by the Army. Some sheds were demolished. They got broken up and put on the site. It is in the form of asbestos sheeting, not asbestos as such. Providing that part of it is rehabilitated—removed—together with any other material it will be all right. The place was built as a storage facility. The Navy had stored there everything from Kellogg's Cornflakes to ships propellers. I would see trucks going up and later on coming in and out of the site. It was not, as I have seen on some sites, a complete disaster ecologically with stuff poured into the site and everything. That site is extremely clean compared with what I have seen over the years in developments and land and so forth.

Once the site is fixed up to the point of being able to be released for housing, the overall site, the suburb and everything will show what can be done by the governments. It has basically been the council and the federal government. The state government is out of it. There are regulations about what can be done. It just shows that this type of thing needs to be continued and used as an example.

As a resident I do not have concern about what is going on. I feel that they have been upfront. There is no hiding of stuff. A site of this size takes a lot of work to look at and develop so there will be some problems but overall I feel it has been well looked after. I am very happy to be a resident in Bundock Street, looking at that design and what has happened here.

Mr BRENDAN O'CONNOR—Clearly, you know the history of the area, having been here for over 50 years and having your parents also residing in the area. You have been very impressed with the consultation process. That sits at odds with some other submitters.

Mr Coughlan—I am at odds with them, too.

Mr BRENDAN O'CONNOR—That is interesting. What were the factors that impressed you about the process of consultation in this project?

Mr Coughlan—We were asked to come down some four or five years ago when they opened up one of the sheds.

Mr BRENDAN O'CONNOR—How?

Mr Coughlan—That was done by notification around the streets. Everybody was asked to do it. There were posters in the paper. Defence has always given us plenty of material in the letterbox—from the time of the main development and when the consultants took over. We have always had newsletters come through our mailboxes, explaining everything. As far as that is concerned, we have had a lot of notification about what is there.

I cannot work out why some people add some scare factor to this. If there was something like that then I think something would have happened. There has not been any reason for this fear factor. I cannot see it. To give you a classic example, back when monitors were put onsite to

check whether there was any asbestos in the air, the reports were sent to the community centre every single day. We can go back six or 12 months or even longer and not once did a report say that there was any asbestos found in the air at the community centre. Do you think for one moment as trustees of a community centre we would let that centre go on if there were hazards or danger on the site? Not at all.

Mr JENKINS—I have a question from left field. This morning I became aware of the development to the west of the environment park and for the life of me I cannot remember what it is called.

Mr Coughlan—Do you mean down in Hunt Street?

Mr JENKINS—It was former Commonwealth land used by either Immigration or Defence.

Mr Coughlan—You said western side. Do you mean eastern side? Moverly Green is on the east of the site.

Senator FORSHAW—He is from Melbourne.

Mr Coughlan—It is all right. I was born down there, too.

Mr JENKINS—That is embarrassing because I asked Defence and said it was to the west. They were so kind they did not embarrass me. What is the name of it?

Mr Coughlan—Moverly Green. The Endeavour Hostel used to be there.

Mr JENKINS—I know it is on a much smaller scale than this whole site, and it was 10 or 12 years ago, but what effect did it have on the amenity of the local area?

Mr Coughlan—Do you mean as far as the Endeavour Hostel is concerned?

Mr JENKINS—The residential development by Defence Housing.

Mr Coughlan—I presume you mean that hostel. There were several areas. The Army was in a portion of it, then there was the hostel, which was a Commonwealth department which, as I understand it, was not Defence.

Mr JENKINS—What about Moverly Green?

Mr Coughlan—At first sight it looked like that song about tacky boxes, I am afraid. It was a very boxy style. Look at it today. There is nothing a bit of landscaping cannot do to a place. It does not look like that at all. From the residents' side of it, you had Bundock Street then the public housing then Moverly Green. There was more of an influence as far as I was concerned on the other side of that area, facing the Maroubra side. As far as the people in there were concerned, it was a mix. Again, all I know is that part of it was Defence tenanted properties with personnel in and the rest were privately sold. As I understood, Defence were not happy with the actual cost to build that, and were not going to get involved in something similar again—building the whole lot and looking after it. With the new Defence site in Bundock Street they are

selling off the place to groups like Mirvac to do the work. They are getting rid of it. I do not think they wanted that experience again.

But, by the same token, it was an interesting style of development. It was put up there because there had been townhouses and other development in Maroubra and I think they were looking for more of an upmarket, slightly different design in Maroubra and Maroubra Beach—places like that little bay. There is a predominance also in the area of public housing. Everything has an influence on that area. One group wanted to come down onto the site originally to have more public housing.

The whole site had some effect back in those days on the aircraft. We are on the east-west flight path. I had a neighbour come and join us and he was quite surprised with the level of the aircraft. I said that I do not notice them. Things like that happen. In the case of people and new estates, we have an impact on the existing site. Overall I feel that Moverly Green was in a cluster of its own because it was an estate done that way. It was the idea Defence had at the time.

Mr JENKINS—You have no great concern about the mix of housing in the present development?

Mr Coughlan—No, that is good. I certainly do not want high rise, because of the problems that can develop. What is proposed on the site is two to three or four storeys in the centre part. I think this will all develop depending on how land and buildings go.

The houses facing us in Bundock Street have been designed to go with the blending of 2A. The residential area is in Bundock Street but 2A is in Holmes Street. That is the style of zoning done by Randwick Council—or at least associated that way on their plans. The perimeter of the site will be the same—it will be a bit denser inside. It is going to have the community centre, the parks and also a small corner shop type development so people will be able to shop there and will not have to go to Maroubra Junction or up to The Spot, St Paul's. I think that overall site will blend into the rest of the landscape of the area.

I have one final thing to say about the name 'Bundock' and the location—not so much the word 'Bundock' I think that is good. The area you are talking about there is Kingsford. It is not Coogee. If you look at the street directories—I think the UBD is right—then you will see that. It is a strange part to call Kingsford, to me it is too far. I think it does need a name change, but that is up to the name changing board or the people who do all of that. To me, it is not Kingsford. I am just short of Randwick—I am just the other side of the dividing line in Coogee, but strictly speaking they call it South Coogee. Over the other side of it is Kingsford. If you go over to the other side, a few streets down from Holmes it becomes Maroubra. The Kingsford side just does not seem right. I think most people think of Kingsford as being down by the circus or down by Gardeners Road and the big interchange down there. To come so far east—it seems to be lost. I am sure taxi drivers are not going to work out where Kingsford is when the authorities start saying that is Kingsford.

The Navy stores sheds are another issue. I am glad to see that the community centre is going to put up a facade that has an actual representation of one of the sheds for historical value. The sheds will be gone. You will not be saying, 'Come down to the Navy sheds,' any more. The community centre administration block is the last piece of that.

Mr JENKINS—Thank you for that historical perspective and the geography lesson—I will remember to get my easts and wests right.

CHAIR—Thank you very much, Mr Coughlan.

[12.32 p.m.]

TIGHE, Mr Peter Anthony, National Secretary, Communications, Electrical and Plumbing Union

CHAIR—On behalf of the committee, I welcome you to this hearing. The committee has received a submission from you. Do you wish to make any amendment to the submission made to the committee?

Mr Tighe—No.

CHAIR—I invite you to make a brief opening statement. We will then proceed to questions.

Mr Tighe—Thank you. The submission from the CEPU relates specifically to the contamination on-site and the occupational health and safety risks that are likely to be in place in relation to the work force that is going to be involved in the remediation and the infrastructure development and then the secondary phase, which is the full development of the proposed housing development on the Bundock Street site. Our secondary concern, which I do not wish to water down, is the health and safety of the local community whilst this construction takes place—because anyone in close proximity to the site is at some risk.

The first point I wish to make to the committee is that, in fact, there has been substantial work undertaken on the site to date. The first stage of the site, section 1A, is now in the development stage and preparatory work is being conducted in stage 1B and in stages 5 and 6. Work is also being performed on the community centre.

The original submission put by the CEPU was tendered to the secretariat in March of 2003. That is some 12 months ago. Whilst I understand for reasons beyond the control of the committee that the hearing set down for April of last year was deferred, the concern of the union is that during the intervening 12-month period there appears to have been a tapering off in relation to the responsibility of the principal contractor and client in some of the assurances, guidelines and work organisation that had been negotiated by the unions involved in the infrastructure remediation and construction. Our concern has been that further works have taken place during that period, during which time there has basically been no dialogue or consultation with the unions under the auspices of the Labor Council of New South Wales. Furthermore, there has been very limited dialogue and consultation with the community.

Quite clearly, you would be aware from the Department of Defence's own documents that the site is highly contaminated. The submissions put by the Department of Defence in relation to the submission put by the CEPU make some statements that the major contamination on site is asbestos fragments. That is not correct. Their own document—the notice of intention provided to Environment Australia by Defence when the development of the site was proposed—states that there are up to 10,000 cubic metres of contaminants on site. That is obviously of concern to the unions involved in the site. The contamination ranges from asbestos fragments and broken pieces of asbestos to minuscule pieces of bonded asbestos, heavy metals and PCBs. Petrol and chemical residues are toxins by their very nature and they are scattered widely across the site.

There has been a difficulty in identifying where each one of those contaminants lies on site. During stage 1A the unions sought and, after quite a bit of debate, were able to convince the proponents to undertake further testing to ensure that before infrastructure work took place on site there could be certain guarantees given to the workers involved on the site.

Senator FORSHAW—Who are those proponents? Who are you talking about?

Mr Tighe—The proponents for the Department of Defence were the Fitzwalter Group, which was oversighting the remediation and infrastructure development for the client. The client, as we see it, would be the Department of Defence on behalf of the Commonwealth. We had discussions with the Fitzwalter Group and the Department of Defence and sought to have put in place a clear process of further auditing and consultation in relation to each of the steps associated with the development of the site, including the reuse of some of the materials on site, the process for the removal of contaminants and how that would be handled, and how the site would be monitored and tested. An independent consultant was engaged for the first part of the development, which was stage 1A, and reports were given to the Labor Council in relation to air monitoring and the processes that were being put in place.

We also did receive reports from the site auditor. We were a bit concerned about the relationship of the site audit reports. Whilst I do not question the veracity and the name of the site auditor, one of the problems with legislation like the environment protection act in New South Wales is that the site auditor is engaged by the proponent and/or their contractor. From that perspective I think there is an unhealthy arrangement where it is the piper that pays the musician and we hope that it does not have an effect on the tune. During the last 12 months the dialogue between the local community and the unions has completely deteriorated. Whilst we are not opposed to the development, we are certainly opposed to a development that takes place that does not ensure that the health and safety of the workers on site and the local community are made paramount. That is our major concern.

In Defence's submission No. 22, which was a response to the submission by the union, they raised specific issues in relation to the way that we had raised specific issues and I would like to take the committee to some of those points. They raised the issue that it is impossible to give an unqualified guarantee in relation to the health and safety of workers in the local community. Whilst that might be a truism, one strives to get—if not to 100 per cent—at least to 99.9 per cent. Our view is that the duty of care of the Commonwealth in relation to this needs to be clearly enshrined if this committee is to approve further works on the project. We believe, because of the cost constraints in relation to the development, that on occasion some corners have been cut. It has been only the diligence of the unions concerned that has brought the proponent onto the straight and narrow.

We are also concerned about the remediation of some prima facie contaminated materials on site. Defence in its submission says that this is a normal practice. I can assure you that it is not a normal practice. Remediation of prima facie contaminated material is only a new process. In fact, the screening of asbestos fragments, some of which can only be identified under an electron microscope, is a new initiative and something that we believe should not have been piloted on a site where the population density is so high, which is the case with the Bundock Street site.

The second thing that we are concerned about is Defence's reassurances to the committee that consultation was quite transparent. I think they make mention in their submission to the committee that they have circulated some eight newsletters in the last 18 months. I can tell you because I am a local resident in this area that there have been two circulated in the last 12 months—circular No. 8 in May last year and circular No. 9 in October last year. Since that time there have been no newsletters circulated. The newsletters are broad in their terms.

I also participate in the local community through the Waverley precinct committee, which is a precinct committee set up under Randwick council. The committee in its own right has put a submission to this inquiry, which I will not go to, but certainly when I have been along to meetings there have been continued requests from that committee from individual local residents seeking more information from the proponent and council in relation to this development. While some members of the community might say that they have quite good levels of consultation I would suggest that the local community, those people who are not involved in the community centre or who just live around the area, would argue that they have not been consulted. The newsletter is only distributed on the periphery of the site. I get a copy because I live on the border of the property but I can tell you it is not circulated back one or two blocks from the site. There are people with an interest surrounding the site at some distance from the site. They are concerned about the heavy winds that blow across the site and the likelihood of contaminants that might become airborne being distributed over the local community. I know some members of the local community have had independent testing of soil on their own premises to ensure that they are not having contamination blown onto their site. It has been contentious. It is a windy site. While there has been air monitoring, it is not all that effective.

I have a history in occupational health and safety. I sit on the National Occupational Health and Safety Commission. I am responsible for coordinating it in my own organisation and I sit on the ACTU's occupational health and safety committee. From a layman's point of view, I have an understanding of some of the threats associated with contaminants on site. In my mind, as an officer of my own organisation and a member of the local community, I do not believe that every stone has been turned to protect the local community. I do not believe that the degree of monitoring and diligence that should be put in place in relation to a site owned by the Commonwealth has been put in place to the level that it should have been to protect the local community.

Mr BRENDAN O'CONNOR—Thank you very much for the comprehensive supplement which you have provided to your written submission. I want to ask questions of you with your union hat on in relation to the workers on site. There have been assertions made by Defence that there had been involvement between Defence and the Trades and Labour Council. Are you suggesting that is not the case or are you suggesting that there was a deficiency in the consultation?

Mr Tighe—The history of the labour council's involvement is that the local community wrote to the labour council seeking their support. As a consequence of that, the labour council called a meeting of their building trades group, which involves the construction unions, and the council's occupational health and safety officer, Mrs Mary Yaeger. Having heard the concerns of the local community, the labour council contacted the Fitzwalter Group and the Department of Defence to seek a meeting as to what was happening on site. Prior to that there had not been any consultation with the labour council at all.

Mr BRENDAN O'CONNOR—When was that?

Mr Tighe—That was in early 2002-late 2001.

Mr BRENDAN O'CONNOR—Do you have members on the sites that are being currently developed or do you have members going on to them?

Mr Tighe—We have had members involved in the infrastructure redevelopment. There has been high-tension cabling put in place by Energy Australia, using a contractor who employs our members. The plumbing and electrical area, which my organisation represents, usually starts to ramp up as the development starts. The earthworks arrangements are usually covered by the CFMEU. Whilst we have had contractors on site, we are more concerned when our contract plumbers and electrical workers come on site to start to do work for the developers. A section of the site has now been sold to Mirvac and development is taking place as we speak. There is also construction taking place on the community centre. Both of those construction phases involve members of my organisation.

