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**HOUSE OF  
REPRESENTATIVES**

STANDING COMMITTEE ON ENVIRONMENT AND HERITAGE

**Reference: Sustainable cities**

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**HOUSE OF REPRESENTATIVES**  
**STANDING COMMITTEE ON ENVIRONMENT AND HERITAGE**

**Thursday, 1 April 2004**

**Members:** Mr Billson (*Chair*), Mr Barresi, Mr Cobb, Ms George, Mr Hunt, Mr Jenkins, Mr Kerr, Mr Lindsay, Ms Livermore and Mr McArthur.

**Members in attendance:** Mr Billson, Mr Barresi, Mr Cobb and Mr Jenkins.

**Terms of reference for the inquiry:**

To inquire into and report on:

Issues and policies related to the development of sustainable cities to the year 2025, particularly:

- The environmental and social impacts of sprawling urban development;
- The major determinants of urban settlement patterns and desirable patterns of development for the growth of Australian cities;
- A 'blueprint' for ecologically sustainable patterns of settlement, with particular reference to eco-efficiency and equity in the provision of services and infrastructure;
- Measures to reduce the environmental, social and economic costs of continuing urban expansion; and
- Mechanisms for the Commonwealth to bring about urban development reform and promote ecologically sustainable patterns of settlement.

**WITNESSES**

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**Committee met at 11.10 a.m.****EVANS, Mr Neil, National Director, Technical and Regulatory Policy, Master Builders Australia****HARNISCH, Mr Wilhelm, Chief Executive Officer, Master Builders Australia**

**CHAIR**—I declare open this public hearing of the House of Representatives Standing Committee on Environment and Heritage. It relates to our inquiry into sustainable cities 2025. This is the eighth hearing of the inquiry. Welcome, gentlemen, and thank you for coming. Although the committee does not require you to give evidence under oath, I should advise you that these hearings are formal proceedings of the parliament. Consequently, they warrant the same respect as proceedings of the House itself. On that cheery note, it is customary to remind you that giving false or misleading evidence is a serious matter and may be regarded as contempt of parliament. Would you like to make some brief introductory comments or opening remarks?

**Mr Harnisch**—I will just make a very brief comment, because we will hopefully discuss the content of our submission during the hearing. We certainly welcome the opportunity to contribute to the inquiry into sustainable cities. We agree with the broad vision for sustainable cities 2025. The challenge, as we see it, is how we manage the delivery of the desired outcomes against the competing interests. At the highest level, we agree with the principle, set out in the discussion paper, of:

... a more holistic national approach which integrates the components of an Australian sustainable city and provides a model which can be devolved to and adapted by State and local governments.

But we would add that the pursuit of sustainable cities must also keep in mind the issues of affordability and economic sustainability. We believe it is important that sustainable cities and sustainable economic objectives be seen as mutually reinforcing goals, without one subsuming the other.

The focus of our submission is the role of building codes and standards and the planning, design and construction of buildings. In our submission we have addressed nine specific areas identified in the committee's discussion paper, and we are happy to elaborate on these areas during general discussion this morning. As an organisation representing the building industry, we strongly believe that the challenge of sustainable cities can and must be met. However, we equally strongly believe that, in taking responsibility for such outcomes, the starting point must be the client and the community. By that we mean that, if the client and the community are not prepared to take responsibility to pay for the outcomes, that responsibility should not default to the building industry, which has to internalise those costs—as increasingly is becoming the case in a lot of developments, where the building industry and builders are required to pay for costs that are essentially a community responsibility.

The way we see it, the challenge ahead is starkly demonstrated by the fact that, by 2025, another 3.2 million dwelling units, as a minimum, will have to be built to house another four million people. In other words, another mini-Sydney will have to be built. On top of that, while the focus may be on new development, there will be 8.5 million units in existing housing stock

that will also need to be entered into the sustainable city equation. What do you do with housing stock that is now 30 years old—

**Mr JOHN COBB**—Australia wide?

**Mr Harnisch**—Australia wide. So they are some important statistics we want to put on the table. Obviously, to support an increasing population there will need to be put in place other infrastructure, public and private—shops, schools, hospitals et cetera. We can certainly estimate that at least \$1,400 billion worth of investment will be required to meet those sorts of objectives. We say that conservatively, because if the demands and regulations for sustainable development are increased, then that \$1,400 billion will simply blow out to twice or perhaps three times that amount of money.

We believe, however, that this can be achieved in the Australian ecosystem context, and in a way that can enhance the Australian lifestyle. We are certainly confident that the building industry can meet that challenge, if the challenge is tackled in a holistic and economically sustainable manner. Certainly Master Builders has taken a leadership role, demonstrated by its active participation on high-level committees at all levels of government in the development of policy and program initiatives that seek to deliver a sustainably built environment. In that regard our experience has shown, not only with these sorts of initiatives but with other initiatives, that one of the most effective ways to implement policy objectives is through a market based voluntary approach for industry and through a targeted education and/or awareness program for industry practitioners. We would like to emphasise the need for a holistic national approach to sustainability as being the best practice model for moving forward.

**CHAIR**—Do you have some examples of where costs that are a community responsibility have been borne by the building industry? That is a novel argument I have not heard before.

**Mr Harnisch**—Plenty of documentation has been reported in other inquiries and the like, but typically it would be things like local councils demanding as part of a development approval that the developer include playgrounds or provide money towards the development of a community hall and other infrastructure—even hard infrastructure like sewerage, electricity and the like. There is a debate about who should pay for that. Is that a direct benefit to the community that settles in that particular precinct or is that a benefit that has, obviously, a wider application?

**CHAIR**—So you see head works charges, open space contributions and developer levies as an unreasonable impost on the building industry?

**Mr Harnisch**—There is an issue, in terms of public policy, of who pays. Is this a community responsibility—and it is a local government one—or does it just concern a specific residence?

**CHAIR**—Where do you draw the distinction?

**Mr Harnisch**—We are of the view that in the past this has been paid for by the broader community. So recognising there are fiscal constraints on local governments, this pressure has now been put down to the builders, which means it goes down to individual home owners.

**Mr JOHN COBB**—But the builder must pass that on anyway, surely.



**Mr Harnisch**—Correct, but then there is the whole issue of equity. In terms of public policy, is that fair, when other—

**Mr JOHN COBB**—But surely the only question is whether the individual home buyer pays for it or every ratepayer in that council pays for it.

**Mr Harnisch**—Correct, but in effect in a lot of these cases it is the individual home owner that pays for it, which breaks with the previous policy position, where the whole community pays for it.

**CHAIR**—We will now have to break for a division in the House of Representatives.

**Proceedings suspended from 11.18 a.m. to 11.31 a.m.**

**CHAIR**—We will resume the meeting.

Resolved (on motion by **Mr John Cobb**):

That a subcommittee be formed in the event that the number of committee members present falls below the number required for a quorum.

**CHAIR**—Going back to your point about the costs the building industry carries that are a community responsibility, I am not sure whether you are pulling my leg or not—

**Mr Harnisch**—No, I am not.

**CHAIR**—or whether there is an April fool's issue or something here. This is a practice that has been around for many years. I cannot think of one example where those costs have not been passed on to the purchaser. Moreover, if the current arrangement is unsatisfactory, I am curious to know what you are proposing in its place.

**Mr Evans**—I might give another example. This is down at the low end of the scale of costs but it is a real cost borne by the builder. When they sign contracts they are fixed-price contract sums. Usually, with a change in local government laws and some state laws that are brought in during the contract being completed, often the builders wear the cost of the change.

