

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Inquiry into the public housing renewal program

Melbourne — 15 February 2018

Members

Ms Margaret Fitzherbert — Chair

Ms Nina Springle — Deputy Chair

Mr Joshua Morris

Mr Daniel Mulino

Ms Fiona Patten

Mrs Inga Peulich

Mr Adem Somyurek

Ms Jaclyn Symes

Participating Members

Ms Georgie Crozier

Mr Nazih Elasmr

Ms Colleen Hartland

Mr Gordon Rich-Phillips

Witnesses

Ms Kathy Mitchell, Chair, and

Ms Sarah Carlisle, Deputy Chair, Social Housing Renewal Standing Advisory Committee.

The CHAIR — I might open proceedings this morning and thank everybody for attending, including our witnesses this morning and also those who have joined us in the gallery. Welcome. The committee members who are here at the moment will change slightly during the day. We are under threat from the Public Accounts and Estimates Committee, and that is quite demanding for a number of people who are part of this committee, so there will be a bit of personnel change during the day. We are hearing evidence today in relation to the inquiry into the public housing renewal program, and therefore evidence is being recorded. I welcome witnesses here today. All evidence taken at this hearing is protected by parliamentary privilege; therefore you are protected against any action for what you may say here today, but if you go outside and repeat these things, those comments may not be protected by that privilege. I invite you all to address the committee if you wish to do so. I am hopeful that opening statements might be no longer than about 10 minutes so that we can open up for discussion and questions, but we are in your hands.

Ms MITCHELL — Thank you, Chair, for the invitation to come along and to present to your committee. My name is Kathy Mitchell, and I am the chair of the Social Housing Renewal Standing Advisory Committee, and with me is Sarah Carlisle, who is the deputy chair. We have a short PowerPoint, which we will walk you through, and also to my right is Ms Andrea Harwood, who is senior project manager at Planning Panels Victoria. She has been our project manager for the process thus far.

Visual presentation.

Ms MITCHELL — We are handing out a PowerPoint, and what I would like to quickly do is walk you through what our role is and talk about some of the process issues relating to our inquiry thus far. Advisory committees are established under sections 151 and 152 of the Planning and Environment Act, and they are a means of facilitating public participation in the planning and environmental decision-making process. We are independent, and like various other planning panels and environmental effects inquiries, advisory committees provide a process to independently assess planning scheme changes or development proposals through the consideration of submissions, the conduct of public hearings and the preparation of reports. We are advisory and we make recommendations, and the final decisions on any matter from an advisory committee is made by the Minister for Planning.

As I said, advisory committees are appointed by the minister to advise on any matter that the minister refers to it. There are three types of advisory committees, just to give you an example, and they consider one of the following types of matters: they could be proposals for specific sites, such as Moonee Ponds activity centre. There was a hearing about 3RRR, which was a call-in from VCAT, but it was also about a specific site. They might review current state policy, and recent ones in past years include development contribution reviews and residential zone reviews, or they may be specific matters called in — again by the minister — such as VincentCare, which was a homelessness centre in North Melbourne a year or two ago, and more recently there was a solar farm in Wangaratta that was called in from VCAT. So they are various. On top of that the minister may appoint a standing advisory committee, which considers a range of proposals relative to one particular area of interest, and in this regard the standing advisory committee for social housing was formed.

We are provided with terms of reference, and that provides and guides the framework of our consideration, and it also includes time frames. We do have spare copies of our terms of reference. We were not sure, Chair, whether you had copies of our terms of reference for the social housing committee, but like your committee we do have terms of reference as well.

The CHAIR — Yes, that has come to us.

Ms MITCHELL — When we complete our work advisory committee reports are provided to the Minister for Planning only, and there is no requirement under the Planning and Environment Act for these reports to be released publicly or within a specific time frame. More specifically, our committee was appointed on 19 March 2017, and we all declared that we had no conflict of interest with any matter relating to these proposals and we were appointed because of our independence and our skills. The members listed are there. I will not go through them, but you can see the broad range of expertise that each of the members brings to this committee. I have just noted here that three of the members were previously appointed to the social housing advisory committee. I think it was under Justin Madden when he was planning minister, and that was part of the Nation Building initiative, and those members were myself, Rodger Eade and Ann Keddie.

The purpose of our committee was to advise on the suitability of new planning proposals prepared by DHHS to facilitate the renewal and redevelopment of existing public housing estates to increase the supply of social housing, and also to provide a timely, transparent and consultative process to facilitate the renewal of this housing stock. That is mentioned at clauses 4(a) and (b) of our terms of reference. We were instructed to write a brief report to the Minister for Planning that responded to all relevant submissions, the appropriateness of the proposals in the light of key strategies, including Homes for Victorians and *Plan Melbourne*, and also to assess them against the objectives of the Planning and Environment Act 1987 and any other relevant provisions of the planning schemes, including local planning policy.

