



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL
AND EXTERNAL TERRITORIES

Reference: Role of the National Capital Authority

MONDAY, 21 APRIL 2008

CANBERRA

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JOINT STANDING
COMMITTEE ON NATIONAL CAPITAL AND EXTERNAL TERRITORIES

Monday, 21 April 2008

Members: Senator Lundy (*Chair*), Mr Secker (*Deputy Chair*), Senators Crossin, Humphries, Hogg, Joyce and Stott Despoja and Mr Adams, Ms Burke, Ms Annette Ellis, Mr Neville and Mr Turnour

Members in attendance: Senators Crossin, Hogg, Humphries and Lundy, Mr Adams, Ms Annette Ellis and Mr Neville

Terms of reference for the inquiry:

To inquire into and report on:

1. The administration of the National Capital Plan with particular emphasis on the reduction of red tape and duplication of municipal and local planning functions, the jurisdiction of ACT spatial policy and harmonisation of planning systems;
2. Whether the governance arrangements for the NCA provide a sufficient balance between the independence of the Authority's planning decisions and its accountability for its operations;
3. The appropriate level of oversight required to achieve the highest standards in design for areas of national significance;
4. Opportunities to ensure cooperation with the ACT planning authority and increased engagement with the Canberra community;
5. The effective national promotion of the National Capital, and the roles of the NCA and the ACT Government in advocacy for new infrastructure projects including responsibility for events and developing the distinctive character of the National Capital.

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Committee met at 9.07 am

CHAIR (Senator Lundy)—I declare open this public hearing of the Joint Standing Committee on the National Capital and External Territories. The committee is inquiring into the role of the National Capital Authority. The inquiry was referred by the Minister for Home Affairs, the Hon. Bob Debus MP, who has asked the committee to report by 30 June.

The inquiry provides an opportunity to scrutinise the role of the NCA and, in particular, address growing concerns about the adequacy of the ACT dual planning regime. A key objective of the inquiry is to make findings and propose recommendations that achieve a more logical and simplified planning regime while ensuring that Canberra and the territory are planned in accordance with their national significance. In addition to the dual planning regime, the committee will examine the administration of the National Capital Plan and the NCA's responsibility for promotion of the national capital.

Today we will be hearing from representatives of the Walter Burley Griffin Society, the Friends of the Albert Hall, the National Capital Authority, the Attorney-General's Department and the Royal Australian Institute of Architects. In addition, the committee will be conducting a public forum at the end of the program so that individuals can make short statements addressing the terms of reference. The evidence given today will be recorded by Hansard and will attract parliamentary privilege.

Before introducing witnesses, I refer members of the media who may be present at this hearing to the need to fairly and accurately report the proceedings of the committee. Does anyone have any objection to the media being present?

Senator HOGG—No.

CHAIR—That is fine. Is it the wish of the committee that submissions Nos 1 to 5, 7 to 30, 32 to 73 and 75 to 76, as listed in your papers, be received as evidence to the inquiry into the role of the National Capital Authority and authorised for publication? There being no objection, it is so ordered. Is it the wish of the committee that submissions Nos 31 and 74, as listed, be received as confidential submissions to the inquiry into the role of the National Capital Authority? There being no objection, it is so ordered. Finally, I need a resolution that information from the listed individuals be received as evidence to the inquiry on the role of the National Capital Authority and tabled as exhibits.

Senator HOGG—So moved.

CHAIR—Thank you, Senator Hogg. As there are no objections, I will declare that carried as well. I would like to thank all of my parliamentary colleagues for turning up in force today for the beginning of this important inquiry. We have a full day ahead of us.

[9.11 am]

KENT, Dr Bruce Eric, Vice-Chair, Canberra Chapter, Walter Burley Griffin Society Inc.

ODGERS, Mr Brett James, Chair, Canberra Chapter, Walter Burley Griffin Society Inc.

WEIRICK, Professor James Murray, President, Walter Burley Griffin Society Inc.

CHAIR—I would like to welcome our first witnesses, representatives of the Walter Burley Griffin Society, to today's hearing.

Prof. Weirick—Thank you. I will speak to the submission of the society. I have also prepared an individual submission which I would like to table this morning. In relation to that I will be appearing in my private capacity as Professor of Landscape Architecture and Director of the Urban Development and Design Program at the University of New South Wales.

CHAIR—Is it the wish of the committee that the additional submission from Professor Weirick, dated today, be accepted as evidence and authorised for publication? As there is no objection, it is so ordered. Although the committee does not require you to give evidence under oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. We have received a written submission to this inquiry from the society, and Professor Weirick has presented an additional submission. I invite you to make an opening statement if you so wish.

Prof. Weirick—The way we would like to structure our opening statement is that I will make a few introductory remarks; I will then ask my colleague Mr Odgers to present the bulk of our submission, as he is the principal author of our society's submission; I will then speak to the recommendations; and then I will refer to my individual submission.

The Walter Burley Griffin Society thanks the committee for this opportunity to speak before this important inquiry into the role of the National Capital Authority. This past weekend has seen our national capital perform at its very best. Canberra has been a place of deliberation, a place of inspiration, a place of significance in the life of Australia. The Walter Burley Griffin Society supports absolutely the ideals which created our national capital and of course the way that those ideals were represented in the Griffin plan and carried forward by succeeding generations. We look forward to the centenary of this city in five years time, in 2013, and we are certain that Canberra will achieve world recognition as the greatest planned city of the modern world. At the same time, however, we must acknowledge that the current situation in Canberra is quite serious with respect to its planning, and this inquiry is very timely and very critical in coming to terms with the experience of planning, designing and managing this city since self-government.

We recall with appreciation the committee's public roundtable in February last year on the review of the Griffin Legacy amendments and the responsiveness of the ensuing report to parliament regarding the concerns expressed by the participants, particularly the concerns expressed by the Griffin Society. The society prepared the submission before the inquiry today as a contribution to the public good. Neither the society nor any individual committee member

directly or indirectly stands to make any personal or financial gain from this submission or the outcome of the inquiry. The submission was prepared by unpaid volunteers, was funded by the society from its own resources and was not influenced by any person or organisation external to the committees of the society.

The 2004 and 2007 joint standing committee reports and the recommendations about the role of the National Capital Authority are two of the building blocks of the society's submission to this inquiry. The committee's terms of reference in 2008 embrace a wider dimension of issues. It is highly significant that the Home Affairs portfolio within the Attorney-General's Department now provides the structure under which Canberra will be planned, and the institutional options we are recommending in our submission affect the constitutional, legal and financial arrangements of the national capital and are based on a critical review of the 1988 settlement and the establishment of self-government. I now ask my colleague Mr Odgers to present the substance of the society's submission to you.

Mr Odgers—Over the past year there has been intense interest in these issues, given a number of incidents which go to the heart of the planning system in Canberra. Last December's auction of Section 63 City Hill was the first land released under the so-called Griffin Legacy amendments to the National Capital Plan. For all the public debate and concept plans put forward in the years before last December, the open auction, which proceeded without a master plan or rigorous urban design guidelines, contained scarcely any guarantees that the developers will serve the national and the ACT community interests while gaining a commercial return from their \$92 million outlay. The massive ASIO building is being prepared for location on Constitution Avenue without public consultation and seemingly at odds with landscape and vista and other values of the central national area.

The systemic problems that lie behind these two incidents of the last 12 months are deep-seated and cumulative. They do go back to the self-government settlement of 1988. We believe that there is a state of crisis at the moment in our planning system. Fundamental reforms are now required. There are major risks now facing the national capital's prospects of fulfilling its destiny as a great city and a national capital. Our submission contains an analysis of these perceived structural weaknesses in the planning institutions and of the economic, social and environmental forces driving Canberra's current planning predicament. In making our principal recommendation under the first term of reference, we canvassed these economic factors, fiscal, regulatory and land administration policies of the ACT government, sustainability and the Griffin Legacy project. In addition, we found it important to discuss the role of the NCA in terms of its statutory functions and their national significance.

On any survey of national significance for the development of the national capital, the interdependence with territory planning and land administration responsibilities is manifest. The present dichotomy of planning functions makes no sense in terms of the whole open system nor in terms of most of those areas currently defined as 'national', 'designated' or 'special requirements'. In our view, neither the National Capital Authority, nor the ACT Planning and Land Authority, separately or collectively has the capacity to manage contemporary economic, social and environmental forces under the present statutory and organisational arrangements.

The NCA in particular needs much greater powers and resources to fulfil its role where powerful Commonwealth departments and agencies, aided by land tenure and privatisation

policies, can so readily undermine both the National Capital Plan and the Territory Plan. Equally important, the roles of both the NCA and ACTPLA must be measured against the imperatives of sustainability, which is now bracketed with climate change. Back in 2002, the OECD review of Canberra concluded:

Canberra can be as important a model for urban development in the 21st Century as it has been in the 20th if it can ... create new assets that take advantage of its role as a national capital, and maintain the high quality of its environment ... while making progress toward sustainability.

Neither of the two planning bodies has a strong or consistent record, especially of late. A critical mass of renewed political, intellectual, professional and organisational effort needs to be applied to the planning of Canberra as national capital and major city. The respective governments should start to transition towards a fully integrated and accountable planning system. The time frames for putting Canberra's national capital planning back on track necessitate different intervals: a longer interval for reconstituting the legislation, plans and organisations; in the more immediate future, there are readily available integration measures and improved democratic processes for improving the situation and facilitating this transition.

The second recommendation we make is regarding the Griffin Legacy amendments to the National Capital Plan. As the society and others pleaded at the roundtable a year ago, these amendments are regrettable in many respects. They threaten to damage the National Capital Plan, the national interest in building a great capital and the interests of the citizens of Canberra. The society regards the fourth term of reference about cooperation and engagement with the Canberra community—in effect collaborative governance—as the essential measure of democracy for a number of communities: those concerned and interested Canberra citizens, the national constituency, professional, business and other stakeholders. The National Capital Authority's consultation protocol adopted last year affords hardly any guarantees of genuine collaborative governance. I will hand over to Professor Weirick at this stage, who will begin by clarifying the first recommendation about the sort of planning institution we think should take the place of the present dichotomous system.

Prof. Weirick—The key recommendation of the society is to create a new integrated planning commission for the city, where both the ACT government and the Commonwealth government are equally represented and are integrated with the fundamental decision-making of the future of the national capital. In my individual submission I expand upon this concept. To express the Canberra predicament in its most simple way, what has happened since self-government is that the citizens of this city have no say in the function of the national capital and the national government does not have much interest in the citizens of the city. As a consequence of this, we have two organisations who are responsible for making the city, neither of which can in fact plan the city. In our submissions, the society and I put forward a comprehensive analysis of these dysfunctional aspects of the city as it is currently experienced; however, two examples will serve for this morning.

The decision to develop Canberra airport as a commercial and retail hub was not in the national interest or in the interest of this city. It is an interesting development and I commend the company for seizing the entrepreneurial opportunity that it presented, but the opportunity should never have been presented. The function of the Canberra airport is to move people in and out of the national capital as efficiently as possible. That is almost impossible to achieve today. The

only validity of this type of land use in this location is to provide efficiency in terms of coming in and out of the airport. To the extent that you can do your business without coming in to the city at all, the new development is not only not in the national interest but also not in the interests of the city. The sale and redevelopment of the airport is a public policy debacle. The long-term lease of the airport was sold for \$66.5 million in 1998. The cost of road improvements to the airport, as far as I can determine from the available record, is already in the area of over \$130 million.

The other example I would like to put before you is a controversial reading of a very serious event that happened in Canberra—that is, the bushfire disaster of 2003. I am prepared to say what other people have perhaps not been prepared to say. The seeds of this disaster were really created at the time of self-government. Effectively, what was set in place was that a city government became responsible for a national park and a national government became responsible for a city park. In that misallocation of resources there was the seed of the terrible disaster for which the people of this city paid a very great price.

The fundamental problems which have come to prominence in the last year as a consequence of the Griffin Legacy initiative, in fact have deep seated origins. The Griffin Legacy initiative has moved the Commonwealth government into the realms of becoming a large scale land developer and that has highlighted the dysfunctional relationships within the legislative framework of the two planning authorities with their respective plans and the lack of integration between them.

In my supplementary statement I address three issues. First, the review of the relationship between Commonwealth government the ACT government with respect to the funding arrangements and also the planning, design and management of the ACT. Second, a review of the NCA's record with respect to design standards in areas of national significance, which in many ways is their core business. Third, I provide as a case study for my critique of their capacities to maintain design standards, an analysis of the very sad approvals process for the extensions to the National Gallery of Australia.

The review of the relationship between the Commonwealth government and the ACT addresses terms of reference 1 and 4 of this inquiry. Based on this analysis I make the following recommendations:

Recommendation 1. Prior to any decision on the role of the NCA, there must be a thorough review of the 'costs of Canberra' that arise from the city's role and status as the National Capital and Seat of Government. Starting from the principle that Canberra must be an inspiration to the nation in terms of environmental sustainability, social equity and design excellence, Commonwealth-ACT transfers must fully cover (1) the rateable value of Commonwealth land; (2) the environmental and design quality of the city inherited from the Commonwealth in 1988; and (3) the environmental and design quality needed for Canberra to fulfil its role as the capital of Australia in the 21st century.

My second recommendation reinforces what the society itself has said—that is:

Recommendation 2. A comprehensive review of the legislative basis for the planning, design and management of the National Capital must be undertaken to create an integrated Commonwealth/ACT Planning Commission.

Now that responsibility for Canberra planning is located within the Attorney-General's Department, there is a historic opportunity to undertake a review of that legislation not only in terms of the fundamental legislation of the ACT but also the Parliament Act, the Environment Protection and Biodiversity Conservation Act and related acts which bear upon the ability of this city to change and grow into the future.

With respect to the NCA's record in terms of design standards in areas of national significance, my submission addresses terms of reference 2 and 3. Based on my analysis, I first conclude that there are two major projects underway in this city which really should not proceed. They were initiated by the Howard government and overseen by the NCA. They are fundamentally flawed, and I make the following recommendations:

- Recommendation 3. Due to faulty decision-making by the NCA and other Commonwealth entities, work on the extensions to the National Gallery of Australia should be stopped and a full inquiry instituted into the design of this project.
- Recommendation 4. Location of the new ASIO/ONA Headquarters on Section 49, Constitution Avenue was a very bad idea of the Howard Government. Work on the design of the ASIO/ONA Headquarters should be stopped and a full inquiry instituted into the siting of this project, assuming it is still needed given 2008 Budget realities.

I conclude that the disappointing record of the NCA with respect to the siting and design of National Public Works—

which goes back to its inception and can be seen in both major public institutions and major office complexes—

is a measure of its uncertain standing in the Commonwealth bureaucracy; its vulnerability to political whim; and its inability to embrace an open exchange of ideas with the broader community.

Effectively the NCA is an organisation which approves the projects it initiates so, despite the capacities of individual officers and members of the authority, the system sets up an organisation that is impervious to outside critique. So:

I suggest that the way forward is to end the in-house culture and to balance the role of a new, integrated Planning Commission for the ACT ... with two new bodies: (1) an Office of the Commonwealth Architect, and (2) an eminent Design Advisory Panel. I therefore make the following recommendation:

- Recommendation 5. The four critical phases in the procurement of National Public Works need to be addressed by separate entities:
 - project inception, scoping, brief preparation, competition conditions, advice on selection of consultants etc—must be addressed—

by a new organisation—

representing the full interests of the Commonwealth—

the Office of the Commonwealth Architect, engaged by all Commonwealth Departments and Statutory Authorities;

- project approval—
- should be dealt with, of course—

by the proposed National Capital Planning Commission ... following public consultation and an open inquiry;

- design advice—

to this commission should be dealt with—

by an eminent Design Advisory Panel, whose decisions are made public—

not behind-doors decisions, which is the current situation. Finally, project management needs to be

overseen by the Office of the Commonwealth Architect.

The solution to the Canberra dilemma resides in many areas. The current perception may be that a simple division can be made between ACT responsibilities and national responsibilities and everything will work. My argument is that this is not the case. The ACT government simply does not receive sufficient special-purpose payments from the Commonwealth to meet the cost of national capital factors in its budget. At the moment the special-purpose payments are in the order of \$32 million. They were increased by \$5 million three or four years ago. At the time that increase was made by the Commonwealth Grants Commission, the ACT government asked for \$75 million. It received \$5 million. The ACT government is dependent upon profits from land sales of \$100 million per year for its revenues. That \$100 million is effectively the existing \$30 million plus the \$70 million the ACT government did not receive from the Commonwealth government four or five years ago.

What is required is a new approach to the funding of the ACT that will take the pressure off the processes of development and re-establish higher standards of planning and design. Within the responsibilities of the Commonwealth government we can see that the problems of delivering major public works are quite considerable. The NCA has a long record of missed opportunities at that level, leading to serious problems with major projects such as the National Gallery and the ASIO headquarters. Thank you for this opportunity to present our opening statement.

CHAIR—Thank you. Dr Kent, would you like to make a brief opening statement?

Dr Kent—No, I do not want to add anything.

CHAIR—Then we will go to questions from the committee.

Senator HUMPHRIES—Thank you for a very detailed submission. It had a lot of material in it which is worth us looking at very closely. You made the comment that since self-government citizens of this city have had no say in the planning of the city. This is a reflection: would it not be true to say that prior to self-government the citizens of the city did not have a say in the planning of the city either? And what would you say to the argument that, important as the views of the citizens of this city are in the planning of Canberra, there is a broader and more important national role which must take precedence. In that respect—and I am sorry to make this a multi-barrelled question—how would you see a single planning authority working in terms of that accountability to both the national and the territory parliaments?

Prof. Weirick—There are a number of questions there. First of all, you are of course correct that prior to the creation of self-government the opportunities for Canberra citizens to be involved in Canberra planning were certainly limited. There were experiments throughout the

time of the foundation of the capital with various consultative committees and so on to try to give a voice to local citizens. But it was, of course, the essence of self-government to make that the case. What I said was not so much that the citizens do not have a say in the planning of the city, but that they do not have a say in the function and the direction of the city. I think in many ways it is a simplification, but once the new and permanent Parliament House was completed, it created the impression that, as far as the Commonwealth was concerned, Canberra had most of its essential sites and functional dimensions of governance and this city could get on with being, in a sense, a normal Australian city.

Our view is that this is a remarkable city and that, I think, has been demonstrated with the 2020 Summit. The proportion of people who were part of that forum who came from this city was quite significant. This is a city of big ideas, big capacities and a deep understanding of many dimensions of Australian life. The broader national interest is very difficult to distil in terms of a direct course of action, and so it is really the people of this city who have the interest and the capacity to carry forward the living reality of this city. Our proposal is to balance the local interest with the national interest and to give the city an integrated future rather than a divided future. In fact, what is happening is a failure at both levels. We could give another example: a most important and contentious issue at the moment is the planning of new suburbs in Molonglo. This is the most significant change to the overall metropolitan plan since the 1970s. At what point can you balance the national interest and the local interest?

At the moment that proposal does not conform to the National Capital Plan. It has been put forward by the ACT government under the Canberra Spatial Plan, which does not have statutory force. A key series of commitments have been made and important consultancies commissioned without any basis in the statutory plans of the city and, by the stage the Molonglo development comes to approval, in a sense it will already be a *fait accompli*. That is no way to plan this city. What is needed is an integrated approach which would look at the overall structure of the city, in which direction it should grow, on what principles—for example, sustainability—and, on that basis, have an accepted metropolitan strategy against which detailed provisions can then be evaluated. Now we have to evaluate a detailed proposal without the structure in place. These types of fundamental conundrums are created by the current system of divided responsibility. We think there is only one way forward and that is a powerful, integrated commission.

Senator HUMPHRIES—I think you make a very strong case in principle; I am just wondering how it would work in practice. Let us take this building, Albert Hall, for example. You would be aware of the controversy that has raged about its planning future. Let us say that an integrated planning authority decided that certain changes to its planning setting should occur, and these were produced as an outcome of this integrated planning authority's work. Let us further suppose that the territory government supported those changes and the federal government did not. How would you resolve that difference of view when you have a single integrated planning authority?

Prof. Weirick—These are important issues, and that is why we recommend a comprehensive legislative review based on an understanding of the complexities of administrative law and planning. This is perhaps something not often addressed at the federal level. That was the problem at the time self-government was granted: the making of the legislation was not grounded in a deep experience of planning. This building, the Albert Hall, already represents an insoluble problem, as it were, of division between the two levels of government. Its heritage

significance is effectively in limbo because it is not on the Commonwealth list, it is an item of local significance on national land, and its heritage status is entirely dependent upon analysis by the NCA.

I think that the way that future growth areas of Canberra would be determined under an integrated commission would be through an open consultative process, which would resolve the interests and concerns of the two levels of government. Through a process of careful analysis, you would find a way forward rather than have the issue of urban expansion seized by one interest group or another.

Senator HUMPHRIES—Okay. You said in your submission:

The Territory Government has progressively gained in power while the National Capital Authority (NCA) has contended with loss of power, functions, resources and control over other Commonwealth Departments and agencies.

That is a slightly surprising statement. Can you give me some examples of where that has occurred?

Prof. Weirick—I might ask Brett Odgers to comment on that, but the clearest example, I think, is the airport—the decision on the sale of the airport, the role of the Airports Act with respect to the National Capital Plan and so forth. Other areas would be in relation to Defence.

Senator HUMPHRIES—They are not examples of where the territory government has gained any power. The territory has not gained any power over the airport or over Defence land.

Prof. Weirick—That is an example of where the NCA has lost authority and power. Where the ACT government has gained power would basically be in putting forward the Spatial Plan as an ambit claim and then proceeding on that basis, as if it had been approved.

Mr Odgers—Progressively, the NCA has lost control over the activities of Commonwealth agencies with the location of Commonwealth government employment and with the transportation system, which has been referred to with respect to the airport. At the same time as the NCA has lost its clout in the Commonwealth sphere, the ACT has put its house in order. It has streamlined its regulatory systems, simplified the Territory Plan and generally facilitated those drivers of development which are in competition with national capital goals and objectives.

Senator HUMPHRIES—Could you explain the comment you made, Professor Weirick, about the 2003 bushfires? I was struck by that comment. You said that the nature of the regime set up at self-government contributed to the situation where the fires occurred—or the disaster that followed, caused by the fires. Could you explain what you meant by that.

Mr NEVILLE—I found that very difficult to comprehend as well.

Prof. Weirick—Certainly I will explain that. As we know, the distinctive characteristic of the ACT, as it was established in the first decade of the 20th century, is that it is an extensive area, unlike the District of Columbia, predicated on the idea of protecting the water supply of the inland city. That has meant that the forested hinterland of the city is an integral part of the territory. The management of those forests is a very major responsibility. We now have national

parks on the borders of ACT and New South Wales. In the United States, a national park is indeed a national park—the federal government controls the national parks. They have very great resources to do that. That should be the case in this country and it should certainly be the case in the ACT where the national government created national parks. Decisions were made back in the eighties and so on as to just who should be responsible for the ACT national parks—whether it was in fact to be the Australian National Parks, which had other parks throughout the continent, the Department of the Capital Territory, as it then was, or the NCDC under the National Capital Open Space System spaces. There was a big issue about that.

Responsibility for the national parks ended up with the Department of the Capital Territory and, after self-government, those parks passed to the ACT government. As a result of all those decisions, a city government—effectively a city government—ended up being responsible for the management of very complex ecosystems and forests on the north western hills and mountains of the ACT, with all of the danger that represents. So it is really, in a sense, a misallocation of resources. Meanwhile, what has happened is that the National Capital Authority has been looking after the Parliamentary Triangle and the rose gardens, things like this, while the forests need a high level of financial commitment and scientific investigation to manage them as the fundamental setting and ecological resource of the city.

Senator HUMPHRIES—So you are saying that the ACT government does not have the resources to deal with that issue.

Prof. Weirick—I would say they do not. This was not, of course, investigated as part of all the inquiries held after that terrible disaster. The idea that a territory government can continue to bear that responsibility is a huge ‘ask’ upon the citizens of this city.

Senator CROSSIN—Thank you for your submissions this morning. What do you think a new integrated planning body could achieve or do better than is currently not happening?

Mr Odgers—I see firstly that the critical mass of planning expertise would give an independence and authority to such a new planning commission. Secondly, the integrative clout of the higher order commission allows the whole urban system to be seen in the full dimension of its national capital potential and the sustainable pathway that the city needs to follow. An example of where this has not happened is the recent one about the bushfires where there were shortcomings in the resources of the ACT to prevent them. They did not have the overall authority and resources that were required. I believe that to be the case. Another current example is public transport where Canberra has lost ground in the last five years with respect to sustainability. This is best illustrated by the failure to make that modal shift towards a public transport system, which of course is based on a settlement pattern and location of employment and so on where the interaction between the national and the territorial is quite clear. It simply does not happen. In fact we are looking at a situation where it is only in recent times that the respective planning bodies have talked about memoranda of understanding simply to coordinate on a day-to-day basis. We are talking about strategic planning at a high level.

Prof. Weirick—In relation to the Griffin Legacy amendments, they represent a very considerable concentration of employment and new, high-density residential development in the centre of Canberra. The problem for the ACT government is that it has inherited a plan from the NCDC which is predicated upon separate centres across the territory. That plan, as it was

modelled in the sixties and seventies, was based upon analyses of traffic movements and of retail markets. Therefore, the centres policy of the NCDC required a balanced approach to all of the centres of this city. The concentration of a totally new centre in the symbolic lands of Canberra throws out that balance. However, it is in the interest of the ACT government to agree to something which is to their short-term benefit because it will suddenly increase the value of territory land that is associated with the Griffin Legacy amendments, even though these amendments work against the long-term strategy of the plan for the city overall. This creates the problems of traffic congestion which we can experience everyday now in the centre of Canberra. It is a city of 340,000 people and should have no traffic congestion. The two governments and their two planning agencies are working against each other and against the longer term interests of the city itself and of the nation.

Ms ANNETTE ELLIS—Thank you very much for your presentation. On page 11 of your submission—you made a reference to this in your presentation this morning—you recommend that ‘the creation of an office of the Commonwealth Government Architect be considered’ and refer to the Washington system of relying on the United States Commission of Fine Arts. How do you propose that would work with the pre-existing institutions to develop the capital? How would that actually reflect the role of those pre-existing institutions which are here now? How do you envisage it?

Prof. Weirick—I expanded upon that a little in my individual submission. Exactly where the office of the Commonwealth government architect should be located within the Commonwealth bureaucracy and policy departments is an interesting question. The best model that we have in Australia at the moment is the Victorian Government Architect. That office is within the Department of Premier and Cabinet, at the key policy coordination level of government. As I am sure everyone remembers, for a long time there was a Commonwealth architect. This city, in many ways, has some great works of Commonwealth architects of the past, the most famous of whom is John Smith Murdoch, who created many buildings. Of course, the most famous—and deeply loved by everybody—is the Old Parliament House. So getting rid of the Commonwealth architect in the 1980s was not a good idea. The way that the office is conceptualised these days is not as a large practice but as a source of key policy advice in the sphere of design. The situation that has developed in the NCA is that design policy advice happens in house.