**CHAIR**—That is hypothetical. I understand what you are saying but can you give me one concrete example? I have never met a builder who has not been very mindful of the cost structures under which they operate, and I have never met a builder who is not happy to touch up a client for a variation where that is appropriate and legitimate. I do not have a problem with that. I am particularly interested in some practical, tangible examples of what you are talking about, because I am very unconvinced so far.

**Mr Harnisch**—I will take that question on notice. We will get some examples from our members and forward them to the committee.

**CHAIR**—Please do. In terms of the sustainability argument, the evidence that has been presented to us is quite the opposite of the thesis you are presenting. The evidence has been that

there is insufficient attention given to the environment and system—whether it be the economic, social or environmental system—within which dwelling units are located, and that that is in fact causing costs to the community not borne by those who are creating those dwelling units. That has generally been the proposition put to us. The alternative course is to pass on costs of urban settlement to the broader community that should be more appropriately attached to those pursuing the settlement patterns. If you are contesting that as a thesis, we would love to see some evidence to back it up.

**Mr Harnisch**—Is there not another policy issue there in that, if you go back to day one of settlement and how Australian cities were settled and developed, all the infrastructure costs were met by government?

**CHAIR**—Sure. There was also a limit on the number of horses you could keep in your yard, but things have moved on and we have learnt that there are implications from settlement and development. A debate has gone on for as long as I have been alive about how it is reasonable to apportion those costs, where the benefits sit, where the demand for those costs is generated from and how to recover that investment. Have a look through your libraries. We would welcome any material you would like to bring forward on that.

**Mr Harnisch**—Okay.

**CHAIR**—Another point that was in your opening remarks—and I would also like to see the evidence to back it up—is that you seem to operate from a given that doing things sustainably costs more. Again, that is quite different from the evidence we have been provided with to date. Could you talk about that as well.

**Mr Harnisch**—We did not say that everything will cost more. For example, in our submission we said that some of the issues of environment and environmental sustainability can perhaps be done through the better siting of buildings, which is therefore not necessarily a cost impost per se. I will pass the question over to Mr Evans, who is our technical expert, but there are areas of sustainability, particularly in terms of the technical requirements of airconditioning and the like, that do impose a cost. The question about those costs is: who pays?

**CHAIR**—I am trying to find the passage in your document relating to enhancements in building codes that says that these things carry costs and that somebody has to pay for it, but not you.

**Mr Harnisch**—Could I turn the question around. Are you suggesting that some of these technologies related to sustainability and reducing greenhouse emissions are cost free?

**CHAIR**—Solar passivity does not cost. The use of circulating air is a design feature which is probably cheaper than airconditioning. I am not an expert but I am happy to respond to your question and I hope that you will do the same with mine. A lot of these measures—

**Mr Harnisch**—I am just testing the proposition, and the counterproposition would be that all these design features are cost free.

**CHAIR**—That is not your point in your submission. Your assumption is that all of them cost. I am just saying—

**Mr Harnisch**—No, we said in our submission—and if you spare me the time, I will try to find it—

**Mr Evans**—The issue is that some of these new technologies do cost.

**CHAIR**—Some of them do.

**Mr Evans**—We are not saying that all of them do but, in coming up with a set of broad principles or requirements, it is our view that, if there are any regulations or building code issues, they should be pitched at the minimum level and allow the consumer, owner or client to request further energy efficient or sustainable building elements and systems above and beyond the minimum requirement. That gives the industry time to grow, educate, develop and get everybody up to speed with education, practices, procedures and techniques.

**CHAIR**—It struck me that things are not as bleak as they read. I have been encouraged by some of the work your members are doing in meeting the market. They have recognised not only commercial opportunities for themselves, but improved living environments for their clients and reduced operating costs. I was optimistic about celebrating those things and looking to you to see how we could transport what is already excellent practice in so many parts of your membership, but when I read your submission I felt it was sort of the idea of battenning back the traffic with tried and proven building practice. It is all good stuff, but it struck me as being very defensive. It was almost as if you are not going to be a proactive influence for change; you are going to dampen any enthusiasm to make sure that a minimalist approach is taken. I thought that that was not in keeping with MBA's world view of things.

**Mr Harnisch**—While it is obvious that that is the impression you got, it is certainly not the impression that we were trying to put to you. Yes, we are champions of this and we do want to have more of these sorts of design features, but the point we are coming back to is that this is a broader responsibility than just the building industry, and it is certainly not a cost the building industry, singly, must pay for. If this is desired by the clients and the community, then these sorts of outcomes need to be shared by the whole community and by governments, and not by the building industry by itself.

**CHAIR**—So you guys follow the market and, as long as people want McMansions, you will keep building them.

**Mr Harnisch**—In a sense that is the case in a free market situation. I accept that certain practices in isolation do not lead to an integrated, best practice outcome. That is why we said we need to have a holistic approach to this. Governments should have some sensible guidelines that the builders and practitioners can adhere to on a consistent basis, without the rules being changed midstream, so that these outcomes can be achieved. The other point we make is that the harsh reality is that the population will continue to live in our cities and perhaps in some coastal areas. As our population increases, designing the city and redesigning the existing part of the city will mean incurring costs. They are not cost-free exercises. Like I said, you have housing stock of eight million dwellings and you have office blocks et cetera that are also ageing. Where does

that fit into the equation of a sustainable city? There are costs. Converting the existing urban landscape, the built environment, to achieve the new nirvana or to get where we want to be is not a cost-free exercise.

**CHAIR**—I agree.

**Mr Harnisch**—You can achieve that perhaps with new dwellings or new buildings, but they make up only a fraction of the total size of the stock. You are only making incremental changes, and the bulk of the built environment is not being dealt with.

**CHAIR**—You are not suggesting that retrofits and routine program maintenance in commercial buildings are not opportunities to bring about improved performance?

**Mr Harnisch**—No, I am not saying that at all and I am not here to represent, for instance, the Property Council.

**CHAIR**—We have had them here already. They were spritely and far more optimistic, I must say. We had an interesting conversation with them about the false economy in some of the arguments you are putting forward. You might save a dime at the construction end, but the life cycle costs of operating some poorly designed buildings—which may have been cheaper to build for not including what you are fearful of or feel is costly—are higher.

**Mr Harnisch**—We have no problems with higher initial capital costs. What we are saying is that, if the client is not prepared to pay, you cannot say it is the builder's fault. We have said in our submission that, if the client says, 'I just want a cheap and nasty building and that is all I am prepared to pay for,' it is the client's responsibility. What do we, as builders, do if we get a contract and can see that the airconditioning is going to be inadequate, that the airconditioning system is going to be high cost and that the building is going to be unhealthy? The builder gets the contract and builds to what the client wants.

**CHAIR**—He builds to specs.

**Mr JENKINS**—It gets down to a specification issue. You also suggest that it is the responsibility of the client and the community.

**Mr Harnisch**—I think it is everybody's responsibility. We say in here that the start point must surely be the client and the community.

**Mr JENKINS**—We are here to have a discussion about the mechanisms we can use so that we can all go forward.

**Mr Harnisch**—We are not arguing that we should not have this sort of outcome. It is a matter of who drives this process. We are happy to be part of it and we are part of it. Our builders feel quite pressured being caught in the middle between the so-called demand from the policy objectives and the pressures they are getting from the client and are being told, 'Potentially you're part of the problem.' We reject that.

**Mr JENKINS**—Your submission goes to the argument about up-front costs being offset by savings over time. We would acknowledge that there needs to be a lot of work done in educating people about that. We would hope that the people you represent would be on side to go forward with that. I think we would take it that that is a starting point, that we need to join the partnership.

**Mr Harnisch**—Yes. We do that now and you have our commitment that we would do that. We are happy to put that on the record.