We were also instructed to make a recommendation on whether the Minister for Planning should act as the responsible authority for each site and whether the proposed changes to the planning scheme and/or permits, if they were referred — and I just note that we did not have any planning permits referred to us, but there is that option in our terms of reference — should be approved, subject to any recommended changes. Our terms of reference also noted that it was not the role of our committee to consider a number of matters, and one of these was the increasing demand for one and two-bedroom housing dwellings. We were not to comment on the suitability of joint venture partnerships as a delivery model. We were not to look at leveraging under-utilised public land to deliver an increase in social housing, nor the dwelling yields needed to deliver an increase of at least 10 per cent of social housing, nor the appropriateness of any community housing provider to administer the provision of social housing. So clause 40 was quite specific about what we were not to consider.

Our terms provided that our committee undertake its work in the following stages — so there were to be briefings, and I will talk a little bit more about that in a moment; the exhibition process; the public hearing process; and then the report writing process. Our terms of reference at clauses 21 and 22 noted that we could request briefings from DHHS prior to the commencement of a proposal. Then there was the exhibition process, and that was where the proposal was available to the public to review. That included an opportunity for people to make written submissions over a 20-day business period, which is a standard period for any planning scheme amendment process, and it also noted that DELWP and not our committee was to provide direct notice to the council, the various local government agencies, servicing agencies and neighbouring properties. When I say DELWP, I mean the planning group at DELWP.

It also noted that DHHS would provide direct notice to the tenants of each estate, so neither DELWP nor our committee provided that notice to the tenants. Clauses 31 to 36 talked about the public hearing process, and it directed that we hold a directions hearing, which is a preliminary hearing, within 20 business days of the close of the exhibition process, and then we were to hold a public hearing, and all submitters who made written submissions were invited to present at the public hearing. With the directions hearing, I will just briefly say that that is a preliminary hearing that considers matters of procedure, timing, questions that can be asked by people about ‘What do you do?’, ‘What sort of information do you want?’, ‘How long can we present for?’ and things like that. The public hearing was when people had the opportunity to present their submissions and/or evidence if they so wished to present evidence. We were then required to prepare our report into the matters to be considered, which was outlined earlier on a previous slide, and then we were to submit our report to the Minister for Planning for his consideration within 20 business days from the completion of the last hearing date — not from the commencement of the hearing but from the last hearing date.

I will briefly talk about the briefing process. We were able to request that DHHS present to us to outline what the proposals were about, and we did request a briefing from DHHS, because the eight of us on our committee were new to it and we felt that we needed some background information to understand what the process was. We had that briefing, following our appointment, on 11 April, and DHHS staff, their legal advisers and officers of DELWP attended that briefing. We also undertook a detailed site inspection of six of the nine sites. You would be aware that nine sites were on the listing to be referred. We did that site visit on 4 May. We went in a bus, and as part of that briefing we actually went into some of the units that were vacant so that we could inspect the units that were proposed to be replaced.

DHHS provided an overview of the nine sites that they were looking at. They explained how the project was to be funded — and, briefly, that was the private-public partnership model — how the design principles were developed, and they noted that the design principles were developed in accordance with some advice from the Office of the Victorian Government Architect, and the process by which they developed the suggested built form envelopes.

Then there was the exhibition process. I will talk about numbers in a moment. I have already talked about who the notice was provided to. And as I have mentioned, DHHS provided notice to the residents, so again that was not a matter for our committee or DELWP. Submissions were provided to the office of Planning Panels Victoria in an electronic format, but where people could not access an electronic format, hard-copy submissions were provided. Our terms noted that the advisory committee was required to provide the opportunity for people to make a submission, and it directed that we should hear from DHHS, the relevant council, DELWP and the relevant submitters. Across the sites that we looked at we had a total of 501 written submissions for the matters that we have considered thus far, and there is a breakdown shortly of where those submissions came from.

A number of submitters came to their hearing, and they looked at our terms of reference and some of them came and said, 'Look, our submission is outside the scope of the terms of reference, but we want to speak anyway', and we allowed anyone who wanted to speak to speak. We did not refuse to hear any submitter, even if their submission was outside the scope of what we were to consider.

We held most of the hearings at 1 Spring Street, which is where we are located, but we did try and hold hearings at some of the sites where there was a suitable facility available. With the case of Flemington, we spent a day out at the Flemington estate. They have got a community centre at the estate, and we convened a hearing there. We had a number of people who presented on that day but also others who were from the estate who just wanted to come and have a look and observe. That was a very, very useful and very important day. It also enabled us to go back to the estate and have a walk around and have a look at things that we needed to reiterate in our mind. We also held a day at North Melbourne, not at the actual Molesworth Street area, because there was not a suitable space, but at one of the housing commission community rooms — I think it is in Melrose Street.

With regard to Brighton, most of the hearing was held at the Brighton town hall. I think it was half and half.

