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JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL
AND EXTERNAL TERRITORIES

Reference: Role of the National Capital Authority

TUESDAY, 22 APRIL 2008

CANBERRA

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JOINT STANDING
COMMITTEE ON NATIONAL CAPITAL AND EXTERNAL TERRITORIES

Tuesday, 22 April 2008

Members: Senator Lundy (*Chair*), Mr Secker (*Deputy Chair*), Senators Crossin, Hogg, Humphries, 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 and Ms Annette Ellis and Mr Adams

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 9.01 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. Today we will be hearing from representatives of the ACT government, the Canberra Business Council, the Canberra International Airport, the Property Council of Australia, the Law Society of the Australian Capital Territory, the Australian Institute of Landscape Architects, Hindmarsh and the Canberra Carillonists. We will also hear from two in-camera witnesses. The evidence given today will be recorded by Hansard and will attract parliamentary privilege. Before introducing the 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 this committee.

[9.02 am]

LAVIS, Ms Jacqui, Executive Director, Planning Services Branch, ACT Planning and Land Authority

SAVERY, Mr Neil, Chief Planning Executive, ACT Planning and Land Authority

CAPPIE-WOOD, Mr Andrew, Chief Executive, Chief Minister's Department, ACT

DAVOREN, Ms Pamela, Deputy Chief Executive, Chief Minister's Department, ACT

CHAIR—I now welcome representatives of the ACT government to today's hearing. Do you have anything to say about the capacity in which you appear?

Ms Lavis—I will be available to answer questions in deference to Mr Andrew Cappie-Wood.

CHAIR—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 Cappie-Wood—I would like to make an opening statement. The ACT government welcomes the joint committee's inquiry into the role of the NCA. This inquiry is timely, particularly in the context that it is 20 years since the establishment of ACT self-government and the promulgation of the Commonwealth's Australian Capital Territory (Planning and Land Management) Act, commonly known as the PALM Act, which established the NCA. The inquiry is also timely given that the recommendations of the last inquiry, in 2003-04, were not agreed to and not implemented by the previous government.

The ACT government's submission has reaffirmed the view set out in the 2003 submission to the committee inquiry into the role of the NCA. Since the committee reported on the results of the inquiry in 2004, there have been developments that necessitate a change, or some updates, to the ACT government's position. These include the enactment of contemporary planning legislation in the ACT that comprehensively introduces the Development Assessment Forum—DAF—*Leading Practice Model for Development Assessment*, which responds to COAG's National Reform Agenda; the adoption of the Canberra Spatial Plan by the ACT government as its strategic planning policy for the development of Canberra over the next 25 years; the agreement of a regional management framework which has been entered into with the New South Wales government and which includes the preparation of a cross-border development strategy for Canberra and the subregion; and the capacity of the ACT government to resource planning agencies to conduct overlapping functions.

As a result of the continually changing environment, there has been an even more compelling case for changes to be made, both legislative and non-legislative, to improve and simplify the planning and administrative system in the ACT. A more streamlined regime—one that is

genuinely a well integrated dual system, rather than an overlap of two largely independent systems—should be introduced to give effect to the original objectives of the PALM Act, delivering to the people of the ACT greater control over planning for their city while at the same time protecting Canberra’s national capital role and its unique planning heritage.

The committee has heard the views of the National Capital Authority with regard to the inquiry at hand. Let me state from the outset that the ACT government is supportive of a range of elements set out by the NCA, including the uplifting of designation and special requirements, that planning administration arrangements be aligned with land status such that the ACT government is solely responsible for development approval on territory land, and also that one integrated planning document which incorporates the two current statutory regimes be developed and made available in 3D digital format. We also agree with the continuation of a maintenance and asset managements function and a continuation of a promotional and events role in relationship to Canberra as the nation’s capital.

You will be aware that there are divergences in the opinions of the ACT government and the NCA with regard to strategic planning. It is also the view of the ACT government that whilst the principle of one plan for one city remains an important one, a compelling overriding principle from the perspective of simplified planning in the territory is that planning jurisdiction should reside with whoever administers the land. We will come back to that as an overriding principle in terms of the ACT government’s approach.

When we look at the issue of Canberra airport, the ACT government maintains the position it has previously adopted that non-aviation development should be subject to an independent, transparent and accountable planning assessment by the Commonwealth government. The ACT government would like to state from the outset that it believes there is a continuing need for a Commonwealth body responsible for administering planning for those areas that continue to be subject to Commonwealth planning jurisdiction, given their national significance. A Commonwealth planning body would also be required for the purposes of administering, in partnership with the ACT, any principles of national capital interest that need to be considered elsewhere within the territory. The ACT government is suggesting a two-stage approach for the progression of amendments to the future role of the NCA which includes immediate uplifting of designation and special requirements, the replacement of the Metropolitan Structure Plan with principles within the National Capital Plan, followed by targeted amendments to the PALM Act, which include the embedding of principles within the act.

The Metropolitan Structure Plan entrenched in the National Capital Plan sets out the extent and location of land use and the arterial road system. In the ACT’s view, the Metropolitan Structure Plan is based on an extended view of section 10(2)(b) of the PALM Act. Within this framework and its strict interpretation, the ACT government must try to plan and be accountable to the ACT community in regard to emerging social, environmental and economic imperatives and changes in demographics and social values. That is a stretch indeed. Moreover, because the territory does not have a legislative or administrative mandate for strategic spatial planning, the ACT government cannot fully integrate its other functions, such as economic development, provision of health, education and transport with the spatial planning of the city, nor can it be responsive to the changing demographic, social values or environmental sensitivities. This is brought into particularly sharp focus in regard to the ACT’s regional and cross-border relationships. The approach of routinely denying the ACT government opportunities to shape

urban form and development outside the parliamentary triangle and instead giving precedence to the Metropolitan Structure Plan, which is now over 20 years old and not tested against any sustainable development criteria, really cannot continue.

It is the view of the ACT government that the Metropolitan Structure Plan should be changed from a physical land use plan—designating urban development principles for residential areas, commercial centres, roads, transport routes and open space corridors—to a set of conditions or principles protecting the national interest. This would apply to both the Commonwealth and the ACT.

The introduction of clear planning principles within the PALM Act would be beneficial in continuing to protect Canberra's national and planning heritage. This could, in turn, be reflected in the Territory Plan, thus allowing the ACT government to plan for the ACT. When implemented, these principles would reduce the need for a Metropolitan Structure Plan altogether—a position supported by the ACT government.

The territory's planning and legislative framework should be used to plan and administer changes to the metropolitan structure of Canberra. This would also ensure that the community is consulted on these decisions and provide a better framework for that consultation. The engagement of the ACT community in planning activities is of paramount significance to the ACT government. The ACT government calls for the review of the Australian Capital Territory (Planning and Land Management) Act 1988—the PALM Act—and the National Capital Plan to facilitate more effective and accountable strategic planning of the territory by the ACT government, to ensure that the NCA is responsible to the Canberra community in its management of the NCP to more clearly define areas of genuine national capital significance with the National Capital Plan, and to limit the levels of control exercised by the NCA over parts of the ACT.

The amendments to the PALM Act would enshrine the following principles: firstly, the national elements of the national capital should be clearly identified and protected; secondly, the citizens of the ACT should be able to exercise self-determination and be responsible for the economic and social implications of their decisions, including control of planning, residential and commercial development across all territory land, subject to the meeting of any principles identified to protect the national interest; thirdly, beyond the establishment of broad planning guidelines, the overall planning system for the ACT should eliminate multiple planning and development control responsibilities in any one area and over any one piece of land. The act should reflect the principle that planning responsibility flows from whoever administers the land.

The ACT government submission sets out that the PALM Act should be amended to repeal certain provisions. This may need further clarification—we are happy to do so—but largely, those provisions have been set out in the submission and include, firstly, repealed provisions that give rise to the NCA having the power to review a decision of the Australian Capital Territory Planning and Land Authority—ACTPLA; secondly, the transfer of responsibility for the planning of arterial roads to the ACT government, including location and land use adjoining them; thirdly, the repeal of provisions that permit challenges to the validity of ACTPLA decisions on the basis of inconsistency with the National Capital Plan; and, lastly, the removal of the need for ACTPLA to consult on all variations to the Territory Plan, which does not account

for the contemporary manner in which the planning system is to operate under the Planning Development Act 2007.

The statutory functions of the NCA set out the accountability to the Commonwealth government. However, these functions do not set out any responsibility or accountability to the Canberra community. The board of the NCA is appointed by the Governor-General. There is no representation of the ACT government and, hence, the citizens of Canberra, nor the broader community on the board of the NCA. The ACT government seeks representation on the NCA board. This representation will allow the ACT government to work more collaboratively with the NCA in areas of mutual interest and introducing policy content to the National Capital Plan that has the potential to impact on the planning administration of ACT land and to help supervise planning administration.

In light of recent budget cuts announced by the Commonwealth government for the NCA, it is important to note that the ACT government is supportive of a continued role for the Commonwealth government in fostering awareness of Canberra as the national capital, as well as of our national celebrations, such as Australia Day, here in the national capital. Consideration should be given to providing the NCA with a far greater capacity to reach out to the nation about the historical, political and symbolic role of the capital. It has been suggested, wrongly, that it is the role of the ACT government through ACT Tourism to promote the national capital. The ACT Tourism function is solely to market Canberra as a holiday destination. In contrast, the NCA's emphasis in a promotional sense is to highlight the relevance of Canberra as a capital for all Australians to take pride in, whether they visit or not. Thank you very much.

CHAIR—Thank you, Mr Cappie-Wood. As no-one else wishes to make a statement, we will proceed to questions. I will start. I would like to get a clear view on the ACT government's position on the NCA's proposed uplift of designated areas and other aspects of the current National Capital Plan, such as the adding of new areas to create new spaces called 'areas of special national importance' to be retained under the National Capital Plan, as proposed in the NCA's submission of yesterday. I do not know if you were privy to this information prior to the submission being made public yesterday but, if you were, could you give the committee your opinion on those NCA proposals.

Mr Savery—I will answer that. The ACT government supports the proposal that was presented yesterday to the committee with respect to the uplifting of designation. That includes an understanding about the land that would remain as national land. It is territory land now that potentially would become national land in the future inside the national capital triangle, which is land that has some development capability that the territory would want to take advantage of in the future, also recognising the ANU's desire to retain that level of control by the National Capital Authority.

CHAIR—Does that include the Civic pool site?

Mr Savery—It includes the Civic pool site and the site adjacent to it opposite the CIT campus in Reid.

CHAIR—What about the NCA's proposals for the Territory Plan to effectively pick up and reflect the national capital principles? My interpretation of that was that it would ensure that

things like the national capital open space system that is such a feature would in fact be reflected in the Territory Plan as part of this arrangement.

Mr Savery—Our submission would support the approach that is proposed, but it may be different regarding the application. As has been stated in the opening statement, the territory believes that the principles or the matters of national significance, however they are to be described in the future, should be reflected in legislation if need be, which would mean that whether it is a Territory Plan or a National Capital Plan the responsible agency would have to have regard to those matters of national significance. We have proposed that there is the potential to have a single planning document or at least an integrated planning instrument. In that capacity, we expect that the Territory Plan and therefore the territory government, through its planning agency, would have to have regard to those matters of national significance. We think that they are compelling; they are critical.

CHAIR—Do you envisage a single plan with the two statutory bodies administering it at different levels or administering different parts of the plan? That was certainly what the NCA put to the committee yesterday.

Mr Savery—Having regard to the comments made by the Chief Executive of the National Capital Authority yesterday around governance, we believe that there is the potential to have a single planning instrument for the ACT that combines both national capital issues and planning policies as well as ACT government ones. However, we have not got to the point of resolving in our own minds what the governance arrangements would be. But we believe that that can be resolved. The submission of the ACT government proposes that there be an opportunity for the two planning agencies to review the government's arrangements and make further recommendations at a later point. There is potentially a staged approach to getting to that point. The first stage of that would be to better integrate the two planning instruments that we operate under now, the National Capital Plan and the Territory Plan. That would look at format, structure, language, zone arrangements and so on so that they are common to both documents.

CHAIR—And that could occur under the existing governance arrangements? The ACT government, with the political will to achieve that, could do it, and the NCA, with the endorsement of this parliament—if that were the decision—could move in that direction right now if they wanted to, couldn't they?

Mr Savery—We believe that is the case, and I think I am correct in saying that that is what the Chief Executive of the National Capital Authority was referring to yesterday.

Senator HUMPHRIES—I will first touch on the last point that was raised by the chair. You are supporting the proposal from the NCA that a significant amount of what is now designated land should be taken from NCA responsibility and transferred, in effect, to the ACT planning function, subject to the provisions of the National Capital Plan. You also propose, however, that the PALM act be amended to:

- repeal provisions that give rise to the NCA having the power to review a decision of ... ACTPLA—
and—
- repeal provisions that permit challenges to the validity of ACTPLA decisions on the basis of inconsistency with the NCP—

the National Capital Plan.

If the NCA's jurisdiction were to be shrunk back to an area that is not exactly the Parliamentary Triangle but much smaller than it presently occupies in terms of primary planning responsibility, and if ACTPLA's capacity to make decisions on those areas so evacuated were not to be challengeable by the NCA on the basis that it was in breach of the National Capital Plan, wouldn't that cause concern? Isn't the NCA, even in this proposed new mode, still the primary custodian of the National Capital Plan, and shouldn't it be able to say to the ACT government or ACTPLA, 'What you are proposing to do on this land, which used to be subject to NCA control but which you now have control of, is not consistent with the National Capital Plan, and we will therefore overrule that or make you reconsider that decision'? Isn't that appropriate?

Mr Cappie-Wood—To the extent that we are looking at removing the duplication, and if we can get to the point of a combined planning approach, the planning outcome sought by the National Capital Plan, if you like, would be embedded in that with the lifting of those designations et cetera. If we go back to the principle that the planning jurisdiction would reside with whoever administers the land, the capacity for effectively a veto power by the NCA would be removed accordingly but the planning controls that would be in place for the administration, whoever administers the land, would be consistent with the National Capital Plan. Therefore there is not necessarily a contradiction in that approach.

Senator HUMPHRIES—You are saying that we would be expected to trust ACTPLA to comply with the NCP and it would not be possible for the NCA, as the custodian of the National Capital Plan, the body charged with preparing, maintaining and reviewing it, to say, 'Sorry, what you are doing is not consistent with the plan.' We have to trust ACTPLA to be consistent with the plan.

Mr Savery—Can I make a few additional observations. I think part of the response to the question has to do with the maturity of self-government. If we are taking the step, if this parliament ultimately decides that the changes that the ACT government is proposing are appropriate, we are further recognising that, in having assigned self-government to the ACT government and therefore the role of planning responsibility for those areas that sit outside designation, as it is currently called, we should have confidence in that process. I think that is one of the critical things. Having just spent four years marshalling the ACT government through planning system reform in response to the national reform agenda, introducing new planning legislation, I think one critical aspect that comes up every time is certainty. If you have a system that continues to allow another agency to review the decisions of the agency that you have vested responsibility in, you create uncertainty. As Andrew has indicated, if we operate on the principle that whoever administers the land has responsibility for the planning administration of the land, we should have confidence in that authority. Ultimately, we would expect that there are checks and balances in this system that we have not fully explored.

In suggesting that there is the potential for a single planning instrument, I made mention of future governance arrangements. In our submission, we have talked about the ACT being represented on the national capital board. One would expect that there are opportunities through those mechanisms to ensure that there is some overarching capacity to reflect on and monitor the performance of the ACT government and therefore the ACT Planning and Land Authority to the extent that, if it is constantly abusing what is expected of it through having those national capital

principles embedded either in legislation or in planning instruments, one might imagine that the Parliament of Australia may have some concerns. But to have this constant concern that the National Capital Authority could have a capacity to review a decision of the ACT Planning and Land Authority puts at risk a very important principle. Making a decision to issue a development approval that is legal at the time that you have issued it with the prospect that when the developer then acts on it another agency could seek to review it and make that decision illegal through Supreme Court action or something else—because it is not explicit in the PALM act what the National Capital Authority can do if it does decide through review that a decision of the ACT Planning and Land Authority is not correct—is a very high risk principle in a planning system. We are constantly criticised by the development industry in operating planning systems around issues of uncertainty.

So the whole emphasis of the ACT government's submission in respect of the planning system is around improving its simplicity, its efficiency and its certainty. We have been able to go as far as we can in control of our planning legislation, but there are these other issues that sit inside the PALM act that we cannot attend to unless there is a decision of the federal government to assist us in further improving the relationship between our planning legislation and national planning legislation.

Senator HUMPHRIES—You say you have been consulted on the form of that NCA proposal, but you would be aware that what you are proposing in that respect is not consistent with what the NCA said yesterday or what the Attorney-General's Department has recommended to this committee, which is that the power to intervene in protection of the National Capital Plan should be maintained—in fact, even enhanced, according to the Attorney General's Department submission yesterday.

Mr Savery—I appreciate that, but that is slightly separate from the first question. We support the removal of designation from the areas that have been shown—so that is the answer to that question. In response to the Attorney-General's Department and the National Capital Authority, if their view is that their capacity to intervene should be strengthened, we have not specifically responded to that in our submission, but I would imagine we would want to express a concern. That may be subject to the ACT government having consideration of that issue but, given that we have a concern already with the capacity to intervene in the PALM act, I think any strengthening of that only takes us backwards in terms of trying to establish confidence in a planning system that is as simple as possible. I do have to mention here the national reform agenda, which both the previous government and the new government have strenuously sought to further simplify to remove duplication in planning systems and building systems in the country. It is the ACT government, along with its counterparts in other jurisdictions, that is in the vanguard of actually working out ways in which those planning and building systems can be improved. That is why we take some pride in the fact that we are the first jurisdiction in the country that has introduced the DAF leading practice model.

Senator HUMPHRIES—Do you really think that citizens of this city would be happy to see ACTPLA take responsibility for, in effect, administration of the National Capital Plan over those very significant areas of the city without the capacity of a national or federal body to oversee or challenge decisions that were not consistent with the plan?

Mr Savery—My personal view? I am sure there would be some who would not, and no doubt they have made representations through this inquiry. I believe that there are others who would support the ACT government having greater levels of self-determination, acknowledging in that response that, if we are going through this process where both the National Capital Authority and the ACT government support the uplifting of designation and special requirements, in my view there is some tacit acknowledgement that those are areas of lesser significance in the context of the planning and development of the national capital. So, even though there are matters of national significance that we strongly believe should continue to compel the ACT government and the planning authority to plan in the national as well as in the local interest, there is a lesser significance by having uplifted those areas and, therefore, the planning regime that applies to that does not require the same level of strenuous oversight that might currently be the case.

Mr Cappie-Wood—Might I add to that. Another way of looking at that is—Senator, I am interpreting what you say—that there is a desire to have effectively continued veto control to ensure national outcomes. If you look at the general principle that the authority to make decisions must be in proportion to responsibility, what you are asking effectively, therefore, is that the citizens of Canberra do not have any reciprocal capacity to challenge the decisions of the NCA in terms of the impacts on either the city or their lives—which is the flip side of what you are looking at. It is a one-way process in terms of looking at the NCA relationship to the ACT. For instance, if you were to look at it since self-government, the ACT government and the citizens of Canberra are effectively bearing the cost associated with the continued national capital vision. Surely, in looking at a harmonisation of the planning arrangements, we are looking to try and make sure that there is a sharing of that responsibility between both parties and that it is not necessarily seen as a veto only in one direction.

Senator HUMPHRIES—We could have a debate about this, but I think someone has to take responsibility for the plan. Someone has to have primary responsibility for the plan. The Australian parliament has given the NCA the responsibility of preparing and reviewing the plan. I am not sure that either it or the ACT community would be comfortable with it not having some responsibility for its ongoing objects being met. But that is a debate we could have another time.

Mr Savery—Can I make two other observations, one of which is, if you like, an example. Under the current arrangements, the National Capital Authority makes it quite clear to the ACT Planning and Land Authority that it is its role and responsibility to interpret the provisions of the National Capital Plan, as it applies to our planning jurisdiction. Irrespective of where the line is defined—today versus what is possibly proposed in the future—if that principle is maintained, you have on the one hand the ACT planning authority being told: ‘They’re the policies. You now go and apply them. You interpret them.’ And that is what we do. Then we find that there is a potential to have an intervention through a review of our interpretation. You cannot have it both ways. I will give you the example: EpiCentre at Fyshwick, which we are all familiar with. It is very contentious. Is that the situation we want arising every time? If that is the outcome of even strengthening the capacity to intervene in our decisions, having uplifted designation and saying, ‘We think you’ve got a greater capacity and ability to undertake this role,’ the cost to the whole community of going through those exercises every time someone wants to play a game of cat and mouse between what the National Capital Plan says and what the territory plan says and who is making the right interpretation, I think that is where we have a planning system that is almost dysfunctional. You certainly will get a reduction in investment at least from interstaters, who do

not understand our system, let alone from people inside the jurisdiction. I add those to my responses.

Senator HUMPHRIES—You make it clear in your submission that you expect that taking on the planning responsibility for those additional areas will come at a cost and you say that there should be appropriate recompense for the ACT's extra responsibilities. Do you have an estimation of what that cost might be?

Mr Savery—We have had a discussion with the National Capital Authority and asked them to articulate to us what the number of equivalent full-time employees might be for the areas that were previously or are currently under their jurisdiction if they were to be administered by the ACT government. They indicated between three and four full-time staff, so we translate that into a recurrent budget of around \$300,000 or \$350,000. We also support the comments that the National Capital Authority made yesterday about the level of analysis they undertake in urban design work for major developments, particularly in the city centre and other very important areas, that might be subject to the removal of designation. Therefore we have also estimated that we would need a budget of maybe \$100,000 to be able to employ expert consultants, architects, landscape architects and urban designers to assist us in preparing guidelines just as the National Capital Authority does. We would take that role very seriously and believe that that level of analysis still needs to be undertaken whether it is by the ACT Planning and Land Authority or the National Capital Authority.

Senator HUMPHRIES—You might like to have a look at the comments made yesterday by the Attorney-General's Department which thought that—I forget the exact words they used—the economies of scale that you would achieve by having those extra areas would be, in itself, a saving which may not mean that you would need to be recompensed. Could you have a look at that and see if you want to make any supplementary comments on the basis of what they say? You mentioned that there should be a Commonwealth planning body in charge of planning decisions at the Canberra airport. Was saying 'a Commonwealth planning body' implying that it may not be the NCA?

Mr Cappie-Wood—I think that, Senator, is a question more for the federal government but we would imagine that it would have been the NCA in all circumstances.

Senator HUMPHRIES—In principle, you would support the NCA having the same planning controls over the airport that it does over other areas of what would now be called 'areas of special national interest'?

Mr Cappie-Wood—For those areas that are not directly aviation related, control should be by the NCA, and for obviously aviation related areas control would be by the appropriate jurisdiction for those matters.

Mr Savery—If I could just add that whilst that would be a preferred position, the ACT government has participated in decisions of both the Australian Transport Council and decisions of the state, territory and local government planning ministers at the Local Government and Planning Ministers' Council. I stress here that the Commonwealth government has never supported the positions at that council meeting in recognition of the changes to the Airports Act in 2006, but it would be desirable nonetheless that if the Commonwealth is to retain the planning

function for airports through its transport and infrastructure department, at least it should be subject to greater levels of independent scrutiny to examine the consistency of master plans and major development approvals against the strategic planning documents of surrounding local and state government areas—that is, have regard to their metropolitan planning instruments—and to ensure that where there are infrastructure implications outside of the airports that there are appropriate mechanisms in place to ensure that there are adequate contributions to the augmentation of that infrastructure. They are positions that have been adopted by those respective ministerial councils, in the absence of the Commonwealth government up until now, with a view to seeking COAG's support for those positions. I think I am correct in saying that Minister Albanese's recent announcement and release of a discussion paper includes the opportunity for everyone, including state and territory governments to make submissions along those lines.

Senator HUMPHRIES—The airport have given us a submission in which they detail the refusal by you, Mr Savery, to have ACTPLA participate in meetings that the airport has organised to discuss issues concerning, among other things, planning for the airport. Do you want to tell us why you feel ACTPLA should not be involved in those meetings?

Mr Savery—Absolutely. We participated in meetings on a regular basis with the airport up until it precipitated action in relation to the EpiCentre development. I took the view, in consultation with our legal advisers, that there was the potential for those matters to be the subject of discussion. So I wrote to the airport saying whilst this matter was being processed through the courts I was not prepared to continue those meetings. However, we have had officers continue to participate in the master-planning exercise and attend meetings in respect of that. We have commented on the master plans; we have commented on the major development proposals. I think it is also relevant to acknowledge that during that period our responsibilities for transport planning were transferred to a different department in government. A lot of the discussion that was occurring with us as in the early period was about transport planning around the airport, and we do not have that responsibility within ACT government any more.

Senator HUMPHRIES—So someone from transport is now talking to the airport in those forums?

Mr Savery—I cannot answer that.

Mr Cappie-Wood—The answer to that is yes, there has been a broad-ranging discussion with the airport around a range of issues as a result of their draft master plan proposals. In finalising its submission to that review of the master plan, the ACT government has taken on board a wide range of issues, including not only the issues of planning but also the issues of other infrastructure requirements.

Senator HUMPHRIES—Okay.

Mr ADAMS—I just want some pretty basic stuff. What has been the number of building approvals on applications in the last year or so?

Mr Savery—The ACT Planning and Land Authority averages about 5,000 development applications per annum.

Mr ADAMS—Is that residential or business?

Mr Savery—It is everything, including residential and industrial. It includes what we regard as very minor development applications, which we have introduced a new approach for under the new planning system. We expect the number of development applications could reduce by as much as a third because we have introduced an exempt track which reduces the need to apply for development approval for outbuildings, fences and so on.

Mr ADAMS—So you have streamlined your planning agreements?

Mr Savery—Exactly, yes.

Mr ADAMS—Has that growth been pretty average for the last five or 10 years?

Mr Savery—I can only speak for the past five years, since I have been there. It has been relatively consistent. There have been peaks and troughs. Anecdotally, the day before we introduced the new planning system we received a month's worth of development applications—in one day!

Mr ADAMS—Do you look after transport planning?

Mr Cappie-Wood—Transport planning is looked after by the Department of Territory and Municipal Services within the ACT government, in consultation with a range of government agencies.

Mr ADAMS—I take it that fits over the top of where new residential applications are. Is there master plan to deal with that?

Mr Savery—We undertake a very detailed master planning; we call it structure-planning process, where we are looking at a new greenfield development. After the structure plans are approved and incorporated into the Territory Plan—and an example is Molonglo, which I think was spoken about yesterday; Gungahlin is obviously another one—we then drill down into a greater level of detail and produce concept plans, which are typically for a suburb. Once the suburb has been designed in a very conceptual way estate development plans are then produced for specific land releases. As you move through that hierarchy, your level of detailed transport planning obviously gets refined.

Mr ADAMS—Okay. Thanks very much.

Senator HOGG—On page 6 of your submission, you state that retaining the 35-year-old Canberra metropolitan structure plan is very costly. Can you expand on where and how the costs are incurred? How will the cost be reduced by the other regime?

Mr Savery—In the first instance there is the process the ACT government has to go through to change the metropolitan structure plan. We have that exercise, for example, with Molonglo. What that refers to more broadly is that the ACT government ultimately does not have control over strategic planning in the ACT—and therefore some of the decisions we would like to take, in terms of the provision of more efficient infrastructure, is potentially hampered by the need to

design it in a way that accords with the metropolitan structure plan. Our view is that that document is dated. We believe that the Canberra Spatial Plan, a more contemporary planning document, provides the preferred basis on which we can design our infrastructure in the most efficient manner possible—and we are talking about not just roads, drains and stormwater, but schools, hospitals and the like.