**Mr JENKINS**—You mentioned infrastructure and who, over time, actually fronted it. It was only 30 years ago that the federal government intervened with a program to make sure that the outer metropolitan areas were sewered—so there was a shared responsibility. For any new lots, that responsibility is now with the consumer. There have been changes, and they are inevitable because of the expectations we have for developing housing stock, if we are talking in particular about housing stock. We are trying to explore the mechanisms that address some of the things that you have raised. We are looking for suggestions about how we can best do that, and I do not think anyone is saying it is directly the builders' responsibility. There seems to be a suggestion in your submission—and I do not want to fit you up—that there are problems in the way that local government perceives its role or relationship. For example, you have mentioned retrofits in inner urban areas, where local government intervenes on behalf of existing residents and there are mixed messages about what can be achieved.

**Mr Harnisch**—The concerns that we have expressed, not only here but elsewhere, come straight from our builder members, who believe that local councils are not builder-friendly. For instance, they require building standards that go outside the BCA. They use their local by-laws or planning jurisdictions to impose additional standards or requirements on house builders, which are not covered by the BCA. There is an argument about whether that is a proper way of imposing such conditions, on the basis that we have the Building Code of Australia, which took something like 15 years to sign off on and which was meant to provide uniformity across Australia, with all the efficiencies that that brings. Therefore, the question is: is that the proper role of local government? Then there is the issue of equity: why should a household on one side of the street, which may be in a different shire or local council area, have additional costs or different requirements imposed upon it than those imposed on the other side of the road—on the other side of the line—by a local council that sticks to the BCA?

**Mr JENKINS**—What sorts of reasons are given when there is a variation?

**Mr Evans**—Generally none is given. It is a council decision.

**Mr JENKINS**—So there is no dialogue?

**Mr Evans**—Usually there is not. Often our members become aware of it when they are in the construction phase, usually through state and federal government processes. For example, with RISs, there is major dialogue and interaction with all parties in the development of new regulations, but a local council can adopt a by-law or local law overnight, with no RIS and no reason given except that council considers it appropriate.

**CHAIR**—There is an exhibition period, though.

**Mr Evans**—There is usually an ad in the paper, or something to that effect, but our members often overlook those issues.

**Mr Harnisch**—It comes back to what I see as the point of this inquiry, which is looking at some sort of national approach. Yes, we do agree with a national approach, but it needs to be stuck by so that states and local government do not have add-ons. We need certainty in the building industry.

**Mr Evans**—Regarding energy, Victoria has the five star ratings. The BCA has been working on national energy provisions. We support that. New South Wales has something different—BASIX. South Australia is looking at a process similar to Victoria's. And then there is local government, which is bringing in all sorts of variations to the state regulations as well. It is very ad hoc and very difficult for members to understand and comply with all these variations to state and local government regulations in trying to construct homes.

**CHAIR**—Which states or jurisdictions are most demanding?

**Mr Evans**—New South Wales.

**CHAIR**—So it would not be welcomed if the New South Wales BASIX were applied across the country? That would not be good?

**Mr Evans**—I do not know how they are going to administer it. I do not know how they are going to assess every new home in New South Wales. I cannot exactly remember the statistics, but I think a building permit is issued every 14 or 15 minutes in New South Wales. Going through the process of checking this BASIX package, as I understand it, nobody can tell me how long it is going to take or if it is going to cause more delays in the approval process, more inconsistencies and more costs. These are the issues that we have concerns with.

**Mr BARRESI**—On the point that there is an ad hoc approach with state and local governments et cetera, I cannot see how that is ever going to change. People are always going to want ownership of planning and regulations at their own local community level to some degree in order to take into account the differences of one environment versus another. From my perspective, to try and impose some central code which is applied across all jurisdictions all over Australia is not going to be welcomed.

**Mr Evans**—Particularly in the planning area, you are going to have local issues with heritage or neighbourhood character and those sorts of things, but why should amenity be any different in one council or one state versus another? Why should overlooking be measured differently in one state versus another? As far as the building regulations are concerned, they are technically related issues and I cannot see why insulation should be installed differently in one area versus another or why a roof truss should be incorporated in a frame differently in one state versus another. They are not actual examples, but when you get down to technically related stuff, I believe that it can be done nationally, it can be done consistently and consumers will benefit, the industry will benefit, everyone will benefit.

**Mr BARRESI**—You have 24,000 members out there; what kind of an accreditation system do you have on your members to achieve a certain standard when it comes to environmental

planning and the sorts of issues this committee is covering to do with sustainability? Is there any sort of criteria that these builders have to be assessed against?

**Mr Harnisch**—At this stage, we do not have one but we are now working with the Australian Greenhouse Office to develop one for the building industry. We will be piloting that program, which is more of an education program—with the view of making that an accreditation—perhaps next year. At the moment, we do not have one and we recognise that that is something lacking in the suite of services that we provide to our members and obviously to the broader community. We have now taken active steps and we hope that by, say, next year we will be able to put in place the beginnings of a credible accreditation program for our members in this area.

**Mr Evans**—There are some small state training packages, but this is a national product that we are trying to create with the AGO at the moment.

**Mr BARRESI**—I know personally, from a builder that I have some involvement with, that the approach he took was seen as a standout approach and the local council has now referred other builders to go and see what he is doing in terms of his development. I would have thought that if you had an accreditation system which gave you that kind of up-front assessment—whether it be an MBA version of some sort of ISO standard or whatever—that would make it easier for a council to fast-track or approve a project in a local community and to have faith that a development is going to meet certain criteria. To me, it makes a lot of sense to do that.

**Mr Harnisch**—It does, but it is just a major education process. For instance, when I was in the government sector, when the so-called Greenstreet program was up and running it took a long time to change the industry around in terms of planning and design criteria for urban precincts. There was a whole lot of resistance, and we see this as very much a similar position. We need to create a mind-set, not only of builders but of the community and the clients in particular, that this is the way we have to go. If I gave you the initial impression that we are perhaps negative, that is not so, but certainly our members are basically saying: ‘We’re not going to get squeezed in the middle. We’re happy to cooperate, but this is a whole-of-government, whole-of-community, whole-of-industry issue that we need to push for. It is no good just squeezing one sector or one part of the industry to make it happen.’

**CHAIR**—With the national approach that you are advocating for its efficiencies and consistency across the country, how do you envisage the very real differences in climate and location and in building performance values that may be of greater importance in some parts of the country than others? You would have to think very hard to work out where they would apply.

**Mr Harnisch**—But that is already covered in part—if not most—in the BCA, where different climatic and geographic specific characteristics are dealt with within the code. In, say, the planning areas, there is already a government-industry committee called the Development Assessment Forum that is seeking to develop perhaps a similar platform to the BCA, at least on the industry side, where at least we can get some technical consistencies across the states. We can work out some of those geographic and climate specific sorts of issues, and they can be identified in such a document, as they are in the BCA.

**CHAIR**—Even things like eaves are terribly unfashionable these days. It strikes me as bizarre that in some of the hottest and most solar intense parts of our country we have eaves that are

about the width of your hand, when it strikes me as a no-brainer to have eaves of about one-third the length of the window. It just should not be that hard.

**Mr Harnisch**—No.

**CHAIR**—I know that the building regs have moved at a glacial pace from my days in local government, and that is not likely to change. There is some advantage in change happening, from all the points you have talked about—there is great enthusiasm for changing these things. It just strikes me that there are great opportunities there that are not being utilised, and a nationally consistent approach might be more interventionist than you might want.