Ms CARLISLE — Yes. It was quite a long hearing — the Brighton hearing. It went for six days, and we held three of those days in the planning panel's hearing room in Spring Street and the other three days in the Brighton town hall. We did actually make inquiries of DHHS as to whether there may be a suitable facility on the site to conduct those hearings, but unfortunately there were no communal spaces that could be used on the site.

Ms MITCHELL — I think it is fair to say that when we went out to the site — I chaired North Melbourne and Flemington, and Ms Carlisle chaired Brighton — the community were really pleased that we came out, even if for North Melbourne and Flemington it was just one day. They were very pleased that we did come out as part of the hearings. We tried to hear the local submitters in those site areas, whereas when we heard from Flemington, DHHS and the councils, we heard them at 1 Spring Street. They were very much the local days for the local community.

With regard to the proposals, each proposal was in the form of a draft planning scheme amendment. If I could just explain that, when local councils put an amendment on exhibition, it is a full planning scheme amendment — it is not a draft — and it goes through what is called a panel process. These were draft amendments that were not formulated as, what we call, a proper planning scheme amendment. They did not go through a normal, what we call, a section 153 and 155 process. If you want me to talk about that later, I am happy to.

Each of the sites to be rezoned, generally, had an existing general or neighbourhood residential zone and they were proposed to go to new schedules that were tailored for each site to the mixed-use zone. Then they were supported by new schedules to what is called a development plan overlay — which I can talk about, if you want, a bit later on — and also a parking overlay, amongst other policy changes in the planning schemes. It is very important to note that we were not asked to consider specific redevelopment proposals. We were not looking at an actual proposal. We were looking at the planning controls that would facilitate the development of actual proposals. It was not our task to comment on what might be the final redevelopment proposal.

DHHS prepared what they call indicative development proposals that met the guidelines or the criteria in the development plan overlay — for example, each of the documents had drawings of what might be developed on the site if the heights and the setbacks that were proposed were implemented. But these were indicative only, and we must admit it did cause some confusion with submitters because planning is quite a complex matter. Some people did not understand what an indicative proposal was, and they thought they were commenting on a

proposed redevelopment. But it was made very clear, and we tried to emphasise this as much as we could at the hearings, that this is not the final development proposal. Our role was to look at the planning framework.

Ms PATTEN — You can understand why people would be confused.

Ms MITCHELL — Our role was to look at the planning framework that would then lead to the development of a development plan, which then would sit within the development plan overlay.

Ms CARLISLE — Followed by planning permit applications that would be made in accordance with the development plan.

Ms MITCHELL — This slide here has got a lot of information on it, but what it talks about is what estate we had referred to us where we had completed the work. The second column provides the extent of notification that was carried out by the planning group at DELWP. So you can see for Flemington — Holland Court was the name of the site; it is in Flemington and it is in the Moonee Valley City Council area. There were some 7500 owners and occupiers of neighbouring communities notified as well as 28 community groups. We understand that DELWP asked the council to give them advice on who were the resident groups in that area. They source that information, as I understand, from each of the councils. For Flemington we received 193 written submissions, and the report was submitted on 10 November.

Going across the page, you can see that the extent of notification was in the thousands for most of them. Walker Street, Northcote, was a smaller site, as was New Street in Brighton in terms of the extent of local community notification. You have got the number of submissions there, and you can see that there were five reports submitted on 10 November — Flemington, Brunswick West, two sites in Heidelberg, in Banyule and at Walker Street, Northcote. Then you see what is called a common issues report. I will talk about that in a moment. Then following the submission of those reports we had two further sites. One was New Street in Brighton, and that report was submitted on 18 December — and the Abbotsford Street, North Melbourne, report was submitted on 13 December.

You can see that there are three other estates — Ascot Vale, Noone Street and Hawthorn. In the initial terms of reference, you would notice that they were sites to be referred. As yet, they have not been referred. So we have not done anything about those sites, and I am not aware of the timing of those.

Ms CROZIER — What is the reason for that?

Ms CARLISLE — That was not provided to us.

Ms MITCHELL — We do not get that information. We were just advised that these sites would not be referred.

Ms CROZIER — But they are on your original list?

Ms MITCHELL — They are on our list, but the terms of reference note that the detailed proposals for the sites need to be referred to us. So for each of these sites we have proposals, the draft planning scheme amendment. That is not a question I can answer because we only act on what has been properly referred to us.

Ms CROZIER — We might ask the Director of Housing if he might be able to assist us.

Ms MITCHELL — When we were working through the first four sites in particular we had what we call concurrent timetables. We were running the sites pretty close together in terms of our hearings. There were a number of common issues that were emerging throughout all of these sites — things like whether the Minister for Planning should be the responsible authority, the form of the development plan overlay. People were raising issues about the content of the development plan overlay, they were raising issues — the councils in particular were raising issues — about whether there should be development contributions. So rather than detail all of these for each of the sites, we actually produced what we called a common issues report, which is like a companion to the first six reports, and the common issues report applied equally to the Bayside and North Melbourne sites. We are not aware that any of these reports have been released yet. Once we finish our work and we submit our report, our role is over in terms of consideration of these sites.