Mr BRENDAN O'CONNOR—Are you aware of other unions that represent workers on site having the concerns that you have expressed today?

Mr Tighe—The CFMEU was certainly involved in the original process. We set up an arrangement whereby an independent environmental consultant was put in place to oversee the reports coming from Fitzwalter and the Department of Defence's own consultants. I must say, in relation to the early stages of remediation on stage 1A, which is on the southern side of the site, that because of the oversight of the unions there was a more diligent approach to the remediation and the health and safety arrangements for workers. As for the contractors that were involved in the removal of the asbestos cladding around the large sheds on site, we had union officials on site to make sure that the appropriate licensed contractors were used and that they were using appropriate arrangements under the WorkCover legislation in New South Wales.

Mr BRENDAN O'CONNOR—I think I speak on behalf of all committee members when I say that we are concerned that the removal or remediation of toxic contaminants is done properly in a way that will ensure the safety of both workers on site and residents in the area.

CHAIR—And also of future users.

Mr BRENDAN O'CONNOR—Of course, that of all the occupants on site. Mr Tighe, given your significant experience in the area of construction, no doubt you, as the secretary of your organisation, would have come across the removal of asbestos in other places. You are aware of the process that has been proposed for moving the asbestos but keeping it within the boundaries of the site. Is that a common approach to asbestos removal? Do you have concerns about the proposal?

Mr Tighe—Concerning asbestos specifically, the issue in relation to the removal of the cladding around the sheds is that it is normally done in a situation where you use a licensed contractor, you use water quenching to ensure that there is dust minimisation, you do it on a relatively still day so that there is no dust disturbance and the workers concerned are suited up appropriately. The asbestos is removed, bagged and taken to a contamination site for disposal. As

for the other contaminants on the site, because of their degree of use on the site, there is quite a deal of crushed and broken asbestos sheeting which permeates the subsoil, some of it to a fibre level and some of it in quite large pieces.

Although there were some problems in relation to working in what we would see as heavy winds and during other periods when we believed that there was some risk, the process of removal of the asbestos sheeting was done relatively well but at a time when the unions had an oversighting role. A further concern was that overburden—that is, the top level of subsoil—which had been deemed to be prima facie contaminated and which had been lifted from the site had been stored in some of those sheds. The unions wanted all that prima facie contaminated material removed from site. Some of the stockpiles were taken away because the site auditor deemed that the soil was contaminated to a level which could not be remediated.

One of the real problems we had was that Defence wanted to reuse some of that soil for fill. That soil was contaminated to a degree with asbestos fragments. Some were quite large pieces which could be removed by way of screening, but screening levels only come down to a level where you can get three or four millimetres, and after that they start to block up. Our view was that because it was prima facie contaminated it should be removed from site. We had difficulty convincing Defence that in fact that should be the case. They brought in a consultant who said, ‘We believe that, by sample testing some of those residues once they have been screened, we can sign off on those sites.’

I will just take you to section 1A of the grid itself. They did grid testing in the first instance. We were not satisfied with that. We said, ‘We want a more intensive grid testing process.’ When the more intensive grid testing took place, there were four grid tests—that is, boreholes—that were identified in contaminated areas. So further grid testing identified further hot spots. Some of that stuff was removed off site. We were concerned about the beneficial reuse of some of the overburden—prima facie contaminants were going to be screened and reused because the site auditor was quite happy with the process concerned. Our view was that, if you were trying to minimise the risk to the individuals concerned and if you actually were exercising your duty of care, there should be no debate. If it is prima facie contaminated, it should be removed off site. Our view was that that was a reflection of the attitude of the principal contractor and the client in this case in relation to how the site should be remediated. It certainly was not the level that we saw for the remediation of the Olympic site, which in our view was best practice. Our concern was that this site should likewise have a remediation standard second to none, and we did not believe that standard to date had been met. I know that was a longwinded answer, but it is a complex issue.

Mr BRENDAN O’CONNOR—That is a very important issue. Thanks very much.

Senator FORSHAW—In your answer to Mr O’Connor you dealt with the issue that I was going to ask you about. Following on from that, if the remediation is not up to the standard that you believe should be achieved, what will you be looking for to remove those concerns? That is assuming it goes ahead, and you can comment on that assumption as well. What needs to be done from here to ensure that you get world’s best practice or that you get it done at the standard of, for instance, the Olympic site, which you mentioned, so that your members and personnel, the community and others will feel satisfied?

Mr Tighe—You would be aware that we have the right to recommend to our members, if there is a risk to their health and safety, that they remove themselves from site. That is an extreme step from our organisation, but if we have a view that issues are not being met then we are able to protect ourselves. We are big enough and ugly enough from that perspective. We certainly have, also, a concern for the community, which does not have that capacity. Whilst there is a site auditor appointed under the environmental protection act in New South Wales, our concern is that he still has his contract and remuneration met by the client.

Our view is that someone who is completely financially independent of Defence and their principal contractor ought to oversight the work method procedures, the subjective judgments of the site auditor and the work processes that are going to be put in place and that that person should be selected conjointly with the proponent and the representative of workers on site and, I would suggest, the local community so that someone who is seen to be an honest broker can oversight the remediation and the threats that might arise on site.

Senator FORSHAW—Is there a role there for the department of planning, the Environmental Protection Authority or Environment Australia to be directly involved in that process? I know the principle behind having the independent auditor is that it is independent of, for instance, government, but the point you make is that they are selected or chosen by the proponent. I am looking for how you would see your proposal actually coming to fruition. Would it be the state department, for instance, or the EPA?

Mr Tighe—We have involved WorkCover in these arrangements. We have involved an independent environmentalist in the process. In the early stages we involved some of the environmentalists who were involved on the Olympic site in relation to preparing reports on the site contamination. We certainly believe that a collective group, making a consensus decision, can select someone who understands the legislation. It is complex in relation to the legislation in its own right, as committee members are probably aware. Because it is a Commonwealth site, until such time as you actually have a contractor who is employing people involved in legislation in New South Wales, WorkCover in its own right, then the legislation in New South Wales is not triggered. When the site is sold off to a developer, as is the case with stage 1A, then Mirvac, which owns that site, is bound by the state legislation in relation to occupational health and safety and the environment. But Environment Australia were given the overall copy of the notice of intention, which talked about the remediation strategy and how they would deal with it. I do not know if they set any guidelines on the department, but certainly the early documentation did identify the diverse and widespread nature of contaminants. So the types of contaminants on site and where they lie are broadly known, but when you actually come to work on a site you get down to the nitty-gritty and have to start to go through grid testing, sample testing and a more intense level of testing and then through post-testing after remediation to make sure that the site is in a situation that can allow workers and the community to be reassured about any of their concerns.

The only way you can do that is to have someone who has no vested interest in the process. That is why I would suggest that, if the direction of the committee is that Defence ought to sit down and arrange a dialogue with the representatives of the workers on site and the local community, then someone should be engaged who is known in the environmental and contamination area who can oversight the work and give what I would suggest is a more objective judgment than what I have seen to date. That is the problem that we have at the end of

the day. As much as we might argue that we are unhappy with the process, when the first stage was sold it was sold with an audited sign-off by the site auditor saying that it was suitable for residential habitation.

Our concern is that if, during the period of construction when you start to dig in infrastructure, contaminants are found on site then Defence is excluded from the process and the problem belongs with Mirvac, the owner of the site, and the unions concerned. We do not want to get to a stage where we have industrial conflict on site. We want to be able to go on site with a reassurance in place that if it is not a 100 per cent unqualified sign-off then it is as close as we can get to 100 per cent. The only way we can see that taking place is through someone independent who has the confidence of the construction unions, the local community and also Defence, the proponent for the site. I do not believe that that structure is in place at the present time.

Senator FORSHAW—Given your experience with the construction industry, the building industry, remediation projects and your being a resident, do you see the purpose that this is going to be used for, which is a mix of an environmental park, a community centre and a housing development, as the best use of the land and something that is acceptable, providing the contamination and associated issues are resolved?

Mr Tighe—If it can be remediated to a level where it allows housing development to take place, that is fine. We are in the business of ensuring that construction takes place in Australia, because it employs our members.

Senator FORSHAW—But do you know what is suitable and what is not suitable?

Mr Tighe—We certainly do, but if you cannot remediate a site, as for some areas of the Olympic site, it is left to open parkland where you know there is not going to be a risk to anyone and people know what the threats are. You can encapsulate contaminants by placing overburden over them and making them quite aesthetically pleasing. There is an area that has been earmarked as an environmental park. I know some of the residents have concerns that the resources allotted to make that environmental park seem to be wasting away.

As to the process of the site itself, I do not have a difficulty with the construction that is taking place on site, at least for the first stage, because it appears to be commonsense construction. I am more concerned, I suppose, as an officer of my own organisation, that my people involved in that can comfortably work on the site and understand that there is no risk to their health and safety. If it cannot get to that level, I think people have to make decisions about stepping back from the commercial imperatives and making more open space available for the community. It would be about stepping back from the residential plans that are currently in place.

Mr JENKINS—I understand the point that you are making about the independence of the auditor. I thought you were also saying that, by observation, you had concerns about either the type or the frequency of monitoring. I would like to know whether you have any comment on the processes that have been adopted for remediation.

Mr Tighe—Air monitoring is a difficult situation. You can space four or five monitors around the site. They pull in air movement that is in the local area. What you then have to do is break

down the filters in those air monitors to the degree of an electron microscope to identify whether any asbestos fibres are generated by the process. Basically it reads the amount of fibre in the air. You can only strategically place those in certain areas around a site. This site is some 75 hectares in size. The view of my organisation and the other unions is that there should have been full remediation before any construction work commenced on site.

There is going to be further remediation, and around the areas where building construction is taking place at the present time the unions will be requiring that the air monitoring takes place. But it is like us sitting in this room. There are many cubic metres of air in this room. I breathe in a certain amount of air. What I consume, which might go through a monitor, is only one subsection of the air in the room. Because of the size and nature of the site, it is difficult to tell at times whether contaminants are being generated into the atmosphere. All we can do is put in as many belts and bootstraps as we can, but that does not guarantee—and I think even the site auditor would agree—that contaminants are not being generated into the atmosphere. So air monitoring is very difficult in an external process. In a confined space it is easier to do, and we have been doing air monitoring for asbestos fibres in some risk areas for a number of years.

There are experts who know what you can do about that. There is quenching on the site to minimise dust. We continually had to take the proponents to task over the amount of water quenching on site when earthworks were taking place. We had to continually raise the issue of making residents aware of what was going to take place so that, when something did take place on site, those who were maybe of the Machiavellian ilk did not think there was some eleventh hour removal of some special contaminant that was buried on site. If it is open and transparent and people know what is going on—that, in fact, it is an old car chassis that is being removed from the site and not some drums of Agent Orange—things work a lot more effectively in relation to community liaison. I have to say that, in the last 12 months specifically and even prior to the involvement of the labour council, there was a lot to be desired in the process of community liaison and liaison with the unions representing workers on site.

CHAIR—Thank you very much, Mr Tighe.

Proceedings suspended from 1.05 p.m. to 1.33 p.m.

DAVIDSON, Mr Lex Stewart (Private capacity)

CHAIR—Welcome, Mr Davidson.

Mr Davidson—I have something I would like to hand to the chair.

CHAIR—If that is something that you are submitting formally, we have to get the agreement of committee members to receive it as evidence.

Mr Davidson—It is a page from the local—

CHAIR—The committee accepts the tabling of the document. The committee has received a submission from you and a supplementary submission. Do you wish to propose amendments to the submissions you have made?

Mr Davidson—I did make a supplementary submission and I noted that Defence made five other submissions to my supplementary submission. What is the protocol for me to canvass the issues that they have raised in those extra submissions?

CHAIR—I am going to ask you now if you would like to make a brief opening statement. We need to keep our time frames and the committee needs to get the chance to ask you any questions they may have. You could perhaps raise those matters in your opening statement. The secretary tells me that we cannot take a written statement after the event. Please raise those issues as concisely and briefly as you can so that we maintain our time frames.

Mr Davidson—Madam Chair, committee members, friends, ladies and gentlemen, may I extend my thanks to the Joint Standing Committee on Public Works for this opportunity to address you today. I am not familiar with the workings and procedures of these hearings, but I am most grateful for the help that your committee secretariat has extended to me during the whole process.

I am a resident of 86A Bundock Street, Randwick and live directly opposite the site. I have lived there since the Defence site opposite was actually a Navy warehousing and storage facility. I used to attend the Navy auctions that were held there quite regularly. As I have outlined in my previous submissions, I have two principal concerns with this development. My concerns are (a) the proposed road and the new traffic intersection Defence plan to construct, which is directly in front of my home and (b) the site contamination generally.

In respect of the proposed road, this intersection was mentioned as a specific and explicit finding in the judgment of the Land and Environment Court. It was finding No. 63. His Honour found the headlights and the intersection would have an adverse impact. The houses that adjoin that intersection all have their front bedrooms opening onto the street. Their front bedroom windows are the only access for fresh air in the bedrooms at all. If we want to open our front bedrooms, that is it, we are into the intersection. Everyone knows today that fumes from traffic kill more people than accidents, and there are at least eight people who are directly affected by this intersection. Over the eight years I have never been approached by Defence in relation to

discussing the issue. All of the submissions by me and my neighbours—written submissions from Ross and Loretta Curtis on one side and Professor Williams and his wife, Emma, on the other side—have been ignored. It is my view that the establishment of that particular road in the master plan is very rude to the court. The intersection directly opposite me is the only T-intersection in the entire development from where I sit.

As you have probably realised from my submissions, I am very concerned. I have a genuine and honest health concern about the contamination on that site. I am in a bit of a cleft stick between worrying about the road and worrying about the contamination. On the contamination, there has been in my view a rather sinister development in this whole eight-year saga. You are probably aware that Randwick City Council has modified the consent. The development seems to be based on that.

I would like to raise for the committee's benefit a couple of issues that were raised and developed during the court case itself a couple of years ago. I have read most of Defence's evidence that it put to the Land and Environment Court. I have not read it all, but I have read most of it. It is my firm belief that Defence has never had—and I mean, not at any time—any intention of remediating or removing asbestos fibres from the soil matrix on that site or, for that matter, even getting rid of it off the site. That is my firm and honestly held view after reading its submissions. Simply digging it up and taking it away has been too hard for Defence. Eight years later, it seems that it is still hard.

During the Land and Environment Court case, the continual thrust of the evidence that Defence put to the court over and over again was the concept of health risk assessment, and all of this was based on—and I quote their evidence—'a soil mass concentration of 0.05 per cent asbestos fibres'. For the committee's benefit, it is my view that the court rejected this and Defence's submissions in respect of the risk analysis process, and I will elaborate on this. Today the current site auditor is Mr Ross McFarland. During the Land and Environment Court hearings, we heard:

... Mr Scott—

for defence—

told the Court that the applicant intends to appoint Ross McFarland as the site auditor for the remediation of Lots 2 and 3.