**Mr Harnisch**—But the issue there is very much the point that we have made: if the client is not aware of why they should have wider eaves on the west and therefore demands that of the builder, in a free market, if they then choose to go for a so-called energy inefficient dwelling—obviously consistent with the BCA as far as practicable—then that is the choice they are making.

**CHAIR**—But if you are buying a motor vehicle you at least know that up front, because you get the mandatory sticker on it that says you are going to get 11 litres for 100 kilometres if you buy a Sportivo Toyota or 15 if you want a supercharged Commodore. That seems to be part of the consumer information that is not there at the moment in building.

**Mr Harnisch**—But at the moment you have minimum standards in energy provisions, through the building code.

**CHAIR**—Usually at an appliance level, not in terms of the total operating costs of the dwelling unit.

**Mr Evans**—Just back on the eaves example, if I may, there is a technical issue there—that is, often eaves are chopped off for siting requirements.

**CHAIR**—Sure, and plot ratios and all that are a wonderful thing.

**Mr Evans**—You know—that is your metre open to the sky to get the right amount of light in from the boundary. That is why the eaves go. Otherwise the house has to be shifted across another 600 millimetres.

**CHAIR**—Fifteen McMansions to the hectare—yes, I understand that.

**Mr Evans**—All that sort of stuff. Where I grew up in Victoria, up around Mildura, everybody had at least 600-millimetre wide eaves, just to assist in the reduction of heat flow.

**CHAIR**—To survive.

**Mr Evans**—Yes, but you had bigger lots—

**CHAIR**—Yes, I understand that.

**Mr Evans**—and siting was not a problem.



**Mr Harnisch**—You raised the issue of running costs. I think that is very important. As an economist I can relate to that. Running costs are obviously part of your total cost of owning either a car or a house. But I suspect that most home owners are not sophisticated enough to fully understand the implication of the benefit of higher initial capital costs versus the long-run savings.

**CHAIR**—We have just talked about how enlightened the market could be in sorting this out. If we do not give them that information, it is dead certain they are not going to understand it.

**Mr Harnisch**—In the ACT when you sell an established house it has to have an EER rating. As a simple market test, lots of houses are rated at zero or 0.5. You do not see any hesitancy in the sale of that house; that is not the prime criterion to a purchaser. It is not as if those houses are left on the books of real estate agents for months.

**CHAIR**—Some people barrack for Collingwood! There is no logic to it but they still do it.

**Mr Harnisch**—I am not trying to be negative here but there are market forces that simply do not understand the benefit of what we are trying to achieve.

**CHAIR**—I think there is a fundamental mistake in assuming that the only stakeholders in building a home are the first and second owners, being the builder and the person who is purchasing it. You have just described the life of a building. When I was CEO of a council I said, ‘Tell me what the third owner’s interest is in this house. Are we happy with the decision we are making to have a 37-degree driveway? Just because the guy buying it now has a four-wheel drive, the joker who buys it next might not have one.’ That did not look like such a bright decision then. When do we get into the issue that the construction of assets is not just a private treaty thing between the builder and the owner, and that the regulatory framework needs to take account of the third and fourth owner to see whether we are still happy with those outcomes?

**Mr Harnisch**—It is problematic. It is a vexed policy question. It is about individual freedom versus the impact on the broader community.

**CHAIR**—If they were going to be stuck with the house for the rest of their life, you probably would not worry about it, but they are not.

**Mr Harnisch**—I accept the argument.

**Mr JENKINS**—I want to return to the national basis for the BCA. I surprised myself a little when you talked about a national approach and, immediately, I did not quite agree with it. I am a national approach person, nearly to the extent of central planning and control. I just want to get my head around it so I understand it. I think Neil went close to it when he talked about planning provisions and then the building code stuff. There will still be some things that are essential to the character of the locale that will go into things to do with building. I am wondering: is there a minimum or should the code have some flexibility that limits the amount of variation? Perhaps I have not explained that well. There is a core to the code. The national code also talks about things that they think the code could bear as the flexibility.

**Mr Evans**—Are you talking about a proposed planning code or the existing building code?

**Mr JENKINS**—Within a building code. The example that sprang to mind was the overlook. It is all over the place at the moment. Either you cannot have a window or you have to have frosted glass or the window cannot go up and down or roundabout. It does lead to this confusion that you are bringing to us—I acknowledge that.

**Mr Evans**—It does. Overlooking is not covered in the building code but the building code has a two-prong approach. It is a performance based document and then it has a list of ‘deemed to satisfy’ provisions which give you the recipe to comply with the overall objective.

**Mr Harnisch**—But not exclusively.

**Mr Evans**—Yes. For example, in Victoria the building regulations actually take in the control of overlooking, overshadowing and siting of single stand-alone dwellings outside the building code. So you have—

**Mr Harnisch**—the ResCode stuff.

**Mr Evans**—The ResCode stuff is caught up in the building regulations. The ResCode stuff is also caught up in the planning schemes to cover multiunit developments and so forth. A single house on a lot which is not in a heritage or urban conservation area or in an area that might otherwise be likely to trigger a planning permit is dealt with under the building regulations—and quite well too in a lot of cases. That is an example of where the regulations can prescribe a set of technical requirements and, if you are inside that scope, you get the tick in the box and away you go. But, if you are outside that scope, you would have to get back to council and get the relevant planning approvals or consents and reports and so forth.

**Mr JENKINS**—But within some state jurisdictions they have this overall approach, which you have no problem with.

**Mr Evans**—No. The industry would prefer that to going to council to get planning approval on all domestics.

**CHAIR**—You would go more for the technical assessment rather than for the vagaries of the—

**Mr Evans**—There should be a set of rules that you either comply with or do not comply with. If you complied with them, you would get your building approval and get on with it. If you could not fit inside the scope of the rules, you would go off to council and apply for the appropriate dispensations. This is the only example I can think of quickly: it is a little bit like wanting to paint your house when you are in a heritage area—a planning permit is required. I cannot see why councils cannot just put the list of paints that they would approve anyway on their web site or in a pamphlet at their counter. They could say, ‘If you choose this colour, this colour or this colour, you do not need a planning permit because we would approve it anyway, but if you want to do something different, something that is outside the scope of what we have already set down in our basic set of rules, come in for a planning permit.’

**Mr BARRESI**—It is easy—they do not get money!

**CHAIR**—The building council put forward an interesting separation of powers argument that I am sure you would enjoy. They argued that land use planning policy in the building parameters is about policy choices and that, once those choices are laid down by elected representatives, the elected representatives should rack off and leave the implementation of them to technical experts. They would like the elected representatives to deal with this at the policy level and the administrative level. That was a novel argument. Given the sense that some of what we are talking about goes against the natural grain, shall we say, for some of your membership for a whole range of reasons extending from perceptions of cost, complexity, uncertainty with respect to treatment from authorities and tried and tested construction techniques—just to name a few that are on one page of your brief—what beyond the training program you guys are thinking of kicking off is going on to celebrate good practice in these areas? Is there any proactive, positive effort going on to show that these things can be done without the world falling down around us?

**Mr Harnisch**—We have national awards and we publicise it in our magazines et cetera. We have awards at the state level as well.

**CHAIR**—So it is more at the recognition level.

**Mr Harnisch**—Yes, the recognition level. We do promote it. Obviously I need to reread our submission, given that you took from it that we were a bit negative. I put it on the record once again that we are not. We believe this is what we need to do.

**CHAIR**—A lack of fulsomeness in your enthusiasm for it might be another way of putting it.

**Mr Evans**—No. I think we just wanted to highlight all the issues. Yes, there are a lot of members out there providing fantastic, high-level ultimate performance on buildings now—there are people out there specialising in this area of work—but not all the consumers or all the industry are there yet.