We should mention—and this is a very important point—that in both the submission of the society and my individual submission we recognise the problem that the NCA has had to confront. They are dealing with much-reduced budgets compared to public works budgets in the past what they have had in the past. We are building the National Portrait Gallery for an original budget of about \$50 million, which has been increased to \$73.6 million. The architects, incidentally, are being paid fees on their \$50 million. We must remember that the cost of the permanent Parliament House was \$1,076 million in 1989 dollars. So to be constructing a national institution on the central axis of the capital for \$50 million is a shocking situation. The NCA, of course, has had to grab at anything, and it is prepared to support such a proposition, but really the scope of works was never properly undertaken. The architects have achieved an amazing outcome with those limited funds and under a very difficult procurement contract, but fundamentally that building should have been funded at a much higher level. So what is needed is an advocate for design integrity and viability at the highest policy level rather than a development agency—which is what the NCA effectively is—which is looking to put buildings in empty places whenever it can.

The Commonwealth architect should play the role of initiating projects and running competitions with open and publicly released information and then, at the end of the process, overseeing the project management and delivery in the national interest. I would see the commission as the approvals body for such works. To undertake that approvals role, it really does need the advice of an eminent design advisory panel. The NCDC used to have an eminent panel, the National Capital Planning Committee, and it benefited a lot from the advice of that committee. We need a similar organisation which would have the status, if not the exact power, of the US Fine Arts Commission—that is, to be appointed to the national design advisory panel and recognised at that level would be the pinnacle of one's career.

CHAIR—Thank you for your attendance today. I understand Senator Humphries may have a couple of follow-up questions. Please forward any additional material to the secretariat by Friday, 2 May 2008. You will be sent a transcript of your evidence to which you can make corrections of grammar and fact.

Proceedings suspended from 9.59 am to 10.17 am

COLTHEART, Dr Lenore Marcella, Vice-President, Friends of the Albert Hall Inc

JOHNSTONE, Ms Diane Katrina, Secretary, Friends of the Albert Hall Inc.

MORISON, Mr Ian Warren,, Member, Friends of the Albert Hall Inc.

CHAIR—We will get started again, if everyone can make themselves comfortable. Just for the sake of formalities, the NCA did approach the committee with respect to their presentation, which they will be speaking to when they come before the committee. I want to check with the committee that there are no objections to that. There are not. I believed so, hence I gave permission for the NCA to proceed with unveiling their exhibition. We will turn to that after the following witness.

I would now like to welcome representatives from the Friends of the Albert Hall to today's hearing. Are there any additional details you wish to give to the committee?

Mr Morison—I am a former traffic engineer and transport planner for Canberra.

CHAIR—Thank you very much. Although the committee does not require you to give evidence under oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. We have received a written submission to this inquiry from you. Do you wish to present any additional submissions or make an opening statement to the committee?

Dr Coltheart—Yes, we would like to make an opening statement.

CHAIR—Please proceed.

Dr Coltheart—We represent Friends of the Albert Hall, and I present this statement as the Vice-President of Friends of the Albert Hall. The Friends thank you for inviting us to this hearing and for conducting the hearing in our Albert Hall. A month ago, the Canberra community in its thousands celebrated Albert Hall's 80-year history as the civic and community heart of Canberra, as Canberra's town hall. Some members of the joint committee joined us at these celebrations. The fact that this hearing is taking place in Albert Hall today also underlines the national significance of Albert Hall, its iconic place in the history of the national capital and its role in the democratic processes of our national capital.

Friends of the Albert Hall is a recent part of that democratic tradition. We are a grassroots organisation formed in response to public demand for a community body to represent community interests in the future of our Albert Hall. In our submission, we make proposals that, we would argue, will deliver better outcomes for the Albert Hall and its heritage precinct and for the Canberra community. We who live in Canberra pay for it through our rates and taxes and care about our city.

The Friends was formed as a direct result of the failure of the National Capital Authority's planning in this precinct. We arose directly out of intense and widespread community anger

about draft amendment 53 to the National Capital Plan. We reflect the views of the 3,364 people who were so outraged about DA53 that they signed a community petition calling for it to be withdrawn. This petition was lodged in the federal parliament. The intention of DA53 was to allow for massed commercial development in the precinct. It would have effectively allowed the absorption of Albert Hall by the adjoining international hotel. The elements of the original DA53 would have seriously damaged the heritage precinct, led to the loss to the Canberra community of a much-loved municipal facility with an 80-year history, damaged significant national vistas, removed green spaces and produced major traffic complications for all travellers along a key transport route.

DA53 was amended twice by the National Capital Authority. Its basic concept remains and it is an unacceptable proposal. In our view, there should be no further work on it and it should be withdrawn. We call on the committee to recommend its withdrawal. When DA53 was published, it was clear that stakeholders consulted by the National Capital Authority before its publication did not include the community or the traditional users of Albert Hall. This was a serious failure by the NCA. We consider it is in the public interest that the NCA should provide a detailed and publicly available account of the development of DA53 and who was consulted prior to its publication. We asked the NCA to provide this information and, having not received it, we have now delivered an application to the NCA for access under freedom of information for the relevant documents.

In response to public pressure following the publication of DA53, the NCA commissioned a heritage study about this precinct at Commonwealth expense. Over nine months later, the study has not been released and we consider that it is in the public interest that the NCA immediately release it. Friends of the Albert Hall pressed for such a study to be made, and it was an outcome of that pressure that the NCA commissioned it and that it was to be in addition to the Conservation Management and Landscape Plan, specifically for the Albert Hall area, commissioned by the ACT government and released one year ago. We have asked for a copy of this study and, having not received it, we have delivered an application for it to the NCA under freedom of information. When the Friends have the material we have requested, we request the right to return to the committee. However, the freedom of information process takes time and it would be helpful if the committee were now to request the NCA's account of stakeholder consultation and the heritage study and to make these publicly available.

The Friends and community partners have given considerable thought to the future of Albert Hall and its precinct. On 24 May last year, we and the National Trust hosted a public meeting which addressed this issue here in Albert Hall. The meeting called for the formation of a tripartite body, with representation by ACT and federal governments and the community, to address the future of the Albert Hall precinct. We ask the committee to consider this proposal if there are to continue to be site-specific amendments to the National Capital Plan.

However, we also ask the committee to look at an alternative. We do not have a problem with the National Capital Authority or some future national planning body overlooking the overview planning of the national capital; indeed, we welcome this. However, in this precinct, where there is a heritage building of national significance with a municipal function in an area with a public land overlay, planning should be undertaken by the ACT government with community consultation and appeal processes. This planning would take place under broad National Capital Authority guidelines with a requirement that, before any planning begins, Albert Hall first be

adequately protected as national heritage. We consider that there can be development in the precinct, but such development should be appropriate to the precinct and be the subject of extensive consultation with the community.

On a broader canvas, DA53 underlines serious problems with the structure of the National Capital Authority. We encourage the committee to consider representation of the community at the most senior levels in a reformed NCA or new body. We also want to see appeal processes on NCA decisions. As members of the ACT community, we support the idea of Canberra as the national capital and its promotion as the national capital and development that way and indeed would like to involve other Australians. Canberra is still our town.

We want an NCA or a successor body that understands, respects and takes account in its planning of the particular history and heritage values of our city, including within the Albert Hall precinct. We look forward to a cooperative relationship with a reformed National Capital Authority or its successor, and we would stress that our criticism of the National Capital Authority has, in addition, our respect for individual staff of the authority whose attempt to allow some response to the community and to representations of the Friends of the Albert Hall appeared always to go nowhere. So they were initiated, but then they were overruled.

For us, a community group, this cooperative relationship can only happen if the planning processes for the national capital provide a real prospect for the involvement of the Canberra community in the planning process and its outcomes, and these need to take genuine account of community views. We welcome an opportunity to answer your questions.

CHAIR—Thank you. Would either Mr Morison or Ms Johnstone like to make a statement?

Ms Johnstone—Not at this point, thank you.

CHAIR—We will now move to questions from the committee.

Senator HUMPHRIES—Thanks for a very thoughtful submission that you have put to the committee. I have a little difficulty in seeing the problems of the planning process that Albert Hall has gone through in recent years as a product of a duplication of planning systems. It seems to me that it has always been clear that the Commonwealth had responsibility for planning the Albert Hall, so I am not clear as to why you say that the duplication of planning systems in the Albert Hall precinct has caused great confusion. I appreciate that the management of the hall rests with the ACT government, but there is not really any question that the planning system has always been a clear responsibility of the Commonwealth. Are you saying that the division between ownership by the ACT and planning by the Commonwealth is the problem, or are you saying that there are planning responsibilities for both governments which have caused some problem?

Dr Coltheart—A bit of both, I think. The Albert Hall, ironically in a way, is a very interesting example of the problem of duplication and the need for a harmonisation of the process and a need for the restructure of the National Capital Authority and its relations with the ACT government and the community. If one considers the Albert Hall a heritage precinct, as designated by the conservation management and landscape plan 2007, it is clear that development around that heritage precinct impacts on it very heavily. DA53 becomes the prime

example. So we see that the problem of planning powers impacts particularly on a building like the Albert Hall and, indeed, this is an opportunity for considering how a better model can be developed.

Senator HUMPHRIES—You would not be aware of this presumably, but in fact the NCA is proposing in its submission that the area around the Albert Hall become the planning responsibility of the ACT government. You have said in your remarks that you believe that should be the case, so presumably you would support that aspect of the NCA's submission. There are others who would say that the idea of having the ACT government planning this side of Commonwealth Avenue and the federal government planning the other side of Commonwealth Avenue so close to the Parliamentary Triangle is an example of a bad division between two levels of government and that areas like this are too sensitive to be relinquished by the national planning function. Can you convince us that it is good that this area so close to the Parliamentary Triangle should be excised from national planning control?

Dr Coltheart—The first response I think we would have to that is that, in a sense, this inquiry is like Canberra's own 2020 summit. Here is an opportunity for new thinking and new ideas, an overdue opportunity but an opportunity that is warmly and heartily welcomed—and I think what springs to my mind is Sir Gustav Nossal's comment at the 2020 summit that it is time to end the cost-shoving and the buck-passing between the federal and state system. I think we can look at exactly the same thing here. Why couldn't a National Capital Authority planning for the Parliamentary Triangle do so in harmony with the other side of Commonwealth Avenue? I think the premise on which that appears to be a conflict is one that we need to overturn. We need to question it, not accept it. In our view, any planning authority that is set up for the Albert Hall precinct, the ACT government or the National Capital Authority or some harmonisation and cooperation between the two, needs to involve community consultation. So we have a third harmonisation that we would like to introduce there.

Ms Johnstone—I think the point here too is that we should not be inflexible about how we deal with this part of Canberra. Ultimately, the Albert Hall precinct has a building on it which is a municipal facility, a municipal facility which lies at the heart of Canberra and has done for some 80 years. In this particular precinct, it is our view that the community are key stakeholders in the outcome. So, in those circumstances, it makes sense to deal with this precinct in a different way from other areas adjoining the Parliamentary Triangle. It is not impossible, for example, to imagine a solution which sees a different outcome here from, possibly, other areas adjoining the Parliamentary Triangle.

Senator HUMPHRIES—In your submission, you say that the NCA, however it is constituted, should include community representation. I just want to tease out what you mean by that. The members of the NCA board at the moment would say that they are representative of their community. Do you mean representative of the ACT community?

Ms Johnstone—Yes.

Senator HUMPHRIES—You have nodded in agreement to that, but Hansard cannot pick up the nod. Would you say that there should be a designated person on the NCA board who is a resident of Canberra?

Dr Coltheart—The nod for Hansard is really an anticipation of what our answer is. More broadly than that, the National Capital Authority is the planning authority over national land and involves not just the people within the national capital—although we are most particularly concerned and in a prime position to actually be arguing this—but everybody, all Australians. This is the national capital of all Australians and its planning is of interest to all Australians. The fact that all Australians do not feel that they have had a say or that there is an opportunity to have a say is really an indictment of the National Capital Authority. So the actual form that would take, I think, should be left for the future when we know what the model of the new planning authority would be. But I cannot, and neither can the Friends, see a problem with a level of consultation which represents Australians nationally and adequately represents the people who are here in the national capital.

Senator HOGG—In your submission to us this morning, Dr Coltheart, you referred to the fact that NCA decisions cannot be appealed. Where would you see any appeal lying on an NCA decision, if there were to be such a process, and who would be responsible for it in terms of jurisdiction?

Dr Coltheart—Again, I think the answer depends on what the future of a national planning authority might look like. But I think that this comment has come from the Friends' frustration at being heard over the matter of DA53. Several times we made representation, including directly to the minister, about this. I think the reason for that very widely supported petition was frustration at the lack of an appeal process. I am sorry not to be able to be more specific about the structure that that might take.

Senator HOGG—If you would like to take that on notice and get back to the committee with some sort of appeal process in mind, it might help us in our deliberations. If we make a recommendation to put an appeal process in place, no matter how the outcome might look for a modified or a revamped NCA, it is not much use if that appeal process does not serve a purpose. That is the point of my question. Thank you.

Senator CROSSIN—Thank you for your submission. It is very clear, and for someone who is trying to get their head around the planning regime it was quite easy to follow. I want to take you to your submission at dot point 13. You give us the example of a response you had from previous government under Minister Lloyd where he rejects the idea of a tripartite body and suggests, as he says:

... there needs to be a clear separation of the statutory responsibility of the National Capital Authority to prepare and consider draft amendments and my involvement in their approval.

There were claims this morning, which you would have heard from previous witnesses, about an in-house culture at the NCA, that they actually approve their own initiatives and monitor their own developments. I would have thought that that would be a sign that there needs to be some tripartite approval here, despite the fact that at the end of the day it might be the federal minister that signs off on it. Is that what triggered your initial concern—the initial processes in the planning not the end stage of the planning?

Dr Coltheart—Yes, and thank you for that comment. It was a serious frustration and revelation to Friends of the Albert Hall when that occurred. We thought the letter from Minister

Lloyd closed off any opportunity for participation or comment or responsiveness. For those of us who have lived in Canberra for a long time, the National Capital Authority's ability to have an almost feudal approach to governance has been a source of great alarm, and yes—the ability to have a kind of in-house approval, as was previously mentioned, concerns us greatly. There is no transparency in that process and there is no opportunity for community involvement. When I say 'community' there, I mean the whole of Australia.

Senator CROSSIN—So there is no statutory requirement then that proposal after proposal gets put out for 28 days for public comment? Is that requirement simply at the whim of the NCA, essentially?

Dr Coltheart—On behalf of the Friends, I have to say it seems that way. The outcomes make it seem that way, but I will give you an example of what occurred in the Albert Hall just over a year ago. When the NCA put forward its proposal for DA53 for development in this precinct, they announced a public consultation process, and it took place here in the Albert Hall on 3 March. That was their idea of public consultation. For those of us who were here on 3 March 2007, there were no sight boards or glorious displays—as we are about to enjoy—there were not enough chairs and there was no audio system, so clearly not many people were assumed to be interested in this. It was quite an exciting event to be part of, perhaps a little bit like the citizens' rally here in the late 1920s demanding representation in the federal parliament for the ACT as taxation was paid by its citizens. The 5 March debacle was followed by another attempt to have something that they could refer to as a community consultation process, which took place at Regatta Point and which was much more like we are about to witness here.

I have to say, that is a very unsatisfactory mode of proceeding and a very unsatisfactory assumption about what constitutes public consultation. Public consultation, as we have said in our submission, is not red tape, it is not a complication; it is the very lifeblood of processes of democratic government, including planning processes.

Mr NEVILLE—I have some sympathy with the previous presenters in their view to separate the functions of a Commonwealth architect and a planning commission. It seems to me that your basic premise is somewhat similar: that Caesar is judging Caesar all the time in these affairs. What would your view be if there were also a territory architect and both had to submit visions to a national planning authority of some sort? The point is that, when you get into these grey areas of what constitutes proximity to the Parliamentary Triangle as against the civic function of the facility, you have this problem: you call for harmony, but the record, and my experience on this committee, is that not a lot of harmony exists. We usually slog the issue out rather than approach it in some creative manner. What would be your organisation's view of having that two-tiered function or of separating the powers of creativity, perhaps, from the regulatory role of some planning authority?

Dr Coltheart—While the question of the creative role is obviously of interest to the presenters of the previous submission, this is not an issue that Friends of the Albert Hall have specifically looked at. I can say, however, as we say in our submission, to assume that there must necessarily be a clash at the beginning of the process does not seem to us to be the most productive way of proceeding, nor is it the case that we assume somehow that in the 21st century we are going to reach the best of all possible worlds with harmony between all parties. But we think that there should be cooperation and discussion of issues at the outset—for instance, in

what you have just suggested, between an ACT government architect and a Commonwealth government architect. I would hope that they talk together before they produce their proposals. It is part of the alarm of Friends of the Albert Hall that DA53, the result of expenditure of considerable public funds, was put out before any public consultation process. The NCA did not take account of what the people of the ACT might think about this; they were not required to, nor did they undertake, for instance, a heritage study of the whole precinct. To actually spend public money on planning proposals before you have talked to all the people does not seem a sensible way to proceed.

Mr NEVILLE—Let me take that question a step further. I would not mind, in terms of what Senator Hogg said, if you include this in a supplementary submission, perhaps. Let us say we have this two-tier approach. Could it not be made a condition of something going to a new planning authority that the public consultation and the report on the public consultation would be a precondition to any plan being considered?

Dr Coltheart—We would welcome that. I must say too, in terms of looking at tiers in relation to federal and ACT government, it is probably more helpful to look at it as a more equal process when we are talking about planning for the national capital and of course that another partner or stakeholder in there is—

Mr NEVILLE—Perhaps I did not choose the word ‘tier’ effectively. I was not talking in terms of hierarchy; I was talking in terms of separation of function, to get away from this Caesar judging Caesar aspect. But another point I was attracted to in the debate this morning was the idea of having a representative of the Canberra community if a new planning authority were recommended. Would it not perhaps be also wise to have someone from the broader Australian community? So you would have two representatives, one person completely divorced from Canberra and one person from Canberra.

Dr Coltheart—I think that is a very good suggestion, and we would welcome that also as an example of how to work cooperatively. That is, if there were two representatives, they would be working in consultation with each other and ahead of time so that they would be speaking with one community voice.

Mr ADAMS—Thank you for your submission. These are very interesting proceedings—and the concept of making sure that, as the national capital, the whole of Australia has an input into the planning needs. I am interested in what the last submitters submitted in relation to their ideas that Canberra planning has lost its overall significance, its importance as a capital. They felt that the input probably is not at that level. Your submission that there is not input from local people is taken, and I find that a bit disturbing. But do you feel as a group that there is not input or that there has been a loss of the significance of the importance of Canberra as the national capital and that therefore we need to have a national approach of some significance in planning?

Dr Coltheart—We agree absolutely with that, thank you. I would add that this is one of the reasons that Friends of the Albert Hall lobbied the ACT government to consider a nomination from the ACT government of Albert Hall for National Heritage Listing. Indeed, the remarks you have just made underlie why this particular building and its heritage precinct are so significant nationally. Now this has come to represent a problematic view of the ACT government wrestling with the federal government over the ACT, over the Capital Territory. This should not be a

wrestle. With regard to the ACT and the national capital, this is a creature of the Constitution. Canberra is the only city born of the Australian Constitution. It is an opportunity for Australians to understand more about the Constitution. I know, as Senator Crossin has said, this makes understanding planning and land issues in the national capital extremely difficult, especially for those in the community. It is not necessarily the case. We strongly support a clarification of this. Although this is not an opportunity to address this issue, I would stress that Friends of the Albert Hall are as vigorous in their approach to the ACT government and as critical of the ACT government over management issues of the Albert Hall and conservation issues about the Albert Hall as they are of the National Capital Authority about the misguided proposal of DA53.

Ms ANNETTE ELLIS—Thank you. It is really good to have you here. If I could just take the opportunity to publicly congratulate the Friends on the 80th birthday celebrations that you put together for the Albert Hall. It was another lovely piece of our local history. I have a couple of questions, if I may. The first one refers to your statements around page 4 of your submission, where you talk about the NCA members lacking some experience and qualifications and that the present composition does not really provide a balance between the NCA's planning decisions and its accountability for operations. Could you clarify for me whether you are referring to the structure of the NCA, the particular skills of current members—and that is a general question of course—or both in relation to the problem that you have raised? It is very important for us to get an understanding of just exactly where you see that sitting.

Dr Coltheart—Yes. I will ask Di Johnstone to answer this also. I just say initially that the emphasis here is on the structure and processes of the National Capital Authority. I would emphasise, as I did before, that the Friends of the Albert Hall were very appreciative of the responses of some individual members of the NCA to the issues raised over DA53 and then subsequently appalled when we found that those agreements to proposals that we were making, interest in measures we were advancing, were overturned. So I am sorry not to be more specific about particular people within the authority—

Ms ANNETTE ELLIS—No, I do not want you to do that.

Dr Coltheart—That was our experience.

Ms ANNETTE ELLIS—Yes, but I thought this might be an opportunity to elaborate a bit on that earlier statement.

Ms Johnstone—Yes. The Friends of the Albert Hall were very concerned about the way in which the authority dealt with DA53. First of all, clearly those at the top of the authority failed miserably to understand the level of community interest that there was in this precinct and, when they saw the option which the NCA was proposing to proceed with, they did not require the NCA to go back and think about that. We believe that that may very well be partly because they did not have the qualifications to understand the issues of DA53 but also to a degree because four out of five of the members were not living in Canberra and did not understand the sorts of issues that the people of Canberra would feel were relevant in the case of DA53.

When the community reacted, as it did very severely, to DA53, it was clear to us that members of the authority did not again understand the depth of community feeling and misjudged that. There was an initial backdown, which was inadequate, followed by a further backdown, which

still remains inadequate. To us, it says a lot about the skills, and qualifications, of the people who are running the authority. We consider that, with any new or reformed NCA, the qualifications of those at the top of the structure who will be responsible for these sorts of decisions, have to be different. These people have to be selected on merit, not as political appointees, and we consider that they ought to have particular skills in relation to architecture landscape architecture, town planning, corporate governance and, as we also suggested, there should be a representative of the community there as well. So we want a whole new structure at the top of a reformed NCA or a new body with people who are selected on merit, as is now required under Senator Faulkner's new guidelines for authorities of government, and we feel that there will be a better outcome for the national capital and for the Canberra community if that is to happen. That is something we suggest the committee recommend.

Ms ANNETTE ELLIS—Thank you. What format would you suggest—this is on the background of your information earlier about your FOI requests and so on—the NCA take to share information in a timely manner and also which is conducive to the public taking an interest in those matters? You have said a little bit about that already. Do you want to elaborate any further on that?

Ms Johnstone—Could I simply suggest that, in relation to the formulation of draft amendments, if there are to be draft amendments and if the committee is to agree that there should continue to be site specific draft amendments, the NCA must at the start of the process first of all include the community as key stakeholders in the drafting of the option and, secondly, be transparent when it comes to the public consultation process about how the NCA came to that option. One of the very big issues for us in DA53 is that we still do not know who was consulted, how they were consulted, what was said and how the option was arrived at. We regard the option as entirely inappropriate, but we have no information about how it was arrived at. It is essential that that information be made public as part of the public consultation process.

Ms ANNETTE ELLIS—Thank you both very much.

Mr ADAMS—For my colleague Mr Neville and me and maybe other members of the committee—if there is a synopsis or something on DA53, it would be very useful to some of us, I think.

CHAIR—Thank you very much. Thank you to the Friends. Sorry, did you want to respond to that, Dr Coltheart?

Dr Coltheart—Yes. I want to give the opportunity for Mr Morison to speak.

Mr Morison—Can I just refer briefly to amendment 33, Parliamentary Zone review of 2001, which I believe has been the basis for the NCA feeling it has justification for making amendments which underlie draft amendment 53? The fact that amendment 33 was approved by both houses of parliament gave it very high status, but it was only indicative and there has been no process of re-examining the implications of that amendment. They are very significant in terms of access arrangements around the Albert Hall and access to both major bridges across Canberra. So the implications of that review have a very serious bearing on day-to-day life in Canberra and, incidentally, facilitate the draft amendment's example of overdevelopment around this area. I think more attention should be given to that particular document.

CHAIR—Perhaps we could build on that request for further information, if you could provide the committee with any insights you have as an organisation into consultation opportunities around DA33, particularly in relation to the impact on road arrangements and traffic arrangements in the Albert Hall precinct.

Dr Coltheart—Thank you. I would also request that Mr Morison can submit some information on traffic arrangements that affect the Albert Hall.

CHAIR—This is additional information?

Dr Coltheart—Additional to our submission, yes.

CHAIR—Is it the wish of the committee that the additional information be accepted? There being no objection, it is so ordered. Thank you, Mr Morison and thank you all for appearing.

Dr Coltheart—Thank you.

CHAIR—You will be sent a copy of the transcript of your evidence to which corrections can be made of grammar and fact. Any additional material needs to be forwarded to the secretariat by the Friday, 2 May 2008. Thank you very much.

[11.01 am]

BALL, Mr Michael, AM, Chairman, National Capital Authority

BYRON, Mr Peter, Director, Exhibition and Outreach, National Capital Authority

HARRISON Mr Alan, Acting Managing Director, Governance, National Capital Authority

PEGNUM, Ms Annabelle, AM, Chief Executive, National Capital Authority

RAKE, Mr Gary, Managing Director, Finance and Estate, National Capital Authority

RANSOME, Ms Ros, Principal Adviser, Environment and Heritage, Planning and Urban Design, National Capital Authority

ROHL, Mr Todd, Managing Director, Planning and Urban Design, National Capital Authority

SMITH, Mr Andrew, Acting Managing Director, Projects, National Capital Authority

WALKER-KAYE, Ms Alison, Managing Director, International Relations and Leasing, National Capital Authority

CHAIR—Welcome. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. We have received a written submission to this inquiry from you. Do you wish to present any additional submissions or make an opening statement to the committee?

Mr Ball—With the committee's permission, we would like the display boards which are on the walls to be included in the public record as the NCA's supplementary submission to the inquiry.

CHAIR—There being no objection to that request, it is so resolved.

Senator HOGG—I have no problem, but how do we do it?

CHAIR—Can you make it smaller?

Ms Pegnum—We have A3s for each of the committee members and the secretariat.

CHAIR—Well anticipated. Thank you for that. That is so ordered.