In a faxed letter to Mr Scott dated 19 January 2001, Mr McFarland agreed that a soil mass concentration of 0.05 per cent of asbestos fibres is appropriate for the site. He added the qualification that "[i]t may be prudent to discuss this issue with the NSW agencies".

For the benefit of this committee, I think you will find the next quote even more interesting:

There was no evidence—

put to the court—

that either Mr McFarland or Mr Scott has discussed the matter with any agency, such as the EPA. Nor was there evidence of the EPA's views on appropriate levels of asbestos fibre concentration in soils.

My question is this: can I ask why Defence did not even talk to the EPA before, during or even after the court case? The EPA set standards for 21 different contaminants in soil, but not asbestos. There is no standard for asbestos. It is internationally agreed that there is no safe limit for asbestos. Do Defence now want to start playing God and get us back into their risk game? I should make it quite clear that it is our risk, not theirs. As this development progresses, it seems we now have a new development condition, an enhancement, and these words have been added to the development consent:

... or to a level where no unacceptable health risk remains, as confirmed in writing by the NSW Department of Health.

As I have already stated in my written submission, the phrase ‘no unacceptable health risk’ remains quite obscure to me. A search of all the laws, acts and court cases since Federation reveals only one instance of that particular phrase. I am struggling to understand the meaning of this new condition. Does the condition actually construe a risk, for instance, to a level regarded as reasonable? Is that what Mr McFarland believes is acceptable, although still not eliminating the risk entirely? For any four or five of those conditions is that what unacceptable risk means? I do not know what it means. Is this the new remediation that this development is going to proceed on? Does ‘acceptable’—or should I say ‘not unacceptable’—actually mean ‘although not eliminating the risk entirely’? The only internationally acceptable standard for asbestos is zero. Defence cannot proceed on this new basis; it is not acceptable and it is my personal view that it is pre-emptive of the court’s findings. The Land and Environment Court has already rejected the level of risk concept with respect to asbestos. His Honour found:

... the Court has the benefit of an insight into the process and that has instilled a level of doubt about its acceptability.

That is in finding paragraph No. 84. It is my uneducated view that ‘with asbestos fibres in the soil matrix’ as ‘the risk precursor’, His Honour found the process of analysis of risk is not acceptable. The court rejected both Defence’s level of risk assertions and its process. In our level of government these were findings of a court. The question I ask is this: have these bodies—Defence, Randwick City Council and the New South Wales Department of Health—some amazing new and special insight into the risk assessment process that the court could not comprehend?

With the greatest of respect, may I suggest that to go back to a discredited health risk assessment concept with asbestos and the whole risk process when nothing has changed is simply not acceptable and, at this stage, is very rude to the Land and Environment Court. For the last 90 years Defence have treated and cared for that site in exactly the same way they have treated the Senate committee, the court and the community for the last eight years. I would characterise that as being nothing but arrant contempt and purblind stupidity. Thank you.

CHAIR—Thank you very much.

Mr BRENDAN O’CONNOR—There seem to be two fundamental points that you have raised. One is to do with your residence and the fact that if the road were to be constructed at the T-intersection you would get headlight glare. Other than not having the road built there, what do you believe should be put in place to try to mitigate the effects on you and the people in your dwelling?

Mr Davidson—Are we talking specifically about the road?

Mr BRENDAN O'CONNOR—We are talking about the concerns you have about traffic and, as a result of the traffic, the headlight glare into your house.

Mr Davidson—In the court case, almost exactly the same question was put to me. I must draw the attention of the committee to the fact that the entire western boundary of that site immediately adjoins a primary collector—that is, Avoca Street. There is absolutely no need for any of this traffic to percolate through the narrow local streets of Randwick. That is what I said in court and it is still my firm belief. Specifically in respect of the road outside my place, there has been no level of consultation with Defence that we have found satisfactory. The general topography of the area makes it almost impossible for us not to get headlights at night. If Defence were to put in a slight cutting or to angle the approach to Bundock Street in a slightly different way, the impact of those lights could be minimised. But after eight years, frankly, we have absolutely no optimism that this department is going to do anything at all.

Mr BRENDAN O'CONNOR—Were you involved in discussions about creating an incline in that road to try to minimise the headlight glare?

Mr Davidson—Defence suggested to council that one way around having this headlight glare was to put in an incline where you came up the road, down the road and up the road and then join Bundock Street. I pointed out to them that what you are effectively creating is a dipper. A vehicle would come up, the springs would come down slightly, the vehicle would come down, dust would fall from the vehicle and the springs would compress. We would effectively get four flashes. If Oval Avenue was inclined at a different point further back—another one or two blocks down the street—and joined Bundock Street at the intersections that Defence's own consultants nominated—that is, either Ellen Street or Canberra Street—there would be no impact at all. Why make a problem where it ceases to exist? I felt that Defence were playing me off a break in their response to council. They suggested that the ameliorating effects of trees and so on would stop the headlights. Everyone knows that mature trees do not stop headlights.

But the headlights are only part of the problem. You have start-stop traffic there for two hours every morning; you have fumes, brake dust and material that falls from the bottoms of vehicles. Bundock Street currently holds the record for speeding in Randwick. At night it is regularly a speedway. We are facing oncoming traffic. In my submission to the council and to the court I stated quite clearly that if a vehicle approached that intersection from Oval Avenue at a legal speed—that is, 50 kilometres an hour—it was not conceivable that it could stop before it was more than six feet inside my yard. It is simply not conceivable. It cannot stop. That is just part of the whole frustration that we have had in our dealings with this department.

Mr BRENDAN O'CONNOR—I have just one last question on this matter. As we drove past this morning I noticed there are gates in place along the fence line. Has that road ever been used since your occupancy of 86A?

Mr Davidson—When I went there it was a gate. It was a good place to live because defence used to patrol that gate all night. The Navy police used to patrol it all night and it was safe. It was a gate.

Mr BRENDAN O'CONNOR—Were vehicles ever using it with the gate open?

Mr Davidson—No.

Mr BRENDAN O'CONNOR—So it was being used during the day?

Mr Davidson—Only during the day, 7.30 a.m. until 4.30 p.m.

Mr BRENDAN O'CONNOR—Was that a restriction placed on—

Mr Davidson—No, that was just the way they used the property. The gate is 44 metres from Ellen Street. Can you imagine this in the local environment? Every single resident in Ellen Street accepted the fact that the intersection would be at Ellen. They signed a document to that effect, and it was ignored.

Mr BRENDAN O'CONNOR—Thank you very much.

CHAIR—Thank you, Mr Davidson.

[1.52 p.m.]

McGIRR, Ms Jocelyn Ann, Chairperson, Randwick Defence Site Protection Group

CHAIR—On behalf of the committee, Ms McGirr, welcome. The committee has received a submission from you and a supplementary submission. Do you wish to propose any amendments to those submissions?

Ms McGirr—No, not at this stage.

CHAIR—Then I would ask you to make a short statement, please, in support of your submissions.

Ms McGirr—Before I start I would just like to say by way of credentialing myself that I was for six years the deputy chairman of the Repatriation Commission which headed the Department of Defence, and I did six months as the department head after which I do not think there was any shortage of funds or any deficits in any respect. I am a qualified lawyer. I was with Blake Dawson Waldron and I was a senior member of the Administrative Appeals Tribunal.

I will say only one thing about the contamination because that has been explored fairly fully. The site auditor has said in public meetings or precinct meetings that I have attended that he is not concerned with the process of remediation. He is only concerned with certifying that the soil is in a state which is fit for the zoning for which it is nominated. The residents are concerned about the process and the dust which is generated. The problem has been huge. We have had cyclone force winds in this area, snapping the tops off our trees. We always get these winds in the spring but we have had a particularly bad few years. But the process is not the concern of the site auditor and he has no responsibility for it, and I just mention that.

I did not come to the beginning of the proceedings, but it appears that the serving Army personnel are in fact taking some responsibility for the remediation of this site. I would just like to say that, with my background, I have enormous respect for the serving members of the Defence Force, who are utterly professional in carrying out their defence activities, but this is not a defence activity. First of all, I doubt whether it is covered under their legislation or allowed under their legislation. You can only do what is permitted under your act, and I do not think the various acts and legislation concerning the armed services cover this kind of activity and therefore it is not appropriate—indeed, not lawful. Furthermore, under the Constitution the defence function is a head of power for the Commonwealth. As constitutional law stands, that means that if it is not a defence activity then, unless it is specifically provided for in the Constitution, it is not a Commonwealth activity. I just wanted to make those points.

I do not wish to repeat what is in my submission; I wish to talk more about the environmental aspects of the site. I have a coloured drawing here. I did not submit it through the normal processes because I know your photocopying facilities will not reproduce in colour, but I am quite happy for members of the committee to see it. It shows what the vegetation was like as at July 1996, when this map was prepared by Randwick City Council.

CHAIR—Would you like to hand it in as an exhibit or would you like to pass it around and let the members have a look at it?

Ms McGirr—I will pass it around. If you want to copy it that will be fine, but it is pretty pointless without the colour. Similarly, I think I should ask if you have the coloured form of the contamination map which was prepared by Defence. As it was circulated to anybody who managed to get it—which was very few people in the community—it was reproduced in black and white and you could not see the extent of the contamination. So I will just mention that too. The vegetation map shows you how much natural bushland there was on that end of the site. Defence have been involved in the wholesale removal of that vegetation. I do not know whether this committee is going to do a site inspection—

CHAIR—We have already done so.

Ms McGirr—but it will be truly visible that there is very little vegetation left on the site, certainly in the areas that you can see on that map. It has been going on progressively. I see in the latest submissions that Randwick City Council is complaining that the watercourse which flows into the wetland is now subsiding because they have stripped all the vegetation. I rang up and complained to Randwick City Council and to Fitzwalter and Associates that in fact they were removing large trees and all the scrub there and that that was what would happen. What I object to is not just the removal of some of the fairly important vegetation but the unnecessary removal of it—for example, along the watercourse going into the wetland. It is just mindless. The department of finance had some findings on this site in its submission to the Senate inquiry into the disposal and management of defence lands. I presume it has been tabled before this committee?

CHAIR—It has not been—

Ms McGirr—Can I suggest that that submission be tabled before this committee, because it has findings on this site, particularly in relation to the consultation process, which has been problematic to say the least. I think there is also a proposal for scooping out the detention basin, which is a natural ephemeral wetland that drains through the sand in its floor. If this is undertaken, it will destroy the very remnants of the fauna and flora of this area, and it is really just about the only area that is left now.

I have here a copy of the Statement of Environmental Effects. But first I will refer to the Randwick Environmental Park Draft Plan of Management, which was prepared by the consultants for the Department of Defence. You should be able to get a copy of this from Defence. I refer you to pages 38 through to 57 of that report, which list the plant species which are there. Page 56 lists the birds which are in that wetland. You can imagine what the effect will be. There is a map, which is part of the submission of the Department of Defence, as to what they are proposing to do. The edge of the wetland, from previous maps, used to have a curve on the western side. Now there is a straight edge, according to those maps in their submission. I am referring to attachment 3(1) in the Department of Defence's submission. It now has a straight edge. I am wondering, despite the fact that they have not, as far as I know, been given permission to dredge out the wetland—

CHAIR—Ms McGirr, in the interests of maintaining our very tight schedule today, I have asked the secretary to get a copy of this for the members of the committee, because we are now over time and the members have not had an opportunity to ask you any questions. So could you wrap it up. If there are documents, we are capable of getting those and reading them.

Ms McGirr—All I want to say in conclusion is that attachment 3(1) seems to indicate a straight edge along there, and I am wondering whether this indicates that they are going to dredge out the wetland and reduce its size. The other thing I would say in conclusion is that I do not think that there is sufficient justification for the works proposed in the expenditure. It is particularly lacking in specificity as to time, task and how the task is to be performed. In particular, I do not see why we should be paying to remove defence things around the site. From previous maps which I have here, it would seem that they were proposing to move that anyhow because they need to install the new detention basin and to proceed with the next stage of development. So it is nothing new.

CHAIR—Thank you very much.

Senator FORSHAW—I notice in your submission, Ms McGirr, that you state that you are totally opposed to the relocation and rearrangement of the Army base at a cost to the promised Randwick environment fund. That is at point 6. Are you opposed to the whole development on this site?

Ms McGirr—No.

Senator FORSHAW—Let me finish that so you can answer it fully. What do you actually think should be done with this site? Defence has decided that it is surplus land which should be disposed of to make a residential area, a park and a community centre. What do you think the ultimate outcome should be, assuming for the moment that remediation of this land could be successfully completed?

Ms McGirr—Are you talking about the eastern end of the site or are you talking about the whole site?

Senator FORSHAW—I am talking about the whole site. It seems to me that a lot of the concerns you have run to the whole site.

Ms McGirr—The residents' position was that if it could be remediated satisfactorily, consistent with the safety of the residents, there was scope for development there. We thought it was unrealistic to say anything different, although desirably it could have been another Centennial Park or something. In relation to the eastern end of the site, they have scrimped and moved over and over towards the east so that there is less and less of it. There is a lack of appreciation that it is an ecosystem. The birds do not go down to Kentucky Fried Chicken to have their breakfast; they have to get it on site. So do the skinks, the lizards, the tortoises and all that sort of thing. There is just a complete lack of appreciation of it as an ecosystem. The smaller you make it, the less viable many of the species are, and they are all interrelated.

Senator FORSHAW—Is your statement that this is actually a significant ecosystem that should be protected backed up by advice or findings from environmental authorities?

Ms McGirr—If you look at the list that I have referred you to in that document, you will see that there are many, many birds. If you get advice on that list you will find that there are lots of stuff there which are almost—

Senator FORSHAW—But is there any order or finding—credible evidence—that this is a significant and substantial environmentally sensitive ecosystem?

Ms McGirr—Yes, there are two botanic species. One is a community—Eastern Suburbs Banksia Scrub—and there is *Acacia terminalis* subspecies *terminalis*. They are protected under the Environmental Protection and Biodiversity Conservation Act—the EPBC Act. The bent-wing bat has also been sighted there, which is protected. The thing to understand is that it is an ecosystem and those things cannot live without the relationship with the other things in that environment. They will not survive.

Senator FORSHAW—Does that mean that there should not be any development at all?

Ms McGirr—It is a matter of degree.

Senator FORSHAW—That is right. That is why I asked you the question about how significant and how substantial the ecosystem is. I suppose if one wanted to take it to its logical extent, you can find ecosystems in the smallest area of land. That is not to say you do not think it is significant and you do not consider its future. It is the first I have heard of any substantial objection to this proposal that is related to protecting a significant and substantial ecosystem. Most of the submissions that I have read and the evidence seem to go to the problems of the contamination and the remediation and so on. I live in Sydney and I am pretty familiar with the debates that occur right across the city about protecting natural ecosystems and bushland and so on. I live in the Sutherland Shire, so I am very familiar with these sorts of issues. I had not heard it being raised in the context of this site, to be frank.

