



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS**

**(Reference: Annual and financial reports 2005-2006)**

**Members:**

**MR R MULCAHY (The Chair)  
DR D FOSKEY (The Deputy Chair)  
MS K MACDONALD**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**WEDNESDAY, 6 DECEMBER 2006**

**Secretary to the committee:  
Ms A Cullen (Ph: 6205 0136)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents relevant to this inquiry which have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

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## **The committee met at 9.38 am.**

### Appearances:

Stanhope, Mr Jon, Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts

### Department of Treasury

Grimes, Dr Paul, Under Treasurer/Chief Executive  
Smithies, Ms Megan, Executive Director, Finance and Budgets Division  
Broughton, Mr Roger, Executive Director, Investment and Economics Division (IED)  
Ahmed, Mr Khalid, Executive Director, Policy Coordination and Development Division  
Dowell, Mr Graeme, Director, ACT Revenue Office  
Chisnall, Mr Mick, A/g General Manager, InTACT  
Robertson, Mr John, Executive Director, ACT Procurement Solutions  
Bulless, Mr Neil, Director, Finance and Budget Division (FAB)  
Thompson, Ms Kirsten, Director, FAB  
Holmes, Ms Lisa, Chief Finance Office  
Vanderheide, Mr Michael, Head of Shared Services  
Burton, Mr Ross, Chief Financial Officer, InTACT  
McDonald, Mr Tom, Director, Legal and Insurance Policy, IED  
McNamara, Mr Jason, Director, Economics Branch, IED

### Actew Corporation

Costello, Mr Michael, Managing Director  
Baria, Mr Aspi, Technical Specialist Water  
Knee, Mr Ross, Principal Strategic Planner  
Wallace, Mr Simon, Chief Accounting Officer

### ACT Government Procurement Board

McNulty, Mr Hamish, Acting Chair, Government Procurement Board  
Venables, Mr Bob, Manager, Board Secretariat

### Gambling and Racing Commission

Jones, Mr Greg, Chief Executive, Gambling and Racing Commission

**THE CHAIR:** We will resume this public hearing No 3, inquiry into annual and financial reports. I welcome the Treasurer and Chief minister, Mr Stanhope and officials, this morning. I also welcome my colleagues Dr Deb Foskey and Ms Karin MacDonald and the committee secretary, Ms Andrea Cullen.

Before we commence I need to read you this notification. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings.

Before the committee commences taking evidence, let me place on record that all

witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence given before it. Parliamentary privilege means special rights and immunities attached to parliament, its members and others, necessary to the discharge of functions of the Assembly without obstruction and without fear of prosecution.

While the committee prefers to hear all evidence in public, if the committee accedes to such a request, the committee will take evidence in camera and record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly. I should add that any decision regarding publication of in camera evidence or confidential submissions will not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

In relation to questions taken on notice, please note that it is the responsibility of each witness, in consultation with the departmental liaison officer, to check the transcript and respond to the questions. Responses to questions taken on notice are required within five full working days from receipt of the proof transcript. Supplementary questions from members need to be provided to the committee secretary within two full working days, or by close of business Friday, 8 December 2006. Responses to supplementary questions are required within five full working days from receipt of the questions.

I would like to welcome Mr Stanhope and Dr Grimes. Before we proceed to review the annual report for Treasury, do you wish to say anything by way of introductory outline in relation to the report?

**Mr Stanhope:** No, thank you; other than to thank the committee for the invitation to attend today, and to indicate that the Under Treasurer and a range of officials from Treasury and agencies stand ready to provide whatever assistance and information they are able.

**THE CHAIR:** I am looking at page 1 of volume 1. Could you inform the committee what contributed to taking some four years into the government's term to decide to make the switch to GFS?

**Mr Stanhope:** We inherited an accounting standard from the previous Liberal government. They had utilised the Australian accounting standards during their entire term. We had not at that stage made much of an issue of that in opposition. It was not something we had campaigned on or given serious consideration to before coming to government.

I am not sure that there is a particular argument, point or explanation I can give as to why we did not change the accounting standard in the first term of this government, but I have given a number of detailed explanations as to why in this term of government we took the decision to move to GFS. Perhaps the more pertinent point is that we took a decision which the previous government had not taken to align our accounting treatments and treatment of our budgets with all other jurisdictions in Australia.

I think the reasons for that are quite clear. They have been explained by me on a number of occasions in terms of the greater transparency, the consistency with all other jurisdictions in Australia and, of course, the national move to a single standard.

**THE CHAIR:** I am not criticising that because, as you know, I have championed or advocated it. I was just wondering why it took us so long, why we are the last one home, in terms of making these changes in Australia.

**Mr Stanhope:** It is, of course, a question that I now ponder in relation to the seven years of Liberal government in relation to their utilisation of the Australian accounting standard. I wonder why your party did not do it. In retrospect, chair, had you been a member of that government, with your passion for GFS you might have been able to prevail on the previous chief ministers and treasurers in relation to the accounting standard.

**THE CHAIR:** I have no doubt at all. On page 3 of volume 1 you say that a major focus for Treasury is the management of the territory's taxation revenue system. Obviously for procedural purposes, that is not in dispute.

**Mr Stanhope:** That is what the Under Treasurer says.

**THE CHAIR:** Yes, I understand.

**Mr Stanhope:** I support him implicitly and absolutely.

**THE CHAIR:** I am delighted to hear that. Do you think, though, that there ought to be also a substantial focus on the composition of the rather high tax burden that Canberrans are already experiencing, rather than simply managing the revenues?

**Mr Stanhope:** That is a subjective assessment of the level of tax or tax burden which the people of the Australian Capital Territory face. I am sure the Under Treasurer would be more than happy to give you some indication of our revenue collecting effort, and as it compares across Australia.

The ACT has not, in fact, been a particularly high-taxing jurisdiction. To suggest that we carry a high tax burden is very much relative. It is perhaps subjective but certainly relative. We would need to debate that first, before I would be able to answer the substantive part of the question you ask.

I do not deny that it is very relevant that we maintain a focus on the relative rates of taxes and charges within the ACT. But there is a whole range of factors in relation to the charging regime that applies within the territory that need to be part and parcel of any debate around whether or not it is a heavy burden—perhaps it is a heavy burden; but that is a relative expression as well. It is relative to average incomes, relative to the narrowness of our economic base and relative to the sources of revenue available to an ACT government as opposed, for instance, to other governments around Australia, having regard for our service-based economy.

To the extent that your question is loaded with an assumption that this is a high-taxing

jurisdiction, we would need to debate that. But to the extent that you are asking is it appropriate, particularly in an annual report, that there be a discussion or a dissection of levels and rates of charging and taxing within the territory, I have no issue with that. And I have no issue with the annual report detailing, in a comparative way, rates and charges within the Australian Capital Territory.

**THE CHAIR:** Taking it one more level, to what extent do you explore the social impact of charges as, for example, they might affect different subgroups? I am thinking particularly of older residents trying to maintain homes with increased rates burdens but not necessarily incomes growing to reflect those. Is there much work done on this by Treasury or some other area of government?

**Mr Stanhope:** I will ask Dr Grimes to respond to the work Treasury does in relation to the impact assessments that are undertaken in relation to all rates and charges. Certainly the government is very mindful of the implications of increases in rates and charges on the community generally. And we are mindful of specific groups or constituencies within the community in relation to the particular impact of, say, the rates.

That is why there is a range of concessions available to deal with some of the implications for some ACT residents of the range of charges that apply. Perhaps I could ask Dr Grimes to give some further explanation of the processes the Treasury utilises in the detailed work it does in working up a proposal around our rates or charging regimes and changes to them.

**Dr Grimes:** Clearly, when we are providing policy advice to the government the Treasury would take into account a number of considerations, not only purely economic considerations but also broader social implications. That would be contained in policy advice that we obviously give to the government through the budget process. Looking at rates and charges and taxes, of course, we are also mindful of the rates prevailing in other parts of the country. We would ensure that advice on those sorts of matters was provided to the government.

**THE CHAIR:** Can you give us any more detail in terms of how you measure the potential adverse impact on those disadvantaged groups?

**Dr Grimes:** Essentially, the sort of analysis we would do would be at a very high level. State governments and territory governments are very different from the commonwealth government. The commonwealth government has a range of tools at its disposal where it can target very directly its measures, because it has a very large influence on income distribution policies, the social welfare policies and also taxation policies that are based on income.

A state or territory government has much less effect on income distribution. We would not conduct analysis at the level of, say, a commonwealth government department because we simply do not have the tools to be able to target income distribution. Indeed, that would probably be seen more appropriately as a commonwealth government responsibility than a state or territory government responsibility.

**THE CHAIR:** So in terms of measuring what the impact might be, say, on older residents, of the various increases we have had in this last budget, Treasury really can only develop a sort of macro view across the community, rather than really know what the impact is likely to be with those subsets, other than in pure dollar terms.

**Dr Grimes:** Certainly with groups such as pensioners, we are able to more closely look at a group like pensioners. The reason for that is that the government actually provides concessions for those groups of people—indeed, both through the rates system and also for certain utilities charges. In the last budget the government adjusted the concession levels being provided to pensioners in order to offset part of the impact of revenue increases in the last budget.

**THE CHAIR:** Moving to the commonwealth-state finance unit, Treasurer, I understand that the GST payments to the ACT will increase this year by six per cent on the previous fiscal year. I was wondering if you could inform the committee if you believe that the current ratio of funding the ACT receives from the commonwealth is fair and equitable relative to other states and territories. That might put you in conflict with your Labor colleagues.

**Mr Stanhope:** This is a live debate, of course. The states and territories tend to split a little, in terms of their attitude to the commonwealth-state financial arrangements and the way in which those finances are distributed, with self-interest, as always, a significant part of the debate.

The argument the ACT has consistently put—and it is an argument which the previous Treasurer put regularly at these hearings—is that, to the extent that there is an unfairness, the unfairness might relate to the levels of income tax the ACT provides to the nation proportionately on a per capita basis as a result of our significantly above national average individual and household incomes.

In relation to equalisation and distribution, I do not have a particular issue with the model or the distribution. That is not a position I put or that the ACT puts. Some of my colleagues do, of course—most notably New South Wales and Victoria and, increasingly, Queensland—but, interestingly, it is not a view shared by the ACT, the Northern Territory, Tasmania or South Australia.

My greatest concern, frankly—and I believe intuitively but I may be proven wrong when the latest Australian Bureau of Statistics census data is released—is that the ACT population is significantly higher than the Australian Bureau of Statistics annually reports it. To the extent that we may have been disadvantaged in recent years, I believe there is a real potential that this census will show that the ACT population has been significantly understated over the last four to five years.

**THE CHAIR:** Could you elaborate on how that could happen? What has changed in their methodology that might address an undercounting of the population?

**Mr Stanhope:** I do not know whether Dr Grimes can help me. Let me say this: over the last two to three months I have met with the full range of representative organisations representing the building, construction and real estate industry in the ACT.

I asked each of them, “In the context of record levels of construction activity, not just in the commercial sector but in the residential sector, do you believe the Australian Bureau of Statistics’ quarterly population results for the Australian Capital Territory?” I am told by the property council, I am told by the master builders and I am told by the Real Estate Institute of Australia that they cannot understand, in the context of the level of take-up of units and residences and commercial space within the territory, how our population numbers as determined by the Australian Bureau of Statistics can be correct.

They tell me that that is their gut instinct, and it is my gut instinct. I have never fully understood this Medibank address notion of counting. I must say it is not something I have studied in any detail. Perhaps Dr Grimes can give some explanation of how our population is currently calculated. I am looking forward with great interest to the census data in relation to the ACT.

**Dr Grimes:** The ABS collects very accurate population data, but the problem is that that population data is only collected every five years through the census. Whenever a census is undertaken there is an accurate read of the population. The issue the Chief Minister is referring to is what is the rate of growth in population between censuses, where you do not have a direct and very detailed survey of all people in the ACT.

Among other things the ABS uses to try to estimate what the population growth might be between censuses, it relies, as I understand it, quite heavily on Medicare records—the address people have listed as their place of residence on their Medicare registration. Of course, some people move between states without changing their registration. They have probably got many other things to worry about and do not contact Medicare to make sure the records are up to date. So there is a possibility that, from that source, there may be some discrepancies in the data.

There may be other elements at play as well. Those sorts of questions are probably not best handled by me but by the ABS. Certainly we would consider the census data to be the most accurate data. I think the ABS would agree with that position as well.

**THE CHAIR:** In the front of the budget papers—I cannot recall if it is three or four-year projections on population growth—we are currently talking about a projected 0.8 per cent growth, from memory.

**Mr Stanhope:** 0.8, yes. Three-quarters, I think. It was either three-quarters of a per cent or 0.8. You might be right. I am not sure, but it was about that.

**THE CHAIR:** Whatever. If you are only getting the data every five years, I assume you have some other source on which you are making those forward projections which are underpinning your whole budget process.

**Dr Grimes:** We get the ABS estimates that come out in-between censuses. Those ABS estimates are not based on a census but rather on other data sources. The ABS has to come up with some way of trying to estimate the change in population between censuses.



**THE CHAIR:** You are sceptical about that.

**Mr Stanhope:** I am, certainly. I am sceptical on the basis of conversations I have regularly, particularly with people within the building and construction and housing industry. They tell me regularly that they cannot understand it, in the context not just of residential and unit starts over the last couple of years and their take-up. The other indicator people within that industry are using is the amount of commercial space.

**THE CHAIR:** That would be impacted by the region though, of course, would not it? That is not confined to—

**Mr Stanhope:** Commercial space; yes, certainly—that is a good point—to the extent that significant numbers of people from across the border work within the ACT. Yes, that would be a factor. But in meetings I have, when one looks at the significant increase in commercial space—the extra square metreage of commercial space—you just cannot fill those buildings unless you have a significant increase in the number of people working within the territory. The numbers to me and to others simply do not seem to add up.

**THE CHAIR:** Yes. I wonder the same thing myself, as to what the future holds with all this.

**Mr Stanhope:** I understand that there is currently somewhere in the order of 400,000 square metres of commercial space in the pipeline, under construction or about to commence. You cannot build an extra 400,000 square metres of commercial space with an average allocation of somewhere between 15 and 18 square metres per person without asking the question, “Where do all those people live?” Some live in Jerrabomberra and Queanbeyan. But 400,000 square metres is a massive amount of space that is currently under construction.

**THE CHAIR:** Dr Foskey has a supplementary on this.

**DR FOSKEY:** First of all, when do you think the census data will be available? Secondly, will you put in a retrospective bill?

