

1 April 2009

Ms M Porter MLA
Chair
Standing Committee on Planning, Public Works
and Territory and Municipal Services
Legislative Assembly of the ACT
GPO Box 1020
Canberra ACT 2601

Dear Ms Porter

**RE: Draft Variation to the Territory Plan No. 288: Lyons
Submission by Tony Adams, CB Richard Ellis**

This submission follows from my review of proof transcripts of evidence which record verbal submissions made to the Committee at public hearings on 20th March 2009 relating to Draft variation 288. I am concerned that some statements made relating to the planning study that was prepared as background information to support the draft variation are incorrect. The purpose of this letter is to provide the Committee with an explanation of the role of the planning study in the plan variation process. I am also available and would welcome the opportunity to make a brief presentation and respond to Committee questions at the next public hearing session on April 7th, if time is available.

The evidence was presented by Mr Richard Johnston in his role as President of the ACT Division of the Planning Institute of Australia and by Mr Hamish Sinclair, also a member of the Institute. For the record I note that I am a Fellow and past president of the ACT Division of the Institute.

The planning study that has been referred to was prepared partly by myself and otherwise under my supervision in my role as director in charge of town planning at CB Richard Ellis (CBRE). The town planning team at CBRE includes ten experienced professionals, eight with formal town planning qualifications and either membership of or eligibility for membership of the Planning Institute. All of the work that we do is completed to the highest professional standards, in accord with the PIA Code of Ethics and Professional Conduct.

In some cases, for example with development applications, the role of the planning consultant is to indeed be an "advocate" for a development proposal. In these cases the consultant is retained by the proponent and will argue, vigorously if appropriate, the best planning case for the project. He or she does this in the knowledge that their position will be balanced by the professional planning

staff within the Planning Authority who will assess the proposal and whose job is to safeguard the community interest. Both parties work within the constraints set by the Territory Plan and other statutory control mechanisms and an appropriate outcome, balancing proponent aspirations with community interests is usually achieved. In the case of a planning study prepared for a draft variation the situation is different. The consultant is not an “advocate” for the developer as explained below.

A plan variation is a policy decision rather than a development approval and because of this a draft plan variation can only be proposed by the Planning Authority or the Minister. Whilst, as is the case here, a proponent may request that a draft be prepared, the decision to do so lies wholly with the Authority and there is no right of appeal against a decision to not proceed. In this case the Authority, in consultation with the Minister, did decide to proceed and part of the process included the preparation of a planning study.

The planning study that was issued by the Planning Authority in support of draft variation 288 was prepared for the Authority by CBRE, as indicated on the front cover of the study report. All of the content was authorised by the Authority prior to publication. It is the practice of the Planning Authority (similar to interstate jurisdictions), where a principal beneficiary can be identified from a rezoning proposal, to require that party to fund the necessary technical work to investigate and, if appropriate, support the proposal. In this case the beneficial party is the Hindmarsh/DHCS joint venture and they funded the preparation of the study. (In the interests of transparency they were clearly identified in the report.) It is therefore not surprising that the Authority, in progressing the proposal following public exhibition, should reiterate the material published in its original planning study report. The suggestion that the Planning Authority should view “with scepticism” a report that they have, in effect, commissioned and authorised for publication, is incorrect.

I can assure the Committee that the planning study report is independent and professional and provides a sound basis for the assessment of the draft variation.

Yours sincerely
CB Richard Ellis (V) Pty Ltd

A handwritten signature in black ink, appearing to read 'Tony Adams', with a stylized flourish at the end.

Tony Adams
Senior Director Town Planning