**CHAIR**—You are looking primarily for market inspiration. The other thing we heard from the architects is that only seven per cent of buildings ever see an architect—the rest are done by you guys or by some cad operator who can whip up a package for a price.

**Mr Harnisch**—Those are wicked accusations from a rival association!

**CHAIR**—Thank you, gentlemen. We appreciate you making the time available, and we thank you for your submission.

**Mr Harnisch**—I would like to add something in closing. I think you will find over time that market forces will automatically come into play. We are finding that the Australian homeowner is becoming far more sophisticated. It is a bit like motorcars: the FJ was a bloody great car but the reality is that no-one would buy one today if it were on the market.

**CHAIR**—The great news is that we can ask the Australian Building Codes Board how to make sustainable housing sexy. That is probably a challenge they have not had before! Thank you.

Resolved (on motion by **Mr Barresi**):

That a subcommittee be formed in the event that the number of committee members present falls below the number required for a quorum.

[12.10 p.m.]

**DONALDSON, Mr Ivan James, Executive Director, Australian Building Codes Board, Department of Industry, Tourism and Resources**

**KENNEDY, Mr John Jeffrey, Project Manager, Energy Efficiency, Australian Building Codes Board, Department of Industry, Tourism and Resources**

**CHAIR**—Welcome. Although the committee does not require you to give evidence under oath, I advise you that these hearings are formal proceedings of the parliament and consequently warrant the same respect as proceedings of the parliament itself. It is customary to remind witnesses that giving false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. I now invite you to make a brief opening statement.

**Mr Donaldson**—I would like to go back to my submission and expand on that to some extent. I will firstly foreshadow some of the things I will address and then we might discuss those as we go through. I would like to comment on the terms of reference of your committee and the focus on social and economic issues that you have as part of your challenge. I would also like to add some comments and discuss some of the issues that we have had the opportunity to hear.

In the submission we gave you in December, we focused on one aspect of your inquiry: ecoefficiency principles. We did that because we have a fairly significant project that has been ongoing for some years, which Mr Kennedy is responsible for, concerning energy efficiency in houses and in buildings generally. I say as a general remark that building sustainability is very much a live issue for the board. The feedback we get from the industry is that they want to see these issues progressed and addressed in an effective way, nationally. They do not wish to see duplication; they want to see efficient and effective regulations in this area. Industry are looking for guidance about future directions. The deliberations of this committee and the broader context that you are working in are very relevant to that. The opportunity to make a small contribution is very much appreciated. We are only part of the solution, if indeed we are a part of the solution, and I hope you see us as that.

It has been for only 10 years that Australia has had a national building code that is legally enforced in every state and territory. Although it is a national code, it is important to acknowledge that it clearly recognises geographic and climatic differences—for example, construction in cyclonic regions is very different from elsewhere. It would be a nonsense to have a single document that said we did everything in the same way right across the country, because if we did that we would all be dead. When you create a national code, you inevitably discover that it is an instrument that can deliver outcomes to the whole of the built environment. Of course, in the last 10 years we have seen changes in community expectations about issues that bear on the built environment. Your committee and its focus on sustainable cities is a manifestation of this.

From our side we see it in other things, though. We see it in terms of human rights issues, for example. I note that in your discussion paper you talk about cities needing to meet the future social and economic needs of Australia within the unique context of the Australian landscape.

That strikes a resonant note with me because to me the relationship between buildings and people is really what it is all about. It is about us living in buildings; it is about us using buildings. When we reflect on the fact that the Australian government has in place antidiscrimination legislation concerning people with disabilities and when we find that the only way that can be enforced is through the courts, then we see that perhaps the building code is a way by which those things can be codified and can deliver better outcomes for sustainability in people's relationship with the built environment. Indeed, it is both Commonwealth and state government policy to pursue that, and it is an aspect of sustainability that I was perhaps remiss in not putting on the table when I did my submission back in December.

I would like to go back to your suggested visionary objectives and deal with some comments as to three of those. There are seven objectives in all. My first comment relates to the first of those objectives, concerning the preservation of bushland heritage and urban green zones. I believe it is appropriate for me to draw your attention to another dimension of the urban-rural interface, one that is directly relevant to planning and building cities and to the building code to some extent. It is the issue of bushfire and the considerable concern that exists in the community about our experiences of it, particularly in the last two years but obviously going back over a long period of time. The building code does not inhibit construction in the urban-rural interface by any means, but there are provisions in the building code which require more onerous construction techniques when planning laws in the states designate an area as bushfire prone. So when we look at preserving bushland as an issue, we need to have regard for the fact that there are other dimensions to this and that they relate to life safety questions. That whole area is the subject of considerable interest by government. Indeed, it was only last year that the Australian government announced funding for the Bushfire Cooperative Research Centre, of which the ABCB is a member. The centre is being supported by a wide range of agencies and governments around the country and its work bears directly on the issue of preservation of bushland as one dimension.

I turn to the issue of equitable access to and efficient use of energy. I should make it clear that the building code is actually about new buildings and the refurbishment of existing buildings. It is not about all buildings, because building regulations are not retrospective in concept. They apply through the law and into the future, and of course they are changed from time to time. In that context, we have developed energy efficiency provisions for houses and we are heavily involved in a long-term project to extend that regulatory dimension of energy efficiency requirements to buildings generally, not just houses. In that context, when we talk about the efficient use of energy we do not address the question of alternative energy sources because we are primarily concerned with energy consumption regardless of source. That is a fact and that is what we are focusing on. Notwithstanding that, in the tropical areas of Northern Australia we do accommodate the use of solar energy and heat pump hot water systems, and when we are looking at commercial buildings we will certainly be looking at the issue of alternative energy sources, but that is work in progress. We are heavily involved in that from the regulatory dimension.

I guess I need to put that in context, too. I would agree with the comments of the MBA: building regulations are only part of the story. Driving outcomes through mandatory imposition of regulation and legislation is by no means a stand-alone solution and in many cases it is probably not appropriate. Market-driven solutions, better intelligence on the part of the building professionals and better awareness by the consumer are very important considerations, we

believe. Nonetheless, we have been given a task by governments, jointly—by both the Commonwealth government and the state and territory governments—to develop these minimum provisions, and that is what we are proceeding to do.

The only other visionary objective that I would like to comment on is:

3. Establish an integrated sustainable water and stormwater management system addressing capture, consumption, treatment and re-use opportunities ...

Plumbing and drainage is primarily not a building code matter—it is regulated by the states independently—but the building code does contain provisions for stormwater management, and we focus on discharge issues there. So, whilst we do not focus on water conservation per se, we do not impede the use of rainwater tanks, for example. That is not something that is mandated out through the building code. It may well be that there are health authorities around the country which have different views about that at a local level, but the building code does not impede the use of such systems for the provision of water to the house.

That is just some expansion on my submission that I wanted to put on the record. I do not think there is anything else about which I want to make a statement, but I am happy to answer any questions and perhaps take further some of the discussion that you had earlier.

**CHAIR**—John, is there anything that you want to add at this point?

**Mr Kennedy**—It probably would help discussion if I briefly explained the building code itself—the way it is structured. The basic requirements are in qualitative terms, in words. For energy it might say something like, ‘You shall have a building that is energy efficient, considering the following points,’ and it takes orientation, the source of the fuel, the climate location and all of these things into account, but it is not proscriptive. That is the requirement.