**Mr Stanhope:** Yes. I am not sure, but I think the census may be in March.

**Dr Grimes:** The date I have in my mind is mid-next year. Mr Broughton may have a more accurate date than that.

**Mr Broughton:** No. That is correct.

**Dr Grimes:** Mid-next year—June, Mr Broughton is saying.

**DR FOSKEY:** And yes to my other question?

**Mr Stanhope:** I am not quite sure how these things work, in the context of population and payments to the territory. The other part of Dr Foskey’s question is that, if there were a retrospective adjustment of population what are the implications?

**Dr Grimes:** There may be some resistance from other states and territories, because there is a fixed pool of money that is being distributed out.

**DR FOSKEY:** That is a clever device.

**Dr Grimes:** There may be some resistance to going back and changing back in history.

**THE CHAIR:** Finally on that issue, I take it, Chief Minister, you are not seriously advocating that, because we earn more money in Canberra—or some do—and therefore pay more income tax, we ought to have a differential rate here, or some kind of rebate.

**Mr Stanhope:** I am not; no. I only raise it as a debating point in response to other jurisdictions that insist they are being badly done by as a result of that. My point was that I think it is a fine argument for us to make in the context of equalisation across the states that territorians or ACT residents pay on a per capita basis into the commonwealth's coffers at a rate higher than any other place in Australia.

I find it a very persuasive response particularly to New South Wales, when it continually agitates that the ACT benefits unfairly in the distribution of commonwealth funds. I think it is a moot and reasonable point for the ACT to make in response to those attacks which are annually led, particularly by New South Wales but also other jurisdictions, against the ACT and the smaller jurisdictions.

**THE CHAIR:** I refer to page 9 of volume 1 in relation to Standard and Poor's. Has the rescheduled submission to Standard and Poor's from 2005-06 to the first quarter of 2006-07 had any bearing in relation to creating a more positive response to the pre-outlook warning they issued in December 2005?

**Dr Grimes:** To the best of my knowledge, there was no thinking of that sort in mind with Standard and Poor's. I think it was rather the fact that this year we published the budget in June. Normally we do our submission to Standard and Poor's after the budget has been published. Typically in previous years our budget is published very early in May, so you might plan to do the submission to Standard and Poor's in June.

Inevitably, that meant that the briefing for Standard and Poor's would slip into the following year. It has not had any material impact on the timing of Standard and Poor's doing their ratings assessment. As you are aware, that has been done recently, along a similar sort of timeframe to previous years.

**THE CHAIR:** Treasurer, you indicated in a question some time ago that you rely on your officers to maintain the liaison with Standard and Poor's, rather than personally having dialogue with them. Can we receive a little more information as to how that process works; who has carriage of it and how often there is dialogue between the agency and the territory government.

**Mr Stanhope:** Dr Grimes has formal responsibility for that front line contact with Standard and Poor's. I know that there is quite active contact and I think that is appropriate. Do not misunderstand me, though. I stand ready to meet with Standard

and Poor's.

I certainly met with them post this last budget for lengthy and quite detailed discussions in relation to their thinking. I anticipate meeting Standard and Poor's annually for those discussions. In the context of more regular meetings and more detailed conversations around Standard and Poor's thinking and response to the ACT, I would expect that to be a relationship maintained with Treasury, rather than with me as Treasurer.

Do not misunderstand me. I met with Standard and Poor's a couple of months ago or a few months ago, and I anticipate meeting them again in the context of the coming financial year. I would expect more in the nature of an ongoing relationship to be maintained by the Treasury under the auspices of the Under Treasurer, delegated as he sees fit to his officers.

**Dr Grimes:** Yes. There would be reasonably frequent contact between ourselves and Standard and Poor's, normally at officer level, quite often to deal with technical issues behind our numbers and understanding how those have been constructed. Obviously, contacts peak at the time at which a major financial report is released by the territory.

On a more formal level, Standard and Poor's conducts a formal rating review each year. As part of that process their ratings analysts actually come to the ACT and meet with the Treasury and me. We have quite detailed discussions on the matters underpinning the budget and the budget forward estimates.

**THE CHAIR:** What would you say are their main areas of ongoing interest, particularly areas where they may have flagged some measure of concern in the last round of discussions?

**Dr Grimes:** Those are very clearly set out in the ratings assessments they provide.

**THE CHAIR:** They flagged the issue of bringing expenditure under control. Do you feel, from your discussions with them, that they are comfortable? I know they have indicated that there has been marked improvement.

**Dr Grimes:** Far be it from me to say what Standard and Poor's think. They issue quite detailed ratings reviews and then, in a shorter time period, press releases. I think they spell out very much what their thinking is in those documents.

**THE CHAIR:** You would feel confident that the next review is not likely to be adverse.

**Dr Grimes:** I have no reason to suspect that it would be.

**THE CHAIR:** Turning to page 11, which deals with expenditure reviews and the strategic and functional review, what sorts of resources did Treasury apply to the strategic and functional review?

**Dr Grimes:** For the strategic and functional review we applied resources from our budget policy and coordination division. They were officers within the Treasury. We

also supplied some financial resources in order to engage consultants to assist with the review. Some of those resources we would have applied in any case to the former expenditure review process, which was an ongoing process that the Treasury had undertaken each year. That was rolled into the strategic and functional review.

**THE CHAIR:** I do not know if you will be willing to provide us with this information, but can you give us any more detail on recommendations that came up in relation to reducing expenditures or increasing taxation revenues that have not been already publicised?

**Dr Grimes:** All of the government's decisions are published in the 2006-07 budget papers, and there is nothing that I can add to those.

**THE CHAIR:** In terms of the recommendations, and that would apply to other tax revenue initiatives that might have been put forward for consideration.

**Dr Grimes:** The functional review, as the Chief Minister said many times before, was a cabinet process. So there is nothing I can add for the committee today.

**THE CHAIR:** I am looking at page 12 of volume 1 in terms of the changes made to the Financial Management Act and I am just wondering, Treasurer, when the significant changes to the Financial Management Act which were passed in the Legislative Assembly on 18 October 2005 were implemented within Rhodium Asset Solutions.

**Mr Stanhope:** I cannot answer that. I do not know whether Dr Grimes can. That may be a question that we will have to take on notice, unless an officer here can answer that.

**Dr Grimes:** I will check to see whether we have an officer who may be able to answer at the moment, otherwise we will take that on notice and provide a written response. Mr Hayes has pointed out that the Financial Management Act does not directly apply to Rhodium, as it is a TOC. You will notice the drafting of the words on page 12. The only material impact here that I am aware of was that the Financial Management Act was varied in order to allow for the capacity to be able to directly appropriate moneys to territory-owned corporations.

**THE CHAIR:** Are you concerned that the new requirements of the FMA—maybe it is more appropriate for the Treasurer—do not, in fact, apply to TOCS?

**Dr Grimes:** As you are aware, the TOCS are actually governed by the Territory Owned Corporations Act, but also by Corporations Law, or at least in the case of Rhodium it is governed by the Corporations Law, and that is a very, very detailed set of obligations that are placed on the company. So, in a sense, there is a very, very significant legislative framework there and, because that framework is in place, I do not have a concern.

**THE CHAIR:** The FMA is, I might even say, a pretty onerous legislative requirement on departments. I would suggest there are aspects of that that go beyond what would be expected under the Corporations Law in terms of accountability.

**Dr Grimes:** It is a very different governance framework, of course.

**THE CHAIR:** So you are not concerned that those rules, effectively, do not apply to our TOCS.

**Dr Grimes:** No.

**Mr Stanhope:** I might say on that that there would be, as the Under Treasurer has indicated, a range of reasons that you would not. The prospect of a territory-owned corporation being covered by both the corporations legislation and the Financial Management Act would, effectively, undo the reason for actually maintaining TOCS. In a philosophical sense, we establish or have established a range of territory-owned corporations subject to the corporations legislation for a specific purpose and in acknowledgment that there is a range of functions which government does pursue.

We can argue around whether or not some of the functions that government seeks to pursue—for instance, through Rhodium—are appropriate functions, particularly for this government at this time, but I would have thought that the prospect of creating a territory-owned corporation for the reasons that we create territory-owned corporations, rather than having them as line areas of government, would perhaps suggest that it would not be wise to doubly burden. It is either fish or fowl. They are either part of the government and administered pursuant to the Financial Management Act now in all arrangements or we separate them, as we have chosen to do with territory-owned corporations and subject them to different governance arrangements and statutory requirements. I would think it is very reasonable that the Financial Management Act not apply in addition to the Corporations Act to their activities.

**THE CHAIR:** Do you or does Dr Grimes think it would have had any changed outcome in terms of the Auditor-General's report had they been directly operating under the Financial Management Act, as opposed to operating under purely Corporations Law?

**Mr Stanhope:** I do not think it is possible to answer that question, having regard to the issues that were at the heart of the failings in governance identified by the auditor. I think it would, essentially, have been unaffected by whether or not it was the Financial Management Act or the Corporations Act that applied. I think we all understand, in circumstances such as those which were exposed at Rhodium, that any manager, whether it be a board of directors or a chief executive of a department of a government, is faced with a most invidious set of circumstances.

When one, essentially, is faced with a human failing one can, of course, look to the governance arrangements that applied and ask whether there may not have been another set of processes that might have been applied or whether the processes that were applied, legislative or otherwise, were effective in the event. When one is dealing with human failings and failings that, essentially, ignore moral, legal and professional requirements and standards, then one is faced with a difficult set of circumstances and, at the end of the day, perhaps there is no set of procedures or laws that would have avoided some of the outcomes. I think those were the sorts of situations which the board of Rhodium faced in relation to the problems which have

now been revealed in the management and governance of Rhodium. I think the Auditor-General's report reflects that.

**DR FOSKEY:** I suppose that, with the consolidation of some services, the Treasury has grown. Could you please advise whether the department has had to deliver some efficiency dividends nonetheless and how many positions this would equate to?

**Dr Grimes:** I would not be able to provide a figure for the number of positions at the moment and it may not be possible to directly translate efficiency dividends into actual positions, but there were a number of measures in the budget about improving efficiency across government in the provision of corporate services, procurement services and IT services and those applied equally to the Treasury as they did to any other department.

**DR FOSKEY:** Thank you. I am not actually that happy with that answer. Treasurer, given that there is the hope that there will be services such as those from the shared services department, I wish to explore a little bit why the cost of ICT services provided by InTACT, for instance, which, of course, are then borne by departments, our courts and the Assembly in their budgets, do appear to be much higher than could be purchased in the private sector. I have heard an estimation is that equivalent services could be purchased at 10 per cent of the price charged by InTACT. I like the idea that we have an in-source provider, but these are glaring financial issues. In the face of this, how will the Shared Services Centre save us money?

**Mr Stanhope:** Dr Foskey, it is a very important issue you raise, the issue of the provision and cost of in-house services, most notably by InTACT. I am very aware of the sort of commentary which you have just prefaced your question with in relation to InTACT. It is almost an urban myth that InTACT is really expensive and really inefficient and that we would be better off just scrapping it and going to the market.

We are aware of those criticisms and those concerns and we have moved over the last two budgets to seek to reform and to make more efficient the delivery of IT across the ACT government service. It has been a feature of each of the last two budgets in terms of savings, efficiencies and improvement in process and service, culminating, as you mention, in the latest budget in the establishment of the Shared Services Centre.

I am sure that Dr Grimes and other officers could give a slightly more detailed explanation of issues around the management of InTACT and IT and the Shared Services Centre than I am able to do, but it is a serious issue and I am concerned at some of the bad press that InTACT has attracted. I must say that there have been occasions when I have almost wrenched my system out of the floor and thrown it out the window, but others here will defend InTACT.

**Dr Grimes:** I will ask Mr Chisnall in a moment to provide a little bit more information on those matters that you raised, Dr Foskey. The one thing I would say, though, is that we take the efficiency of our IT services very, very seriously. We do think it is an area that we want to make further improvements in. In order to ensure that we are operating efficiently, each year InTACT undertakes detailed benchmarking studies with the Gartner Group. The most recent benchmarking study has only just been completed, and that shows that InTACT's costs are indeed quite

competitive with its peer organisations. But I will ask Mr Chisnall, who is the Acting General Manager of InTACT, to say a few more words on this.

**Mr Chisnall:** The question of costs and prices associated with ICT services is, to say the least, a complex one but, put very simply, the exercise that one must in all fairness complete is one of an apples with apples comparison. It is very easy, given the complexity of the services, both in the type of technology and the services that are attendant with that technology, to cherry pick various components and do unfair comparisons of one component against another.

Having said that, as my colleague refers to, we are very conscious of the cost of our services and, to that effect, undertake annual benchmarking with a reputed organisation in that area, which is the Gartner corporation. The question also that tends to follow up from that is: who are you actually measuring against? The truth is that there is some subtlety in the way that the target groups are chosen. It is from a mixture of both public and private suppliers and the choice of that target group depends on things like the size of the organisation and the types of services that are being provided. So, to the best that we can, we do measure ourselves based on an apples with apples comparison and, indeed, the evidence to date, which is just in, would show that we are comparative—in fact, perhaps a little bit lower. I think it is something like 96 per cent on average of the peer group in aggregate.

**DR FOSKEY:** The annual report says on page 26 that the Gartner benchmarking report for 2005-06 report showed that InTACT had been within 10 per cent of peer organisations' costs. Would that 10 per cent figure be higher or lower than peer costs? How does that translate into dollars?

**Mr Chisnall:** It is lower. The measure is to be within 10 per cent but, in fact, our outcome was lower. As I say, I think it was 96 per cent, so within four per cent in aggregate.

**THE CHAIR:** Do you take into account capital investment that a private sector business would take into account?

**Mr Chisnall:** I will get some advice from the CFO on that particular question, but I believe so.

**THE CHAIR:** I think that previously we have been told that you do not, which means that you are not really comparing apples with apples if you do not take into account the capital investment and return on capital.

**Mr Chisnall:** May I just take some advice?

**Dr Grimes:** In the meantime though, while we are waiting for the CFO to come down: Dr Foskey, the Shared Services Centre is clearly going to be playing a very important role in actually driving some of these improvements over the next couple of years and InTACT will indeed be an integral part of the Shared Services Centre. Mr Vanderheide is at the moment leading the implementation of shared services and, as you are aware, he has long involvement with IT, both in the former ACTIM and also as the General Manager of InTACT. We have made very, very good progress

over the last year. We are actually much further down the path than many other jurisdictions in the way that we have brought IT services together. That is not to say that there isn't further work that needs to be done, but certainly we do have a very, very strong platform to be making further improvements.