Mr Ball—The form of our submission will be that I will make an introductory submission, followed by Annabelle Pegnum, who will give a further explanation of our submission. We will be happy then to have questions for any member of the authority present.

CHAIR—Thank you.

Mr Ball—Canberra exists because it is the national capital of all Australians, including Canberrans. Legislation relating to Canberra should provide for the future and should protect national interests under whatever circumstances exist. There can be no guarantee whatsoever that a sensible and sound government, such as the current local government in Canberra, will be in power always. The Commonwealth must ensure that the real interests of the capital are not eroded by a future ACT government focused, for example, on development in areas of national importance. It would therefore be unreasonable and fiscally irresponsible for the Commonwealth, representing all the people of Australia, not to maintain a strategic role in planning in the capital. To an extent, some competitive tension between national and local interests is healthy and democratic. Our system of government at every level depends on a dialogue between two main parties, and, without checks and balances, national or local interests could be severely damaged.

For these reasons, the federal government is and always has been responsible for strategic planning in Canberra, and since self-government it has rightly retained federal supremacy in planning to ensure the long-term future of Canberra as a source of national pride. Legislation stipulates that Commonwealth interests must prevail over local interests in the event of conflict but proceeds on the assumption that conflicts can be resolved through sensible liaison and negotiation. For the past 20 years, negotiation has been successful in all cases and real disagreements have been few.

We do not claim that everything done by the NCA has been perfect over the past 20 years—no organisation could—but we do maintain that by far the overwhelming number of decisions have been professional and correct. They have been in the best interests of all Australians and they have stood the test of time. The proof of the success of the NCA's decisions is to be seen in Canberra today. The proof is to be seen at Commonwealth Place, at Reconciliation Place, at the Old Parliament House rose gardens and along Anzac Parade. The proof is also to be seen in the many memorials and artworks which enhance our public places and, most recently, the proof is to be seen in the Griffin Legacy, which has been applauded by architects and planners worldwide as a body of visionary planning, based on the unique heritage of Walter Burley Griffin yet firmly striding towards the future. Canberra, as a national capital, is recognised as an exemplar of excellent planning. We have also been invited to other capitals to give them the benefit of our experience. We at the NCA are proud of our achievements. Australians should be proud of their capital and Canberrans love their city.

In these circumstances, it is reasonable to ask why this inquiry should focus on alleged multiple clashes between the Commonwealth and local ACT agencies. An objective analysis would show that conflicts are rare. Indeed, there is a real spirit of cooperation between the NCA and local bureaucracies. Because Canberra is the national capital and home for 340,000 people, it is reasonable to conclude that there will be occasional differences of opinion between the two planning bodies. The focus should not be on those few conflicts that occur; rather, the focus should be on the fact that these conflicts are so few. The focus should be on how we as a nation continue to build an even greater national capital, one which will be a source of national pride and a source of delight for local residents.

We believe that the majority of stakeholders agree that the last two decades have been golden for Canberra, with a record number of national places and commemorative works having been built and because the Griffin Legacy is a comprehensive and sustainable plan for the future development of Canberra in both the national and local interest. This plan was developed in close consultation with and is supported by the ACT government. It was also subject to extensive public consultation and it received national attention and acclamation. The Griffin Legacy was not only endorsed by the previous Australian parliament but brought to life through federal funding under the 2007-08 budget, which would have provided, among other things, for the creation of a grand boulevard along Constitution Avenue, a boulevard to provide critical infrastructure for future development and to bring amenity and vitality to this desert of car parks.

Now the building of Commonwealth Avenue has been indefinitely delayed and implementing the Griffin Legacy has been relegated to the bottom drawer. Now the focus in Canberra is on expedience, not vision. The immediate victims of this dreadful decision are the people of Canberra, the overwhelming majority of whom were delighted by the Griffin Legacy, as was demonstrated during extensive public consultation. Other victims of this sad decision are the institutions and businesses which would have lined a grand international boulevard. I hope that, as an outcome of this hearing, the government will rethink the relevance and importance of the Griffin plan not only to Canberrans but to our whole nation.

These budget decisions have been justified because of the need to conserve federal funds in an inflationary environment. We understand the need to conserve funds, but we do not understand why the NCA should have had its budget slashed so much more savagely in proportion to any other federal agency. The logical explanation is that the new government has accepted as fact the unfounded opinions which have been put about that the Commonwealth no longer needs to play a lead role in planning in Canberra because the building of Canberra is complete. Other false assertions also appear to have influenced government thinking—assertions such as that the NCA had been allowed under the former government to exceed its legislative responsibilities. These rumours were given unwarranted currency, which has had the result of dealing Canberra a terrible blow, a blow which will damage Canberra for years to come, to the detriment of all Australians and particularly Canberrans. If this mischief results in legislative changes which will reduce the influence of the Commonwealth in Canberra, if they succeed in limiting federal planning to the national triangle, if they succeed in making federal interests subservient to local interests, Canberra will be diminished to the disadvantage of everyone.

The fact is that the NCA has not exceeded its legislative functions. It has fulfilled them both in letter and in spirit. The fact is that the NCA and the ACT are not in constant conflict. The fact is that the relationship has been characterised by effective cooperation, regardless of the politics of the day. The Griffin Legacy is a perfect example of a vision that could not have been delivered without the full involvement and the wholehearted support of the ACT government, which saw the innumerable benefits which would flow to the local community. This cooperation has been helped by a close professional relationship between me as chairman of the NCA and the Chief Minister of the ACT. We and our respective organisations share a common vision. The fact is that the NCA was not a bloated organisation, and this can be proved statistically and through the budget outputs. To suggest, for example, that a budget of \$2.8 million for the planning output is bloated is ludicrous. Even before the cuts, the NCA was drastically understaffed, as any comparison with the number of ACT planners will show.

The fact that this impression of the agency being bloated was allowed to prevail has resulted in the termination of a group of dedicated and hardworking people and a tragic loss of decades of relevant experience, which will take many years and many dollars to replace. The idea that the national capital would benefit through a reduction of federal interest in Canberra is one of the most dangerous and erroneous of all assumptions. Canberra is the huge beneficiary of the fact that the Commonwealth funds national institutions, roads, infrastructure, parks, gardens, monuments and events, without which Canberra would be just another provincial city. The price for this funding is that the Commonwealth demands that its planning decisions must prevail over local interests.

The most pernicious claim of all is that the NCA was a puppet of the Liberal government. Without a shred of evidence, this claim was given currency and, in the opinion of many, became a reason why such savage cuts have been made to the NCA's funding. Canberra has been the loser. I can attest, as can every member and executive of the NCA, that at no time has any one politician of any persuasion tried to improperly influence any decision or action of the authority—and, had any such approach been made, the authority would have reported that approach to the government at the highest levels. To suggest otherwise is an assault on my integrity as chairman and on the integrity of my predecessors. It is an assault on the integrity of the chief executive. It is an assault on the integrity of every member, executive and staff member, of the authority. I have repeatedly challenged these false statements and asked for evidence but none has been provided. Yet the allegations continue and, because mud sticks, Canberra has become a victim.

If the result of this inquiry is that the Commonwealth gives up on strategic planning in Canberra and ceases to support vital projects, like Constitution Avenue, then the victims will be all the people of Australia who have been deprived of the great national capital that could have been. Shame on those who have set Canberra back years by stimulating cuts which have stopped the revitalisation of Constitution Avenue, which would not only have been a source of pride for us all but which would have provided the vital infrastructure necessary for ordinary traffic flow and for the many new important structures planned for this great base of the Griffin triangle. Now there is not enough time to complete the Griffin Legacy for Canberra's centenary.

The NCA welcomes this inquiry as a chance to objectively review the role of the Commonwealth in Canberra. If the outcome is one in which the proper role of Canberra is enhanced, then the people of Australia will benefit, as will the people of Canberra. But, if intrigue and bias prevail, Canberra will enter the dark ages. We do not and will not in this submission seek to resist any changes to the NCA—to its management, to its members or to its responsibilities. We are not seeking to defend turf or people. We are seeking to defend the vital role of the Commonwealth in Canberra and the right of all Australians to see the full expression of a national capital which will make us proud now and into the decades of our children's children. Through this submission are the themes that the Commonwealth interest should be maintained and strengthened through a statutory agency charged with duties similar to those of the NCA and tasked to continue to work cooperatively with the ACT to the benefit of all Australians. Thank you.

CHAIR—Thank you.

A PowerPoint presentation was then given—

Ms Pegrum—We are using some images, largely maps. I hope that you can see them and I will try and keep an eye on them to see that we are running in sequence. The authority's submission has been carefully prepared to address the terms of reference of this inquiry. Today I will provide an overview of the functions of the authority and present a summary of our views as set out in the submission and displayed on the boards around you.

Canberra has been planned and developed to serve as the site of the seat of government and as the national capital of Australia. This remains its primary purpose. Canberra is a symbol of our unity as a nation. It belongs to all Australians. The Commonwealth is and remains the guardian of the national interest in the capital. This is a significant responsibility, with long-term consequences.

In 2013 we will celebrate the centenary of the laying of the stones for the commencement column and the naming of the capital as Canberra. At this important time in our history, the Commonwealth responsibility for the national capital needs to be reinforced. In 1909, the Australian parliament determined that the seat of government would be here, in the district of Yass, Canberra, and in 1911 the whole of the area that we now know as the Australian Capital Territory was transferred by New South Wales to the Commonwealth for that very purpose.

In 1988, with the introduction of self-government for the territory, the Commonwealth authorised the ACT government to administer responsibilities comparable to those of a state government and of local government. All of this was subject, of course, to the Commonwealth's overriding responsibilities, including those for planning and development of the capital. Many people believe that the ACT government owns the land in the territory. This is not so. All of the land in the Australian Capital Territory is owned by the Commonwealth. In its distinctive and pre-eminent role as the national capital, Canberra and its environs remain the responsibility of the Commonwealth.

There has always been a national interest in the way in which the Commonwealth has governed its responsibilities in the capital. At a strategic level, the aspirations and intentions of the Australian parliament have been identified in successive plans, which have been given legislative authority. In 1912, the design of American architects Walter Burley Griffin and Marion Mahoney Griffin was selected as the winning entry in the Commonwealth's international invitation to competitors to produce a design for the laying out of its capital city. The first gazetted plan was the 1925 plan of layout of the City of Canberra and its environs and the current plan is of course the 1990 National Capital Plan.

History demonstrates that the way in which the Commonwealth has prepared these plans, amplified them with detail and implemented them has been most successful when planning and development has been vested in an independent statutory agency, accountable through the executive to the parliament. Such agencies have included the Federal Capital Commission, the National Capital Development Commission and, currently, the National Capital Authority, established in 1988—still standing, if somewhat battered and bruised at this point in time. The gazetted plans and these statutory agencies have established many of the elements of an exemplary national capital, which already has an enviable international reputation.

The history of Canberra also shows that, where no such statutory agency has been in place, there has been a significant decline in the extent and quality of development and that this has

necessitated parliamentary intervention. This is not only true in Canberra but also reflected in the experiences of Ottawa and Washington DC, contemporary national capitals. As part of the self-government process, the Australian Capital Territory (Planning and Land Management) Act 1988—which I shall refer to as the PALM Act in the rest of my presentation—was passed by the Australian parliament. The PALM Act created the National Capital Authority and its functions. It required a National Capital Plan to be prepared and monitored and that a territory planning authority be established by the ACT government with an associated territory plan. Today the authority manages the continuing interest of the Commonwealth in the planning and development of Canberra as the national capital. The agreed Commonwealth vision for Canberra is that it be a national capital which symbolises our heritage, values and aspirations and is internationally recognised and worthy of pride by Australians.

The authority has a comprehensive suite of statutory functions to plan, promote, enhance and maintain the national qualities of the capital. The vision for the capital and the functions have been directly aligned to the budget outputs, as this diagram shows you. Collectively, these functions work well and we recommend that they be retained. They provide a robust framework to secure the strategic planning and development of Canberra as the capital, to accommodate the seat of government and associated cultural requirements, to provide public places and assets for national purposes, to enhance the unique character and landscape of the capital, to develop an appreciation of Canberra as the nation's capital and to ensure that high-quality design outcomes are achieved in areas that are of special importance. For the past 20 years, these functions have committed the Commonwealth to the creation and maintenance of a capital worthy of pride and valued by Australians.

The authority view is that, as history has demonstrated, a Commonwealth statutory agency is best placed to manage the Australian government's interest in the national capital. That agency should have prescribed and comprehensive functions, have the capacity to provide objective and professional advice, be free from the day-to-day local political pressures and be accountable to the Australian government and to the parliament. This will guarantee the appropriate degree of professionalism and independence and, in our view, any such authority should be representative of the nation as well as recognising the interests of the Canberra community.

In our submission, we have suggested an expansion of the authority from the current five to seven members and that, by statute, all should have professional qualifications and/or experience directly relevant to the functions. We have proposed that the seven members would include four citizens appointed from the states and territories on a rotational basis. In the context of pursuing excellence in design, the authority supports strongly the appointment of an Australian government architect, as advocated by the Royal Australian Institute of Architects, and proposes that this appointment would also have a mandated position on the authority.

In the view of the authority, there is an indisputable national interest in the planning of the national capital. It cannot simply be forgotten that Canberra was established, planned and developed to serve its national purpose as the seat of government. Self-government for the Australian Capital Territory did not and was not intended to change this status. The statutory object of the National Capital Plan makes it very clear that Canberra and the territory should be planned and developed in accordance with their national significance. The plan describes those matters of national significance in planning and development as:

- The pre-eminence of the role of Canberra and the Territory as the National Capital.

- Preservation and enhancement of the landscape features which give the National Capital its character and setting.
- Respect for the key elements of Walter Burley Griffin's formally adopted plan for Canberra.
- Creation, preservation and enhancement of fitting sites, approaches and backdrops for national institutions and ceremonies as well as National Capital Uses.
- The development of a city which both respects environmental values and reflects national concerns with the sustainability of Australia's urban areas

These matters of national significance are strategic as well as practical and they recognise the unique purpose, setting, character and symbolism of the capital.

Since self-government, the Commonwealth has also recognised the legitimate local and community interest in the planning and management of Canberra. By statute, that local interest is expressed in the Territory Plan, the object of which is to provide the people of the territory with an attractive, safe and efficient environment in which to live and work and have their recreation. Again, for the past 20 years, the National Capital Plan has been effective in defining the national interest and guiding the development of Canberra.

The authority view is that the current statutory planning relationship between the Commonwealth and the territory is appropriate and should be retained. There will always be, and there should be, a duality of interest in the planning and development of Canberra as the capital, and in that context the National Capital Plan and the Territory Plan complement each other well. Duality of interest, however, is not the same thing as administrative duplication or red tape. We recommend that these problems be readily eliminated or minimised and we are keen to assist and have proposed ways of doing this.

With respect to strategic planning, currently the parliament, through the National Capital Plan, sets the strategic vision for Canberra and the territory. Of significance is the fact that, legally, what constitutes the seat of government is spatially indistinguishable from Canberra and indeed the Australian Capital Territory. Practically and conceptually, the national capital is much wider and more substantial than the parliamentary area. It has been suggested by some that Commonwealth responsibility in Canberra should be reduced to the Parliamentary Triangle. This would abandon the spirit and the intent of the national capital and divest the rights of the people of Australia to that wider concept. It would also reduce the capital to some kind of Disneyland theme park at the centre of the city.

The authority view is that the parliament should retain its right and its ownership in shaping the overarching vision for the future development and character of the national capital and should not seek to abdicate its long-term strategic planning responsibility for Canberra. If I can quote from the 2002 OECD urban renaissance review:

No city, no matter how well planned, can take its future for granted.

We also believe that the role of the ACT government should not usurp or confuse the Australian parliament's ownership of strategic planning. Indeed, the recent incorporation by the territory in its new planning act of a requirement for it 'to make a planning strategy for the ACT' has caused considerable confusion and inconsistency with the planning strategy for the ACT that has been set down by the parliament in the National Capital Plan.

Currently, in the National Capital Plan, strategic policies are expressed through this map, on our left, of metropolitan Canberra, which identifies urban and non-urban areas, general land use

and national and arterial roads in the broadest sense. As shown in the map on my right, the National Capital Plan also defines the National Capital Open Space System, which extends the bushland setting of the city beyond the metropolitan areas.

Strategic planning does of course recognise local objectives, and the ACT government should be more formally engaged in the development of the strategic plan for Canberra and the territory. The authority proposes that a simple and very effective solution would be for the PALM act to be amended to require a comprehensive review, jointly with the ACT government, of the metropolitan Canberra policy plan every five years.

In addition to establishing that broad strategic framework for Canberra, the National Capital Plan also identifies those places that are thought to have the special characteristics of the capital and which warrant more detailed planning and design attention because of their use, location or topography and because they play a much more significant part in establishing the layout and the character of the capital than other places do. These places are currently called the 'designated areas' and they have been recognised by the Commonwealth since 1964, when they were called 'areas of special national concern'. The designated areas currently include places like the Parliamentary Triangle, Anzac Parade, the City Hill precinct, Lake Burley Griffin and the landscape setting of central Canberra as well as the diplomatic precinct. Such places accommodate the parliament, federal institutions, cultural attractions and are the focus of national celebration and commemoration. Importantly, they contribute to the memorable character and the layout of the city. They are also of course very important visitor destinations.

Within the designated areas, the authority currently has responsibility for development approval. However, because the designated areas cover territory land as well as national land, there is a perception of planning duplication and some public confusion in relation to territory land. The authority view is that the Commonwealth should retain responsibility for areas that are of special importance. However, provided that it keeps and retains that broad strategic role for the capital, the current designated areas can be reduced to cover only those places as shown on the map on the right that are generally at the centre of the capital and accommodate national capital functions, are symbolic cultural or national places and are critical to the geometry and layout of the centre of the city. Applying these criteria, you can see that there is a significant reduction in the area in which the Commonwealth, through whatever independent statutory agency it has, would control detailed planning. It would also mean that many places on territory land, such as this Albert Hall precinct, the inner hills and the City Hill precinct, would no longer be subject to Commonwealth interest through development approval.

The authority also believe that the name 'designated areas' does nothing to help people understand the value of the sites, and we propose that they should be renamed 'areas of special national importance', which is of course what they are. In addition, to completely remove any confusion, all of them should be gazetted as national land. This would mean that, for the first time since self-government, the ACT government would have developmental approval on all territory land and any sense of duplication or confusion would be eliminated.

Special requirements are a component of planning that is unnecessarily complex. The authority view is that the Commonwealth should only be involved in detailed planning if it really can be shown to be in the special interest of the capital. For this reason, we recommend the removal of all special requirements in the National Capital Plan. Those are the areas shown in

red on the map on the right. As you can see, at present they do cover places like the main avenues and river corridors, which are mainly on territory land. But if the Commonwealth retains broad strategic control then the general land use is protected and there is little risk in removing additional planning processes and giving control to the ACT government.

An important component of any modern planning regime is accountability and consultation in planning and development. It has been suggested by some that there is an inadequate opportunity for consultation about planning and development by the Commonwealth, through the authority, in the central areas of Canberra. This is not so. Let me start with amendments to the plan. The process to change the National Capital Plan, which most people refer to as amendments to the plan, are fully set out in the PALM act and described in our submission. This chart summarises that process, from proposals by the authority, statutory consultation, approval by the minister and scrutiny by the parliament. I do not have time to enumerate all of the steps now, but we put it to you that the current statutory plan amendment process is transparent and effective and demands a high level of public engagement, ACT government involvement, accountability and scrutiny.

However, moving to development applications and consultation, the authority recommend that we extend the tried and tested process that currently applies in the Parliamentary Zone to the proposed areas of special national importance, the exception being the diplomatic estate, for obvious reasons. In practice, this would mean that concept designs for major developments would all be subject to approval by both houses of parliament. The authority would continue to give separate approvals to all works to ensure that detailed design is assessed by professionals and built outcomes are of excellence. If this process is adopted then all Australians, including the local community, will be represented through their elected members of parliament in decisions about major developments in areas of special national importance.

I have to say that no plan amendment or approval process will eliminate dissatisfaction with consultation. There will inevitably be some who are unhappy with the decision, no matter how often or how long they are consulted. This circumstance is certainly not unique to planning in Canberra, and it should not be allowed to dilute planning intent or to compromise developments to the point that outcomes are at best mediocre.

As a final comment on the topic of planning, I refer to the need for an integrated planning document for Canberra. The National Capital Authority view is that the National Capital Plan and Territory Plan are still both relevant and should be retained as complementary plans. However, there is significant scope for both plans to be better presented and for the planning hierarchy to be set out and made unambiguous. With that objective in mind, the authority supports a fully integrated planning document with a common language and common definitions. For good communication of this type, we need to think beyond two-dimensional planning documentation and take the lead by augmenting that traditional documentation with a three-dimensional fully digital plan. This virtual plan could also be layered with visitor information and would be used to model national and local development applications—a 21st century approach to articulating the planned vision for the capital.

There is a significant national interest in advocating and commissioning works to enhance the capital. Canberra represents a national urban legacy. It is an exemplar of town planning, urban design, architecture and landscape. The creation of new public works and infrastructure and the

protection of existing assets will ensure that national capital functions are accommodated and that the city continues to be fresh and relevant to generations of future Australians.

The authority view is that design excellence is a defining factor of world-class cities, and the national capital does have a special role as a showcase of Australian design. However, there is substantial duplication in the Commonwealth itself in proposing and commissioning works in the capital. There are some 14 Commonwealth agencies, as you can see on this case study—14—in the proposed areas of special national importance who, acting independently, make ad hoc capital works bids to government, adopt variable design and construction standards when commissioning works and who, in our experience, frequently ignore or understate the public realm between the works and the implications for offsite infrastructure. The authority proposes that a comprehensive national capital improvement program be prepared to coordinate the Commonwealth's capital initiatives in the areas of special national importance. This is a very similar approach to that used in Washington DC. In order to achieve design excellence, we also propose that there should be a regular external evaluation of all major built works. This report would then be provided to government as an evaluation of design quality and of the administrative performance in capital works.

There is also a national interest in maintaining and protecting the national capital. The Commonwealth government is responsible for the development and maintenance of Canberra as a national asset in which all Australians have made a major investment. They have the right to expect that that investment will be protected and enhanced by the Commonwealth. The central areas of Canberra have significant cultural attractions, parks and gardens, walks and commemorative artworks in places. Many of these are on Commonwealth and national heritage lists. The lake, parks, roads, pathways, lighting are all critical to the visitor experience. This is after all the public realm of the nation.

The National Capital Authority manages about 1,000 hectares of national land, as you can see on this map. This land is required for the special purposes of Canberra as the capital, and the public assets on it are also managed by the authority. These are assets such as fountains, memorials and artworks. All of these, I might add, are in our proposed areas of special national importance. The authority view is that, whilst the national public places at the heart of Canberra are enjoyed by the local community, they are first and foremost the domain of the nation and most definitely should continue to be protected and properly maintained and funded by the Commonwealth. As with capital works, there is significant duplication in the Commonwealth in procuring and delivering maintenance services in these areas, with discernible quality differences on the ground. This is counterproductive to rational asset management. Similar to our proposal for capital works, we propose that there be a coordinated national capital asset management program for the areas of special importance. This would allow statutory agencies like the Australian War Memorial and the National Gallery of Australia to buy into that collective service if they chose to.

A very significant concern for the authority is the maintenance funding of these assets. By the end of June this year, the authority will be responsible for maintaining over \$600 million of assets. Over the past five years, the value of these has increased by 36 per cent. As new assets, like memorials, are built, there is absolutely no guarantee of additional funds for their maintenance. This has created an ongoing and growing financial sustainability issue. What this means is that five years ago we spent \$1 maintaining \$35 of asset value. By next year, we will be

expected to stretch that \$1 to \$60 of asset value. The growth chart that we have put in front of you shows you just how serious that situation has become. It is almost an X over the national assets in the central areas of Canberra.

You might ask why we cannot reduce the level of maintenance. Indeed, we have been forced to do that over recent years, but there comes a point where that is just not acceptable. If you still want to meet duty of care obligations, maintain quality and use and, importantly, compliance with environment and heritage legislation, there comes a point where you have to fund the maintenance of new assets. There have also been significant increases in utility costs beyond the control of the Commonwealth. For example, the cost of water and electricity supplied to us by ACTEW has doubled over the past three years, even though to address the drought we are using less water. There is no supplementation funding to the authority for the utility costs either. This too is not sustainable. In our view, a sustainable funding model for maintenance is urgently needed and is of Commonwealth concern.

I do not have time to cover all of the proposals that we have made in our submission regarding the diplomatic precincts. They are very important areas in the capital, and their management is complex and sensitive. We would be happy to answer further questions on them. Nor can I cover all of the issues that we have put in our submission about the management of heritage assets. Suffice to say that, in the designated areas where we currently have a development approval role, there are four national heritage places, 44 Commonwealth heritage places and 55 heritage places on the Register of the National Estate. All are protected by the Environment Protection and Biodiversity Conservation Act, which I will refer to as the EPBC, but there should be far greater coordination again within the Commonwealth of the heritage management plans and strategies in the areas of special importance so that they are, at the very least, compatible and complementary. The authority does recognise that there has been confusion related to heritage places on territory land that are in the current designated areas, such as the Albert Hall. This confusion derives from the overlap—or should I say lack of it—of ACT and Commonwealth heritage legislation, asset management and development approval. But I note that this confusion will be completely eliminated if our proposal regarding the new areas of special national importance is adopted.

Finally, there is a national interest in promoting the capital. The national capital is about far more than buildings and places; it is also about what it means in our hearts, our minds and our national psyche. At the 1913 ceremony to name the federal capital Canberra, King O'Malley, the then Minister for Home Affairs, said:

All subsequent Australian political history will concentrate its searchlight on this place where we congregate – a magnetic centre of attraction to the eyes of countless generations still unborn, and forever the visible evidence of Australia's national destiny.

Canberra today is the place where Australians can see and experience national government at work, where we can pay respect to, commemorate and mourn those who have died in the defence of our freedoms and protections of our lifestyle. It is here that we store the record of our shared past and that we can access and appreciate many of our cultural treasures. It is here that we host the international community, celebrate our achievements and protest political agendas. It is in the national interest to foster an awareness of Canberra as the national capital, to encourage more people to learn about what it means to be an Australian, to make sure that the central areas

are appropriately animated and welcoming and to monitor Australian expectations and perceptions of the city.

The authority view is that the national capital should be promoted by the Commonwealth as a place that belongs to and is meaningful to all Australians. However, any such promotion by the Commonwealth, whilst complementing similar endeavours by other cultural institutions and the ACT government tourism, should not primarily be about tourism or entertainment for local residents, although this is an important secondary outcome. Our view is that the intent of the current functions to foster an awareness of Canberra as the capital is entirely ambiguous and we suggest that this should be clarified by defining it in the statute to be about informing and educating Australians about the role of the capital, destination marketing of areas of special national importance, enriching the visitor experience to those areas, encouraging events that define the nation or showcase the capital, recording the history of Canberra, monitoring Australian perceptions of the capital and promoting the capital to the international community. As you can see from this slide, the benefits are substantial, and they include the scope and intent of the Commonwealth being unambiguous in this function and a separation from ACT government tourism. Most importantly, the story of Canberra as Australia's national capital will be recorded for posterity and used to educate and inform all who care about our country, its history and its future.