Ms McGirr—It has been raised in all forums in which this development has been raised. Right from the beginning—for eight years—it has been a primary focus. There has not been much media coverage of it at all. We cannot get media coverage in the local paper.

CHAIR—It might help the committee if you were to perhaps give us an indication of how many people your organisation represents. What is the membership?

Ms McGirr—That is confidential information.

Senator FORSHAW—You are here representing a group. You cannot say that it is confidential to give us an indication of how many people it represents. We are not asking for their names or their details. You could be representing one person; you could be representing 1,000. It would be helpful to this committee to know the extent of the backing and support your group has.

Ms McGirr—I am not representing 1,000 people.

Senator FORSHAW—Can you give us an answer to the chair's question? It will help your case if you do.

Ms McGirr—No.

Senator FORSHAW—You cannot tell me whether there is 10, 20, 50 or 100?

Ms McGirr—I could tell you, but I do not propose to, any more than the precinct can tell you. There are people who come to one meeting and people who come to other meetings. We do not have a subscription.

Mr JENKINS—In paragraph 8 of your submission of 1 March you indicate that the group:

... is totally opposed to the relocation ... at a cost of the funds promised for the Randwick Environment Park.

Can you flesh out how you came to that conclusion?

Ms McGirr—Because it seems that the sum of money is approximately one-third of what was to be spent on the environment park. There is no allowance for inflation in the environment park figures as there is with the rest of the costing. It looks to us as though, because the environment park has not been started and it was due to be completed by November last year, the money that was to be spent on the environment park is being redirected in other directions and possibly in this one. We think that that is a cost that should have been anticipated as part of the development. They are moving it to another temporary location prior to going to Amberley, and we cannot see the need for that.

Mr JENKINS—What is your understanding of the agreement between Defence and the City of Randwick about the environment park?

Ms McGirr—That they were to have the first stage completed, which was, I think, \$1 million or \$2 million, by November 2003, and then they were going to provide another \$2 million or so to contribute toward ongoing maintenance for the next 19 years.

CHAIR—Thank you very much, Ms McGirr.

[2.10 p.m.]

METH, Mrs Carol Ann, Director, SOS Preschool

CHAIR—Welcome. We have received your submission. Do you wish to propose any amendments to the submission?

Mrs Meth—No, not at this stage.

CHAIR—Would you like to make a brief statement and then we will go to questions.

Mrs Meth—My appearing here is for a very specific reason. I have been involved in this process since 1987, believe it or not, and it has been very long and very varied. We are very grateful to Defence and Randwick council for having supported the preschool in the last few years and including us within the new community facility. For that, we are eternally grateful. I have spent many years and reams of paper lobbying to have this centre built.

In June 2002 we had a consultative meeting with Defence, council and lots of other representatives from the community centre. The architects were at that meeting, and we all sat around a table and looked at the plans and said what needed adjusting and what needed putting in and taking out. One of my concerns was that the preschool needed a petitioned wall. I am not sure whether you have a plan over there of the actual preschool building but, if you want to look at it, I have a couple. On it, there are three rooms for the preschool.

CHAIR—Are you tabling that plan?

Mrs Meth—Yes—if you want to see it.

CHAIR—I have to seek agreement. That is just so you know what I am talking about.

Mrs Meth—We have one large room. It is about 10 by 11 metres, and at that meeting I requested that a petitioned wall be built in the centre. We requested a large room like that but we also asked that it could be divided into two. Our current building is not a specifically-built preschool, and we all squash into small rooms. When we want to hold a large parent evening or something, we find it very hard. With the new plans, we asked for a large room that could be divided into two rooms because, as educators of young children—we have 35 there each day—it is not easy to teach in such a large area all day long. You need to have quiet spaces. One of our main requests is that we are able to divide the large room into two small rooms at various times through the day but that we are also able to use it as a large room for meetings and other things.

So that is my main thing. I have spoken with Defence, the planners and the council about this wall. The estimated cost is \$20,000. SOS Preschool is a non-profit preschool. We are the only independent community based preschool in the whole of Randwick City. There are two other community based centres but they are under Kindergarten Union management. We are totally independent. We were set up 21 years ago by a group of local parents. That is how we still run. We are quite independent. We do not have the funds to build that wall ourselves and I do not see

that we should have to pay for it considering that after this consultation meeting I wrote to Randwick council and put in my amendments to the plan. I have it all documented here. I included it with my submission. I sent a letter the day after that meeting in June 2002 to say that we needed that wall. For some reason, it was not put onto the DA. I only found out when we had a meeting very late last year—in December—that this wall was not included. I began writing letters again and that is how I got here. The council said that they were putting in submissions so I said that I also wanted to add my view.

We are a partly funded government body, funded by the state government through the Department of Community Services. I find it very difficult to understand why we as a government body and Defence as a government body have to argue about the cost. I cannot see why it is not included in the cost so that we do not have to grovel to another government department in order to get that \$20,000, because that is what we will end up doing. We will just have to go and ask. Believe me, I have started that process, not knowing what the outcome of this will be. We have already started talking about where we might find the money. If we do not get it built within the plans, we probably will not get it. Our meagre budget to move into the new centre is very small and we are still trying to find the money for that. That is my quibble.

CHAIR—We did a site inspection this morning. As we passed by I noticed that you are operating out of what looks like a very old building, so no doubt you will welcome the new one. I noticed that Defence's response in submission No. 38 suggested that perhaps this was something that the council should be doing as part of the fit out of the building. Have you discussed that with the council before?

Mrs Meth—I have before. It was put into my submission back in June 2002 that it should be included. All I have got from council is that they have said they will not be able to afford to pay for it. So they are going to ask Defence. If Defence do not pay for it I do not know who to ask. That is my query. Having put it into my request, I do not feel it is our duty to pay for it.

Mr BRENDAN O'CONNOR—I do not have any questions. I think what you are putting is very clear. We will genuinely look at it.

Mrs Meth—Thank you.

Mr JENKINS—I have a question that gives an example of people's ability to understand the process. Do you remember who called the last meeting in December 2003 where you discovered that the petition wall was not included and subsequently made a re-bid for it?

Mrs Meth—The planners—the Fitzwalter Group—called the meeting to let everyone know what was happening.

Mr JENKINS—Are you aware whether further discussions are taking place between the planners and everybody involved?

Mrs Meth—No. When I went to that meeting I was expecting to see a wall on that plan. That is the first time I found out.

Senator FORSHAW—Do you know whether or not it would require a variation to the plan? It is an internal retractable wall. Do you know?

Mrs Meth—Not really.

CHAIR—It is not structural.

Senator FORSHAW—That is right.

Mrs Meth—It is an internal wall.

Senator FORSHAW—We will still need to consider your request.

Mrs Meth—I do not know whether it has to go back to another DA to be amended. I do not know.

Senator FORSHAW—Fine. We will ask the council.

CHAIR—Thank you very much, Mrs Meth.

[2.20 p.m.]

HARRIS, Ms Felicia, Secretary, Moverly Precinct Committee

CHAIR—On behalf of the committee I welcome Ms Felicia Harris. The committee has received your submission. Do you wish to make any amendments?

Ms Harris—No.

CHAIR—I invite you to make a short statement and then the committee can ask you some questions.

Ms Harris—Thank you very much. I am not sure what you heard before I arrived. There may be some things I need to say on behalf of the committee that the residents have raised that we have been concerned about for a very long time. The contamination has been a big issue for us. We raise that continually because we just do not get satisfaction. We are particularly concerned about the contamination during the works. You will talk to Ross McFarland, who will no doubt tell you all about his credentials and his accreditation. He is a very nice man who has spent a lot of time telling us what he can do about the contamination. That was helpful because now we know what he cannot do, and that is the important part for us. He has absolutely no jurisdiction over any of the land that is not currently subject to a DA. That is a large proportion of the land. A lot of that land is directly behind those houses, particularly in Holmes Street or opposite other nearby homes. So he cannot do anything about the works that this committee are considering funding. We are very concerned about that. He also does not have jurisdiction over what happens to the residents' health whilst those works are occurring. He does not have that responsibility. His responsibility is to look at the land at the end of the process and decide whether it is suitable for that land use.

While the works are occurring—this has been happening for a number of years—we believe we are being contaminated. We have proof we are being contaminated; there have been tests off-site that show that there are asbestos fibres and fragments. We do not know about the rest of the contamination. We do not have any information about the pesticides that were under the slabs. Those slabs have all been dug up. I have some photos of those large piles of concrete bits and pieces that are directly behind the houses in Holmes Street, just near Garden Street. I can circulate those photos for you. According to the reports that Defence did on contamination some years ago, they suspect they contain dangerous pesticides like dieldrin, chlordane and heptachlor, which are no longer used. We ask for information on that and we do not get it.

Contamination is a serious problem for us. It does not just affect those people around the immediate perimeter of the property. With high winds in the area it will certainly affect more people further on. 'Maroubra' is Aboriginal for 'windy', so we expect winds and we expect that anybody conducting those works will do something about making sure any contaminated material is secured, with the expectation that there will be winds.

We are also very concerned about the natural environment. I have some photos that I took some years ago when the lake was full. One is of a swan in the lake. I am happy to circulate

them so that you will see what it did look like. It does not look like that now. We have witnessed, usually on a public holiday or just before Easter or Christmas, backhoes and bulldozers moving in without notice. They come in and rape the land, without any explanation. Even after residents have asked, 'You're not going to knock down that gum tree directly behind my property, are you?' and have been told no, they have come back from work to find the gum tree gone. So those doing this really have no consideration for that natural environment and the endangered species in it or the general natural heritage.

Some of these things would probably have not been as big a problem if there had been proper and appropriate consultation. The consultation has really been a fraud. I have been part of the committee and part of this whole exercise since 1996. I have attended just about every meeting that there has ever been. I was on the reference group. I continually feel a lack of communication. When we do complain, we are told to go to the web site. I have here an example of one. I printed the web site off and, as you can see, there is not very much on it. In fact, it is really blank. It is a real estate advertisement for the site. There is nothing there that would lead me to believe that the defence arm is a suitable developer. Nothing would lead me to believe that I should be confident that whatever works are carried out on that site are going to be done with my health or the natural environment in mind. I am very concerned about that.

I have a copy of the *Hansard* of the Senate inquiry that was held a couple of years ago, which asks quite emphatically if the Department of Defence should be a developer. I would have to say no on our experience, based on the communication and consultation. They will tell you they have done consultation but the consultation is one of their consultants storm-trooping into our meetings, trying to force his way onto the agenda like a vacuum cleaner salesman—in fact, the worst kind of vacuum cleaner salesman—and trying to force his views on us so that he can tick the box that says he has consulted us—but there is no consultation. Because of that, this whole process has gone on a lot longer and has cost a lot more money. There has been six weeks in the Land and Environment Court and the result of that was a planning disaster—and I do not know how many millions were spent so that we could get that result and be told what the residents already knew. If there had really been proper consultation in the first place, perhaps there would have been a lot less money spent. That is a summary. I could go on longer but perhaps I should leave time for questions.

CHAIR—Thank you very much for that. As I said, we have written submissions from you outlining your concerns. Your committee's first submission refers to difficulties in obtaining information about what is happening on the site. Can you outline for us what information you particularly sought, from whom was it sought and what response you got?

Ms Harris—We have written to the Department of Defence several times. We have recently written to Fran Bailey, a parliamentary secretary, asking for, for example, the naval stores manifests, which we believe are important pieces of information that would lead to some more conclusions as to what kinds of chemicals have been held on the site, what was tested in the gas chamber that was on site and what was brought back from the wars. We would have thought that was the sort of information that they would need before they started digging up soil that might have those chemicals in it. In general, we have regularly asked to know before works are being conducted; we want to be informed. I think they drop the newsletters just to those in the immediate streets, so a number of us do not ever get those newsletters and, as I have just pointed

out, when you go to the web site there is no information there. Those are some examples over a process of many years.

CHAIR—Are you saying you have not received any responses?

Ms Harris—We got a response from Fran Bailey saying that we should go to the web site and that newsletters have been distributed. We do not get reports when we ask for them. We have asked for them from the Fitzwalter Group. We have asked for specific reports from Fitzwalter but we do not get them.

Mr BRENDAN O'CONNOR—Can you explain to us if your committee has the imprimatur of council?

Ms Harris—A precinct committee is established by council. It is a forum where the residents can get information about what is going on in the city, so we get regular papers of council matters through the council and then we have regular meetings with residents. All residents and landowners come along to find out what is going on in the local area. Does that explain it?

Mr BRENDAN O'CONNOR—Yes.

Ms Harris—It is run by residents. We are all volunteers and we get no money.

Mr BRENDAN O'CONNOR—Is there a councillor attached that you report to?

Ms Harris—No. We do not report to any councillors. There are none attached. They have an open invitation to attend, and some of them do.

Mr BRENDAN O'CONNOR—How many precinct committees are there within the municipality?

Ms Harris—I think there are nine. Somebody might correct me about that.

Mr BRENDAN O'CONNOR—Do they coincide with wards?

Ms Harris—No, not specifically. There are only five wards, so we have more precincts than wards.

Senator FORSHAW—I assume that your precinct covers the area including the barracks and the surrounding area; does it?

Ms Harris—Yes. Our precinct in fact covers the entire land. We border Rainbow Street and Malabar Road and then go down to Storey Street and Avoca Street, so it is right in the middle.

Senator FORSHAW—How many residents or households would be in that area?

Ms Harris—There would be 3,000 households, in round figures.

Senator FORSHAW—How many residents?

Ms Harris—I am not sure exactly how many. We know that because, when we drop our own newsletters, we drop about 3,000.

Mr BRENDAN O'CONNOR—Whether they are providing sufficient information or not is another matter, but you were concerned about the narrowness of the notice distribution.

Ms Harris—Yes.

Mr BRENDAN O'CONNOR—How narrow is it? How many people or houses are in receipt of the notices? How many do you think should be in receipt of the notices, approximately?

Ms Harris—I would think that, at the very minimum, the 3,000 residences that are in the precinct are certainly affected. They are the ones who should be getting newsletters, at a minimum.

Mr BRENDAN O'CONNOR—Is the site set in the centre of the precinct?

Ms Harris—It is right in the middle of the precinct, yes. We are within no more than three streets. I live in Moverly Road, so I am three streets away from the site, and Storey Street is the furthest—that is a boundary. So we are within four blocks of the site, and I do not ever get the newsletters.

Mr BRENDAN O'CONNOR—Who does get the newsletter, to your knowledge?

Ms Harris—According to Ms Bailey's letter, they do go to Bundock Street and Holmes Street and a couple of streets that run perpendicular from there. I do not recall exactly where, but that is what was detailed in a recent letter we received. The evidence that we get at our meetings is that at least half the residents that might attend the meeting would not have received the newsletter.

Mr BRENDAN O'CONNOR—Thank you.