**Mr Burton:** In relation to the benchmarking report, it is correct that the capital costs, whatever, from equity funded assets, which are government-funded assets, are not included within the comparison, but that is also taken into account when looking at the peer groups and the figures that are provided by those organisations. The investment in the network would be excluded from our figures, but also from the peers at the same time. So there is still a comparison between like and like as to direct costs. So it is looking at costs, the benchmarking, not the pricing that we charge. But over the last few years in relation to our costs, we have kept them within the CPI. Also, for example, our desktop support charge has reduced considerably over the last three or four years, too. InTACT has made a concerted effort to reduce this and one of the things that InTACT has introduced is a defined costs model, which is improving as we work with the agencies to identify and make our costs as transparent as possible.

**THE CHAIR:** I would, essentially, see InTACT in theory as a maintenance provider, if you like, of networks. Normally a Hewlett Packard would not be putting in an entire network, as you have had to do within the territory in its agencies and so on. If you took that out, surely it is just going to advantage your figures, rather than giving you a true comparison with a normal competitor business.

**Mr Burton:** Yes. As I say, from the reports that we do, there are adjustments made to try to make an apple with apple comparison, and the investment in capital is calculated and is determined. So there is an analysis done in the detailed report to make it a like for like comparison.

**DR FOSKEY:** Going back to the overview, one of the features of this year's budget was that departments' outputs and costs were benchmarked against those of other departments. Was Treasury benchmarked against other treasury departments in the functional review?

**Dr Grimes:** No, Treasury wasn't directly benchmarked against other treasuries. I do, however, have some personal experience of working in other treasury departments, including in a smaller jurisdiction, that being South Australia, and the one thing that I can assure you of, Dr Foskey, is that we are considerably smaller in size than a department such as the Department of Treasury and Finance in South Australia and yet we have a very similar range of functions to discharge.

**DR FOSKEY:** That is interesting. Have all the senior officers of Treasury seen the whole of the functional review?

**Dr Grimes:** No.

**DR FOSKEY:** Has anyone?

**Dr Grimes:** Obviously, those people who worked on the review have seen the review.



**DR FOSKEY:** Okay. Was it a surprise to the senior officers who heard about its impacts later?

**Dr Grimes:** I don't know; I have not asked them.

**DR FOSKEY:** On pages 3 and 12 there are references to triple bottom line accounting and it was actually said on page 12 that a draft discussion paper had been circulated to departments and agencies.

**Dr Grimes:** That is correct. That paper has been circulated and we have received comments on it from agencies.

**DR FOSKEY:** Is it possible to make that paper available to the committee?

**Dr Grimes:** We would not be proposing to make it available just yet because we have not had an opportunity yet to consult with the government on that. We would like to do that and then finalise the framework, but at that point I assume that it should be available for wider circulation.

**DR FOSKEY:** Is that the main thrust of processes to get triple bottom line accounting happening across government at the moment, or are there other things in progress?

**Dr Grimes:** It is an important initiative, but it is focused on the assessment of initiatives themselves or possible projects. So it is an assessment framework that we are developing. The other work that we have been doing—we have reported on this on a couple of occasions—is to get better performance indicators in our budget papers and other reports that embed broader triple bottom line concepts. That work is ongoing, as you are aware, and it is an area where we think that more work can be done over coming years.

**DR FOSKEY:** Is there any movement towards finding indicators that will give some sense of the impact of policies on greenhouse gas emissions?

**Dr Grimes:** That is probably not a question that is best directed to Treasury, of course, but I am aware that our territory and municipal services department, which has responsibility for environmental matters, is indeed giving consideration to the greenhouse issues.

**DR FOSKEY:** In terms of the budget, really—in terms of triple bottom line accounting having any meaning, actually, as one of the big issues—that might be something that you would be talking about. So far, I have just heard it talked about as a broad, general thing and I have not heard specifics mentioned, yet that is clearly one of the specific impacts that we can mitigate with our spending decisions.

**Dr Grimes:** I am not sure whether that is a—

**DR FOSKEY:** It is a statement, but also I am just trying to suggest there is relevance to Treasury and elicit a response.

**Mr Stanhope:** In the context of greenhouse emission reporting? I am not quite sure of

the question you are asking.

**DR FOSKEY:** We are talking about indicators and we have always talked about them pretty vaguely. I am just trying to tease out some specifics there as to what you might mean when you want triple bottom line indicators. I do not want to spend a lot of time on it. Perhaps it can be responded to on paper later.

**Dr Grimes:** It is probably a matter that is best raised with the responsible departments on them developing their performance measurement frameworks and indicators. I know that all departments and agencies are looking for meaningful indicators that they can report and actually collect accurate data on.

**DR FOSKEY:** Okay. It sounds like it might be good to talk about that later. Page 15 talks about the bushfire waivers of rates and land tax. How long will these waivers for affected property owners be continued?

**Dr Grimes:** That program has now been completed. However, as we are moving back into drought, obviously we need to give consideration, and the government is giving consideration, to waivers for drought-affected properties.

**DR FOSKEY:** How do you assess which property owners qualify for drought relief?

**Dr Grimes:** I invite Mr Dowell, the commissioner for revenue, to provide you with the answer, Dr Foskey.

**Mr Dowell:** The rural drought relief waivers are for primary production properties. There are three classes of property in the ACT: commercial, residential and primary production properties.

**DR FOSKEY:** So anyone who is a primary producer, basically.

**Mr Dowell:** Yes, anyone who is a primary producer would get it.

**DR FOSKEY:** I will not go into the detail. Page 16 of the annual report states:

... an unexpected number of First Home Owner Grants were requested to be repaid due to the conditions of the grant not being met by recipients.

That sounds interesting. Could you explain what conditions were not being met?

**Mr Dowell:** Under the first home owner grants, the people accepting the grants are required to take up residence in the property as their primary place of residence. The compliance program has found that a large number of people have failed to do that, and failed to advise the Revenue Office and repay the grant. Last year that led to, I think, around \$600,000 worth of assessments being issued for the repayment of grants—up to about 50 first home owners.

**DR FOSKEY:** They went back to the Commonwealth, I suppose. Are these the Commonwealth first home owner—

**Mr Dowell:** It depends on when the grant was initially received—whether it was covered under the provisions under the intergovernmental tax reform agreement—as to whether it was supported by the Commonwealth or directly out of our funding.

**DR FOSKEY:** That is interesting. Page 16 also says that higher than expected revenue was collected because investigators identified undeclared properties liable for land tax. How widespread was this problem, and are punitive penalties and fraud charges being laid?

**Mr Dowell:** There will not be fraud charges, but there will be punitive penalties applied. It depends a little bit on the volume of properties transacting, but when a property transacts we often find that there is an undeclared land tax; that has led to some of those. But we also have a very active compliance program looking at land tax avoidance. There have been some fairly large ones found in the last 12 months.

**DR FOSKEY:** How many properties would—

**Mr Dowell:** Offhand I do not know, but I can find out.

**DR FOSKEY:** That would be interesting. Would you be requesting retrospective payments of land tax due?

**Mr Dowell:** The land tax that would be due in the past would be payable, as would any penalty, plus interest from when the payment should have been received. The land tax debt is attached to the property—the same as the rates debt.

**DR FOSKEY:** When you give me the figures for the number of properties, I wonder if there is any chance of assessing the amount of income that might be garnered from that.

**Mr Dowell:** We will be able to tell you the amount of revenue that was raised from the assessments, yes.

**DR FOSKEY:** Thank you. I want to go back to the overview—page 2. From your analysis of the profile of recipients under the home buyer concession scheme, could you please advise who is taking advantage of that scheme and how important the concession is to their capacity to purchase a home?

**Mr Dowell:** The home buyer concession scheme, as you know, is means tested; the people that fall under that and also are purchasing a property within the band of the property are the people able to take advantage of it. The ACT system does differ slightly from that of many other jurisdictions in that people who are returning to the property market can be eligible for the home buyer concession scheme, whereas many of the others base it purely on the first home owner grant. The other thing is that, where people have separated through divorce, they may, depending on income, be eligible. The scheme is very carefully targeting not only people with lower incomes, as per the means testing, but also the purchase side of the eligible properties.

**DR FOSKEY:** I was wondering, as an analysis has been done, if there is a document which gives the results of that work and whether it would be possible to make that

available to the committee.

**Mr Dowell:** We can take that on notice.

**DR FOSKEY:** Thank you. In regard to assisting ACT Health with the renegotiation of the ACT-New South Wales cross-border agreement on health services, are you satisfied with the result that we got from that—whoever can speak on that.

**Mr Stanhope:** We are never satisfied.

**DR FOSKEY:** Was there an improvement?

**Dr Grimes:** That arbitration is yet to commence. Arbitrators have been appointed under an agreement between New South Wales and the ACT, and that arbitration will be conducted in the early part of next year. We will know the result after the arbitration has been completed.

**DR FOSKEY:** I am interested in relation to people who come over the border from Victoria—how the Victorian government's contribution is assessed. Is that somehow included in the New South Wales health agreement?

**Dr Grimes:** Essentially, that would not be a significant matter for us, because of the geographical distance between us and Victoria. People are not coming up here regularly from Victoria to go to hospital.

**DR FOSKEY:** Yes, they are. There are not a lot of them, but for the region I come from this is where they come. They come through New South Wales doctors, of course.

**Dr Grimes:** To the best of my knowledge—if there is further information on this I will certainly provide it—that has not been identified as a very significant factor for the ACT.

**DR FOSKEY:** So you may not be recouping the costs of looking after those patients?

**Dr Grimes:** We may not be recouping the costs from someone from Queensland, South Australia or Western Australia—someone here who is on—

**DR FOSKEY:** You just have to hope that it all comes out in the wash.

**Dr Grimes:** Indeed, the health care agreements do operate on that basis—that each jurisdiction provides open access to people from another state. If you are on holiday in Queensland and you have an accident, you are obviously not going to have a problem.

**DR FOSKEY:** They do not ship you back.

**Dr Grimes:** Correct. And there is not—

**THE CHAIR:** Dr Grimes, I think one of your officials wanted to give you some information there.

**Dr Grimes:** Mr Ahmed says that there are agreements between the states, but they are very small compared to the one that we have between us and New South Wales. But it is certainly the case that a basic principle under the health care agreements is that each jurisdiction has to provide open access.

**DR FOSKEY:** That is a good principle.

**THE CHAIR:** I might—

**DR FOSKEY:** What about education? I would just like to finish that.

**THE CHAIR:** Yes.

**DR FOSKEY:** Does Treasury get involved in negotiations with the New South Wales department of education, for instance, and the provision of other services, given that we do have many people from New South Wales using our services though a lot of them also work here?

**Dr Grimes:** In all cases the primary negotiations or interaction between our departments would be at the departmental level. It would be the department of education talking to the department of education in New South Wales—and likewise with health. Our role is often to assist the department and to liaise closely with them. We would liaise with both the education department and the health department. Clearly, that liaison is also very important when we come to preparing the ACT submissions to the grants commission.

As you are aware, some costs are directly recovered. In the case of hospital services, we have an arrangement—the one you were referring to a moment ago, which is being arbitrated—where there is a direct payment of funds between New South Wales and the ACT. In other areas there is implicit compensation through the Commonwealth Grants Commission assessment processes. Clearly it is important for us to have good data to be able to support the cases that we put to the grants commission in its assessment process.

**THE CHAIR:** I might hand over to Ms MacDonald.

**Mr Stanhope:** Could I just add something on the question that Dr Foskey asked, to which Dr Grimes has just responded?

**MS MacDONALD:** That is all right.

**Mr Stanhope:** Over about the last two years, the government has asked all agencies to better identify the cost of provision of services across the border—acknowledging, of course, that ACT residents benefit from services provided in New South Wales as well. We are an island within New South Wales; we want to be good neighbours and we do acknowledge that ACT residents do benefit. For instance, we benefit from the use of some sports facilities in Queanbeyan and some other facilities in Queanbeyan. Conversely, Queanbeyan residents benefit very significantly from the use of sports facilities within the ACT. And there is the question of education.

As Dr Grimes said, there is some acknowledgment by the grants commission of the extent to which ACT facilities and services are utilised by the residents of New South Wales, and there is some adjustment. We believe we have the data to assert that the costs attributed through the grants commission process do not fully compensate us—by a country mile—particularly in relation to education.

There are 4,500 New South Wales children in the ACT. More than half of those are in the non-government system, but there are over 1,000 in the government system. There are as many New South Wales children educated in the ACT as there are New South Wales children educated in the Queanbeyan education district. There are thousands of Queanbeyan children being educated in the ACT—thousands. It is interesting in that context to note that there are a total of seven schools in the Queanbeyan education district. If none of the children that were educated in the ACT were educated here, there would be potentially 14 to 15 schools which we would not have to build or maintain.

**DR FOSKEY:** That is an interesting point.

**Mr Stanhope:** There are 4,500 New South Wales children being educated in the ACT. If you average it out at 450 students a school—and of course that is a large school by ACT standards these days—that is somewhere between 10 and 15 full schools. We do not believe that the grants commission is compensating us near the extent of the cost. But there are other aspects of this debate which one must always keep in mind. In conversations that I have had, New South Wales asserts that it is subsidising ACT residents who utilise the Canberra to Sydney rail line. New South Wales asserts that quite strenuously. There are a whole range of other issues that are relevant in this debate—the extent to which we prosecute and incarcerate New South Wales residents in the ACT and the extent to which our courts are utilised by the residents of the ACT for a whole range of matters. These are costs that we do not believe the grants commission is appropriately taking into account in the context of the location of Canberra as the regional centre.

Health is the major exception. That is because 26 per cent of all occasions of service are delivered to New South Wales residents; in some specialities, it is 50 per cent. The last time I took a briefing on Queen Elizabeth mothers and children's centre—which I acknowledge was over two years ago—56 per cent of all services provided were for residents of New South Wales. Queen Elizabeth is not incorporated in the cross-border negotiations, for reasons that escape me—or it was not at that time.

This is a serious issue. As Dr Grimes has alluded to, the difficulty for us in the past has been around our record keeping and our data. We are now focusing much more on our data collection, so that we better understand the situation and so that we can better inform the grants commission around the costs to the ACT of being a regional centre. But we need to glory in the fact that we are the regional centre, because there are a whole range of other benefits that accrue to us as a result, and we need to take those into account when we pursue this argument around cross-border costs.