In our submission, we make it clear that the National Capital Authority is opposed to any suggestion that the Australian parliament should relinquish its rights and ownership, which represent those of all Australians, of the strategic vision for planning and development of Canberra and the territory as the capital. We have made practical proposals for change that we are confident will engage the ACT government and community in a robust way in strategic planning, will address duplication with ACT government administration, will harness and strengthen the use of Commonwealth resources and will broaden understanding and national representation in the planning and development of Canberra—all of this without surrendering the future of the national capital.

As the committee and many members of the public would be aware, the authority has recently been required by the government to absorb a 35 per cent reduction of our former budget. We have used our very best endeavours to achieve these savings. However, this has also meant that we have had to reduce at least 38 positions from our staff in a very short time frame and most have now left the agency. The result is a substantial, and we hope not irretrievable, loss of talent and corporate memory. On behalf of the authority and with your leave, I want to place on the record our thanks to all of those people for their professionalism, contribution and commitment to the capital.

CHAIR—Thank you. We will proceed to questions now but first can I clarify: there were some significant new ideas or new proposals about substantive changes to the National Capital Plan contained within your submission. What consultation have you had, for example, with the ACT planning authority or with wider stakeholders with respect to your proposals?

Ms Pegrum—This will mean that I need to go back 10 years. We were proposing similar changes literally back in 1988, as you will see in our annual reports, where we undertook a substantial internal and comprehensive review of the plan. There was considerable consultation through an interdepartmental committee at the time, with recommendations made. Those

recommendations were also discussed with the ACT planning authority at the time. I am not certain whether they briefed the government of the day or later on. Post that, as part of our submission to the 2002 inquiry, we made similar recommendations for change and again a number of those were discussed with the territory planning authority of the time. In the preparation of these planning reforms, which were among the first that we put before our new minister following the election, we have been informing the Institute of Architects, the Planning Institute, the Institution of Engineers, the Institution of Landscape Architects, the Business Council of the ACT, the Property Council, the ACT Planning Authority and members of the ACT government.

CHAIR—Can I just clarify: in terms of the visual presentation and the specific proposed changes to the National Capital Plan, is this the first time they have had a full public airing?

Ms Pegrum—We used some of the maps in our information in the preparation of this submission, but in terms of the broader scope I suppose that they would be. I would have to go back and look at who was talked to in 1998 through to about 2000. But you will recognise that, if there is still a National Capital Plan as an outcome of this inquiry, the process for changing the plan would be one of amendment with all of the standard consultation. I would expect there may even be inquiry into components of those changes before they were approved by the Commonwealth minister and tabled in the parliament.

CHAIR—Certainly, and this committee's recommendations are advisory to the Minister for Home Affairs.

Ms Pegrum—I am well aware of that.

Senator HUMPHRIES—Can I clarify a few aspects of your submission, first of all? I think you said that there was about 1,000 hectares of land—

Ms Pegrum—Correct.

Senator HUMPHRIES—which is now designated land, which would become areas of special national importance.

Ms Pegrum—No. I think one of the areas that there is gross misunderstanding about is that planning is in any way linked to land administration or management. So I suggest to the committee that that is something that really needs to be understood. At the time of self-government, the separation between national land and territory land was purely about land management administration. It had nothing to do with planning. So the designated areas were like a transparent overlay from those areas of special national concern onto the map of Canberra, without any regard as to who was managing which parcels of land. That has led to substantial confusion and duplication, not only with the territory but within the Commonwealth. Under those areas, there is national land managed by the authority, by Defence, by Finance and by various other statutory groups, like the Australian War Memorial. So the thousand hectares of land refers to land that we, the authority, maintain for the Commonwealth and have nothing to do with the designation responsibilities. All of them, however, happen to be within designated areas. Does that help?

Senator HUMPHRIES—Okay. So you are saying that, under your proposals, there would be 1,000 hectares of land, approximately, which would be areas of special national interest.

Ms Pegrum—There would be 1,000 hectares of land that is currently called ‘land required for the special purposes of the capital’. It is a special gazettal. But, in addition to that, there would be the land in those areas held by Defence, Finance and the statutory agencies like the War Memorial, the National Gallery, the High Court, the Library and then administrative groups like Questacon and the Old Parliament House. I cannot emphasise enough the confusion and duplication within the Commonwealth associated with land management and maintenance.

Senator HUMPHRIES—You say in your submission that the current designated areas in the National Capital Plan should be reviewed in scope and renamed as areas of special national importance.

Ms Pegrum—Correct.

Senator HUMPHRIES—But you are saying that these old designated areas, new areas of special national importance, should be shrunk—should be smaller than what are now designated areas.

Ms Pegrum—That is correct.

Senator HUMPHRIES—What is the extent of the shrinkage? How many hectares are to be relinquished from that control as designated areas—

Ms Pegrum—I do not have the actual hectares. I would have to provide those to you and we would be happy to do that. What I can say to you is that all of the land that is being relinquished is territory land and all of the land that is being retained is national land. There are a few sites within them that are territory land and we have proposed a way to gazette those as national land, which would not disadvantage the territory.

Senator HUMPHRIES—I will come to that, if I may, in a minute. Going back to that plan with the yellow bits there, it looks as if about nine-tenths of what is now designated land will not become areas of special national importance.

Ms Pegrum—That is correct, and that includes the inner hills, the ridges, the buffers, City Hill precinct, the Albert Hall precinct, Barton, West Basin and the parks on the western side of Lake Burley Griffin, with the exception of the National Museum site and the Yarramundi region and Attunga Point.

Senator HUMPHRIES—You are not suggesting that the influence of the National Capital Plan over those areas should end. Those areas that were previously designated are not now areas of special national importance.

Ms Pegrum—Absolutely not. I think it would be fair to say that our strongest recommendation to this committee is that the strategic vision for the whole of the territory—that metropolitan plan—needs to be retained by the parliament through the National Capital Plan, because what it does is say what is urban and what is not urban. It does not say that in the urban

areas you can have townhouses or hotels or whatever. It just says urban and non-urban. It establishes the framework for growth. It says where the major roads should be—not their exact alignment, not what they look like, but simply where they should be—and, importantly, it protects that setting and character of the National Capital Open Space System. If the National Capital Plan continues to do that, if the parliament continues to have that control, then our view is that it is safe for the detailed planning to be reduced to those areas that are more important. To use an example, if the Commonwealth relinquished that strategic control and the area of detailed control were reduced to that shown on the map on your right, there would be nothing to stop an ACT government deciding that the land on the inner hills looks awfully good for residential development.

We must never forget that Canberra is landlocked, it is hungry for land and the primary revenue base for the ACT government is land. None of us can know what the thoughts might be in the future about how that land would be used in the broader sense. We are recommending that the parliament protect that. It does not mean that it cannot look at it in the future, because it would be reviewing that metropolitan plan every five years and saying, ‘Is this still a good idea?’ For example, the Molonglo Valley issue would have been dealt with in that strategic overview rather than these sorts of incremental amendment processes. But that would then allow the detailed planning to shrink back, because the broad principles would be protected.

Senator HUMPHRIES—Can I take another example? With this site here, the Albert Hall: What controls would the Commonwealth relinquish under this arrangement with respect to a precinct like this?

Ms Pegrum—It would relinquish development approval and it would relinquish any detailed planning controls, because in effect the current authority agrees to development proposals or not, and it can produce, for example, urban design guidelines. What it would not lose is general land use. So the parliament would still be in a position to say, ‘Yes, we think that that space to the north should be open space,’ or otherwise.

Senator HUMPHRIES—In aligning the areas of special national importance with national land, are there areas of present national land which you are proposing should be transferred to become Territory land?

Ms Pegrum—No, but the reverse is true. There is some Territory land that we are proposing should become national land.

Senator HUMPHRIES—What sort of land are you talking about?

Ms Pegrum—The two areas that you might be most aware of are the current Olympic pool site and the dirt car park adjacent to it, because they are to the south of Constitution Avenue, and we believe they are areas of special importance, being part of the national triangle. The other is the ANU, for a number of reasons—and that was a point of discussion in our information, Madam Chair, before proposing these changes. The ANU certainly was of the view that their national status—the fact that they are at the centre of the capital and the fact that they are in the original Griffin plan—warranted the status of an area of special importance. The other area is the wetlands on Lake Burley Griffin, so that you do not get a distortion of control over the lake itself and what might happen on it.

What we are proposing in our submission is that there is a way to do that which will not commercially disadvantage the territory. We are, in fact, using the reverse of the model of Commonwealth divestment of previous years. In other words, we are saying is that the plan would say: 'When this land is sold it shall be gazetted as land required for the special purposes of the capital.' That would allow the territory to plan when it would release those sites and to reap the full financial returns for the land; and then it would revert to national land and the detailed planning and development control would be held by the professionals within a statutory agency of the Commonwealth and both houses of parliament, if our proposals were adopted.

Senator HUMPHRIES—What are the budget implications for the NCA in realigning those planning responsibilities as you indicate? You have fewer areas of development approval responsibility. What do you save in terms of planning function, or planning manpower, if you like, within the NCA?

Ms Pegrum—Absolutely none. I could not honestly say to you that, given our current level of planners, it would be possible to reduce further. We have nine people left in the planning output—to use budget speak. Of those, we have four planners—the others being one for mapping, heritage, a landscape architect. It would be virtually impossible to give advice with four people, even if you had—and we support this—advisory committees on design. I think, reasonably, if you look at those areas and the record of the number of applications that come in, with the exception of places like the City Hill precinct and some others, you see that most are in the inner hills regions and buffers and parklands, where you do not see a lot of development approvals that require a very high degree of interrogation.

Senator HUMPHRIES—I would now like to turn to the Griffin Legacy—where it stands at the moment. The chairman has indicated that it is not possible to proceed with those developments at the moment because of the resource decisions that have been made. With the alternatives open to the NCA or, for that matter, to the ACT government, to develop those areas, is it possible to more extensively commercialise those proposals in order to make them happen?

Ms Pegrum—The issue with Constitution Avenue goes to the scale, quality and speed at which we need to deliver that infrastructure. You are talking about a road that is 2.5 kilometres long. To put that in context, that is the length of George Street, from Circular Quay to Central Railway. The scale in Canberra defeats you when you look at pictures or maps. It looks small but, as I showed you in that diagram, the central area is a little dot in the middle of a very large and powerful landscape. So Constitution Avenue is not a little road; it is a significant road at the base of the triangle. So if you start to look at, say, a developer paying for off-site work over time, you are going to get a very patchy and piecemeal approach—and, importantly, you are not going to be able to get the duplication of the road, which we know, from all of our transport studies, cannot support the sort of development that we are looking at on the avenue over the next, say, four to six years.

In addition to that, we were very concerned that the oak trees that would have to be removed for the duplication would be transferred to the other side of the road and planted. You cannot do that in little pieces with any real sense of success. That has to be a very carefully planned and programmed exercise in order to make it work. And, finally, there is the quality. It would be almost impossible, even if you were looking at development over a decade—and it might be longer on the western side, where you are dealing with sites like the Olympic Pool site, which is

going to be a sensitive site anyway—to get any sort of uniform quality occurring there. Even if you put in place plans that recommended particular types of materials, you might find 10 years from now that the materials are not available. You might find that you cannot get an adequate colour match or that the environmental circumstances on various parts of the avenue need different attention to others. This is definitely the sort of project that needs to be done comprehensively and at the same time in order for it to really reach the status and quality that it very much deserves. And the timeliness is crucial.

Senator HUMPHRIES—I will move on to another subject. You made the comment, I think, Mr Chairman, about the NCA not being a bloated organisation.

Mr Ball—Yes.

Senator HUMPHRIES—It has been suggested that the management structure of the NCA was top heavy—that there were too many chiefs and not enough Indians relative to organisations of the same size. Is that a fair criticism?

Mr Ball—No, I do not believe it is. I think it is a question of semantics of titles. If you look at titles, to the outside world, that may appear to be the case because we had four managing directors. These are people managing departments or sections. They could have had other titles which would have made it seem less top heavy. I think the only way to look at this objectively is to look at the number of people and the cost of those people compared to the outputs. As I said, we now have 14 people in our planning department to do all of the planning functions that we are required to do. The territory, on the other hand, has over 200 people. I think that is a more appropriate description of bloatedness than ours. I could go through this case by case, but I do not believe at any stage have we been bloated and we are certainly not bloated at this point. We are working day and night as it is.

Ms Pegrum—Madam Chair, may I follow up in answer to that question?

CHAIR—By all means.

Ms Pegrum—The important thing, when you are looking at staff structure, is to look at the responsibilities that the people hold. It would be entirely irresponsible to expect people to take the sorts of professional decisions that they are required to take and to manage at lower levels the kinds of financial responsibilities or people management responsibilities they have. As you would know, in order to have a senior executive service officer in any agency, you are required to demonstrate that the work level standards are there and there are fairly strident merit selection rules in place associated with their selection. The authority's responsibilities have increased. I have touched just today on the increase in asset management. We are a material agency, which means that for a small agency we have all of the responsibilities financially and for people management of the huge departments and for governance associated with ministerial and parliamentary processes. It would be totally irresponsible of me, as the chief executive under the Public Sector Act, to have expected junior officers to conduct those sorts of delegations and responsibilities. Those senior executive positions were important. Some of them were linked to projects like the Griffin Legacy. Hence we were able to make cuts in those areas but certainly they were necessary and also were very much in line with the percentage of senior executive

service officers evident in other agencies of the Commonwealth, in recent surveys that were done.

Senator HUMPHRIES—Can you give me a practical explanation of how this idea of a single integrated planning document for the whole territory would work? Are you suggesting, for example, that areas that the territory has primary planning responsibility for would be the responsibility of the territory government and the NCA would look after areas where it had national responsibility? Are you suggesting that both parliaments would need to approve the whole of the document or only those sections that they had primary planning responsibility for? Is there a model for what you are proposing because I am not familiar with an example of where this is working at the moment?

Ms Pegrum—We are proposing that the responsibility for the National Capital Plan—strategic and detailed for the areas of special national importance—remains with the parliament. The responsibility for the Territory Plan in all other areas remains with the territory. So there are still two plans, the objectives being the same as the current plans. However, the problem at the moment is that both plans are literally structured completely differently. Both of them also have different definitions. I will be corrected by Mr Rohl, but the caravan park amendment recently derived purely from a difference of what is a caravan in the National Capital Plan and in the Territory Plan. That is just silly. At least all speaking the same language is crucial. What we call ‘housing’ or even ‘urban’ should be the same in both plans. The language should be plain language and the hierarchy unambiguous.

We are saying that, if you opened the National Capital Plan component, you would clearly understand what national significance is about, you would see how national significance influenced the detailed planning in the areas of special national importance and the broad general policies in all other areas and then you would see how that national significance travelled down to the detailed plans that the territory would have. That simply as a model would be a good textbook. In addition, we are saying that, from an outside point of view, they should be seamless, so that a person wanting to know the plan for the national capital and the Australian Capital Territory should be able to pick up one document, read it front to back and understand it and not become confused by the provisions.

We think the digital plan is incredibly important. It is easy to achieve. Within the authority we have one of the largest geospatial mapping capacities in Australia. It has been put together over at least 15 years and the territory also has excellent digital information. If they were combined, there is the prospect of a fully three-dimensional digital plan that you could not only visit but also drop development applications into and look at them on the web. You could also have detailed planning information pop up, which would be a huge jump forward. There are two legislative plans. There is separation of ownership of the plans but they speak the same language, they form the same document and the hierarchy is unambiguous. That should not be too hard to achieve if we set our minds to it and work hard together.

Senator HUMPHRIES—I have many more questions but I am happy to pass to someone else.

CHAIR—Perhaps we will come back to you, Senator Humphries. Before I go to Ms Ellis, I want to test your views on the suggestion of the Walter Burley Griffin Society that we go the

next step and have one plan. The second point they made was that we should have a fully integrated joint authority.

Ms Pegrum—I think the simple answer to the one plan is: who owns it? At the moment the National Capital Plan is owned by the parliament. We just administer the plan—and I am sure I will get questions about draft amendments later. Therein lies the rub. The parliament owns the National Capital Plan. It keeps the vision and is the custodian of the vision for all Australians. The territory government owns the Territory Plan with the one caveat that it cannot be inconsistent with the National Capital Plan. If you have one plan, who owns it?

CHAIR—Are you opposing one plan because it is only owned by the parliament?

Ms Pegrum—I cannot see technically how it would work. I will leave that to the auspices of lawyers and others. I think that the dual interest in the capital is very clear. It is a circumstance that we have had since self-government. There are good reasons for it. If I can use an analogy from the states, it would be the same as trying to get rid of a state plan and have only local councils or get rid of local councils and have only state plans. I think we would all be aware of the sorts of complexities there are in dealing with state and local planning. The important thing here, in our view, is that the plans are logical in the way that hierarchy describes itself. The seminal question is: who owns the plan? In our view the parliament owns the national capital on behalf of all Australians. The Commonwealth is responsible to all Australians for what happens in the capital and none of us know what the Commonwealth's needs on behalf of all Australians might be in the future. Therefore, it must retain that ownership of the plan at the broadest level.

With respect to the single agency, I have a similar doubt as to how that technically could work. If we assume the parliament owned the plan, would the Commonwealth through its ministers then delegate responsibility to territory officials? If so, how would territory officials be accountable to Commonwealth ministers? These are quite significant issues. While many people refer back to the halcyon days of the NCDC—certainly I do to their budget—the reality is that we do have self-government. It is a good thing. There are ways of managing this and I would imagine, although it may be better for the Attorney-General's Department to brief you on this, the legal issues surrounding this and the confusion among Australians as to who is responsible for the capital would be substantial.

Ms ANNETTE ELLIS—Thank you very much for being here this morning. In relation to the airport, could you give us an explanation and outline for the benefit of the committee, the people here and the public record, of how the planning processes under Commonwealth jurisdiction at the airport occur. What sort of relationship has existed or does exist in relation to the ACT government? Obviously, the question refers to the public concern with the implications of planning at one level of the airport as against planning outside the airport and the resultant behaviour outside the airport.

Ms Pegrum—I am delighted by this question because—

Ms ANNETTE ELLIS—I hope everybody else will be too!

Ms Pegrum—I am absolutely amazed at the lack of understanding around the airport issue—

Ms ANNETTE ELLIS—Hence the question.

Ms Pegrum—particularly because the Airports Act was changed by the parliament. I am trying to get the actual date for you.

Ms ANNETTE ELLIS—The point I am making relates to the situation prior to the sale and in the sale of the airport, under the regime that is in place now, and to the relationship between the planning authority approving works at the airport and the ACT in relation to the connection of roads. Everybody knows the issue. I would just like you to give us an explanation and outline.

Ms Pegrum—Prior to 1996, when the Airports Act was introduced, the airport formed part of the National Capital Plan as a designated area, so its land use and its development approval were both part of the National Capital Plan and the authority approved developments at the airport—which was, of course, then held by the Commonwealth. After 1996 a number of the airports were divested, including the Canberra airport. What was important in the 1996 legislation, though, was that the Canberra airport was made an exception, so it was the only airport in Australia that was still subject to development approval additional to that of the airport controller. Please interrupt if this is not clear. In 1996 all the airports were made the responsibility of the airport controller. All the airports were required to have master plans approved—I think that is the correct word—by the airport controller, and they were subject to consultation. In the Canberra airport, development approval was still left within the National Capital Plan as a designated area, and the land use provisions were still controlled by the National Capital Plan. That, as I understand it—it was before my time—had to do with the national significance of the airport not only in the quality of its aesthetic but, far more importantly, as core national infrastructure.

Our role then became that of making comment on the master plan—and the master plan could not be inconsistent with the provisions of the National Capital Plan—and development approval of the building works out there—not building compliance but the building works as for all other places that are in the designated areas. There were a number of amendments associated with the airport at the time, and some of these, as I understood it, came from the provisions in the sale of the airports about them being sustainable. Among the first—and I am happy to give you a list of all of those amendments as I remember them—was a tidy-up of language and a removal of the ANEF, which is the noise profile for the airport. The reason for that was that there were other Commonwealth agencies that controlled ANEF provisions, that were better equipped to make those decisions and that were changing, so in effect there was duplication in the Commonwealth of the management of the noise corridors. So that came out.

The contentious issue became employment and office accommodation on the airport. We were asked to look at that because there were restrictions on the amount of office development that you could have that was not aligned to airport activities. I am sorry if this is a long answer.

Ms ANNETTE ELLIS—No, please go ahead.

Ms Pegrum—Part of the difficulty was that the way it was controlled was through the lease. Because the authority would approve, let us say, a commercial office building of 10,000 or 20,000 square metres, in compliance terms how would you check that everybody in the building had associated air service requirements? The airport's argument was, 'Okay, if we build a building of 20,000 square metres and then a leaseholder leaves, what are we supposed to do—'

leave it vacant until somebody else fills it?’ There was all this discussion at the time. Our position was that there would be no change after the first round of amendments for the airport unless it were done in the context of a comprehensive amendment looking at employment locations generally. That came directly out of the territory’s spatial planning exercise, which in fact showed the airport in an employment corridor.

So we undertook that amendment—amendment 44—in 2005 and looked at the airport as well as the town centres, Barton and some of the places—we even canvassed the university and the like—and went through that process, which was quite contentious at the time. You may remember, Ms Ellis, being on the joint standing committee at the time. In the event, the recommendation that was put forward put a cap on the amount of office accommodation at the airport, and the amendment was then subject to the minister’s approval and to both houses of parliament and was passed. But it was a very contentious amendment at all levels.

After that, when applications came in for office accommodation, we assessed them against the hierarchy of town centres in Canberra, which is the only measure that we could use to see whether they were not in any way overly influencing the structure of the town centres—Civic, Woden, Tuggeranong and the like. In parallel, the Australian government looked at whether the provisions for the Canberra airport were overly onerous because they were the only airport subject to this additional layer of Commonwealth approval. On the basis of that, an amendment to the Airports Act was put through, with a series of others, to remove the airport entirely from the National Capital Plan and entirely from our development approval. That change to the Airports Act went through in 2006.

So our current involvement with the airport or control of it, other than showing it as an airport in broad land use policies in the plan, is zero. The airport in Canberra has exactly the same controls now as any other airport in Australia. So, my response is: the airport had additional controls. The airport was subject to amendments, which are subject to liaison with the ACT planning authority, but we have no further role in relation to the airport other than it being shown as an airport in the National Capital Plan.

Ms ANNETTE ELLIS—When did you do the comparative with the other town centres? When was that in the time frame?

Ms Pegrum—Amendment 44 was in 2005. It was a very contentious amendment.

Ms ANNETTE ELLIS—That was before the 2006 amendment to the Airports Act.

Ms Pegrum—That is correct. So it was an amendment to the National Capital Plan. It did still have a cap on the amount of office accommodation but shortly after that amendment there were changes proposed to the Airports Act to remove any control from the plan.

Ms ANNETTE ELLIS—Do you want control back?

Ms Pegrum—I believe that the airport is of national significance. It is in the capital and it is core infrastructure. The argument that was put by the Department of Transport and Regional Services and others at the time was that there was duplication in Commonwealth legislation. I

cannot give you a direct answer because we have never actually discussed that in the authority. All of the answers we are giving you are authority positions.

CHAIR—Just for clarification, within your presentation are you proposing to include the airport in the areas of national significance under your new proposals?

Ms Pegrum—No, we are not. The reason is that we took a different approach to what should stay in and what should go out. Prior to this exercise, the general approach had been, ‘These areas of special national concern have been around since 1964 and hark back to the 1925 plan and earlier to Griffin’s 1912 and 1918 plans. To effect that there would be significant areas of territory land that would need to become national land.’ So the approach we took was: how do we describe what does need that detailed control and planning? Part of that was looking at places in the central areas—hence places like the Australian Institute of Sport are not included. Part of it was: were they symbolic spaces, were they national public places, were they accommodating key national institutions or cultural attractions, were they critical to the geometry and layout of the central area, and, finally, was there other Commonwealth legislation which meant that we did not require a planning approval—so we were not duplicating? Hence the airport, on most of those, fell out as being an area of special national importance, albeit its general land use being retained within the National Capital Plan. But it is the Airports Act that is at issue here, not the National Capital Plan.

Ms ANNETTE ELLIS—I understand that. Being a curious, local person, with that change that you are advocating up there, very quickly, what would happen to Pierces Creek under that new special national importance area?

Ms Pegrum—Pierces Creek has never been in a designated area.

Ms ANNETTE ELLIS—It is the open space.

Ms Pegrum—It is part of the open space system.

Ms ANNETTE ELLIS—Sorry. I am misunderstanding a map that I have here which shows designated and open space areas in yellow.

Ms Pegrum—You are looking at the metropolitan plan.

Ms ANNETTE ELLIS—Sorry. I am misinterpreting.

Ms Pegrum—It is complex and I appreciate the question. For the purposes of the inquiry we have been referring to the metropolitan plan and its partner, the general policy plan.

Ms ANNETTE ELLIS—Yes, this is the one I am looking at in here.

Ms Pegrum—That is the strategic plan which shows Pierces Creek, for example, as part of the National Capital Open Space System. The yellow maps are the areas where the Commonwealth has detailed planning controls.

Ms ANNETTE ELLIS—I understand. It is my fault because I am misinterpreting yellow for yellow!

Ms Pegrum—That is probably our fault. I am sorry.

Ms ANNETTE ELLIS—Thank you.

Senator CROSSIN—Thank you for your presentation today. It is appreciated. I take it then quite clearly that you are not advocating a new tripartite authority.

Ms Pegrum—I am not sure that I understand ‘tripartite’. Sorry, Senator, I do not understand the question.

Senator CROSSIN—Some people might suggest it should be bipartite. Submissions have been put to us that the National Capital Authority and the ACT Planning Authority should have some subsidiary role but overall there should be a new planning authority or commission or whatever you want to call it that would be made up of representatives from the ACT and from the Commonwealth. That would be bipartite. But there are also others who are suggesting that there should be citizens on it, which would be tripartite, which would include the community. I take it, from what you have said to us today, that you are not in favour of a new overall commission that would have responsibility over what is happening?

Ms Pegrum—We cannot imagine how it would work legally. As I said, who would it report to and who would own the plan that it administers? That is that point. Currently it is the authority because it is not a corporate board. We are suggesting that this board or commission or authority should have broad representation and that that representation should include at least four people who are elected from the other states and territories, which would allow for the territory to be represented.