As well as that, we have proscriptive, deemed to satisfy measures, which are ways that the industry currently meets that performance requirement. These might say to put in so much installation or eaves of a certain size. If someone wants to come up with an alternative solution, there are four assessment methods that they can use: expert opinion, documentary evidence, a verification method which we have in the building code—for energy, for example, the verification method says to achieve a four-star energy rating—or, finally, you can demonstrate that your solution is equivalent to the deemed to satisfy measures. Our deemed to satisfy measures are fairly simple. As an example of what is in them, for the back of the ute sort of builder there are eight climate zones with maybe half an R insulation difference between one climate zone and another. If people want to come up with an alternative solution, they can use the energy-rating software. It has over 60 climate zones in it, and you can really finetune your design.

**Mr BARRESI**—Just on the various rating systems that are used, one of the things that I have asked other organisations in the past is: is there some way, though, that you can make that user-friendly for the consumer? At the end of the day, whether or not a builder is going to build an ecoefficient home, if you look at the residential stock, is going to depend on demand. The biggest single factor in choosing to buy a home would have to be price. Location is obviously incredibly important, as are the services around it, but the affordability of a home—particularly

if you are going to buy one off a plan—is the biggest factor. You have to make it somehow easier for that consumer to decide: ‘This home is good for me, even though I might be paying an extra \$5,000 because of all the different considerations that have gone in there from the builder. It is going to be good for me.’ I do not see anything that has been presented to us so far that gives me confidence the consumer knows what they are buying. Bruce mentioned earlier on about the car—when you go and buy a car—and the energy efficiency of the car. We do not have that for homes.

**Mr Kennedy**—There are two lots of rating schemes out there. One is the energy efficiency one, and that is the envelope of the house itself. The other one is the broader sustainability one. The energy rating ones are fairly straightforward. There are only three bits of software in the country, and even though they are all slightly different, as part of our process we had to develop a protocol, so all of those complied with that protocol.

**Mr BARRESI**—What does it tell me?

**Mr Kennedy**—That your house has a four-star energy rating.

**Mr BARRESI**—What does that mean? That means nothing to me. I am going back to the example of the car. What am I going to be saving on my power bill this year because of a four-star rating house versus a two-star rating house?

**CHAIR**—Is it going to take an extra three hours for my house to heat up on a hot day? If it is going to cool down do I need more energy to run it?

**Mr BARRESI**—What does it mean in terms of my hip pocket as a breadwinner in regard to what I am going to be saving in this home versus the other home? That is good for a builder—four star, three star—to know, but not for the consumer end.

**Mr Donaldson**—You have touched on a really important point here. This morning you saw a concern about the capital cost, the front-end cost—‘We cannot recover the cost’—and I will come to that as a separate issue. But the contractor wants to deliver a product to you at the cheapest price he possibly can so he can sell it. Obviously he wants to get a profit and all the rest of it. I have even had builders say to me—not the gentlemen here this morning—‘Why should we introduce these sorts of measures when we cannot capture the benefit?’ There is a disconnect between the contractor who is building houses around the country, particularly the residential sector, and the benefits to the consumer. Yes, there are capital costs associated with some of these measures that we talk about, but there clearly can be savings over time, and who captures these savings? Of course, the owner should. But you make the point—and you are right—how do they know that? And shouldn’t we be doing more out there to ensure that the consumer better understands that and can make informed decisions and be able to negotiate with the builder and say: ‘Hang on a bit. I will buy this house because I am going to get benefits, but you will sell it to me at the right price’? That equation needs to be better informed in the marketplace; I agree.

**Mr BARRESI**—It is a quantification of the water that I am saving, the power bill that I am saving, whatever it may be—perhaps the green energy that is being used in the home. If you can quantify that, then you may be able to make that consumer connect with that purchasing decision.



**Mr Donaldson**—I think at the individual level you are right. It would be fair to say, though, that the community generally is far more switched on than it ever was about what they see as a better green environment. They see that as a good thing. I do not think you will find people at the general level—

**Mr BARRESI**—I take issue with that. I think what they see, when they make that decision, is how many trees are around this property—

**Mr Donaldson**—And we might chop them down because of the bushfires.

**Mr BARRESI**—And which way the house is facing. And that is about where it rests. The great bulk of consumers would say: ‘It looks pretty. It is on top of a hill. It has got trees around it. It has a good aspect’—very environmentally sensitive—‘There is a park down the road.

**Mr Donaldson**—All of those things.

**Mr Kennedy**—Just a little bit of history: our original proposal that we went public with did not have any talk about star ratings. We had something that was quantified, and no-one understood it. It was megajoules per annum per square metre. This is how much energy you are going to save. We related that to savings and their bills.

**Mr BARRESI**—The concept is right. The terminology is wrong.

**Mr Kennedy**—What happened was we got snowed with public comment that everyone likes the star rating because the energy authorities around the country have done such a good job of selling it. People are used to buying refrigerators with four stars or three stars. So we had to back off, and we had to include it in the BCA.

**CHAIR**—How does that sit with all that we have heard today? There is this consumer appetite for it. We are being told that we have to socialise the sustainability benefits for the market to take it up. It just seems at odds with what is going on—some of the comments about there not being an appetite for it. You are right—people love the stars. Maybe they are convinced that is helping and that they are doing the right thing because they have upped their stars, but if upping the stars is driving consumer choice in appliances, in fittings and fixtures in housing, why is it not driving housing?

**Mr Kennedy**—People prefer their marble benchtops to energy ratings.

**CHAIR**—So we will stick with the stars so long as it does not mess with anything else we want to do.

**Mr Kennedy**—It depends on the reason behind all this. Why do you have to regulate? People are more interested in the benchtop and the view than they are in the energy rating. Like you said, it is not me that you should be looking at, it is the buyer of the house after me and the one after that.

**CHAIR**—That is right.

**Mr Donaldson**—My recollection from the statistics is that nobody retains a house for more than seven years; they are getting turned over at that rate.

**Mr Kennedy**—Everything we do is life-cycle costed over the life of that element. If it is a structure, it might be 50 years. If it is a light switch, it is five years.

**CHAIR**—We saw a Metricon home at Cairnlea that is presenting itself as being ecofriendly. Frankly, it had some benefits, but it did not move away from the home buyer aspiration form of housing.

**Mr Donaldson**—Airconditioning.

**CHAIR**—It still had airconditioning, but it had that hot water-instant heat circulating system for temperature control, it had some double glazing features, it had exposed windows using lattice, it had eaves—heaven forbid!—it had some choices around air movement, appliances and lighting and it had LEDs upstairs rather than globes. It seemed like it was meeting the market and actually quietly doing some good at the same time. I would have thought that you were in a position to help nurture that through the code.

**Mr Donaldson**—Yes, certainly with some of those elements, but we just cannot mandate eaves because there are other constraints such as being close to the site boundary. What we say is that if you do not want eaves, you can only have small windows—

**CHAIR**—Or a smaller house.

**Mr Kennedy**—Yes, or you can change your orientation. But if you want big windows, you must have eaves or go to a higher quality glass.

**CHAIR**—The capacity to find reasons why we cannot do things is fantastic. Given the stakeholders of your organisation, I wonder why they go off separately and come up with Neighbours, BASIX and Green Star ratings and a range of other tools that arguably complement the minimum standards that you guys are providing, but they then take the thinking further. If they are all off doing these things, what is the barrier to doing it through the tools that you guys oversee?

**Mr Donaldson**—We are fairly slow.

**CHAIR**—I appreciate that.

**Mr Donaldson**—Why are we slow? There may be a good reason why we are slow. Remember that we are a Commonwealth-state body and that my board has senior officials from every jurisdiction in the country on it. I do not want to be critical of my own organisation but the reality is—and it is a very important one—that we operate under the COAG standards writing provisions which require us to go through a very rigorous public and analytical process to get to a point where we have measured costs and benefits, and we can take sensible decisions in terms of regulations which are going to apply across the country, because they are big impact things. The disability access stuff we are working on has got a \$26 million price tag hanging around it. These things are very serious matters.