In summary, as I have said, we were appointed to provide independent expert advice. The public hearings provide the community, submitters, councils and others with an opportunity to be heard and for issues to be ventilated in an open and transparent process. The advisory committee process is iterative — and if you want me to explain what I mean by that shortly, I can — and our recommendations are advisory. When I give lectures on the role of planning panels — I talk to various people — I compare planning panels as a body to VCAT. We are advisory, we look at matters that are basically strategic in nature and our work is about changing the rules. So everything we do is about changing the planning scheme. VCAT is very statutory, and they are determinative. We are not; we are advisory. That is all I have in the presentation, Chair, as a background for you.

The CHAIR — Thank you. I do have one question at this point before going to Ms Symes. You mentioned earlier in relation to the rezoning that these projects are not going through the usual — I think you said — 157 process, and you said you could elaborate on that.

Ms MITCHELL — Yes.

The CHAIR — Could you briefly explain the difference and what you meant by that?

Ms MITCHELL — If a local council wishes to put up a planning scheme amendment — let us say they want to rezone some industrial land to residential — they prepare a formal planning scheme amendment, it gets authorised by the department, it goes on public exhibition and submissions are received. If the submissions cannot be reconciled at the local government level, they are referred to a panel. With quite a few proposals, because this is a statewide initiative because the Minister for Planning is looking at these matters holistically in conjunction with the DHHS and the minister for housing, they have prepared what is called a draft planning scheme amendment — meaning, it allowed our committee the opportunity to really explore the form of the amendment in a slightly different way. It is not a dissimilar process, in that things went on exhibition and people could make submissions, but because it was done through the Minister for Planning, it could not be a formal local council planning scheme amendment because it would have required the council to put it on exhibition.

The CHAIR — Sure. Is there a definition or a threshold for a statewide initiative, because it seems to me these are a series of specific sites that are not statewide — they are in Melbourne, particularly urban parts of Melbourne. What is it about these that makes them a statewide initiative?

Ms CARLISLE — There is certainly no statutory guidance about what constitutes a statewide initiative and what constitutes a regular planning scheme amendment process. But it is quite common for large projects which are effectively state sponsored — where there is a state government agency that is the proponent — for them to use a process similar to this. The other thing that an advisory committee referral process allowed us to do was to look at the amendments as a package rather than having to look at each amendment separately. So it had timing benefits in the sense that we could consider them all at once and get our reports out promptly. But there is no particular guidance which says, ‘This falls into the state category, this falls into the local category’. It is really at the discretion of the state government agency who is the proponent for the amendment to choose which process they want, with the agreement of the Minister for Planning.

Ms SYMES — Thank you for coming in this morning. I just want to pick up off your last slide, which talked about the public hearings — and your description of the meetings and stuff was great — and the ability for people to come and have their say. I guess I am interested in the next step in terms of how your panel considers the views of submitters, whether they make a written one or a verbal one, and the process there. Do they form recommendations? What happens next?

Ms MITCHELL — Every submission received is fully considered by the committee, whether the submitter chooses to appear at the public hearing or not. The hearing provides the opportunity for them to amplify or talk to their submission, but it also allows them to engage with the committee and to also hear what the DHHS and the local council might be saying. So we encourage people to come to the public hearing, and it is quite clear from the Minister for Planning that he encourages public participation in the hearing process, and this committee was set up specifically to ensure that there was public participation in the hearing process.

It is fair to say that some submitters come along and they are quite nervous and they are tentative and they do not know what to expect, and we try and put them at ease as much as we can. We tend, in our hearing program, to provide the opportunity for the DHHS to go first so they can talk about the proposal, and then the local

council. Some submitters who came to the hearings came for every day because they wanted to hear what DHHS and the councils were saying. DELWP also came along to provide an overview of the consultation process that they took out in terms of notification. We then structure it so that community groups go next, because community groups speak for the community.

I can say — and this is on the public record — at Flemington, for example, the Flemington Association, who are very active in that area, came along and they had representatives there every day, and we commended them during the course of the hearing for their input. There was also an individual submitter at Flemington who came, I think, every day and helped the community members understand the process and put them at ease. We do have some submitters who only come for their timeslot because they are working or they cannot get time off. At Flemington we had translators as well because of the language issue, and we had the translators at the Flemington hearings on site. So we do what we can to put people at ease.

As I mentioned earlier, some of the submitters raised issues that were outside the scope of our terms of reference, and they acknowledged that, but they wanted the opportunity to have their say and get it off their chest — and we allowed that, because it is very, very important to them, and we also felt it was important for DHHS to hear what these submitters had to say and for them to take it on board, and there were times in the hearings that we said to DHHS, ‘This is a matter for you to follow up on’. They had officers and staff there the whole time, and I was aware of people in the room — DHHS people, that is — going up to the submitters afterwards and talking through issues with them and following up. We were not privy to those conversations, but that is what they were doing, because there were clearly matters that were not in our remit — things like tenant relocation, matters like that. We could not deal with that; it was outside of the scope of our terms of reference.