This raises a more significant issue in respect of the administrators of cities having the ability to plan and carry forward the implementation of the design of their cities, particularly as reflected in their infrastructure. We are now operating in a globally competitive environment. The city of Canberra, whilst it has a very important and unique planning heritage, nonetheless has to face up to the fact that it is operating in a very highly connected and fast-moving development environment that tends not to see cities in isolation but as regions and subregions—and, quite clearly, Canberra is a subregion of Sydney. The city administrators are the ACT government. They need to be able to respond rapidly in terms of where they want to invest to promote their economy and to social values, demographic change, affordable housing and climate change. Our ability to do that it is somewhat constrained by the metropolitan structure plan—hence the ACT government's submission that we should not do away with matters of national significance and that we should have regard to the issues of national capital when we are doing the planning. We should also recognise that 100 years on—and certainly 20 or 30 years on—from the development of the National Capital Plan/Territory Plan we will be operating in a very different environment for the planning and development of the city.

Senator HOGG—What are the cost savings? Are you able to identify them and quantify them?

Mr Savery—We may have to come back to you on that.

Senator HOGG—It would be good if you could take that on notice and get back to the committee.

Mr Savery—We will take that on notice and provide you with the infrastructure costs.

Senator HOGG—The other issue is Canberra airport. You say it represents a significant issue for the ACT in terms of land use. Can you provide some background on that issue?

Mr Savery—Certainly. I doubt it would come as a surprise that, as with every major capital airport in Australia, there are issues of concern between the operators of Canberra airport and the planning jurisdictions that sit around them. Not the least of these issues is that, as development progresses on these sites, there are infrastructure implications beyond the boundary of the airport, particularly for transport. At the airports themselves—and Canberra is no exception—there is significant commercial development occurring. Primarily, at this stage, it is office development. We have seen the first stages of retail development at Canberra airport—and, one would imagine, it will not be the last. That has broader implications for the metropolitan planning of Canberra, which has a very strong focus on ensuring that its town centres provide adequate employment opportunities and reduce people's journey to work and those sorts of issues. Also, from a sustainability point of view, we are trying to promote greater self-containment within those town centres—with residents in and around those centres working within the centres—or reducing the length of residents' trips to work.

The amount of office development at Canberra airport is now reaching a figure that is comparable with Woden Town Centre, which is the second largest commercial centre in the ACT. We have had no capacity to effectively plan for that, yet the imposition—particularly of traffic implications but potentially of the erosion of the functionality of that development—is something that the ACT government has to wear. We are not saying that all of the traffic issues around the airport are the result of traffic being generated by the airport. It is accepted that there is growth in Gungahlin and, obviously, in Queanbeyan that is bringing traffic there, but it is undeniable that a commercial centre approaching the scale of Woden is going to have traffic implications. We have limited capacity to be involved in the planning of that exercise, other than through the master plan. But at the end of the day the master plan does not go through the sort of scrutiny that we believe—and other jurisdictions believe, in their situations—is appropriate in the context of metropolitan planning.

Senator HOGG—Is there an economic cost to the ACT government as such and, again, can that be quantified?

Mr Savery—I do not know that we can necessarily quantify it at the moment. I think it is an interesting question, because obviously there are economic benefits. The ACT government has stated routinely that it supports the airport—it is a significant piece of regional infrastructure that is critical to the economy of the ACT—but it believes that it needs to be more effectively planned as part of the metropolitan system. I could not point to any economic figures as to the pros and cons.

Mr Cappie-Wood—We can certainly see what we can get.

Mr Savery—We can see what we can do.

Senator HOGG—If you can, because there must be gains and there must be real negatives as well. If you can identify those for the committee, it would be helpful. Could the situation be improved into the future, given that you cannot undo what already has been done?

Mr Savery—I think the situation can be improved, but I am speaking from a national perspective in terms of our participation in both the Local Government and Planning Ministers Council and the Australia Transport Council, which I think have modified their proposals of recent years, which were demanding that airports be the subject of local planning control—in our case, the subject of the Territory Plan administered by the ACT Planning and Land Authority—to acknowledge that the Commonwealth government sees these as major ports, if you like, that are critical to the national economy and therefore our concern about a lack of appropriate recognition of the impact of airports on local infrastructure and metropolitan systems could be addressed through a greater level of independent scrutiny of their master plans and their proposals when they are placed with the Commonwealth transport department to ensure that they are not inappropriately impacting on that local metropolitan system. We think that that is a reasonable way of both acknowledging the Commonwealth's ongoing interest in these critical pieces of national infrastructure and acknowledging that there are implications on local systems as a result of that. I believe those proposals are going to be articulated in much greater detail in response to Minister Albanese's discussion paper.

Senator CROSSIN—I want to get a handle on the kind of interaction that you have with the NCA. Are there regular meetings or is dialogue always by correspondence? How does this occur on a day-to-day basis?

Mr Savery—We have routine meetings with the National Capital Authority. I would like to put on the record that we have a very effective working relationship with the National Capital Authority. Our issues are ultimately that, when the respective jurisdictions go away to conduct their statutory duties, they are operating in accordance with two different sets of statutes, legislation et cetera. I am not critical of the NCA for doing what it does in accordance with its legislation. And, whilst people will have grudges or not be happy with certain decisions, when we make our decisions we are doing likewise, and it just so happens that they do not always align.

If you have two agencies doing similar jobs in any kind of function, at times they will have different views. That is the nature of the beast. But when we are working through projects and processes, we work amicably, we meet routinely and then we reach a point where there is potentially a difference of view. We try to resolve those but we know that it reaches a point where, when we go to our respective political processes, those views may ultimately be represented differently. That is where people tend to reflect that there is this discord between the agencies. I do not think it is necessarily a discord between the agencies. It is a function of having a dual system.

Senator CROSSIN—Would some of those points of disagreement be minimised if in fact the planning regimes were reformed and restructured? Is that part of the hindrance?

Mr Savery—That is what we are saying. We believe that if you create clearer demarcation of responsibilities and minimise the overlap and duplication then you reduce that potential.

Senator CROSSIN—I was going to ask you a question about the land areas the NCA offered up yesterday—if I can put it that way—but I think Senator Lundy asked that in her first question. I have another question I want to ask you. The NCA put to us yesterday that they thought the actual authority should be reformed and that there should be four representatives from the states and territories on a rotational basis. I put it to you that, if it is on a rotational basis, that might mean that at some stage the ACT would not be represented at all. Are you telling us that you would rather have a position where you are there all the time and a nominee from the ACT government is a mandated position on the authority?

Mr Cappie-Wood—The ACT government is certainly of the view that, given the relationship and the relative accountabilities, a position on the NCA board in any form is the first port of call it will be looking at in terms of future governance. To imagine that it would be rotated off does not sit well with the ACT government's view of what it would be looking for.

Mr Cappie-Wood—I will ask one more question on the airport—this might be because I am not from Canberra. Can you explain to me what the problem at the airport has been? Is it because the airport has started to become a business hub and a commercial hub or is it because there was not adequate planning of access to and from the airport while that occurred?

Mr Cappie-Wood—Following the sale process which happened to all airports around Australia, there was an attempt in all airports to maximise the opportunity that was presented. Most of the airports around Australia now see a wide variety of non-aviation uses associated with them. The same is true in Canberra. We have to say that the Brindabella Business Park is a well designed and very effective business park, but it is also already a commercial business centre that does not have the benefits you would see in other centres within the metropolitan context. The journey to work patterns are clearly changed as a result of the fact that there is no residential development nearby. In other contexts—Woden or others—you would be looking at a combination of uses, a concentration of particular types of uses and effectively an efficient urban form that is able to support those centres. Here we have a particular type of centre which is largely drawing in a fair number of car movements a day. That is somewhat exacerbated by the road that goes past the airport also being one of the main roads that goes between Canberra and Queanbeyan. We are having some logistical problems there in terms of infrastructure because of the demand generated by the airport as well as the increasing cross-border flow coming in from Queanbeyan. We do want to make sure that the future of that airport, important as it is to Canberra, is hopefully planned jointly in such a way that we are not going to see development that will cause increasing logistical problems. Hopefully it will be one we can work on within the total metropolitan context. When decisions are taken outside that total metropolitan context, it becomes quite problematic.

Mr ADAMS—Following on from the last question from Senator Crossin, I take it that the development that went on at the airport certainly changed planning and caused a lot of angst. We have this in several cities around Australia and it especially affects CBDs et cetera. I think of my own city of Hobart and, to some degree, Launceston. The *Mercury* newspaper at the weekend carried considerable discussion on this. I think cities have to become living places—traditional cities. But I want to get to the planning of Canberra and what you just said in your last answer. This has somewhat changed the actual planning, the original concept, of Canberra, where there were the smaller centres with residential and work or retail centres. Would I be correct in thinking along those lines?

Mr Savery—It has the potential to skew the metropolitan planning of Canberra. Certainly our spatial plan and the current metropolitan structure plan do not anticipate the airport being a commercial town centre, if you like. It still has a little way to go, because it does not have a significant retail component, but the commercial office component alone is starting to be comparable with our two larger town centres, Belconnen and Woden. That ultimately has to have some impact. For instance, some of the development that has occurred at the airport could potentially or foreseeably have occurred in Gungahlin, as an emerging town centre where we are looking for some local employment opportunities. No-one is suggesting that you can achieve self-containment, that everyone who works in a town centre is going to live adjacent to the town centre. That is not the nature of things, but nonetheless it is changing the distribution of the development pattern that would otherwise have occurred under the metropolitan planning.

Again, I stress that we are not saying there should be no development at the airport. The Canberra Spatial Plan recognises it as part of a potential employment hub. The ACT government back in 2004-05, when draft amendment 44 of the National Capital Plan was considered, supported up to a maximum of 120,000 square metres of office development at the airport. It felt that was an adequate balance. But now that the National Capital Authority's controls have been removed, there is potentially unfettered commercial development opportunity at the airport.

Mr ADAMS—Which will have an effect.

Senator HUMPHRIES—Can I get the ACT's view of the way in which the NCA has handled the Griffin Legacy implementation? There was quite intense criticism of that process yesterday. What is the ACT government's view of that?

Mr Savery—I can speak from the point of view of having represented the ACT government at the hearings two years ago or last year in relation to the four draft amendments to the National Capital Plan. The ACT government put a position at that time that it supported the amendments to the National Capital Plan. Leading up to that process, the ACT government had been heavily engaged with the National Capital Authority, both on its working group for the development of the Griffin Legacy and in the NCA representation on our working group for Canberra central, which was a more focused area within the Griffin Legacy for which we have significant responsibility—the Civic precinct. To that end, the ACT government was very supportive of the Griffin Legacy.

Your question was about implementation, and I am not sure if you mean what has happened since the Griffin Legacy amendments, but obviously the ACT government supported the transfer of territory land to the National Capital Authority or to the Commonwealth to enable it to carry out works. I think it is true to say that the Chief Minister has expressed some concern that the budget for Constitution Avenue has been removed so that that project at this stage cannot proceed, which has potential implications. If developments nonetheless continue along Constitution Avenue, we may not have the transport infrastructure to deal with that development. I think that is a reasonable reflection of the sorts of things that we have been involved in.

Senator HUMPHRIES—You touched on the question of the budget cuts and you have been critical of the cuts in your submission. Are you saying that you think that some of the cuts are appropriate but that these are simply too deep or would you argue that the cuts that have been made should be restored overall? This obviously assumes that the NCA continues with a similar kind of planning responsibility to the one that it has now.

Mr Cappie-Wood—I think it would be fair enough to surmise that the ACT government recognise the federal government's need to make appropriate expenditure adjustments to bring about control of inflation but at the same time want to make sure that the relative nature of those are done in such a way that there is balance. There is concern that the cuts to the NCA might see issues such as the celebration of Australia Day et cetera not being in the capital. Also there has been concern obviously expressed, as Neil said, about the nature of the cuts as they affect Constitution Avenue at present. They are matters that are on the record and they are concerns that have been expressed by the ACT government, recognising the overriding imperative that the federal government has in trying to control inflation.

Senator HUMPHRIES—Given that what the NCA put on the table yesterday with respect to a change in its responsibilities vis-a-vis the ACT government are probably the most significant changes, if implemented, in Canberra's planning regime in 20 years, do you think it would be appropriate for there to be some kind of special consultation process developed to allow those proposals to be properly debated in the ACT community or indeed the rest of the Australian community if it were interested? We have to report by 20 June, so we only have a limited

amount of time to consider these changes. Do you think that some exercise in which the ACT government would be involved would be appropriate?

Mr Cappie-Wood—I think consultation is a very important part of any planning process and one that should be enshrined and followed wherever possible. I think there are many aspects where consultation could be looked at. This is a form of consultation. I recognise the time frames are important. There may well be opportunities for consultation or refinement progressively into the future. It does not mean to say that all matters have to be necessarily resolved here. It may well be that, as a result of the inquiry, a general frame for further action might be determined, so I cannot look into what will come out of the committee.

I would always like to think that there is a capacity for ongoing debate and discussion on the question: what does it make to be a national capital? I would have to say that within the NCA's own documents, both legislative and otherwise, what is a national capital really does require some careful thought and delineation. That was actually within our submission. What is it that are the key features that make a national capital—that make a nation's capital—not just in the Canberra context itself but its planning history, as a place of symbols, as a political centre, as a cultural heartland, as an administrative centre and as a knowledge centre? Those are some of the aspects that I think are worthy of continuing discussion and debate so they can be refined not only in the land use planning but also in the nature of what it is to be this as the centre of the nation.

Senator HUMPHRIES—Sorry, is that a yes or a no? Are you in favour of a further consultation exercise around these changes?

Mr Cappie-Wood—That would be wholly dependent upon the nature of the outcomes from the committee's deliberations. If it is a staged process where you have a frame of reference for rolling action, there might be room for further consultation about that. I would like to think that there was the opportunity to do so.

Senator HUMPHRIES—You make a recommendation that, as part of these changes, the PALM act should be amended to remove the need for ACTPLA to consult on all variations to the Territory Plan, which does not account for the contemporary manner in which the planning system is to operate under the Planning and Development Act (2007). My interpretation of what has happened so far is that there has been an initial surge of support for what has been put forward by the NCA: to transfer some planning responsibilities to the ACT planning function, in part because the ACT has, frankly, better consultation mechanisms than the NCA has—it has a wider ambit to consult—and there is more sense that this gives people a chance to capture some of the process before decisions are made. But you are saying here that, in fact, there should be a winding back of that consultation capacity, particularly with respect to variations to the Territory Plan. First of all, what do you mean by that? Secondly, is there the risk that you are going to undermine the basis on which this transfer of responsibilities is actually being proposed?

Mr Savery—If I could answer that. This is not as sinister as it may appear in writing. Under the new Planning and Development Act, which commenced on 31 March, there are powers that have been created that enable what we call 'technical variations' to be undertaken. This is, in part, one of the responses that the government has embedded into its new planning legislation to deal with the COAG national reform agenda to simplify and to reduce red tape in planning

systems. The purpose of technical variations is to deal very much with matters of technical detail. That may even involve matters that are errors—where boundaries are incorrectly delineated on Territory Plan maps et cetera.

So the overarching principle of consistency/inconsistency is not proposed to be avoided through this. It is really to say, 'If we have introduced that simplification into our planning system, however, we are still required to consult with the National Capital Authority every time we do that, then we have not actually achieved much.' So it is for the purposes of those particular types of variations. They are not changing policy content and they are not changing the fundamental structure of the Territory Plan. Some of them are purely procedural. For instance, when I was explaining to the Hon. Dick Adams about the process of designing new suburbs going from structure plans to concept plans, as we work our way through that process, we have a parallel system within our legislation that enables us to make variations to the Territory Plan, provided they are consistent with that hierarchy. Again, if each time we did that we had to go back to the National Capital Authority in respect to its interpretation, we actually further bog down a process that we have put in place to simplify and streamline the exercise of land development.

Senator HUMPHRIES—So you are saying that the community would not be concerned about these sorts of variations to the Territory Plan?

Mr Savery—I cannot say that the community would not be concerned. We have been through consultation on that exercise; we have spent four years consulting on our planning legislation, regulations and the new Territory Plan. So that system, which I have just outlined to you, has been the subject of very detailed community consultation. Of course there are people who are concerned; there always will be. But on balance the government believes that this is in the community's interest. Obviously, the assembly passed the legislation. We are saying now that the PALM act needs to catch up with contemporary processes and practises in our planning legislation that respond to a national reform agenda program.

Senator HUMPHRIES—I have one last question. The inquiry so far has heard a lot of criticism of the NCA's planning process, and frankly a lot of it has been justified, I have to say. The Albert Hall yesterday was full of people who were making those criticisms. But it is true, isn't it, that if you were having an inquiry into ACTPLA you could also fill a space like the Albert Hall with people who are critical of its processes and decisions. Are you confident that you are going to be able to deliver a process for those areas where you would have responsibility under these proposals that would faithfully reflect the way in which the community wants to be involved in the planning process in this territory—that is, it would be an improvement with respect to the planning of those areas?

Mr Savery—I will answer the first observation you made. You could fill a room in any planning jurisdiction in the country with people who are aggrieved by decisions or do not like the processes that take place. Planning ultimately has responsibility for managing change within cities. There is no perfect planning system to deal with that because you are dealing with issues of emotion and sensitivity. It is subjective, and planners have to exercise a high degree of discretion in those processes. Just as the NCA is criticised from time to time, so is the ACT Planning and Land Authority. That is the nature of the business, if you like.

In respect of the transfer of any responsibilities, of course, we would take those with the level of seriousness with which we currently conduct the projects and areas of responsibility that we have. I believe that, whilst occasionally decisions are made that others would make harsh judgements on, on balance the ACT Planning and Land Authority has done a good job of not only making those decisions but also engaging with the community, to the extent that the new planning system in particular places a greater emphasis on engaging with the community at the point of developing policy. Of course, policy is ultimately decided by government, not by the ACT Planning and Land Authority; we interpret the policy. The emphasis—and this is part of the Development Assessment Forum's leading practice model—is on limiting the ability of policy to continue to be debated through individual development applications and on allowing policy to be resolved, as best it can be—because you will never get a consensus position on these things—through engaging with the community in the development of the policy in the first instance. To that extent, the new legislation that we operate under reduces the ability of individuals to seek recourse to appeal where they want to debate policy and tries to put the emphasis at the point of development application on those who are materially affected by a decision, whereas the broader community is to have a say on the policy development.

That is a national approach that has been supported at a national level and that we have now implemented. We are in the early stages of implementing that through our new planning and development legislation, but I am confident that at the end of the day that is a better balance in engaging with the community in policy development, ensuring that those who are most affected have the opportunity to participate in the development approval process. Those developments that are of limited interest to everyone receive less scrutiny through the planning system. It is about putting the emphasis of the planning system on complex, demanding, significant development applications.

Mr ADAMS—Yesterday there was a little criticism that the planning of Canberra did not take in some of the native animals. There were some threatened species. I found it hard to believe that you did not have an overall responsibility to meet objectives in that area in the planning. I take it that you do.

Mr Savery—We do, absolutely. Again, it is emotionally charged and sensitive, but there is a science to it. It is something that you can be more objective about, and the projects that typically engage in practices where there is potential damage to the environment have to be subject to a level of scrutiny. That may ultimately be the subject of an environmental impact statement. We also have to observe the obligations under the Environment Protection and Biodiversity Conservation Act, and we do that work. At the end of it, some people do not agree with the outcomes.

Mr ADAMS—Are there any Ramsar sites in the ACT?

Mr Savery—There is, yes.

Mr ADAMS—And is there a management position on that from the ACT government?

Mr Savery—There is, and the ACT government has a conservation management plan for that area and other areas—Namadgi National Park et cetera. With that particular area, I think I am

correct in saying it is still national land. The ACT government has a conservation plan but the planning responsibility is actually the National Capital Authority's.

Mr ADAMS—Is there a heritage overlay for your planning of Canberra?

Mr Savery—Not for the whole of Canberra. We have the Heritage Council, and it has identified numerous sites throughout the ACT that are subject to additional levels of scrutiny because of their heritage significance. Sometimes they are in the form of a precinct. They are identified on the Heritage Register, under the Heritage Act.

Mr ADAMS—And for Indigenous heritage positions and sites?

Mr Savery—Yes. As you are probably aware, they are more difficult to deal with because they are not publicly listed. There are sensitivities around those sites. When we carry out greenfield development we have to do Indigenous surveys of cultural heritage sites. They are identified and, where necessary, protected.

CHAIR—I have a number of questions across a range of different areas but I would like to start with the point regarding certainty and confidence in the planning system and appeals process—for example, through the AAT. Given this committee has previously recommended that decisions of the NCA be subject to administrative appeal, I am interested in the ACT government's view of administrative appeal rights applying to a new integrated plan; for example, that would apply to the ACT government in the aspects of the plan they would administer and also to the National Capital Authority in the aspects of the plan they would administer.

Mr Savery—Contained within our submission is the principle that there should be consistency in approach. So, if the right to an appeal for a commercial development in the ACT exists, that same right should exist for the NCA's administration. I know that that becomes quite difficult when you are dealing with Commonwealth departments—of course, many of the NCA's projects relate to Commonwealth departments—and again there are significant sensitivities, particularly around defence and security departments. I think a provision should always be available, as it is in the ACT, to enable the minister to call that matter in. When that happens in the ACT, and it is common to every jurisdiction, typically appeal rights are removed.

CHAIR—The current territory planning regime has a call-in power associated with it?

Mr Savery—Absolutely, for those situations.

CHAIR—So you would like to see that same system apply to the aspect of the plan administered by the National Capital Authority?

Mr Savery—I am probably speaking beyond my brief here, and it may be something that needs—

CHAIR—Mr Cappie-Wood?

Mr Cappie-Wood—I think that, in terms of looking at a harmonisation process, the governance—and this is, effectively, not only the governance of planning decisions and planning policy but also the governance that relates to planning appeals et cetera—needs to be carefully thought through. I think it is necessary to make sure that in the harmonisation process there is the capacity for government policy to be applied and for people who are affected to appeal, but, where there are multiple appeal processes, which we are seeing under the current regime, that needs to be sorted out. We cannot continue having people using the National Capital Plan as a backstop for frustrating legitimate development decisions.

CHAIR—You mentioned Commonwealth departments. We heard yesterday a comment from a witness that the NCA has little power with respect to major Commonwealth department decisions on the location of buildings. They obviously contribute to traffic and parking issues, but of course the implications of all of those decisions by Commonwealth departments also affect the ACT's capacity to plan with foresight, particularly for traffic and parking loads but also for associated access to commercial facilities, amenities and so forth. Can you comment on that and give a view as to what process the ACT government would like to see that would allow them to have input on or contribute in some way to the way in which major Commonwealth departments make decisions about the location, in particular, and magnitude of new buildings?

Mr Savery—I have a couple of comments. The first is that I think that lends weight to some of the comments that are contained within our submission that we have articulated today about the ACT government, being the administrator of the city, having a greater capacity to make decisions with respect to the land that it has administrative responsibility for. That is precisely the sort of circumstance where things happen that we do not have a great level of control over but nonetheless have responsibility for.

In the past, the ACT government had a more engaged process with the Commonwealth about the location of Commonwealth facilities. Obviously, before self-government, decisions were made very deliberately by the Commonwealth government, not by individual departments, as to where they would be located. There was a strategy, as you know, in relation to the development of the town centres. That process has changed over time. I am not necessarily saying that that is altogether a bad thing, but it would be very useful for us through our strategic land supply process to have an earlier awareness of what the intentions of Commonwealth departments are. This is not so that the ACT government can necessarily prescribe, because I do not think it has a right or a capacity to say, 'You will go in this location.' Bear in mind that a large number of Commonwealth departments are now renting space.

CHAIR—That is right.

Mr Savery—It is the private sector that is providing the buildings, so there is a market that we have to acknowledge exists. Nonetheless, it would give us the ability to plan for the release of land to enable the private sector to respond and to do it in a way that tries to create some balance as to the distribution reflecting on our centres policy and the hierarchy of centres within the ACT. A case in point—again, for the record—is that the ACT government has a strong desire to see a Commonwealth department of some shape and size in Gungahlin.

CHAIR—Further to that, what could be the mechanism to once again ensure that the town centre policy is reflected in the National Capital Plan? I acknowledge your point that market

forces are prevailing, particularly with the arrangements of Commonwealth departments choosing to lease the building and allowing it to be developed by the private sector. Are there any opportunities to reconcile those competing tensions in the interests of allowing the town centre policy to once again emerge as part of the character of Canberra and our future development?

Mr Savery—I think there are. I have not said much about the Canberra Spatial Plan at this stage but I think it is important to recognise that, through its strategic or spatial planning processes over the last four years, the ACT government has put a considerable amount of emphasis on deriving policy content from that plan. That is its intended purpose. That is the overarching planning vision for the development of the ACT over the next 25 to 30 years. But what occurs as a result of that is that we draw on policy intentions. Centres policy is a key component of that. We know that the NCA also has a very keen interest, but it is not ultimately administering the physical implications. It is the ACT government that has to deal with that.

The opportunity is there to reconcile any Commonwealth preferences with our spatial planning arrangements. We can speculate on the construct for the conversation. There are a number of ways in which we could do that. We could do it either through the NCA as a broker, if you like, on behalf of the Commonwealth, directly with Commonwealth politicians or through other constructs that do or can exist between Commonwealth departments and the ACT government. It is the reconciliation of the spatial arrangement of development envisaged by the ACT government—which deals with its economy, society, environment, infrastructure et cetera—with the desires of Commonwealth departments.

CHAIR—Correct me if I am wrong, but ideally those issues associated with the Canberra Spatial Plan could be integrated or associated in some way with an integrated national plan.

Mr Savery—I am glad you have asked that question, because we have probably given the impression in proposing that there not be a metropolitan structure plan that there is no plan. That is not what we are suggesting, and the submission articulates that we believe that the Canberra Spatial Plan—and its successors; it will not always be the Canberra Spatial Plan—has to be developed, and has been developed, in consultation with the community, the National Capital Authority and the Commonwealth government. All of those players have to be involved—we are a partnership in this—and that has to be reflected in the planning instruments. I note that the National Capital Authority made mention yesterday of our new legislation requiring a planning strategy.

CHAIR—Yes.

Mr Savery—That was quite deliberate. It was deliberate because we think it is good practice for governments to have a strategic context in which to make decisions. We see that there is an opportunity to evolve the spatial plan, in consultation with the National Capital Authority and the community, as the key strategic plan for the ACT.

CHAIR—In terms of what you and the NCA think should happen, I will tell you what I have conceptually in my mind and you can tell me if I am right or wrong. It is an overarching integrated plan that is effectively a national capital plan. There are areas within that plan that are administered specifically by the National Capital Authority, described as areas of special

national interest, and then there is the rest of the plan, which picks up the sorts of things that the metropolitan plan and the spatial plan have covered in the past. So, in a way, the new integrated plan is, I suppose, a lot deeper and covers more aspects of planning than either the spatial plan on its own or the metropolitan plan on its own. Is that conceptually where this is going?

Mr Savery—I think that is a reasonable conception. Andrew may want to comment on this more. I think the critical issue—the Chief Executive of the National Capital Authority raised this yesterday—is the governance arrangement. In our submission we have not necessarily resolved that.

CHAIR—We certainly broached this question in a forthright manner at our last inquiry and in our recommendations, where we felt it was our obligation as a committee to identify those lines of demarcation between the ACT planning authorities and the National Capital Authority. So, can I foreshadow to ACTPLA and the National Capital Authority that we will be looking for a view from both planning authorities about the physical lines of demarcation and some indication from both authorities about the governance arrangements. I think that it is essential for us to be able, at least, to form a comprehensive view. I certainly understand that as being the purview of this committee's work.

Mr Savery—I would just like to make one comment. You referred to the ACT Planning and Land Authority in that process; it really has to be the ACT government, because that is government policy.

CHAIR—You are quite correct, Mr Savery. I am sure Mr Cappie-Wood understands the point I am making.

Mr Cappie-Wood—Absolutely.

CHAIR—We are looking at the view of both of those authorities.

Mr Cappie-Wood—Could I just add to that? One of the aspects in the framework that you have outlined is clarity on what is nationally significant. It is about making sure that there is harmonisation of that view and making sure that that is embedded very clearly.

CHAIR—And is that what is being negotiated at the moment, and not being agreed?

Mr Cappie-Wood—I think it is about sitting down and making sure that we have clarity around that. Does that mean that the NCA want to have a say over what the land use is adjoining arterial roads around Canberra, or are we talking about the major nationally significant issues? It is about making sure that we can understand when we ask, 'What is nationally significant?' that we can all agree and embed that in a harmonised planning system.