Senator FORSHAW—You are one of nine precincts, but this is also a significant site within the municipality as a whole. What is your understanding of the attitude or views of other residents, other precinct committees—obviously, you would be in touch with them—and the council? What do you think the general view is?

Ms Harris—The Spot precinct is one of the nearest ones. They border our Rainbow Street border. They have also placed a submission and they also have very strong views. They have the same views as us, so we share the same concerns. We have not been in touch recently with Kingsford South precinct—that is, the other border—but, certainly, when I have discussed the issues with Andrew Roydhouse, the chair, I have found that he shares exactly the same views as our precinct. When we have had combined precinct meetings we have had nothing but support from other precincts.

Senator FORSHAW—You referred in your submission to the three options that Defence identify. I can tell you—from a lot of the issues that come before this committee where there is

some proposal for a development, a refurbishment or whatever—that there is always option 1, which is do nothing. That is the one that does not cost anything immediately. As Defence said, option 1 was ‘do nothing, leave the site as is’, and then you state:

Most residents would have been more than happy with this option.

What does that entail? That option appears to have gone, but what do you think would have been the ultimate outcome? What would happen to this site? Presumably, there is a feeling that, if it could be done, there would be less development and less disturbance of the site. What do you really end up with? Is it a site that is ultimately useful to the community?

Ms Harris—I guess what we were saying when we said that we would support that option was that, compared to what was occurring, we would rather it be left exactly as it was, because we were so fearful of what might happen next. If we were to be listened to more carefully by the Department of Defence about what we thought was ideal for the site, I would say that most residents—not all, but most—were realistic in thinking that some development would take place on that site. So we have had a set of principles for that site from the very beginning and we have never swayed from those. Our main principle is that we would be happy to accept development where there was currently built form and that there should be open space where there was currently open space. So we certainly would have accepted that. There are some residents who would have said that it should all be open space with the amount of development that is occurring in Randwick City Council—that in a very overdeveloped area more open space would have been better. But, as I said, I think many of us are realists.

Senator FORSHAW—Each one of those options—including, I would suggest to you, option 1: do nothing—would still ultimately involve, as Defence vacates the site, the removal of infrastructure and buildings and that, in turn, would involve the necessity of rehabilitating the site. The days are gone when you just walked away and left those sorts of sites. So some of these issues would still have to be addressed, wouldn't they?

Ms Harris—Yes. So perhaps you would be better off just allowing the Department of Defence to sell it to a private developer, who cannot use Commonwealth powers to say, ‘We can do whatever we want.’ That is the kind of excuse we get, if I can call it an excuse. Each time we make a complaint or we say that we have a problem we are told, ‘They can do that under Commonwealth powers.’ It is something a private developer cannot do.

Senator FORSHAW—I am not disagreeing with you but—and, as I said earlier, I live in Sydney—I have heard these same arguments used about private developers.

Ms Harris—Certainly. But I suppose that has been our experience: we only have one experience, and it is all we can draw from.

Senator FORSHAW—It is not a fact that private developers would necessarily do a better job. That is just a comment.

Ms Harris—We cannot imagine worse.

Mr JENKINS—Today you have mentioned the results of some off-site air monitoring tests. Who carried those out and when were they carried out?

Ms Harris—I have not seen the results. There is an environmental person who I believe is carrying out those and he delivers reports to council, some of which we have only just received via council. I think they have results on them, but I am not sure. We have never had contact with that person.

Mr JENKINS—I guess I will have to ask council. Thank you.

CHAIR—Thank you very much, Ms Harris.

Ms Harris—Thank you.

[2.39 p.m.]

MESSITER, Mr Gordon Frederick, General Manager, Randwick City Council

SULLIVAN, Councillor Dominic, Mayor, Randwick City Council

CHAIR—Welcome. The committee has received a submission and a supplementary submission from the council. Do you wish to propose any amendments to your submissions?

Councillor Sullivan—No.

CHAIR—I invite you to make a reasonably brief opening statement. I know that you have made quite a big submission.

Councillor Sullivan—This site has had a long history. It has not been one without controversy; previously it had been one that had been fairly adversarial. In fact, I think it is disappointing on behalf of my city and the Commonwealth that both ratepayer and Commonwealth funds were expended in the millions in order to get a planning outcome on a site that sits in the middle of perhaps some of the most developed areas in Sydney. It was certainly not our hope that we would have to go to such an extent.

I say that at the outset because council was never opposed to a residential redevelopment of this site. There would be very few councils around Australia that would have treated a site with such an air of cooperation when it came to the realisation that there would be a residential redevelopment here. However, at the outset we did have a number of important priorities on behalf of our community. Despite that we went through a very protracted legal court case, which the council won. At the end of that court case there were a number of issues that the Commonwealth needed to address as part of its reapplication. There was a successful negotiation of that, again with, I believe, the cooperation of the council. As a result there were a number of development applications and a number of conditions associated with that.

Council has, to date, processed a master plan together with a number of development applications. However, in the eyes of the community and the council, these were contingent upon a number of undertakings and representations made by the Commonwealth that were *quid pro quos*. Some of them were very basic, such as the restoration and rehabilitation of the sensitive wetland area at the eastern end of the site and the construction of a community centre to replace the community centre that was on Commonwealth land. It is our hope that these matters can be finalised as quickly as possible.

I received representations, firstly from Dr Brendan Nelson followed by the current parliament secretary as well as from the then disposal unit manager from Defence, that we would have, in agreed time frames, the completion of these facilities. That has not occurred. So council is somewhat disappointed that it has met its end of the bargain, so to speak, in terms of its timely assessment and response to these applications, yet the site is still without a community facility and has not had its wetlands rehabilitated. That is the nub of where council is coming from.

We believe the planning issues have been addressed on behalf of the community. There were various concerns in relation to a whole host of matters: the density of the site, the amount of open space, the parking and the traffic. We believe that these have been adequately addressed, certainly to the satisfaction of council. We are very keen now for the matter to be completed as quickly as possible.

CHAIR—Thank you for your precise and concise representation.

Mr Messiter—I can give you a tangible measure as well. In respect of the community centre and the environmental park, the commitments involve nominal capital amounts to be expended on those things—and this committee is of course concerned with those very issues. Our concern, as our submission points out, is that the efflux of time since those commitments were made means that to some extent the nominal values have lost their relevance. Our submission points out that there is a need not only to make some adjustments to adjust for that delay in the time of delivery of those particular projects but also to account for what would be reasonably assumed to have been part of the commitment. That is to say, I heard the tail end of an earlier submission about a partition wall, for example, inside the community hall. One might reasonably expect that that would be part of the overall design of that building that was decided upon in conjunction with the community groups. I think the expectation was that some of those additional works would be part of that total commitment. There is that aspect.

With regard to the environmental park, there has been subsequent deterioration of the site over that time, and the detailed commitments that were, if you like, more clearly defined and identified at the approval stage indicated additional works which would have been in excess of the nominal amount of \$1 million that was proposed. It is council's view that the importance of meeting these commitments means that those nominal figures need to be supplemented to meet the realistic costs of the projects as committed.

CHAIR—The committee has heard today from a number of witnesses. Some of them have been glowing in their praise for Defence's consultative process and said that they are very happy whilst others clearly are not happy at all. Three areas have come up fairly consistently during the course of this day. The first is the standard of remediation of the site, the second is the traffic measurements to minimise traffic impacts and the third is the development of an ecologically sustainable model—in particular, some concerns in relation to the draining of that basin and the wetlands area. But I just heard you, Mayor, say that you are happy and satisfied at least with the first two that I mentioned—the traffic management and the environmental remediation.

Councillor Sullivan—I think it is difficult with any application. Given the size of this particular redevelopment site, you can agree with the framework at the outset when you assess an application but the true impact is only realised when the trucks arrive. I think there are lessons to be learned by both the Commonwealth, in redeveloping these big sites, and Randwick City Council. One of the issues, for example, was dust mitigation and migration off the site. It would be clear to us that there was not sufficient protection at the outset in relation to the conditions of consent, and certainly I do not think that the Commonwealth was meeting its requirements under various work practices in relation to the way that that site was being managed. There was a request that a dust mitigation plan be developed. There were certain conditions that were required to be met under the development application. We would expect all of those conditions to be met. This is really an issue of management. The process itself has been fairly detailed and

elaborate, but I think it is very important for both council, as the consent authority, as well as the applicant, the Commonwealth, to make sure that those conditions are met.

CHAIR—Are you satisfied, though, with the processes that Defence are now putting into place to manage the contaminated areas of the site? Are you satisfied with the arrangements that are being made and the work that they are proposing?

Councillor Sullivan—We have not been impressed to date. But if they meet the requirements under the various pieces of state legislation and also council's conditions we would be happy.

CHAIR—And are you concerned about the particular traffic problem in Bundock Street, the street where one of our witnesses, Mr Davidson, lives at house No. 86A?

Councillor Sullivan—I am concerned. It was perhaps something that was not particularly clear during the application process. I think most of the community was expecting that all the construction would take place through the site, off Avoca Street. That was certainly true as part of the earlier NOI works, but I understand that with the development application for the first site subdivision a certain number of trucks have been using Bundock Street. It is certainly something that we will need to address, having received community concern with future applications. We would be asking for some cooperation from the Commonwealth to ensure that, to whatever extent practicable, the trucks do enter the site through Commonwealth land. If that means creating some sort of access corridor through the site, through the remaining Army land, fair enough. I think it is a bit unreasonable to expect Bundock Street to take all the truck traffic for the redevelopment.

CHAIR—As I understood it, a lot of the concern is for later on when the development is completed. Is that your understanding?

Councillor Sullivan—There is concern that this is going to generate additional traffic. But I believe that council and the applicant spent a lot of time in court and then afterwards as part of the application process to come up with a traffic plan that minimised it. We had a number of concerns. Firstly, we did not want to allow for or encourage through traffic—that is, north-south traffic. Having said that, we did not want a gated community with only one access off Avoca Street for 600 dwellings. So it was important to put in place a number of traffic measures that would restrict through traffic and also not place too much of an additional burden on those other local neighbouring streets nearby.

CHAIR—Are you confident that you can work with Defence to find alternatives to resolve the problem that Mr Davidson and others have outlined?

Councillor Sullivan—There may not be a perfect solution but our commitment on behalf of our community is that we will endeavour to find the best solution.

Mr BRENDAN O'CONNOR—In her evidence, Carol Meth, Director of SOS Preschool in Bundock Street, raised concerns about a proposal to have a retractable partition in the new community centre. In her submission she said:

I would like to point out that I submitted to Randwick Council a letter dated 19th June, 2002 outlining this addition to the DA after attending a consultation meeting with Project Managers and Council ...

And then subsequently she discovered that it was not in any proposed plan. My question to you, Councillor Sullivan, and indeed to you, Mr Messiter, if it is easier for you to answer this particular question, is whether there is any capacity for that retractable wall to be featured in any construction of the community centre. What is council's view of that given what has been submitted by SOS Preschool?

Mr Messiter—From my understanding of the situation, part of the difficulty might have been with, shall we say, the disappointment of the future users of the community centre about the way the project developed. It was essentially a design and construct project and while certain expectations of the users—which were essentially the community groups there—were conveyed to the designers, in the context with the Commonwealth people, I think the outcomes of that perhaps did not match what the expectations of the user groups were. It was not that council was specifying requirements in a design or anything; it was an issue that involved the designers who were working directly for the Commonwealth in responding to the issues raised by the community. It is not a requirement of the DA, for example, because the DA does not get into that level of detail of design.

As I think I put to you in my response earlier about this issue, I think there was a reasonable expectation by the council and by the community groups that the Commonwealth would meet the requirements of a community centre which reflected the needs of the community. I thought it was cutting corners a little to restrict the contract in the sense of an absolute nominal amount when perhaps the design to meet the requirements may have been slightly more than that. It would have been better to have supplemented the original contract in order to meet that or to make some other arrangement to complete the project as, in essence, a turnkey project on behalf of the community as part of the agreement reached by the council in negotiations with the Commonwealth.

I can understand why the community groups are disappointed. It is our concern that on a project of this scale, which is returning a gross amount close to half a billion dollars to the Commonwealth, something as miniscule as a partition wall in a community centre might not be met as part of the commitments when it was everybody's understanding that these issues would be dealt with and the commitments honoured. We would hope that the committee and the Commonwealth can see the way clear to supplement the allocation in order to fully sign off on those commitments.

Senator FORSHAW—We have had some evidence from witnesses expressing concern about the impact of this development and the works being done leading up to the development on the ecosystem of the area. Are you satisfied that whatever natural or ecological significance there is to the site is being addressed?

Councillor Sullivan—This is one of the great outcomes for the community. You have a wetlands system there that has been interfered with over time. It is extremely degraded. If it were to become public land it would require a major refurbishment. That was what we hoped on behalf of the community would happen as an outcome of the redevelopment. I do not think you would get too much objection from people wanting to see that land opened up, refurbished and

made accessible to the public. In terms of what the Commonwealth is doing, we have reached an agreement in relation to the works that are required. We have had peer review by a number of people from our environmental departments as well as by state agencies to ensure that all the works are in accordance with sound environmental practices. We are happy that the management plan agreed upon is acceptable to not only council and the community but also the Commonwealth and the state agencies.

Senator FORSHAW—It was pointed out that certain protected nominated species might be affected. Is that being addressed?

Councillor Sullivan—We see this on a daily basis where we have tree preservation orders and development applications. The onus is on the Commonwealth to make sure that they meet those conditions of the consent—to ensure that if there are protected species that are required to be retained then they are retained.

Senator FORSHAW—A remediation process is going to be undertaken here to remove the contaminated product and reuse the soil and so on on site. Has the council been in a position to consider the effectiveness of that process? I assume you have an environmental scientist or relevant personnel on council to consider how good that practice will be. There has been a fair amount of debate. The union—Mr Tighe—has raised concerns about these issues, as have resident groups.

Councillor Sullivan—I will make brief comments and then ask Mr Messiter to add to them. First of all, I am no expert and I do not think anyone on council has ever been expert in this area of major site remediation. The truth is that the court itself had difficulties with this issue and that is why council required it. We had a bit of an arm wrestle with the Commonwealth at the time but we finally got the agreement that in order for any development to occur the council would have to be issued, under the Contaminated Land Management Act, with a site auditors certificate that the site was clean for the purposes required. There would be no development without that site auditors certificate. I cannot think of a higher guarantee for the community of Randwick than that certification under that relevant legislation. In fact, I do not think there is any other higher clearance that can be offered or guaranteed.

When it came to matters such as asbestos, where there was argument as to what the appropriate standard was, council made the condition that in the absence of those standards the soils be asbestos free. Again, I cannot think of any higher standard to satisfy ourselves or the community. I am satisfied that we have put in place the relevant conditions that are going to ensure (1) that we are going to get a clean site and (2) that we have the legal indemnity, the certification, required under law that gives council and the community a guarantee in relation to the suitability of the site for residential or other development.