The next big issue in this subject will be cross-border development and the question around infrastructure. That is something that I do not believe is taken into account—

the infrastructure needs which, for instance, the development of Googong and, heaven forbid, Tralee would place on the ACT in terms of roads, schools, health services and the full range of other services that are utilised here. The ACT government needs to adopt a different attitude in relation to the delivery of infrastructure and the cost of infrastructure required to service the needs of a vastly expanded cross-border development.

**THE CHAIR:** We might take a short break and resume with Ms MacDonald straight after morning tea.

**Meeting adjourned from 10.47 to 11.01 am.**

**THE CHAIR:** Ms MacDonald, I believe you had a question you wanted to raise.

**MS MacDONALD:** Yes, thank you. This is a question for the superannuation unit. I refer to pages 22 and 23 of the annual report, volume 1. On page 22 it says:

The key investment objective of the SPA is to achieve a long-term annual rate of return averaging five per cent real (net of fees).

Page 23 mentions that future directions include “undertaking a strategic investment review”. I was curious to know, with regard to investment, how the decision is made as to where to invest superannuation dollars. I understand that the SPA is not a scheme, but how is the decision taken and what regard is given to ethical investment?

**Dr Grimes:** The investment decisions of the superannuation provision account are overseen by the Finance and Investment Advisory Board, which was established a number of years ago. That consists partly of three external people who bring experience in the management of superannuation funds. I am the fourth member of the Finance and Investment Advisory Board. The board meets on typically four occasions during the year. It is assisted by an investment and asset consultant, which is currently Frontier. They are experts in providing advice on asset allocations—how much of the portfolio is allocated to cash, fixed interest, different forms of equities and both domestic and international equities.

When it gets down to the next level of investing with particular companies, the specific investment decisions are taken by the individual funds managers that we engage. Typically, we would engage a funds manager that might maintain an index investment—that is, essentially investing in every company that is listed on the stock exchange. If we have invested with a more active manager, they are the ones that are making the individual tactical decisions of how much to invest in particular companies. We do not take that decision at the high level of the Finance and Investment Advisory Board.

**MS MacDONALD:** I appreciate that you would not do the micro management of the funds investment, but what review is done to check that they are not, say, investing funds in an organisation such as—

**Mr Stanhope:** The Australian Wheat Board?

**MS MacDONALD:** Such as the Australian Wheat Board, yes, for example.

**Dr Grimes:** We do not conduct those sorts of investigations. We do not have the detailed process of looking at the behaviour of individual companies. We do not do that. That would be a very resource intensive exercise for us to undertake, as you can appreciate. As a very small fund, we would not be resourced to do those sorts of things. Obviously, we would not want to be knowingly involved in something that was an illegal activity of any kind, but we do not conduct that sort of analysis at a very detailed level.

**MS MacDONALD:** No, but what questions are asked of the funds managers in terms of that sort of thing? Obviously it is important to get a decent return; I appreciate that. They would be negligent, and you would be negligent in your duties, if you were not seeking that from your funds managers. But I would suggest that there are other considerations when choosing funds managers.

**Dr Grimes:** Probably the most significant mechanism that operates is the market mechanism. We actually saw it with the wheat board. Companies that do not behave ethically tend to be punished by the stock market. There is a very strong incentive for companies to behave ethically.

**MS MacDONALD:** I am not necessarily one that subscribes to that theory, Dr Grimes.

**Dr Grimes:** We do not conduct detailed, individual, company by company analyses of their behaviours and then use that to drive our investment decisions. We do not do that; it probably would not be practicable to do it in a fund of our size.

**THE CHAIR:** I think Ms MacDonald is asking if there are any ethical constraints that you apply as part of your remit to the funds managers.

**Dr Grimes:** As I was saying before, we would not—

**THE CHAIR:** Or is it basically within an investment framework—

**Dr Grimes:** We essentially give our funds managers quite wide latitude. We do not impose very strict conditions on their investment decisions.

**MS MacDONALD:** What will the strategic investment review involve?

**Dr Grimes:** We regularly review the strategic asset allocation of the fund—that is, the breakdown of investments into different investment classes. That is something that we do on a periodic basis. We currently are doing some work with Professor Bob Officer from Victoria to look at our longer-term performance, essentially as a health check on the way in which the fund is performing. Clearly we are quite pleased with the performance in recent years; we have been able to achieve very positive returns, as the annual report points out—somewhere in the order of 16.3 per cent last year. Nevertheless, we think that from time to time it is appropriate to review the way in which we allocate our assets.



**MS MacDONALD:** All right.

**THE CHAIR:** When is Frontier's contract up?

**Dr Grimes:** I haven't got the exact date, but it is in the first half of next year.

**THE CHAIR:** Will that be subject to competitive bidding, and was it last time?

**Dr Grimes:** It will be. Last time I wasn't here. Yes, it was subject to competitive bidding last time.

**THE CHAIR:** And it will be next time?

**Dr Grimes:** Yes.

**THE CHAIR:** Thank you. I might go back to a couple of other Treasury questions, if I could. I take you to page 18 of volume 1. The report outlines a category 1 non-conformance by a sub-unit within Treasury in relation to procurement. I wonder if you could explain the nature and current status of this non-conformance in more detail.

**Dr Grimes:** I might ask Mr Robertson, the general manager of Procurement Solutions, to provide you with more information.

**Mr Robertson:** Procurement Solutions operates under a third-party certified quality assurance system in accordance with ISO9001:2000. During 2005-06 we had a number of functions move in from other parts of the ACT government, including a small group that came out of what was at that stage the Department of Urban Services facilities area. That group was involved in site supervision of minor new works and a range of projects, both maintenance and things funded out of the minor new works program.

When we had our regular periodic surveillance audit the auditor observed about the statement of our quality system at the time, which was shortly after that group joined us, that our specified practices and procedures did not fully cover the work of that group. Subsequently, we put in place detailed procedures and practices in our business management system to fully cover that group. The audit finding has been closed out and that's now cleared.

**THE CHAIR:** Can you just explain those practices, Mr Robertson, a little more. I didn't quite follow you there; I lost the drift.

**Mr Robertson:** Okay, with our quality management system—

**THE CHAIR:** Yes, with the ISO9001. You're saying they came in and they didn't comply with all aspects.

**Mr Robertson:** They had their own procedures in place, but the formal statement of our quality system did not cover this small group; it was actually three staff involved in project management and delivery of minor new works. Our documented system did not cover the full range of activities that they do. Our quality system traditionally has

covered everything that our capital works delivery offices have done, also our goods and services. Some activities, including our policy advising function, because of the nature of it, have not been covered by that external quality system.

**THE CHAIR:** So they're really not governance issues so much as, if you like, a technical compliance.

**Mr Robertson:** It was effectively a technical non-compliance, with the paperwork not having caught up with the roles of some of the staff that had come in. But that issue has been addressed and closed out by the auditor, I think, in early August this year—so only a couple of months after the issue was identified.

**THE CHAIR:** All right; thanks for that. I want to move now to risk management internal audit programs, and for ease of reference I'm on page 55 of volume 1. The annual report outlines the findings made by report No 6 of 2005 on government procurement, stating that there was a level of non-compliance with procurement practices for what are deemed as small purchases, being under \$50,000. What measures has Treasury put in place following these findings to bring such procurement practices into compliance, and have they impacted performance in this regard?

**Dr Grimes:** Before Mr Robertson provides further information on that, Mr Mulcahy, I would make the point that that was an across-government audit, so it was looking at all agencies—

**THE CHAIR:** Yes, but I think Treasury was perceived as sort of central with the compliance, was it not?

**Dr Grimes:** We essentially do have a significant role to play through Procurement Solutions, so I'll ask Mr Robertson to provide further information on that.

**Mr Robertson:** I think it was November 2005 that the Auditor-General's report was provided to the Assembly and I think in February the government provided its submission to your committee on that. What generally happened when the audit was conducted was that all of the major procurements, those above \$50,000 which Procurement Solutions was involved in, the ones across agencies, went through procurement units. There certainly were no significant issues that the audit office identified with those.

It did notice, though, that in the smaller procurements, below \$50,000 and often in the small range where there were single quotes, there were issues like inadequate documentation. In some cases there might not have been proper documentation of oral quotes and a few other issues. There was never any suggestion that there was any fraud or any inappropriate behaviour like that.

**THE CHAIR:** No, I'm not suggesting that.

**Mr Robertson:** No, but the findings were essentially around some of the paperwork and documentation.

**THE CHAIR:** I'm conscious of that, yes.

**Mr Robertson:** What we have done and what the procurement board also has done is provide some advice to agencies. We have worked on developing some pro formas and some guidance to agencies on what they need to do with procurements below different thresholds. The government also, in its decision to centralise procurement, gave my group a particular role in all procurements above \$20,000, so in that range of \$20,000 to \$50,000 the documentation and all the compliance issues are being addressed through that process.

We have published to agencies some of these effectively tick-flick lists so that people understand what processes they need to comply with with reporting. The government had also, as part of that, announced its intention that agencies would move to put all of their contracts on the contract register, to assist with management information, so—

**THE CHAIR:** That includes the under-50s?

**Mr Robertson:** That includes the under-50s, and that's a decision that it announced as part of its response to the recent review of government procurement as well, which was tabled in the Assembly, I think, on 23 November.

**THE CHAIR:** Has there been any spot-checking by internal auditing, by you or any of the other officials in Treasury to see if these new or reinforced arrangements are being adhered to now?

**Mr Robertson:** I can't speak for what's happening in terms of the internal audit committees of other organisations, but certainly within Procurement Solutions, for example, as I mentioned, we are now responsible for helping agencies with all the procurements above \$20,000. In addition to the external auditors that come to do their six-monthly periodic surveillance audits for our compliance with OSA9001:2000 requirements, we also have two staff as an internal quality assurance unit who conduct audits of all of the staff, individual projects, making sure that there is compliance with all of those activities. It's a topic that every so often appears on the internal audit program for the Department of Treasury. I think originally the Auditor-General's inquiry, and the report of November last year, arose in part because of some internal audit findings in some other agencies.

**THE CHAIR:** Could I just ask the Treasurer or Dr Grimes: without misrepresenting the Auditor-General, she expressed briefly to this committee a fair level of frustration about the lack of compliance with these under-\$50,000 contracts. There was no suggestion of fraud, but certainly emphasis was given to the lack of care for documentation and process. Do you believe the message has got across government that agencies need to comply? I hear what Mr Robertson said about his areas, but, Treasurer, do you or Dr Grimes feel that this message is being clearly adhered to now across the territory?

**Mr Stanhope:** I would think so. It's difficult for me to answer that question, but certainly the government's expectations are that there will be full compliance, and I'm not at all sanguine about any area of non-compliance in any area of governance. My

expectation is that there will be full compliance. In that context, as you're aware, in the last sitting week I tabled a response to a review of procurement. It's an issue that goes to the future treatment of sub-\$50,000 contracts. I think it's relevant to the question you ask and it's relevant to the future in terms of compliance and steps that have been taken through a recent review of Procurement ACT that this area was a focus of that review, and the government has responded positively. I will ask Mr Robertson to give advice on the government's response to the issue of sub-\$50,000 contracts.

**Mr Robertson:** A lot of it was around the proper documentation and reporting. Certainly the government's decision, originally announced in May 2005, incorporated in that budget, reinforced in this current year's budget with our involvement in those procedures, in the procurement activities above \$20,000, picks up a large area of it. The other area of non-conformance which the Auditor-General commented on was in relation to the contract reporting.

There was a range of provisions under the Government Procurement Act for reporting of contracts with confidentiality text, for example; there were a number of parallel procedures that agencies needed to comply with and there were some frustrations there. I understand the audit office was frustrated about the process whereby they were receiving a lot of contract documentation but no real function. As part of the recent review of the act the audit office recommended and supported a recommendation from the review that that particular administrative process, the overlap, duplication on that, be removed.

There are a few almost "got you" provisions where you had to report in so many different directions the audit office then was really required to check the list; it was a matter of whether the lists were consistent rather than whether the underlying intent of the legislation was met in terms of whether these things had been disclosed or not. They had been disclosed, but not necessarily by all the multiple paths. So the audit office supported some changes there so it could actually focus on more critical issues.

A number of those parallel processes, which have been required but which weren't achieving anything, have been removed as part of improving efficiencies of process. Certainly our work with and on behalf of agencies with the templates for the lower value work, the check lists, the guidelines, will make a big contribution to making sure that people who don't do procurement very often are able to more readily comply.

**THE CHAIR:** Thank you. On page 26 of volume 1 the annual report states that InTACT did not meet its targets for responding to service requests or for resolving requests in 2005-06 due to a new service desk management tool that was being installed. I'm just wondering if the committee can be informed as to how many requests InTACT fell short of in terms of its service targets. When fully implemented, by how much is InTACT's efficiency in responding to and resolving service requests expected to increase?

**Dr Grimes:** I invite Mr Chisnall, who's the Acting General Manager of InTACT, to respond to those questions.

**Mr Chisnall:** I don't have to hand the gross number that you've requested and we can

perhaps supply that. If I may respond in general terms to those particular measures, it is true that within the period we have implemented two new technologies that affect the responses, one being a new incident management or a service request tool, which is called Marval, replacing an obsolete previous tool; the other, the integration of the service desk into the wider VOIP—voice-over IP—network across the ACT government.

These two technologies do offer substantial improvements in terms of our ability to report and to handle calls in innovative and better ways, and better levels of service. There has been a degree of bedding in with these new systems and the service desk becoming familiar with those systems, and to some extent that is experienced in the figures that we've seen. The figures that we measured against are aggregate figures and there are two targets. There's a target for resolution, of which we are, I think, five per cent less than the target, and a target for response.

The response target doesn't refer to, as one might assume, the time it takes to take a call or in fact respond to a service desk request—in fact, figures for that component of the response are very high. It's an aggregate of internal escalation procedures and the time it takes within the organisation to resolve not just the first primary contract but also the second rim and third. The reality is that the figures are improving. As we become more familiar with the new technologies we are getting the benefits of that. I believe that the measures themselves, given the new technologies and given the meaning, will be reviewed and some other better, more accurate meaningful targets can be set.

**THE CHAIR:** Okay. I know the committee will be pleased to see those expressed in numbers, and it is sort of in that context that I note that we had glowing assessments in the estimates process of the new Shared Services Centre and the vast improvements that we can expect for service levels. Do you still hold to those expectations for the 2006-07 fiscal year in light of the obvious difficulties that are, to some degree, reported on in the annual report?