CHAIR—I accept your point, but can I again urge you, even in the absence of an agreed position between you and the NCA, to come back with a specific view of what the ACT government believes that should be. I ask, through the transcript, in a way, for the NCA to take the same question on board. We will forward that to them.

Mr Savery—Indeed.

CHAIR—Parking and traffic has long been a sore point with respect to one criticism of the National Capital Authority and the decisions that they have made. But I am also aware that it is an issue constantly on the mind of the ACT government. How would you reflect the issues of transport planning and parking availability in the sort of plan that you are envisaging if these ideas were to be put in place?

Mr Savery—We operate on an integrated transport and land use planning basis. That is certainly a planning practice that we would promote.

CHAIR—Is that best planning practice in the world now or is there some sort of magical bridge that has to be crossed to have those—

Mr Savery—There is obviously a lot more that sits behind simply saying ‘integrated land use and transport planning’. The ACT government is a signatory to the National Charter of Integrated Land Use and Transport Planning, which contains 11 principles of good practice in land use and transport planning. Many of those are reflected in the development of the Canberra Spatial Plan and the Canberra Sustainable Transport Plan, which is a companion document to the Canberra Spatial Plan. That is still at a very high level. It ultimately comes down to the application of policy or the development of policy and its application. There is always going to be an issue around any government’s ability to fund that type of infrastructure. More importantly, since the Canberra Spatial Plan was prepared, the ACT government has adopted the *Weathering the Change: the ACT climate change strategy*, which introduces a whole new meaning to both land use and transport planning in the sense of the impact of those activities on climate change, both in mitigation and adaptation. Increasingly, both in the ACT and nationally, all planning agencies and transport agencies have to work collaboratively to identify spatial planning arrangements that reduce the impact of land use and transport on climate change.

CHAIR—So there are competing tensions, aren’t there? As traffic gets congested, the answer is not to provide more roads and more opportunities for cars, because there is that competing tension of the need to reduce carbon emissions and build that imperative into our planning system.

Mr Savery—Again, everyone has an opinion on this. The Canberra Spatial Plan is a significant departure from the previous Metropolitan Structure Plan in that it identifies a compact city form. A compact city still involves development and development means transport, people, building on land and potential environmental implications. There is no development that does not have an environmental implication. You are dealing with competing forces as you try to provide housing for the changing demographics of a city and as you try to provide social services and the interconnectivity of the city. There are journey to work arrangements—all of those sorts of things. That is the complexity of city administration. That is one of the reasons why we advocate for the need for a more contemporary planning arrangement, reflected through whatever the relationship is between the National Capital Plan and the Territory Plan.

CHAIR—I have a couple more questions. My understanding is that the NCA choose to adopt ACT government policy when it comes to parking ratios within commercial buildings. I understand that there is also a diminishing ratio of car parking spaces per square metre, in line with policy to address climate change. To me, that is a direct cost shift onto the ACT government, because associated with the NCA choosing to adopt ACT policies there is an impact

on public transport infrastructure in the ACT by default or by implication. Is there any recognition of that, either in Commonwealth grants or in any special recompense for that cost shift from the Commonwealth to the ACT government?

Mr Cappie-Wood—I am very pleased you raised that issue. Effectively, the ACT government is absorbing all the economic, social and environmental costs of previous strategic decisions.

CHAIR—So with the sustainability policies geared towards climate change, the ACT government is absorbing the cost?

Mr Cappie-Wood—The ACT government is absorbing that cost. We have raised this with the Grants Commission and they say that is a matter that the federal government should be directly funding, not through the Grants Commission. This was actually raised by the Grants Commission successively over the last two reviews in terms of the nature and structure of the Grants Commission work. We have looked at the cost associated with the urban form as it is, and it is sustainable in terms of biodiversity but not in terms of carbon footprint. So the cost associated with our public transport system is much higher relative to other cities because of the urban form. So, if you like, that is a cost that is absorbed by the ACT community.

CHAIR—I did not see anything in your submission that puts forward a specific proposal to address this problem, which is inherent in the whole system. It is inherent in the fact that we have the ACT government funding all of the municipal activities that support these policies, and yet we have a broad framework insisted upon, quite rightly, by the Commonwealth parliament through the National Capital Plan.

Mr Cappie-Wood—I suppose that goes to the nature of the general principle, which is that the authority to make decisions must be in proportion to the responsibility. That is where we have a disjunction at the moment. That is why we are looking for that harmonisation. That is why we are saying that there has to be the capacity for the ACT government to participate in the strategic decision making. I say ‘participate’ because we clearly recognise where the national capital responsibilities lie as well. There is no doubt that, unless we can get a better recognition of the ACT government’s, if you like, residual economic, social and environmental costs, at least in participating in the strategic planning decision making, then I think we have something that is completely unbalanced. Therefore, the frame that you have outlined is a step in that direction.

CHAIR—Thank you, Mr Cappie-Wood. That gives the committee a bit of a framework on which to broach these issues as far as cost-shifting is concerned. If there are no other questions, we are running a bit over time.

Mr ADAMS—Can I go back to an issue raised yesterday in relation to somebody from the ACT government sitting on the National Capital Authority.

CHAIR—Yes, you may. They certainly expressed the very clear view in their submission that that ought to be the case.

Mr ADAMS—Yes. On the issue that Mr Neville raised, we will probably need to resolve whether there are any legalities and issues that—

CHAIR—The issue going to the accountability with respect to the concern raised was that, if you had a representative—either the Chief Minister or the Chief Minister’s delegate—on the board of the National Capital Authority, what difficulties, compromises or unresolvable conflicts would be created by having that person on the board. It is certainly something that this committee has recommended in the past. It is certainly something that has been strongly advocated by the ACT government. Could you comment on that? If you have not thought about it, you could take that one on notice.

Mr Cappie-Wood—I am happy to provide some greater thought in detail, but at the same time I think it has to be relative to the position of the person on the board. We want to be able to make sure that any potential conflict of interest is taken care of in terms of the nature of the appointment. The ACT government would want to think about that very clearly. Perhaps the best way forward is to provide you with some additional thoughts on that matter. I would like to discuss that with the Chief Minister before we respond.

Senator HUMPHRIES—I have one more question on notice. There were some comments made in testimony yesterday about the extent to which the ACT was being short-changed in terms of national capital functions for which it needed to be compensated. There was some evidence from the Walter Burley Griffin Society and the Attorney-General’s Department. You might have a look at that and perhaps give a comment to the committee on whether you feel the ACT is being appropriately compensated for those national capital functions.

Mr Savery—Can I just clarify: that is as distinct from your earlier comment?

Senator HUMPHRIES—Yes. This is about the existing costs implications for the ACT by virtue of living cheek by jowl with the Commonwealth government.

CHAIR—Thank you very much for your attendance here today. You have been asked to provide some additional material. We ask that that be provided to the committee by 2 May 2008.

Proceedings suspended from 10.45 am to 11.07 am

CAPEZIO, Mr Michael, Board Member, Canberra Business Council Ltd

FAULKS, Ms Christine, Chief Executive Officer, Canberra Business Council Ltd

CHAIR—I welcome representatives from the Canberra Business Council to today's hearing. 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 the proceedings in the respective houses. We have received a written submission from you. Do you wish to present any additional submissions or make an opening statement?

Ms Faulks—We will make an opening statement.

CHAIR—Please proceed.

Ms Faulks—Thank you. On behalf of the Canberra Business Council, Mr Capezio and I welcome this opportunity to address the inquiry of the Joint Standing Committee on the National Capital and External Territories into the role of the National Capital Authority. The Chair of the Canberra Business Council, Mr Craig Sloan, has asked that I present his apologies. He would have been here but had other business on short notice.

By way of background, the Canberra Business Council is the leading business peak body in the Australian Capital Territory and the capital region, representing over 400 individual members and the interests of more than 35 industry organisations, known as kindred organisations. Directly and through its kindred organisations, the Canberra Business Council represents more than 5,000 businesses across the capital region. A number of our kindred organisations have made separate representations to this inquiry and will be making presentations to the committee as well. The council's role is not to duplicate their expertise but to take a high-level position in relation to the Commonwealth's responsibility for the national capital.

Why is the Canberra Business Council interested in this inquiry? The planning, development and promotion of the national capital are critical issues for the Canberra Business Council and the private sector that it represents because they affect the sustainability and function of the ACT. The role of Canberra as the national capital is vital to tourism in particular—that is, business, convention and holiday tourism—and many other aspects of private sector activity in the ACT.

The council made a submission to the previous joint standing committee inquiry into the National Capital Authority in 2003. When the cuts to the NCA were first mooted in the lead-up to the election campaign in 2007, the council and a number of its kindred organisations began lobbying for an inquiry into the functions and funding of the NCA at that stage, before the cuts were made, but that was not to be. The council included a section on the role and funding of the NCA in its 2008-09 federal budget submission in January of this year. And, finally, the council has made a submission to this inquiry. So you can see that this is something that we do feel strongly about and about which we have been consistent in our efforts.

In making this submission the council is mindful of the role and importance of the national capital to all Australians and of the multiple functions of Canberra as the national capital, as the home to more than 350,000 people, as an important centre for business, education, research and innovation, and as a major regional hub for south-eastern New South Wales.

I will briefly place on the record two concerns that the council has about the processes leading up to and the conduct of this inquiry. First, it was of great concern to the council and its members that funding cuts were made to the NCA before an inquiry was held. We feel that that process was not right. Second, the extremely short notice and time frames for the inquiry, both for submissions and hearing dates, has made it difficult, we feel, for some people to make submissions to the inquiry. In particular, the council believes that the subject of this inquiry is an important issue of national significance and interest and that broader consultation outside of Canberra should have been canvassed to ensure a truly national perspective and to avoid accusations of a narrow, Canberra-centric focus.

Canberra is on the threshold of becoming a world city of unique style and attractiveness and an economic growth centre within the capital region as well as being a significant contributor to Australia's maturing sense of national identity through its function as the national capital. The vision of Canberra as a world city of the future recognises that the ACT is operating in a new paradigm of growth, development and maturity. In this environment, the council encourages planning for today and tomorrow, with a view to positioning Canberra for the next 50 years and beyond.

There are two headline messages that the council would like to make to the inquiry. The first is that the planning and development of the national capital is the Commonwealth's responsibility and it should not be abrogated or transferred. Having said that, the second message is that there is a need for change in how this responsibility is carried out, particularly in relation to the complementary planning and promotion roles of the ACT and national governments.

In terms of the responsibilities and relationships between the federal and ACT governments, the introduction of self-government has inevitably resulted in a degree of tension between the Commonwealth's responsibilities to plan and maintain the national capital on behalf of all Australians and the territory's legitimate aim to function properly as the home of a substantial and growing population. In moving to resolve this tension, however, the Australian government should not abrogate its responsibility to the people of Australia by transferring part or all of its responsibilities to the ACT government. Rather, the solution lies in engagement and cooperation at both levels of government to manage both the Australian government's interest in planning and development of Canberra and the expectations of the territory government to deliver a sustainable, functioning environment to its citizens.

The council's strong view is that the Australian government should take the lead in how the national capital develops. In this role, the Australian government has, since the first plan for Canberra was developed, been consistently driven by an urban design culture, with the objective of delivering a world-class national capital for all Australians. This vision and leadership role should be retained by the Commonwealth and discharged through an adequately resourced body, which we will go on to talk about, as we are recommending a statutory authority and that currently is in the form of the NCA.

We would like to make the point that the reality is that Canberra does operate on a daily basis as an integrated city which concurrently fulfils its multiple roles and functions as the national capital, as the home to more than 350,000 people, as an important centre for business, education and research and as a major regional hub. The challenge is to integrate and streamline planning and development for Canberra and for the ACT to reflect this reality.

The major points that the council would like to make are, firstly, that the Australian parliament does have the constitutional responsibility for the national capital; and, secondly, that the execution of this responsibility is best achieved through a statutory authority. It is our view that a statutory authority provides some assurances to the Australian public that the planning, maintenance and promotion of the nation's capital have the independence to take a very long-term perspective and not be encumbered by the short-term expediencies of election cycles, party politics or transient personalities. The council also believes that, in the national interest, such a statutory authority needs to be well resourced to adequately discharge its role and it is our view that it should be located within the portfolio of Prime Minister and Cabinet to increase its visibility and accountability and reflect the importance to the nation of the seat of government of the Commonwealth of Australia.

In terms of the roles and responsibilities of the NCA under the current legislation, the Canberra Business Council supports the role of the NCA or a similarly federally funded statutory authority as the principal body which has the primary responsibility for and oversight of the national capital's development through the National Capital Plan. The council believes that the Australian Capital Territory (Planning and Land Management) Act, the PALM Act, adequately sets out the roles and functions appropriate for an organisation of this sort—that is, planning; maintenance of significant facilities, estates and infrastructure; and the promotion of the national capital. These broad functions and scope are also consistent with the responsibilities of other bodies in similar national capitals—for example, in Washington, Ottawa and Brasilia.

The council does acknowledge the legitimate and complementary role of the ACT government in town planning at the local territory government level; however, the council is adamant that it is manifestly inappropriate for the Australian government to transfer its responsibility for the urban design and planning of the nation's capital, which it holds on behalf of 20 million Australians, to a subset of 350,000 Canberrans. That is the role of the Australian government, as described in the Australian Constitution and in the legislation which underpins the NCA and its predecessors.

Having said all of that, the council believes that there is a need to clarify and clearly distinguish the roles of the Australian government planning body, currently the NCA, and ACT agencies responsible for planning at the territory level. To encourage a collaborative approach, there should be at the very least mandatory cross-representation on each of the Australian government and ACT planning bodies. The council recommends a single overarching National Capital Plan which sets the overall planning and development policies for all of Canberra and the ACT. To ensure that Canberra and the territory are planned and developed in accordance with their national significance and that planning and development meets the highest standards of design, the National Capital Plan should incorporate detailed codified principles agreed between the ACT and Australian governments for the whole of the Australian government territory. Any amendments to or review of the National Capital Plan should be undertaken in cooperation with the ACT government and following wide community consultation and engagement.

Below that level, any planning documents for the ACT need to be consistent and fully integrated with the National Capital Plan and should be reviewed regularly and cooperatively between both levels of government. If a single strategic planning document is not capable of being developed for Canberra, then there must be consistency and full integration between the National Capital Plan and any ACT government strategic planning.

In terms of the role of promotion of Canberra as the national capital, the council's view is that this is irrefutably a legitimate role for the Australian government. This role has currently been delegated to the NCA and should continue. The Canberra Business Council strongly supports an increased role for the NCA in promoting and marketing the national capital—in particular, promotion of those events and facilities that are closely related to nationhood, such as Parliament House, national institutions and monuments and the concept of Canberra as the capital of the nation, in addition to events such as the Australia Day concert and the outreach education programs. The council's view is that the promotion of Canberra as the national capital by the NCA or a similar body should be outwardly focused to stimulate national pride across Australia and international recognition of Canberra as the capital of Australia.

Finally, the proper and considered long-term planning and development of Canberra as Australia's national capital is an important responsibility of the Australian government. Decisions made by the planning authority charged with this responsibility will have a significant impact on the long-term design legacy of the national capital and will determine whether Australia's national capital sits with other leading capital cities around the world. The council believes that, by addressing the issues raised in its submission—which goes into a bit more detail—significant improvements can be made in governance, integration, consultation and collaboration between the federal and ACT governments in relation to the planning of the ACT.

CHAIR—Thank you very much.

Senator HUMPHRIES—I assume that you have heard about and perhaps seen the proposals that were put on the table yesterday by the National Capital Authority itself to substantially scale back the areas of primary responsibility they have and instead have the ACT Planning and Land Authority take primary responsibility for those areas. I assume that that confronts the statement that you made to us a little while ago that you see the NCA as having the primary responsibility for the planning of the national capital functions of Canberra—but perhaps that is not the case. Do you have a view about what has been put on the table?

Ms Faulks—We are aware of the proposals put forward by the National Capital Authority. In fact, our planning and infrastructure task force requested an information session with the National Capital Authority, which was provided much earlier this year. Our strong view that the federal parliament and the Australian government should fulfil its responsibility in planning does not mean that we do not agree with elements of the proposal put forward by the National Capital Authority. Principally, if there is a very strong National Capital Plan with codified planning principles that are detailed in the plan and that are agreed between the ACT government and the Australian government, then there is room for the ACT government to take on the responsibility for development approvals for some areas. Where we would disagree is in relation to some of the central areas that the National Capital Authority is suggesting should be uplifted. The council regards some of them as so central to Canberra's role as the national capital that we would perhaps differ around those areas.

We think that the ACT planning body should relate to those areas that are directly part of the areas of special interest and that there would be very little dissension about—the Parliamentary Triangle and the national institutions and facilities. Beyond that, the Canberra Business Council would take the view that there are other elements—hills, ridges, the lake foreshores, the entire central area and some of the access routes into Canberra—that need to be protected as well. We do not think you can have a Parliamentary Triangle planned at a national level and designed with a very strong urban design element sitting as an island in the middle of a city that has been developed largely as a regional city rather than a national capital.

Senator HUMPHRIES—For example, there is that area to the east of Kings Avenue in Barton where there are a substantial number of Commonwealth government departments, the Hotel Kurrajong and buildings like that. That is proposed to be transferred to ACT government control.

Ms Faulks—Yes.

Senator HUMPHRIES—You would have a concern about that, I assume.

Ms Faulks—We would. Our submission does not go into great detail about that and we would be happy to get back to the committee with more detail of what we think should be in and out of that. To be honest, I think that the physical lines of demarcation, if you like, need to be considered in great detail. For example, our view would be that the Albert Hall precinct and the area around the lake near that are so important to the physical appearance of the national capital that responsibility for those should be retained by the Australian government.

Senator HUMPHRIES—It raises a question about the process here too. This is a four-month inquiry and halfway through it we have had proposals put on the table which I think are fairly described as the most significant proposed changes to planning in Canberra since self-government. We have to report in two months time on those proposals. Would you support or would the Business Council support a more extended process to allow the Canberra community and others who are interested to comment on the changed realignment of national and territory responsibilities?

Ms Faulks—As I said at the outset, the council is concerned that we are dealing here with the nation's capital. It is also the place of residence of a large number of Canberra citizens, and that is important. The Australian government holds the responsibility for the national capital on behalf of all Australians, not just the people that reside in Canberra, and it is of concern to us that there are no hearings outside of Canberra. I know the committee members will probably say they have not received any submissions, but this is a matter that is going to influence the future planning direction for the nation's capital. It is important, and I think people outside of Canberra should be given an opportunity to have some input into what is going to happen to what is effectively their national capital.

Senator HUMPHRIES—One of the proposals that was put on the table in the ACT government's submission, in supporting what had been put forward for that realignment of responsibilities, was that not only should the NCA give up those very substantial areas—several thousand hectares of land—to ACT government control but that, where ACTPLA made decisions in respect of that land, it should not be possible for the NCA to overrule ACTPLA on

the basis that the decisions they made were inconsistent with the National Capital Plan. Do you have a view about that?

Ms Faulks—In our submission we make it clear that, rather than have dispute resolution processes at the end when a dispute arises, our view is that the consultation and cooperation should take place at the beginning and at the National Capital Plan level. So, from our point of view, it is not impossible for the two levels of government to sit down and agree on the overarching principles and codify the planning principles for the whole of the ACT. Once that has happened, then presumably it would be clear if the ACT government made decisions that were in conflict. If it were the case that they made planning decisions that were against the National Capital Plan, then there should be a procedure or a mechanism for the Australian government to step in and override that on behalf of the citizens of Australia.

CHAIR—It certainly would be subject to an appeals mechanism, which is currently the case under the Territory Plan. So, if there were one objector out there, then theoretically there is such a process under that aspect of the plan—

Senator HUMPHRIES—And if they have standing to do that.

CHAIR—if that were to go forward.

Senator HUMPHRIES—That is a legal process through the courts as opposed to—

CHAIR—the Administrative Appeals Tribunal style of process, so there would be some recourse, apart from the call-in power.

Mr Capezio—I think those issues are probably better addressed by some of our kindred organisations that may be speaking after us, because they are into the detail a lot more than perhaps what the Business Council is.

CHAIR—Thanks. Can I just ask one more question along these lines, because it relates to your line of questioning, Senator Humphries. My understanding of the proposal is that what is essentially the territory plan becomes an integrated plan and picks up all of those requirements, if you like, or principles with the main access roads, preserving the open space system of the National Capital Plan. That becomes a feature of the territory plan or territory aspects of the plan, if you like. Does that give the business council some peace of mind in terms of how those principles are protected?

Ms Faulks—Certainly, if that level of detail was agreed in the National Capital Plan. I think the other issue in terms of the proceedings is that some level of detail was actually given to the committee yesterday.

CHAIR—Yes.

Ms Faulks—I think it is not reasonable to expect people to be able to respond to the detail of that. There has been no consultation broadly in the community. Nobody knows how the Canberra population would feel about those areas being uplifted en masse. So I think it is a little

bit premature. Certainly we have not had the opportunity to discuss with our members or our kindred organisations the detail of that.

CHAIR—No. That is, I think, a reasonable point to make.

Senator HUMPHRIES—I just want to ask one more question about promotion—you mentioned promotion before. What would the business council see as the biggest obstacle to the proper promotion of Canberra at the moment? Is it a dysfunction in the way in which the task of promoting Canberra, either in an educational sense or in a tourist sense, is divided between two levels of government, or is it simply a funding question? Are we not putting enough money, at whatever level, into the task of making Canberra a good destination for people to visit?

Ms Faulks—Our view is that it would be both. Obviously the funding is important. Again, it is our view that it is more than possible for the two levels of government to work together to promote different aspects of the national capital. It is absolutely the responsibility of the Australian government to promote those aspects that relate to Canberra's role as the national capital, and the ACT government will then have the responsibility for promoting the ACT as a tourist destination at its own level. Could I just say, though, that it is the council's view that, when the Australian government accepts its responsibility for promoting the national capital, it should be outward focused, in that it is not about putting on events in Canberra for Canberrans. We all know how good Canberra is. It is about talking to the rest of Australia about their national capital and engendering pride and an understanding of what the national capital means to them.

Mr Capezio—There certainly is occasionally a dysfunction between the Australian government and the ACT government in relation to the promotion of Canberra. A perfect example of that was in the recent ACT budget where they actually cut funding to tourism. One of the reasons given for that was that these are responsibilities of the Australian government. I said to them at the time, 'That will backfire on you, because then the Australian government will do the same thing.' It is clearly a problem. It is an issue of funding, both locally and federally.

It is very important that we do try to distinguish between the various roles in terms of the various levels of promoting Canberra. The Australian government have a major responsibility in promoting Canberra as the national capital and, as we have said, in terms of instilling some pride in the national capital by all Australians, and I think that has been done relatively well over the last couple of years. In terms of the national monuments and all those sorts of things, there really has been a real focus on trying to instil that national pride. I think that is a major responsibility of this government—the Australian government.

Ms Annette Ellis—My apologies that I was not here for all of your introductory remarks, Chris. I just wanted to ask—and if you have already covered this please say so—for your views on the composition of the NCA board. What should it comprise? Should there be ACT people on it? Should any other bodies necessarily be represented? What is your view?

Ms Faulks—There are some governance issues. I understand that one of our members is likely to talk to the committee separately about those. We would say the board must have a representative of the ACT government on it—a permanent representative and not rotated. We are attracted to the proposition that was put up yesterday that the other states and territories have representation—but that it be skills based—on the board. From my point of view in looking at

the Capitals Alliance models in Ottawa, Brasilia and Washington, I think that the board could be larger. I understand that there are problems with managing a larger board but I think in this case it is imperative that we have proper representation from across Australia on the board that is managing the planning and development of its capital.

Ms ANNETTE ELLIS—I would like to develop that a little bit more. I am digressing a bit here. You have referred to suggestions made yesterday about other jurisdictions being possibly included but that it be skills based in terms of the role of the NCA. If we sit that next to the idea of promotion of Canberra as the national capital, I am a little bit confused. Can we see the position of those people coming onto the board as dual purpose? My issue is that the rest of Australia does not really have a lot of opportunity to truly understand the role of the national capital, hence the Canberra thing. I would like to think that when we re-examine all these things that will be part of our re-examination as well. When we get people from other jurisdictions to possibly sit on the board and their positions are merit based in terms of qualification, is there any other way by which we could include as well people for the sake of them understanding the role of Canberra as the national capital? Am I making sense? There are two reasons for which we need to step out to the rest of Australia. One of them is to include them on the board for all of the right reasons of the nature of the capital, its planning, its appearance and its role. The other is the promotional thing. In your submission you mention the possible need for this inquiry, for argument's sake, to step out into other jurisdictions—and that is not necessarily a bad idea. The cynic in me tends to say that is not a bad idea but how would that actually work? Would people be actually interested enough to want to come along and not get into us? There are a couple of mixed messages in there.

Mr Capezio—The thing about going out to others outside of Canberra is that they are not interested in planning. What they are interested in is the national capital.

Ms ANNETTE ELLIS—We would like to think so, yes.

Mr Capezio—In relation to how we can instil pride in the national capital—and I am not saying there isn't any at the moment—that would probably be one of the core focuses of going out to the public. In terms of representation on the board, I think your concept of merit based representation is spot on—and their function is to promote Canberra. You do not necessarily have to have people from all the different areas around Australia. One of the ways of promoting Canberra is that you have got to give it money to promote Canberra to the rest of Australia, and you have got to look after the assets that are here in terms of all the national institutions. There is no point in building these things if you do not look after them and you do not wrap some marketing around them to develop that culture of national pride.

Ms ANNETTE ELLIS—In my question and statement I am actually confusing or mixing up two or three different messages; I confess to that. But they are all part of the same mix.

The other comment I would make is about—and this is at the risk of being a bit critical—the NCA's role in promoting Canberra as the national capital. A lot of us recognise that they have done that. In many cases they do it well. I want to pick on the winter wonderland thing for just a second. Is that really a good idea? Would their promotional role be better if they actually set up mechanisms by which people could visit here for specific reasons, like young people and

governance and understanding the role of the capital in the governance arena rather than doing a one-off? I suppose I am using a bad example. I am not sure what we expect them to do.

Ms Faulks—I think it is probably not the role of the Canberra Business Council to advise on that.

Ms ANNETTE ELLIS—I just thought you might have a view.

Ms Faulks—But in terms of a view, as you have asked for it, if the board is representational of the skills base of the people of Australia, the NCA or the equivalent organisation can, with funding, develop the expertise there to advise the board on the best promotional mechanisms and then the board can make that decision, as boards should. I do not think you need to have an ACT promotional person on the board to achieve that. The expertise should sit within the authority and that person should advise the board.

Mr Capezio—But, having said that, it is important that in developing these marketing packages there is consultation with the ACT government. That happens now, I must say. I do sit on the tourism advisory group of the ACT government. There is communication and cooperation between the various national institutions, the NCA and the ACT government. In terms of the winter wonderland promotion, I do not know.

Ms Faulks—Promoting Canberra and attracting Australians to come to Canberra so they understand the role of Canberra and its institutions is very important. If we are going to do that, we need to make the package right. If you have business tourists coming to Canberra to talk to government and there are issues of transport and accommodation then Canberra is not presented in the best light to the rest of Australia. We have examples of people saying that they will hold their meetings elsewhere because it is difficult. That will involve, from our point of view, a level of cooperation between the Australian government and the ACT government to make sure that the national capital is presented both to the rest of Australia and internationally as a properly functioning and world-class city. That will involve both levels stepping up to the mark to achieve that.

Ms ANNETTE ELLIS—Somebody suggested yesterday that we should have a representative from the Canberra community on the board of whatever as well. Do you have a view on that?

Ms Faulks—It would be a personal view. I think if the consultation at the beginning is adequate and accessible to the community then they will be engaged and take ownership of the decisions that are taken, so that would not necessarily be required.

Ms ANNETTE ELLIS—Your submission also calls for a ministerial Canberra consultative forum to be reconstituted. Would you like to talk to that very briefly? I am not sure when it was discontinued or for what reasons. Do you have that background?