Mr Messiter—I will add a couple of points there—they are points we discussed a bit earlier as well. I think it is fair to say that the works undertaken under the Commonwealth powers did raise concern. They raised community concern. It is fair to say that there were shortcomings, and they have been identified by some of the earlier speakers. More attention to detail and work practices and so on should have been in place but, being a Commonwealth works, we had no jurisdiction and no role. In a sense that, to some extent, caused council and certainly the

community a lot of concerns. Had that been better managed, many of the concerns of the community might not have manifested themselves to the extent they have.

In terms of the effectiveness of outcomes, so far as council are concerned, as the mayor has pointed out, there are very stringent conditions on the site. As I understand it, the site that has been the subject of the first development sale and the community facility site have in fact been signed off by the site auditor to meet those very stringent requirements, and council are satisfied that those conditions were met. So the outcome, in that sense, I think is acceptable to council. I am sure that the site auditor, whom I understand you will be questioning later on, will be able to provide you with more significant detail. In short, there were shortcomings in the first part, the Commonwealth works, and I think that could have been done better. In terms of the final outcome, I think council are satisfied that, in meeting those very stringent conditions, the land that has been signed off is suitable for development and we are happy with that outcome.

Mr JENKINS—There has been a discussion about matters to be resolved about the community centre and the environmental park. I am satisfied that ongoing discussions about the community centre are occurring, and hopefully something might be resolved. But, with regard to the environmental park, I am a bit concerned when I read in the supplementary submission that council believes that additional works ‘would require an additional allocation of funding, ranging from \$300,000 to \$500,000 over and above the \$1 million identified in 2001 for capital works and bushland works’, and the response by the Department of Defence talks about it being ‘within the available and agreed budget of \$1 million’. This seems to be a major difference of opinion. If this cannot be resolved what happens?

Mr Messiter—As I pointed out to you earlier in my evidence, agreements were reached and numbers were placed on those agreements. At the time we were satisfied with the nominal numbers. The efflux of time has changed things. Also in terms of what actually happened, particularly in the case of the environmental park, it was clearly identified that there would be additional works necessary to achieve the outcome that was agreed to, albeit not within the nominal \$1 million allocation. What was agreed was a program of works, effectively, that would bring it up to a standard and that was estimated at \$1 million. That is my understanding of where the \$1 million came from. I guess what we are saying is that the real agreement was about the refurbishment and re-establishment of the environmental park, which at that time was estimated to cost \$1 million. We are saying, ‘Okay, today, three years later, the estimate to get it up to that standard is going to be more than was anticipated at the outset.’

I might just add one point. Whilst I cannot speak for council, I have to say that if the Commonwealth is not prepared to meet its obligations under the agreement as we understand it—albeit outside that nominal amount—then I would be recommending to council that it give serious consideration to not accepting the handover of the environmental park.

Mr BRENDAN O’CONNOR—Why didn’t you have that undertaking in any arrangement—that rather than having nominal figures you made sure you anticipated that in the event there was a delay in the construction—

Mr Messiter—Why didn’t we put a rise and fall clause into that agreement—is that the sort of thing you are talking about?

Mr BRENDAN O'CONNOR—Yes.

Mr Messiter—At the time we reached the agreement, we thought it was an agreement. There are some things you do not get into detailed chapter and verse on. I think it was a pretty clear understanding that what we considered to be reasonable conditions in those respects should be provided and met by the Commonwealth in the context of a site as big as this with as big an impact. Having in mind the cooperation that the council gave the Commonwealth right through this process, there would have been a reasonable expectation that a bit of give and take might have been okay—particularly when, as I say, we are talking about a cost of 0.01 per cent of the gross outcome of the site.

Mr BRENDAN O'CONNOR—Okay.

Mr Messiter—I guess that is the context.

Mr BRENDAN O'CONNOR—I just think it was important to have that placed on the record.

Mr Messiter—Yes, thank you for that.

Mr JENKINS—This is an unrelated question arising from the evidence of the Moverly Precinct Committee: is council aware of any off-site air monitoring results?

Councillor Sullivan—Yes.

Mr Messiter—Yes. When this issue was current—at the time that work was being undertaken there was a lot of dust around—council itself undertook some independent off-site testing and evaluation.

Mr JENKINS—Is there a timed series of monitoring to show that things are improving or have been resolved?

Mr Messiter—From recollection, at the time there were serious concerns held by the community about the Commonwealth works and the dust that was blowing, and whether or not there might be contamination. We immediately had tests done on the dust at the time. I recall that in two locations—a private house and the council's child-care centre, which is in the Moverly development area—samples were taken and tests done. The results of that did not show contaminants of any concern, and certainly no asbestos—I think that was the first and major concern: to ensure that there was no asbestos in the samples. There may have been minor traces of other contaminants; I cannot remember those details. But, at the time, those tests did not raise any concerns with council. There may have been tests done by others, but they are the tests that I know we did at that time.

CHAIR—I thank you very much for appearing here today, Mayor Sullivan and Mr Messiter.

[3.08 p.m.]

McFARLAND, Mr Ross Valentine, Principal Environmental Auditor (Contaminated Land), and Regional Technology Manager, Asia Pacific, CH2M HILL Australia Pty Ltd

CHAIR—Welcome. Do you have any comments to make about the capacity in which you appear?

Mr McFarland—I am an accredited site auditor in the New South Wales Department of Environment and Conservation, Environment Protection Authority. I am here to provide guidance to you in relation to the site contamination issues.

CHAIR—The committee has received a submission from you. Do you wish to propose any amendment to the submission?

Mr McFarland—No.

CHAIR—I now invite you to make an opening statement before we proceed to questions.

Mr McFarland—I have prepared some information as to my role in acting as the independent site auditor for the Randwick site. I understand there has been a lot of discussion about the site contamination issues, which is quite understandable. Perhaps I should rush through this and allow you to ask questions of me, because I think there are probably a lot of issues that have not necessarily been resolved yet. I will tell you quickly about myself, the process that has been going on at Randwick, the key issues as to the contaminants, the sign-off process that has been required by the council and the state government, and the outcomes so far and then present a few conclusions. That will probably take me 15 minutes if I go quickly, so I apologise if I go too fast for you.

I have been working in this area for more than 20 years. I work for a company called CH2M Hill. It is an American based company with 16,000 employees and a \$2 billion a year turnover. All of the work that I do is closely monitored and scrutinised by my bosses and staff to make sure that I do not do anything which would risk that organisation. I used to be the manager of contaminated sites for the New South Wales Environment Protection Authority, where a lot of the legislation and the current guidelines were prepared under my supervision. I am currently a site auditor under the Contaminated Land Management Act, a New South Wales government act. There are 28 auditors, and I am one of those. I am the co-author of primary documents relating to non-occupational exposure to asbestos—that is, asbestos in soil. I have been working on a national body to try to develop national standards, and I can speak about those standards later if you wish.

I have been involved as an independent reviewer of the Randwick site in the period from 1996 to 1997 and, significantly, since about 1998. The process in relation to land contamination is that a consultant will investigate a site. They will be paid for by the polluter and they will develop a report that classifies the characteristics of the site. They will develop a remedial action plan and then they will implement the remedial action plan. They will put in place a validation process to

confirm that the remedial works have been completed satisfactorily and then they will present that report. My role as independent auditor is to review the performance of each of those steps on the way from initial investigation through to validation that the site has met its proposed land use. It is a statutory process. It is controlled under the Contaminated Land Management Act in New South Wales. It only is controlled by that when the federal government makes a development application. Up until then the federal laws control the process, rather than the state laws. There is a memorandum of understanding that says that federal agencies will conform to the extent that they can with state legislation. So up until the DA there was no direct control, but after the DA there was direct control.

It is a user-pays system. The Department of Defence are the polluter of the site. That is a technical term—as well as an emotive term—under the act. They are responsible for the clean-up of the site. They are responsible for my fees as well. The work that I do, however, is done on behalf of the planning agency, so my work is given to the planning agency. They are effectively my first boss and my second boss is the New South Wales Environment Protection Authority. I am personally accountable for all the work that I do. I can go to jail for six years and face fines of \$137,000—or both—if I make any false statements or if I do stuff which is considered, in the opinion of the EPA, not to be consistent with the laws that they have implemented.

You have already heard from most of the key players. I will run through them, from my perspective. The Department of Defence is the site owner, polluter, remediator and developer. The environmental consultant does all of the sampling and analysis, and produces the reports that I review. The remediation contractor is out doing the work that the environmental consultant has designed. The project manager, Fitzwalter, is supervising all of these works by the remediation contractor and the environmental consultant. The council looks after the conditions in relation to the development applications. The EPA oversees my work and produces all of the general guidance that is part of the DA conditions. The Department of Health and the Department of Infrastructure, Planning and Natural Resources—which used to be the department of water resources—look after health and water related issues, such as ground water and surface waters to some extent. There are the neighbours and the community, and me as the auditor. So that is the big picture of all of the players.

In this process I have tried to develop a level of trust and a relationship with the community, through the precinct committee meetings. Also I have developed a relationship with the New South Wales health department because of some sign-off requirements that I will tell you about in a moment. Also, naturally, I have developed a relationship with the Department of Defence as the people that have to do all of the clean-up work and meet the regulatory requirements.

In order for me to do my work I have to have a large group of support technical staff. In order to become an auditor you have to meet a minimum technical standard but you need a support team. My support team consists of environmental scientists, UXO experts, toxicologists—the list goes on. I could list them for you later if you like. What I am trying to say is that I have a wealth of technical expertise that I can draw on as required, which I do. I also draw on the US experience in what are called brownfield development sites, which are old industrial or military sites which have been cleaned up in the United States and in Europe. I have been coordinating with my colleagues in other countries to make sure that the work is done as best as can be undertaken for the type of contamination that exists. I will speak a little bit more about that in terms of the outcomes.

The key issues on this site were first expressed in a notification of intent that was given to the federal government. That was an initial snapshot of the characteristics of the site. That was before a lot more investigation and characterisation of the site were subsequently completed. From that large snapshot we can come down to a set of key issues: underground storage tanks, that were related to vehicle manufacturing and refuelling facilities; waste dumps; fill activities that took place in an uncontrolled manner inside the federal boundaries of the site; demolition waste, which was also deposited; asbestos fragments that were located across the site in particular areas, and I can speak to those in a minute; and ground water, ash and slag. They were the major environmental issues that related to the site.

The underground storage tanks were addressed by way of standard practices that are used on service station sites. They were validated, that process has been monitored, and I have signed off areas that had underground storage tanks in them. Waste dumps and demolition waste areas were identified by aerial photographic techniques that date back in five-year intervals, from today backwards to soon after the occupation of the site. So there is a gap in the history of the site from an aerial photo perspective. Those areas have been identified and some of them have been cleaned up, while others are still under clean-up.

There has been a lot of discussion about ground water over the years. The site has actually been investigated in relation to ground water for the last six years. During that time there was an intermittent anomaly of a dry-cleaning solvent—that is the best way to describe it; technically, for my BSC colleague in the room, it is called a volatile halogenated compound. That compound is more associated with dry-cleaning fluid—and I will get to that in a moment. Localised ground water impacts did exist around the waste dumps and also in relation to the underground storage tanks, and those have been progressively addressed. They were localised impacts. There has been a continued presence of this volatile halogenated compound, this solvent, intermittently through the duration of the investigations—that continued to be reporting as a problem.

I was not satisfied that that source of contamination had been identified, so I had the environmental consultants and Defence go back and look through all of the site history information to try to dig up all of the inventories that Felicia spoke about earlier, which proved quite difficult. Summaries of those were available so that was the extent to which we could use them usefully for characterising the site. As a consequence of the uncertainty that still existed around ground water, I required the consultants to go out and do these very rigorous and fairly innovative techniques to try to find why this intermittent solvent problem was occurring. Through some rather innovative techniques—which I think are now best practice in Australia but were not four years ago when they were implemented—I was able to watch the consultant monitor a storm event to try to find out whether the contamination that related to the solvent was sitting in the soil or whether it was coming from some other source. Through a lot more investigations we found that there was a sewer running across the site. The up gradient is attached to a dry-cleaning site. It sounds really simple now, but at the time it was very hard to link the solvent contamination that we were finding on the site with the drycleaners and a leak from a sewer. In my opinion, that finally resolved the only outstanding issue in relation to ground water on site.

The only other issue was asbestos. There is no regulatory standard for asbestos in soil. There is a regulatory standard for asbestos in air from an occupational exposure perspective. Where there is no scientifically defensible criteria set, the regulatory agencies defer to a risk based

approach. They get consultants to develop a conservative model that is based on a certain exposure pathway, a certain amount of soil that you might eat or a certain amount of soil that might pass over an asbestos impacted soil to create an airborne problem and then that has a regulatory standard. That approach was applied to this site. There was a lot of debate about the scientific rigour of the technique because it is new, there is no regulatory standard and there had not been any risk assessment performed to date.

After two years of arguments between the experts, including all my experts and all Defence experts, we finally came to an agreement based on a precautionary principle in terms of the model. It said that a certain level of asbestos in soil would be acceptable. That concentration ended up being 0.01 per cent by weight for asbestos. The detection limit that we can achieve is 0.001 per cent by weight for asbestos. The Victorian EPA up to this stage was using one per cent asbestos as the criterion because they did not have anything else at the time. A lot of sites were cleaned up to less than one per cent asbestos. When we started looking into the science of it, we could not find a defensible reason why we should be applying that number. We thought it was too high. In fact, the risk based assessments suggest a 0.01 per cent asbestos in soil. Because of the uncertainty in the process, New South Wales Health, the Environment Protection Authority and I, as the person who signs off the site, came to a consensus to use the non-detect as the basis for an acceptable criteria for the site. The non-detect is effectively less than 0.001 per cent by weight for asbestos.

In the debate that I have heard today there is a lot of misunderstanding about the concept of 'no asbestos' or 'asbestos-free'. In fact, the site is not being cleaned up to an asbestos-free level; it is being cleaned up to a level where no detectable asbestos is found. It is also cleaned up to a level where there is no visible asbestos from an asbestos fragment perspective. A site is cleaned up on two asbestos standards or criteria: one is fibres and the other is fragments.

The Department of Defence work that I have been pushing along has fed into national asbestos guidelines, which have been in draft form for two years now. I can supply those guidelines to the committee if it is interested. They are in a document called 'Guidelines for the Management of Asbestos in the Non-Occupational Environment: Consultation Draft' compiled by the national health agency, enHealth, of which I am a participant.

CHAIR—Are you proposing to table that?

Mr McFarland—Yes, if that is appropriate.

CHAIR—There being no objection, it is so ordered.

Mr McFarland—It might make for some interesting reading. One area that I would like to point to for your information is on page 26 of the document, which says:

It is impractical to propose that a site can be 'free' of asbestos fibres. Risk assessment and management is required before sites can be declared acceptable for unrestricted use.

That is one of the key components of this document. The other is how one goes about trying to define whether or not a site has been cleaned up to that standard.