I think our colleague Mr Barresi made the point earlier on in the discussion—and I can relate to it because we try very hard to do it—that people need to have some ownership of these building regulations that are going to affect their lives. I totally agree with that, but when it comes to things like building codes where you are dealing with life safety and government policy which require us to be more ecofriendly, you need to have a process which makes sense, which does not duplicate, which can bring people together to evaluate proposals that are going to apply around the country. You need people to be in that and we try and do that. We try and engage with the community. We have a series of committees that have stakeholders right across the country involved in these things and the state governments themselves who feed into the process.

So, yes, we do take a bit of time. If we take too much time—and we are talking about issues that have a high resonance in the community because they have a profile such as sound insulation and energy efficiency—then it is inevitable that if individual jurisdictions have their own planning rules and powers there is likely to be some movement at that level to address things at a local level. Our charter is to create from a building regulatory point of view a national consistent framework. That is the joint government's policy and has been for 10 years. That has delivered a lot of benefits to industry and the community because we can deliver more cost-effective minimum regulations. That is what we are trying to achieve.

**CHAIR**—Does your work extend to a comparative analysis of the various tools that have been developed within the jurisdictions that form your organisation?

**Mr Donaldson**—Absolutely. John made reference to the fact that we are developing a protocol which would help guide what is and what is not an appropriate tool to be used for these purposes. We are certainly working on that. My board has not yet fully embraced the concept of sustainability. Whilst it has manifested itself already in the energy efficiency decisions of government and disability access, there is a whole raft of issues, as you know from your work, that bear on buildings. We are in the process of researching that at the moment, and which way we jump is a matter for governments. We are working on how sustainability would become a goal or overriding objective of the building code which deals with life, safety and amenity. We are wrestling with that; we have not come to a conclusion yet.

**CHAIR**—How does the CRC for Construction Innovation feed into or inform your work, or are you just keeping an eye on what they are up to?

**Mr Donaldson**—We part-fund it. Our body is a participating member of the CRC for Construction Innovation and we were the lead agency in putting together their report on sustainability and the Building Code of Australia. The research work that was done last year is, in fact, the primary source of the work that is feeding into the board at the moment. That is a public document.

**CHAIR**—So they are like your R&D wing.

**Mr Donaldson**—They are not ours—

**CHAIR**—But the new frontier work that might inform your own code in years to come is canvassed through that mechanism.

**Mr Donaldson**—That is right. We are a research based organisation. We are obliged to be, and it is appropriate that we should be. Is what we do going to contribute to the community's wellbeing? That is the basic reason we are in business, and we need to be able to demonstrate to the community and governments that we are heading in that direction.

**CHAIR**—Does the work extend to cost comparisons? We have had a range of views put to us about whether more sustainable housing is more expensive or less expensive. We have had arguments regarding what metrics you use and over what life cycle or period of time, embedded energy in fabric preparation and all kinds of great stories. They have all been interesting and quite informative, but there is not a consistent theme that would represent an insight one way or the other. Does your work extend to looking at building practice? There is the building code—the rules of the game. Do you go back and look at what is going on in the sector to see whether there are some patterns emerging that you need to be responsive to, or that you can help shape, guide or direct in a particular way? Does that work extend to cost comparisons of the black box, snake oil sustainability solutions—for instance, something to bolt onto the TV antenna to make you consume less energy—through to something that is a meaningful innovation that you might want to encourage the use of more generally?

**Mr Kennedy**—Sustainability is a big issue of which energy is a very small part. Even with energy we had trouble corralling what it was we were trying to control. You raised the issue of embodied energy—that gets so complicated. Do you take the truck that brings the bricks to the site? Do you take the energy to make the bricks and to mine them? Again, we restricted ourselves to just what happens on the site—the operational energy. We still do not know what to do about sustainability. The tools that we talked about all measure different things. One of them measures whether you ride a bicycle or drive a car to work. We have to come to grips with what sustainability is, and the CRC paper was really the first effort.

**Mr Donaldson**—That reinforces my point that the building code is some things, but there are plenty of things that it is not. It is certainly not a regulatory tool that will deliver on sustainability in the breadth that it seems to be encompassing. The building code is not the solution to those sorts of things. We can make a contribution, but only one.

**Mr JENKINS**—I think my questions will be covered if I ask for observations about the presentation of the MBA this morning and some of the matters that were raised.

**Mr Donaldson**—Would you like me to comment on some of those matters?

**Mr JENKINS**—Yes.

**Mr Donaldson**—I may not have noted all the matters, but I tried to take some notes from the back of the room. The first issue is in relation to the comments you received about the cost being borne by the building industry and not the community. I think, Mr Chairman, you debated the issue of passing the cost on to the buyer; you would think so. They have gone away to get some examples. I will just give you an in principle example of how that can happen, because it can, and it is one of the issues that we are trying to deal with. In some states in Australia, the councils have the legal power to impose building regulations over and above the building code. The building code is a minimum, but they can impose additional requirements—New South Wales is

a case in point. This does not happen all over the country. In fact, in some states the councils are mandated out of that process.

We have to draw a distinction between building regulations—the technical stuff—and planning. There needs to be a very clear line between those two things, because planning issues are very clearly the responsibility of local communities, state governments and councils. That is the wider build environment, and all of that makes a lot of sense. When you get to the technical issues and you are dealing with things like fire safety, for example—and to me that is a sustainability issue too—a fire in Brisbane is no different to a fire in Perth. Indeed, 10 years ago, when the regulatory reform process was set in train, it was recognised that we should separate for the purposes of reform technical issues and policy, if you like, or planning type issues. That is how we got our building code.

Our building code is a direct result of recognising that many technical issues to do with the site and the actual building construction are generic, subject to cyclonic and climatic conditions and all that sort of thing. Of course, that is how it translates into a national code. So you have in the marketplace the ability of some jurisdictions to introduce, council by council, additional costs, but you have a national market. In other words—and over the last few years we have seen significant price rises, and housing affordability is a big issue—if I am a builder in a jurisdiction that has introduced additional sound insulation provisions, that will cost me another \$5,000, but over the road, in another jurisdiction, builders are not required do that and there is no \$5,000 cost associated with additional regulations, but you have a national market for houses. Suddenly, the builder who is bearing the regulatory cost that is jurisdictionally driven finds himself not able to recover that cost in the marketplace, because he has just got to take the market price. I do not think that was made clear.

**CHAIR**—I know exactly what you are saying, but I think it is a crock.

**Mr Donaldson**—No.

**CHAIR**—Maybe all the experience I have had with builders amounts to nothing—and I accept that. I have had dealings with only several hundred of them, and I have just happened to meet the only several hundred who put on every fixed price contract variations to deal with access, topography, slope of the land and local building requirements. I mean, give me a break, Ivan. Every builder I have ever met puts in wriggle room for fixed price deals, because they know that no two blocks are the same, and they may have additional costs to gain access and there may be variations in connection fees and all sorts of things like that. I have not met a builder who will not pass on a cost.

**Mr Donaldson**—Of course, that is what they try to do. What I am saying is, if the market does not let them do that, how can they do it?

**CHAIR**—But that is a price issue. In the illustrative example that you have put forward, if people do not want the sound insulation using the market that you described, they will build on the other side of the street.

**Mr Donaldson**—Yes.

**CHAIR**—I have not met a builder whom I am very fond of or the son of one who would ever say, ‘Gee, I’ll just wear the extra five grand.’ I mean, Ivan!