Ms Faulks—It was reinstated briefly last year, in 2007. For those who do not know the background to it, it was a forum that got together. There was ministerial representation from the Commonwealth, the Chief Minister sat on it, there were representatives of the private sector and the business community in Canberra, and there was some regional representation. They discussed priorities for infrastructure and development proposals that then went forward to the

government, to the NCA, to the various bodies. Somebody asked yesterday, 'Was this just another level of bureaucracy?' It was not; it was simply a mechanism for all the senior players to sit down together and talk about what was happening in the private sector, what the ACT government was planning and what the federal government was planning so we did not have a whole lot of silos operating.

Ms ANNETTE ELLIS—So it was information sharing as well as development?

Ms Faulks—Yes, and recommendations were made. A classic example would be discussion about a new national convention centre. That would be discussed at that level and a recommendation would go forward.

Ms ANNETTE ELLIS—Did it have a regional focus attached to it as well?

Ms Faulks—It did.

Ms ANNETTE ELLIS—Sort of?

Ms Faulks—Yes. And we would promote that even more.

Ms ANNETTE ELLIS—Thank you.

Senator CROSSIN—What level of consultation is had with the business community, either individually or collectively through you, by either the ACT or the NCA when future development is proposed?

Ms Faulks—We have regular meetings with the NCA and they often address our planning and infrastructure task force, which is a group of experts representing the business community here. At the ACT level we are constantly being invited to participate in consultations for various projects and planning proposals that come up.

Mr Capezio—Because we represent a lot of the kindred organisations that have a vested interest in some of those planning issues, and other issues, we coordinate them to communicate in more detail with both the NCA and the ACT government.

Senator CROSSIN—When proposals to different drafts or variations on drafts and planning proposals are coming forward on an individual basis, does the NCA brief you each and every time?

Ms Faulks—They would usually contact us and say that there is a draft amendment coming up, or it would come up in one of our regular meetings.

Senator CROSSIN—How do individual members of your organisation have input into that?

Ms Faulks—We have a series of task forces. All of our members are entitled to put their hand up for those. When we put a submission in, it is sent to members or put up on our website. I send out business bulletins every fortnight and members are invited to make submissions or put in their views on anything that we are doing at the time. By way of example as to the kindred

organisations, we have the consulting engineers, the quantity surveyors, the Property Institute, the Canberra Convention Bureau, Engineers Australia, the Housing Industry Association, the MBA and the Law Society. All of those organisations work with us. We meet with them quarterly to discuss any issues that are coming up around planning or in relation to the ACT.

Senator CROSSIN—I am talking not so much about peak bodies; I am talking about your little shopkeeper or small business owner.

Ms Faulks—They are all able to come onto our task forces.

Senator CROSSIN—How does the NCA directly relate, communicate or consult with those? Only through you?

Ms Faulks—Yes.

Mr Capezio—I do not know how else it communicates.

Ms Faulks—When the NCA has a consultation, any of our members can, as free citizens, go along.

Mr Capezio—As far as our members are concerned, they are made aware of anything that the NCA are proposing to do. I do not know how they communicate to the broader community about those issues.

Senator CROSSIN—Did the NCA brief you on the proposal that they put to us yesterday?

Ms Faulks—When this inquiry was announced, we asked for a briefing from the NCA. They did not go into a lot of detail, but they certainly discussed their overall proposal.

Mr Capezio—But that is fair enough. They were giving a submission to this inquiry. I do not think it would be appropriate for them to give us all the details about what they wanted to do.

Senator CROSSIN—Thank you.

Mr ADAMS—In your submission you talk about the capital. We have had some people talk to us about defining the capital. How do you see the capital? The institutions and the monuments are very important to us. Do you have a definition you could put to the committee?

Mr Capezio—We talked about the national institutions and the symbolism they represent for the country. But I think another important part of the national capital is the centre of Australian government and the business that wraps around that. I think it is absolutely critical that we do not lose sight of Canberra as the centre of government and as the centre that attracts people to come to Canberra to do business, to meet with all of you here. I think it is absolutely critical. I think that the centre of government, in terms of the government departments that are here, encapsulates what a national capital is about. We do not want to become a national capital just around beautiful things to visit. Whilst that is important, there is more to it than that. I think that is very important for a business tourism sense and for the economy of Canberra it is very

important. I think it is critical that this place does not lose its significance as the centre of government. I think that is absolutely critical for a national capital.

Mr ADAMS—When I first came here as a representative, many years ago now, the issue was trying to define Canberra to get more business away from government, so that it had an important business sector itself outside the government sector. I think that has been achieved to some degree. The growth has been quite excellent and it certainly does not rely on that as much as it used to. I understand where you are coming from, Michael. I think my colleague Annette Ellis mentioned that there are probably great opportunities for growing that from a tourist perspective at least but also from an educational perspective, as this is a governance issue and defining how we govern et cetera.

You mentioned in your introductory remarks people outside Canberra having an input into this inquiry. I do not know if the Tasmanian government want to have input into this. They have not given us a submission. I guess representative government comes into play a bit there. Those of us on this committee probably fulfil that role. I guess you could take that on board. I do not know of another way around that. You also mentioned that there might be groups who have not had an opportunity to have an input because of the short time frame for this inquiry. Do you know of any groups who want to have an input but have not?

Ms Faulks—We have certainly been working to get as many people to make representations as we can. It is just that, frequently, it takes a while for inquiries like this to filter through to the public.

Mr ADAMS—We encourage you to do that, of course.

Ms Faulks—I know. Could I make two comments going back to what you were saying. The first is in terms of representative government. Basically, that is the basis of our submission; that the people sitting in this room are responsible on behalf of the population of Australia for the national capital. It is a serious responsibility and it is not something that I think you can, for all sorts of different reasons, and I do not mean you personally, pass to somebody else because they will have a different perspective. They will not have a national perspective. They will be looking at their own responsibilities.

Just in terms of what is a national capital, can I read this to you: ‘National capitals are special cities because planning for the municipalities that have a federal seat of government often involves political and symbolic concerns distinct from those of other urban areas. National capitals are tasked with representing a whole country, embodying its hopes and aspirations and inspiring its people as well as providing effective spaces for the important functions of the capital.’ That comes out of the Canadian equivalent of the NCA. We are not reinventing the wheel here; there are other capital cities that are dealing with exactly the same issues and have to some extent come to solutions where the local jurisdiction and the national jurisdiction can work cooperatively together.

Mr ADAMS—I remember when I first came here there was a bit of an anti-Canberra thing. It might have come from anti-government sentiment, probably more from the conservative side of politics than my side. I do not say that to have a go at conservative politics. Do you think we are past that now?

Ms Faulks—No.

Mr ADAMS—You think there is still an anti-Canberra, anti-government feeling within the community of Australia?

Mr Capezio—Can I make a comment about that. When people come to Canberra, and I include those programs to get students to Canberra, that helps alleviate that negativity. I know of some students in schools, for example, in Adelaide, where the teachers wanted to send students to Italy or somewhere like that on some junket. One of the parents made it very clear that they must first visit Canberra before they could go anywhere else in the world. I think the student program is important in trying to get more and more of them to come to Canberra. I think we are getting there in that regard. Once people come here, not just students but also adults, and they see the place, I think they become converts. They might become converts quietly—they go back home, hear the news and all that sort of thing and then they are quite vocal. I think there is a strong sense of Canberra as a capital, but it is a work in progress. You just have to keep working on it, basically.

Mr ADAMS—I will come back to planning structures. You mention a world capital city in your vision. Do the Business Council and your members see Canberra as a city which has been planned historically on people living close to their work and play areas, recreation and education centres or do you see the development of Civic as a centre, as many other cities have a centre and suburbia?

Ms Faulks—I think I will leave the detail of that to those of our kindred organisations that specialise in planning. I will make just one comment. When Canberra was planned, climate change was not an issue. Right around Australia but particularly in Canberra the quarter-acre block going as far as the eye could see was reasonable, with big, six-lane highways taking everybody to and from. Times have changed, and I think that one of the important elements and responsibilities of the Australian government for the national capital is to make sure that the national capital is sustainable into the future. That involves changes to the way the capital was originally planned, including densities.

Mr ADAMS—Planning was the answer to the car originally, I think, and that drove planning, as I understand planning.

Ms Faulks—There is no efficient public transport system in the ACT. We are a very spread-out city and we are reliant on cars. If you drive across the bridge, you will see a whole area right down to the lake that is going to be converted into tarmac, with parking meters for parking. That does not really sit well with the national capital, but the reality is that it is a city planned around cars and we now have climate change on top of that. There needs to be a substantial investment, I would say, from the Australian government as well as the ACT government into addressing those issues.

Mr ADAMS—Hydrogen cars might do that. Thank you.

CHAIR—I just want to ask a couple of questions about the Canberra Business Council's view or advocacy of the National Capital Authority as the body that you think should retain its presence across all of its current areas.

Ms Faulks—Could I just say that our top level position is that whatever planning body the Australian government uses to plan for the ACT should be a statutory authority. Currently it is the NCA and we are supportive of the role of the NCA, but that does not mean to say that it should not change.

CHAIR—If appeal rights became a feature of the National Capital Authority's planning regime, as they are under the territory planning regime, would that change your organisation's view? How related to your support of the NCA planning regime is the fact that there are no appeal rights? It is a blunt question, I know. It is the elephant in the room.

Ms Faulks—It is. I think at a high level—and let us be blunt—the Australian government has to retain a right of some sort of control or veto, or whatever you want to call it, over planning in the ACT. There have been examples where planning has not been ideal. So from that point of view I think the NCA or the equivalent body has to have that capacity. Are you talking about this in terms of appeals against the decisions of the NCA?

CHAIR—Yes, against a decision of the NCA.

Ms Faulks—Again, our preferred position—and I think this is the DAF position, if you look at the model—is that you do not end up with a dispute resolution at the end which slows everything down and makes it impractical but that you actually start at the beginning to get that engagement and to consult with a sufficient number of people so that there is agreement.

CHAIR—That is the approach you would support?

Ms Faulks—Yes.

CHAIR—One of the suggestions that came up in several submissions was for the creation of the position of a chief architect or a chief Australian architect. One of the suggestions had it associated with the Department of the Prime Minister and Cabinet, so it would be separate from the National Capital Authority.

Ms Faulks—We are supportive of that.

CHAIR—Thank you very much. I have a few questions that relate to some of the detail of the proposals that were put forward yesterday. I think you made a valid point—that it has been difficult to assess the detail of that in the short time that has elapsed, so I might place a question on notice. Are there any further questions from the committee? As there are no further questions, I would like to thank you for your presence here today. I will forward you a question on notice about some of your views relating to the proposals put forward yesterday. Could you provide that to the secretary by 2 May? You will also be sent a copy of the transcript of evidence today, which you can correct in terms of grammar or fact. Thank you very much.

[12.02 pm]

BYRON, Mr Stephen, Managing Director, Canberra International Airport

McCANN, Mr Noel, Director of Planning, Canberra International Airport

CHAIR—Welcome. Although the committee does not require you to give evidence on oath, I 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 from you. Do you wish to present any additional submissions or make an opening statement to the committee?

Mr Byron—With the committee's indulgence, yes.

CHAIR—Do you have an additional submission?

Mr Byron—Just a statement; that is all.

CHAIR—Then I ask you to present your opening statement. Thank you, Mr Byron.

Mr Byron—I thank the committee very much. I want to just canvass, as an opening remark, the four to five years worth of integration of the airport's planning into both the national capital Commonwealth's planning and also the ACT government's planning. It began in August 1999 when our own master plan was approved following the purchase of the airport in May 1998. What followed first of all was amendment 30 to the National Capital Plan that was around in January 2000, and that enmeshed much of that master plan into the National Capital Plan. Then in mid-2000 we signed a memorandum of understanding with the ACT government to look at the embracing of that master plan, to look at how that would be enmeshed into the ACT planning system and also how the transport infrastructure would be delivered, both on and off the airport, to facilitate the delivery of the master plan.

In the ACT budget on 23 May 2000, the then Treasurer, Mr Humphries, announced the duplication of Pialligo Avenue between Civic and the airport. That was to be complete by 2002. At the end of 2000, in November, there was the launch of the Brindabella Business Park and the acknowledgement that it would be delivered in accordance with the master plan and would have 5,000 to 6,000 employees.

Time went on, and over 2001, 2002 and 2003 we worked with the ACT government and the Commonwealth on further enmeshing. In particular, the ACT economic white paper in December 2003 recognised the airport's economic importance and had a specific objective to deliver the road between the airport and the city as duplicated.

As well, there was the finalisation of amendment 44 during 2004, which reaffirmed the role of the airport as an employment centre and as a major office employment centre. The defined office

employment centres in the National Capital Plan are a highlight of that. That delivers what is effectively an X plan through an employment corridor from Belconnen through Civic, Russell, the airport and Queanbeyan and, equally, a north-south corridor in this direction.

That planning was embraced and picked up by the ACT government in its own spatial plan. That spatial plan—which, as the chief planner this morning noted, was about delivering an efficient urban form, a more compact city—recognised that there would be three employment corridors: an east-west corridor, in line with what I have just shown you, through Civic and the airport; a north-south corridor from Gungahlin through Civic, Woden and Tuggeranong; and an additional employment corridor through the Majura Valley, which at the centre of it would have the airport as both an activity node and an employment centre.

Not only that, but the spatial plan recognised that in terms of employment and residential land there should be three priorities: short term, medium term and long term. The airport was the only piece of employment land for future development that was identified as short term. It also recognised that the airport as an activity centre would have five per cent to 10 per cent of the city's employment. Today, we have less than five per cent. In our master plan for the next 20 years we have a forecast that we will remain below 10 per cent and in line with the ACT's spatial and strategic planning.

Perhaps what I should highlight out of that is that whilst there are possibly some concerns about the rate of growth—and I am happy to take questions on the rate of growth in the past and in the future—there is no concern about compliance with the National Capital Plan, the spatial plan, the Territory Plan or any other document.

The other key issue raised, of course, is that of infrastructure development. As I said, through the MOU process and then the ACT budget process there was a recognition that the regional roads around the airport needed to be delivered. Accordingly, part of the work in the spatial plan was to examine the journey to work issues. Certainly, there were two aspects recognised in terms of the airport as an employment centre. The first was that, for some people, it would reduce the length of the journey to work. For people in Queanbeyan, Gungahlin and south Canberra, the journey to work may well be reduced by using the Majura employment and transport corridor.

Secondly, it was recognised that those people who would be coming from the city side of the airport to the airport would be going against the normal peak flow traffic. Peak flow traffic in the morning was into the city. Traffic coming to the airport would be what is known in planning terms as 'countercyclic'. In efficient infrastructure utilisation terms, it would be taking advantage of the road capacity that was not part of the peak. Of course, what has happened is that the roads have not been duplicated for the peak that was already there, and the peak that is there now and countercyclic of going to the airport has contributed to a problem and made it worse. But the issue is that the roads have not been built.

I highlight that, along this path, the 2003-04 budget said: 'Projects for completion during 2003-04 include Morshead Drive (Pialligo to the airport).' In 2004-05:

Projects to be completed during 2004-05 are Morshead Drive (Pialligo to the Airport) and the Fairbairn Avenue Upgrade.

Every budget had it—the duplication of the roads. So I will defend the planning at the airport; I will defend the planning by the ACT government and ACTPLA. The failure of the planning has been the failure to spend the money and deliver the infrastructure as agreed up-front. But the good news, as our plan has highlighted, is that we are well underway. It is true that the funding of the roads suffered due to other priorities like the GDE and the cost blowouts, but it is now underway. It is true that we now have a very strong relationship with the ACT government on roads and on public transport. We will see on 2 June the delivery of four different bus services servicing the airport precincts.

It is also true that we have an extensive engagement with the community. Our master plan, which is now our third master plan and had 90 days of consultation, received 100 submissions, but, interestingly enough, fewer than five were concerned with the non-aeronautical developments. Of those, more than half were to do with developers wanting to build houses under flight paths. I might highlight that none of them were from competitor developers or from other business organisations that were concerned. I think there may have been only one or two from members of the community. So we seek to align with that.

Let me conclude by saying that the ACT this morning highlighted some important planning principles, and I would like to highlight their application to the airport situation. The first was that there should be no duplication of planning, there should not be multiple layers and the overlap should be minimised—in essence: one piece of land, one planning authority. That is exactly the process that has gone on for the first eight years of the airport, where there has been a process for the airport to be removed from the National Capital Plan as envisaged at the time of sale. So the airport would be regulated in planning terms the same as the other Australian capital city airports. So we would say: minimise the overlap—one planning authority for one piece of land.

Secondly, the ACT highlighted that the planning responsibility should rest with whoever administers the land. That application to the airport is that it should be administered by the Commonwealth and, indeed, should be administered by the department of transport and infrastructure, who are responsible for administering the land.

Finally, can I note that, to the extent that the ACT did raise three little themes about what they would like to see in planning, they also highlighted that they thought they would be well resolved and well dealt with through the public process of the development of, firstly, a green and, secondly, a white paper for aviation that would include a solid appraisal of planning on airports. The government fully embraced the new minister's review and process and recognised that that would be able to deal with the issue. With those opening remarks, I would be very pleased to take questions.

CHAIR—Thank you very much. Could I start by asking you what objection you would have specifically for the commercial development area of your private property at the airport to come under the jurisdiction of the National Capital Authority once again for the purposes of making sure that planning decisions did have some association with the X plan, the spatial plan or whatever the future incarnation of the plans may be.

Mr Byron—I would have two comments. If it were to come under that jurisdiction, then we ought to get out of the other Commonwealth planning jurisdiction. We would like to not be a

piece of land that became the only one in the ACT with two planning jurisdictions. So we would like an outcome where we had one planning jurisdiction. We would probably have the view that, given the all-encompassing nature of the Airports Act regime, that is probably the better place. But, if we were to come out of that place and go to the National Capital Authority place, then the National Capital Plan would need to be updated—and it could be—to reflect, firstly, the nature of the land uses that were sold to the airport and, secondly, what is in our current master plan. If that were done, and we were out of all the other regimes, we could do that.

What I would highlight is that, if that happened, it would remove the nature of the engagement of our regular master planning reviews that we do every five years from the public consultation process. It would also mean that, whereas now major developments that we undertake are required to go through an additional specific 90-day public consultation and review process, that would not be there. We would be in whatever process the NCA might end up with. It is for those two reasons that we would be reasonably happy to be left where we are.

CHAIR—Thinking of the plan of the airport, could you draw a line around your business specifically as an airport and the commercial buildings aspect of the airport site? One of the things that the committee is ultimately I think going to be forced to consider is where those lines are. A lot of the theme of the committee's deliberations is about a greater deal of clarity around where those lines of demarcation are between different statutory planning authorities.

Mr Byron—At the moment there is a line and that line is the whole of the airport, and the whole of the airport is subject to Mr Albanese's airports act regime. One of the essential points of the sale of the airport, and it was a core principle that was put forward in the early days by Brereton, was that you could not hive off bits of airport from the whole of the airport. They did not want a situation where, for example, with non-aeronautical development, people could develop that, hive it off, make a profit and leave the airport bare. There has always been an overriding principle of togetherness. The second point is that, even in economic and financial terms, there is the sense of togetherness. That is that it is the commercial growth of our office park that has allowed us to have the financial capability to borrow money from the banks to look at the terminal that we will be building from July onwards. So in planning terms you could potentially put a line through somewhere and say one bit is one half and the other bit is the other half. But it defeats those two central elements; that airports are one whole and you need both halves to facilitate the economic strength of an airport.

CHAIR—The other theme that has been emerging through this inquiry is the need for consistency with respect to consultation, accountability and appeals. That is something that has come up from both the ACT government and the National Capital Authority. So you would have, in their proposals, separate statutory authorities or separate planning bodies but consistent processes, if you like. What is your response to the suggestion that you as an airport also adopt consistent processes in line with the other two planning authorities—if that is in fact the direction that is proceeded down—appreciating that it impacts directly on your obligations under the act and your master plan requirements?

Mr Byron—I think that, first and foremost, the airport was sold to relieve the Commonwealth of the obligation of funding public infrastructure for a major access point or, if it fails, bottleneck in terms of economic activity. What is important is that there is a consistent Commonwealth regulatory scheme for the regulation of major capital cities and the airport. We do not go down

to the local bank in Civic to get our money; we go to the national markets, the national banks and, indeed, the international banks and the international markets to get the debt. And, can I tell you, you cannot imagine how hard the subprime crisis has been. It is bad enough for us to have to explain the NCA thing. We still have to explain that the regime in Canberra is a bit different to Sydney and Melbourne for our other competitive planning; but, for us to be the only airport with a different planning regime would, at the end of the day, not help us build the infrastructure we have to build. If that be the wishes of the Canberra community and the parliament, then there would be some issues we would need to work through.

Mr ADAMS—I appreciate that you only want one regime to deal with, and I look forward to you getting enough capital to build the new terminal so that the chaos that some of us put up with is not there. I also appreciate that you identify the issue that the Commonwealth privatised the airports to take that burden from the taxpayer and endeavour to do it through the private sector, which is what you have had the responsibility of doing. It seems to be an issue that the planning regime et cetera do not quite fit into the overall picture of Canberra—some people seem to object that that does not make sense. Could you comment on that?

Mr McCann—Stephen covered earlier in his comments the fact that we are consistent with the National Capital Plan and the territory's strategic document, the Canberra Spatial Plan. We use the same language, as we are required to under the Airports Act, and we spent four years getting that integration in a metropolitan subregional planning context. What appears to have caused the concern is the rapid growth of the non-aviation development at the airport in response to the market demand driven by the Commonwealth's employment policies over the last six years. Putting aside the rapid growth, the Spatial Plan says we can have five to 10 per cent of the workforce. There are 190,000-plus jobs in Canberra at the moment and we do not have five per cent of them. The concept seems to be about the tension created by growth rather than consistency with the planning document; even Mr Savery did not say we were inconsistent with the Spatial Plan. In fact, in our submission we point out that at no time did either NCA or ACTPLA say we were inconsistent with the plan—nor the strategic direction of the ACT government, now that the Chief Minister is responsible for strategic planning of Canberra.

Mr ADAMS—I guess the tension also comes from the road issues et cetera that we all experience, which is always an issue of planning—where growth takes place, keeping the roads up et cetera becomes a crisis.

Mr Byron—I think you are exactly right. I do not think people have a problem with the land use form that is there—the nature of its activity, its location, its quality or its contribution to the city. The roads are a debacle. They could not be worse if you tried to make them worse. When they opened Horse Park Drive from Gungahlin they expected it to double from 4,000-4,500 to maybe 8,000, but it quadrupled and has got worse. They did not deliver the road infrastructure we all expected—and as someone who is integrated in planning we should have been allowed to rely on it, and we did. We ended up with a lot of emotion and concern because of that outcome. I think as we fix that over the next nine to 11 months we will get a better outcome.

What is important is that people want airports to be integrated into a city's planning. I believe we are doing that. The rate of growth has been a bit quicker. The rate of growth, going forward, is going to slow down because of the Commonwealth's budgetary issues and because the ACT government will sell their own land. Six times a year we told them to sell more land. We even

put up our hand and bought some and developed some product in Civic when we could, and we said three years ago we wanted to buy land in Gungahlin. If the ACT government had sold more land in Civic, Barton or Gungahlin five, six, seven or eight years ago—as we told them to—there would be less development at the airport now. They did not do it—and if we had not done it then where would these people be?

CHAIR—Can I just follow up on that? You said growth will slow because of Commonwealth budgetary issues. Can you extrapolate that?

Mr Byron—I am speculating a little bit; however, whatever the reality come May there will be some cutbacks to Commonwealth expenditure to tackle—

CHAIR—What direct benefit do you get from Commonwealth expenditure?

Mr Byron—The whole city is geared—

CHAIR—I know that, but what is the direct relationship between your business model, as an airport, and Commonwealth expenditure?

Mr Byron—I am saying in terms of the non-aeronautical development.

CHAIR—Yes, I appreciate that.

Mr Byron—Some of the tenants have come about through the creation of new government programs. Government creates a program and cabinet, once they have made a decision, expect it to be rolled out straight away. The office space vacancy rate in Canberra has been almost essentially zero. Any agency wanting more space—private sector or government—has absolutely struggled. We have got the tenants we have because they have had nowhere else to go.

CHAIR—So it is because of the expansion of the Commonwealth public sector that you have benefited by filling your new office space.

Mr Byron—Plus one other thing. That is the first ingredient, absolutely.

CHAIR—What percentage?

Mr Byron—Including Defence, 65 per cent; excluding Defence, 20 per cent. But I think the other key thing has been the unavailability of land for us or others to develop. We keep saying that today: the way to slow us down is to sell land elsewhere. That land has now been sold in large licks in Civic. There are people in Civic holding development rights of 300,000 square metres. As well, the ACT government is on to developers who are failing to deliver their development rights that they have bought within the crown lease time frames—and similarly for Gungahlin. The recognition that the private sector generally delivers the Commonwealth leasing accommodation requires land to be sold. And the delay has not necessarily been the planning system, whether it be NCA or ACTPLA; the delay has been that no developers had the land to start work. That will change. That has massively changed. The glitch we have gone through for four years has well and truly fundamentally changed.

Senator HUMPHRIES—I am trying to just understand what the ACT government has said about the airport. You said in answer to a question that Mr Adams asked that the ACT has not alleged that the airport has been in breach of the spatial plan, but the ACT government's submission does, I think, say that. On page 8 it says:

However, under the current planning arrangements, the Airport is not constrained by the type of land use zoning applying across most of the ACT under the Territory Plan or National Capital Plan. The range of permissible uses at the Airport is very wide and include commercial and residential accommodation; cultural facility ... Obviously, this list of permitted uses goes well beyond the essentially industrial, broadacre and transport-related uses envisaged in the Spatial Plan.

Is that comment reasonable?

Mr Byron—I do not think it is reflective of the general tenor of most of their comments in the rest of the submission and, indeed, this morning. There are a few different players within the ACT government, some of which have different views, but I can tell you from very extensive interaction in recent months: there is no desire for us to be told by the ACT to stop developing. Further, even Mr Savery, the planner, said this morning that the airport's rights—not what we have done but the rights in the master plan—have the potential to skew Canberra's growth. He did not imply that it has happened or that there has been a catastrophe or a breach already. He then added that there is not a significant retail component at the moment but that it is small, and we know there is a level of anxiety over retail apropos Fyshwick. So they have never said it is inconsistent with the National Capital Plan or the Territory Plan; nor, indeed, have they expressed significant concern about what is there now.

What Mr Savery talked about was the risk of unfettered growth in the future. He also said that there is a limitation in the National Capital Plan of 120,000 square metres of non-primary use, non-aeronautical development at the airport, and that, when the NCA's jurisdiction was removed, that slipped away. That is not quite true, because the then minister for transport required that to be in our master plan as a constraint; it is. We did a review of our master plan last year, closing in February this year. The draft and the final master plan will include that same constraint. So the constraints have not been removed. The unfettered natures are not there. So I do not agree with the potential, but I will agree with his analysis that the problem has not arisen as yet. We will remain within the realms of the spatial plan's five to 10 per cent well and truly.

Senator HUMPHRIES—What I read into what the ACT government is saying is a concern about the concept of the airport being unable to be brought within a planning regime—I do not mean 'planning' in the sense of decision about land use but planning for the way in which the territory develops. They comment about the 25,000 people that they say will ultimately be employed at the airport and the prospect that this would 'seriously distort the pattern of spatial planning in the ACT'. I suppose they are saying, 'We understand that the airport's complying with the National Capital Plan, the Territory Plan and more or less with the spatial plan, but if we decide to adjust that or want to develop that in some way we have to hope that the airport's going to be part of that process—we can't require it to be, as we can in every other area of the territory.' Is that constraint on them reasonable?

Mr McCann—The issue of the 25,000 is very much assuming a long-range plan—2028, not now. It would assume that if we have over 190,000 jobs in Canberra now, there are going to be more than 250,000 jobs in 2028. Even the ACT government does not draw back from there being

over 250,000 jobs in 2030—the spatial plan horizon—so the master plan is planning to the high range. The market will determine what happens. The market, as Stephen said, is made up of land release by the ACT government, the Commonwealth's employment policies and how the airport can compete in that marketplace. So that issue is not a skewing at all.