Moving on to the other points, the sign-off requirements for this site are unique. They are not the same as those applied to any other site in New South Wales that I know of. The reason I say they are unique is that auditors like myself can sign off on a site as being suitable for a particular land use. We can do that with conditions—for example, people can clean up a site and create an on-site containment cell. When they do so, I can say the site is suitable subject to conditions that control that particular activity. The council placed much more rigorous conditions on this site. They not only said that the site should be signed off by an accredited site auditor but also added two other constraints, including that it had to be an unconditional sign-off. By making it unconditional they were actually saying that nothing can be left behind. They further required that my work basically had to be reviewed and endorsed by a suitable state agency with respect to asbestos, which was New South Wales Health. So, as the mayor said, there is a very high level of rigour and comfort in using auditors for the technical sign-off for the suitability of land. On this site there are those two additional demands: unconditional sign-off and a confirmation from New South Wales Health. As well as sign-off for the land suitability, a cable route was required to go through the site. I had to sign off on that corridor as well in terms of its suitability to have the cable route pass through it.

The outcomes to date are that the site has been extensively assessed. I think someone earlier today gave evidence that they were concerned about extensive contamination on the site. In my opinion, this site is probably not as contaminated as many defence sites that I have looked at—and I have looked at more than a dozen defence sites around Australia, mostly in New South Wales. The main contaminant of concern is asbestos fragments that arose as a consequence of the historically improper demolition activities of the storage buildings that were on-site.

The site itself was broken up into more than 30 subareas over the early days of investigation, and many thousands of soil samples have been taken and many hundreds of groundwater samples have been taken. They have characterised the site to a level that allowed the remedial works to proceed. The remedial works that were produced were very conservative. The site has been cleaned up to what is known as a low density residential standard, which is the most sensitive land use that the regulatory agencies allow auditors to sign off to.

To date, I have signed off two areas of the site—what is known as stage 1A, which I think you understand, and also the community centre facility and a small park associated with that community centre. Further sign-offs will be completed, provided I am satisfied with the integrity of the investigations and the validation work that has been performed. If I am not, I send them back and they go off and do more investigations or more remedial works until I am satisfied.

Some concerns in relation to the implementation of the works on-site have occurred. As a few people have said, and in my opinion, there is a regulatory gap here between the role of the auditor signing off sites and the role of council and the EPA controlling works on sites. There is not enough regulatory control, in my opinion, in terms of the works as they proceed, and I think that is a regulatory gap. The sign-off of the site is in terms of its suitability—that is, it is not contaminant free; it is suitable—which means that there are levels of impacted soils on-site but they are at levels that do not pose any unacceptable risk for this sensitive land use. And, by the way, that is based on a child sitting in the back yard eating the soil—so it is quite a conservative model—and on the child living there for five years eating a certain amount of soil and then living there for another 65 years eating a lesser quantity of the same soil.

CHAIR—That sounds exciting!

Mr McFarland—Perhaps it is a valid model.

Mr BRENDAN O’CONNOR—You could end up in a hole in the ground!

Mr McFarland—That is true. That’s bioremediation, I think! One other outcome that has been achieved is that an asbestos remediation trial at the site has been successfully completed. That involved this idea of being able to characterise the type of contamination of asbestos to confirm that it was a fragment asbestos problem and then trying to deal with the fragment that was within the sandy soil. It is just the right kind of soil for this kind of technology to be applied. It went from a bench scale to a pilot scale, and both the bench scale-up and the pilot scale-up were successful in that they were able to demonstrate to my satisfaction and that of my chemical engineers that the asbestos fragment problem was able to be removed. Defence paid for all of that work, and I think that was a very valuable outcome from my technologists’ perspective.

In conclusion, the environmental works that have been performed on the site, the characterisation of the site and the remedial designs, have been well presented. Characterisation continues as the site is remediated and validated, and any further information goes into my models and refines my understanding of the site. The remedial works were conservatively designed and validated, although the environmental controls during those works have been questionable at times. Sadly, there is this regulatory gap there. Even so, the monitoring that I have seen seems to show that the asbestos fragments do not generate an asbestos fibre risk. The criteria being applied to the site are the most sensitive criteria for the contaminants that are recognised by the EPA and, in terms of the asbestos in soil there, at the level of detection of our current knowledge. That includes the use of scanning electron microscopy to try to find the fibres, and they have not been able to locate them in the results.

There has been a lot of asbestos testing performed on-site and it has proven to be very difficult to actually find free fibres generated from the fragments. The remedial works at Randwick do take a brownfield site and produce all the benefits of ‘brownfield site remediation’. That is a US term. Basically it means that the derelict land problem is renewed and all the infrastructure that used to be associated with that industrial or military use is beneficially reused again, like the roads, the water supplies and electricity supplies. They have got to be updated, but it is good to be able to redevelop them. Urban consolidation is improved—we stop going out and trying to remediate market gardens on the outskirts of Sydney, which are much more contaminated than this site is. It is also good that this is a polluter-pays process: Defence is paying for the poor management that took place in terms of those problems that occurred historically. That is my quick overview. I have tried to do it as quickly as I could. I am sorry if I rushed it.

CHAIR—It is obviously a very complex area and I am sure that the committee members will join me in thanking you for giving us some important information that helps us through some of the issues here. There were, as you heard, a number of queries raised about the satisfactory cleanup of the site and the integrity of the process. Ms McGirr raised concerns about the process, saying that, although you sign off on it at the end of the process, you do not have any responsibility for the process. It seemed to me that you made a statement counter to that at the very beginning when you said you take it from the initial discussions through to the final assessment, looking at each stage. Is my understanding correct?

Mr McFarland—Yes. As an auditor, I do not do any of the investigations or designs. That is against the law. I am accountable for ensuring that the investigations are adequate for the design of the remedial works and then, subsequently, that the design of the validation works are adequate to ensure that the site is suitable for the intended use. I am accountable for the work of the consultant, in effect.

CHAIR—So you are looking at every stage of that?

Mr McFarland—Yes.

CHAIR—You are actually auditing every stage of that process from the beginning to the end of it?

Mr McFarland—Yes.

CHAIR—I think you have made a very important point and I know it is one that comes up in other contexts—that is, making sure that there is an authority around to actually monitor.

Mr BRENDAN O’CONNOR—You commented about the very low—almost negligible—level of asbestos needed to be seen to be an acceptable risk, if that is the converse to ‘unacceptable risk’. Can a site be determined not to be an unacceptable risk, be disturbed and go from not being a risk to a risk? Can works change the definition or the assessment and is that why you have to continue to monitor the site?

Mr McFarland—When a site is signed off by an auditor as unconditional—that is, that it is suitable for the proposed use without any constraints—there should be no activity that results in an unacceptable risk arising subsequent to that sign-off. That is the theory of the law. In fact, the Contaminated Land Management Act says that if there are any significant new findings arising after the site audit statement is issued—that is, the certificate that I sign—then the auditor needs to identify whether or not that new finding poses any unacceptable risk for the land use proposed. The way that that is dealt with in New South Wales and in this site in particular is that, because the contamination is assessed on a grid basis using sample points to define a whole population—you take samples to define a complete population; you take one of these to define a whole packet of Minties—what can happen is that the level of sampling is inadequate to find any hotspots that might be there.

Mr BRENDAN O’CONNOR—That was raised by Mr Tighe.

Mr McFarland—That is a good point. There are two solutions to it. One is that auditors have to make sure that any level of risk that might remain after the works are completed would not be of a level that would be posing an unacceptable risk to the use of the site. I did sign off stage 1A and subsequent to that a corrugated piece of asbestos was found in a piece of concrete footing on the site. That was not unexpected and there was a protocol to deal with it that I had already agreed to. The finding of it did not pose any unacceptable risk for the proposed land use because that piece of asbestos fragment that was stuck to the concrete did not act as a significant risk for the proposed land use. I am sorry that that is a long answer to your question.

Mr BRENDAN O'CONNOR—No, that is fine. All things being equal, if you were able to choose between moving asbestos so that it is placed in a safe area within a site or transferring it from the site altogether, what would be your opinion as to the best option? Obviously there are a lot of variables in that.

Mr McFarland—Absolutely.

Mr BRENDAN O'CONNOR—But I think we need to at least hear what you have to say about that proposition.

Mr McFarland—A similar question was asked in relation to a hexachlorobenzene contamination at Orica in Botany. A commission of inquiry was held and a statement of environmental impact was prepared. The outcome of that was that the transport risk associated with moving a hazardous material is generally of a level which is much greater than the treatment of that same material within the boundaries of a site, provided all of the right environmental controls are in place within the boundaries of that site to prevent things like uncontrolled dust and other incidents from occurring that might put the local population at risk. So it is generally better to treat a problem within the boundaries of a site than to pick it up and move it somewhere else. That is also consistent with the Australian national guidelines with which I have to conform.

Mr BRENDAN O'CONNOR—There were some concerns raised about, at the very least, a perception that there would be some conflict of interest over your assessing the works of a site owned and controlled by a client and being paid by that client. Can you comment on that? I know you referred to regulatory bodies as being your boss, but that is a concern that has been raised by witnesses and I think it is important that you answer it.

Mr McFarland—It is a quite common question that is asked of auditors as well. Of the regulatory agencies, the EPA are especially very aggressive about ensuring there is no conflict of interest between the site auditor and any work that the auditor is carrying out. It is true that the proponent's defence is paying for my consulting fees to do the work—there is no doubt about that. Proponents have to do that because the regulatory system says that is what they have to do. It is a user-pays system. It is like getting a principal certifier to sign off on the footings of your house; the same kind of thing applies. The safeguard for this process is that the EPA are amazingly conservative. They are very rigorous in appointing auditors and then monitoring the performance of auditors. Every 12 months I go through a process in April of being reviewed by the EPA. They come in and audit all my books and check that every single thing that I have done has got a scientifically defensible reason for it. If that is not the case, they revoke or suspend me or fine me or throw me in jail. It is actually me personally, not the company, that is responsible for it so I might be seeking some legal advice from you later about that.

Senator FORSHAW—You have done your research anyway. You have done the hard work.

Mr JENKINS—I am not going to seek to claim any sufficient technical scientific knowledge to debunk any of the matters that have been put to us, but I make the observation that, as a reader of detective novels, I thought that the story about the dry-cleaning solvent, volatile halogenated compound, was very interesting. There has been concern expressed about the staged nature of the works. You have said that you are signing off on each of the stages. When we inspected there

was matter described to us as contaminated soil. I have a little concern that that is on parts of the site that you have not yet signed off on. How does that then affect bits that you have signed off? It probably gets to this notion of whether this should have been done as one job lot or in the staged manner that has been forced upon, using your technical term, the polluter.

Mr McFarland—The cleanup of large-scale contaminated sites is best managed in a staged manner rather than holistically. The greater the area of disturbance of a site, the higher the risk of contaminant migration and the higher the risk of cross-contamination. The regulatory agency in New South Wales has a guidance note for staged remediation, where they, say, watch what the polluter and contractor need to do in order to make sure the staged works are done in a manner that does not create cross-contamination, and that includes run-off controls and dust management. When the works are finished for the areas on this site that I sign off—stage 1A, the community centre and that small pocket park—the plan says that they are then isolated from the remainder of the site so that the risk of recontamination via trucks moving across it, for example, from contaminated to uncontaminated, is prevented. That plan also says that all of the stormwater should be diverted so that only clean stormwater runs onto the site. You will note that the areas that I have signed off are at the top edge of the development. There is a process that Defence’s consultants have designed that is supposed to prevent that risk of recontamination occurring between contaminated areas and uncontaminated areas.

Mr JENKINS—Is the buffer zone anything to do with your work?

Mr McFarland—No, the buffer zone was a request from the trade union movement. From my perspective, the cleanup of a site has to go to the boundaries of the defined site, and the risk of any contamination passing from that boundary has to be prevented. The extra boundary that the trade union guys put in place seemed to be a level of worker protection which was unnecessary.

Mr JENKINS—So any access to the community centre is within the site that you have signed off on?

Mr McFarland—That is right, yes. According to the staged remediation and development plan, there should be controlled access to that area—there should be stormwater management and there should be dust management. That includes stockpiles being allowed to grass over and those kinds of controls as well.

Mr JENKINS—Thank you.

Senator FORSHAW—This is Commonwealth property, and often in the first instance the issue raised is that powers that state and local governments might have over the property are limited or non-existent. Given the way this whole series of projects is proceeding, would you see that this process that you are involved in is any less rigorous than might otherwise be required if this were a private development with similar difficulties?

Mr McFarland—If it were state land?

Senator FORSHAW—If it were an industrial site. I think you mentioned one or two. We know that other sites have been rehabilitated, remediated and then developed. I am just trying to

understand whether you feel that your professional oversight and what is being required here is any less rigorous than you would otherwise expect or require if it were not Commonwealth land?

Mr McFarland—When the development application was made to the council, that triggered a statutory process which is controlled by the state, and that is where I became directly involved and accountable. The area outside that, that is still Commonwealth land that has not been the subject of a DA, is controlled by the Department of the Environment and Heritage in terms of environmental controls. The NOI process deals with that. That process I do not think is as rigorous as the state process that I have control of.

Senator FORSHAW—So you do not believe you are impeded because of some constitutional issues, if you like?

Mr McFarland—No, certainly not impeded.

Senator FORSHAW—You made a comment towards the end of your submission that you had seen other sites that were more contaminated than this one. From a layman's point of view, how contaminated is this site compared to others that you have experienced? Is this on the high side or the low side?

Mr McFarland—I would have to say that it is on the low side. The reason for that is that the major activities which took place on the site that might be contaminating activities were the storage of military equipment, some maintenance of that equipment and the improper asbestos demolition activities. By comparison, the production of foundry material creates a much higher level of contamination. Pesticide formulation also creates a big problem. On a scale of one to 10, a service station site—if it were the same size as this site—would be a higher risk than this site.

Senator FORSHAW—Is that affected substantially by the fact the development going onto this site is residential? Does that change the balance?

Mr McFarland—No. In terms of the level of rigour for investigation and remediation, the processes are the same regardless of the land use, but the criteria that are set are risk based. So if a site like this were to be redeveloped for commercial industrial purposes, the criteria applied would be less rigorous than those for a residential or even a parkland development.

Senator FORSHAW—Thank you.

CHAIR—I thank you very much for your in-depth explanations.

[3.52 p.m.]

CLARK, Ms Elizabeth, Director, Property Disposals Task Force, Corporate Services and Infrastructure Group, Department of Defence

HUTCHINSON, Brigadier Peter, Director General, Infrastructure Asset Development Branch, Department of Defence

KENNY, Mr Paul, Manager, Regional Planning and Development, Corporate Services and Infrastructure Group, Department of Defence

MITCHELL, Lieutenant Colonel Douglas, Project Director New South Wales, Infrastructure Asset Development Branch, Corporate Services and Infrastructure Group, Department of Defence

CHAIR—I would now like to recall the Department of Defence, and I remind you all that you are still under oath. We are a little behind time, but I invite you to make any supplementary statements to answer some of the questions that have been raised and then we will have some questions for you again.