Ms SYMES — Putting aside the issues that are outside your scope in terms of design and that kind of thing, and I know you cannot go to the detail of your report per se, but what type of recommendations can you guys make that address community concern? People have raised issues about vegetation and traffic and things like that. Were they the types of things that you guys could —

Ms MITCHELL — Absolutely, yes. Look, it is a matter of the public record in terms of who came to the hearing and what was said, what the submissions were. But there was a lot of discussion about the form of what is called the development plan overlay, which is the framework document that provides for the opportunity for the development plan to be prepared. In that there was discussion about the objectives, the form of vegetation, tree removal and the like. So, yes, people did put in submissions on that. I will ask Ms Carlisle to talk about Brighton, about how that process worked, but in Flemington, for example, that was the first hearing, so there was a lot of prosecution of what was being put before us. We stood the hearing down, where we directed DHHS to have a look at the development plan overlay and revise it, and we invited the submitters to also respond to it. We stood the hearing down. We deferred it for a few days to give everybody the opportunity to have a look at what was proposed by DHHS and then come back to us either in written form or verbal form to say ‘Yes’ or ‘No’, ‘This is better’ or ‘This is not better’. That opportunity was provided.

Ms SYMES — Would you say you had a little bit of a role in mythbusting as well, by bringing people together?

Ms CARLISLE — What do you mean by ‘mythbusting’?

Ms SYMES — It sounds as though by virtue of just being there you facilitated discussions to make sure that people could get the right information firsthand. It sounds as though a lot was going on around you not necessarily directly involved with your hearings.

Ms CARLISLE — Yes. There was definitely an element of that, certainly for the hearings I chaired, which were the Heidelberg West hearings and the Brighton hearings, but this was a common issue across all hearings. The design frameworks that were put up, the indicative designs that Ms Mitchell referred to before, did cause a lot of confusion. A lot of the community were looking at these photomontages — one of them is in fact on the front page of that slide — and they thought that that is what was going to be built, and they thought that that was what we were considering.

So we spent quite a lot of time through the hearings explaining that this was one version of what could be built and this was developed to inform the sort of framework, and we were really considering things a step back from

something as specific as that. We were considering whether the framework that was being put in place was appropriate. Things like building heights, building mass, traffic and parking issues, loss of trees, loss of open space — all of those planning issues were exactly what we ventilated at the hearings.

And the other thing, just to add to what Ms Mitchell was saying before, is what the public hearing process allows. Not everyone chooses to come along and speak at a hearing, and I can totally understand that; it can be quite daunting if you have never been involved in that sort of process before. We had some absolutely fantastic community groups, who were very well organised and extremely well prepared, who had the opportunity to come along and question the expert witnesses that DHHS was calling on matters like transport, traffic, which were the traffic pressure points in the area, what their local experience was in terms of parking in the local streets, how they used some of the open space facilities on the estates and those sorts of things. It is a good way for us to get firsthand local experience, which obviously helped us form our recommendations and advice to the minister.

Ms MITCHELL — Can I just add one example of that. In the Brunswick West site one of the submitters rang up Ms Harwood and said, ‘The committee needs to come on a Sunday because we have a lot of soccer in the area and the streets are very, very busy’. We had a traffic expert on our committee, and I asked him to go out to Brunswick on a Sunday and have a look at the traffic issues, and he spent a few hours out there so he could understand what the submitter was talking about. So that is the sort of thing we did. We all went back to the sites afterwards to rethink. You hear all of this stuff — you hear the submissions, you hear the evidence — and then we go back to the sites to put it all into place and to understand what it is that people are raising so that we are fully aware of what is going on.

The CHAIR — You have mentioned the individual reports on estates and also the common issues report and said that there is no requirement to make those public. Are you able to share those with the committee?

Ms MITCHELL — We report to the Minister for Planning, and I would have to get advice from the Minister for Planning whether he is prepared to make them public.

The CHAIR — Can I say giving them to us is not necessarily making them public.

Ms MITCHELL — No, I understand that, but we report to the minister and I would have to get advice from the minister on whether that could be done. When we say they are not being made public, invariably they are made public. These reports were submitted in November and December, and what usually happens, and we are not privy to it, is people within the department prepare a brief for the minister and then the reports are inevitably released. We do probably eight to 10 advisory committee matters per year, and the reports are always released after the department have done their briefings and the minister has had the chance to consider the report and the briefing from the department.

The CHAIR — So is there any suggestion of when we could expect to see them made public?

Ms MITCHELL — I do not know the answer to that, Chair. We do not make those sorts of inquiries, and once our work is done, that is what we do. We just provide the advice, and then it is up to the department to take that forward.