Mr Byron—Can I come back to one thing: this question of the ACT government sitting outside and wanting to have controls and levers. They were asked this morning where they thought things could lie. They (a) did not say it should go to ACTPLA, (b) said it should maybe go to NCA and (c) acknowledged that there was a pretty good regime in place under the Airports Act that they wanted to have an input into. They wanted an independent planning review within DOTARS; they wanted a requirement for us to be consistent with the strategic documents, which I will come back to; and they wanted the infrastructure implications dealt with in terms of appropriate contribution. They wanted three things, and they thought that Minister Albanese's review would deal with each of those things; they thought that was the way forward. They were effectively saying, 'Tinker with the current Airports Act process.' They were not saying, 'Put it in the NCA;' they were saying 'tinker'. I come back to the core element: consistency with the ACT's strategic planning documents—they want that. The current process under the Airports Act requires an airport to articulate how they are consistent and, if they are inconsistent, how and why. At the moment our approved master plan and our new draft one state all of these things—about how we are consistent and how we are not inconsistent. That has been accepted by the minister for transport, and largely the ACT government have not argued face to face with us about it—neither in their public submissions nor in our meetings with them. I will go one step further: it is our desire for the airport's development to be consistent with the ACT government's wishes and time frames. It is for that purpose that we are working with them on developing a fresh MOU that ensures that sequencing, timing and all of those issues are addressed.

Senator HUMPHRIES—Will that MOU be a process document or an outcome based document?

Mr Byron—Andrew Cappie-Wood asked us the same question when we were talking about it. It would have an element of process; it would also have an element of outcomes. I think we have been able to give them some comfort about the speed of growth, going forward, and the fact that that could be incorporated in a flexible way. Secondly, it would have issues to do with process, in terms of their input to the master plan, major development plans and ongoing planning at the airport. There would also be a process whereby if there was a level of disagreement or concern that would get tabled and properly addressed in a dispute resolution process.

Senator HUMPHRIES—I have just one last question. You heard what Mr Savery said this morning about that issue of ACTPLA's nonparticipation in your planning forum at the airport. Did he have a reasonable retort to that issue as far as you are concerned?

Mr Byron—I think he told the committee the truth but he has never told us that that is the answer. Our relationship with the ACT government and ACTPLA has moved on, including with Neil, well and truly from three years ago. We spoke after the session. I think there is a good opportunity to engage with ACTPLA and bring them back into the fold. We do want to work together; so do they. We had never heard that as the explanation and it is different to the one that was in the letter they wrote to us at the time but, importantly, that nonparticipation has not stopped engagement between the airport and the ACT government at all of the levels that matter.

In consequence we have beefed up our meetings with the Chief Minister's Department and also, once the roads issues got transferred out of ACTPLA's area over to TAMS, we have worked very closely and we have a process that is delivering the results that the previous processes were not.

Ms ANNETTE ELLIS—I preface my question by saying that my observation is that the two issues at the airport are the planning questions—and that is what we have been addressing this morning—and the broader community's perception of the airport and how it performs as an airport, and there are the conflicting lines between those two things. I was sitting here a moment ago listening to that discussion and wondering, if the road had been perfect all the way along, if the controversy over the planning would have been as great as it has become in the perception of the Canberra community—I do not mean business and tenants, but the Canberra community—given that most of their issues appear to be as to the use of the airport as an airport, access in and out and the use of the terminal building, which you do not build, but Qantas build. Is that right?

Mr Byron—I think you are exactly right and I intimated that in my answer.

Ms ANNETTE ELLIS—I just wanted to make that point.

Mr Byron—The great failing—and we will take responsibility for it because we are wearing the outcome—is that the community does not have faith in the road. And why would they? I think when the road is fixed people will be comfortable with getting in and out of the airport and be able to see the rest of the things positively. We have the terminal to deliver. As you note, the terminal is owned currently by Qantas—it is the Qantas terminal—and that is the one that is suffering from stress. We have a very strong, positive relationship and, more importantly, a signed agreement with Qantas that will see us start work not long after 30 June on a new facility. Once we have done that we will then have an airport that the community can be proud of. That is what we are here to do.

Senator HOGG—Did I hear 'signed agreement'?

Mr Byron—A signed agreement.

Senator HOGG—We have met on a number of occasions on this matter.

Mr Byron—I will bring it out and show it to you. I have one by my bedside to make sure it is real.

Ms ANNETTE ELLIS—There is a lot of interest in it. I have a local machinery question, I am sorry. In your submission you very proudly say that there are going to be bus services coming out to the airport very soon. Are they going to service the workforce out there or are they also going to service aircraft arrivals and therefore the movement of passengers from the airport? Have you ever thought of starting up a taxi company?

Mr Byron—Most days I think of the latter. It is not something I would relish but the taxi service does not help us either in terms of perception.

Ms ANNETTE ELLIS—Exactly. But the buses?

Mr Byron—The Deane’s bus that we pay for to run between the airport and the city is a terminal and Brindabella Business Park service and Brand Depot service. The idea was that initially the terminal by itself was not viable for establishing a service and ditto for Brindabella Business Park, but when you put the two together it is semiviable in a subsidised way and remains so. We think that a bus service servicing both the terminal and the workforce is the way to go. The ACTION bus service at the moment is a service only for the workforce and not for the terminal. We think there is some value for ACTION, as well as for passengers, in ACTION servicing the terminal, and we will be talking to them in an ongoing way about that.

Ms ANNETTE ELLIS—So that is further to what you have already got in place coming on-stream?

Mr Byron—Yes. Those services are not servicing the terminal, in other words, and we think they should.

CHAIR—Thank you for your attendance here today. If you have been asked to provide any additional material, please do so by 2 May. You will also have the opportunity to correct the transcript, which will be forwarded to you.

[12.41 pm]

CARTER, Ms Catherine, Executive Director, Australian Capital Territory Division, Property Council of Australia

HEDLEY, Mr Anthony Robert, President, Australian Capital Territory Division, Property Council of Australia

OSMOND, Ms Meg, Appointed Representative, Australian Capital Territory Division, Property Council of Australia

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

Ms Osmond—I am a member of the planning committee for the Property Council.

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

Ms Carter—We would like to make an opening statement, with your permission.

CHAIR—Please proceed.

Ms Carter—Just to outline who the Property Council of Australia are: we are the national representative of the property industry. Our members help shape, build and finance our cities and consequently have a long-term interest in the future of our urban areas. Locally, our members include the bulk of Canberra's investors in office buildings, shopping centres, industrial parks, tourism accommodation, aged care and infrastructure as well as major developers of commercial and residential property. The property industry is a major employer in the ACT, provides the platform for business to operate and plays a vital role in underpinning new investment from interstate and overseas. The property industry in Canberra also represents a major component of the ACT economy and makes a huge contribution to ACT government revenue, providing 52.5 per cent of total taxation revenue.

The Property Council of Australia notes with interest that this inquiry is the fourth of its kind into the role and function of the National Capital Authority. Each time, in fact, the role of the NCA has survived, and that is an outcome we believe should be sustained again. The Commonwealth government's ongoing role in the strategic planning for the ACT, as well as its oversight of the national capital aspects of the city's development and promotion, is critically important, in our view, for the future of Canberra.

The Property Council would strongly advocate that responsibility for overall strategic planning of Canberra should not be diminished through the transfer of responsibilities to other Commonwealth or ACT agencies. In our view, recent funding cuts to the NCA will not assist in the resolution of critical issues but instead make it more difficult for the Commonwealth to engage in a meaningful way on issues of importance, including, for example, issues such as the optimum location of employment centres in Canberra and a comprehensive review of the National Capital Plan.

The Property Council is dismayed by measures aimed at cutting back on government spending on the national capital, both in terms of funding to the National Capital Authority and funding for Griffin Legacy infrastructure works, without first conducting a review of what these funding cuts will mean and what impact funding cuts will have on planning and administration of the national capital from a Commonwealth perspective. While we are dismayed about that, we do welcome this inquiry. We welcomed the announcement by the minister, Bob Debus, and we welcome the chair's comments in establishing this committee hearing today.

I will go on to the issue of dual interest. In our view, single-interest administration of Canberra, whether by the Commonwealth or ACT government, is unrealistic and inappropriate. While both the Commonwealth and the ACT governments have strong roles and responsibilities in the planning system, industry has very serious concerns about the capacity of the ACT government to take up any lost planning responsibilities from the National Capital Authority, given that the ACT are currently unable to fulfil their existing statutory functions, such as development assessment, due to resource constraints and the dispersal of planning functions across multiple agencies, among other reasons.

We believe that a formal framework is required to enable cooperation between the Commonwealth, territory and other regional stakeholders. Despite the best intentions of political bipartisan cooperation, the Property Council believes it is unrealistic to seek to achieve perfect harmony between Commonwealth and territory interests in the national capital, given the different interests and focus of their respective constituencies. Therefore, in the best interests of the 21 million Australians who have a direct stake in our national capital and the members of federal parliament who are entrusted with it, in our view a system needs to be developed that ensures the highest quality Capital Territory, in which all Australians can have a sense of pride, a spirit of ownership and a wish to visit frequently.

In terms of the issue of duplication, which has been addressed at this hearing and elsewhere, the Property Council agrees that, where practical, duplication ought to be reduced. However, it is important to recognise that some relevant areas of duplication ought to be retained to maintain the integrity of the national capital. Another reason for necessary duplication in some areas is the Commonwealth's ability to fund or assist in funding important projects in the national interest, such as roads infrastructure. In principle, the Property Council supports reforms that enable the National Capital Authority and those ACT government agencies involved in planning matters to work together more effectively at all levels from strategic planning to individual projects in which both levels of government have a legitimate interest, as is the case where the National Capital Authority works collaboratively with other Commonwealth agencies with responsibilities for Commonwealth land. The Department of Finance and Deregulation and the Department of Defence are examples of such agencies.

In terms of specific planning, strategic planning of the ACT is critical to the future viability and strong growth of the nation's capital, which also doubles as a significant regional centre. The NCA must play a lead role to protect the overall metropolitan structure and its impact on the central national area. That is to say, the Property Council believes the NCA should monitor ACTPLA's strategic planning to ensure the metropolitan structure is maintained. For example, it is important to ensure the proposed development at Molonglo, which is supported by both the Commonwealth and the ACT governments, does not detrimentally impact on the traffic circulation and visual setting of the central national area and on greater metropolitan infrastructure such as the Majura Parkway.

In conclusion, the National Capital Authority, in consultation with the territory government, is the best vehicle by which to plan and implement land use planning, including areas appropriate for settlement and nonsettlement, incorporating the National Capital Open Space System; spatial planning at a metropolitan scale; critical infrastructure planning; public transport alignments and networks; and demographic planning, including population distribution and workforce planning. The reason for that is that it includes all aspects of the national capital in the form of a plan for the whole territory. It sets the future vision and provides a planning framework for the following areas of the territory: boulevards, corridors and avenues, including Northbourne Avenue; town centres and surrounds, including Civic; the national capital area, incorporating the national triangle, the Parliamentary Zone and its greater axes; and places of significant public and national significance, including City Hill. That concludes our opening statement. We would be happy to take questions from the committee.

CHAIR—Thank you very much, Ms Carter.

Senator HUMPHRIES—Thank you very much for that. I assume that you have seen the proposals that were put on the table yesterday by the NCA. Some organisations have been consulted in advance about those proposals before they were tabled publicly. I assume the Property Council was not one of those organisations.

Ms Carter—The Property Council did seek a briefing from the National Capital Authority once we became aware that this inquiry was to be established. We had a briefing a number of weeks ago. We also sought and had a briefing from the ACT government and met in recent weeks with Andrew Cappie-Wood, who is the Chief Executive of the ACT Chief Minister's Department, to seek their views and form some understanding about thinking at both Commonwealth and ACT government levels.

Senator HUMPHRIES—You have some understanding of what was put on the table yesterday. Can I have your reaction to that?

Ms Carter—Our first reaction is that, in our opinion, the extent to which the National Capital Authority has proposed withdrawing areas of its responsibility is far too great. It is too extensive.

Senator HUMPHRIES—We have a four-month inquiry into this matter. Halfway through this inquiry these proposals have been put on the table. I personally doubt that we are going to have much opportunity to get a lot of public feedback on those changes. Would you see some kind of mechanism for further public consultation about the areas of proposed surrender by the NCA being appropriate?

Ms Carter—This issue is an extremely significant one. As we noted earlier, we are very concerned that decisions were made about funding cuts to the National Capital Authority and for major infrastructure work prior to any review being undertaken. It is very welcome that this review is happening now, but there is a short time frame for reporting. Given the very serious implications not only for planning for the nation's capital but for a range of other associated issues—infrastructure, the future and the vision for the nation's capital—we think there is an opportunity there for people to have a fuller discussion, and it ought to be one in which government, industry and the community have an opportunity to provide input. The issues that are being discussed today are very significant and we think they are deserving of further consideration.

Senator HUMPHRIES—The issue of what happens in those areas which are being evacuated by the NCA under this plan was discussed yesterday and today. The ACT government has said that, as well as taking primary planning responsibility for those areas where the national capital responsibility would shrink, it also believes that there ought not to be a right by the NCA to overrule ACTPLA on the basis that ACTPLA's decisions are inconsistent with the National Capital Plan. Do you have a view about whether that would be an appropriate mechanism?

Ms Carter—You have asked two questions; I would like to respond to them separately and then ask my colleagues to provide input as well. In answer to the first question, we do not wish the National Capital Authority and the Commonwealth government to withdraw from any of the areas. We are fairly clear about that. One of the primary reasons for that is that we believe the ACT government do not have the capacity to undertake additional planning responsibility. They are currently unable to cope with their own workload, particularly in the area of development assessment. We do not believe that that is a question that can be easily resolved simply by providing them with additional funding. It is a problem that has existed for a number of years and is becoming worse. In relation to the second question about the National Capital Authority, the National Capital Plan ought to take precedence over the Territory Plan. I might ask Meg Osmond to respond further to that.

Ms Osmond—Quite aside from the funding issue, we believe that the National Capital Plan should always be responsible for areas of national significance and we support the current responsibility of the NCA and the National Capital Plan. To the extent that there were any areas that were withdrawn from that scope we always believed that the National Capital Plan should always take precedence over the Territory Plan in that regard.

Ms Carter—So, as to the question of whether the National Capital Authority ought to be able to overturn decisions of the territory, the answer to that, given the National Capital Plan has precedence, has to be yes.

Senator HUMPHRIES—On that question of resourcing, the ACT government said today that there would be an extra responsibility for which it would need extra resources. It apparently has had discussions with the NCA about that and apparently it was agreed that the resourcing that the NCA had previously had, which would be nominally the amount that you would transfer if you were to compensate the ACT government for that new responsibility, was in the order of three to four planning positions within the NCA, equating to about \$300,000 to \$400,000. The federal government has not conceded that there should be a compensation mechanism, but let's assume for the moment that they agree to compensate by transferring approximately that amount of

money. Do you think that a \$400,000 boost to the ACT's planning function would be enough to provide the capacity it needs to be able to perform the planning functions appropriately?

Ms Carter—It needs to be understood, and it needs to be understood very clearly, that it is not simply a matter of money. Three or four positions, if they were transferred from the Commonwealth, and \$300,000 to \$400,000 will not solve the problems that are inherent in the ACT planning system. I will ask Tony Hedley to elaborate on that in a moment. But development assessment in the ACT remains extremely complex and very slow. Typically, when a major commercial developer goes to develop a parcel of land—a large building of, for example, 30,000, 40,000 or 60,000 square metres, and even for more modest proposals—there are generally 30 separate individuals and organisations within the ACT administration alone that the developer needs to deal with. That is not only ACTPLA; it includes Territory and Municipal Services, ActewAGL, Heritage and a whole range of organisations. It is simply not the case that, if a couple of staff were transferred to ACTPLA along with some funding, it would fix the bottlenecks and the problems. I might ask Tony to elaborate on that.

Mr Hedley—Perhaps I could say that, whilst you, Senator Humphries, were planning minister in the ACT government some years ago, there were major problems. Can I say that those problems have not improved and are significantly worse today than they were five, six or seven years ago, when you had responsibility. The ACT Planning and Land Authority is not meeting its statutory responsibilities at the present time and there is no indication from it that even the new planning system will address the issue.

It is interesting to note that on the very last day on which the old planning system was in force, which was at the end of March, I understand the Planning and Land Authority received more applications on that day under the old system than they had in the previous three months combined—that is, industry voting with its feet wishing to deal with the old system rather than the 'new reforms'. There is a major crisis in ACTPLA. It is taking an inordinate amount of time to get material through and approved. Given a choice between dealing with the National Capital Authority and dealing with ACTPLA, every person involved in the property industry in Canberra would prefer to deal with the National Capital Authority. That is the stark reality of the current situation. A transference of responsibility—for example, in that area of Barton I think you mentioned before when the Canberra Business Council was here—would lead to a significant delay, it would lead to a significant decline in quality and it would not be supported by the Property Council.

CHAIR—But you support a duplication of planning authorities for designated areas?

Mr Hedley—We believe that if you have a building or a proposal in a designated area you should deal with the National Capital Authority.

CHAIR—Has it always been the Property Council's position to support a dual planning system? That is not my recollection.

Mr Hedley—It is not a dual planning system in the sense that, if it is a designated area, then it is an area that the National Capital Authority should have primary responsibility for.

CHAIR—Sorry, is that what you are advocating: that the ACT government get out of designated areas?

Mr Hedley—Yes.

CHAIR—So you do support the principle of one planning authority for one physical area?

Mr Hedley—Our view is that the National Capital Authority ought not to withdraw from any particular area that it has responsibility for—

CHAIR—That is not the question I am asking.

Mr Hedley—Well, how can I answer that question other than to say that, if the National Capital Authority has responsibility for a designated area, it ought to be the planning authority for that designated area.

CHAIR—So you are recommending to the committee a massive expansion of the scope of works and administration by the National Capital Authority.

Mr Hedley—Unfortunately, having regard to the performance of ACTPLA for many, many years, it would be an improvement to go to the NCA rather than ACTPLA.

CHAIR—Can you tell me whether or not you would then support consistency of consultation and appeal rights in accordance with the territory planning regime, if the NCA were to undertake such a massive expansion of their role?

Mr Hedley—I will get Meg to talk about that.

Ms Carter—I will address that point before we hand over to Meg to talk about appeal rights. The view of the Property Council of Australia is that in an ideal world we would have a National Capital Authority-style planning authority deal with more parts of Canberra than it does at the moment. But our members and indeed the Property Council have been comfortable with dual planning authorities and responsibilities in certain areas and in fact have had very smooth development transitions with developments on very significant sites. Much is made of language around duplication, red tape and so on when in fact the experience of some of our major commercial members is that the reality is much smoother than what you might think from reading the media and so on. That is because, in spite of the difficulties that we are describing with ACTPLA at the moment and in spite also of what one might read in the media, the Commonwealth government has had a decent relationship with the ACT. At officer level—between professional staff in NCA and ACTPLA—there has been a reasonable relationship as well. So I do not think that it needs to be characterised as starkly as one or the other in that respect. Meg can address the appeal rights issue.

Ms Osmond—In terms of the appeal rights, we support the current position. Consultation is built in already in terms of amendments to the National Capital Plan, as well as for development control plans. That is under legislation as well as in the National Capital Plan. Provided that that process is complied with and there is consultation up-front so that everyone is aware of the rules

that apply to development, for example, there should not be the need for appeal rights except where there has been some sort of administrative error.

Territory land and appeal rights have been watered down as well. Under the DAF model, the intent is that, provided everyone knows what the rules are, third-party appeals should be limited. It is not the case that there are a whole gamut of appeal rights in the territory that do not apply on national capital land or in designated areas. We think that the effort should be focused up-front so that everyone is involved in consultation. Then everyone is aware what the playing field is and appeal rights should not be needed.

CHAIR—So the federal government is actually working okay with the ACT government?

Mr Hedley—Yes.

CHAIR—Sorry, I am getting conflicting messages. On the one hand, Mr Hedley is saying how awful it is; then, on the other hand, it is all working rather well.

Ms Carter—To be clear about that, the reason that we are opposed to National Capital Authority planning functions being transferred to the territory is because, given the problems and the delays in development assessment and given that the ACT Planning and Land Authority are not able currently to meet their statutory time frames for dealing with development, we are very concerned about any proposition that planning be devolved to the territory. However, going back to your earlier question about designated land, dual planning systems and so on, the answer to the question there is that, from a Property Council perspective, in an ideal world the NCA's role and functions would be expanded. Industry has a positive experience in dealing with the NCA in terms of their professionalism, timeliness and decision making—even if that decision is no, as it sometimes is, it is quick, easy to understand and easy to deal with. But, given the practical reality of having a two-tier planning system with dual responsibilities—much as exists in fact in the rest of Australia with state governments and local governments—it is fair to say that in many instances in which our major commercial developers have had to deal with both planning authorities the experience has generally been relatively smooth, which is not the way it is often characterised in the media—as being full of unnecessary red tape and adversarial conflict. That is simply not the case.

Ms ANNETTE ELLIS—Why do you believe that the NCA is suggesting that the designated land status change? What is your view on why they are suggesting that?

Ms Carter—I can only speculate and it would be a personal opinion.

Ms ANNETTE ELLIS—Certainly.

Ms Carter—They probably are looking down the barrel of the political realities as they see them and have taken a fallback position to protect the national capital area and important areas of designated land. But industry would be very concerned if their planning responsibilities were diminished or restricted in the way that they have outlined. We do not support it.

Ms ANNETTE ELLIS—With the greatest respect, it seems that what is being suggested here is that the council could be interpreted as taking the opportunity to just choose which one serves

them better, rather than having the appropriateness of a planning process per se. We are looking at the appropriateness of the planning process. I am being a bit critical here, but I think you are saying that if you agreed with and approved of the method of operation within ACTPLA you would not have this view, but you do have it because you do not agree with the method of operation within ACTPLA. We are looking at a different measure from managerial prowess.

Ms Carter—That is a fair question and it is worth responding to. There are a number of reasons why the NCA operates more effectively than the ACT Planning and Land Authority at a local level—and Tony and Meg might like to comment on these issues as well. I should be clear about who our members are. Our members are investors and developers, but our membership also includes architects, engineers and all the major law firms and so on. The fact is that when those members who are architects and so on have development proposals and take the concept plan to the NCA, they deal with a senior professional, a peer, who understands and relates to the person at that level. A discussion can be held about what is appropriate, what is allowable and the way forward. Everyone goes away with a common understanding of where the project is headed. When they come back, developments can be approved and proceed on that basis. But, for a number of reasons, the reality in the ACT is that there is no single point of contact. Developers or the consultants who act for them have to engage with as many as 30 separate agencies. Generally, the first point of contact within the ACT Planning and Land Authority is a clerical level. This is where misunderstandings arise. Developers can go away with their plans and come back six months or nine months later and see someone further up, and it has all fallen apart. Meg, do you want to respond to that?

Ms Osmond—The difference between the Territory Plan and the National Capital Plan is that the National Capital Plan is quite flexible and does not have the same level of detail about requirements as the Territory Plan does. That is appropriate for buildings and developments of national significance. That degree of flexibility is appropriate for limited cases where it is of national importance. That is another reason why people prefer to deal with the NCA than with ACTPLA. Whilst it is a more pleasing experience to deal with the NCA than with ACTPLA, we are not suggesting that for every type of development in the ACT we would always want to deal with the NCA rather than ACTPLA. Obviously, that is not the case, but that is another reason why. It is a different experience, and it should only apply in the case of significant developments.

Ms ANNETTE ELLIS—We will not revisit State Circle! Thanks.

CHAIR—I have one final question and it relates to the suggestion of having a chief architect. One of our terms of reference is about how to achieve design excellence. What is the Property Council's view on the idea of having a chief architect, perhaps together with the NCA or perhaps as a separate entity? I think the suggestion that came forward was that it be associated with the Department of the Prime Minister and Cabinet. Can I get the Property Council's views on such a proposal?

Ms Carter—That is a good question, because it also touches on governance issues and reporting. I will turn to the second part of the question first. One of the important issues at stake here is governance, and the Property Council would strongly support that there be an ACT representative on the National Capital Authority board. That is appropriate and it is consistent with governance models in other capital cities, such as Washington and Ottawa. We would also

support representation on the board from respective professional associations such as the Royal Australian Institute of Architects and from planning bodies.

CHAIR—As a specific position on the board?

Ms Carter—As a specific position on the board. We would also recommend that for those positions the respective professional bodies nominate the people to be on the board. If that were the governance model that were implemented, we would not see a need for a separate government architect. We are always looking for simplicity, and if there were a separate person or entity outside that decision-making process that would just slow things down. We think that can be addressed on the board of the NCA.

We have also said in our submission that we believe—given the importance of the National Capital Authority because of the importance of the national capital—that the authority ought to report direct to the Prime Minister, as is the case in Washington DC.

CHAIR—So it would sit within the Department of the Prime Minister and Cabinet?

Ms Carter—It would sit within the Department of the Prime Minister and Cabinet. In Washington DC the District of Columbia and the mayor's office have representation on their board. The Washington DC version reports direct to the President, and the President nominates someone to be on their capital authority board. There is no doubt that the National Capital Authority, over the past dozen years, has suffered by having many different ministers who, from memory, have been minister for two years and then it has been turned over to someone else. It is an important institution, the national capital is important and we would like the Prime Minister's office to take responsibility. We think that would be appropriate.

CHAIR—Thank you for your attendance here today. If you have been asked to provide any additional material—and I know the committee would certainly appreciate any response you have to the proposals put forward by the NCA supported by ACTPLA—please get them to us by 2 May. You will receive a transcript of your evidence and may make some adjustments in relation to grammar and fact.

Proceedings suspended from 1.12 pm to 2.21 pm

KING, Mr Lawrence Anthony, Executive Director, Law Society of the Australian Capital Territory

WHEELER, Mr Chris, Appointed Representative, Property Law Committee, Law Society of the Australian Capital Territory

CHAIR—Welcome. 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 have any additional submissions to present or would you like to make an opening statement?

Mr King—I will make short opening remarks.

CHAIR—Thank you, Mr King. Please proceed.

Mr King—Our normal role in politics as an organisation that represents the people who normally have to explain the law to others is twofold. Firstly, we like to see that there is a fair balance as to the major conflicts in society and that the smaller interests are also represented in legislation if that is possible. Secondly, that legislation should be easy to comply with. However, we do have another role. That is that, as a representative body, we are an integral part, I believe, of the economic community of the territory—so it is in that capacity, as well as the capacity of our role as an organisation that likes to see the development of fair law.

We were hoping to be all free for this, but unfortunately Michael James, the chair of our Property Law Committee, can't be here. I say 'can't'; he is simply not, and I do not know why. He will have to explain later. To make best use of the committee's time, I think it would be best for me to now throw, as they say, to the talent, Mr Chris Wheeler, who oversaw the writing of our submission.

Mr Wheeler—Thank you, Larry. The Law Society of the Australian Capital Territory welcomes the opportunity to talk about this important topic, which is an important issue not only for Canberra but also for the nation. In understanding the role of the NCA or in determining what that role should be, we need to focus on what the role of the Commonwealth is—and its focus should be on Canberra. Canberra is more than just the eight-kilometre stretch of road from the airport to this Parliament House. It actually has living and breathing people. It also represents the nationhood of our country. It is no coincidence that in the last few days we have seen the 2020 ideas summit, that we are about to see on Thursday no less than the Olympic torch come to our country, let alone this city—the only city that it comes to in this country—and then on Friday we have what in one sense is the holiest of days, Anzac Day, for which the focus will be the dawn service at the Australian War Memorial.

So Canberra is an important part of this country. It is our national capital. The eyes of the world will be here on Thursday, looking at how this city and this nation performs, leaving aside

other controversies that might be associated with that. But it is the NCA, and its role in promoting the city as a national capital, which is the focus for this inquiry and for your deliberations.

The national capital, frankly, is a little bit more than just the Parliamentary Triangle; it is also a place that fosters pride in the country. We have Anzac Parade, we have the War Memorial, we have the lake, we have the hills and buffers, and we have the main corridors leading into the city. All those things are presently aspects dealt with by the National Capital Authority on behalf of the Commonwealth. The question you need to ask is: is that proper? The Law Society believes that it should be.