**Mr Donaldson**—What I am saying to you is that market prices transcend jurisdictional borders; that is the point I am making to you.

**CHAIR**—And market behaviour also does. If you do not want the sound insulation and you are happy to have the noise across the street, have the noise and save five grand.

**Mr Donaldson**—Yes.

**CHAIR**—It is a theoretical possibility that I find is overstated to try and back up a point: that variability is unhelpful to the building industry. Make the point: I do not have a problem with that. Say it is annoying, say there is complexity, say it is a nuisance—say all those things—but to say it is costing the builders money is probably your least strong suit, I would have to say. But if you have some examples, send them in.

**Mr Donaldson**—The industry have also indicated that they intend to do that, so I look forward to seeing them.

**CHAIR**—We wait with bated breath.

**Mr JENKINS**—In those cases, what is driving, for instance, this additional noise insulation requirement?

**CHAIR**—There is usually a reason for it.

**Mr JENKINS**—There really is. I understand the market phenomena that would go on in that case, but there also has to be an element of the market phenomena for someone to decide that they would put on these additional things in this local government jurisdiction—and I think we are talking about local government jurisdictions. I just do not understand that. How do we actually deny that local government jurisdiction the ability to do that if there are legitimate reasons? I suppose it is a bit hard to find out those reasons without bringing them in.

**Mr Donaldson**—As I said, in some states it is stated government policy that they will not do that because there is a recognition in those jurisdictions that there are efficiencies for the community in having a single set of regulations in the construction of buildings. In the case of noise attenuation, some years ago now we embarked on a process of lifting the standards in respect of sound transmission between apartments. That process took some time. In the meantime, that issue—which was already a sensitive one in some cities—became such that in Sydney at least one and possibly two councils, I think from recollection, exercised their entitlement to introduce additional provisions. We found a situation where precisely what I explained happened. We have caught up now. Those provisions will actually exist from 1 May.

We were not satisfied that doing that was a cost-effective thing to do, so we were obliged to go through a process of analysing the impact on the community. At planning level in the states, the COAG provisions do not apply. There is no obligation on them to go through the same rigour of analysis that is required for us to come up with the sorts of solutions we come up with. They are

the facts; I am just telling you the way it is. From our perspective, we think it is totally appropriate that we should go through those processes, because what we do has a big impact on the community. It would be inappropriate not to give it thorough scrutiny before you sign on the dotted line, so it does take time. In other words, for a community concern, a manifestation of a problem, yes, we can act and let us do it.

**CHAIR**—Local councils under most health acts have nuisance powers, where the noise annoyance of the neighbour tends to pop up, so it is probably a remedy to an experience of unhappy taxpayers.

**Mr Donaldson**—Yes, you could imagine.

**CHAIR**—I do not have to imagine. I can tell you that that is what happens.

**Mr JENKINS**—I suppose on the sustainability issues it really underscores the importance of trying to get to grips with what we are talking about, because you run the risk of everybody having their own definition and therefore looking for different things if we are actually talking about the built environment and the buildings. So as you do your work about a national approach, would it be through your code or would it require something else, another mechanism?

**Mr Donaldson**—The code is not the solution to the issues. They are far broader than the building code. We are site specific, we are building specific, full stop. If from a policy point of view governments decide that sustainability ought to be a dimension of the building code—they have not done that yet, but if they did—we would need to define it as a subset of that broader requirement. Remember, we are operating in the context of building regulations that need to be cost effective and uniform. They are the sorts of principles we are operating on, so it would have to have some regard for that otherwise it would not fit from our perspective.

**CHAIR**—Yours is more a manufacturers kind of specification of what has been created rather than the liveability of what you finish with.

**Mr Donaldson**—I do not quite understand.

**CHAIR**—I am saying that the technical rigour with which you approach your task is more about the creation of the space and the structure—

**Mr Donaldson**—Yes.

**CHAIR**—than its functionality.

**Mr Donaldson**—Functionality is relevant. We would deal with air quality through ventilation.

**CHAIR**—The living experience of the inhabitants is on your radar screen.

**Mr Donaldson**—Absolutely. It is about health, safety and amenity.

**CHAIR**—The articulation of the sustainability agenda that would hit within your parameters needs to be described as one of the living experiences of the inhabitants.

**Mr Donaldson**—Yes, within the building it would be. I repeat that we have not embraced this yet. The reality is that governments have asked us to pursue energy efficiency and we have been doing that. We are dealing with disability access. We have been asked to do that and we are working on that, and we are contributing to the debate anyway. It is almost like it is an inevitability.

**CHAIR**—The whole sustainability thing, from where you are sitting, is a bit untidy at the moment?

**Mr Donaldson**—It is too broad for us, and it is a little amorphous and difficult to find. I could relate for you 10 or 20 issues that bear on that and bear on buildings, but I would not be able to say whether regulatory responses are appropriate in those cases until after we had sat down and nugged our way through the great detail.

**CHAIR**—Would our work be helpful if we put down the bones of what it means and what it looks like and then fleshed out how we might go about achieving that?

**Mr Donaldson**—It would be very valuable, I would suggest. I have had a look at a lot of the submissions and you have had an enormous amount of input from the community. My feeling was that perhaps the social and economic dimensions had not come through that process as much as I would have liked them to. That is my sense.

**CHAIR**—There has been a strong argument on the human health side of it. Put it this way: everyone can point to evidence of it being done poorly, but it is not so easy to identify where it has been done well.

**Mr Donaldson**—Have people come up with legionnaire's disease? Is that an issue that has come up?

**CHAIR**—They have talked more about stress and life's tensions. They have talked about there being a dislocation of human activity from the various parts of your life and people not recognising the connectedness of it. That is ecologically unsustainable but also not terribly sustainable in economic and human terms either.

**Mr Donaldson**—Indeed.

**CHAIR**—Those kinds of things have come up. Sick buildings popped up at one stage. People have been asking what happened to fresh air. Given that it is all a bit spotty at the moment, it has been put to us that it is a bit like competition and productivity a decade or two ago. It has been put to us that there is a case for a national sustainability commission with bucket loads of money—which I suppose the building industry would say would come from somewhere else—working across COAG to drive, recognise and reward improved performance. Then we would let the jurisdictions, with their different organisational arrangements, work out how best to make gains and implement a set of national principles through which each jurisdiction could describe a way forward. Does that appeal to you?



**Mr Donaldson**—Yes, it does. One of the points we would have made in the submission I gave you was that we see ourselves as being a small part. A national framework in which these things could be identified and pursued makes a lot of sense.

**CHAIR**—You get great comfort and guidance from understanding where you are located within that broader picture and what contribution is expected of you?

**Mr Donaldson**—Definitely.

**CHAIR**—That is the kind of thing that is missing at the moment, is it?

**Mr Donaldson**—We have a national agreement between the nine governments, and that framework spells things out. It is currently under review by the Productivity Commission.

**CHAIR**—How does that speak to the sustainability objectives?

**Mr Donaldson**—It only does indirectly. It would need to be informed by your work.

**Mr Kennedy**—The energy efficiency project has been a good pilot for sustainability. It started with us not being clear about what we were looking at so there was a scoping exercise done. We said that this is the big picture, this is the bit that can be regulated, this is the bit that private industry should take care of and this is the bit best practice says we should stay away from.

**CHAIR**—A bit of ‘suck it and see’ went on.

**Mr Kennedy**—It did. We have had to make a few changes to things we have done, but generally I think it has been a good pilot for the sustainability project.

**CHAIR**—Thanks, Ivan and John. We appreciate you making your time available. Thank you for your presentation.

Resolved (on motion by **Mr Jenkins**):

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

**Committee adjourned at 12.55 p.m.**