The CHAIR — Because I am aware that some residents have actually FOIed the reports and they have been declined on various grounds. What I have been told, certainly from people within my electorate, is some frustration that they have gone through a process, which they have invested a lot of time in, and they have spent a lot of time preparing, but they do not have any sense of how that was captured and what ended up in the reports that went to the minister. In fact I might read a comment that someone sent to me recently, because I think it sums it up quite well. They say:

We strongly believe that the public has the right to know the basis of advice given to the minister — especially when no other avenue is available for scrutiny and accountability. Clearly the public interest is best served by the release of this information, not its withholding.

I am sure you could understand the frustration about that process, of wanting to know that your views have been captured. I would imagine there would be some potential sensitivities about specific sites, but certainly the common issues report I would have thought is something that could have been released without a problem at a fairly early stage rather than later.

Ms MITCHELL — For as long as this current minister has been Minister for Planning I cannot think of any advisory committee report that has been provided that has not been released after consideration.

The CHAIR — So when the decisions are made?

Ms MITCHELL — Yes.

Ms PATTEN — Good morning. Thank you for your presentation. I was somewhat struck, given the submissions we have received, by how narrow the terms of reference are. Certainly for the people that have written to us, it is that not actually knowing what they are talking about. I am wondering how you dealt with this, because I know certainly in the Walker Street proposal people are saying, ‘We don’t know what the design is, and by not knowing what the design is, it’s really hard for us to comment on whether we like it or not’. I am just wondering if you could speak to how you dealt with that in the public hearings, where you are putting up some concept plans there but that is not necessarily what it is. You are then asking the public to comment on something that is —

The CHAIR — That is hypothetical

Ms PATTEN — Yes, it is completely hypothetical.

Ms MITCHELL — We do not know what the design is either, so we were working within the same constraints, but we obviously have more knowledge of what planning is about. The development plan overlay provides the parameters. So what we encouraged people to talk about was the heights or the setbacks or ‘Which trees do you think should be saved?’, and there were expert witness reports that talked about the trees, for example. We tried to encourage them to conceptualise in the parameters of what was in the development plan overlay. We had numbers of submitters, and this is on the public record, where they felt some of the heights were too high. So we said, ‘Well, okay, if you think this is too high, what height do you think is appropriate?’. So that is how we tried to deal with it. People talked about the setbacks from the street: ‘Okay, well this has got a 3-metre setback; you think it’s too close to the street edge. What do you think is the appropriate setback?’. That is how we tried to encourage the conversation. I know in Brighton there was quite a discussion about the heights. I will perhaps let Ms Carlisle take this further, because she did chair the Brighton one.

Ms CARLISLE — Yes, heights were a big issue in Brighton, and when the draft planning scheme amendment was originally exhibited the development plan overlay contemplated — Brighton is a long, skinny site, and it has two road frontages and then a long frontage onto people’s side and back fences. The other side fronts onto the creek.

Ms PATTEN — The canal. It is Brighton.

Ms CARLISLE — ‘Creek’ and ‘canal’ were used interchangeably during the hearing. But the heights in the originally exhibited draft amendment ranged from three storeys up to nine storeys at the higher end, which was along the canal frontage. We had many submissions come in which objected to those heights in the context of the surrounding development and the neighbourhood setting. Through the course of the hearing — and this caused a little frustration which I will come back to — DHHS, in response to the submissions and in response to the recommendations from their own expert witnesses, acknowledged that the heights that they originally put up were too high. So they tabled on the first day of the hearing a revised schedule which brought those heights down, I think it was from nine storeys to six storeys, and there were some other adjustments made to where the boundaries were on the site in terms of the height differentiation.

That caused a lot of frustration amongst the community, because they felt like it was planning on the run and they were being presented with a new version of this proposal without really having time to digest it and properly understand what it all meant. This was quite a challenge for us, the committee, because this is actually a common part of the planning panel or advisory committee process. I guess the purpose of the public hearings in particular were to allow the issues to be ventilated and to be responded to. Some of that response will come from the proponent and some of the response obviously comes from the committee.

So for us it was not surprising to see a different version of the development plan overlay tabled on day one; for the community I think it was a bit of a surprise. We pressed on with the hearing. Particularly for those people who were able to attend every day, I very much hope that by the end of the hearing they understood the iterative

nature of the process and understood why things were happening in the way they were happening. I cannot speak for them; I do not know, although I did have one of the submitters at the end of the hearing come to me at the conclusion of the final day to just thank us for scrutinising the amendment properly. He felt that the hearing gave the community the opportunity to ventilate their issues and to actually be heard.

Ms PATTEN — If we go on from that that is exactly the frustration that we have been hearing from residents and surrounding owner-occupiers. It is that one day they hear that it is going to be 68 apartments and then the next day they hear that it is going to be 78 or 58.

Ms CARLISLE — Yes.

Ms CROZIER — It sounds like planning on the run.

Ms PATTEN — That is right. They are trying to work with this amorphous thing. I guess I am wondering how you report on that. Certainly the Markham Estate was similar — we heard from some very passionate residents around that area, around just not knowing. So they can talk about setbacks, but if it is going to have to fit 500 apartments, not 400, setbacks and heights have to be considered.