I was trying to come up with a sort of metaphor that describes the NCA and the Commonwealth's role and, for want of a better one, the Commonwealth is a bit like a Cyclops—it has one eye. That one eye looking on Canberra for the Commonwealth is in fact the NCA. So the bigger that eye, the greater the focus and the more interest that the Commonwealth has. The smaller that eye, the less interest and the less focus. That is actually what we are dealing with here: what is the size of the eye, how big is the eye and what is the role of the eye—with that eye being the National Capital Authority, or what is presently called the National Capital Authority.

One of the pinnacle points of our submission is, in fact, looking to the future beyond this inquiry and what happens with the recommendations that you will make. What we would like you to consider is that there are some very meaty issues that we are talking about that you are being exposed to. They actually need to be properly dealt with and there will be various recommendations that you will make. But to actually implement those and get the most out of them, there really needs to be an expert committee set up to actually work through and set out how that is to be achieved—something like the expert committee that was set up by the Canadians when we reviewed their equivalent authority in 2005.

In terms of specific issues, you may have heard already about the issues of duplication—is there unnecessary duplication in the way in which the local planning authority, ACTPLA, and the NCA behave, and is there unnecessary duplication? That is a matter of opinion. There are instances where there is duplication, but on the whole those instances have been minimal. There have been some fairly significant examples of that, but on the whole they are rare. The NCA believed, I would suggest, that in those instances where it did intervene, to publicly be seen to intervene in those larger matters, it was doing so on behalf of the nation. Then you have to ask yourself further: what is the role of our own local planning authority? Should it actually be also charged with looking after the aspects of nationhood, because it actually has a city and its own problems to run? Can it actually manage them both? If it does, then that must by definition involve it balancing of right conflict of interests. That is why the National Capital Authority was set up the way it has been. So the society is not in favour of duplication, but it sees in some areas duplication as being a necessary part, if you like a necessary evil, and a trade-off for Commonwealth overseeing of its national capital.

The society also promotes, as much as possible, there being a one-door policy—that is a one-door place where applicants can lodge their DAs or works approvals. We do not quite have that system now. There are a couple of occasions when there are two approvals required, but they are rare and they may only occur in the context of what are called special requirements on the National Capital Plan. So we are recommending that they be analysed and reduced.

The harmonisation of the National Capital Plan and the Territory Plan is important. Really, a discussion about the National Capital Authority cannot occur without a discussion also of the National Capital Plan. The National Capital Plan is a very detailed, complex document. It is imprecise in many respects. We have just seen almost two years of debate and refinement occur across the lake with regard to the Territory Plan. It took two years to refine what ended up being essentially a policy of neutrality, so you can imagine how long it would take to properly review the National Capital Plan.

Our members are practitioners in the area and, being one who frequently has to deal on the one hand with the Territory Plan and on the other hand with the National Capital Plan, I find it very difficult to manage and balance those two almost competing documents. So, one of our recommendations is that there be an effort made to synchronise, as much as possible, those two planning documents so that they can be read together and preferably consolidated. That is quite a task, but that is the goal.

One of the aspects that you have been asked to look at is corporate governance for the National Capital Authority. We believe the model that is presently in existence is not a bad model, that being one where the functions of the National Capital Authority are discharged by a separate legal authority on behalf of the Commonwealth as opposed to just another section or group of officers within a large omnibus government department. We think that the national capital warrants its own authority. How that authority is to be set up is also an issue that you are looking at. In our submission, we have thrown to you the idea of an authority representative of our nation—our states and territories—and also of the other stakeholders that are in this city and around the nation generally.

We looked to the Washington model. The Washington model has three major appointments appointed by the President. There are other members of its equivalent body who represent, in large part, the states. So we are recommending a similar model for your consideration, where the Prime Minister would choose—this is a suggestion only—the chair and the chief executive and then there would be a representative appointed by our own Chief Minister: preferably a resident of Canberra who has planning experience. Then there would be representation from the states—and that could be one from each state or, by agreement from the various premiers, there could be two or three. But that is something which we see as being consistent with the aspect of nationhood and possession—that the NCA actually represents and reflects the interests of the Commonwealth as a whole.

Moving on to the form of the approval assessment model, one aspect which is probably close to many of this committee's members' hearts is the way the National Capital Authority conducts its development assessments and integrates and seeks consultation from the public. At present, the NCA has pretty much got a wide hand to determine how it will run its own processes and, strictly speaking, is not subject to third party review of its decisions. We are suggesting that that is perhaps not necessarily the best model. We are not necessarily suggesting we go to a model where there is a full-blown total review of every decision but the development assessment forum—the DAF—is a worthwhile model. It is a model which ACTPLA has recently embraced in its review of its own planning laws and we would say there are elements in the model that can be considered by the NCA—if the NCA continues to exist in a workable form.

We are also suggesting that responsibility for the NCA needs to rest with a senior cabinet minister or even the Prime Minister himself. The reason we are suggesting that is that it is important to lift the aspect of nationhood that Canberra represents, and it is important to lift it to the status of an important ministry. I am not saying exclusively that, but it is an important matter nonetheless. At the moment the NCA is actually thrown in at the end of the present responsible minister's large portfolio. So we are saying that that does not actually give it the prominence that the National Capital Authority probably deserves.

Finally, the National Capital Authority's powers do not just extend to planning but to promoting the national capital itself. We are suggesting that that be maintained and, in fact, enhanced, so that ultimately there is sufficient funding committed to enable the NCA to do its job.

Senator HUMPHRIES—I have some questions based on what you have just said and your submission, where you say:

The complex issues relating to the planning of the National Capital will not be addressed or resolved by simply reducing the mandate and funding of the NCA ...

Let me start by asking: have you seen the proposals that the NCA has put forward to reduce its planning footprint?

Mr Wheeler—I have.

Senator HUMPHRIES—Were you consulted about those before the announcement yesterday, or did you see them—

Mr Wheeler—They are not a surprise, in that I was aware that that is where the authority was going.

Mr ADAMS—The question was: were you consulted or briefed?

Mr Wheeler—The Law Society itself was not formally briefed, but I am aware of others who were.

CHAIR—What do you mean—other law firms?

Mr Wheeler—No, other associations.

CHAIR—Yes. That is on the record.

Mr Wheeler—Yes.

CHAIR—Were you briefed?

Mr Wheeler—Personally, no. I had the opportunity but I was not available to attend that session.

CHAIR—What briefing are you referring to that you had the opportunity to attend but were not able to?

Mr Wheeler—That was a briefing afforded to the Property Council. But the substantive issue that you point to is worth commenting on, and that is: in our view should the National Capital Authority's responsibility just be shrunk to essentially the Parliamentary Triangle? Our submission is no.

Senator HUMPHRIES—When you say no, do you mean that there should be no change or that the changes proposed go too far but some adjustment is appropriate?

Mr Wheeler—It is not a flat no. We see some latitude for change, which is obviously what you are focusing on. We are suggesting, however, that the capitulation, almost, by the National Capital Authority in its powers is in fact an attempt—

CHAIR—I suspect they would find that a tad insulting.

Mr Wheeler—It is not intended to be. I have not spoken to Annabelle or Michael Ball about this, but I suspect they see it as pretty much what they need to do to survive.

CHAIR—People keep saying that, but they have tendered no such view or evidence. There is a lot of speculation about their motivation, so I urge you to take great care speculating on the NCA's motivation for their view.

Mr Wheeler—That is what it is—it is purely speculation, indeed.

Mr King—I do not think we have attempted to speculate about the motivation of the NCA or the people that lead it. All our submission is is that, in the interests of a greater Canberra awareness amongst Commonwealth politicians and the general population of Australia, there needs to be an appropriately funded NCA working hand in glove, as it were, with an appropriately funded local planning authority. It is not, or it does not appear to be, working appropriately and we have suggested in our submission a form of statute based cooperation which would have some auditable ways of making sure that they do get together in a systematic way with the aim of producing plans that not only are good for the Parliamentary Triangle but are equally good for the spaces where people live and breathe.

Senator HUMPHRIES—One might observe, from a lawyer's point of view, that, as you pointed out Mr Wheeler, the decisions of the NCA are not generally amenable to third-party appeals, while to a greater extent the decisions of ACTPLA are—and that, by widening ACTPLA's scope to plan the territory, you are enlarging the involvement of affected parties. You could put that cynically as there being more work for lawyers, but you can also put it on the basis that there is more capacity by affected parties to appeal decisions they do not like that are made by the planners of Canberra. Is that an argument that attracts you to consider the proposals put forward?

Mr Wheeler—It is an issue which has a slightly different slant. This may not necessarily be the answer you expected, but the two systems foster different reactions from the two authorities and, as a result, the authorities develop characteristics which reflect their systems. By that, I

mean ACTPLA has often tended to be very cautious. The reason they are very cautious about decision making is that all the decisions traditionally have been open to third party review, certainly by the applicant. The National Capital Authority, on the other hand, has developed an reputation for being very confident, very strident, very quick to make up its mind and provide a yes or a no, which is one of the criticisms of ACTPLA. But, as I say, they each reflect each other's system. Part of the reason why the National Capital Authority is more strident is that it is able to be so because it does not have the fear that its decisions will be challenged, on the whole. So there are merits with both; it is a question of striking the right balance.

Senator HUMPHRIES—You mention at a couple of points in your submission that the society believes that enduring and productive solutions are to be found in clarifying the roles of ACTPLA and the NCA, in reforming the corporate governance and in improving the lines of communication and cooperation between those two bodies—that the NCA and ACTPLA should work collaboratively. I think we would all agree with that, but it is not clear how we actually make that occur. Can you be more concrete about how we can get these two bodies to work more closely together?

Mr Wheeler—We were actually talking about this outside before coming in here. The reality on the ground over the last few years has been that the National Capital Authority and the ACT planning authority have worked much more closely together than they had historically. That has been a function of the personalities, in fact. There is an inherent problem, of course, in that each organisation is tasked with doing slightly different things. Their focus is slightly different and they answer to different people. Then your task is to determine whether that is a good thing or not. The ACT will claim that it should really have responsibility itself, almost exclusively, for the large part of Canberra, and there is good reason why that should be the case. But the question you need to ask is whether that is appropriate from the national capital's perspective and the perspective of the nation.

CHAIR—I just want to clarify something. The submission before us is copyrighted to Mallesons Stephen Jaques. Is that who you work for, Mr Wheeler?

Mr Wheeler—Yes, I am a partner of Mallesons.

CHAIR—Does Mallesons do any work for the NCA?

Mr Wheeler—It has done one job in my time.

CHAIR—To the value of what and when?

Mr Wheeler—To be honest, I cannot tell you, simply because I do not know. Was it a large-, small- or medium-sized job? It would have been a very small job.

CHAIR—If you could take that question on notice, generally, and provide an answer to the committee, that would be helpful. I think that is important for us to know.

Mr Wheeler—Sure.

CHAIR—I am interested in your submission in relation to the governance questions. One of the things that came out yesterday was that for some time now the CEO has not been answerable to the board of the NCA—in fact, the CEO has been answerable more recently to the minister, thus I guess changing what most people perceive as a statutory authority governance arrangement. What is the society's view on that abnormal arrangement, where you have essentially a board appointed by the Governor-General, a statutory authority in the National Capital Authority but the CEO reports to the minister and not the board?

Mr Wheeler—I am not exactly sure whether that is actually the case.

CHAIR—We heard it in evidence from the CEO yesterday and also it was confirmed by the department.

Mr Wheeler—Okay.

Mr King—Can I get it clear? What is the question?

CHAIR—What is your knowledge of that arrangement and how does it fit with the society's view on what an appropriate governance and accountability structure ought to be for a body like the NCA?

Mr King—What is the arrangement?

CHAIR—The arrangement is that the CEO is accountable to the minister under the Commonwealth's Financial Management and Accountability Act. The CEO is not accountable to the board, although the CEO is an ex-officio member of the board, as we heard yesterday.

Mr Wheeler—The model we are proposing is, if you like, a more traditional model, which you are suggesting.

CHAIR—Under your model, is the CEO accountable to the board?

Mr Wheeler—Yes.

CHAIR—Is that what you think is appropriate?

Mr Wheeler—Yes, I do not have a problem with that. Substance not form, of course, is what this is about. As a starting point, we are saying the form should be a more traditional statutory authority where the CEO reports to the board. But the essential point, as always, is the individuals. There are many examples of where a board might consist of strong individuals or a particularly strong chair and a stronger CEO, so the relationship between the chair and the CEO becomes critical in most of the organisations.

CHAIR—But we cannot legislate based on personalities.

Mr Wheeler—No, indeed not.

Mr ADAMS—We have before us a situation where the present CEO sits on the board but is not accountable to the board as such. Is it your view that the CEO would not sit on the board and would be answerable to the board in a traditional sense?

Mr Wheeler—I do not think that is necessarily the best model. I think the CEO should appear at board meetings. Whether they are formally a member of the board or not I do not think is so important as long as they are a participant. To think that you would have a board meeting without the CEO present is an odd concept.

Mr King—Our own structure is the kind of structure we have in mind. We exercise statutory powers under the Legal Profession Act 2006 to regulate the professional conduct of, principally, solicitors in the ACT. The body that has that power under the act is the council of the Law Society—the board, in fact. I am the executive director or a CEO. I do not sit on the board. I am not a board member, but I attend all meetings. I brief the board and I am responsible for implementing their decisions. I think that is how the thing ought to work.

CHAIR—Going to your recommendation that the Washington model be adopted, my understanding of that model is that it is very clearly a statutory authority with a series of ministerial appointments with pre-designated status, if you like—citizens representatives, federal representatives and so on. What is your view on the concept that has been put to us about integration of the plan and that statutory body that you describe then having control over implementation of that overarching plan but, as was put forward by the NCA and the ACT government, delineating or demarcating the parts that the NCA administers and the parts that the ACT government administers, albeit part of a singular, agreed plan?

Mr Wheeler—An ambitious task.

CHAIR—That is what has been put before us: that there is a plan and then the two different statutory bodies—or at least a Commonwealth statutory body and ACT planning—delineate which parts they administer.

Mr Wheeler—Yes, and it is the degree of administration, I guess, that we are talking about.

CHAIR—They are saying all or nothing—so all in the areas that the NCA suggest for them, and then all administered by the ACT government, albeit that through that integrated plan the National Capital Principles prevail.

Mr Wheeler—And we are suggesting that the current hierarchy, if you like, not be disturbed.

CHAIR—I do not think there is a suggestion of that.

Mr Wheeler—And we are not suggesting a departure from that, but it comes down to the demarcation line. The majority of development in the territory, the micro level, should be left to the planning authority in the ACT government, as long as they are carrying out aspects that are consistent with the National Capital Plan. The micro level that applies to what we currently know as designated areas would, in our view, still fall within the National Capital Authority, but literally the task is: where are the lines drawn; where does the designated area end?

CHAIR—As there are no further questions, I thank you for appearing here today. If you have been asked to provide any additional material, please do so by 2 May. You will be sent a copy of the transcript of your evidence for any corrections.

[2.52 pm]

HOBBS, Mr Neil, National President, Australian Institute of Landscape 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. We have received a written submission from you. Do you wish to submit any additional material or make an opening statement to the committee?

Mr Hobbs—I will make a short statement, if I may.

CHAIR—Please proceed.

Mr Hobbs—Our national council met in early March and we actually did have the benefit of a briefing from some officers from the National Capital Authority on some of the proposals that have developed subsequently.

CHAIR—Did they approach you for that briefing?

Mr Hobbs—We approached them. They were, we understand, speaking to other professional institutes—planners, architects and so on—around that same time.

CHAIR—I am sorry to interrupt. I will let you continue.

Mr Hobbs—We approached them because our council was in Canberra and this was occurring, so we thought it was a good idea to get our council to hear from the NCA about their view.

Leaving that aside, the key things that we would like to maintain the integrity of are the National Capital Plan, the National Capital Open Space System and the fact that Canberra is a city in a designed landscape. We are not too concerned when it gets down to the nitty-gritty of how that is managed, but they are the overarching critical areas we would like to see maintained.

Mr ADAMS—Could you just repeat that last part?

Mr Hobbs—It is the fact that Canberra is a city in a designed landscape, and it is how that landscape is managed, maintained and developed in the future that is—

Mr ADAMS—To continue to reflect the original planning principles?

Mr Hobbs—No, to reflect the aspirations of the National Capital Plan, as it obviously evolves and changes in time.

One of the things that the institute is advocating now is a greater stewardship of landscapes. It is something which does not happen, and so we see landscapes around Australia in urban and natural areas that are degraded and there is not the maintenance and stewardship of those landscapes we feel should be there to maintain them for Australians. Obviously, Canberra falls into that case.

Mr ADAMS—Can you give us a bit more detail on what you mean by that.

Mr Hobbs—For instance, we are promoting amongst land managers a stewardship award. In the last two years, we have given out two awards. One was to the ANU for the management of their landscape on the Acton campus. The other one was to the Centennial Park Trust for their management of Centennial Park in central Sydney. We are encouraging land managers to consider the value of the stewardship of the landscapes that they manage and we are actively looking for more stewards.

Mr ADAMS—Has there been a bit of an attack on managed landscapes as opposed to natural landscapes in recent times? I have heard a bit of criticism. Is it the history of coming out of the old England concept of gardens et cetera?

Mr Hobbs—To some extent, all landscapes are suffering from climate change, I suppose you could call it. Canberra's climate over the last seven years is an example. Obviously, there has been significant tree loss in the Parliamentary Triangle and through wider Canberra. That is something that we are particularly concerned about. I think there are ways to solve that. To get down to the detail, the way is through new tree species selections and all those sorts of things that—

Mr ADAMS—Manage water.

Mr Hobbs—Yes, and better planting techniques and so on. I think we have solutions to those sorts of things but I think it is a matter of managing those sorts of landscapes and having the appropriate funding to manage those landscapes. We see valued landscapes, such as Canberra's central national area, as the key areas that we would like to influence.

Mr ADAMS—The big boulevards and things like that?

Mr Hobbs—Boulevards, yes, but also small spaces and existing vistas. Not necessarily the creation of new boulevards per se but certainly the maintenance of existing landscape fabric and development as it is appropriate of other landscape elements.

Mr ADAMS—Thank you.

Mr Hobbs—I suppose the rest of my statement is really that we see biodiversity as just as important in a city and urban landscape as in the natural environment, so obviously the care of those urban and natural environments are key. That is essentially my statement.

CHAIR—Thank you for indulging the committee in making yours an interactive opening statement, Mr Hobbs.

Senator CROSSIN—I want to ask some questions. Mr Hobbs, in terms of the work that landscape architects do, at what stage do you get involved in any future planning process?

Mr Hobbs—The reality is that it is often quite late in the process—possibly to the detriment of projects, we feel, in many cases. It is happening more and more now that the landscape architect's role is at the beginning and often leading these urban renewal projects. There are some very good examples worldwide of landscape architects who are playing these roles in the redevelopment of urban cities—for instance, for the Olympic bid in London. Often there is strong, landscape driven involvement at the top of those sorts of areas. It is happening more and more, but at a local level it is a pretty piecemeal approach, certainly.

Senator CROSSIN—So you would often get a design when it has been approved or is at its final stages of creativity and planning and then get asked to put your bit in?

Mr Hobbs—That is not so much the case with projects that will be developed in the national capital region, for instance. But, in a typical development, it is more often the case, yes. If it is a building, the landscape is subject to the building, but if we are talking about another project which is more of an open space project, it is probably more integral that the engineers and the landscape architects are involved from day one. It depends on whether we are talking about a building or an external space, environment, infrastructure or something like that.

Senator CROSSIN—In terms of governance arrangements, you have a view that the National Capital Authority should have statutory powers to review the functions of the ACT government in relation to its responsibilities to the National Capital Plan—is that is right?

Mr Hobbs—Yes. That is predicating, I suppose, a change to some land arrangements where there may be some elements of the National Capital Plan and the National Capital Open Space System which may not necessarily now be under the planning approval, for instance, of the NCA. So, were different land boundaries to be adopted, we would look to see that, for those key parts of the National Capital Plan, some statutory authority would have that oversight or review process.

Senator CROSSIN—Because the NCA are actually putting to us that the range of land and the type of land they have should be divested from them. They want a smaller designated area. Have you had a look at that?

Mr Hobbs—We are aware of that from their briefing, certainly.

Senator CROSSIN—What is your view of that? Do you support that?

Mr Hobbs—Personally, I do not have a particular opinion either way. I think it is most appropriate to have something which is manageable. A system that works is what we are after. As an institute we are looking for a system that works rather than a system that, obviously to date, has had its problems.

Senator HUMPHRIES—Just following on from that question from Senator Crossin, I do not know if you have personal dealings with NCA or ACTPLA in terms of landscape issues, but how would you rate the NCA as a custodian of the landscape heritage and values of Canberra?

Mr Hobbs—Personally, I think their performance would be mixed—good in parts, I suppose, a bit of a curate's egg. Some elements have been done particularly well; some areas have not been done to that level.

Senator HUMPHRIES—Could you give an example of each?

Mr Hobbs—Our institute was particularly impressed by the level of thought that had gone into the Griffin Legacy, for instance, in terms of the development of what it was proposing for the northern side of the lake and so on. We awarded that planning document an award of excellence in our awards of 2006. We thought the rigour that had been shown in that planning document was first-class and predicated a particular level of land management which obviously would follow in the detail. The document does not specifically refer to that as it is going along, but we saw that that would follow in the detail.

As to areas that have not been done so well, generally it is a matter of budgets and the maintenance of wider Canberra landscapes, trees and so on, in the areas that are managed by the NCA currently. Obviously, some people would talk about the Albert Hall planning consultation process. They have obviously admitted themselves that they were perhaps not up to their usual standard. I thought the Albert Hall precinct had some things going for it in what they were proposing. On a personal level, there were some interesting things in terms of development of that portion of the lake. But clearly it was handled fairly poorly.

Senator HUMPHRIES—How would you rate ACTPLA against the same test?

Mr Hobbs—Again mixed. I think it is a matter of resources and personal strength and so on of all those issues. ACTPLA faces some far more immediate demands on their time and sometimes do not meet absolute perfect performance because of the sheer volume of the work that they have to deal with and the sheer volume of the level of service that they are providing, from such a small-scale through to quite major national areas with the NCA.

Ms ANNETTE ELLIS—Mr Hobbs, in your submission you make reference to what you believe to be the important role carried out by the NCA in engaging with the Canberra community, or words to that effect. Can you elaborate on how you see them successfully engaging with the Canberra community in general terms?

Mr Hobbs—I think it is their role in the promotion of the capital, particularly, I suppose, in an area like Reconciliation Place, for instance, and the development of those sorts of landscapes such as Commonwealth Place further north and so on, where significant development has occurred in the last—let us say—six years, which is promoted Australia-wide and which I think has really had some benefits.

Ms ANNETTE ELLIS—So it is more to the nation than to the Canberra community that you are making that reference?

Mr Hobbs—We are looking for more of a wider national sort of view rather than a local view, yes.

Ms ANNETTE ELLIS—What about the other, more—for want of a better term—entertainment-type promotion—and I am not being disrespectful when I say that. You have talked about two examples—and there are many more—where there has been construction or development enhancing the role of Canberra as the national capital in a physical sense, but then there is the other angle of the promotional work that they do. I am just wondering what your view is of that role that they seem to carry out.

Mr Hobbs—That role could obviously be managed by any number of other organisations.

Ms ANNETTE ELLIS—Do you think the NCA should manage it?

Mr Hobbs—I do not think it is essential that it be carried out by the NCA, certainly.

Ms ANNETTE ELLIS—So you are supporting it more in the sense of the development of particular projects physically within the territory rather than that more promotional, PR approach?

Mr Hobbs—If it were to be carried out by an ACT government-sponsored program, I suppose it might be different. It is a matter of getting that national flavour to it, so it would have to be not necessarily just Canberra tourism's role to carry out those activities, but I think it need not necessarily be particularly the NCA's role. There may be some other area that that could be devolved from, because I think there is a difference between promoting Canberra and promoting the capital, if you like—the local and national components.

Ms ANNETTE ELLIS—On the issue of governance, could you expand on the recommendation that the NCA should carry out a regular audit of planning and development activity undertaken by the ACT.

Mr Hobbs—That is particularly related to the National Capital Plan and to the National Capital Open Space System specifically, I suppose. For developments that may impact on Canberra's landscape setting, the institute feels that there should be an authority which would have some oversight of whoever was the land manager or the development approval authority for those areas. If it were the ACT government that had that development role, there would need to be some other oversight role for another authority for that landscape setting zone such as it is maintained to be.

Ms ANNETTE ELLIS—So would you define the sorts of physical areas you are talking about or would it just be an ad hoc judgement?

Mr Hobbs—No, broadly speaking I suppose it would be the current areas of the National Capital Plan: hills and ridges, entrances to Canberra and those sorts of things.

CHAIR—I have some questions. You mentioned some of the really significant, large-scale principles of landscape architecture in your opening statement, including the hills, ridges and buffers features of the National Capital Plan as well as the axes in association with the lake. Can you give the committee a feel for how significant those planning features of the National Capital Plan are, perhaps when compared with other significant planned cities? I just want to try and get

a feel for what is different and special about the landscape features of Canberra and put it in a global context.

Mr Hobbs—I have not had the benefit of going to Washington, Ottawa or Brasilia, but from what I have read of Washington crime novels and so on I am aware of how Washington is laid out. It has got a river environment—it abuts a river—and so on. With the Canberra landscape there are the inner hills and the outer hills, which I do not think we find anywhere else in any other planned city.

CHAIR—So nowhere else in the world has that kind of thinking underpinning their plan?

Mr Hobbs—For a planned capital city I do not think it exists. I think it would exist in some new planning in new communities occurring around the world, obviously, but not for a national capital.

CHAIR—Sorry to labour this point, but I think it is really important: given when the plan was drafted—and those principles were really embodied in the early stages and adopted and maintained through the different planning authorities—how significant is that in a historical context?

Mr Hobbs—It was absolutely crucial to the development of landscape planning over the last hundred years. I think that is the absolute exemplar.

CHAIR—And is it used as that in the professional community of landscape architects?

Mr Hobbs—It is marketed as such by the planning and landscaping professions. We promote it where we can as the exemplar of city landscape design.

CHAIR—One of the things the NCA alluded to was that in an integrated plan those things—particularly the National Capital Open Space System and the inner and outer hills—be fully maintained within that plan. But there was also the suggestion—I think it was from the NCA, but perhaps it was another witness—that those major principles of the character of Canberra as a planned city be embodied in legislation. What would your view be of that?

Mr Hobbs—If, for instance, the development authority for those areas were to be an ACT government organisation, the institute would certainly wish—I think it was in 1921 that this first came up—that there be no development on these inner and outer hills.

CHAIR—In 1921, or thereabouts!

Mr Hobbs—I think it was pretty early on that that came out in Canberra. I think we would still hold to that view.

CHAIR—So you would like to see that protected as strongly as possible.

Mr Hobbs—Yes.

CHAIR—Okay. I have a final question. In terms of the lake precinct, the NCA are proposing some changes to their role. In fact, albeit continuing on the principles of the National Capital Plan, they are suggesting that the ACT planning authority take responsibility for some of the foreshore management of the lake. Given that that is significant in the landscape architectural design of Canberra, do you have any thoughts or views about which authority would have that role, or is the primary issue for you the principles by which that land is managed?

Mr Hobbs—The key thing is the principles. In reality it happens to date; Weston Park, for instance, is managed by the ACT government. That is a key and fairly old urban park within Canberra. There are other examples—Black Mountain Peninsula and so on—which again are ACT government managed, and the NCA's role is really only within that first metre or so of the water's edge. So it is the principles, rather than the management authority, that concern us.

CHAIR—Thank you for your evidence this afternoon. If you have been asked to provide any additional material, you need to do that by 2 May. You will be sent a copy of the transcript of your evidence, to which you can make corrections of fact and grammar.