Ms ANNETTE ELLIS—Yes, I saw that. I will go to that in a minute. When you suggest that you cannot imagine who it would report to, does that mean you cannot envisage that it would report to both parliaments and that the Commonwealth plan would be part of its responsibility and the Territory Plan would be also part of its responsibility, if you wound back the designated areas, as you are suggesting?

Ms Pegrum—I think constitutionally there is a real issue about who owns the Australian Capital Territory. As I said, the concept of seat of government of Canberra and of the Australian Capital Territory is indivisible. It is not a place. It is a set of ideas, it is a concept and it resides in the whole, because that is why it was ceded to the Commonwealth in the first place. So, if you had a single commission and there were the dual interests that would be inevitable, how would a decision actually be taken? At the moment, for example, difficult as sometimes it might be, you have a Commonwealth agency that says, ‘For a variety of reasons we think it would be of interest to change the plan to do X,’ and it goes out on behalf of the Commonwealth and debates that issue. When that discussion is sufficiently concluded, it makes a recommendation to the Commonwealth minister. The Commonwealth minister can then say, ‘Try harder,’ and send it back; the Commonwealth minister can say, ‘I don’t like this bit,’ and send it back; the Commonwealth minister can say, ‘I am not going to approve it at all,’; or the Commonwealth minister can approve it and then both houses of parliament have a go through disallowance. So it

is very clear who owns the actual decision. I think it would be virtually impossible to guarantee that you are going to be able to negotiate through everything without compromising, as I said, to the point where you dilute the benefit of any decision made. So I think, technically, it is difficult. We think an authority that has a broader representation and a qualified representation is a good step forward.

We have included a governance snapshot of Washington, Ottawa and Brasilia. Ottawa and Washington deal with far broader jurisdictional issues than Canberra deals with. We have one jurisdictional issue; they have multiple issues—Washington with Maryland and Virginia and Ottawa with a number of provinces—and they manage that through representation on their commissions of those groups. But their advice is that, if they get too large, they also become unmanageable. We have chosen a figure of seven because that related to some of the recommendations of the Uhrig review, which we are also subject to, and general opinion or experience that that size board, authority or commission is workable.

Senator CROSSIN—Your current board is four.

Ms Pegrum—Five.

Senator CROSSIN—Four plus you. Is that correct?

Ms Pegrum—That is correct.

Senator CROSSIN—With Mr Ball, John Murray, Kathryn Greiner and the Hon. Neil Andrew—

Ms Pegrum—Yes.

Senator CROSSIN—Can you give me a bit of background about why they would be on the NCA board? Do they represent a particular state? Do they have an architectural, planning or design background? Do they have financial or corporate knowledge? What do you think the reason is for them being there?

Ms Pegrum—The chief executive is the only full-time member and has, to my very best knowledge, always been appointed on merit selection. The others are part-time members, and their appointment is by the government. We have no role in that, so you would have to ask the governments of the day why they were on it. We have included in our submission the list of all of the members and all of the chairs.

Senator CROSSIN—I have that.

Ms Pegrum—It has been quite an interesting mix of qualifications. I do happen to know that our current chairman was originally brought on to an advisory panel because of his expertise in marketing. At that time, because the name of the authority had been changed from the National Capital Planning Authority to the National Capital Authority to focus on fostering and promoting Canberra as the capital, that was seen as a very valuable skills set. We have also had times with very eminent architects like Jim Birrell, who is a gold medal recipient of the Institute of Architects. We have had a time very recently where three out of the five were Canberra

residents. Whether or not that is an appropriate balance would be a matter of opinion, but all of those decisions are made by government, other than the chief executive.

Mr Ball—It would be relevant to point out that all of the current members have some expertise. I have been involved for 10 years with the authority; Kathryn Greiner was a Sydney City councillor for nine years; Neil Andrew has also had local government experience; and John Murray is a full-time planner and has been involved in planning all his life.

Senator CROSSIN—I now want to explore your proposal that basically it would stay as it is, government appointed plus four from the states. Why is there no consideration in your proposal to have somebody who would absolutely have, say, architectural or design experience and why would you not have, year in and year out, a representative from stakeholders in the ACT, a representative from the ACT government? If we look at some of the submissions, we see that you are facing criticism that goes to mediocre outcomes, decline in professional imagination and capability, weakness and poor judgement, inadequate statutory and other regularly safeguards, public controversies over the Albert Hall and car parking at Western Basin.

Obviously, the message we are getting quite clearly from some submissions is that there is a major problem with the NCA. I would have thought one of the ways you might address that would be to reformat the checks and balances in the NCA, which may well go to the composition of its board. But you are only suggesting that more states should be represented. They could well be New South Wales, Queensland, South Australia and Western Australia, for example. I do not understand and do not accept your suggestion that the changes to the board would in any way satisfy me that some of these concerns—no architect, no stakeholder in the ACT, no mandated ACT involvement, nobody with planning expertise—would be addressed.

Ms Pegrum—I do not know whose submissions you are reading, but you are not reading ours, because we have very clearly—

CHAIR—Perhaps you could go through your specific submission and what you are proposing for the board and explain it.

Senator CROSSIN—Perhaps you are not understanding what I am saying, Ms Pegrum. There is massive criticism in some of the submissions about the role of the NCA—not in your submission, but in other submissions we have had.

Ms Pegrum—Sorry, Senator Crossin, but I was saying we are recommending those things in our submission.

Senator CROSSIN—I thought you were recommending the addition of four states to your board.

Ms Pegrum—No. Could I go through what we have actually recommended?

Senator CROSSIN—Yes, please go on.

Ms Pegrum—What we have said is that the authority should be constituted with seven members. There is nothing hard or fast about that other than that came out of the Uhrig

assessment and is generally considered a workable number. What we have said is that, in addition to a chief executive and a chairperson, there should be an Australian government architect, who would have a much broader role than only being a member of the authority and who would bring a substantial weight of experience and knowledge to it. Then we have said the balance is four citizens appointed from the states and territories on a rotational basis, which aligns with the recommendation made by the previous joint standing committee's inquiry into the role of the NCA. That is why I was saying I did not think you had understood our submission. We have said that all of those members should be required to have professional qualifications and experience directly relevant to the functions and that collectively they should represent a balance of qualifications, so that you would not get a circumstance where they were all architects or all landscape architects or all financial managers. Whether it is seven or eight I think is a matter for government ultimately to decide.

The reason we did not put a representative of the ACT on it is that our view is that the national commission, authority or whatever it would be should be nationally represented. If the minister and the government of the day find under the merit selection process that there is a representative of the territory who should be there, the minister or the government can make that choice, so it does not preclude that by any stretch.

Senator CROSSIN—Why would you not have a member of the ACT public on there as well?

Ms Pegrum—Again, that would be up to the government of the day because, as I said, the authority members do not make the appointments.

Senator CROSSIN—I understand that, but the fact is that you have said four representatives from states or territories. I would have thought that, to placate some of the negative criticism that has been aimed at the NCA, you would—and I think four from the states is too many—want to guarantee an ACT representative, either from government or industry bodies, and a representative from the general public on this authority.

Ms Pegrum—I can only repeat that I think that is a matter for the government of the day. This allows for it to happen. In our first discussions on this, we actually canvassed the concept of a representative from every state and territory. That is a possibility. It is an extremely financially onerous one, and practically it is difficult because we do not meet four times a year like councils; we meet on average every six weeks because of the kind of consideration we have to do. So if the intent were to go down that path, then there would need to be some mechanisms underneath, like an executive, in order to keep things moving. But there is certainly no resistance, if that is the issue, to having a local representative and to how they are nominated or selected. We have assumed merit selection and we are strongly supporting professionalism and experience as to the capacity of it.

CHAIR—Thank you.

Mr ADAMS—I refer to the submissions that are quite critical of your authority. In all the words that you have given us, you really have not answered any of that local criticism. That is what the senator was trying to get at and what I am finding a little frustrating. You have given a lot of words but not any answers to some of the criticism, which I think is pretty genuine, from

local Canberrans on some of the issues here. Would you like to answer any of those? Have you seen them?

Ms Pegrum—I have not seen the submissions. They have not been lodged on the web. But I would like to respond, if I may, to what I heard earlier—for example, from the Friends of the Albert Hall—having been here. I hope that there are also submissions—

Mr ADAMS—Could you do that, but the issue of—what is it called? D53—

Ms Pegrum—Draft amendment 53.

Mr ADAMS—Draft amendment 53. There was criticism that they still do not know where that came from, how it came into being et cetera.

Mr NEVILLE—And that there was very minor consultation.

Mr ADAMS—That sort of thing.

Ms Pegrum—Could I just say that I stood in this hall at the end of last year when there was the large meeting—Senator Lundy, you were here—and I went through the consultation that we had undertaken before we proposed draft amendment 53. To the best of our abilities we consulted with the stakeholders that we knew at the time. The Friends did not exist, I might add, prior to the proposal of 53.

We spoke to the asset holders in this area. The amendment was a direct outcome of requests from the ACT government to look at the land around this building and what some of the opportunities might be. We spoke to the Hyatt, we spoke to the croquet club and we spoke to the hall manager at the time and tried to get the lists of stakeholders who used the hall. We were denied access to those lists for some time. We liaised in great detail with the ACT Heritage Council's consultants, which included Dr Lenore Coltheart, on the heritage management plan. I personally provided to one of those consultants a report I had done on the Albert Hall many years before.

At the time of the proposal, we did call a public meeting. I heard the comments about that meeting and I accept the criticism that there was insufficient material available here, but I do not accept the criticism that our officers behaved improperly. In fact, I had to deal with officers who felt they were harassed and bullied at that public consultation meeting and with the facilitator that we had here, who found it almost impossible to even stand up and have his voice heard.

Having heard the critique of the draft amendment, we did exactly what we are supposed to do, which is to continue to consult and commit to more consultation on the issues that people were raising—namely, transport issues, heritage issues and general urban design. We committed to workshops; we committed to additional work.

May I also say that one of the extreme difficulties we faced was that the ACT Heritage Council refused to release their draft heritage plan in tandem with our draft amendment, even though one of the consultants had said to us that they would prefer us to do so. Somewhat conveniently, that draft heritage plan was changed several times during the course of our

consultation before it was finally released. So to the best of our abilities we attempted to consult with stakeholders before proposing the draft.

I accept fully the criticisms for not having sufficient material or chairs and the like in this hall but, if I may—because it has been a matter of concern to us—a lot of the criticism we get is about draft amendments. The issue here is that all the authority does, all that it is required to do by the statute, is propose draft amendments as it sees necessary. It then has to consult, it has to liaise with the territory planning authority and then it has to provide its public comment report and its responses to the public comment to the Commonwealth minister. It cannot approve the amendment and it cannot force an amendment to be approved, so effectively its primary role is to propose whether a change is necessary and to consult, and many draft amendments go through many changes in that process before a recommendation is put to the Commonwealth minister of the day. Usually that minister then refers it to this committee, which can then choose to inquire into it or otherwise, and that has occurred on a number of occasions. So it is difficult for us to hear critique of professionalism for basically being prepared to engage in the debate, even the controversy, that is necessary in order to determine whether a change is warranted or not.

Mr NEVILLE—What is your comment on the criticism of the National Gallery that we have heard today?

Ms Pegrum—I have not heard that. Is that about Mr Madigan's design for the National Gallery?

CHAIR—I would urge you to respond to that once you have seen the submission and read the *Hansard*.

Ms Pegrum—May I respond at least as to the process? I assume you are talking about the approval of the extensions to the National Gallery.

Mr NEVILLE—The quality of the extensions was the inference.

Ms Pegrum—I think I understand. This is an area where the authority does have a separate statutory approval role in addition to the approval that both houses of parliament give. The National Gallery has been a vexed issue for nearly eight years. The first proposals were an outcome of a design competition, and that occurred almost in tandem with the introduction of the moral rights requirements under the Copyright Act. The gallery of the day, who were the proponents of the work, chose for a variety of reasons to go back to square one with the winning design architects at that time. There was considerable consultation by the gallery with the former architect, who has the moral right in the National Gallery, and it was the gallery's obligation under the legislation to conduct moral rights consultation. In fact the authority does not accept an application until it is advised in writing by the proponent that they have expunged that duty, in their view, under that legislation—in the same way that we do not look at an application in a formal sense until we have correspondence that indicates that they also have carried out their duties in relation to the EPBC Act.

Part of that process was that the former architect's work was not accepted by the gallery, and a new engagement was then entered into by the gallery. I understand that it had some support from the architect of the original work. The architect of the original work saw me directly and put it to

me that I should consider whether an eminent panel should look at the work prior to us forming an opinion. I took that to the authority and we agreed that we would invite the Institute of Architects to nominate three gold-medal recipients to form a panel to review the work. The Institute of Architects, who supported such an approach, followed that advice and gave us a number of names, of which three were selected. Those architects visited the site. They were briefed by the design architect and by the National Gallery, and they were given documentation directly by Mr Madigan on his views about the future of the proposal.

What the authority would not accept was an alternative design being put forward by Mr Madigan. We made it quite clear that our statutory role was to look at the application before us and it was the role of the gallery to select their architect. So it was not a design competition that the gallery was running. The three architects at issue then made some comments. The architect for the gallery took those comments on board. We had another meeting and, in their view, the work met all of those requirements. That made it quite clear that they were not the architects of the work but were simply reviewing it.

We then forwarded the project to the government, as we always do, noting that we were prepared to give an approval. There was a private briefing—if you will excuse my referring to this—of the joint standing committee with the National Gallery and the architect for the proposal, and a number of these issues were canvassed. Eventually, both houses of parliament approved the work. I think the issue around whether or not the consultation with the former architect on their views on the quality of the work is appropriate ought to be taken up with the National Gallery directly.

Mr NEVILLE—Could we go back to the yellow areas again? I would like you to make it clear for me. You are proposing on the right that your direct control would be limited to those yellow areas. Am I right?

Ms Pegrum—The authority's development approval, called works approval, would be restricted to those areas. The parliament's role in making the National Capital Plan would continue for the whole of the ACT. Our role in that is simply to propose amendments and run the administrative process.

Mr NEVILLE—Let us go to the other areas, the remaining 90 per cent. What is the process there?

Ms Pegrum—The process there is that the National Capital Plan includes these two general policy plans—one for metropolitan Canberra, on your left, and one for the other areas, the largely open space system, on your right. The one on your left has brown blobs that are urban areas, then a myriad of other colours—shades of salmon through to dark green—which are open space areas, and yellow areas which are broadacre areas, from memory. In effect, the National Capital Plan then has a suite of general policies and principles in it which describe the general land use, the character and the quality of those areas. We might, for example, decide that it is appropriate to consider a change to that plan, as we are doing at the moment for the ACT government for the Molonglo Valley area—and, with your leave, I will ask my colleague to point out that area, because it serves as a good example. The ACT government wishes at the moment for that area to become urban, to go from largely open space to an urban area. The authority went through a series of processes with the ACT government in looking at whether that

was possible or suitable and said, on the strength of those joint studies, 'We will propose an amendment to the National Capital Plan to see whether that should become urban.' That has been out for public consultation.

There are additional discussions and reports being made and ultimately we will make a recommendation to the Commonwealth minister to recommend or otherwise for the Molonglo Valley. The Commonwealth minister then might send it back to us with a 'Try harder' or might send it back saying, 'Look at these areas specifically.' And, this is really important, if we cannot agree with the territory planners—in other words, if we have a serious issue that we cannot resolve—the Commonwealth minister meets with the executive of the territory government and consults and then the Commonwealth minister makes a decision. That decision may allow for a direction to the authority to change that draft amendment, which is gazetted, or the decision may be to adopt the recommendations of the authority or the whole process starts again. When the Commonwealth minister approves it, it becomes part of the National Capital Plan and it then sits in front of both houses of parliament for 15 days for disallowance and then it is law. So our job, for all of the other areas—everything outside of that yellow—is simply to propose amendments and administer that process.

Mr NEVILLE—When it gets down to the nuts and bolts of—

Ms Pegrum—Development approval?

Mr NEVILLE—Yes. Who administers it then?

Ms Pegrum—The ACT government's territory planning authority.

Mr NEVILLE—Taking it to the other map, to the 90 per cent, does the same process supply?

Ms Pegrum—The same process applies in terms of general land use, but the development approval and all of the detail is the ACT government's.

Mr NEVILLE—The general use?

Ms Pegrum—Yes—that is—

Mr NEVILLE—So, if you were not happy with houses being built on a particular hill or something like that—

Ms Pegrum—If houses were permitted on that particular hill as a land use, there is nothing—

Mr NEVILLE—Or proposed to be—

Ms Pegrum—There is no control or role whatsoever now. So the only detailed control is in those yellow areas.

Senator HUMPHRIES—On the structure you propose for the seven-member NCA board, I note that Professor Manning Clark was a member of the original board.

Ms Pegrum—Correct.

Senator HUMPHRIES—He would not be able to be appointed under your proposal now, would he?

Ms Pegrum—I would imagine he might be because part of the functions of the current authority is the promotion of an awareness of Canberra as the capital. As we have defined that, it is about Australians starting to understand their identity, what the capital represents, the history of the capital and the story of Federation. As an historian, if that were the focus of government's direction at the time, he would be a marvellous candidate. We certainly did not mean professional qualifications to reside only in the design professions. It should and ought to be much broader than that.

Senator HUMPHRIES—So, for argument's sake, a Sir William Deane type person would not be capable of being appointed.

Ms Pegrum—His governor-generalship might have something to do with that. I do not know Sir William's qualifications or how that might be looked at.

Senator HUMPHRIES—I am just saying that there is no capacity for an eminent citizen without a particular background in planning, marketing or something like that to get appointed under these proposals, whereas there is now.

Ms Pegrum—I think that would go to the detail of it, but, yes, in principle that would be correct.

Senator HUMPHRIES—Okay. You criticise the arrangements at the moment where Commonwealth agencies have their own design and construction responsibility for particular projects within areas of national significance. You say that leads to bad outcomes. Can you give me an example of a poor design outcome that was produced by virtue of that process?

Ms Pegrum—It is more likely not to lead to good outcomes. I must say this has nothing to do with anything that is intentional by those agencies. I think all Commonwealth agencies work very hard at their procurement and quality. But if you take something like the arts and civic campus, which has the National Gallery, the High Court and the site for the portrait gallery, the National Gallery is owned of course by the High Court and it manages its own capital program, as it should. The National Gallery of Australia also has a statutory ability and responsibility to do that. The portrait gallery is part of a departmental administration and that work is being delivered by the department of finance. The land in between is the responsibility of the authority.

In that site alone there are three major components of construction going on, all of which are of significance: the portrait gallery, the extension to the National Gallery, works that may be essential to the forecourt and fountain of the High Court, campus control around it and the parking issues. Because of the Parliamentary Zone review, we formed a memorandum of understanding with those groups some years ago and it has been somewhat of a glue that has held us all together and kept us talking. All we are saying is that those agencies might continue to deliver the works themselves, but would it not have been so much better if, knowing that all of these works were either in the wish list or in train, there had been a requirement for a

procurement plan to be put together for government to consider? Then government could have prioritised that work or made some recommendations about the best way of procuring it. I think we would have got a better result. As it is at the moment, when the portrait gallery opens, I think it is highly unlikely that the fountain is going to be working. We certainly will not have our works underway for the space in between, which, whilst mown and looking as tidy as we can get it, bears no resemblance when compared with the possibilities of the campus plan that we are preparing. We are saying that a far more coordinated approach with priorities set would be better.

Senator HUMPHRIES—I have one last question. You propose some different arrangements for promotion of the national capital, some better integration with what other people are doing. Isn't the real problem though that we simply do not have a budget for promotion of the national capital, particularly in a tourist promotion sense? What happens at the moment is very much on the margin. What we need to be doing, whether separately or in conjunction with the ACT government, is developing a comprehensive and well-funded plan to promote Canberra in a way which happens for the Northern Territory and Tasmania but does not happen for Canberra at the moment.

Ms Pegrum—There has certainly never been adequate funding for the promotion of the national capital through our agency and, as far as I can tell, with the national cultural attractions. I say 'as far as I can tell'. So there are buckets of money held by the National Museum or the War Memorial. If you were to interrogate them as to that, I would imagine they would say they could do much, much more with more, but there has certainly never been a consolidated fund and there has certainly never been sufficient funding for the National Capital Authority for this. We do not think it is the role of the Commonwealth to take the tourism role from the ACT government, but to do anything like comprehensive major marketing or promotion of the capital requires appropriate funding, and that has never been there. Indeed, a number of years ago when we received additional funding for maintenance, half a million dollars was taken out of output 2 to achieve that, and this is all on the public record. It was very clear that if what we saw as animation events—like summer and winter in the capital—were to proceed they had to be done with a partnership plan, and indeed we achieved that.

CHAIR—Senator Hogg would like to place a question on notice.

Senator HOGG—Yes, it is not just a simple, single question. I would like some analysis of your funding over the last 10 years. I note you have some diagrams at the bottom of, for example, page 4 and so on. I do not want an analysis of those specifically but I want to have an analysis of the structure and how it was funded, say, 10 years ago, five years ago, two years ago, 12 months ago and so on. I understand the outputs have changed and in that period of time we have gone to accrual accounting, but if you can give me some sort of idea as to how funding has changed in that period of time that is what I am after.

Ms Pegrum—We would be able to give you that very quickly.

Senator HOGG—The second thing that I am after in that period of time is the profile of staffing and how that has changed as well. I believe you are coming back to us at a later time and that will enable me to ask some questions as to how you actually work and how the work has changed and so on. I want to get an appreciation of the staffing changes.

Ms Pegrum—I would be happy to give you that.

Senator HOGG—The other thing when you are doing that is that it is not clear as to whether or not constant dollars are used or whether you are using the dollars in the actual year of allocation. In other words—

Ms Pegrum—I am sorry; I could not hear that.

Senator HOGG—Are they constant dollars or are they dollars in the year of the budget itself that you are referring to? It says here, for example—

Mr Ball—Would you prefer them in constant dollars?

Senator HOGG—I do not care so long as, whatever you do, you make it clear to us as to how the funding is being represented.

CHAIR—Take it on notice. In closing, could I just have one clarification of governance. Ms Pegrum, are you accountable to the board of the NCA or the minister as CEO?

Ms Pegrum—It is an important point. The PALM Act says that the chief executive acts under the general direction of the authority. But you are not employed by the authority; you are employed under the public sector act. When the principal executive officer status was brought in maybe four or five years ago, under the Remuneration Tribunal provisions the employing body became the minister. I did make comment at that time about those issues in writing, but at the moment I have a performance agreement with the minister and have since the PEO structure was brought in. I am definitely answerable under the FMA, the public sector act and the code of conduct, of course, as are the other members of the Public Service.

CHAIR—Thank you for your attendance here today. If you have been asked to provide additional material, would you please forward it to the secretary of the committee by 2 May. You will be sent a copy of the transcript of your evidence, to which you can make corrections of grammar and fact. Because of the submissions only being made available publicly today, I urge all submitters to review the submissions with the opportunity of perhaps making supplementary submissions, which is of course an option open to the National Capital Authority itself. Thank you very much.

Ms Pegrum—Madam Chair, may I just have a point of clarification?

The **CHAIR**—Certainly.

Ms Pegrum—With regard to the panels that we have today and the A3s, if our submission is now on the website, are we able to put these on the website as part of the evidence as well?

CHAIR—If it forms part of your submission it will be placed on the website.

Ms Pegrum—There is no substantial difference other than a few graphs.

CHAIR—This was a supplementary submission?

Ms Pegrum—Yes.

CHAIR—My understanding is that it will also be placed on the website. You could also put it on your own website.

Ms Pegrum—Thank you

Proceedings suspended from 1.05 pm to 1.41 pm

ANDERSON, Mr Iain Hugh Cairns, First Assistant Secretary, Territories and Native Title Division, Attorney-General's Department

PITHAM, Ms Claire Margaret, Director, ACT and JBT Sections, Territories East Branch, Territories and Native Title Division, Attorney-General's Department

STEWART, Ms Karen Rebecca, Director, ACT and JBT Sections, Territories East Branch, Territories and Native Title Division, Attorney-General's Department

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

Ms Stewart—I am acting assistant secretary of Territories East Branch, Territories and Native Title Division.

CHAIR—Thank you. Although the committee does not require you to give evidence on oath, I should advise you that these proceedings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. The committee has received a submission to this inquiry from you. Do you wish to make an opening statement?

Mr Anderson—No, thank you.

CHAIR—We will proceed directly to questions. Can you explain the accountability mechanisms of the board and their statutory obligations to the minister and, indeed, the accountability and reporting requirements of the CEO of the National Capital Authority to the minister? We took a brief bit of evidence from the CEO at the concluding stages of the NCA's presentation, but I am keen to get a deeper understanding of what those lines of accountability are.

Ms Pitham—The board itself is governed by the Australian Capital Territory (Planning and Land Management) Act 1988. The board is given functions under section 6 of the act and is empowered to take such steps as are necessary to perform those functions. The board may be given directions by the minister responsible for that act as to the general performance of its functions, but the minister has no specific power to direct the board on any particular issue. The members of the board are appointed by the Governor-General and their terms and conditions are established by the Remuneration Tribunal, so they have no employment relationship directly with the minister. The chief executive, as Ms Pegrum explained, is a principal executive officer under the Remuneration Tribunal structure. The minister is her employing authority and she has a performance agreement with the minister. Ms Pegrum would be subject to general directions from the board in her function as the chief executive of the authority.

Mr Anderson—I might add to that. The minister can also issue a statement of expectations to the board, which they then respond to with a statement of intent.

CHAIR—I would like to follow that through with a couple of questions. Firstly, can I go to the issues relating to the board. What is a statement of expectations and what accountability do

the board have to respond to it? Are they obliged to respond? Is there a time frame to respond? And what form does the statement of intent have to take? Does it have to concur with the expectations as expressed by the minister?

Mr Anderson—There are no formal requirements as to the content of the statement of expectations or of the statement of intent. It really operates by way of the minister simply setting out his or her expectations of the authority and the board, and the board then saying how it is actually going to respond to and seek to implement those expectations. The ongoing dialogue between the minister and the board as to what the government is expecting and whether the minister is happy or unhappy is one part of the relationship. That will be a discussion that will play itself out through meetings, perhaps, with the chair of the board and also, potentially, with the performance reviews of the CEO.

CHAIR—I will move to the issue of the CEO now. What relationship is there between the board and the CEO and is the CEO accountable or answerable in any way to the board?

Mr Anderson—The CEO is first of all a member of the board, *ex officio*.

CHAIR—I guess what I am getting at is whether or not that binds the CEO to decisions or directives of the board to the organisation.

Mr NEVILLE—Could I ask a supplementary question to that?

CHAIR—Yes.