Ms CARLISLE — Yes.

Ms PATTEN — With that kind of ever-changing scope how do you report on that?

Ms CARLISLE — Yes, there were changes to the heights, for instance, and to some of the setbacks.

Ms PATTEN — Some did not even have designs, from what I understood at Walker Street.

Ms CARLISLE — Again, those design frameworks were developed to inform the envelopes that were put up as part of the draft amendments. That did cause some confusion. But in terms of the number of apartments, that was never within our scope.

Ms PATTEN — No, I know. That is right.

Ms CARLISLE — We were looking at built-form envelopes, traffic impacts and tree retention. We were looking at planning issues.

Ms PATTEN — All of which would relate back — saving a tree, if you have got to put in an extra 15 apartments — I guess I am trying to work out how you report on something when so many of the elements have not been confirmed.

Ms CARLISLE — Yes.

Ms MITCHELL — If I can just say this: we report without fear or favour, and we do call it as we see it. We do take into account the evidence provided, the submissions provided and the views of various parties, including obviously DHHS, obviously the councils and the community. So at the end of the day we make recommendations on putting this all in a bucket together, and we think, ‘Okay, these issues were raised’. We do a very detailed analysis of the material before us, and then we make our recommendations on how we think the proposals should develop going forward. So we do it without fear or favour. We say this, and ministers acknowledge it: we are independent.

Ms CROZIER — If I could just follow on from that comment about being independent, and thank you very much for your time by the way, what level of engagement did you have with DHHS? You have got a specific remit around planning requirements, but there is a whole department, DHHS housing, that is looking at these issues. What consultation did you have with DHHS in terms of what you are doing and what they are supposed to be doing?

Ms MITCHELL — Sure. Our terms of reference allowed us to seek a briefing from DHHS, which we did.

Ms CROZIER — Just on an overview? You mentioned that.

Ms MITCHELL — An overview view, yes.

Ms CROZIER — But where there specific issues that you could go back to them and get clarification on? Did you do that, and if so, what were those issues?

Ms MITCHELL — Yes. At the directions hearing — what happens is when we have proposals referred to us we review them and we look at the documents that are available publicly. We never consider anything in private, so whatever we consider is what is on the public record through the draft amendment process.

At the directions hearing we make directions about what sorts of information we might require. One of the directions that is on the public record that I can recall is we questioned why the choice of the development plan overlay as opposed to some other planning tool, and we directed that DHHS justify why they used the development plan overlay. So we can seek further information, and then at the hearing process they have to respond to that.

Ms CROZIER — Did you question why, out of the nine renewal sites, Bangs Street, Prahran was the only one that was not referred to?

Ms MITCHELL — Not that I can recall, Ms Crozier, because it was not referred to us, so we did not —

Ms CROZIER — So did DHHS provide you with a briefing for why it was not referred to you, because it is on the list, yet it is not included, and I am just wondering why that was the case?

Ms MITCHELL — I cannot recall Bangs Street being talked about.

Ms CROZIER — Even though it is listed on the nine sites? You did not question it?

Ms CARLISLE — We are a standing advisory committee, and proposals are referred to us as they are ready. We cannot direct DHHS to refer a proposal to us. All we have the power to do is to consider the proposals that are referred to us.

Ms CROZIER — I understand that. I was just wondering in terms of the DHHS briefing, was it mentioned to you at all in that briefing, because there are nine sites and they referred eight to you. Surely they would have given some indication of, 'We're not referring Bangs Street, Prahran', for whatever reason.

Ms MITCHELL — On our terms of reference, the copy I have got, it does not say Bangs Street; the nine sites do not include Bangs Street. Where is it? In Prahran? Yes. It does not refer to it on our terms of reference. Markham was not something that was referred to us either, even as a separate process.

The CHAIR — Do you have further questions, Ms Crozier?

Ms CROZIER — Yes, I have plenty. I just want to go back to the slide of the numbers of the community groups. I think you said there were over 500 submissions received, as are highlighted.

The CHAIR — What page are you on, Ms Crozier?

Ms CROZIER — Page 14.

Ms MITCHELL — It is the second-last page.

Ms CROZIER — It is the 'Status of referred sites', which you did describe extensively to us previously, in relation to the common issues report. I am just wondering why the common issues report was submitted prior to the New Street, Brighton, and Abbotsford reports? They were submitted following that common issues report, and I am just wondering why the common issues report was not submitted after those two reports.

Ms MITCHELL — Our terms of reference required us to submit our reports within 20 business days of the last hearing day, and if we had submitted the first four reports without the common issues report, they probably would not have made much sense, because there were a number of common issues that we acknowledge were common across all of the first four sites. But in the meantime we had also started to look at the Bayside and North Melbourne sites, and the issues that I talked about — like the minister being the planning authority — were addressed in the other two reports as well.