[3.14 pm]

EDWARDS, Ms Jillian, Director, Mr Spokes Bike Hire

SHANAHAN, Mr Martin, Director, Mr Spokes Bike Hire

The following evidence was taken in camera but was subsequently authorised for publication by the committee—

CHAIR—I welcome representatives from Mr Spokes Bike Hire to today's hearing. Is there anything you wish to say about the capacity in which you appear?

Ms Edwards—I am co-owner and Director of Mr Spokes Bike Hire.

Mr Shanahan—I am also co-owner and Director of Mr Spokes Bike Hire.

CHAIR—The committee does not require you to give evidence on oath, but 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 a written submission from you, which we have received in confidence at your request. Do you have any additional submissions or would you like to make an opening statement?

Ms Edwards—We would like to make an opening statement.

CHAIR—Please proceed.

Ms Edwards—I will speak briefly and then Martin might summarise our issues today. Our business sits in West Basin, which is just outside the Parliamentary Triangle. We are on designated land. We have a lease which has 20 years yet to run, which is with the ACT government. Our clients ride what the locals call the bridge to bridge, which is the cycle path in the Parliamentary Triangle. Our issues with the NCA over the last 14 or so months relate in large part to the commercial operations that they have fostered within the Parliamentary Triangle. There are two arms of their commercial operations. One is their temporary traders program, which is largely dormant at the moment. The other is the leasing of spaces. The spaces that concern us are the kiosks that have recently been constructed at Commonwealth Place.

We believe we have been misrepresented a couple of times by the NCA when they have said that we seek the monopoly of bike hire on the lake. That is not the case at all. If we had a competitor who was setting up a business on Kingston Foreshore, for example, in a space that a developer was leasing, we would have no qualms whatsoever. We would have no interest in finding out what rent they were paying, because we would believe that that developer would be seeking some sort of return on his investment—that is the free market and that is the way the world works. What we have large concerns about is that that is not how the world operates inside the Parliamentary Triangle.

When we became aware that the kiosks were being built, we sought some advice from the NCA as to the sorts of parameters and conditions that a potential leaseholder would have on taking on one of those spaces. We were told on several occasions that the successful operator of that location would be being charged for cost recovery of utilities only. In recent times, the sort of lobbying we have done with the NCA has led to the point where they are now saying it will be market rent and that they are going to the AVO to get an assessment of what market rent will be for those kiosks. More recently again, we have been told it will not be rent; it will be a licence fee. This could be to do with the legislative framework within which they operate—I do not really know.

Because the ultimate decided rent or licence fee will remain commercial in confidence and because we have a long history of being told otherwise—that in fact it is more important that these businesses remain viable and that the NCA's priority is not to raise revenue in this instance but rather to create vibrancy on the lake foreshore—we do not have a lot of confidence that that will be the equivalent of what market rent would be in a space elsewhere, hence our submission. I am repeating some of what is in our submission.

Their temporary traders program is the other arm of their commercial operations with which we have some grave concerns. We knew it existed, but we thought it was akin to the ACT government's hawkers licence program. It is actually not. Temporary traders pay no fee for the privilege of trading and they are not restricted to any set or limited hours. They can apply to the delegate of the NCA to expand their hours or their season of trade, pretty much such that they will be operating in the lucrative times such as weekends, public holidays, school holidays and sunny days—the times during which, in a business like ours, you actually make money. So there is nothing that would stop another bike hire operator from applying for a temporary traders permit and setting themselves up, for instance, somewhere near the Carillon. Whilst that would be okay under a hawkers licence program with the ACT government because of the sort of limitations that they would be placed under, those limitations do not apply within the Parliamentary Triangle.

We have been in communication with the NCA over the last 15 months about these issues. We were under the impression that we would receive some consideration once we advised them that their decisions might potentially have a catastrophic effect on our business. The response was quite unfortunate. We were advised that, whilst they were obliged to consider the effect it would have on other leaseholders within the Parliamentary Triangle, it was very unfortunate for us that we were just outside the Parliamentary Triangle and they were not obliged to consider the effect it would have on our business. This was particularly bewildering, because we believed we provided the vibrancy that they sought in setting up these sorts of traders. It just so happens that our business is not located in the Parliamentary Triangle—it is just our clients who ride around the Parliamentary Triangle.

To our understanding, there was no market research done to suggest that a city of this size with the climate that it has can support two bike hire operators, so it was quite disappointing to hear quite a long time ago that a competitor of ours pretty much seemed to be being groomed to take a kiosk on Commonwealth Place. There was an expression of interest process. We did submit an expression of interest. We were one of three submissions, we were told. Our submission was deemed unsuitable. The kiosks, we understand, have been offered now to our competitor—another bike hire operator—and to a gelato vendor. Our business, you may not

know, is a bike hire operation with a large gelato cabinet. So, essentially, our business will be duplicated in Commonwealth Place. To our knowledge, those contracts are yet to be signed, so I cannot say for sure that those operators have accepted the offer, but we do know that they have been made the offer.

CHAIR—How do you know that?

Ms Edwards—We were told by the NCA.

CHAIR—Do you want to continue with your opening statement?

Mr Shanahan—Yes. I will wrap up, if you like; then we can answer questions. We appreciate the chance to say what we have got to say in camera. We certainly want the committee to understand that we are not attacking any other business—in particular, our competitor. However, this person, with permission from the NCA, has operated in the Parliamentary Triangle for more than two years and he has paid not one cent for the privilege. He can put a brochure in every hotel and every other institution in Canberra with signs pointing to Commonwealth Place saying ‘Open weekends and school holidays’. Not one cent did he pay to the Commonwealth or the taxpayer for that privilege. The NCA recoup nothing in exchange for his right to do that. This is something we have pointed out to the NCA on a number of occasions. Their argument is: ‘We can’t do it under the National Land Ordinance.’ We asked where this particular information was in the National Land Ordinance and they suggested we get a lawyer, so they certainly were not willing to show us where that particular legislation stops them from charging anybody.

Mr John Fletcher, who was the acting head of Estate at the time, told us that they will do everything possible to make sure that any temporary trader within the Parliamentary Triangle survives. Because of that, they would be unlikely to charge. He has told us this twice: they most likely would not charge those operators; they would probably charge for utilities only.

The amazing thing about the EOI process was that, just before we got an interview, they asked us to come up with a rent figure. They said, ‘What would you like to pay as rent on those kiosks?’ We had a valuer look at that and we came up with a number of \$25,000. Where else in Canberra can you get a business in a high-profile, very important place with a potential turnover of anything over \$200,000 for less than that? Mr Gary Rake, who ran the interview, made the determination straightaway that that was way too much. He actually told Jillian in the interview that the role of the NCA was not to collect revenue and that it was only to provide vibrancy. Again, we can go back to this argument that we are providing vibrancy in that 98 per cent of our clients ride the bridge to bridge.

I would like to bring to the attention of the committee the situation with the EpiCentre. It was amazing that the NCA was very willing to come in and condemn the situation with the EpiCentre and act as a friendly litigant in that case against the ACT government because they made the statement that Civic traders could not, in effect, afford any dilution of their pedestrian traffic. On many occasions, Ms Pegrum has told us that because we are on ACT government land we are not of their concern. However, with the EpiCentre, they are saying that the poor traders in Civic need a chance. We are willing to act as a friendly witness in that litigation because of a planning decision that was made that could affect other traders around Canberra. We have pointed out that a planning decision made within the NCA that directly affects us is of no concern to them.

There is another thing that is very important for the committee to understand, I feel. We paid a significant sum for our business. We paid a premium commercial price. We have a long lease and we also have the ownership of the building. We pay land rent, which is assessed independently every few years. However, we paid quite a lot of money for the building itself. This represents many tens of thousands of bike hires, literally, before we recoup our investment. What effectively has happened with the kiosk process is that the NCA have spent \$900,000 of taxpayers' money on each kiosk and said, 'This is a great spot for a bike hire'—it was advertised as a potential bike hire—'and anybody can make a submission.' They certainly left the door open for us to make a submission. They said, 'You can make a submission.' We run a very successful bike hire/gelato business. We were the third and the last to apply and we were deemed unsuitable. We are not challenging the EOI process. That is not our aim. However, it is remarkable that we are up and running yet we are deemed unsuitable.

Ms Edwards—On a couple of occasions when we have been trying to speak to the NCA to get them to understand the situation, they have suggested that we approach the ACT government to seek a waiver of our land rent in order to come some way to approaching an even playing field. Our land rent is currently a little over \$8,000 per annum and we own our building. Even when we did speak to ACTPLA about this, it just seemed ludicrous to do so. We spoke in jest, really, quoting them. We knew it was absolutely unrealistic. Where would the ACT government have to stop if they granted us free rent where we are?

The other argument that has been used in a few forums to refute our claims is that we were aware of these situations when we bought the business about 15 months ago. I could argue until the end of the day, if you have the time, that that is actually not the case, that we did not know those details. But I would also argue that that is actually beside the point. The original owner would be in the same very difficult situation that we are now in. Whether or not people knew the full ramifications of a very malleable temporary traders program that seems to have its parameters changed every few months should be irrelevant to the fact that there is an uneven playing field. I do not know whether it is the legislative framework that the NCA operate under that does not allow them to create an even playing field or whether it is an unwillingness to create an even playing field because of their belief that their mandate is for vibrancy in the Parliamentary Triangle at all costs, but it certainly does not seem that they are suited to fostering commercial operations. I grew up in Lismore. If the taxpayers of Lismore knew that they were subsidising small businesses in Canberra, I think they would be really appalled.

Ms ANNETTE ELLIS—Thank you for being here. I know that this has been a very stressful process for you two and I am pleased that you have been able to get here. I want to talk about a couple of things you were mentioning a moment ago. Can you confirm for me that the two kiosks—\$900,000 each—are not operating yet?

Ms Edwards—That is correct.

Ms ANNETTE ELLIS—They still have not finished that process that you have referred to, about whether it will be rent or a licence fee? They are still going through that?

Ms Edwards—As far as we know, that is the case.

Ms ANNETTE ELLIS—Are they both going to be bike hires?

Ms Edwards—One will be a bike hire. He operates a canoe hire arm of his business as well, so it is bike and boat hire. The other kiosk is a gelato, coffee and sandwich bar.

Ms ANNETTE ELLIS—But they are both the same construct, aren't they? They are both the same size.

Ms Edwards—Yes.

Ms ANNETTE ELLIS—I do not know whether you can answer this or, if you cannot, whether anyone has mentioned it in your hearing. What is the appropriateness of either of them to store overnight—or in the daytime, in fact—the sort of equipment that is required for canoes and bikes? To your knowledge, are those things going to have to be stored outside the building during the day?

Mr Shanahan—Our understanding is that the NCA is providing the fit-out.

Ms ANNETTE ELLIS—As well?

Mr Shanahan—As well, which is contrary to what the EOI documents originally stated. They have actually asked for the operators to provide specific measurements and details of their operation. That is one aspect. In the interview, Jillian was told that there could be some potential for storage close by. Understandably, Mr Gary Rake has suggested that neither operator will be able to operate outside of the drip line of those kiosks. However, he has also suggested it will be very hard to regulate. But we are of the understanding that he has also approved, for the bikes, for instance, that that person can service large groups outside of his kiosk because of a prearranged deal. So he could potentially have 50 or 60 bikes behind the kiosk.

Ms ANNETTE ELLIS—And literally off the property of the kiosk?

Mr Shanahan—Yes, but because it is a prearranged deal that is something he is entitled to do.

Ms ANNETTE ELLIS—I think we need to check, through the committee, with the NCA at some point as to just exactly what the leasable size of the land upon which these kiosks sit is, and what the requirements in terms of use of property around them are. But that is not your concern, sadly. I wish it was.

At the date of the roundtable by our earlier committee, you had not, I do not think, been formally informed by the NCA that you might have competition in your business area—is that right?

Ms Edwards—Are you referring to the kiosks themselves?

Ms ANNETTE ELLIS—Yes.

Ms Edwards—That is right.

Ms ANNETTE ELLIS—Even the licence of operation, let alone the kiosk.

Mr Shanahan—No. That was quite some time later.

Ms ANNETTE ELLIS—Just for the sake of our records here, how did you become aware that a licence was going to be offered to another operator, albeit the interim trading thing?

Ms Edwards—For the temporary traders program?

Ms ANNETTE ELLIS—Yes. How did you find out?

Ms Edwards—We knew we had a competitor who had a temporary traders permit prior to when we purchased our business, but when we sought advice from the NCA as to the nature of the temporary traders program, we were told that they were run for a six-month period and they were rotated annually so that the general public had different sorts of things each summer.

Ms ANNETTE ELLIS—So it could be a bike one summer, a kite another summer and—

Ms Edwards—That is right—and face painting the next summer. What we did not know was that it was up to that permit holder whether they wished to apply to the NCA delegate for an expansion of their trading such that they might end up trading nine months of the year, extra days, not just weekends, sunny days or school holidays. We did not realise they were so highly malleable. We did not realise that a bike hire operator could be granted one year after year.

Ms ANNETTE ELLIS—When the NCA rejected your application under the EOI to get one of these kiosks, did they explain to you or did you ask them for the reasons for your lack of success?

Ms Edwards—Yes. Apparently we did not meet the NCA's objectives for that area.

Ms ANNETTE ELLIS—What does that mean? What was their reason?

Ms Edwards—I am not 100 per cent sure but I—

CHAIR—Were there any published objectives that you were responding to in the EOI?

Ms Edwards—Yes, the documentation that we had to meet in our submission did outline the vibrancy—I guess that is a concise way of saying it—that they sought for the area. Each person who submitted had to forecast the hours of trade that they expected to be operating, including seasonal differences. You also had to forecast a financial statement, which is where we guessed what our rent would be in order to work out how we could run a second operation. I was told that our guesstimate of the rent was way in excess of what they imagined they would be charging and that my hours of operation in winter, when you lose money, were perhaps too truncated for the NCA's objectives. I was asked whether I would be willing to expand those hours and, given they had told me that the rent that I had guessed was way too large, I said: 'Certainly. You tell me what the rent will be and I'll tell you how willing I would be to open for longer hours in winter.' But I was not aware that I had to come up with alternative hours on the spot.

Ms ANNETTE ELLIS—You cannot do that without knowing what your expenses are.

Senator HOGG—Before I get to my line of questioning, you have been talking about ‘they’, the NCA and ‘them’—who are you actually referring to? Are you referring to an individual or to individuals within the NCA? I am just trying to get a feel for whom you are dealing with.

Ms Edwards—I guess in the last 15 months we have dealt with a number of individuals. The person who ran the expressions of interest process was a man called Gary Rake.

Senator HOGG—I know that name.

Senator HUMPHRIES—He was one of the witnesses we had yesterday.

Ms Edwards—Prior to this expressions of interest process we had no dealings with him; we were largely dealing with people who worked in estate, John Fletcher and Jason Rose, and in planning, Stuart Mackenzie and Todd Rohl.

Senator HOGG—But there was no one consistent person that you went to to deal with on this issue. You had a number of people to deal with.

Ms Edwards—We have written letters to Annabelle Pegrum. We also wrote letters to Minister Lloyd—

Senator HOGG—Did Ms Pegrum write back to you?

Ms Edwards—After significant delays.

Mr Shanahan—Seven weeks after we wrote to Ms Pegrum we received a letter saying basically, ‘We’ve answered all your questions; please don’t bother our staff.’ We are happy to provide that reply to the committee. Certainly this has been our frustration—that we have done everything possible—

CHAIR—Please do provide that to the committee.

Mr Shanahan—Yes.

CHAIR—Thank you.

Senator HOGG—Could I ask a couple of questions. I was a member of the committee when you came before us and I must say that I was suitably horrified by what I heard you say then. It has gotten worse now. I think you have answered the question as to your suitability for the NCA in the expressions of interest saga. Was it in writing as to why you were unsuitable?

Ms Edwards—No.

Senator HOGG—It was verbal advice only, so there was no formal written communication to say, ‘We’re sorry to advise you that you have been unsuccessful for the following reasons’?

Ms Edwards—That is correct; there was nothing in writing.

Senator HOGG—Second thing: if there had been an avenue of appeal from that decision of the NCA, would you have gone down the path of appealing?

Ms Edwards—Yes. Had we known—and we did find out on the same day—that the person who had been offered the kiosk instead of us was a direct competitor, then the answer would be yes. If we had heard that they were going to be a charity stall or a kids face-painting vendor, then the answer to that question would be no.

Senator HOGG—So the nature of the decision in the end coloured your view of the outcome. If it had been—let us just say—the Salvation Army operating a charitable face-painting thing, you would not have been so up in arms about this as you are because of the fact that it is a direct competitor?

Ms Edwards—That is correct. I still believe it is a very inequitable situation where businesses within the Parliamentary Triangle potentially are being subsidised by Australian taxpayers and it is not an even commercial playing field. But we have got a business to run and we have got a family. If it were not a direct competitor—

Senator HOGG—I have got to go and do some duties, so my next questions will be fairly brief. You have chosen to give your evidence once again in camera. Why is that so? I have a dislike for evidence in camera. There is very little we can do with that in the public arena.

Ms Edwards—The last time we—

Mr Shanahan—Can I answer that?

Senator HOGG—You both can have a crack at it. They will wait for me.

Mr Shanahan—Our only concern was naming our competitors and embarrassing them in some way. That is absolutely our only concern. Quite frankly, the NCA have been accusing us of wanting some monopoly. We have always been reluctant to use the media, for that reason, because it can be construed that way. It does require some examination of the evidence. That was the only reason.

Senator HOGG—If, after careful consideration and deliberation, this committee approached you to be able to make the facts of this matter public in its report, would you have any objection to that?

Mr Shanahan—I think I can speak for both of us. I do not think that would be a problem at all.

Senator HOGG—I am suggesting that the committee would approach you first.

CHAIR—We would need to discuss it as a committee and you would be fully apprised of the circumstances.

Senator HOGG—I am aware of all of that. I am just trying to get—

Mr Shanahan—We will give it some consideration.

Senator HOGG—The third question that I had was: have you been to see the federal minister responsible about this and, if so, what response have you received?

Mr Shanahan—We have written to the new federal minister. The effect of that was that the NCA were asked to meet with us and try and iron out the differences we have. We met with Mr Gary Rake some six or seven weeks ago and we talked to him for about two hours. Out of that came about eight pages of minutes. Mr Gary Rake made it quite clear, right at the beginning of that meeting, that the NCA had done nothing wrong and that he had already told the minister there were going to be no changes to the way Mr Spokes has been dealt with. That was quite emphatic. That is represented in the minutes from that meeting. He basically suggested that this meeting was a waste of time, even though the minister had asked him to meet with us to try and iron out some of these issues. He suggested that the NCA had done nothing wrong. That was the outcome of that meeting.

Senator HOGG—My last question is in respect of the fit-out that you mentioned of the kiosk that will be provided to your competitor at taxpayers' expense, as I understand it. Is that correct?

Ms Edwards—That is what we understand.

Senator HOGG—Do you know what the fit-out incentive is—how much?

Mr Shanahan—No, I do not, but—

Senator HOGG—Was that discussed with you and would it have had a bearing on your decision in your expression of interest if you had known that a fit-out cost was going to be made payable?

Ms Edwards—All those who put in a submission were asked to include in their expenses, in their financial forecast, the sort of cost of the fit-out that they would be providing, so I presume that the other two successful—

Senator HOGG—But you were not told that that was going to be provided at the expense of the taxpayer?

Mr Shanahan—No.

Ms Edwards—No.

Senator HOGG—In your business plan that you submitted, you thought that was a cost that you had to bear?

Ms Edwards—We were under the impression that that was a subsequent decision of the NCA.

Ms ANNETTE ELLIS—Could I make a couple of quick points, and please correct me if I get this wrong or if I oversimplify it. You purchased your business at capital cost. At the time,

you were aware that there was a temporary licence out there for a hawker. The explanation given to you for that was, 'Yes, we're doing that but we're going to float them around so one year it will be one thing and another year it will be another thing,' with no consistency in its retail attraction, so to speak. Then you became aware that that, in fact, was not the case, that the licensed hawker was doing the same business all the time which just happens to be what you do. So there is no rotation occurring as you imagined. Then the kiosks come along and three of you apply, and you find out then you are not successful and the person who was running a bike hire as a temporary licence hawker is the person who gets the licence. You find out that the cost of the building is taxpayer funded and that the fit-out of the building is taxpayer funded, all after the event, so to speak. Have I got it right so far?

Ms Edwards—Yes.

Ms ANNETTE ELLIS—This is a brief dot point chronology of what has gone on?

Ms Edwards—Yes.

Ms ANNETTE ELLIS—Then the minister suggested that you meet with the NCA to make some attempt to get an outcome, and you were told by the NCA at the start of that meeting, 'This is a waste of time, but we'll go through it because we have been told to.' Am I unfairly reflecting that?

Ms Edwards—He said, 'I do not know what we can do.'

Mr Shanahan—I have already reflected that to the minister.

Ms ANNETTE ELLIS—Is it possible for us to get an in-camera copy of those minutes?

Ms Edwards—Yes.

Ms ANNETTE ELLIS—To your knowledge, there is now also a question about the operation of one of those kiosks in terms of its physical suitability—these are my words not yours—to run such a business within the boundary of that building and that there may have been some arrangement already reached to allow that business to spill out beyond the kiosk.

Mr Shanahan—Yes.

Ms ANNETTE ELLIS—I think I have it right—have I?

Mr Shanahan—Yes.

Ms ANNETTE ELLIS—In the meantime, you still have your capital investment in your property and, it is obvious from what you are saying—and these are my words—that if you want to set up a business in the Parliamentary Triangle you have a very good chance of doing it at the cost of the taxpayer if you set up a similar type of business outside of the Parliamentary Triangle, but it is your own call in terms of capital investment—is that right?

Ms Edwards—That is right, yes. If I could add another point. We know of a businesswoman in Canberra who runs a small business teaching children to ride. She had sought permission from the ACT government to run occasional classes on a bitumen car park area behind where we are situated. She had previously dealt with the NCA and run periodic cycle education classes on Commonwealth land in the Parliamentary Triangle. She expressed the difference in the reactions between the two tiers of government. She was frustrated at the ACT government and said their response was: ‘We would have to tender it. What would happen if some children fell off their bikes because of a pothole? Whose issue is it? How does the insurance work? I think it is probably just not wise.’ In her personal experience she thought that was bureaucratic red tape. She had joy in dealing with the NCA. There was great optimism. ‘Yeah, sure, come up to Regatta Point. Run your classes on our car park.’ Whilst her experience is that the NCA is very cooperative and helps her foster her cycle education classes, which is part of what she does for a living, and that the ACT government are obstructive, our experience is quite the reverse—the ACT government is more like the free market and has to be very careful how they accept a business operator just starting to run their business on their land for free.

Senator HUMPHRIES—As you know, I have corresponded with the NCA on your behalf. Could I just refresh my memory about what the NCA said to you before you took up your lease. Before you decided to take the lease from the previous operator, you had a meeting with Mr Rohl—

Ms Edwards—That is right.

Senator HUMPHRIES—and you asked about the prospect of another lease being let for somebody else. You were assured, as I recall, that as an existing operator you would be given first right of refusal on that new operation.

Ms Edwards—That is a slightly different issue. That was in relation to the Griffin Legacy amendments, where we were concerned about what would happen to us if the West Basin development went ahead. The ACT government authority, ACTPLA, had told us we had better seek advice from the NCA as to what would happen to us, because it was their plan. Todd Rohl and Stuart Mackenzie from the NCA did meet with us and said, ‘Don’t worry; you’ll be looked after,’ and they discussed possible relocation sites such as Regatta Point and a finger wharf which is yet to be built which might jut out into West Basin very close to Commonwealth Avenue Bridge. Those were the two possible relocation sites for our business.

The minutes that I then sent through to Mr Rohl—which he confirmed and which I have here—confirmed that those sites were indeed discussed as possible relocation sites and it was agreed that Mr Spokes Bike Hire ‘would be given the chance to continue to operate in a suitable location for the duration of their lease and would not be unfairly disadvantaged should development proceed’ and that ‘Mr Spokes would have first option for any other sites by the lake that are suitable for its operation’. Since these minutes were approved, Ms Pegrum has said on a number of occasions—possibly Senate estimates was one occasion—that we were on territory land and it was the territory’s responsibility to relocate us and that no such offer was made and there was no responsibility from the NCA to relocate us.

Senator HUMPHRIES—That was despite the fact that you sent the minutes to Mr Rohl and he confirmed that they were an accurate record of the meeting?

Ms Edwards—That is right. Apparently this confirmed email is not legal and binding, and, even though we have written to them referring to these minutes, they have declared that that did not constitute an offer, either generally or specifically.

Senator HUMPHRIES—Are you aware of any other businesses—it is probably not a fair question for you—that the NCA has set up, as it were, through a process like this? I think all the operators of food establishments in the Parliamentary Triangle operate within other buildings where there are other lessees. Do you know whether, for example, the Lobby restaurant is a tenant or a licensee of the NCA?

Ms Edwards—I am not sure.

Senator HUMPHRIES—That is fair enough. We can find out.

Ms ANNETTE ELLIS—There is also Waters Edge.

Senator HUMPHRIES—That is true. As well as making comments in our report, as Senator Hogg has indicated, we can, if you are willing to facilitate this, challenge the NCA to respond to some of the issues you have raised.

Senator HOGG—I think we would have to.

Senator HUMPHRIES—Yes, indeed. We may have an opportunity to do that at a further hearing, if they come back, and possibly as a question on notice. But we could liaise with you about what evidence we propose to put in front of them from today's hearing as to how they proceed, so that we do not breach any confidence that you have given to us about the things that you have put on the table.

Ms Edwards—Certainly. I just wish to add that one of the reasons for us seeking this confidentiality today was that some time last year, when we noticed our competitor—who at that time held a temporary traders permit—trading outside what we thought were the parameters of his permit and we complained, he was advised who had complained, and it became a very tense situation. It is a small town. We had to go to great lengths to placate this individual. We say again: it is not this individual that we have any complaint about; it is the situation.

Senator HOGG—We understand that.

Ms Edwards—We do not really understand the true differences with this type of arrangement, where evidence is taken in camera, but that was our reason for seeking confidentiality.

Senator HUMPHRIES—If we put something to the NCA, they respond and we want to comment on the evidence, it is quite likely that that would lead to a situation where, by implication at least, the problem that you have experienced and your commercial rival may be thrown into the spotlight to some extent. That is what we need to talk to you about.

Mr Shanahan—It has been a long, hard battle for us. We do not think the situation can get much worse for us. Our life savings and more are at stake here. We would certainly give a lot of

consideration to the idea of this evidence being used. It was only out of respect to our competitor to be in here naming him like we have.

Ms ANNETTE ELLIS—Fair enough.

CHAIR—If there are no further questions I would like to thank you for appearing here today. I know you have taken it on notice to provide a couple of pieces of correspondence. If you could get that to the committee by 2 May or earlier, if that is possible.

Mr Shanahan—Thanks for your time.

[4.08 pm]

DOUGAN, Mr Darren, Chief Executive Officer, Hindmarsh

RYAN, Mr Gerard, Development Manager ACT, Hindmarsh

CHAIR—Thank you very much for your attendance today. 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 the 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 Dougan—I wish to make an opening statement, but I do not wish to add to our submission.

CHAIR—Please proceed.

Mr Dougan—Hindmarsh, as you know, is a property and construction company headquartered here in Canberra and founded nearly 30 years ago in Canberra. We have offices around the country in Brisbane, Sydney, Melbourne, Adelaide and Darwin and we also have an office in Shanghai, China. During our 30 years in Canberra we have had the privilege of building quite a number of notable buildings—in particular, Anzac Hall at the Australian War Memorial and the National Science Centre. We are currently building stage 2 of the John Curtin School of Medical Research at the ANU after having completed stage 1. We were also involved with the rose garden refurbishment at Old Parliament House. They are just a few of the projects that we have undertaken in Canberra.

We are pleased to provide a submission to the inquiry with regard to the NCA. I just want to very quickly summarise at a high level our submission. First of all, we do believe there is an ongoing role for the federal government planning authority to be responsible for the strategic direction of Canberra as the capital of Australia. We believe there should be clear roles and responsibilities for the federal authority. We also believe that it should be constituted as an organisation and funded appropriately and be accountable for its decision-making process. We think there should be greater cooperation between the federal planning authority and the territory planning authority, not just in planning issues but also in other areas—for example, land release and infrastructure. That is a summary of our submission.