**Mr Chisnall:** I think the benefits are twofold: there are both quantitative and qualitative benefits. From a qualitative point of view, I believe that we are seeing the moves of aggregation, of integration of services and staff, particularly across the government, in the sense of better communication, better education, develop. We're still relatively early in the piece on that, but I can certainly see the benefits. In terms of the numeric savings that we'd be looking for, we are on target to achieve those.

**THE CHAIR:** All right. We'll look forward to that. Page 40 of volume 1 of the annual report states that InTACT staff numbers are projected to increase to 260 by 30 June 2006. Can you advise the committee how many of these staff are projected to be permanent and how many are expected to be contractors?

**Mr Chisnall:** The run rate for contractor versus permanents is roughly 20 per cent. That has been a continuous figure and remains a continuous figure for InTACT. It does go up and it does go down, but that's the figure; so one could assume applying that figure to that number.

**THE CHAIR:** Are you endeavouring to reduce that or are you happy with that?

**Mr Chisnall:** I believe that there will always be a need for the use of contractors within our work force, as there is a need in similar organisations across other governments and other jurisdictions to retain a level of contracted work force. I think by comparison with perhaps the federal government and other areas we are not excessive in our use of contractors in that way. The reasons for using contractors are numbered and different, and those reasons will remain.

**THE CHAIR:** Dr Grimes, if you applied that percentage across the ACT public sector we'd be talking about nearly 4,000 contractors, if we worked on 20 per cent as being a fair figure. Do you think that's reasonable for an agency?

**Dr Grimes:** I understand the point you're making. I think the most important thing here, Mr Mulcahy, is that we're talking about a very, very different market. The ICT market is a very competitive market at the moment in the ACT and we're not the only players, of course; the commonwealth are very big players in this town. Under ideal conditions we'd like to have fewer contractors if we could, but the reality of the market is that we're having to rely on contractors in order to get our ICT needs met.

As Mr Chisnall was saying, I would absolutely emphasise that we're not alone in this experience in finding it quite difficult to recruit ICT professionals. It's something that is also being experienced by commonwealth agencies and indeed by private sector organisations. There is a lot of anecdotal evidence of difficulties in attracting those staff.

**THE CHAIR:** All right. InTACT supplies and services expenditure increased by \$5.4 million due in part to higher than expected contractor costs, inability to fill vacancies with permanently appointed staff and higher than expected operating lease costs. Dr Foskey started a line of questioning on this expenditure. This overexpenditure contributed to InTACT's total expenses coming in at \$2.3 million or three per cent over its 2005-06 budget according to pages 250 to 251 of volume 2 of the annual report. Can you explain a little further why these issues arose and what is being done to prevent them unnecessarily increasing costs in the future?

**Dr Grimes:** I'm going to ask my CFO to assist in that response. It is quite a technical—

**Mr Chisnall:** Mr Mulcahy, before Mr Burton starts giving you further information, it is true of both InTACT and Procurement Solutions that the figures are heavily influenced by the fact that we had a consolidation of functions within these organisations over the last year and that wasn't necessarily all factored into the numbers in the previous budget, so not only are expenses up in many cases but also matching revenues, because they come in from the agencies to match those expenses.

**THE CHAIR:** Yes, I understand but I'm reading from page 250 what you're reporting to the Assembly on and the reasons why this blow-out occurred. So these aren't my words; they're the words that your agency has produced, Dr Grimes.

**Dr Grimes:** This is a component of those. I'll ask Mr Burton to provide you with further information on that. But, before that, on page 50 it's important to note the

comment right at the beginning in relation to the total net costs of services, which also factors in revenues. Of course this is a comparison to 2004-05 actuals. The organisation obviously became a much larger organisation in 2005-06 with the consolidation functions in it. So that must also be taken into account.

**THE CHAIR:** I understand all that, but you've cited here reasons and I suppose I'm curious to know whether we've got on top of those factors with the agencies.

**Dr Grimes:** My expectation is that InTACT is indeed on top of its finances. Mr Chisnall made the point a moment ago to you that he believes that the organisation is on track to meet its budget targets for this year.

**Mr Chisnall:** One of the complexities of the accounting for InTACT, which made for a subtle reading of the figures, is that we are in fact a cost recovery organisation, so where costs increase through consumption revenue also increases. So we're really managing to a bottom-line situation.

**THE CHAIR:** But what you're saying effectively, Mr Chisnall, is that your costs might go up but they'll ultimately be paid for. At the end of the day it's robbing Peter to pay Paul in some respects because the people paying essentially are government agencies which are funded by taxpayers.

**Dr Grimes:** I will just explain something. In this case, I think I've pointed out a couple of times that these numbers are very heavily influenced by the transfer of people into InTACT. There are more people being employed in InTACT and InTACT is delivering more services. When it comes to delivering efficiencies InTACT has actually been delivering those efficiencies. Its overall expenditure has increased because expenses that were previously being recorded at individual agencies are now being recorded in InTACT. So it's not at all surprising to see an increase in expenditure over the previous year before those functions were consolidated in InTACT.

**Mr Burton:** I'm sorry for the delay in responding. That's correct; as has been highlighted, the original budget did not include the ICT reforms, which was the transfer of staff and also business systems costs to InTACT from 1 October 2005. This has increased InTACT's operating costs but also increased the amount of revenue that was then recovered from agencies. So the net bottom line to the territory did not change because those costs transferred from the agencies to InTACT and InTACT recovered those costs from chargings to agencies.

So the agencies would have reserved their expenditure in relation to supplies and services, and employee costs would have reduced but then would have increased for the charge by InTACT across those agencies. There were approximately 80 staff that transferred. Education was excluded from the original ICT reforms and they have moved across, as at 1 July 2006, and they will increase. They have been factored into this year's budget, so there should not be a corresponding variance in InTACT's revenue and operating expenditure.

**THE CHAIR:** I don't want to waste too much time going around in circles, but I keep coming back to what you've written here, for the benefit of the Assembly, and that is

“the inability to fill vacancies with permanently appointed staff and higher than expected operating lease costs due to changes in agency asset refresh cycles thus requiring assets to be extended rather than replaced.” It doesn’t sound like just shifting from A to B; it sounds like other issues in those comments.

**Mr Burton:** Indeed, I think that is correct. I guess what we’re saying is that those costs were met in the budget overall. If you turn to the following page, 252, you’ll see that employee expenses were reduced. We had fewer employees relative to our expectations—more contractors. So when you look at the budget as a total that budget has been met.

I go back to the thrust of what I was saying before, and that is that there had been a significant increase in expenses, just simply the result of transferring between agencies and InTACT, and that is contained in those explanations that are provided on page 250 as well.

**THE CHAIR:** All right. I will move on from there because I’m conscious of time and we’ve got a few other areas; thank you for that. I think I’m in the same group as the Chief Minister in terms of my dealings in these areas, but I’ll try not to throw anything out the window.

**Mr Stanhope:** It was just a passing feeling—

**THE CHAIR:** I know that, Chief Minister. I’m sure it wasn’t meant at all.

**Mr Stanhope:** reflective of my own inadequacy, rather than anything else.

**THE CHAIR:** I see. Volume 2 of the annual report at page 17 states that the total territory income for the year ending 30 June 2006 came in at \$31.7 million below the 2005-06 budget due to the lower than anticipated revenue, mainly from dividends. Could you advise us which dividends came in under budget and why they came in over \$30 million less than anticipated?

**Dr Grimes:** I’m just reading the explanation on page 17 that talks about changes in relation to the Land Development Agency. Lisa Holmes has just explained that the largest impact there is from the LDA. With the LDA now part-buying land, the LDA is classified as a public non-financial corporation. It’s now purchasing land, so it has a cost and, as a result, it has a lower dividend than had previously been factored into the numbers. The figure that I have here is \$38 million.

**THE CHAIR:** Right. Could you clarify some information that has been provided to me recently that they’re buying the land but not paying within normal sort of commercial time frames. Is there some special arrangement in terms of how long you’re giving LDA to pay for the land under this arrangement?

**Dr Grimes:** Yes, in some cases the LDA is able to pay for the land when that land is getting close to the point at which it is going to be released on the market. So essentially a debt is recorded at the point that the land is transferred to the LDA, but the cash payment does not necessarily have to occur until the point at which the land is close to being available to be placed on the market. That’s simply a cash flow issue.



It doesn't change the fact that the land is transferred across at market value. That market valuation is done by the Australian Valuation Office and it's a very strict requirement that the land that is going across to the LDA is transferred at market value—simply a capacity for them to defer the cash settlement to a point in the future.

**THE CHAIR:** How far out are you extending the time to settle on these arrangements? What latitude are you extending—60, 90 days, 120, a year?

**Dr Grimes:** Off the top of my head I can't answer the question in terms of the—

**THE CHAIR:** Could you take that one on notice?

**Dr Grimes:** We could take it on notice. It is a function of when the land is going to be at the planning stage, ready to be released to the market.

**THE CHAIR:** Okay. I have no more questions on Treasury.

**DR FOSKEY:** I have quite a lot of questions but I'm aware that—

**THE CHAIR:** Well, we can run till a quarter to 12, if you like, and maybe put the rest on notice, if that suits.

**DR FOSKEY:** Okay. And are we going to look at the gambling and racing commission?

**THE CHAIR:** Yes, we've got ACTEW, gambling and racing and the procurement board before 12.30.

**DR FOSKEY:** Okay. Page 62 of the annual report, volume 1, states that there's an agency annual financial contribution to the tree planting program to offset private vehicle emissions. While, of course, offsets are never as desirable as reductions, I want to congratulate the Chief Minister on this initiative but ask these questions: what basis is used for setting the level of this contribution—that is, what percentage of emissions they compensate for—what agencies receive the money to plant trees, where are the trees planted and are they native and endemic species?

**Dr Grimes:** I think we'll have to take that on notice, Dr Foskey.

**DR FOSKEY:** Okay. On page 17, back to Procurement Solutions, it states:

Through its management of the Central Contracts Register, Procurement Solutions also facilitates public accountability and transparency of government contracting activities

And on page 56

Treasury plays a leading role in promoting accountability and transparency in the delivery of services to the community and the management of certain resources. This is achieved through financial policies, management practices, and analysis and input into managing change initiatives across the ACT Public Service.

Given that the document on which the budget was based has been withheld, I would be very interested to hear the basis for that claim that Treasury promotes transparency and accountability—and to whom?

**Mr Stanhope:** Dr Foskey, I think we're all aware of your deep interest in the functional review and its publication. Hundreds of documents a year are generated for cabinet and none of them is released; this is one such document. You can ask the same question, pointedly, in relation to the hundreds of documents. I would hazard a guess that cabinet has received 500 documents in the last year, each of which is cabinet-in-confidence and none of which will be released. It has absolutely no bearing on the Treasury's commitment to accountable and transparent government.

Cabinet confidentiality and the processes of cabinet and cabinet government are fundamental to a strong working democracy, which we seek to achieve and which we have achieved. You can argue till the cows come home that cabinet-in-confidence should be abolished and that it's an impediment to open and transparent government, and I'll argue till the cows come home that the capacity for agencies and for cabinet to receive information in confidence, to be treated in confidence, is a significant safeguard of our democracy, the strength of democracy and the capacity of governments to take good advice.

You have a point, but to suggest that the Treasury or ACT government agencies are not committed to open, accountable and transparent governance because the government insists that cabinet documents be kept confidential really is unfair on agencies.

**DR FOSKEY:** Sorry, I was just using the quote. Mr Robertson, I will ask some more specific questions about the procurement board, given that you've come up to the table, and that one wasn't really yours. Just in the context of government procurement principles, which include environmental sustainability, local industry development and ethical suppliers, what progress has been made on ethical purchasing? Here I would include fair trade products and products that are known not to exploit poorly-paid workers in poor conditions.

**Mr Robertson:** In terms of ethical suppliers, there is that principle under the Government Procurement Act, which was introduced by the government a bit over two years ago, I think. What we've done to implement that is that in contracting and tendering processes suppliers are required to complete so-called ethical supplies declarations. The focus of that is particularly on making sure that suppliers comply with their employee and industrial relations obligations; they're paying for the full range of things, like long service leave schemes where they exist, award wages and conditions. The government requires agencies to deal only with firms that comply with their employee and industrial relations obligations. It's part of the statutory framework; it's good practice.

There is a range of detailed things that we do below that. We have capacity to audit suppliers to make sure that they are complying with their relevant obligations. That is something that we've put as a requirement into tenders and also into contracts so that we have access to the information.

Going back to your previous question, which was the reason I came here: you asked how our things promote that transparency and accountability. On the contracts register we publish the details at the moment on all the contracts over \$50,000, and that is so that people can see what we're procuring, where we're getting it from, what we're paying, what we're asking for. It provides surety to suppliers that we're contracting in accordance with the things that we asked for, and as part of that it provides the capacity for people, if they think we're dealing with suppliers who aren't ethical, to tell us that.

Obviously natural justice applies if there are concerns. Industry itself raises concerns about suppliers at times, as do the unions, as do community groups. We tell people who we're dealing with and the contract terms and they can raise concerns if they think people aren't complying—if it was slave labour supplies or whatever. So that's partly how we're increasing that transparency of operations.

In relation to fair trade, we have had some discussions with the Oxfam fair trade group; they used to be Community Aid Abroad. We've had them give a presentation to our procurement officers, so we have a better understanding of some of those issues. It has certainly been a topic of interest, including to the Assembly in relation to fair trade sources of coffee and things; there was a resolution, I think, in the Assembly about 18 months or two years ago. We don't buy a lot of coffee or some other things where there is obvious fair trade, but they are the sort of issues that we've raised awareness of amongst procurement officers. The onus is on agencies when they're determining their needs, and I think that's an important point. My group don't determine what it is that agencies buy. We help them to buy what they need to meet their business needs.

**DR FOSKEY:** Do you have an educational role, though, in terms of those things that departments do purchase themselves like their own tea and coffee?

**Mr Robertson:** There are general circulars that provide guidance to agencies. Certainly there's an awareness. I think probably some of the agencies, like the hospital, because of the number of people they have spending so much time there with patients and others, do take these issues into account in some of their contracting. But there are not too many tea and coffee purchases above \$20,000.

**THE CHAIR:** We might call a halt there, members; if you have further questions, would you be so good as to put them on notice. We will move to Actew now.

For the benefit of witnesses who were not here earlier, the committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in a resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings.

Before the committee commences taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence given before it. Parliamentary privilege means special rights and immunities attached to parliament, its members and others, necessary to the discharge of functions of the Assembly without obstruction and without fear of prosecution.