Ms CROZIER — So you will not be submitting another common issues report in relation to those next two, meaning, the Brighton and North Melbourne sites?

Ms MITCHELL — No.

Ms CROZIER — Thank you.

The CHAIR — In relation to the common issues report, which obviously I raised earlier, are you able to indicate what are the common issues?

Ms MITCHELL — I mentioned the minister being planning authority, I mentioned the issues that were common across the sites like development contributions, the form of the development plan overlay — I am just trying to recall.

Ms CARLISLE — There were issues around whether height controls should be mandatory or discretionary.

Ms CROZIER — What was the overall report on that?

Ms MITCHELL — We cannot say that at —

Ms CARLISLE — We cannot tell you our findings because that would reveal the contents of the report, which is the minister's information, now that we have handed those reports over, but we can tell you what the submissions were.

Ms CROZIER — No, I want to know what the views were about mandatory height limits, because that is very contentious in many of these areas and I would have thought that from a lot of those community submissions — I am speaking to the community, and I am sure other members are too, and that is what we get constantly, so I am a little perplexed why we, the committee, cannot understand what those common issues are in relation to mandatory height controls.

Ms MITCHELL — I can refer this to the Minister for Planning and seek advice on whether we can provide that information.

Ms CROZIER — I think that would be very helpful. Thank you.

The CHAIR — That would be good. Just in relation to the submissions made by individuals and so on, are they made public?

Ms MITCHELL — We keep a copy of them, and in our hearing room when the hearings are on we have what we call a public submission file, so people can have a look at the submissions during the course of the process, and that is the primary purpose of the submissions. But for privacy issues, once the hearing is finished we do not allow people to review the submissions. But if — are you wanting to look at the submissions?

The CHAIR — I am just curious because our usual practice is when we have submissions, unless someone asks otherwise, they are made public — we put them online, anyone can see them — and if there are any issues of confidentiality or privacy, we can redact parts of them to accommodate that. I am just curious as to why a similar process is not taken.

Ms MITCHELL — We have a privacy policy, and a lot of submitters do not like their submissions being put online because once they are online they are basically there forever and they can be accessed. We note in our privacy policy that 'the purpose of your submission is to inform our committee' or our panel, or whatever matter it is that we are dealing with, and 'once the hearing process is over your submission won't be made publicly available'. It protects the privacy of the submitters in particular, particularly individual submitters. If it is a council submission, they do not mind so much, but a lot of individual submitters put a lot of quite sensitive information in their submissions, and we like to protect their privacy in doing so and they like to be comforted that their submissions will not be used for any other purpose but for informing the committee.

The CHAIR — Certainly.

Ms CARLISLE — And we have noted that some submitters, particularly the councils, will often put their submissions online themselves. So there is no problem in the submitters making their submissions public if they choose to, but we need to be mindful of our privacy obligations.

Ms PATTEN — Was 501 submissions a large number or was it an expected response?

Ms MITCHELL — Not unexpectedly Flemington had the most submissions. It is a very big site.

Ms PATTEN — That's right.

Ms MITCHELL — So that was not surprising. I think with Brighton, again that was not surprising. A hundred submissions is a lot because it takes a lot of effort for people to write submissions and to put their views in. I think with Heidelberg West, when you look at the number of parties notified and then you look at the number of submissions, the ratio is quite low. With Heidelberg I think we were a little bit surprised at the lower number of submissions. Northcote, given the site — Northcote has the Merri Creek and other boundaries — that is probably not surprising, that number of submissions. North Melbourne — again that is a smaller site, but it is quite prominent in North Melbourne, so 80 submissions is reasonably significant. Some projects attract more — major, say transport, projects attract a lot of submissions. I mean, 501 collectively is a reasonable number for this type of project.

Ms PATTEN — Yes. Given that you have mentioned that many of them were outside the terms of reference — and I can completely understand that, given the information and submissions we have received about this issue — could you give me an idea of how many of those submissions sat outside the terms of reference?

Ms MITCHELL — Not definitively.

Ms PATTEN — Or probably the submissions might have been a variety of both.

Ms CARLISLE — A lot of the submissions touched on many, many issues, so some of the issues raised in the submissions were outside the terms of reference, but many issues were within the terms of reference. It is very hard to put a number on that, I think.

Ms PATTEN — Obviously those submissions raised issues that were outside your terms of reference but would have been very relevant to a DHHS inquiry or even to our own inquiry. Was there any communication with those submitters about suggesting that they refer them on to more appropriate organisations?

Ms MITCHELL — As I mentioned, there were a number of DHHS staff at every hearing, and there were times when we said to the submitter, 'This is not a matter for us but there are DHHS people here if you would like to talk to them', and as I said, we observed their staff talking to the submitters about certain matters.

The CHAIR — I think we are running very close to time so I will draw it to a close there. Thank you very much for your time today and your evidence. You will be provided with a draft of today's testimony within a few weeks for your review. Thank you very much.

Ms MITCHELL — Thank you.

Witnesses withdrew.