Mr NEVILLE—Is the position of the CEO somewhat akin to a managing director who is part of a board?

Mr Anderson—Again, we come back to it being more of an informal arrangement. The CEO is the managing director, in a sense, of the authority, which exists to carry out the board's directions. It seeks to work with the board in that regard. If there were to be a question as to whether the CEO was properly doing that or not, that would, in the first instance, be something to be worked out between the board and the CEO. But I am not aware of any suggestions that a CEO has failed to actually implement—

Mr NEVILLE—Nor were we inferring that.

Mr ADAMS—Is it the usual situation in other authorities to have the CEO sit on the board as well?

Mr Anderson—I am not aware of any comparable authorities. It is an unusual arrangement, but it is also an unusual role that the board has in that it is not actually, for example, running an organisation. It is simply seeking to deal with the various obligations and requirements of the PALM Act and reviewing the National Capital Plan and things like that. It is not like a board that is itself managing an organisation or advising on the management of an organisation.

Mr ADAMS—It has statutory obligations.

Mr Anderson—Exactly. It has those statutory obligations with respect to the National Capital Plan, for example, and then the CEO, who is in effect the chief executive under the FMA Act of an Australian public service body, is charged with carrying out the wishes of the board in accordance with the various parts of Commonwealth legislation that apply.

CHAIR—I guess that leads me to my next question. In the discharge of the responsibilities as to the chief executive of the NCA administration, would the board have any say in the allocation of duties or the payment and allocation of higher duties, for example, or indeed in performance payments? Would the board be involved in any of that or is that solely the purview of the CEO?

Mr Anderson—Strictly and formally, those are matters solely for the CEO or for the other management of the authority. I am not aware whether at an informal level the CEO might canvass the members of the board as to whether they had particular views about things that the authority was doing well or otherwise.

CHAIR—Are you familiar with the recommendations of the Uhrig review as to the NCA and whether or not those recommendations were implemented?

Mr Anderson—Yes, we are.

CHAIR—Could you report the circumstances to the committee, please.

Ms Pitham—Yes, the authority was reviewed against the templates of the Uhrig review and it was assessed as sitting against the executive management template. The former Department of Transport and Regional Services was the portfolio department there and it reported through to the minister for finance, consistent with the government's processes. That has led to the issuing of a statement of expectations by the former minister to the authority, and in fact there has been an ongoing project to consider how the government's arrangements for the authority might have been changed.

CHAIR—So what was the minister for finance's expression or view to the National Capital Authority about changing the arrangements as a result of the Uhrig recommendations?

Ms Pitham—I am sorry, there was no direct communication from the minister for finance in the Uhrig context through to the authority.

CHAIR—Sorry, which minister was it?

Ms Pitham—The Minister for Local Government, Territories and Roads.

CHAIR—My apologies.

Ms Pitham—He is the responsible minister for the PALM Act and under the Uhrig model he has a direct relationship with the CEO of the authority. He is responsible for the authority's meeting its functions under the PALM Act.

CHAIR—At the time of the Uhrig review—and I know the administrative arrangements have now changed—what was the recommendation to the NCA?

Mr Anderson—If we may, we will take that question on notice.

Ms Pitham—There was more than one recommendation. I am sorry, I cannot recall their content.

CHAIR—That is okay. Can you tell me if those recommendations were implemented?

Ms Pitham—All but the final part of the process, which was to look at the PALM Act itself. Most of the recommendations focused on communication between the department, the minister and the authority.

CHAIR—The authority being the board.

Ms Pitham—It is a unilateral term, so for us as public servants it was more to do with the public servants who supported the activities of the board.

CHAIR—Right. Not the board?

Ms Pitham—No, not for us.

CHAIR—But for the public servants.

Senator CROSSIN—Ms Stewart, I think we saw you last week in Sydney, didn't we?

Ms Stewart—Yes.

Senator HOGG—Nice to see you again.

Ms Stewart—It is much nicer weather here today.

Senator CROSSIN—That is true. I have had a look at the conclusions that you have outlined in your submission to us. Paragraph 7.1 actually says that the department 'would see the National Capital Plan and PALM Act continuing to establish the core principles'. That may be so, but having said that, is there a view from the department, vis-a-vis the minister, that there is a need to review or change aspects of that act?

Mr Anderson—Certainly there is a need to both review and change aspects of that act. What we are saying broadly in our submission is that we think that the PALM Act is the best vehicle for enshrining the principles that should apply to planning; however, we do not think that the National Capital Authority needs to then be involved itself in a lot of the planning decisions. But we still think that the PALM Act itself is the appropriate vehicle.

Senator CROSSIN—But you do not give us any idea in your submission of where you think that the PALM Act needs reviewing. Can you tell me now or do you need to take that on notice?

Mr Anderson—We have given a general indication, for example, that we think that Commonwealth interests in matters such as arterial roads and the buffer zone are areas where

certain principles could be enshrined but with the actual decision making left up to the ACT Planning Authority. Those are the sorts of matters.

Senator CROSSIN—Do you have dot points or a suggested list somewhere, or is it more the case of it being an internal document that you are referring to here?

Mr Anderson—We do not actually have a list of documents. We could take it on notice to provide something more specific if that would assist.

Senator CROSSIN—It would be handy if we are going to look at this when we come to write the report of this inquiry. We could make a bland suggestion that the PALM Act be reviewed, but I think it would be helpful if we could have a bit more detail as to what direction to take.

Mr Anderson—I should say that we have also been partly anticipating what would come out of the review, so we are not seeking to in any way cut off any avenues that the committee might wish to suggest.

Senator CROSSIN—You talk about the principles in the PALM Act protecting aspects of national interests across the territory. However, you say a simplified system could achieve this protection. We have had today a number of submissions put to us that there should actually be not only a simplified system but also in fact one commission—for want of a better word—that might be made up of ACT or Commonwealth government vis-a-vis NCA representatives. The National Capital Authority have not agreed with that. They are saying there are problems as to who would own the reporting and where the division of responsibility would lie. Does the department have any particular view as to whether the NCA needs reviewing or whether there should be one planning commission established across the ACT?

Mr Anderson—We would be pretty lukewarm on the idea of a single planning body. We think that there are quite distinct national and territory interests as to the ACT, that it is appropriate to have separate bodies dealing with those and that it really muddies the water if you have got one body having to do both. That is why we would say it would be better to have two separate bodies but with clearly defined areas of responsibility. We do say though that the overarching principle should be enshrined in the PALM Act and in the National Capital Plan so that once again there is a single, clear, transparent set of obligations that both bodies would then have to comply with, although they might do it in different ways depending, for example, on the sorts of stakeholders they are dealing with.

Senator CROSSIN—You also very strongly suggest that the authority should be given a more clearly stated core function and clear powers. So you would see the authority being redefined under any changes to the PALM Act?

Mr Anderson—Probably pared back, I guess, to these core functions. At the moment we see a degree of ambiguity as to some of their roles. That is why we think that particularly focusing on the central national area and its planning is the key issue there. The promotional role is a very important role as well. In the same way that we think it is important to clearly state the national interest that the NCA would be protecting and that the PALM Act would be setting out principles to govern, similarly the promotion of that national interest should be clearly expressed so there is not an overlap or a potential for overlap between ACT Tourism and the NCA because they would

both know exactly what they were working with. It would be the same with our national institutions as well.

Senator HOGG—This morning we had a comment that there is no appeal over decisions of the NCA. Some frustration was expressed to us over that being the case. Do you have a view as to whether or not there should be an appeal mechanism for decisions of the NCA if it is to be left in place as it currently exists or if it is modified in the future? If so, what sort of model? If you have not got a ready-made answer for us, you can take that on notice.

Mr Anderson—We have not considered the idea of there being an appeal mechanism given that, as it currently exists, if the minister does not wish to approve, for example, a National Capital Authority recommendation as to an amendment to the National Capital Plan then it simply does not go ahead. Similarly, it is also disallowable even if the minister does approve it. So we think there are a number of checks and balances there.

We do say in our submission that it is desirable that there be an additional power though for the minister—that is, while he or she can decline to approve something that the NCA recommends, we think he or she should have the power to in fact require them to look at a particular issue. So if they were in fact dealing with an issue by saying, ‘Well, we are not going to deal with it,’ he or she should be able to say ‘I would like you to deal with this.’ But still the outcome would be a matter of the authority going through consultative and other processes and putting a recommendation up. We do not think that the minister should be able to directly procure a particular outcome; it should be the authority by going through the designated process—in particular, consultation.

Senator HOGG—On the disallowable instrument nature that you referred to, is that in of itself sufficient in this case given that it is not very likely that you will get either house to disallow a draft amendment that has been put through. I do not know if I can recall a disallowable instrument being used successfully.

CHAIR—It has been moved but it has not been successful in my memory.

Senator HOGG—It has never been successfully prosecuted in my memory, so I am just wondering if that is an effective fallback position.

Mr Anderson—I guess I am in a slightly difficult position commenting on why it has not been used.

Senator HOGG—I am not asking you why, but given that it has not been used—to the best of my knowledge, and I will stand corrected—

CHAIR—I think it is difficult for the witnesses to comment on that in their positions.

Senator HOGG—All right.

Mr Anderson—I will just say that it certainly does provide for parliament to intervene though if the matter is perceived to be of sufficient import.

Senator HOGG—Okay.

Senator HUMPHRIES—Looking at the difficulties that are posed by having two governments to which a joint authority would answer, I am thinking of other models where multiple governments effectively take collective responsibility for the outcomes of a particular process, or development of a particular instrument to further public policy. I am thinking, for example, of the arrangements around the food standards agreement in Australia. We have not only the interests of all the Australian state, territory and federal governments but also the interests of the New Zealand government built into a process where they essentially move forward by getting consensus in that exercise. So is there any reason why an exercise like that involving 10 governments does work—presumably that would be the agreement of those involved in the process—and a process involving just two governments in the ACT would not work?

Mr Anderson—I could hypothesise as to whether food standards are a particularly contentious matter, but I would be only hypothesising. I think that really comes down to, in our view, the fact that the territory and national governments have a range of different issues that they are dealing with in the territory. We do not see that there is a need for a single planning body, because we think that that would actually conflate the two sets of responsibilities. Instead, we say separate them out clearly and let the two governments go on their different ways and let their bodies go on their separate ways.

Senator HUMPHRIES—It seems to me that that presupposes that the people of the ACT are not interested in a high-quality national capital or that the national government is not interested in the effective functioning of a community such as the ACT's. But that is more of a comment than a question, I suppose.

Mr Anderson—If I could respond to that. It is certainly not presupposing that the people of the ACT are not interested. Consultation needs to be effective and it needs to be built into anything that the authority would do. And obviously, with respect to the ACT planning functions, there is no reason why the authority or other Commonwealth emanations cannot make submissions.

Senator HUMPHRIES—If we have all got common interests then why can we not serve these interests through a single body?

Mr Anderson—It comes down to the decision making.

Senator HUMPHRIES—Okay. In the submission of the Walter Burley Griffin Society, they talk about the clash between the Commonwealth and ACT governments. They say:

This mutual aversion has led to an unfortunate fiscal imbalance where the Territory is being progressively under-compensated for its actual maintenance of National Capital elements.

In your submission you describe the funding transfers that take place to the ACT to compensate for those national capital elements. In your view, is that compensation fair, or does the society make a valid point?

Mr Anderson—First of all, I would note that the submissions only went up on the website about mid-morning, so I have not actually seen that submission. All I can say on that is that there is that level of funding provided. We are not aware of any concerns that the ACT government has with that level of funding.

Senator HUMPHRIES—Perhaps you could take on notice the question of whether or not that funding arrangement has been challenged or reviewed in recent years.

Mr Anderson—I do not believe it has been reviewed.

Senator HUMPHRIES—There was reference made—I think by someone from the society—to a Grants Commission process where the ACT government made a bid for more money than it actually got from the Commonwealth. You might look at that and see whether that suggests that there has been a problem. Presumably that implies that the Grants Commission has looked at this issue and is satisfied that the present arrangements are fair, but I am not sure.

Mr Anderson—We will take that on notice.

Senator HUMPHRIES—Great. The suggestion that has come from the NCA, and which is echoed in your submission, that there should be a transfer of responsibility for some areas outside the Parliamentary Zone to the ACT government, carries with it the implication that there would be greater planning responsibility for the ACT government. Normally when governments transfer responsibilities to other governments there is some question of a financial adjustment to account for that. Do you anticipate there being such an adjustment in the case of what you propose in your submission and, if so, can you give us some idea of how much that adjustment might be?

Mr Anderson—That is not a matter for us. That is obviously going to be a matter for the Minister for Finance and Deregulation, at the end of the day.

Senator HUMPHRIES—You would have some idea, though, as to whether it would be normal to make an adjustment in these circumstances, wouldn't you?

Mr Anderson—I can say that the matter of intergovernmental funding is a complicated one. It does get reviewed from time to time, and it might be that any perceived transfer of functions in respect of planning might be offset, or regarded as being offset, in other areas of government interaction. So that is a difficult one. I can say as well, though, that what we are proposing is actually seeking to avoid duplication and to streamline. It might not be, strictly, a transfer of function but rather, for example, removing the Commonwealth from certain areas. Currently, as you would be aware, the authority can set conditions for the territory that the planning authority then has to comply with. If that were removed, it would not actually be an additional burden being applied to the territory's planning authority; the planning authority would, in fact, have its life and job made much easier. So those things would have to be considered as well.

Mr NEVILLE—But you are implying a much stronger role than that in paragraph 3.11 of your submission: 'given a larger role'. That is a proactive statement; it is not saying that the ACT might just take over some functions that the Commonwealth decides to pass over. You are

making quite an activist statement there. I agree with Senator Humphries; I would like to know exactly what you mean by that and what functions would be involved.

Mr Anderson—We might take that on notice. If you want greater specifics, we will take that on notice. But at a level of generality—perhaps that is slightly infelicitous language—what we are saying is that the territory should be able to make more decisions on its own. That is really the nuts and bolts of what we are saying.

Senator HUMPHRIES—‘Making more decisions’ implies planning and preparing to make those decisions, and there would surely be a cost associated with that.

Mr Anderson—But the ACT also currently has a role in relation to areas outside the central national area.

Senator HUMPHRIES—Yes, and it budgets for that and it has got a budget to cover that cost. But it is now looking at covering what appeared from the map to be several thousand hectares. I do not know if this is in your submission, but the NCA’s proposal was that several thousand hectares of land would come under primary ACT government responsibility. There must be a cost associated with that. Even with some better economies of scale, I would have thought that it is obvious that there would be a cost associated with that. Will you take that question on notice to see whether there is such a cost and whether it would be expected that there would be adjustment in favour of the ACT?

Ms Stewart—Yes.

Mr Anderson—I am not quite sure about the thousands of hectares of land. There is national land outside the central national area. We are not saying that land should necessarily be given back to the territory and that the territory should have to administer it; rather, we are talking about the authority’s role outside the central national area. In that sense, we are not actually talking about giving the territory additional land to manage.

Senator HUMPHRIES—I did not say that. I said, ‘to plan for’. I assumed that your submission would dovetail with the NCA’s submission, which specifies what areas it thinks should be transferred. But take the question on notice and answer it if you can. I have one more question. At section 7.5 of your submission you say:

The Authority could be given clear (and possibly enhanced) powers to enforce ACT compliance with the Commonwealth’s requirements if required, without acting as a review or appeal body for general ACT planning matters.

Presumably, this is where the NCA ceases to be the primary planning authority for a particular area of land that is now outside the parliamentary triangle. The ACT becomes the primary decision maker but is subject to the framework of the National Capital Plan. Presumably that would arise when the ACT makes a decision that is not really consistent with the National Capital Plan so that the authority could have power to intervene. Are you suggesting there should be any specific trigger there? Should it have a general power to intervene if it feels the plan is being abused? How would it work?

Mr Anderson—We are still thinking about the details of this. It is very much a case of, say, if the ACT were to do something that transgressed the principles enshrined in the legislation—for example, if it decides to build on the top of Red Hill or something like that. It would need to be a meaningful trigger rather than potentially being an incentive for the NCA to act prematurely or be encouraged to act prematurely. It would also need to be a very real trigger so that the NCA was able to take whatever action it wanted to—presumably, seeking an injunction or something like that—before too much had actually occurred. We are still working through the details of how that might operate. It is really about saying there needs to be a bulwark there—if, for example, the ACT is to be given greater freedom, there still needs to be a very real mechanism for protecting the national interest. Hopefully, it would never need to be exercised.

Mr NEVILLE—I want to follow up on the same matters that Senator Humphries has raised. You mentioned, in answer to an earlier question, that you thought there were functions that would best be handled by the ACT government. I think you used the term ‘arterial roads’. Are there other areas? If so, could you outline them in your follow-up submission?

Mr Anderson—Yes, we would be happy to do that.

Mr NEVILLE—Does your conclusion come from your department’s experience in administering aspects of territories, or is this a collective view in the Public Service that goes back to the old Department of Transport and Regional Services? Is this just the experience of your department, or is it a general theme that runs through the Commonwealth bureaucracy in relation to these matters?

Mr Anderson—The submission reflects the view of the Attorney-General’s Department, and that view of course is informed by the experience of the relevant staff in what was then the Department of Territories and Regional Services, until the new administrative arrangements orders were put in place. It is the view of those staff, who are now part of the Attorney-General’s Department; it is not a broader view.

Mr NEVILLE—In your submission you also say:

The Department questions whether, 20 years after self government, the PALM Act and National Capital Plan could be amended to make a clearer distinction between the Commonwealth’s involvement/national interest in the Territory and the Commonwealth’s active management of the nationally significant aspects of the ACT.

Could you be more specific about the areas in which that could occur—or would you rather take that on notice as part of the follow-up submission?

Mr Anderson—I am happy to take that on notice.

CHAIR—On notice, could you provide the committee with the Uhrig recommendations relating to the National Capital Authority and report back on the responses and actions to date by the National Capital Authority in response to those recommendations?

Mr Anderson—Certainly.

CHAIR—Is the department able to report to the committee any changes or examples of governance and accountability related issues since the change of administrative arrangements and the National Capital Authority coming under the auspices of the Attorney-General's Department?

Mr Anderson—Could you be more precise?

CHAIR—I mean activities by the department to inquire into or look at those governance and accountability arrangements, which may or may not be related to the Uhrig recommendations.

Mr Anderson—Yes, we can take that on notice.

Mr NEVILLE—I have one more question. You say at section 4.5 of your submission:

Amendments to the PALM Act could require the National Capital Authority to develop consultation and notification strategies to ensure that it is able to ensure, if required, that particular ACT Government decisions comply with the Commonwealth's requirements ...

Do you have evidence that that is not happening, or is that a general perception that you have picked up, not unlike those that we have received in submissions earlier today?

Mr Anderson—That is just a safeguard that we think would be required if the ACT were given a freer hand in some areas.

Mr NEVILLE—But surely you are implying that the level of consultation has not been all that bright?

Mr Anderson—No. Section 4.5 specifically says that if the ACT were to be given a freer hand then the NCA would need to have a way of being informed about what it was doing.

Mr NEVILLE—Thanks for that.

CHAIR—Thank you for your attendance today. Please note that we are asking that all additional material be received by the committee by 2 May 2008, including responses to those questions taken on notice. You will be sent a copy of the transcript of your evidence, to which you can make corrections relating to grammar and fact.

Proceedings suspended from 2.18 pm to 2.28 pm

FLANNERY, Mr David, ACT Chapter President, Royal Australian Institute of Architects.

HUGHES, Ms Sheila, ACT Chapter Councillor, Royal Australian Institute of Architects.

TZANNES, Mr Alec, National President, Royal Australian Institute of Architects.

CHAIR—Welcome. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. I invite you to make an opening statement to the committee.

Mr Tzannes—I will make the opening statement and I will be followed by David Flannery. For your information, I believe we will have the CEO of the Institute of Architects in the audience shortly, if not now.

First of all, as to who we are, many of you know the Royal Australian Institute of Architects. We are a member based organisation with over 9,000 members, with offices in every state and territory and active membership programs in cultural events, policy and advocacy, publications, continuing professional development and practice support. I would like to outline our view in summary and then go to each of the headings in our submission and briefly report to those.

Our view, in summary, is that the Australian national capital, Canberra, and its natural setting belong to the hearts and minds of all Australians. The National Capital Authority is consequently important to all Australians, as it is the Commonwealth's agent for the protection of the Commonwealth's interest in Canberra and the ACT. Canberra and the ACT are of the highest cultural significance in Australia and the most important symbol of the history and aspirations of Australians. The Griffin Legacy, the public places, the landscape, significant streets, such as Anzac Parade, the monuments and civic buildings define who we are as a nation and represent everyone throughout Australia.

The RAIA believes the inquiry should affirm the role of the National Capital Authority and alter its governance to improve representation by the ACT government, expand its expertise on the board, alter the National Capital Plan to form an integrated strategic planning document with two statutory layers reflecting the national and local territory government structure and restore funding to pre-2007 election levels to ensure appropriate and strategic services in the national interests are maintained.

I will now go to each of our submission topics. The first one is a general one on Canberra itself. Walter Burley Griffin's documents that won the competition for the design of Canberra are inspirational to this day. Anyone who takes the time to read in Griffin's own hand, pen to paper, the basis of his vision for Canberra is inspired by its sophistication and contemporary relevance. Anyone who sees the original documents by his wife, Marion Mahony, describing the design of Canberra, whether here, in the Burnham collection in Chicago, or elsewhere, cannot but be inspired by the beauty and logic of the competition's scheme. From the start, Canberra has been and remains a city of international significance because of its design and principles embodying social, economic and environmental sustainability. Anyone who walks or drives along Anzac

Parade, connecting parliament with the War Memorial, or oversees from Mount Ainslie not only the city but the natural setting and unique landscape of the area feels and, in some way, understands that these works define Australia and the commitment of all Australians to a fair and democratic society. It is the RAIA's view that only the Commonwealth government of Australia, through the NCA, can be responsible for the continuing strategic development of Canberra and the ACT.

Now I would like to briefly outline our views on the Commonwealth's commitment to Canberra and the ACT. We believe that only the NCA, through the Commonwealth, ensures the vision is national, not only local, long term and strategic. We believe it directly represents all Australians. It ensures independence and impartial judgement and it provides a stable structure for the design, development and management of infrastructure of national interest within Canberra and the ACT.

With respect to the role of the Commonwealth in planning for the ACT, Canberra is an exemplar of national significance in many aspects of planning, urban design architecture. The Commonwealth is served best by its own agency to ensure quality, independence and a national vision. The National Capital Authority functions are supported, as currently defined, with the potential to reduce the National Capital Authority's role in temporal events such as the Australia Day Concert.

We fully support the National Capital Plan being administered by the National Capital Authority. The use and disposal of land within the National Capital Plan remains strategic and in the international interest. We also believe that the National Capital Authority can better be integrated with the ACT government planning processes.

We believe that duplication of the National Capital Authority and the ACT government roles has in fact been minimal. However, recent ACT government strategic planning for the city—for example, undertaken by the ACT Planning and Land Authority, particularly the Canberra Spatial Plan—does duplicate work that should, in the RAIA's view, be an NCA responsibility. For example, the metropolitan plan needs to be reviewed to better address National Capital Authority objectives. In particular, we are concerned that the transport planning aspects of this document have not been properly dealt with.

Strategic planning in the RAIA view is best led by the Commonwealth, through the NCA, in collaboration with the ACT government and surrounding New South Wales local government areas. The RAIA advocates for a single, coordinated and integrated planning document with two statutory sections—Commonwealth and ACT territory—and a formalised referral system to process assessments where both have a legitimate interest in a development proposal. This is a key point for us. The National Capital Authority, in the RAIA's view, must remain the custodian of a central guiding vision, reflecting clear national objectives for Canberra and the ACT, against which all initiatives are assessed.

I now go to our comments on the governance of the National Capital Authority. We support improving the balance between local and national representation. We support including ACT government representatives on the NCA board, such as the senior minister or as delegated. We nevertheless believe that expanding the NCA board would still ensure that ACT government members have a minority representation. The NCA board and the minister, we believe, should

only be able to give general direction to the NCA chief executive, as is currently our understanding. The RAIA believes this is appropriate and does not support the committee reviewing all amendments to the NCP, as this is seen as unnecessary and a duplication of the role of the NCA board.

The RAIA supports the 2004 recommendations to expand the NCA board, increasing relevant expertise and experience. It also supports strengthening community consultation processes, along with Development of Assessment Forum—DAF—principles.

I would now like to go to questions of development assessment, consultation and appeal rights. The RAIA believes that the NCA has proven expertise and experience in the assessment of design at the highest standard. The RAIA reports that the profession rates the National Capital Authority very favourably in this role. That is in contrast to many other approving authorities.

The RAIA strongly endorses the urban design focus and pursuit of architectural excellence by the NCA and recognises the value of the National Capital Plan and relevant development control plans in processing initiatives. Consequently, the RAIA does not support the reduction of the NCA role in both planning and development management in designated areas, as currently defined. The RAIA supports the use of national design competitions for important projects in the national capital area. If leased land in a designated area were transferred to the ACT government, then the RAIA believes that the NCA will need to establish development codes for these areas, reflecting issues of national significance.

The RAIA notes the recent incorporation of DAF principles to ACT government local development codes and assessment procedures and suggests commensurate changes to the National Capital Plan as part of the creation of an integrated planning document. The RAIA supports the use of the DAF model for community consultation in the development and assessment process to address aspects of projects where competing policy objectives require resolution. Finally, the RAIA supports the use of peer review process, design review panels or design integrity panels, as they sometimes are called, for the resolution of conflicting matters, including appeals from proponents. This is in support of design excellence.

We now go to the resourcing of the National Capital Authority. As you can expect now, the RAIA does not support the severe recent funding cut to the National Capital Authority prior to the completion of this review. The RAIA does not believe that there was significant duplication of roles between ACT planning and the NCA to warrant this funding cut. The RAIA believes that only the Commonwealth, through the National Capital Authority, can represent appropriate national interests in Canberra and the ACT and that the NCA is best placed to provide a review of funding requirements essential to discharge its responsibilities and obligations as well as to identify appropriate savings.

I would now like David Flannery, the ACT chapter president, to take on some specific issues in more detail. Thank you.

Mr Flannery—In this part of our presentation, I wish to make some more detailed comments about two of the key issues raised by the terms of reference—namely, duplication and consultation—and make some brief comments about the possibility of an integrated planning document. I would like to begin with a few remarks on the issue of duplication.