While the committee prefers to hear all evidence in public, if the committee accedes to such a request, the committee will take evidence in camera and record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly. I should add that any decision regarding publication of in camera evidence or confidential submissions will not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

In relation to questions taken on notice, please note that it is the responsibility of each witness, in consultation with the departmental liaison officer, to check the transcript and respond to the questions. Responses to questions taken on notice are required within five full working days from receipt of the proof transcript. Supplementary questions from members need to be provided to the committee secretary within two full working days or by close of business on Friday, 8 December 2006, and responses to supplementary questions are required within five full working days from receipt of the questions.

I welcome Mr Costello and Mr Wallace. Chief Minister and Mr Costello, do you have anything that you wish to say in relation to Actew Corporation before we go to questions?

**Mr Stanhope:** I don't, thank you, Mr Chair—other than, as always, to thank the committee for inviting Actew to appear before it. Of course, Mr Costello and his officials stand ready to provide to the committee whatever assistance they can.

**THE CHAIR:** Mr Costello or Chief Minister, the annual report states on page 7 that Actew “continued to work with the ACT government to achieve a reduction in per capita consumption of mains water by 12 per cent by 2013 and 25 per cent by 2023”. In hindsight, were the water restrictions and water conservation measures imposed on the Canberra community through 2005-06 justified? I am just wondering what actions or policies could have been changed or improved to produce a more equitable or better result with respect to reducing water demand.

**Mr Stanhope:** I will ask Mr Costello to respond in more detail, but I believe each of the measures that Actew and the ACT government have taken over the last five years during this period of extended drought—and pursuant to both this period of extended drought and the detailed water strategy which the ACT government has developed and expressed through “think water, act water”—are appropriate and justified. I am not sure that even in retrospect there is any aspect of any of the measures which the government and Actew individually and together have pursued that, if I had my time over again, would not be pursued in precisely the way that it has been.

I believe that the restriction regime and the move to permanent water conservation measures have been quite appropriate in that context. Mr Costello's officers have a far finer grasp of the detail, but the methodology, the modelling and the rigour of a very objective approach to water, water conservation and water supply which Actew pursues are a model approach. There is no decision taken lightly in relation to water conservation or the imposition of restrictions. If we could avoid restrictions we would.

To the extent that decisions on the level of restrictions and the timing of restrictions are taken, they are based on the most exhaustive modelling of water supply, water flows and consumption; they are decisions that are not taken lightly.

I want to refer to one aspect of your question, Mr Chair. Perhaps the issue might be more fully expanded in further discussion with Mr Costello. A point that was not specifically stated in your question but that I believe was part of your question concerned essentially the cost and the commensurate charging for a restrictions regime, and whether or not that can be justified. Again, I believe that it can, but I defer to Mr Costello on those issues. I have no concerns at all about either the permanent conservation measures and their introduction or the restrictions regime—both the timing and the nature of the restrictions regime—that have applied at any time in the last five years.

**THE CHAIR:** Thank you.

**Mr Stanhope:** Mr Costello may wish to add to that.

**Mr Costello:** Mr Chairman and members of the committee, in our examination of and consultation on the future water options, we tested quite vigorously with the community the question of whether, as part of the future water options, they wished to have absolutely no restrictions ever or were prepared to accept, in very difficult and occasional circumstances, a level of restrictions in return for not having to invest in massive additional water supply.

The answer to those examinations and community consultations was yes: while nobody liked water restrictions, they were accepted as part of the risk profile of supplying this product, which in the end we rely on the skies to deliver to us, unlike various other supplies—such as gas or electricity, where you can produce more if you wish. We have proceeded on the basis, very publicly declared, that for every 100 years there would be five years—that is, 60 months—when we would be in water restrictions. There is nothing hidden about that. It was very overt. We will continue to work on that basis until we are told to change. As well as that, we worked on the assumption, in the future water options, that there would be a reduction of consumption of 12 per cent by 2013 and 25 per cent by 2023.

The permanent water conservation measures were introduced. They are very similar to those that exist now around the rest of Australia. In a sense, they replaced what used to be the old stage 1—rather, they are close to those. They have been successful. We had a target to achieve an eight per cent reduction in per capita consumption based on that. Despite the fact that the measures were in place during an extremely hot and dry period, particularly in autumn and this winter, we have achieved better than the eight per cent target. So they have been successful, and they are hardly onerous.

As you know from our discussion in early-November this year, we came to the conclusion that we did have to bring in restrictions. We were basing that on data we had up to the end of September. We now have data available to us to the end of November. This spring has been the hottest in our records—not just half a degree hotter on a daily basis but four degrees hotter per day. Not surprisingly, the demand is

unusually high.

When we spoke to you, based on analysis, we took a very pessimistic view that inflows over the next year we would be at about the 95th percentile—that is, there would only be five years worse per month over those months than there had ever been. We are now at the 100th percentile. If you can have more than a 100th percentile, we are setting new 100th percentiles. That is the worst. October was the worst October we have ever had, by quite a long way.

I think the crux of our problem is this: this year we had a 90 per cent decline—88 per cent to be exact, but I would think that by the end of December it will be 90 per cent, the way things are looking—in inflows. There are not many businesses that suffer effectively a 90 per cent decline in the supplies available to them. You can cope with that as a one-off—maybe even a twice-off—but the average since 2001 has been more than a 60 per cent decline in supply inflows. That is very difficult to cope with. Despite that, when our dams are compared to others we are in a better situation than others are. At the time we brought in restrictions, it was 43.7 per cent; Melbourne was 42.4 and so on. Others are much lower. South Australia looks as though it is better, but that is because it actually does not have any dams; it has large reservoirs.

We are facing a very difficult situation. We looked at the future and we thought that if this goes on at the 100th percentile instead of the 95th percentile, and if people continue to consume at the level they have, which is not necessarily a result of irresponsibility or cheating, but is due to extremely hot weather—the sort of weather you get in much hotter months—with people taking maximum advantage of every hour of the windows of opportunity available to them, then, instead of having to go into stage 3 in March, we would have to go into stage 3 in January. What worried us more was this: we now face the prospect—if all these bad things continue to happen—of going to stage 4 next year. That is something that, as a responsible utility, we think we must seek to avoid at all costs. Stage 4, I remind you, says that there is no watering outside at all under any circumstances—no gardens, no fields, no parks, no playing fields, nothing.

It was our view therefore that the best thing to do was to bring forward stage 3 by six weeks, effectively, based on our analysis, and give a couple of exemptions: allow watering of lawns by sprinklers on Saturdays and Sundays for three hours, effectively on the odds and evens system—the gardening experts tell us that is enough to keep established lawns alive, even though not green—and allow the use on gardens of dripper systems instead of hand-held hoses. We believe this will avert the need to introduce stage 4 restrictions next year.

We did not do this with a lot of good cheer, as you would imagine. It will have an adverse impact on people, on much-loved lawns and on playing fields, although we are going to do our best with TAMS to minimise those impacts, and we are in discussions with them now. We gave two weeks notice in order to have discussions with big users, which we are doing now, to minimise the impact as far as we possibly can. But in the end we face an extremely difficult situation.

I think the Chief Minister adverted to the question of pricing. I know it is a matter of interest to you, Mr Chair. At first blush it does seem strange that people should meet

the water restrictions and face an increase in price. Let me give a technical response to that and then a comparative response that might explain it better. The technical response was given yesterday by the regulator. He has set a pricing system. I am sure you understand that for monopolies they have to have a regulated price; it is not regulated by the market. With that pricing system, he has refused to include an element of risk—that is, a couple of extra percentage points in our weighted average cost of capital, for the possibility of drought and having to apply restrictions—even though it is obviously a risk that it will happen from time to time. The reason he has refused to do that is that he says that will give us a windfall profit in many years. He says, “What if you don’t get a drought? You are getting a rate of return that is really not justified. The sensible thing to do is see if there is a drought; if there is, you will get the return you are entitled to by an increase in price in the next year on the amount of water.” That is the course he has chosen to take. Quite frankly, we are very happy to take the risk, but we do not make that decision. Yesterday, the regulator—I haven’t got his quotes in front of me, but my understanding is that he says this—said that Actew is not exploiting the situation but is simply getting what it is entitled to get.

Of course, this works on a calendar year basis. And you get the money back for what you have lost. This year, we did better than we expected in the first half of the year; we got more revenue than we budgeted for. That does not mean that we got more than the regulator said we should get, but we certainly got more than we budgeted for. In the second half of the year we have got about \$3 million more on water revenue than we budgeted for. To the extent that we lose money in the next couple of months because of water restrictions through November and December, that will be offset against any benefit we got in the earlier part of the year.

So in fact—we do not know yet, and we will not know for some months—we may not be seeking a further pass through for any losses, as we have done before. That remains to be seen. We will have to make a judgment when we see what happens. But it certainly will be less than the aggregate amount we lose through water restrictions in November and December, for the reason I mentioned.

Let me give you what I think is a fair example. If OPEC decides to reduce supply by five per cent, world oil markets go into turmoil. Prices go through the roof; people stop using as much petrol. That is a five per cent decrease in supply, and it is optional at the hands of the suppliers. They have decided to do it. We have had a 90 per cent decrease this year and an average of more than 60 per cent over the last six years. Not surprisingly, there has to be an impact on price and there has to be an impact on supply, even though there is a reduction in usage. It is the same principle at work.

But whatever we think about the principles, that is what the regulator said to us. We are required by law to operate on a commercial basis; it is set down in the TOC Act. We would be derelict in our duty as a board of directors if we were entitled to seek this path and we did not do it. We would not be acting in accordance with what the law says we should do or with the regulatory system that has been established. I think that is more than enough from me for the moment.

**THE CHAIR:** I think we have got the message, but I did not pull you up because it was worth getting that explanation. Dr Foskey, you have a supplementary in relation to that.

**DR FOSKEY:** Yes, thanks. Mr Costello, in your useful explanatory remarks you said that, as a result of the think water, act water consultation and the huge amount of work that was done then, you were looking at five years of water restrictions in 100 years. Is that—

**Mr Costello:** That is 60 months. I do not mean there will be water restrictions in five years—

**DR FOSKEY:** No, no. I know that.

**Mr Costello:** It will be 12 months.

**DR FOSKEY:** But if we are in this 30-year drought or if climate change has changed our climate in the way more and more people believe, would you revise that? And just before you start explaining it, has Actew considered commissioning a study on evidence-based research which looks at putting in place a permanent water conservation measure that is at a certain level? I don't know that you did this in your many studies around the think water, act water process.

I am going to digress a bit here, just to explain what I mean. With the way we do restrictions at the moment, it is a bit of a boom-bust approach that householders have. While they can, they throw water on their lawns and their gardens; then, suddenly, along comes stage 3 and all the water that has gone into that is, in a sense, wasted because they have been watering at a time of the year when often we do not need that much water anyway. That water would still be in our reserves if it had not been put onto gardens and lawns that are going to die anyway—or at least be severely set back.

The issue is not only avoiding that cycle but also getting some equity between users. The way the restrictions go at the moment, people who have the time to stand there with the hose can keep their gardens green, and those of us who hardly ever get a moment are going to have to watch our gardens die. Some of us are in rented houses where we have been told to maintain the gardens, so there are issues around that too. But there is just the idea of going further—accepting climate change, 60 months in 100 years might be a bit optimistic—and moving to a regime that is very clear to people and gives equity between users.

**Mr Costello:** Let me start with climate change. We certainly have worked on the basis of a major permanent reduction in inflows into our dams. We did that on the basis not of gut feeling but of a CSIRO report which we had done before the future water options paper. We took their most pessimistic assessment—their most pessimistic assessment by a long way. Under their most pessimistic assessment, there would be a 30 per cent reduction in inflow into our dams by the year 2030. We went one step further; we assumed that that 30 per cent inflow had happened now. In fact, it had not.

**DR FOSKEY:** It has.

**Mr Costello:** Well—



**DR FOSKEY:** More than.

**Mr Costello:** We assumed that it had happened now. We did get an assessment of climate change. That was, of course, an average—a 30 per cent inflow reduction on average. They said to us, “Within that, there will be droughts within that change in levels and there’ll be good years.” We may well now be in the drought period even under that new ceiling. However, we have got the CSIRO doing a new study, which will be available next year, to see if they stick to their same forecasts. Whatever forecast they come up with, once again we will no doubt adopt the most pessimistic.

But, having got the study, having taken the most pessimistic assessment, and then having brought that most pessimistic assessment forward 30 years, I think it was reasonable for us to work and plan on that basis. The trouble is that there has been an average of twice as big a reduction in inflow over this period—and this year there has been a three times reduction. Each year, as you know, we re-examine each of the six variables on which we based our analysis. Next time round, when the CSIRO gives us its report, if it says, “Well, we were wildly optimistic last time; you have to re-think it,” then we will do it; we will have to change behaviour.

Let me come to your point about permanent water conservation measures. We have introduced them. As I say, they have been successful so far, it appears. Even in very warm times—unusually hot times and very dry times—we are achieving more than the eight per cent target. Should we go further than that? To some extent, that will depend on what the CSIRO report says next year about whether they think that what we are in is still an average. Let me give an example of what I mean by that. Last year, we had a 47 per cent reduction in inflows. That was our best year in the last six; that was a good year.

**DR FOSKEY:** Yes.

**Mr Costello:** You might remember the rains in the spring. If we had that same inflow this year, then, by virtue of the Cotter-Googong bulk transfer scheme—even without the enhanced version we are building to use at the Murrumbidgee—we would now have 100 per cent in all our dams. With much more than a 30 per cent reduction in inflows, we would have 100 per cent in our dams.

What we have devised is sufficiently robust to deal with even greater than a 30 per cent reduction in inflows. What we are suffering, however, is a 90 per cent reduction. As to whether it will be sensible to go further on the permanent water conservation measures, in the face of what may turn out to be the one in 100 year event, or the one in 200 year event, I have said that I just would like to wait till next year before we give advice to the government. I must say that, throughout this last two years, the government have fully supported and fully endorsed whatever we have proposed. At no stage have they ever said, “Well, that’s too harsh.” If anything, they have pushed us harder.

**THE CHAIR:** We are up against the clock here. I want to take you to TransACT. Page 8 reports on TransACT. I am just wondering how the profitability and/or economic viability of TransACT improved over the 2005-06 period. I am wondering when you expect TransACT to produce a return. I am also intrigued by the comment:

Directors lead the development of proposals to inject further capital into TransACT ...

I hope they are not suggesting that they are going to ask Actew to put more money into TransACT. Is that something they are promoting from some other source?