I would like to add that we think the key areas within the planning discussion of the relationship between the federal authority and the ACT authority is that, as a private sector business, what we really look for when we are talking to the planning bodies is clarity—clarity of roles and clarity of decision-making process. For us, that is a fairly crucial part of dealing with the authorities.

The other area which we think is very important is certainty of time frames—so not only the key roles in the decision-making process but also just the time frames and when things should or should not happen. Finally, there is accountability. We think, obviously depending on the role of each planning authority, accountability is quite crucial for us so that as a business we can go forward and manage our risk when we develop and build. That is basically a summary of our submission and we are happy to take questions.

CHAIR—Thank you very much. I have a question for you. Can you explain to the committee how the consultation obligations on developers and companies such as yours differ from those of the National Capital Authority, particularly in relation to commercial activities? I am not sure if you know what the residential ones were because there is only a very small pocket of residential land under the NCA's control.

Mr Dougan—Are you asking my view on the difference between the consultation process with the community?

CHAIR—Yes, and to describe the difference, particularly as it impacts on the community and the community's right to express a view and have that taken into account.

Mr Dougan—I think as a developer we are always cognisant of the community's views in terms of any development under any planning authority, not just here in Canberra but around the country. So our view is that the community has a right to be consulted in any development sense. How that consultation happens really varies depending on the planning authority. I do not think there is any right or wrong way of doing it. Different councils and different governments across the country do it differently, but ultimately the community needs to be involved. I think that for the national capital, if anything, not just the community but the public of Australia needs to be involved, certainly in areas of national significance. That is why we believe that the NCA should be accountable to the federal government. For example, I do not live in Canberra; I live in Sydney. As an Australian, I really feel that the major areas of significance for the capital should be overseen by the federal government. But the community needs to be involved in all areas and, as Hindmarsh, that is something we certainly like to do across all of our developments.

Mr Ryan—I would just add that I think, as Darren said before, clarity is very important for the development business and it is very important that consultation occurs at a time in the process which is going to best inform how the developers will be able to take projects forward. It is important that consultation is undertaken to that level and with that sort of clarity and that it is not continually done; rather it is something that can be done at the right time in the process and done fully but then allows development proposals to move forward and be implemented without taking on consultation in a haphazard sort of way through the process. I think that is one of the things that is very important for the industry—that the consultation process is well defined and well understood in the whole development cycle.

CHAIR—I do not know if this is giving you too much work, but I think it would be helpful for this committee to understand from your perspective as a developer. With respect to community consultation, if you applied to develop a multistorey commercial building under the auspices of ACTPLA on territory land, how would that differ from building a commercial building on national capital land with the National Capital Authority as the planning authority—or, indeed, if you were building on designated land, which is in fact territory land? How would

the three environments differ for you as a company? A strong premise of our terms of reference is that that is confusing. It would be helpful if you could give us an insight from a developer's perspective about how you manage those three different scenarios as a local company. I am sure you have had experience in all three, but I think it would be useful for this committee to compare the differences.

Mr Dougan—I am sure that we can come back to the committee with a summary of how that would work. Typically, again because we work across various jurisdictions, property anywhere is not simple and the processes are always a little more complicated than you might like as a developer. As to the process specifically, we could talk to that or come back to the committee on how we would see that in those three areas.

CHAIR—One of the challenges before us is to simplify that regime. You may even like to give us a scenario on what happens just across the border. It is slightly outside our terms of reference, but I think it would be important for us as a committee to understand the complexities you confront as a developer in navigating that overlap and the different designation under the National Capital Plan.

Mr Dougan—We can certainly do that. As an example, not just across the border but in Elizabeth Bay in Sydney, where we have a development, we had to undertake a very significant amount of planning and process, community consultation and the like. That is an example. Certainly the City of Sydney has a little bit of that creative tension with the New South Wales state government, which is similar to the NCA in the territory, whereby certainly in key areas of the city there is a state significance and also a local significance. It was actually complicated even more because the City of Sydney had actually recently merged with the south Sydney council. So there were three planning bodies we had to deal with, which was the state body—

CHAIR—It makes the ACT look simple!

Mr Dougan—So I suppose I am pointing out that there are lots of issues in planning across the country and nothing is straightforward. Clearly as a developer we wish to simplify that, but what we are about is understanding the rules of the game. As long as we have the game plan, then that gives us some certainty as to how we can play. The problem is when there are ambiguous sets of rules and ambiguous ways of doing things. That means our risk is higher, which means that, as a developer, we need to take steps to mitigate that risk. That is what I pointed out in my opening remarks—that I think the time frames, the responsibilities and who is responsible for which part of the planning process are the key factors. To the extent that can be simplified, we would certainly support that.

CHAIR—I have one more question. What do you think of the idea of a chief government architect or a chief Australian architect? It has been suggested in a number of forums, but you would work with architects all the time. Do you have a view on that or do you want to think about it and come back to us with views on that particular issue? I am putting you on the spot a bit.

Mr Dougan—We do work with a lot of architects and I suppose the thing to take away from there is that lots of architects have completely different views, and that is the beauty of architecture—that it is not objective; it is a subjective science. So, instead of having one

responsible architect with views on how things should develop, I would rather see maybe a small panel—depending on who the architect is, obviously! Architecture is certainly a creative process, and there is value in the creative process as well. Different architects create value in different ways. There are architects who are more specific to developers and are more able to financially make a development work and there are architects who are more creative for national institutions of more significance for whom the budget restraints are not the crucial part. I think having one particular architect is an interesting idea.

Mr Ryan—There is always a danger that positions of that nature, that are creative in their intent, become sort of administerial. Possibly the position or the idea of chief architect is really about having someone who is responsible and accountable for the delivery of the creative direction or the creative concepts that might govern the role of the federal authority—I guess that you are talking about that position in the federal sphere—so it is more about not corralling the creative responses to development ideas. I think one thing you have to do—and this has been my experience both in the public sector and in the private sector—is allow the creative forces to work and give them freedom within the strategic direction. A chief architect position is really more about managing the development of that direction with the appropriate expertise. I certainly would support positions like that being filled by people with the appropriate qualifications, expertise and experience, the best and brightest, so that that is an attractive role, but it is more about administering the management of that process than having the creative control of what happens in the federal area of the nation's capital.

Senator HUMPHRIES—They say that comparisons are odious, but you presumably have had dealings as a company with both ACTPLA and NCA. Can you rate these two organisations in terms of professionalism and being responsive to the needs of you as a developer making applications before them?

Mr Dougan—I do not think we have had enough submissions to the NCA as a developer to actually be able to rate in a fair sense. We have obviously one outstanding submission at the moment with the NCA. We have five with ACTPLA at the moment, none of which have been responded to.

Senator HUMPHRIES—How long has the longest of those five been on the table?

Mr Dougan—They were lodged last year. They have been there for nearly five months. At the moment both organisations are tracking the same in terms of their response. Again, as a developer, that is an issue for us—that we have submissions in. ACTPLA at the moment are looking at quite a number of development applications, from what we are told, and their resourcing, again from what we are told, is stretched, but every company in the country at the moment has issues with resourcing. The NCA clearly has some resource issues as well, given the recent cuts in staff. So to rate them is difficult at the moment. The only thing I can say that we have outstanding business.

Senator HUMPHRIES—Hindmarsh has been developing blocks in this territory for as long as I can remember.

Mr Dougan—Yes.

Senator HUMPHRIES—So you would have had a lot of experience of dealing with the planning authority and its predecessors.

Mr Dougan—Yes. Personally I do not have that experience, but John Hindmarsh has.

Senator HUMPHRIES—You might take that question on notice, then, and perhaps answer it in conjunction with those questions you have taken from Senator Lundy.

Mr Dougan—Yes, we can do that.

Senator HUMPHRIES—You may be aware that the NCA has put on the table some sweeping changes to the footprint that it has in terms of primary planning responsibility. Earlier today the Property Council of Australia expressed opposition in broad terms to those changes. I assume you are a member of the Property Council?

Mr Dougan—Yes.

Senator HUMPHRIES—Are you aware of those changes and do you have a comment on them?

Mr Dougan—Are you aware of those, Gerry?

Mr Ryan—Not the details of what the NCA may have been proposing. We have heard comment about some elements of what would be considered to have been the NCA's responsibility in some areas but not actually in the Parliamentary Triangle—some areas of the city and other parts of the ACT that may be handed to ACTPLA in terms of responsibility. But we have not seen anything formally on that. Our comments would be based on this: if that is the case, we would have a view about whether or not some of those handovers are a good idea. I think our view internally within Hindmarsh is that we feel there is a very important role that the NCA or a federal authority has in ensuring it is not the case that the central core of the national significance of the Parliamentary Triangle is being oversighted while everything else is not. Canberra has to work as an integrated city, and the strategic direction of Canberra really has to be set by the federal government because it is primarily the nation's capital. So to have the authorities' responsibilities divided up to a point where there is only a small area that the NCA looks after while the territory municipal authority looks after all the rest has some risks associated with it. So we think that a large amount of handover would be not advantageous. But there are certainly areas where it does not make much sense for the NCA to be the primary responsible authority, because the functions of planning are pretty much municipal or local in their implementation. There are certainly areas that can go over and the NCA would not need to do anything other than maintain that strategic level of oversight from the national plan point of view.

Mr Dougan—I think an example of that—as, Senator Humphries, you have talked about our history in Canberra—is that we did refurbish the ACT Legislative Assembly building about 15 years ago. Again, I was not directly responsible for the project at the time. However, I know, from talking to our project manager, that there was that vagueness of responsibility as to who was actually responsible and that actually was a case where clearly the territory should have had the most responsibility for that job whereas the NCA thought that at that time it should actually

have some input as well. That is something where clearly delineating who is responsible for which particular sites and having a fresh look at it is probably a good idea. But then there are instances where both the NCA and the territory have worked well together, again with creative tension, and I look to Constitution Avenue, which is obviously an area we are very interested in, given we have a development proposal in on Constitution Avenue. The land swap and the funding arrangements were ultimately worked out, I think, with again some creative tension, but it came to a good solution in the end. That was something where the NCA and the territory could work well together. Certainly Constitution Avenue is the delineation between the triangle and the rest of the territory. I do not think you are ever going to get to a position where everyone is going to be 100 per cent happy, but I think it really is about making sure that the mechanisms to get to a solution are clearly articulated, as is who is responsible for what.

CHAIR—Do you have any questions, Ms Ellis?

Ms Annette Ellis—No, Chair.

CHAIR—We would like to thank you very much for appearing here this afternoon. If you have any additional material, which we have asked for, could you please give it to us by 2 May.

Mr Dougan—Yes.

CHAIR—You will also be sent a transcript of your evidence and you can correct that with respect to grammar or fact.

[4.30 pm]

ANTCLIFF, Ms Susan, Private capacity

BOWLER, Ms Astrid, Private capacity

FULLER, Ms Lyn, Private capacity

HOWE, Mr George Brook, Private capacity

MILLIGAN, Ms Kerryn Margaret, Private capacity

CHAIR—I welcome to the table Canberra Carillonists. 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 would you like to make an opening statement to the committee?

Ms Fuller—The first thing that we would like to do is obtain permission to attach to our submission a letter of support that we received this morning.

CHAIR—Is it the wish of the committee that the additional submission from Canberra Carillonists be accepted as evidence for publication? As there is no objection it is so ordered.

Ms Fuller—Chair, we would like to make a statement to begin with.

CHAIR—Please proceed.

Ms Fuller—We are addressing term of reference No. 5, which is:

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.

The National Carillon is a world renowned concert musical instrument of 55 bells, and it is a significant government asset. It is in the very top echelon of the 700 or so carillon instruments worldwide. The Carillon was a gift to the people of Australia from the British government in observance of the 50th anniversary of the founding of Canberra. It was presented to the city of Canberra on 12 March 1963. It was arranged that Queen Elizabeth II would personally accept the gift of the Carillon and declare it open on Sunday, 26 April 1970.

The British government met the costs of design, construction and transport for the National Carillon—that is, the bells and the bell tower. An overall figure for it today would involve a cost

of around \$30 million. Bells are expensive because they are highly labour intensive, each mould is only used once and metal is more expensive these days. The Australian government paid for the original site works. They paid for Aspen Island, for the footbridge and for the car park. People need to be aware of the magnitude of this gift. It is quite extraordinary. It has been a visual, artistic and auditory centrepiece of the national capital for the past 38 years. Enormous progress has been made in the past seven years to lift the Carillon's profile and artistic standards. These past seven years have been the first period of stability in the 38-year life of the Carillon. This has been achieved under the management of the National Capital Authority combined with the artistic directorship of Timothy Hurd, QSM.

The Carillon is held in high regard internationally and consistently attracts attention to the national capital. However, current funding arrangements operate on an ad hoc basis, with no guarantee of funding from year to year. The gains that the instrument has made over the past seven years could very easily be lost. The cuts to the funds available for the Carillon operations imposed this year fundamentally threaten the continued successful operation of the instrument. In fact, the Carillon needs to be played to remain operational. The Carillon is like the engine of a car: if you leave it in the garage and you do not use it, the motor seizes, it will not turn over and it does not hum as motors should. The Carillon needs to be played each day. If it is not, it gets cranky. Its mechanism corrodes, it seizes up and it refuses to sing. So it needs to be played each day.

Our recommendations are intended to secure the future of the Carillon. Firstly, we suggest that there should be some sort of statutory basis for the National Carillon which sets out its role and the safeguards for its continuing operation and protection of its acoustic environment. There is a precedent for this in the case of the National War Memorial Carillon of New Zealand. The National War Memorial in New Zealand has its own legislation. To some extent, this would be a symbolic act, but it would be a very powerful symbol and provide some protection for the National Carillon in the future.

Secondly, we recommend that a funding basis be established which is predicated on allowing the National Carillon to fulfil its role as an internationally renowned instrument and an asset of the Australian people. We have outlined in our submission what was being achieved at the Carillon until the recent budget cuts and our thoughts on the future development of the instrument. We believe the future development to be very important, and it deserves to be supported by the Australian government through sustainable and robust operational arrangements.

Thirdly, the acoustic environment needs to be protected. You cannot change the nature of the Carillon and so you need to protect its acoustic environment and prevent its gradual erosion. If you do not have an acoustical environment, we may as well pack up and go home. It is a valuable instrument and its function is to make music in a public arena. It is imperative that the arena is protected. Many overseas carillons are so affected by surrounding buildings and noise that performances cannot be appreciated. We have been extraordinarily fortunate in the judgement shown by those who made the decision on the original placement of our Carillon. It was pointed out to the NCA during the public forum held as part of the first overseas visiting artists exchange program that we held in 2001 that the increased building around the lake would impinge on the acoustic environment. The building of apartments and other construction continue.

The instrument can be heard very clearly at the sculpture garden and the National Library. Depending on the time of day and the wind, it can be heard by residents in Campbell. People are generally delighted by this. If you take the Carillon as the centre and measure the distance to the sculpture garden or to the National Library and use this measurement to draw a circle around the instrument, you have an acoustic area which needs to be guarded carefully. Consequently, we think that the planning and placement of buildings and infrastructure in this acoustic environment needs to be managed. Already, the increased traffic flow on Kings Avenue Bridge can have an effect on the listening experience at the Carillon. Added to this, we have the prospect of an ASIO building being placed in close proximity to the Carillon, a flyover to deal with the traffic at Kings Avenue roundabout and, from time to time, power boats on the lake, which impact on Carillon recitals.

We think that it is critical that any potential impacts on the acoustic environment of the Carillon are specifically identified and taken into account in the consideration of development and construction proposals. Once lost, the unique suitable environment in which the Carillon is now heard will never be able to be recovered. Had Marion Mahoney Griffin and Walter Burley Griffin been aware of the spectacular placement of this instrument, they would have been incredibly conscientious about its surrounding environment. That is to be expected, because that is the nature of the planning that they did.

Finally, we would like to reiterate our invitation to the members of the committee to visit the National Carillon and experience firsthand this remarkable instrument. Like every person that has been there before you, you will be, to put it in the vernacular, blown away. Thank you.

CHAIR—Thank you very much, Ms Fuller. Ms Ellis?

Ms Annette Ellis—Do you know what level of funding the NCA had for the Carillon prior to the 90 per cent cut? I am sorry to ask that; I do not know that figure.

Ms Fuller—We have not been completely privy to that sort of information. If we go to page 6 of the submission, we can see that the previous level of around \$200,000 per annum was just to run the recitals.

Ms ANNETTE ELLIS—That is not the full level, is it?

Ms Fuller—That is not the full level. I think the NCA has spent \$2.6 million or \$2.8 million in bringing the instrument up to the standard that it is at at the moment, which is world standard. If we go overseas, we do not see a carillon and say, ‘We wish we had that here.’ But, when people come over here, they say, ‘We wish we had your carillon.’ So it takes its place on the world stage.

Ms ANNETTE ELLIS—This submission states:

... when the NCA chose to cut the budget for the carillon from its previous level of around \$200,000 per annum to \$10,000 plus an allowance of around \$1,200 per month for a skeleton schedule of performances.

That sounds like the level of funding was \$200,000.

Ms Fuller—That is simply for playing it. You have things like maintenance and a director—and we are not privy to the nature of his contract.

Ms ANNETTE ELLIS—So it would be more than that?

Ms Fuller—Yes.

Ms ANNETTE ELLIS—We might try to find that out. There is no question about the national significance of the Carillon. What would you consider to be the desired level of funding and activities, including planning for future planning ideas? You can only react to what the funding was allowing you to do. Do you think that level of funding was adequate to you at the time?

Ms Fuller—No. Just from discussion amongst ourselves and with our director—because we work as a team, and that is the nature of a team of carillonists—to put into place future development we would need between \$400,000 to \$500,000. You would cover things like having an international festival here with the World Carillon Federation Congress. You could heighten it by having composition competitions, because it is important to be able to get composers to take notice of the Carillon and write for it. That is one way of doing it.

Ms ANNETTE ELLIS—So there was the operational budget, which allowed it to be there, to be used, to exist, to have a certain level of public concerts and so on. But I think you are saying that there is a lot more you could do—

Ms Fuller—A heck of a lot more.

Ms ANNETTE ELLIS—to expand upon it if the possibility were there. But that is over and above its basic operation. Is that a fair way of reflecting what you are indicating?

Ms Fuller—Absolutely. At the moment we are not even a basic operation.

Ms ANNETTE ELLIS—Given the cuts?

Ms Fuller—Given the cuts.

Ms ANNETTE ELLIS—I am speaking about just before the cuts.

Ms Fuller—In fact, had it not been realised that the Carillon needs to be played so that it remains operational, it may have been silenced. So we have two recitals a week simply to keep it in motion.

Ms ANNETTE ELLIS—Senator Hogg is busting to say something.

Senator HOGG—An earlier version of this committee in another parliament did visit the Carillon and those of us that went were extremely impressed.

Ms Fuller—Ah, so you have been?

Senator HOGG—Yes.

CHAIR—Hands up who has been to the Carillon!

Senator HOGG—It is not only that. We were shown the workings of it as well and it was very impressive. Has there ever been any ACT government funding to the Carillon that you would know of?

Ms Fuller—I am not aware of any in my connection. George, you have a long history.

Mr Howe—It has always been federal funding, right from the start as I understand it.

Senator HOGG—Is that because of its iconic status?

Mr Howe—Yes. It was a gift to the nation.

Senator HOGG—It is a gift to the nation and it is seen as something special to the nation?

Ms Fuller—Yes. I understand that the NCA has a statutory obligation to fund the nuts and bolts, the hardware, of the Carillon, but they are under no obligation to fund the artistic arm. There is a sort of parallel there in that, when the Carillon was in preparation for being opened, suddenly the NCDC realised that they had to have someone to play it. Still we have this lack of understanding that you have to have people to play it.

Senator HOGG—You are saying there is a lack in that the responsibilities of the NCA go insofar as the basic maintenance and operation of it without an obligation to fund the performance—

Ms Fuller—The performance, the artistic arm.

Senator HOGG—which is an integral part of the upkeep of it anyway?

Ms Fuller—Absolutely, and this is why we are suggesting it have, perhaps, its own legislation—so that these things can be looked at to ensure that they are done.

Senator HOGG—Do you think there is somewhere outside of the NCA where the management and operation of the Carillon would be better placed and the funding passed on to the Carillon? It would still be federal funding but through some other avenue, whether it be a special trust or whatever it might be.

Ms Fuller—I think that it would have to be a place of some substance because we have been run by a radio station and we have been run by a private consortium. This is what we mean by the Carillon having a very chequered career from pillar to post over the past 38 years, apart from the past seven. I suppose if it went to the ACT government, for example, it would mean that the money had to be there so that it could be administered correctly.

Senator HOGG—In your view, would the funding still have to come from the federal government?

Ms Fuller—It would have to, yes. That is where the obligation lies.

Mr Howe—I would agree with that. It must stay federal because of its nature, and you might put it in a department of the arts of anywhere else but not necessarily the National Capital Authority, who are really running it because of where it is in the parliamentary triangle. They came on board in the early nineties after the School of Music had had it. The School of Music had a one-line budget for it and appeared to be, partially at least, funding it themselves with federal government assistance. Later the Carillon's management was taken away from the School of Music and put into private hands by tender.

CHAIR—Yes, I remember that.

Mr Howe—Ever since then the National Capital Authority has been the vehicle for federal funding with whoever it decided would run it. That was the radio station, or this private consortium or whatever until Timothy Hurd turned up again in 1990, when I suggested to the NCA that if it was going to go anywhere he was the one person who could possibly bring this about.

Senator HOGG—Is there any private funding at all—

Ms Fuller—No.

Senator HOGG—through philanthropic organisations or the like?

Ms Fuller—No. It lacks at the moment funding for advertising. We are just piggybacked on something that might occur like Summer in the Capital. In fact, sometimes it is Canberra's best kept secret.

Ms ANNETTE ELLIS—The proof of this, I suppose, is the cuts. Senator Humphries might have a clearer view of this than I have but, from what you are saying, it seems to me that there has not been a specific amount of money given to the NCA with a tag on it that says, 'Carillon'.

Ms Fuller—That is right.

Ms ANNETTE ELLIS—So it has been absorbed into the NCA budget as everything else is.

Ms Fuller—Yes; that is right.

Ms ANNETTE ELLIS—It is entirely up to them in their budget considerations internally—

Ms Fuller—Absolutely.

Ms ANNETTE ELLIS—as to whether you get \$10,000 or \$10 million.

Ms Fuller—Yes.

Ms ANNETTE ELLIS—That is the question that you are raising.

Mr Howe—This happened in the School of Music in the early 1990s.

Ms ANNETTE ELLIS—Yes. So it is the same situation.

Mr Howe—We had the school bleeding the budget of the Carillon.

Ms ANNETTE ELLIS—And here we are with the NCA under some financial pressure, so they just say that the Carillon can lose 90 per cent of its funding.

Ms Fuller—Yes. And, if the Carillon was protected in that way with legislation, it would not then be subject to party politics or whatever it is that causes these things to happen.

Ms ANNETTE ELLIS—Unless there was a budget item—

Senator HOGG—It needs to be administered funds.

Ms ANNETTE ELLIS—Yes.

Senator HUMPHRIES—When I heard about the decision to effectively cut out Carillon concerts, I was horrified because I see it as very much a part of Canberra. This is a feature of Canberra. Personally, I hope that one of the outcomes of this exercise is that we reaffirm the things that the NCA was doing with some of the money that has been taken away and we persuade the federal government to restore some or all of that money.

Ms Fuller—Yes.

Senator HUMPHRIES—That is my personal hope about this. Having said that, though, I baulk at the suggestion that you have made, that there should be some kind of guarantee built into a funding bucket somewhere for the Carillon, simply because there really is not any area of government activity which has a guarantee of that kind. We fund the War Memorial, the National Library and the National Gallery but none of these things have got any guarantees. Indeed, on some occasions they receive less funding because it is regarded as a matter of moving priorities on the part of government. And, if we said that the Carillon should be treated separately and differently from other previously federally funded institutions, others would line up at the door saying that they wanted the same guarantee. The answer to what you are seeking is to do our best to try and restore the funding base for the NCA so that it has a capacity to do this, and perhaps also to look at the legislative framework in which the Carillon operates, attaching it to some organisation or appropriate body that would be able to make it part of its charter. I am not sure what that would be. A government department is not ideal because it fluctuates with the funding decisions of government and it can even disappear in administrative changes. Maybe the ANU, in which the School of Music is now incorporated, is the appropriate body.

Mr Howe—The school had not quite got to the ANU when we placed it within their ambit. In this matter there is a moral obligation because it was a gift of the British government at no cost to the whole of the Australian nation for perpetuity and it is now a capital asset. Did I hear it is worth \$30 million?

Ms Fuller—Yes, \$30 million.

Mr Howe—A miniscule amount, by comparison, was paid to upgrade it four years ago. We have this enormous asset. It is a unique situation and perhaps something that we cannot compare with anything else in the national capital. I very strongly feel that we should keep progressively putting in new capital expenditure. Raising the \$400,000 or \$500,000 that we would like it to be at the moment and progressively right up to the 2013 centenary of this city it could very well be \$800,000 or \$1 million. With the Carillon functioning actively in a number of ways, with people coming from overseas and with the embassies being involved, there will be a lot of money spent in that year. I really do think that we need a firm and agreed base of funding that is absolutely sacrosanct and quarantined.

Ms Fuller—And we understand, too, what you explained, Senator Humphries, about funding for things like the Gallery and War Memorial, but, having said that, I do not think that the government would shut them down. I do not think it would withdraw funding.

Senator HUMPHRIES—It does sometimes withdraw funding. The level does dip sometimes. But, you are right, they always keep going; they are always there.

Ms Fuller—They always keep going. But we have been in a situation where that may not have been the case.

Ms Antcliff—I think the other thing is that it is invisible at the moment. As you say, you cannot see what has happened to the funding for the National Carillon. Even if it was an identified line item so people knew what was actually happening, that would be a start.

Senator HOGG—How many other carillons are there in Australia?

Ms Fuller—We have a sister carillon in Sydney at the University of Sydney. It is a war memorial.

Senator HOGG—So there is one in Sydney at the University of Sydney, but I imagine that that is nowhere near as public as the one down here.

Ms Fuller—No. It is very much tied up with the—

Mr Howe—It is the War Memorial Carillon 1928. It is very visible, of course, within the university grounds and in Sydney city itself but it can barely be played because of the lectures. It functions on Sundays and Tuesdays, but it is an integral part of the university itself. It is a very active carillon as far as it is allowed to be.

Senator HOGG—And other than that?

Ms Fuller—There is one in Bathurst, but you cannot play it manually.

Senator HOGG—Where is that one?

Ms Fuller—Bathurst. How many bells does it have, George?

Mr Howe—Thirty-five. That was Ben Chifley's town. It put him on the track of wanting one here.

Ms Fuller—And there is some sort of carillon, as I understand it, in the Carillon Arcade in Perth. I do not know how many bells it has.

Mr Howe—Thirty-six. In fact, there are two there now.

Ms Fuller—Now you know why we brought George with us!

Mr Howe—They have a second facility with bells, but neither can be played as ours can.

Senator HOGG—So, really, this is it. It really is a different piece to any other carillon in terms of its access to the public, its visibility to the public and the range of bells that are available to be played and therefore the quality and the type of music that can be played on the instrument—is that fair enough?

Ms Fuller—It is the envy of the world.

Senator HOGG—But also the fact that it was given to the nation as a gift separates it out as well.

Ms Fuller—Yes.

Mr Howe—The nation is now shut out from seeing it, so that is a big concern. They can no longer hear it very much.

Senator HOGG—I have a commitment to go to now. Excuse me.

CHAIR—Thank you very much of your attendance here today. If you have been asked to provide additional information, can you please do so by 2 May. Thank you also for your patience because I know we started a little later than we had you programmed for. You will be sent a copy of the transcript of your evidence to which you can make corrections of grammar and fact. Does the committee want the correspondence received from Annabelle Pegrum today to be accepted and published? Yes. I would like to take the opportunity to thank the secretary and Hansard for their work.

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

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 4.59 pm