In establishing an agency to administer planning on behalf of the Commonwealth at the time of transition to self-government for the ACT in 1988, it was assessed that a statutory authority was an appropriate model. Our institute submits that this remains the case. The National Capital Authority and the ACT Planning and Land Authority have, by necessity, fundamentally different tasks. While ACTPLA seeks to promote high-quality design, its regulation of land development uses code requirements defining a minimum development quality to be achieved. The NCA's task is to regulate development to achieve, at the outset, a very high quality of development, reflecting the cultural significance of the institutions, the civic spaces and the settings they oversee. Our institute sees the need to acknowledge the difference in mandate of each of these two planning authorities and we support the difference. The RAIA would not support the transfer of development assessment responsibilities of leased land in designated areas to the ACT government. Yes, there has been and there is some so-called duplication across the two planning realms, but the day-to-day experience of our members has been that the amount of frustration or difficulty related to duplication has been negligible.

I think we need to be clear here to define what the grounds for duplication are and whether we are confusing duplication with the tensions that sometimes are manifest between the two planning authorities as they face each other, as it were, on opposite sides of the lake. Our institute acknowledges that the duality of the NCA, acting on behalf of the Commonwealth, and ACTPLA and other ACT departments, acting on behalf of the ACT government, does produce some tensions around planning issues. This is not duplication per se, nor is it necessarily a symptom of a system in crisis. Some tension should be expected in that a balance needs to be struck between local and national requirements and local and national policy directions. This level of intergovernmental tension is normal and it is in fact healthy, as can be seen to exist between the state and local government planning authorities elsewhere in this country. The differences and any overlap become part of our successful system of checks and balances.

As Alec has stated, the RAIA strongly support the retention of the NCA, but we would welcome one of the key outcomes of this inquiry being the recognition of the dual interests of the Commonwealth and the territory in the planning of this city and, further, the clarification of the strategic and planning responsibilities and the roles of the two planning authorities. Where is the duplication? The NCA described all of this this morning, and I am sure the ACT Planning and Land Authority will elaborate on all of this in detail tomorrow, but we see duplication not just between the two authorities but within each government administration.

Firstly, I will make some comments about duplication between the two authorities. Significantly, there has been duplication arising from the ACT government undertaking a review of the broad strategic planning for the city. The territory government has, we acknowledge, a legitimate interest in strategic planning for the city in that it is inseparable from its capacity to achieve its policies on behalf of the Canberra local community. However, while the Canberra Spatial Plan and other elements of the Canberra plan are a valuable statement of the ACT government's aspirations and issues with regard to the long-term planning of the city, strategic planning for the territory requires the overlay of the Commonwealth's requirements and regional interfaces to form the basis for a comprehensive approach for the future of this city.

The strategic planning framework to address future needs should be led by the Commonwealth through the NCA in collaboration with the ACT and, indeed, with surrounding New South Wales local governments. The established policy needs to be rigorous in addressing

environmental, transport and city form issues and the legacy of thinking embodied not only in Griffin's work but in the work of the 1960s on the Y plan, which set the current framework for urban growth. The NCA needs to rebuild its strategic planning capacity commensurate with its role in overseeing the Commonwealth's interests. Resources in this area should be significantly enhanced.

I will now make some comments about duplication across Commonwealth departments. The Commonwealth requires an agency to act on its behalf in planning and regulation of development in the Territory and to commission and maintain works required to fulfil Commonwealth government needs, both functional and symbolic. The latter is also managed by other Commonwealth departments on an individual project basis. We have talked about some of those departments this morning—the Department of Defence and the department of finance, just to name two. What these Commonwealth departments do not bring, and should not be expected to bring, to the process is an overview of the quality and character of the broader realm, the context in which their building is sited and its place in the long-term planning of the city.

The NCA is the only Commonwealth authority that would have the design and planning expertise and the understanding of the value of the built environment to undertake this role. If the design control role of the Commonwealth were to be handed over to the territory, this internal checking and control mechanism would be lost. We propose that the NCA be given greater influence on planning and implementation of development projects by Commonwealth departments.

I have some comments about duplication within the territory administration. The management of the planning responsibilities of the ACT government has been very fragmented and changeable, over the last 20 years particularly. There is no single point of authority empowered to resolve conflicts between policies from the various departments that impact on planning decisions. We see this as a major flaw in the system.

I would like now to make some comments about the possibility of an integrated planning document, which was raised this morning by the National Capital Authority. Our institute would support the creation over time of such a single integrated planning document. This is to facilitate increased clarity of the responsibilities for people unfamiliar with the current system and to ensure the same general codes apply across all relevant development in the ACT.

An integrated document would require two separate statutory sections. This would deal with the need for the Commonwealth and ACT governments to have the capacity to amend their own statutory document. The opportunity to undertake a review of the National Capital Plan and a closer integration of the ACT controls within an integrated document would be welcomed. This process would promote thorough public debate about policy areas such as containment of urban sprawl, the future form of the city and its relationship to the region, water and energy conservation, land use location and density relative to transport and parking, urban design and architectural design quality appropriate for our national capital.

Another important part of maintaining accountability is community consultation on policy. The Institute of Architects has been actively involved in developing the DAF model for development assessment. A core principle of the DAF model is that policy governing planning and development regulation should be developed through:

... effective consultation with the community, professional officers and relevant experts.

This requirement for consultation is substantially met, being set out in the act and the NCA's 2007 consultation protocol if fully implemented. Under the DAF model, the role of community consultation in the development assessment process is to address aspects of projects where competing policy objectives require resolution. The Institute of Architects submits that this should be the basis for requiring the notification of works approval applications.

In wrapping up, I would like to try and summarise or bring together our key recommendations. Strategic planning for the ACT should be controlled by the Commonwealth to ensure a long-term national focus, and the National Capital Authority should enhance its capacity in the strategic planning requirements for the ACT. A rigorous review should produce a fully integrated land use and infrastructure framework that provides a sustainable city into the future. We also believe and recommend that the Commonwealth should resource the NCA to undertake a comprehensive update and reformatting of the National Capital Plan, with a view to facilitating the creation of an integrated document with the ACT, and to do that within five years. The Commonwealth should set out the strategic planning framework for the territory. The National Capital Authority should subsequently review this strategic plan every five years in consultation with the ACT government. Funding to the NCA should be restored to at least the pre-2007-election levels, and a detailed review should subsequently be undertaken of ongoing funding requirements. The NCA board should be increased in size; we support that. The ACT government, we believe, should have minority representation on the board by either the ACT Chief Minister or the ACT planning minister, or a delegate from both. The criteria for selection of the board members should require both geographic distribution and relevant expertise. Other than this, the current governance structure should be retained. The Commonwealth, through the National Capital Authority, should agree on and establish protocols for the engagement of the ACT government, and regional local governments, in developing ongoing planning policy for the ACT. In particular, the NCA and the ACT government should agree on a protocol for ensuring that ACT government policies and issues are fully presented and considered in the ongoing reviews of the Canberra Metropolitan Plan.

In conclusion, the thrust of our position today has clearly been to support the continuing role of the National Capital Authority. The importance of a statutory authority as a professional and independent body that acts as the Commonwealth's agent for the protection of the Commonwealth's interest in Canberra and the ACT is fundamental. We need a vibrant, professional and well-funded National Capital Authority to look after that interest so that Australians, one and all, can justifiably be proud of this great city, Canberra, as our national capital.

Mr NEVILLE—I am quite perplexed by one of your recommendations. This morning we heard the National Capital Authority itself saying that not an integrated plan but an integrated authority representing both governments would not work. I think they gave a pretty fair explanation of why that would not work. Now you are recommending that the Chief Minister or the planning minister of the ACT should go on the board. How would that work? You would have an ACT minister answering to a federal minister through a board. What would the role of that minister be if there were a conflict between the NCA and the ACT government? Where would that director's first responsibility lie? What would be the situation if the NCA wished to discuss in committee some form of conflict with the ACT government? How could any of those

functions take place if you had an ACT minister on the board? When you really think it through, I am surprised you even put that up to us.

Mr Tzannes—I think part of our recommendation is that there be a national capital plan which integrates the two statutory authorities. On the board, there is value in coordinating the thinking behind the administration of the national capital.

Mr NEVILLE—But can't that be done at other levels?

Mr Tzannes—It may be able to be done at other levels, but we believe that the board members would be responsible for carrying out the obligations of the board.

Ms Hughes—I would just like to say that we understand that a similar governance model is, in fact, used in Washington. On the commission that is responsible for the planning of Washington there are, in fact, minority representations from the districts that they need to liaise with. The benefit, and the reason we have put it forward, is that we think that there is a very legitimate interest from the ACT government in the broad strategic planning and amendments that the National Capital Authority makes, and it seems to us to be one mechanism whereby they can put their interest very directly to the members of the authority. The reason they stay a minority group is that the authority needs to have a remit beyond the ACT. It just means that the ACT representatives can be in the room to put those issues to that authority as part of the debate within the authority, which we would expect to be diverse.

Mr Tzannes—I might just conclude by commenting that the board's duties would therefore engage both aspects of the statutory powers within the ACT. Debate about matters within the board, I would imagine, would be enriched by having that representation and acknowledgement of those statutory powers.

Mr NEVILLE—With great respect, I think it would create more problems than it would solve. Moving on from there, with the exception of that particular clause your submission bears a very close resemblance to that of the NCA itself. Could you tell me honestly whether you have been lobbied either formally or informally on this matter.

Mr Tzannes—No, we have been informed of the NCA's roles and we have had a briefing at the National Council by the NCA; we have had no other involvement with them. We formed our view as a National Council. I chaired that meeting. Our view is completely independent of the NCA's. Indeed, our view is not the same as the NCA's as I understand the NCA's view, because we do not support the shrinking of its areas and we also support increasing its funding, in fact.

Mr Flannery—I will just correct that statement in part. The ACT Chapter of the Institute of Architects also has been briefed by the NCA.

Mr Tzannes—Sorry, I was not aware of that.

Mr Flannery—The National Council and the ACT chapter council have been briefed, and we understand that, as the Chief Executive of the NCA said this morning, she has consulted with a number of the other industry and professional groups in Canberra.

Senator HUMPHRIES—About what?

Mr Flannery—We have been given a preview of their position with regard to their recommendation, which they talked about at length this morning, for the contraction of the designated areas. That was the particular emphasis of what they were talking about.

Mr Tzannes—I might just mention how the national council of the RAIA works. The national council comprises 12 members. There are eight members, including one student president, representing the states and territories and there are four nationally elected councillors. We have formally minuted meetings. We have presentations given to us by many groups. We had a presentation given to us by the NCA on this matter. When they left the room we debated our views and formed a view independently.

Mr NEVILLE—Immediately after their presentation?

Mr Tzannes—No. Our view was formed over a period of time. But we developed our general outline from the presentation and did further research. Sheila Hughes, as you heard, was a councillor and she was involved in developing more information. We then formed our view, through the executive.

Ms Hughes—We have been actively involved in the ACT's planning reform process for the last two to three years. That has involved detailed discussions with both ACTPLA and the NCA on a number of occasions. The idea of the integrated planning document—a single document that would allow for coordination of definitions and, indeed, the bringing together of some general codes—was tabled long before this inquiry was even raised.

Mr NEVILLE—I do not dispute that. By their very nature, your profession and your institute have to deal with governments and authorities like this. I am not questioning that. But shouldn't there be a more robust and individualistic approach to this issue from a national body of architects?

Mr Tzannes—Not necessarily.

Senator HUMPHRIES—Can you describe to me what you consider to be the state of architecture and design in the national capital at the moment?

Mr Tzannes—The national capital remains a significant area in which significant works are undertaken. For example, the National Portrait Gallery is currently under construction. We would expect that building to be yet another very significant building in an international and an Australian context. You may not be aware that the firm and one of its principals, Richard Johnson, who is the author of that building, recently received the highest award that the institute can give, which is the gold medal. We have also seen from time to time the work of the National Capital Authority. We regard the work on Constitution Avenue and other areas to be of the highest standard of urban design. In fact, it leads the nation, compared to what we find in many other parts of the country, at a state level—and we wrote a significant submission to support this work.

Senator HUMPHRIES—Are you making that comment about the high standard of urban design which leads the country only in respect of the Griffin Legacy proposal or are you saying that generally about the work of the NCA?

Mr Tzannes—We find the work to be of a very high standard generally, but I have highlighted a recent example of that work because it is a contemporary example. It is unfortunate, in our view, that that work has been terminated as a result of the cuts. We would also cite many works that have been completed that have had their design stewardship or review process controlled by the National Capital Authority, not least of which is the lights along Anzac Parade, which I am familiar with. This work has received international peer recognition through international awards and is groundbreaking both technologically and for other reasons. Similarly, earlier this morning the Institute of Architects, which is about policy and principle, said it believes the National Gallery issues have been properly dealt with and were correctly reported this morning by the National Capital Authority. That is an example of a very emotional and interesting culturally-oriented debate. Nevertheless, the selection of the architect and the attention given to moral issues has been carried out with proper peer review, which we have supported. That is another example of how to manage a very complicated project of national significance.

We also think some private development work that has been carried out in recent times around the lake is of a good standard compared with what is achieved in many parts of this country. In fact, the Institute of Architects recently awarded two buildings—one of the authors is beside me. They were the John Curtin School of Medical Research and another building from a Melbourne based firm. They achieved the highest awards at a national level. I do not believe the ACT has anything other than excellent design standards.

Senator HUMPHRIES—Do you think that standard of design and architecture is in any way at risk given the recent changes to the NCA's budget position?

Mr Tzannes—Yes. We believe it is at serious risk. We think that the stewardship of design, the national interest in the buildings and the open spaces, and the sustainability issues related to the context of Canberra—the natural settings and many other issues related to that—are all under threat. The National Capital Authority has been a successful champion of excellence and we think it embodies skills that it is rare to find anywhere in the nation.

Senator HUMPHRIES—Can I ask you to comment on the NCA proposal for an Australian government architect to become a member of the NCA board? I am told—and I was not aware of this—that there was such a position until the 1980s. The position has lapsed. What value do you see in such a position and is it the best way to incorporate a higher quality of planning design into the processes used by the NCA? Do we not achieve that already with the processes that have been used to date?

Mr Tzannes—The Royal Australian Institute of Architects has a longstanding commitment to establish an Australian government architect, and it has been successful in re-establishing state government architects in Victoria, Queensland, Western Australia and the Northern Territory. We are beginning to be successful but have not achieved it yet in South Australia and Tasmania. The government architect's role in New South Wales has varied from time to time and we believe it should be strengthened.

The value in recent times of the Victorian Government Architect to the state of Victoria is one example, but not the only example, of why government architects are important. I will come to the Australian government architect in a moment. The first Victorian Government Architect for some time is the distinguished architect John Denton from Denton Corker Marshall. That firm is very highly recognised in Canberra. The ability to oversee and provide guidance to significant government investment, to ensure design quality, to ensure fair process and to mediate in issues has been exemplary—as has been the case in Western Australia. Significant contributions have also been made by the part-time government architect in the Northern Territory by providing advice on the recent redevelopment of the waterfront areas.

I now go to the Australian government architect. We feel a similar role which embodies, oversees and provides comment on government investment in built infrastructure of all kinds is a vital coordinating role and a role which delivers independent advice. We see that the Australian government architect can improve many aspects of the work of the profession in the public interest. I do not think it is the subject of this inquiry, but for some years now there have been unreasonable, uninsurable government contractual conditions which are ultimately against the public interest and have caused enormous cost to the community. These are the sorts of issues on which an Australian government architect would be able to provide an independent assessment in the interest of all working for the government. We in the institute firmly believe in the value of an Australian government architect.

CHAIR—You talked about the communication you had with the National Capital Authority with respect to the ideas that they presented here this morning. Can I clarify whether or not they presented those ideas to you specifically and asked for your opinion? The implication we heard this morning was that the NCA had actively consulted with respect to the ideas in their submission today, so I want to get a feel for the interaction that had occurred between you and the NCA on their submission in particular.

Mr Tzannes—Simply put, at the national council level—maybe Mr Flannery can deal with the ACT chapter—

CHAIR—So it was those two meetings that you were talking about?

Mr Tzannes—Yes. I was not present at the ACT government one. I chaired the national council meeting. We simply sought information. We simply sought where they have been, what they are doing, what has happened as a result of their funding cut and what their position was.

CHAIR—Going forward?

Mr Tzannes—Going forward. It was some time ago. I did not fully hear this morning's presentation—I came in at the end of it—so I do not actually know whether the information is the same. Sheila informs me that the maps are slightly different and so on.

CHAIR—One of the questions I asked the National Capital Authority was to what extent they had consulted on the proposals that they tabled today in the committee. I am just trying to ascertain—

Mr Tzannes—They had not consulted us at the national council.

Ms Hughes—No, and they were not consulting. They were basically putting forward what they were preparing to put forward and they were informing us what they had gone to the ACT government with as a proposal.

Mr Tzannes—As anyone who has known the institute of architects over many years is aware, we form our own views.

CHAIR—I appreciate that, but my questions are coming from a different direction to Mr Neville's. I am trying to ascertain whether or not what the NCA did with you fulfils the criteria of what you would consider consultation, because that was certainly the way it was put to us this morning.

Mr Tzannes—No, I did not see it as consultation as such.

Ms Hughes—No. We were keen to get an understanding of where the NCA felt it was going to go. We did not feel it was appropriate in the context of this inquiry that we necessarily should be consulted, given that we would be making a formal submission to this inquiry which would reflect our own views. Therefore, we did not request consultation; we just requested information.

CHAIR—In terms of any recollection you may have as individuals or as an organisation about the considerations leading up to the 1988-89 period, when self-government was established here and the PALM act and the Territory Plan were created, is there any insight you are able to give to the committee about the sorts of considerations that were on the table then that shaped that arrangement? Are there any insights you may have on, I suppose, the gaps in that system—how it relates to some of the problems we have been experiencing or anything like that? I am interested in that period of the history of the plans.

Mr Tzannes—That one is not for me.

CHAIR—Sorry. I do not know if you are able to help but, if you are, I would appreciate it.

Ms Hughes—I think you would be better off asking the Law Society of the Australian Capital Territory, if they have made a submission. They have fairly clear memories of the reasons for the structures of the legislation.

CHAIR—I appreciate that. Did you have any insights, Mr Flannery?

Mr Flannery—I came to Canberra in 1987 but was not involved in 1988-89 with any of the deliberations at high level. I was not actively involved in the institute, although I was a member at that stage, but I was not involved in any planning committees or indeed on the ACT chapter council, where these things are usually discussed at length and in detail. So I cannot answer that question.

CHAIR—That is fine. You spoke about an integrated plan with a clear hierarchy for the Commonwealth and the NCA and the two statutory plans within that model. How do you see that being expressed in terms of the visual representation of the responsibilities? We are not expecting every witness to come up with a flash presentation like the NCA's, but what do you see as the split in terms of jurisdiction?

Mr Tzannes—There are a couple of key principles that might be worth backgrounding. We believe that the future is about sustainability—that one of the most important questions facing us is the ability for governments of different persuasions and from different constituencies to effectively work together in the design and management of our cities to achieve sustainable cities. This will be a major contributor to lowering greenhouse emissions if we can achieve it. We therefore believe that in an area such as the ACT there need only be one effective plan and, within that plan, recognition of the two levels of government coordinated and integrated through processes relevant to the issues identified within the objectives of the plan. We do not think that is a complicated document to construct. We also see this as being vital to effective and coordinated investment in management of the built environment. Also, because sustainability crosses many broad areas, it is vital that it is a coordinated dual government document.

CHAIR—Do you have any examples of how climate change related issues and green buildings, for example, can be expressed in a plan of this type?

Mr Tzannes—Yes, that is something that we can provide information on in some detail. For example, under the green star rating, we have learned how to rate buildings reasonably well, and we are now developing tools to rate areas—to rate neighbourhoods, to rate places—and that is a developing skill.

CHAIR—Do you think that the plan you are proposing should prenominate certain ratings to achieve those sustainable outcomes? Is that something you are advocating?

Mr Tzannes—There are a number of different avenues for achieving innovative planning guidelines. But, if there was a general principle to apply, it would be that any new planning initiative, any control mechanism must now have a firm environmental basis to it—that the design and management of the public environment in particular, but also, effectively, the private environment through the public environment, is a sustainability issue. That of course informs every decision that planners make related to massive issues such as public transport or general transportation.

CHAIR—You have anticipated my next question very well, which is: given you have made the observation about the relative lack of attention across the board to transport and traffic related issues, how would you suggest that those issues be better reflected in the National Capital Plan—because it is an identified weakness—and particularly overlaying the issue of the Commonwealth building planning decisions as well, which cover both national capital and territory plans?

Ms Hughes—I think an interesting thing that was left out of the discussion about the airport this morning was that in amendment 44 there was also a statement that Commonwealth departments should not be located at the airport. So one of the interesting things is the role that the NCA might take in locational employment of departments such that they support sustainability outcomes in terms of simplifying transport and supporting transport objectives.

CHAIR—So that is one thing we could put in the plan—what you just described then?

Ms Hughes—You could. It was taken out by the Airports Act amendment. The other element that is really important is that one of the things we are becoming more and more aware of is the

need for density of development to support transport—public transport in particular. The structure of the city needs to take that into account. The ACT government has been looking at this and it is something that I think should be a joint initiative of the ACT and the Commonwealth governments. In fact, rather than removing arterial roads from consideration of the Commonwealth—and, indeed, supporting of that infrastructure—there may be some benefit to the Commonwealth considering not only arterial roads but also public transport key infrastructure to support the long-term development of a more tied land use and transport development plan. One of the things that we would look to there is that that might mean that, when you are working with both the ACT government and the Commonwealth government in looking at the shape of the metropolitan plan, you might go to a greater level of detail than the Canberra Spatial Plan and the current metropolitan general plan and look more clearly at density in new developments as well as in the older area of the city and how that might interrelate with the transport relationships throughout the city. It is one of the key issues related to ongoing sustainability and functionality of cities.

Mr Tzannes—I might have an after word on that. Density is the key issue and it is also one of the most difficult political issues. The obligation to achieve sustainable cities means challenging current levels of density. That proposition means that you must also achieve reasonable levels of amenity, both internal amenity for people—for example, where they live and how they live—and general public amenity. For example, the application of state environment planning policy 65 in New South Wales has meant that for residential developments we are achieving higher standards of design than anywhere else in the country. It is an example of where you can use a planning process to fundamentally improve denser residentially orientated living environments. So there are many tools. That is why I was hesitant to go down a rating system only. With sustainability, I think you have to have a multifaceted attack and it is a complicated question.

Ms Hughes—And the other thing to be aware of with the particular rating system in green star is that it is a moving feast. It is deliberately designed as a tool which will raise the bar continually. So referring to a particular standard is not necessarily the appropriate thing to do. It may be more appropriate to think of other targets that could be legislated.

Mr ADAMS—Is that standard a public document?

Ms Hughes—The green star guidelines?

Mr ADAMS—Yes.

Ms Hughes—Yes, it certainly is. It is by the Green Building Council of Australia but it is not a standard: that is exactly the point I was making. If you want a standard and a way of regulating the quality of development, you go to the Building Code of Australia, which is the standard, and that has incorporated a number of energy things. The green star is very much more a tool designed to promote innovation and improvement.

Mr ADAMS—We need that. I just get concerned about kids losing their backyards when we talk about plot ratio and density and things. The social aspects are always lost in the move to save our world. So I am interested in having a look at some of that. I was interested in the high standard that Alec has talked about in design—with bringing in sustainability and other things—

and how you measure that in today's world as opposed to 30 years ago when you had great slabs of concrete, and changing usage and things.

Mr Tzannes—The standards that I referred to have two different ways of measuring. Some are quantifiable standards. They relate to things you can measure—things such as solar access, cross-ventilation, energy gain within a building and minimum distances between certain parts of buildings. Then there are other more qualitative requirements, which are site-specific guidelines, if you like, about how to design and manage buildings. So that is one area in Australia which I think has had legislative advance: the design of denser residentially orientated developments through this particular tool. But I think this whole question that we are talking about is that we are at a time which is almost unprecedented in terms of having to review how we think about the future. There is a lot going on around the country to—

Mr ADAMS—I am interested in the public debate. There does not seem to be much public debate about it. We have groups like yours, which is an elite group, having input, but there is not a lot of public debate about this. I would like to see more of that.

Mr Tzannes—Yes. I am not familiar with the local Canberra debate. I know in New South Wales it is very hot.

Mr ADAMS—It just comes back to some of this debate. Input that we have had today is that it seems that people in Canberra have opinions which are not getting into the planning. You commented about the DAF model of consultation. I take that on board. There seems to be a lack of that in some areas.

CHAIR—If there are no other questions, I would like to thank the RAIA for their attendance here today. If you have been asked to provide additional material—there are a few questions there—could you please forward it to the secretary of the committee by 2 May 2008? You will also be sent a transcript of evidence taken by Hansard, which you can correct in terms of grammar and fact. Thank you very much.

[3.26 pm]

FORREST, Ms Anne, Private capacity

GEUE, Ms Jean, Private capacity

LANDAU, Mr Les, Private capacity

MORISON, Mr Ian Warren, Private capacity

PINKAS, Ms Georgina, Private capacity

THOMSON, Mrs Jean, Private capacity

SAUNDERS, Mr Ray, Private capacity

SHORTHOUSE, Mr David, Private capacity

WILLHEIM, Mr Ernst, Private capacity

KENT, Dr Bruce Eric, Private capacity

ODGERS, Mr Brett James, Chair, Canberra Chapter, Walter Burley Griffin Society Inc.

WEIRICK, Professor James Murray, President, Walter Burley Griffin Society Inc.

CHAIR—We now move to the public forum stage of the hearing. It will be helpful to the committee at this stage for you to indicate if you would like to speak. Please limit your statements to five minutes. If you do not need all that time, please do not feel compelled to fill the five minutes.

We will ask you to state your name and the capacity in which you appear—for example, you may be appearing as a citizen or you may be here representing a community organisation or a professional body. If the numbers grow, I may have to be tighter with the time. I assure anyone who misses out today that the committee will discuss at our next private meeting an opportunity to make sure that everyone can provide input to this inquiry. So, if you feel you have missed out, please approach a member of staff and the committee will discuss that opportunity at a private meeting.

Those people wanting to present, please line up in front of the microphone. For those of you who have already presented today or have arranged to appear before the committee at a later date, please give other witnesses preference. This forum is designed for those who have not been able to present as a formal witness. Sir, please introduce yourself.

Mr Willheim—My name is Ernst Willheim. I am a resident of Canberra and I appear as a private citizen. I do not represent anybody. The view I want to put to the committee is that, if the

National Capital Authority is to retain responsibility for making individual planning approval decisions, those decisions should be subject to appropriate external review, probably by the Commonwealth's Administrative Appeals Tribunal. If that responsibility were to be transferred to the ACT authorities, then of course the ACT's AAT would have that jurisdiction.

In support of that, I would suggest that external review would be consistent with the approach to planning decisions in the states and territories. In the ACT, we have the ACT AAT. It would also be consistent with the general position in Commonwealth law that administrative discretions are subject to external review. The committee will be familiar with the role of the Commonwealth parliament's Scrutiny of Bills Committee, which in fact subjects new legislation to scrutiny as to whether administrative discretions are subject to external administrative review.