**Mr Costello:** Yes. It was a proposal from TransACT to raise an extra \$8 million. We could have put nothing in there.

**THE CHAIR:** You have put plenty in already, haven't you?

**Mr Costello:** Yes. Most of the other shareholders, including ACV, the small local shareholder, wanted to put in the whole \$8 million. They were all dead keen. One of the reasons for that was that there had been a number of people expressing interest in the purchase of TransACT. Other shareholders had not considered the various possibilities as a sufficient price for them and so that has not happened, but clearly players in the market do value it. The Commonwealth Bank has had a number of significant offers for its 20 per cent holding in the company and is considering that at the moment. We looked at that and thought, "We own 23 and a bit per cent of it at the moment. If we do nothing, if we don't put in a dollar, our share in it will drop dramatically, to under 10 per cent. What happens if it sells in a year and we have forgone very substantial amounts of money because our share of the business has declined to well under 10 per cent?" So we said that we would put in, and did put in, \$1.25 million.

**THE CHAIR:** Was that on top of your original investment?

**Mr Costello:** Yes, \$1.25 million, to maintain about a 20 per cent shareholding, so that if it is sold—as I say, there are still people knocking on the door—if the other shareholders do agree to sell, we will not forgo some sort of return to the people of Canberra for the original investment. I do not think my shareholders would thank me if, for the sake of \$1.2 million, I passed up what could be \$10 million at some time in the next 12 months.

**THE CHAIR:** What return have you had so far?

**Mr Costello:** Nothing.

**THE CHAIR:** It is not like doubling your money at the races when you are losing already. You have got to seriously wonder at the wisdom of that, even if you are saying you maintained your equity in the business, unless there is very strong evidence that it is about to find a purchaser. Do you think that was appropriate?

**Mr Costello:** We made a judgment that there were purchasers. Our board made a judgment that there were purchasers. They are not going away and further ones have emerged. If the company is sold, and it could be sold at any time, and we have suddenly passed up \$10 million or \$6 million for the sake of an investment of \$1.2 million, I think I would be answering to a different point of view at this committee.

**THE CHAIR:** I think we will have to put other questions on notice, because we have only got a short amount of time available for the other two agencies. So we will submit those on notice. Thank you, Mr Costello and Mr Wallace.

**Mr Costello:** Thank you, chair, and members.

**THE CHAIR:** We will go now to the ACT Government Procurement Board. Treasurer, the report states on page 12 that a major challenge in 2005-06 was to respond to the government decision to centralise procurement in the territory, which involved expanding the functions of ACT Procurement Solutions, which already provides a range of tendering, contract, procurement policy and risk management services to territory entities. How well equipped is ACT Procurement Solutions to cope with the considerable increase in its workload following the government's decision to centralise the procurement function? Will there be any adverse impacts on the operational effectiveness of ACT Procurement Solutions over the short term while its scope is substantially broadened?

**Mr Stanhope:** I will defer to Mr Hamish McNulty, who is chair of the procurement board, and Mr Robertson, but I think that the centralisation of procurement has had a positive impact in terms of skilling up and ensuring a significant increase in the level of understanding and experience around procurement. So, rather than being a decision that has put a strain on procurement across the board, I believe it has enhanced procurement. But it would be appropriate for me to ask Mr McNulty to respond to the implications of the change, which, my advice is, whilst being a challenge, is bedding down in a very positive way.

**Mr McNulty:** The board's perception of the change to centralised procurement is that the quality of procurement plans coming to the board has improved. There are still issues, obviously, that we deal with in terms of procurement, but overall there has been enhancement of the procurement plans the board is seeing. In terms of ACT Procurement Solutions, clearly there has been an increase in the amount of resources within the group. John Robertson may be best placed to answer that question.

**Mr Robertson:** Over the last 12 to 18 months we have seen lots of staff and associated financial resources and functions moved from across the ACT government to procurement solutions. Most of that happened during 2005-06, and then in July we had the functions and some staff moving from the department of education and CIT. There have been some transitional issues. As I think I mentioned at a previous hearing of this committee, we had quite a few vacant positions come, as well as a number of staff. We have had some issues around recruiting staff and also retaining some. Everyone is aware of what has been happening in the construction industry and the demand on skilled resources. We are heavily reliant for our delivery of capital works on people with industry experience, procurement expertise and engineering, architecture and landscape architecture skills.

Over the last two months, for example, we have lost to various parts of the commonwealth three people who were well-established officers with good experience in both procurement solutions and elsewhere. In the goods and services area, our challenge was probably greatest. Quite a number of officers at fairly junior levels

came in to some of the vacant positions because what had happened in the past was that procurement was a part of the function of a range of different people, so we had the aggregated FTEs transferred to us but without necessarily the senior staff.

In the general goods and services area, as opposed to the infrastructure, we have moved from probably about a handful of staff to around the mid-30s and we have teams now that work across a couple of portfolios, as well as a group focused on whole-of-government contracts. Getting the right people for those positions has been a challenge. We have invested very heavily in training, but I think things have been going very well. As to the quality of information that is now going to agencies, I mentioned the contracts register before, but we have done a lot of work with agencies and we are developing forward procurement plans with them so that there are much more strategic approaches to the market.

The committee would be aware of the significant savings that were incorporated in the last budget. The process savings have been achieved and are locked in. Certainly the savings from more strategic approaches to the market, aggregating contracts across agencies and assisting agencies with their decisions on what they need to procure and when are helping to deliver those savings. The feedback we are getting from across the broad range of agencies is that things have improved a lot. There is a lot better management information and there are more timely responses. One issue we are noticing is that when you are waiting for someone else to do things it seems to take longer than when you are doing it yourself. That is not always the case, but we have developed very good arrangements now with agencies.

I support Mr McNulty's comment about the quality of the procurement plans. Over the last couple of years we have had procurement solutions become the major APU. It is down now to the sole approved procurement unit which is providing advice to agencies and, because a lot of those plans are now being prepared by people who prepare procurement plans, run procurement processes and, in turn, put in place contracts as 100 per cent of what they do rather than five or 10 per cent, we are finding that the lessons you learn on one procurement are being applied more readily and agency staff across the full range of sectors are actually now getting more opportunity to concentrate on working out what it is they need to procure to meet their business needs and when.

**THE CHAIR:** I might pull you up there, Mr Robertson, because we have a couple of other quick questions on procurement.

**MS MacDONALD:** I hope it will be a reasonably quick one. Why does the procurement board exist?

**Mr McNulty:** At its most basic, the procurement board exists as a result of the Government Procurement Act, which created it, and it was intended to provide advice to agencies on procurement activities, to oversee high value, high risk procurement activity processes, and to create guidelines for agencies to follow in their procurement activities. A range of purposes are spelled out in the act but, essentially, those are the major ones.

**Mr Robertson:** I think that a key point is that there has been a recent review of the

legislation, to which both Mr McNulty and I contributed. A report on the review was provided to government and tabled in the Assembly on 23 November. The review was required under the act. A key issue was whether the operation has been effective, and that review certainly found that the board had contributed to improving the quality of procurement activities. Over the last five years, it has led a lot of the work on training of staff and other matters.

**MS MacDONALD:** It was not meant as criticism; it was just curiosity, given that there is ACT Procurement Solutions. It seemed to me to be a bit of duplication, but it is more to do with policy framing.

**Mr Robertson:** It has had an oversight role as well. The membership has four public sector positions and three private sector positions and it brings a mix of private sector skills to the board as well for the consideration of strategic procurement plans.

**MS MacDONALD:** Also, to my knowledge, I do not think we have had the board before us at annual reports hearings.

**Mr Robertson:** It has appeared before because Mr Gaskill was the former chair, and Mr Gaskill regularly attended these sessions.

**DR FOSKEY:** I am not sure whether it applies to you now, but I have heard of the experience of a community organisation which had government funding to do some work on some premises it had and which got a quote for the work that was considerably cheaper than the government procurement solutions quote. I believe that that organisation was told that it had to go through with the much more expensive government procurement solutions quote. I am just wondering about the policy when it is possible to get the work done cheaper but it is insisted through the processes that it has to be done more expensively. Do you know of these situations?

**Mr Robertson:** I am not aware of the particular circumstance you are talking about.

**DR FOSKEY:** No, and I would not want you to be.

**Mr Robertson:** If it was a government facility which was being used by a community organisation, there are requirements if, effectively, government money is being spent on government facilities. In the previous questioning we touched on ethical suppliers, but there is a range of safeguards that the territory and the Assembly have imposed on the way we do things.

**DR FOSKEY:** But would you look at the cheaper quote and make sure that you apply those criteria to it?

**Mr Robertson:** We would. It is really hard to comment on hypotheticals but, depending on the value of the work, Procurement Solutions may or may not have been involved at all. When we are actually procuring, one of the key things that we are required to do, as well as comply with the requirements, concerns the principle about value for money. The cheapest price is not necessarily value for money. Someone might build a wall for you, but if it is going to fall over five minutes later—

**DR FOSKEY:** I just wanted to know that you would consider it. I know about all the things that you are saying; I just wanted to know whether it would be looked at in the spectrum of alternatives.

**Mr Robertson:** I think the other issue too—and it is not so much about community organisations but within schools—is that there have been questions at times, and with education coming into the fold we have provided some assistance to schools with some of the tendering processes. There is a commonwealth scheme which makes money available to P&Cs. We have helped avoid some potential problems around probity and other things whereby members of the school community volunteer to charge to do the work. There are some processes wrapped around things to protect both the public money and the public organisations. Sometimes they might put in a slight amount for costs. Otherwise, if you are then responding to lots of ministerials or complaints about inappropriate allocation of work, that tends to consume lots of resources that no-one notices.

**THE CHAIR:** We will call a halt to it there and put other questions on notice. The Chief Minister has kindly agreed to give us five more minutes, so I invite the gambling and racing officer to the table so that we can quickly cover some of the points there. Chief Minister, page 8 of the annual report outlines breaches detected by 81 audits that were conducted at Casino Canberra. Do the figures differ significantly from the results of audits conducted of the casino last year? If so, where do they differ?

**Mr Stanhope:** I ask Mr Jones to respond to that.

**Mr Jones:** The breaches published in the annual report are the results of the commission's audit program. Most of the breaches that are published there are what we would consider low risk or administrative in nature. The difference in breaches detected this year compared to the previous year is more a reflection of the increased intensity and efficiency of our audit program, which has been targeting casino operations on an increasing basis in the last 12 months or so.

**THE CHAIR:** So you have increased the scrutiny and therefore you have picked up more issues.

**Mr Jones:** That is correct, yes.

**THE CHAIR:** Page 9 of the report indicates that two applicants for additional gaming machines, Eastlake Football Club and the Soccer Club of Canberra, received far fewer machines than were sought from the commission. I am wondering why the commission approved only 10 additional machines for Eastlake Football Club, which had sought 30, and no additional machines for the Soccer Club of Canberra, which had sought 18.

**Mr Jones:** Firstly with the soccer club, there are some very detailed legislative criteria in both the Gaming Machine Act and the regulations that applicants must meet. That includes a social impact assessment, which is open for public scrutiny and public comment. In making an assessment of additional machines that are applied for the commission considers what we call a needs basis, which is justification for the

additional machines, as well as the social and economic impact of those additional machines. In the case of the soccer club, it was judged that they could not justify additional machines, so the commission considered no machines were justified or approved. In the case of Eastlake, some machines were initially considered justified. That case ended up under review with the Administrative Appeals Tribunal. Following the tribunal's decision, the club was allowed to submit additional information which was not available at the time of the decision. The commission decided, based on that additional information, to allocate the full 30 additional machines to that club.

**DR FOSKEY:** Are you aware that the Lifeline service for problem gamblers has been slashed by the clubs that support it, and not all of them do?

**Mr Jones:** Yes, I am. In terms of services, it was a commercial contract between ClubsACT, or certain clubs within the clubs group, and a gambling care program called club care which Lifeline put together. The club industry decided to reduce its expenditure to Lifeline for those programs and, whereas Lifeline are now continuing to provide counselling services to clubs—in fact, all clubs—in the ACT, the fee for service for training and other activities is now done on a commercial or competitive basis, for which Lifeline are open to compete or apply, if you like, and still provide those services on a fee for service.

**DR FOSKEY:** But wouldn't it make more sense to mandate a proportion of the community contribution for support for problem gamblers?

**Mr Jones:** Not necessarily. It is the prerogative, I suppose, of all clubs to decide where their community contributions are allocated. For example, a club is set up to achieve certain objects—a football club to have a football team on the field, et cetera. The government decided, as part of the review of the Gaming Machine Act in 2004, that the clubs should continue to be able to allocate to the community as they see best. So, based on that policy and what the legislation indicates, it is better for each licensee to decide where their contributions are allocated.

**THE CHAIR:** I thank the Chief Minister, Mr Jones, the other officials and members of the committee for their involvement this morning. I will now adjourn this hearing.

**Meeting adjourned from to 12.35 to 3.31 pm.**

Appearances:

Corbell, Mr Simon, Attorney-General, Minister for Police and Emergency Services and Minister for Planning

Independent Competition and Regulatory Commission

Primrose, Mr Ian, Chief Executive

Baxter, Mr Paul, Senior Commissioner

**THE CHAIR:** We will recommence this hearing, which is public hearing No 4, inquiry into annual and financial reports 2005-2006. The matter under consideration today is the ICRC. I thank the

Attorney-General, Mr Baxter and Mr Primrose for their attendance today. Before we commence I need to read the following. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings.

Before the committee commences taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence given before it. Parliamentary privilege means special rights and immunities attached to parliament, its members and others, necessary to the discharge of functions of the Assembly without obstruction and without fear of prosecution.

While the committee prefers to hear all evidence in public, if the committee accedes to such a request, the committee will take evidence in camera and record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly. I should add that any decision regarding publication of in camera evidence or confidential submissions will not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

In relation to questions taken on notice, please note that it is the responsibility of each witness, in consultation with the departmental liaison officer, to check the transcript and respond to the questions. Responses to questions taken on notice are required within five full working days from receipt of the proof transcript. Supplementary questions from members need to be provided to the committee secretary within two full working days, or by close of business Friday, 8 December 2006. Responses to supplementary questions are required within five full working days from receipt of the questions.

Thank you for your attendance here this afternoon, attorney. Before we go to questions from the committee in relation to the annual report for the ICRC, is there any matter that you or your colleagues would like to raise with the committee for some reason?

**Mr Corbell:** No. Thank you for the invitation. I, Mr Baxter and Mr Primrose are happy to try and answer your questions.