Brig. Hutchinson—We have heard today from a number of witnesses, who have given an excellent cross-section of the views held from one end of the spectrum to the other. Some witnesses have been very positive about the development—the first couple of witnesses in particular—and about the consultation. Others have been very dissatisfied with both. I do not intend to comment in detail on each submission as I think that for most of the evidence presented today—apart from the last lot of evidence from the environmental auditor which, from our perspective, was positive—we have actually replied in detail to each of the individual submissions, and that is on the public record in written form. So I do not intend to dwell on the detail. Suffice to say that we disagree with many of the positions raised today and we have provided detail in our responses to those submissions on why we disagree. In the interests of time, I would like to cover in general terms what I saw as the two key issues raised today: consultation and contamination. I will then leave it to you to question us on any other areas of detail.

I turn first to consultation. The first newsletter, which went out in about the mid-nineties, 1996 or 1997, was actually distributed to 15,000 people. So 15,000 copies of that newsletter were distributed. Since then we have cut the numbers down and tried to focus on the immediate surrounding areas. However, details have been available on such things as the web site. The web site holds information on the newsletters, the notice of intent, the master plan, information of upcoming works and contact details.

CHAIR—The web site pages that Ms Harris allowed the committee to look at had virtually nothing on them. They were not tabled, but we have just had a look at the photos and the web site.

Brig. Hutchinson—We dispute that.

CHAIR—Has this just come on the web site? Can you account for why there is virtually nothing? If it is all right with Ms Harris, perhaps the secretary can let you have a look at the web site material that she asked us to have a look at.

Brig. Hutchinson—In the interests of time today I will have to take on notice the question of when the web site was established and what level of information has been on it, because I do not have that detail today.

CHAIR—That is fine.

Brig. Hutchinson—But I am told that the web site actually has the information I have just given you. Whether there is some problem with the working of the web site, depending on what software you have, I do not know, but I will have that looked at. Perhaps I can respond subsequently on that.

CHAIR—Yes. Thank you.

Ms Clark—From what I can see here, I do not think that they have actually entered into the web site. This is the front page of it. They would need to access into the web site itself. This is just the front cover, so to speak—the front page.

Brig. Hutchinson—We will answer that in detail.

Ms Clark—It has been up for about 18 months.

CHAIR—Thank you.

Brig. Hutchinson—To continue with my opening statement: the level of satisfaction or dissatisfaction with the consultation seems to me to be proportional to the level of satisfaction or dissatisfaction with the development in general. Probably that is only natural. We have been offering what we believe is a satisfactory level of consultation through a number of different means, but often these offers are not taken up. Also, the fact that people offer their views does not mean that we will actually take up the issues that they have offered. So sometimes we have not responded to people, but that does not mean that we have not listened to what people have said.

From our perspective, one of the key components of consultation is to work through the local representative, which is the local council. As the council has pointed out, we have done that much better since the court case and our dispute there. Ultimately, it is responsible for the approval or otherwise of development applications. Hence, on some of the points of detail, such as the agreement over the handling of the headlight issue, we have dealt more with the council than with individuals. I guess it is a delicate balance to get right, and perhaps we have not always got it perfect. However, the perception is always going to be biased, in many cases by the complainants' initial views and whether they are getting the answers they want.

For example, I note that the site is a CFMEU site, and we have dealt with the Labor Council of New South Wales in terms of labour concerns. So the issues that were raised today are not from the union on the site. We have had no issues raised by the CFMEU or by the Labor Council

of New South Wales, apart from the routine, site specific issues that they might have raised. All work has been assessed by an independent environmental consultant appointed by the Labor Council of New South Wales, and they have not provided us with any adverse feedback or concerns on the work.

Moving to the contamination, I guess we could spend all day arguing—and to some extent we have—the detail of the contamination and the remediation of the site. I am not an expert and do not profess to be an expert. Defence has employed experts to advise us and to provide the plans that we require in order to address the contamination and remediation issues. We have met all of our legislative requirements in this regard. I do not think there is any value in me pursuing the technical arguments. We have heard from the technical expert who is the independent site auditor, who has been through all of those processes and who is able to provide an expert opinion as against some of the layman's opinions that we might have heard from some of the people today. That is not to trivialise the concerns people have. Clearly we all want to actually ensure that what we do is safe and appropriate. Despite the fact that we have offered consultation, made the results available through various means and advertised that people can go to the site office, in many cases people have not availed themselves of that information and have continued to be disappointed.

Finally on the contamination, I note that the independent environmental consultant appointed by the New South Wales Labour Council has been positive. My understanding is that one of the issues that were raised in one of the submissions today was that we should look at appointing an independent consultant. There has actually been some work done by independent consultants, and my understanding is that that was very positive. There was a comment made about remediating to the standard that was achieved for the Olympics. The formal advice that we have is that the remediation methods that we are putting in place are actually better than those that were applied for the Olympics. Randwick City Council's own environmental consultants, reinforced by council this afternoon, are all happy with the level of remediation that we are undertaking. I will leave it open for any other questions.

CHAIR—I asked a couple of questions right at the outset. In relation to a question Mr Davidson asked, I read the Land and Environment Court case, which had some evidence from Mr McLean, who was a lighting consultant. I understand he made some alternative recommendations as to how that particular problem of the vehicle lights and that road issue could be resolved. I wondered why Defence had not considered those other options.

Brig. Hutchinson—As I said in those supplementary comments just now, we actually have taken into account a lot of those issues. We have considered those issues but we have not necessarily acted on individual elements of advice, because that is only one part of the overall picture. The problem is that the evidence that Mr Davidson quoted was a selective extract of one aspect of the overall issue. The consultant's report that he referred to was looking at what areas would have minimal headlight impact. That was what was being reported, not the overall issue of what intersections would be best from a traffic point of view or from the overall make-up of the base point of view. They did not take into account the fact that we have had this heritage grid that we need to preserve and are trying to retain. That was just one aspect of the overall problem.

The further consultant's report that we have had on car headlighting indicates that car headlights are a consequence of any intersection that you are going to have. The houses in

Bundock Street are only affected by cars leaving the site. The normal times that cars are leaving a residential area will be in the morning and normally probably in daylight hours in the morning—you will get some who will leave in the dark. But bear in mind the location in respect of where people are probably going to be travelling, it is fairly close to the CBD. The figures we have had are an extract of some of the stuff that has been provided to council and were involved in our consultation with council in coming up with a solution to try to address this by the angle that we provide for the ramp of the road hitting the intersection. So this has all been looked at in quite some detail. The figures talk about the duration of obtrusive light being calculated at 1.5 seconds per car at the time of peak traffic movement. It would only represent 2.6 per cent of the hour. In the early hours of the morning it would only represent 0.1 per cent of the time. These figures were also calculated on the initial traffic loads, and these will approximately halve when the Avoca Street entry opens. This is talking about the access to Bundock Street at the moment. When the Avoca Street entry opens we expect more cars to use the Avoca Street access and that will reduce the traffic.

Senator FORSHAW—I hear what you say about the severity, or what you believe to be the impact, of this concern. Has anyone considered, if there were a problem, what, if anything, could be done on the house itself or the houses themselves rather than the location of the road?

Brig. Hutchinson—I guess the problem for the houses themselves is that it would be on private property—

Senator FORSHAW—I am probably jumping ahead here, but I do recall that after the whole saga—many say debacle—of the third runway measures then had to be taken, and accepted by government, regarding insulation, soundproofing and stuff like that.

Brig. Hutchinson—I think the answer is that we have not looked at that at this stage but I guess anything would be possible.

Senator FORSHAW—I am only looking at it from a technical side rather than whether or not there would be necessity to do it. To follow on, the matter of the preschool: can we wrap this up? Can we fix this problem? A retractable wall sounds like a pretty easy thing to fix. Could Mrs Meth be at least one person who leaves here happy? Her kids won't be sitting on the ground eating dirt either, I hope!

Brig. Hutchinson—I guess the public were not aware of what we spoke about at the confidential briefing this morning. I just point out that we are actually looking at going through a value management exercise with the funds that are available in our contingency for the project at the moment. That will then mean an establishment of priorities in consultation with council. Ultimately the decision, as we see it, on what gets the priority is a decision for council. We would be sympathetic to it provided we can cover it within the level of contingency that we have got and provided council saw that as one of the highest priority items to be addressed.

Senator FORSHAW—I think we can leave it at that for the moment

Mr BRENDAN O'CONNOR—The general manager of council commented that an agreement had been reached almost three years ago and that there were concerns about not being able to complete construction and other matters within the costs, given the effluxion of time.

Senator FORSHAW—And the court case.

Mr BRENDAN O'CONNOR—I am going to get on to the court case in a minute.

Senator FORSHAW—That was a cost, too.

Mr BRENDAN O'CONNOR—Yes. Brigadier Hutchinson, can you comment on that and on how you see Defence's obligations in terms of the arrangements and the delay that occurred subsequent to the undertakings given to the council?

Brig. Hutchinson—The undertaking that we have with the council at the moment is an agreement that was made at the time. Although we have failed to meet the timing requirements, we intend to meet the intent of the other elements of that agreement. I made the point with the community facility that we have some contingency in there and that we will be value managing that to provide as much of what council has asked for as we possibly can. We will be working with council to establish that. In terms of the environmental park, the agreement was in a different form. It was for \$1 million worth of works and it was for the provision of \$2.5 million over the next 19 years to maintain that park. So the way that Defence sees it is that we have agreed that, over a 19-year period, if you like, we are providing \$3.5 million.

In the proposal that we have gone for here with the committee, we are only bringing forward \$8.75 million worth of those works as listed in the statement of evidence. So we are limited as to how we can move in terms of providing any further commitment to council. We think the quantum of our commitment to council is pretty clear: it was \$3.5 million over 19 years, if you like. How council want to use that money is up to them, but all that we have up front at the moment is the \$1 million out of that \$3.5 million. Subsequent to further approvals from this committee when we bring back the remainder of the works, we would have some flexibility in how we looked at the packaging of that money. But, when we hand across the money to council for the rest of that commitment, how they use it is up to them.

ACTING CHAIR (Mr Brendan O'Connor)—Thank you for that. I just want to place on the record that the chair has left to catch a plane to Perth. If she were to miss that, she would not be able to catch a plane today. In response to Senator Forshaw's question you made a comment about not being able to definitively answer questions as to what you would be able to pay for and what priorities would be in place for the community centre—but of course you are looking to develop that as you go, if you like. Given that matters have been raised formally with the committee in relation to this issue—an example is the SOS Preschool request for a retractable partition—could we ask that Defence keep the committee informed about those matters subsequent to today, so that we are aware of what has gone on between you and the council and, indeed, other bodies?

Brig. Hutchinson—Yes.

ACTING CHAIR—Mr Jenkins has also had to leave, but he asked me to ask you, firstly, why Defence chose to litigate and get itself in a legal entanglement with the municipality of Randwick and, secondly, what the approximate costs of that court action were to Defence.

Brig. Hutchinson—I will ask Ms Clark to speak to that. Unfortunately, it was before my time—

ACTING CHAIR—It was before the time of all of you.

Brig. Hutchinson—and I am not 100 per cent sure whether that information is well recorded on the files. I would not want to speculate on any reasoning and I wonder whether Liz can explain.

Ms Clark—I can probably give only a bit. Perhaps we could come back to the committee with more detail. It related very much to the time when Defence was looking to dispose of the property. There was very much a focus on looking at the opportunities for value adding. The proposal was that we take the site, which is currently zoned as special uses for Defence, to a future use that would make it attractive to the market. Therefore, it meant involvement with development applications to council to do a rezoning for the area. That triggered it. How that was dealt with, I am not quite so clear.

ACTING CHAIR—If you could provide the committee with information in relation to the reasons for taking that path, whether there was any attempt to negotiate an agreement before the litigation and the costs that would be helpful.

Brig. Hutchinson—Perhaps I can put part of the position. Defence decided to defend its position by appeal following the preparation and lodgment of two development applications in October 1999 to divide the site into 661 residential allotments and associated neighbourhood parks and a community centre, those applications not having been considered by council in the prescribed time. That is the background to it but, as to the detail, I do not know whether—

Senator FORSHAW—I would like you to take the question on notice and give us a considered reply. I should point out that I do not know, and it appears that you do not have the information or the background on this with you as to where that decision may have emanated from. It may well be that, if a policy decision was made, it was made at certain levels within government or in the department—I do not know.

Brig. Hutchinson—We will take that on notice.

Senator FORSHAW—You are appreciative of what officers can and cannot be asked with regard to policy decisions. If you do that, that would be very helpful. Comments were made by a number of witnesses who said that they had received very little communication by way of the letterbox drop, which I might say is not always the most useful of methods; all political parties will tell you that. Unless the mail looks like a personally addressed envelope, it ends up with all the junk mail. Sometimes these things can be far better done by door-to-door communication and follow-up. A number of people said that in their recollection there were only two, whereas I think earlier on it was said that there were nine or 10 brochures or communications that were delivered. I would like you to comment on that. Secondly, I would like you to comment on the penetration of this process—that it really did not go to all of the precinct. Again, I would think that one should err on the side of greater rather than lesser transparency in that regard.

Brig. Hutchinson—I will speak to the community newsletters. I mentioned before that I thought the first community newsletter was in 1996. It was actually in July 1996, and the great volume of the newsletters actually occurred at the start of the project when there was more to tell the community about what was going on.

Senator FORSHAW—Do you have copies of those you can table for us?

Brig. Hutchinson—Yes.

Senator FORSHAW—That would be useful, rather than having to go through each one.

Brig. Hutchinson—I think I have all except for one here, but we can probably get the other one off the web site later.

Senator FORSHAW—Firstly, table the newsletters. Secondly, I am interested in the aspect of where they actually went. I presume you used some mail distribution company to get them out?

Ms Clark—Yes.

Senator FORSHAW—So were they only distributed in a few streets?

Brig. Hutchinson—As I said in my supplementary opening statement, we went from 15,000 for the first newsletter down to about 500 now. The 500 that we do now concentrate on the streets immediately surrounding the barracks and also, to my understanding, on the arterial streets that go away from the barracks. So, yes, it is true that we do not now do as many as we were doing previously, bearing in mind that the web site has all the newsletters on it for people to access. There are also 20 to 30 copies provided to council, and we mail direct to the precinct groups, to the people involved with child care and to other interest groups at the community centre.

ACTING CHAIR—Thank you very much. I do not think we have any further questions. Before closing, I thank the witnesses who appeared before the committee today and those people who assisted in our inspections and private briefing this morning.

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

That, pursuant to the power conferred by section 2(2) of the Parliamentary Papers Act 1908, this committee authorises publication of the evidence given before it and submissions presented at the public hearing this day.

Committee adjourned at 4.22 p.m.