I listened earlier this afternoon to a representative of the Attorney-General's Department. I understood him in response to a question to say that he did not support external review. If I heard that correctly, I have to say I am absolutely appalled. I was, before I retired, for many years head of the administrative law division and the justice division of the Attorney-General's Department. We used to vigorously fight other departments to get external review of administrative decisions. I suspect that the officer was not reflecting the view of the Commonwealth government. I would be amazed if this government in fact was opposed to external review. I suggest that the committee should ask the Commonwealth Attorney-General whether his officer reflected the views of the government.

Perhaps to illustrate the sort of occasions where external review would be relevant, I would like to refer the committee to what I see as a particularly bad planning decision by the National Capital Authority. I think members of the committee will be familiar with the developments opposite the executive entrance to Parliament House at the intersection of Melbourne Avenue and State Circle. An overseas visitor of mine came past there recently and said, 'Who the hell approved these awful condos? Don't you have a planning authority?' If you look at them, they really are appalling. The development is quite massive in scale; it dominates the landscape. There was a question earlier about backyards. There is a massive plot ratio; there is hardly any land left; there is no scope for trees and shrubs and so on. Yet people living in the area had no opportunity to appeal against the decision of the National Capital Authority approving this development. If it had been anywhere else in Australia, if it had been a decision of the local planning authorities, there would have been provision for external review. That is just one example of an appalling decision not subject to administrative review.

Very quickly on just one other point, the architects put forward a proposal that the ACT Chief Minister or his representative should be on the board. I invite the committee to look at one possibility. Assuming the Chief Minister did not attend but invited another member of the assembly or one of his officials to attend a board meeting and then after the meeting asked his representative to report to him, how would that go in terms of the confidential discussions of that board? In what sort of a position would that officer be in terms of revealing confidential board discussions to a territory government? I suggest to the committee that there are very difficult questions there which I suspect that the architects' body has not thought through.

More generally, I refer to the National Capital Authority's work on the Albert Hall. They had these extraordinary proposals for an eight-storey building and other developments. I went to the public consultation process. After a detailed technical explanation of what was happening, I

asked the chief planner, ‘What’s the rationale for this? Where’s your policy for all this?’ and there was a stunned, embarrassing silence. He had no answer. I suggest that they are not really a highly regarded authority.

CHAIR—Thank you very much. Please introduce yourself.

Ms Pinkas—My name is Georgina Pinkas. I am a concerned ACT resident. Thank you for the opportunity to speak. First of all, the previous speaker has saved me a considerable amount of time because I was going to talk about the need for an appeal and I was going to use the State Circle as a prime example of where we need to be able to review national planning decisions when they are totally out of the policy parameters of what we would expect from a national planning body. That saved a bit of time for a start.

I would also like to clarify statements I made in my submission to the committee where I was talking about designated land. I am used to talking about territory designated land; I was not referring to Commonwealth designated land in any points in my submission. I was interested that some of the earlier submissions seemed to want to actually increase red tape rather than reduce it. As a concerned ACT resident, I appeal to the committee: whatever recommendations you put in place, make sure that we get more streamlined outcomes for the territory, because our economy needs it if nothing else.

I was very pleased to see that Annabelle Pegrum has actually followed up on the previous discussions she has had and has reduced the area of land that she proposes that the NCA or whatever body administers in detailed planning, because it is quite ridiculous, as I said in my statement, that the colour of the Olympic pool should depend on the NCA. I was horrified to find out that the NCA expects to be taking over the land that the Olympic pool is on and I hope that, if it does take up any community resources, the committee makes sure that the people of the ACT are consulted and that there are no back room deals to trade our municipal facilities to the Commonwealth. That is an extremely important point.

Earlier comments too today were about planning delays with Molonglo. As a person that worked intimately with some of that in my previous life, I would like to assure you that the NCA cooperated fully with the territory in developing plans for Molonglo and I congratulate both planning authorities on the work they did. It does take a lot of work to develop plans for a new development like Molonglo and it was an example of great cooperation. Both agencies agreed to progress the changes to their plans—the National Capital Plan and the Territory Plan—at the same time. That is the sort of cooperation that we want to encourage.

My final point is to stress the protocol. Annabelle Pegrum said that the ACT government requested this draft amendment 53. As some of you know, I was in a position to know what happened at the time and it was not the ACT government. It was not the minister for planning; it was not the ACT planning authority. As far as I am aware, it was an officer within another area of the ACT government who had discussions about the commercial opportunities for this land. Now there is a protocol—and I do not know if it is in legislation or not—such that discussions between the two governments in terms of planning are done planning authority to planning authority. That has worked very well in the past, as some of you would know, and that is the way we have tried to ensure that we do not get people going off with ideas to the National Capital Authority just bringing—

CHAIR—One minute.

Ms Pinkas—So I would stress that we have a protocol of consultation between whatever planning body we end up with in the ACT, planning authority to planning authority, not whoever within each agency has a whim to go and raise ideas with another agency. I think that is very important. That is all I want to say. Thank you.

CHAIR—Thank you very much. I have been reminded of something with respect to broadcasting. We have a number of local TV stations interested, so I would just like to read out section 6 of the standing orders relating to radio and television broadcasting of committee proceedings for the benefit of participants. Where a committee intends to permit the broadcasting of its proceedings—which we are—a witness who is to appear in those proceedings shall be given a reasonable opportunity before appearing in the proceedings to object to the broadcasting of the proceedings and to state the grounds for their objection. The committee shall consider any such objection, having regard to the proper protection of the witness and the public interest in the proceedings. If the committee decides to permit broadcasting of the proceedings notwithstanding the witness's objection, the witness shall be so informed before appearing in the proceedings. If you have any concerns, because we are permitting broadcasting, please approach the committee and we will make alternative arrangements if you are not comfortable with broadcasting; otherwise, if you are comfortable with that, please proceed. Sir, please introduce yourself.

Mr Morison—I have no objections. My name is Ian Morison. I was a member of the Albert Hall committee this morning, but I am speaking in a private individual capacity now. I should say also that I was for some years a traffic engineer and transport planner for the National Capital Development Commission and I am drawing on some of that experience.

The main point I would like to make to the committee is that Canberra's design and planning legacy is much more than Walter Burly Griffin. I wish to mention in particular Sir William Holford's plan of 1957, at the very beginning of the National Capital Development Commission's existence, in which he inserted some essential modernising components into the city—namely, Parkes Way, better access to Kings Avenue Bridge and Commonwealth Bridge and, of course, restoration of the lake. So that was a very significant updating and restoration of Griffin's intentions.

After that the National Capital Development Commission implemented a great number of works in the central area, in particular, the landscaping of Anzac Parade and Commonwealth Gardens and the settings for the National Library and other buildings, which set in place the Canberra that we know today and which enhances the original lines of Griffin's layout. As well, the NCDC put forward and carried out a plan for balanced development, which is quite important for Canberra for it to avoid the problems of excessive congestion at its centre, which lead inevitably to improvement works which would be in conflict with the formal arrangements of the Canberra central area.

Having made the point that there is much more than Griffin, I want to draw attention to the fact that amendment 33 in 2001 to the parliamentary area removed much of what Holford had proposed, and the NCDC had built, in the form of access to the bridges and the roads leading up to the bridges—Bowen Drive and Flynn Drive. The only reason I could think of for the removal

of those features is either an ideology that is anti car or a desire to use the area of these loops to have more development. In a superficial sense, that would be a little bit like the Griffin idea, but to my mind it is entirely misplaced and that plan gave rise to the problems around this building in draft amendment 53. So I just want to make that connection. Thank you.

CHAIR—Thank you very much. Please introduce yourself.

Mr Landau—My name is Les Landau. I am here just as a citizen. I thank you for the opportunity to talk to you. I would just like to talk to supporting the role of an independent, well-funded NCA. My concern comes from the conflict of interest that might arise if a number of those roles were transferred to the ACT government. Maybe I am rather naive, but I see the ACT government's involvement in planning as already something of a conflict of interest because of the raising of revenue they get from rates and so on. It is in their interests, to some extent, to increase the amount of development. I think the NCA forms a very good balance against this because in the more important areas of national significance in Canberra they have the first say, in some respects. I am not aware of all the details of the rules and regulations in how they balance that, so please forgive me if I am not necessarily technically accurate. It seems to me like they have a say in what can happen in areas such as the lake foreshore and around the Albert Hall, for example. In my experience, in more recent times in particular, the NCA have been much more willing to communicate with the public, as evidenced by their proposal for what should happen around the Albert Hall and the lack of cooperation of the ACT government at the time, which did not even attend such meetings. The NCA have been willing to listen to the public and to change direction when they were convinced that it was not either reflective of the public's view or for the benefit of Canberra. That is about all I wanted to say. Thank you very much.

CHAIR—Thank you very much, Mr Landau. Welcome, sir.

Mr Saunders—My name is Ray Saunders. I have been in Canberra for about 40 years. During that period of time I became the first licensed real estate agent in Canberra and I am still extensively involved in some building. The biggest problem that I have found over the 40 years that I have lived here is the lack of community consultation by the planning authorities and the lack of consideration towards the community in the decisions that are made. If there were a greater involvement by the community, there would be better decisions and there would be less conflict.

I think a perfect example of that would be the shame—and I do say 'shame'—of the development at the Canberra airport. To allow that to happen in this city is a shame and it is a national shame. It is affecting the value of the properties in the ACT. It is questioning the very viability of the leasehold system. Every person in Canberra in recent years has become accustomed to the escalation of real estate, but very few people have come to grips with the fact that it is leasehold land; they do not own the land. The very essence of leasehold land was to provide land at a reasonable price so that people could afford to own their own homes. In recent years, the price of real estate has escalated to such a point that it is impossible for many people to purchase their own home.

Valuers today can bask in the satisfaction of going back to valuing land at a certain price. I can tell you, in this room, that I saw land in Rivett sell for \$2. The very essence of what has

happened at Canberra airport questions the very value of properties in Civic. People in Civic cannot get the returns out of their properties and will find it very difficult over the years for valuations to be sustained. The leases are for 99 years. What is the value after 30 or 50 years? There is no guarantee on the value of the land.

To see a development at the airport, as I say, really and truly has questioned and threatened the whole planning of the city, and it will affect it for many years. I do not think you can ever have reverse it. It is done and it cannot be undone, and it is continuing to be developed. The taxpayers have lost hundreds of millions of dollars that could have been recouped had that land and that development been properly handled, but they have not been.

In terms of asking the people to trust the planning authorities, I can say to you that over 40 years I have found that it is impossible to change any planning decision once they have made up their minds to do something. The only way that you can change a planning decision is to get the ears of the people who make those decisions before they make the decision. Once they make the decision, it is impossible to change it. They say that they have involved the community. They will state that they have questioned so many people. I would challenge that because they never ever give evidence as to who they have communicated with. They just simply say that they have had submissions from so many people. They never give evidence of that and they never give evidence for their reasons.

CHAIR—Thank you very much.

Dr Kent—My name is Bruce Kent. I am a member of the Walter Burley Griffin Society but I am speaking for myself here. I did not give testimony this morning with the Walter Burley Griffin Society. I want to make a few points. I am not a town planner but I have been in Canberra for 50 years and I was the secretary and treasurer of the committee to save Black Mountain, which was an important experience because, in those days, the planning authority really had grunt. The National Capital Development Commission was able to hold up and almost stop the construction of the Black Mountain Tower because the National Capital Development Commissioner of the day was legally entitled to insist on his agreement and imprimatur for any development proposals. He was able to stand up to two of the biggest bureaucracies in Australia of the day and say, 'We do not approve.' Those were the Australian post office and the Department of Works. Because the NCDC Commissioner had not approved of the Black Mountain Tower, the ACT Supreme Court found that the Black Mountain Tower was illegal. That was the power of the NCDC—a planning body. The government of the day was only able to get the tower to go ahead because Lionel Bowen, the minister for the Australian post office and Jim Cavanagh, the Minister for Works, were very powerful in the cabinet, and they manipulated the NCDC Act by fabricating a dispute with the Minister for Urban and Regional Development. They got a dispute going between the minister of the day and the commissioner. In the NCDC Act there was a provision that if there were a dispute between the two—both of whom disapproved of the tower—the matter would be settled by an order of the Governor-General in Council. They had to go to the Governor-General to get that tower built.

I am not advocating a reversion to the NCDC; it is impossible now. But since that day, the planning in this territory has entered into almost a state of nature—a war of everybody against everybody else, as it were. It is a Hobbesian state of nature. And you will get repercussions—the Canberra airport, all sorts of things—all over the place. These have been dealt with by previous

speakers. The symptoms of it are: firstly, we cannot regret the fact that we have ACT local government, but one of the consequences of that is the cash strapped local government. It needs to sell land and it needs developers to buy land. So it is vulnerable in that area.

The planning was divided between the ACT local government and an emasculated planning authority. That was and still is the NCA. It has not got the grunt to stand up to big departments. It will never do that; it cannot do it. Also the situation has been worsened by the fact that we have rogue elephant government departments going all over Canberra setting up a building here, selling it, buying another one in the wrong place and transferring all these people from one place to another. You can see what has happened—there are cars banked up along the shores of the lake. That is the situation; that is the expression of the state of nature which we have—cars all over the bloody place around the lake.

The other thing is that there has been an underlying assumption that the market is going to fix it. 'Let's leave it to developers; let the government departments behave as if they are firms. They should be able to buy and sell and do all these things.' The infrastructure of society is out of control; it is like rogue elephants all over the place. Therefore, we need a far more coherent planning body with grunt if this situation, this chaos, is to be remedied.

CHAIR—I need you to wrap up now, Dr Kent.

Dr Kent—We need, in short, an overall planning commission which works for the local government and also the Commonwealth and which would knock their heads together if necessary. You need people of distinction there and they are going not only to, I hope, knock heads together but also to consult with the community. I am sorry for going over time.

CHAIR—Thank you very much. I am sorry I have to be so hard about the time. I welcome the next speaker.

Dr Shorthouse—I am David Shorthouse, a retired private citizen, but for the last 15 years I have been involved with managing wildlife, threatened species and the environment for the ACT government. These are the sorts of issues I want to bring forward. I was also one of the initial employees of the National Capital Planning Authority when the NCDC was abolished.

My concern is that the NCA is gradually dropping the ball in terms of environmental issues, particularly in the central national area. When the NCDC was abolished and the NCPA was established there were four of us in the environmental planning area who were transferred and that expertise was either left there or there has been attrition over time. I do not know whether there is any dedicated environmental planning expertise within the authority.

I will give three examples of where I think things are deteriorating. At Yarramundi Reach there are a few patches of natural temperate grassland, which is an endangered ecological community listed under Commonwealth legislation. It is a bit of the lake foreshores that is rather neglected and allowed to perhaps wait for some development to occur, whereas those grasslands should be managed and their condition improved, given that we have so few natural grasslands left.

Stirling Park ridge is an outstanding example of yellow box and red gum woodland, which is another endangered community. Forty hectares is a very large remnant these days when many remnants of this woodland are of the order of five or 10 hectares. It has no formal designation as a nature reserve, which its quality demands, and it looks as though it is just waiting until Yarralumla has to expand or a new Prime Minister's lodge is built. You also have a threatened species there, an endangered species, the button wrinklewort.

The third example is the Jerrabomberra wetlands. If you look at the Griffin Legacy publication there are additional water areas to be established over an exotic grassland area which is habitat for Latham's snipe, which is a migratory species subject to Japanese, Chinese and Australian treaties. If there were a real understanding of the environmental qualities of the area within the authority, you would never destroy that habitat for that migratory bird by establishing a few more wetlands. It illustrates the fundamental misunderstanding of the resources there and how they should be treated.

I am asking for a greater addressing of the environmental qualities we have in Canberra by the authority, particularly around Lake Burley Griffin, so that these important areas are protected and improved and not just allowed to run down.

CHAIR—Thank you very much.

Ms Forrest—My name is Anne Forrest. I am a local resident. I am not sure I like doing this. In my view, the two planning authorities are failing our city. I want to give just two fairly specific and straightforward examples of failure. Possibly members of the committee may be able to ask questions of our local planners tomorrow or the next day when they appear about them. There was an NCA overlay to do with the intensification of development along our main avenues. I say 'was' because I do not now understand what is being presented by the National Capital Authority in relation to the future. I am assuming that those overlays still exist. Overlays existed for Canberra Avenue and Adelaide Avenue. There has been some intensification of development along Canberra Avenue that fits in with that without overlay; however, there are other places where the local planning authorities have approved small dual occupancy types of development in those very spaces where intensification was supposedly to occur. I believe that that actually threatens the protection of our suburban areas because of missed opportunities. For example, on Adelaide Avenue in Deakin a number of dual occupancy homes were approved on what was an open space where there could have been very high-quality intensification of development set back from the suburb and also set back from Adelaide Avenue.

A second example is a new street in Civic—Genge Street. It is a very narrow street which is now completely overshadowed by a new taxation department of 11 storeys, which I believe was a call-in by the local minister for planning at the time. I was informed that NCA personnel gave their opinion about the proposal in that area and in fact advised that Lonsdale Street, which is a divided road with a big median strip, be brought right through into Bunda Street. That would have meant that that taxation department would have had to have been set back further, but it would have been a wonderful avenue out of Bunda Street into Braddon. It is gone now for good. That was an NCA piece of advice which the local government could ignore because the NCA's responsibilities finish at a certain point.

I think there are some questions that could be asked of the local planning authorities about their due regard to the National Capital Plan and how the two plans are dovetailed into each other. It is my view that there should be one planning body for this city. We are a city of only 350,000 people and if we have two planning bodies then the planning expertise is going to naturally drift towards one rather than both. If we have one planning body—obviously I have heard this morning that the administration of that would be quite complicated, but I am sure it is not impossible—then within that planning body we could have a second tier which looks at the Territory Plan and then that responsibility could be devolved to someone who is in charge of that area. This city does belong to our nation and we should be setting new benchmarks in sustainability and we should be seeing architecture that is worthy of this city both in our national buildings and in our local residential precincts.

CHAIR—Thank you very much. Have we got any more takers?

Mr Odgers—I have already spoken this morning.

CHAIR—You will not be the first to speak twice, so please feel free at this stage. We will continue a little while longer.

Mr Odgers—I would like to confine myself to one point.

CHAIR—Please state your name for the record.

Mr Odgers—My apologies. I am Brett Odgers, Chair of the Canberra Chapter of the Walter Burley Griffin Society. Two points were made this afternoon with respect to the draft plans for the Molonglo suburbs west of Canberra. One was by the CEO of the NCA that there was a process in train whereby the NCA would comment upon the plans laid out by ACTPLA. Later, Georgina Pinkas, my friend Gina, told us that there is a history of very close and fruitful cooperation between the two planning bodies with respect to the Molonglo suburbs. Indeed, at the weekend we saw a photo of a couple being asked to leave and given notice to quit from their cottage which lies in the path from Weston Creek of the infrastructure that might be needed were these suburbs ever to be approved.

My point is that these suburbs are not approved. There is no basis upon which either the Commonwealth or the territory authority can go ahead to put in infrastructure. But, above all, there is a document—draft amendment 63 to the National Capital Plan—which verifies what Gina says. Indeed the NCA and ACTPLA cooperated closely in the preparation of detailed plans for these suburbs. They are based upon the Canberra Spatial Plan but are manifestly in conflict with the National Capital Plan. This document says that the writ of the National Capital Authority extends only to the skyline above the west of Lake Burley Griffin—that is, where the international arboretum is to be based—and not beyond. Yet, these suburbs clearly have the most profound implications for a sustainable city, in particular on the transportation and traffic aspects of the future Canberra. It exposes a lack of credibility with respect to a sustainable city being on the drawing boards of either planning body.

CHAIR—Thank you, Mr Odgers.

Prof. Weirick—I am James Weirick. I also had the opportunity to speak before the committee this morning and I thank you for the opportunity to speak once again at this public forum. Today has been very fascinating for me and I am sorry that I will not be able to be here in the next two days to hear the rest of the proceedings. It has been a most important initiative to hold the forum here in the Albert Hall and to open the floor on this occasion but also to have some very informative presentations from all points of view this morning. I think that, even though there are conflicting views, it is quite clear that there is a serious issue to be confronted here in Canberra, that even the authority itself is making quite radical suggestions about how it could proceed in the future. There is an opportunity for a very creative look at the whole issue of the planning of this great city.

The point that I would like to make before I leave this afternoon goes back to an issue which I did raise as an individual. It concerns the National Gallery. I want to explain clearly why I raised this issue. I should first of all explain that I did serve on an advisory panel to the National Capital Authority in 2000 and 2001. It was the advisory panel on the Parliamentary Zone outcomes review, which looked at the whole of the Parliamentary Zone. I also served, interestingly enough, on the design competition jury for the lights on Anzac Parade and I was very pleased to hear Mr Alec Tzannes praise the design of those lights. I think perhaps he should have mentioned that he was the designer of them!

I will go back to the Parliamentary Zone review. This prepared a master plan for the Parliamentary Zone which came up with the concept of the campuses. The arts and civics campus, which is based on the High Court and National Gallery, was part of those recommendations. At the time that we on the advisory panel looked into this issue, we were very mindful of the architectural significance of the National Gallery and the significance of the sculpture garden. The indicative development plan of the Parliamentary Zone, which went into the National Capital Plan—it is diagram T6.1—shows quite clearly that additional buildings in the arts and civic campus should be free-standing buildings and not large additions to the National Gallery which would place at risk the integrity of the architecture and the integrity of the sculpture garden.

What has happened in the intervening years up until today is that a section of the sculpture garden, the autumn garden, has been bulldozed for a car park, and the prototype section of the National Gallery, which was built to test the heights of the galleries involving artists of that era—the late Fred Williams, Leonard French and others—has been demolished. So already quite significant interventions into the fabric of the building have taken place.

My concerns over this are not to do with the moral rights issue, which in fact is a very interesting and complex one, but to do with the role of the National Capital Authority in setting up and approving these additions. Essentially, the National Capital Authority did not prepare urban design guidelines for that project, even though it is clearly stated in the amendment to the National Capital Plan that that is what is required for the campus. The National Capital Authority did prepare urban design guidelines for the National Portrait Gallery, but they did not do it for the extensions to the National Gallery itself. Today the chief executive officer explained the complexity with the different owners of the land in that area and the difficulty that the NCA has had in reconciling the development program in the arts and civic campus, but in fact the problem is that they did not prepare urban design guidelines which could have addressed that very issue—and they had eight years to do it.

There are related issues which go to the Environment Protection and Biodiversity Conservation Act. It was decided by the minister that the NGA and High Court precinct would be placed on the National Heritage List in February 2007. However, that decision was not gazetted until 23 November 2007—nine months later. In those nine months, the opportunity was taken to evaluate this building not as national heritage but as Commonwealth heritage, at the second tier down. As a consequence it was decided there would not be no formal inquiry under the EPBC Act into those additions. There have not been bigger additions to a more important 20th century building in the city and there was no inquiry, either under the EPBC Act or, of course, before the parliamentary joint standing committee. As an individual citizen I submitted my assessment—

CHAIR—You will need to wrap up now, Professor Weirick.

Prof. Weirick—Yes, I will. I submitted my assessment to the National Capital Authority, but there was no consultative mechanism whatsoever for an informed position to be put before the decision makers on that building at that time. The architect of that building is a great Australian. He is a gold medallist of the Royal Australian Institute of Architects. He deserves to be honoured. But, more importantly, the building and landscape of the National Gallery is one of the great treasures of our nation, and the way that the whole process was treated really reflects upon the National Capital Authority. Thank you so much for the opportunity to speak again on this issue.

CHAIR—Thank you very much, Professor Weirick.

Ms Geue—I am speaking personally. I came to Canberra in 1961 as a young graduate and I supervised the lake from the bus every morning! I also have a background in geography, so I am interested in these planning issues. I think there has been a failure in both of our planning authorities and an insistence on talking about market forces. They are saying with this discussion of climate change that climate change is the result of the failure of market forces. I have been concerned that the NCA have not considered the environmental issues. As a long-term fan of Burley Griffin, and of Marion, I have been interested in the plan and the philosophy, and the environment is such a large proportion of the philosophy and the plan.

I was appalled to see the Parliamentary Triangle area being cluttered up with all those jolly monuments and all the graphic design—and the conflict place and Commonwealth Place. All the things that the man from NCDC was so proud of are things that I have been annoyed by for many years. I was also concerned with the road through Black Mountain and the fact that the NCA was not looking at making it a designated area even though it was the ACT land manager. There was an opportunity to say that a 1960s road through Canberra Nature Park is not something that should be built in the 21st century. It does not seem to me that that was a good option for transport problems. I supported the people from the Save the Ridge campaign and the Conservation Council, who were saying Canberra was at a crossroads. We should have put light rail in at that stage, and here we are looking at Molonglo with no light rail, no transport corridors and a plan that floods an area that was gazetted as a nature reserve in 2001. Anti-environmental things are also happening with the overexpansion of Civic as a CBD so that everyone will use market forces and invest in it. We have lost all the green out of Civic and we have covered it all over with cars. It just seems to go on and on.

The Albert Hall issue was another instance of going against the philosophy of the Griffins, who wanted this open space in this beautiful setting to be maintained as a city like no other. The planners we have today, on both sides, have been planning against the environment, whereas good old NCDC may have put in so many roads but had its heart in the right place when it created town centres that people could live near and not have those long journeys. And here we are turning it over.

I support having a joint planning group and overcoming all those problems of governance. I am sure we can do it. Canberra people are people who think Australian. Most of us have come from interstate to this city. We are the only people in Australia who tend to think about Australia and not state rights. We are interested in planning—we are the people who have most interest there. We should have a big role in this and it should be a joint planning situation that will attract the best brains in Australia and overseas, not just two small bodies.

Mrs Thomson—My name is Jean Thomson and I am just speaking as a private citizen. I have been listening with great interest to all that people have had to say. One thing that has not been mentioned, and I do not think it is among the topics for discussion for the next two days, is the water supply. Regarding all those suburbs suggested for Lower Molonglo, we hardly have enough water to supply the citizens we already have, so I am not too sure where they are going to get the water supply for those new areas. The other thing that has not been mentioned yet is that the NCA organises things like that circus that came, a winter display and various other things—the Australia Day concert and whatnot. I would like to know why a planning authority has to do those sorts of things.

CHAIR—Thank you very much. If there are no more speakers, then I would like to sincerely thank all participants in this public forum for your cooperation and your very succinct presentations. You have worked within our time frame really well. On closing today's public hearing, I acknowledge the pleasure it has been for the committee to conduct this hearing in the Albert Hall. It has historical significance, as we have heard.

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

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 4.19 pm