**THE CHAIR:** The annual report states on page 4 that the transfer of regulatory powers to the new Australian Energy Regulator was not achieved by the originally planned deadline of July 2006. Instead, a new deadline has been set for 30 June, 2007. Could you inform the committee what regulatory issues or complications this delayed transfer caused for the commission over the 2005-06 period?

**Mr Corbell:** As I understand it, these are essentially interjurisdictional matters. It is not a matter that I am directly involved in as attorney. The Chief Minister, I believe, sits on the Ministerial Council on Energy. That is the ministerial council that deals with these matters. I understand there has been a longstanding item of negotiation—that is, a move to a common regulatory environment for the national energy market. Mr Baxter might be in a better position to outline some of the specifics.

**Mr Baxter:** The process is one where we had planned to transfer at an earlier date. The delays which are occurring at a national level—they are nothing to do with us directly—have meant that we have continued to apply the existing price determinations that relate specifically to gas and electricity distribution charges. And, of course, there are still the remaining arrangements with the temporary franchise tariff for electricity. What is happening in that process is that we are working together with officers of the AER so that we have a smooth transfer of those functions and activities. They are spending some time with us. We have organised that.

We will effectively transfer all those activities across after we have formalised any adjustment that is required under the current determination of prices for distribution charges for electricity and gas from 1 July next. They will work with us as part of that. That is really a perfunctory-type task done against an agreed formula that is included in our earlier reports.

**THE CHAIR:** You do not expect any further revisions to that time line?

**Mr Baxter:** It is difficult to say. It is not really in our control. At this stage all regulators—and regulators nationally meet regularly to discuss and plan these things—are working to that deadline.

**THE CHAIR:** On page 5 of the report it states that the commission lost staff whose contribution to productivity was significant. It further states there that these staff members were not replaced, given the current uncertainty in the commission's operating environment. How were these staff losses felt, in terms of workload distribution and your ability to meet operational deadlines? Can you indicate to this committee whether the commission can continue to operate effectively in the medium to long term with such staffing losses?

**Mr Baxter:** Yes. In terms of the loss of staff, we have been very careful about our staffing arrangements over a period of time. We need to work within a very tight budget and have done ever since we have existed. So we have been careful about how we have accessed specialist staff. What we were particularly talking about here related to some staff with legal skills who were part of our team.

We have endeavoured to utilise people on a part-time basis and the like to stay within

budget arrangements. We have effectively put into place arrangements which existed in the past; that is, where we have needed to get expertise that we do not have internally, we will bring it in from outside for temporary periods.

Going forward into the future, the issue of staff is a matter of concern, to the extent that we will have some particular tasks to do especially in relation, at the moment, to water matters but potentially in relation to some other transport matters as well. These are somewhat matters that the government will look at and decide from time to time as to what things they might want us to do.

Effectively, the model we will be following is the model upon which the commission was originally established over 10 years ago, when I was appointed to the role of electricity and water regulator; that is, we will bring in expertise on a part-time or temporary arrangement to see us through particular inquiries.

We have endeavoured to maintain a skeleton staff. That is where we will go and where we will see ourselves through into next year, particularly after we have transferred the electricity and gas material across. That skeleton staff will be augmented as appropriate.

**Mr Corbell:** It is important to stress too that the functions of the ICRC have changed. In particular, a very significant body of their work around electricity pricing and some gas elements, because of national agreements, will no longer fall within the ICRC's scope and ambit. That will be determined at a national level through new national arrangements.

**THE CHAIR:** If we can stay on the staffing issue, it also says on page 5 of your report that staff reductions and new reporting arrangements were the two main examples of changes resulting from budget savings directives from the ACT government. The commission became part of the new Office of Regulatory Services in the Department of Justice and Community Safety. I am wondering, first of all, how this administrative move in JACS will affect the role and independence of the commission.

**Mr Corbell:** It will not compromise the independence of the commission. The commission will continue to have certain statutory responsibilities that it will be required to execute. There will be statutory officeholders to do that work.

**THE CHAIR:** You do not see any issues or problems arising in that respect?

**Mr Corbell:** No; I do not believe so. There are plenty of examples of statutory officeholders performing functions within government agencies. That does not compromise their independent decision-making powers, by their very nature. In this instance in particular, the ICRC deals predominantly with the private sector in terms of pricing. It also deals with some government agencies, but mostly they are not government agencies within the justice portfolio.

**THE CHAIR:** But surely their decisions potentially have a major impact on government revenues in particular.

**Mr Corbell:** Only in some respects. The government has taken a deliberate decision that in some respects the ICRC will not be responsible for determining pricing in some areas which are properly subject to government budget decision-making. We should not be in a position where we are second-guessing what the ICRC is going to be determining when we are assessing our revenues.

**THE CHAIR:** But in water, for example, they will still maintain a role?

**Mr Corbell:** Indeed. Actew is a government business enterprise. It is a territory-owned corporation and operates as a company, albeit a government-owned company, and it pays a dividend to the government. So it is a step removed from some other elements of government activity.

**THE CHAIR:** Yes. My point is that if they are making those determinations, then obviously those determinations will potentially impact quite considerably on the government because they impact on Actew's capacity at the moment.

**Mr Corbell:** Indeed, they do now. I think it is important not to confuse their statutory independence with what are essentially administrative arrangements around efficiencies in staffing in corporate services.

**THE CHAIR:** Yes. Issues were raised with WorkCover the other day about the very same issue.

**Mr Corbell:** Again, those matters in relation to WorkCover are still being resolved. But in relation to the ICRC, it is not in any way intended to compromise the statutory independence of the commissioners. The commissioners will be responsible for certain functions that they are undertaking, and for decision making in certain areas. We will be maintaining those, and the commission will continue to report as a statutory authority, as I understand it

**Mr Baxter:** That is correct.

**Mr Corbell:** We have not actually removed its status as a statutory authority. It will continue to report. It will have the ability to report independent of government on decisions it makes.

**THE CHAIR:** Do you see a future for the commission in its current form, given the fact that it will reduce its role in electricity regulation, focusing instead on water, waste water and greenhouse gas regulation?

**Mr Corbell:** It still has some important roles. Obviously, pricing of water and waste water services is a very significant role. That should remain. It also prices regulated industries. The government is able to determine some of its own business enterprises as regulated industries, as well as determine enterprises in the private sector.

It also provides a range of pretty important services around compliance. It provides advice on issues around competitive neutrality and also arbitration of disputes about access to third party infrastructure. So it still plays an important range of functions. Yes. I do not see any reason for us not to have this entity. It still performs an

important function. As you rightly identify, it needs to be able to perform those functions independent of government.

**THE CHAIR:** On page 18 of the report it outlines the effects of full retail contestability in the ACT energy market relative to other Australian states. Why is the proportion of energy customers who elect to change to a new energy retailer in the ACT so small in comparison to the New South Wales and Victorian markets?

**Mr Baxter:** The issue here is one of evolution. We came into this just a little bit behind New South Wales. The process of people moving, swapping and so forth is something that is evolving and continuing to evolve. We are continuing to see that market expand. If you had read our original draft report on this issue, we quoted the latest figures at that time. By the time we put out the final report a couple of months later, after public discussion, there was quite a sizeable increase.

We are continuing to see that competition occur. We had a further retailer come to us earlier this week to talk about being licensed in the ACT, stepping into this market and getting under way as well. It is an evolving market.

**THE CHAIR:** Do you see a comparable level of competition as exists in those major neighbouring states?

**Mr Baxter:** I think the competition is there in terms of the churn and so forth.

**THE CHAIR:** Well, reflected in uptake.

**Mr Baxter:** Yes, I think it will. It is actually happening.

**THE CHAIR:** Have you any idea how long that will take?

**Mr Baxter:** No. I think it is going to take a few years. That does not panic me, as long as the competition is there and as long as the pressure of contestable behaviour is upon the incumbents, which it is, and they are constantly seeking ways to try and convince people to buy the product from them, in whatever form they might want to sell it—as long as those things occur.

In that context, as you are aware, the national regulators are about to look at this issue as well. That will occur in the not too distant future. In actual fact, they will start a process of looking at the level of competition that is occurring across the various state markets as part of the reform process that has been agreed by the Ministerial Council on Energy.

**DR FOSKEY:** On pages 1 and 2 you talk about the objectives of the ICRC. They include facilitating an appropriate balance between efficiency and environmental and social conditions, and promoting ecologically sustainable development in the provision of utility services. Do any of your staff hold any expertise in the social and/or environmental areas?

**Mr Baxter:** The staff we have had working with us on these particular matters—bear in mind that we bring in outside expertise to assist us—have included people that have

had expertise in environmental matters. Among the many other things I do, I am also chairman of Anglicare for the ACT and Goulburn areas. That covers everything from south of Sydney to the border, and Orange across to the coast. In that context we are running lots of social welfare programs. Yes, there is expertise in that sense, in terms of practical expertise and technical expertise.

**DR FOSKEY:** Does the ICRC consult when there is a particular area that it is reporting on with community or government organisations? Which ones, especially in terms of environmental issues, given that you have covered the social?

**Mr Baxter:** When we are doing our inquiries the process is one where we ensure that we publicise the fact that we are doing them. To the extent possible, we endeavour to use not only the print media, in terms of advertising, but also the visual media or the radio to get the message out and about. We send out copies of papers—initially discussion papers—to get the process started, invite submissions, then do draft reports. We again send them out, invite comments back, and then interact with people through either public hearings, in-house hearings or meetings, or meetings at their premises.

There is a constant process of encouraging people to participate. For example, we have released in the last few weeks a discussion paper on water pricing matters which leads up to the next major water reset in terms of pricing. That has gone out to everyone on our list. Again, we have tried to encourage people to participate and to register through that process. We will follow them up, as part of endeavouring to get them to engage.

The difficulty we often face—and it is one that also concerns regulators elsewhere—is the ability of a number of these groups to actually interact, particularly with the total process. In other words, when one is dealing with ACTCOSS or a body such as this, or some of the environmental bodies that we have had meeting with us, they are often running on very small budgets and their ability to interact is limited.

Our task in that has to be, and has been, to try to meet them at their level. We try to help them talk the things through and raise their points, rather than necessarily trying to force them into situations where they have to mount large written submissions and the like, which tend to become barriers to them participating in the process. We have tried to do this. I do not claim that it is perfect, I think there is always room for improvement here, but I claim that we have gone to a lot of trouble to try to engage people in that process.

**MS MacDONALD:** You are inviting people to make submissions. I do not know what sort of person goes through the newspaper looking to make submissions on issues. I know it is not me.

**Mr Baxter:** I understand.

**THE CHAIR:** You would be amazed. There are a lot of them out there.

**MS MacDONALD:** I imagine it is difficult to engage people, especially individuals. I would also imagine that some issues would create more interest than others, especially if they are topical at the time, such as the issue of water at the moment, which is very

topical, obviously. Do you end up with the same people coming back? I am not talking about groups such as ACTCOSS, who of course have an interest.

**Mr Baxter:** You do from time to time. When we were doing a series of bus price adjustments a few years back now—the most recent one has only been for 12 months; there was some public discussion on that, but not a great deal—there was a large number of people who had a great deal of interest in school bus pricing and the availability of buses for aged people, who came along as individuals in public hearings in this building. They expressed their point of view and took the opportunity to make that publicly known. There was a good deal of discussion and debate on that. We had to deal with those sorts of issues.

It comes down to the interest that people have. Again, we have tried to make the process as friendly as possible for people to participate, so that people who come along do not have to be wearing a suit and tie, as we are here—they can come along in whatever way—and they do not have to formally present a piece of paper. They can take the opportunity to present to us publicly and have their comments heard, recorded and discussed. We indeed pick up on the points. We have done that from time to time.

We have endeavoured to use that process. But again you are quite right. It is difficult to get everybody involved and engaged. We try to watch out not only for those public opportunities, but we also take a good deal of interest in things like the letters to the editor and some of the talk-back radio programs. We see what people are saying, so we can build that into our thinking and ask questions ourselves, such as, “Are we addressing that issue; and, if so, how?”

**MS MacDONALD:** Can I also add this, chair. I would hate for anybody to read through the *Hansard* and think that I was being negative about people who go through and look for ads. It is great that they decide to contribute.

**THE CHAIR:** Yes.

**DR FOSKEY:** I refer to prepaid electricity meters, which are discussed on page 6. It says that the ICRC recognised “the final decision needed to protect the interests of people who might be disadvantaged by adopting the prepayment model”. Page 120 of the JACS annual report notes that the Essential Services Consumer Commission is concerned about the introduction of an electricity prepayment meter system code and that the Treasurer has ordered the ICRC to consult with the council about its social impact. I am wondering if you have had those consultations and what the outcome was.

**Mr Baxter:** In fact, those references obviously refer to some time back. There had been discussions going on. There were discussions going on all the way through that process, because it is a difficult, particular issue. There was some correspondence from the Treasurer in relation to those matters, all of which were addressed. We reported back to the Treasurer to his satisfaction.

The process of discussion continued on and, indeed, went into a great deal of detail with the ESCC and others. Quite rightly, they raised a number of matters of some

concern which we had to take into account. We have made a number of changes to the proposed code that was being put forward by the company concerned—Aurora—and a number of changes to the code that have been accepted in South Australia, to try and pick up particular points here.

We have been very conscious of the need to link any rules and arrangements applying here in the ACT with the way in which our legislation is structured and the way in which that links with the safety net arrangements we have through the ESCC and other bodies. We are very, I might say, jealous of that situation, in the sense that we do not want to see that broken down by some of the moves towards a national model. We are trying, again through regulatory circles, to ensure that people do not miss out on the fact that we have a very good model here in the ACT that seems to work quite well, certainly from an overall regulatory point of view.

Those discussions occurred and we came to a conclusion. There is a code in place. It has appropriate safeguards and backups, with checks and balances there that the commission will oversight and supervise. We will continue to work closely with the ESCC and others on that matter.

**DR FOSKEY:** Turning to the review of the Utilities Act and the ICRC Act, it says on page 37 of your report that the Utilities Act and the ICRC Act were to be reviewed in 2001-02. It is now that the Utilities Act is being looked at. Do you know why it has taken so long? With the change in the institutional arrangements in which the ICRC will be embedded next year and with national energy regulation beginning, why is the ICRC act not yet being looked at? Do you know?

**Mr Baxter:** I will let Mr Primrose pick that up because he has been dealing with it.

**Mr Primrose:** The review of the Utilities Act was directly connected with the transfer of powers in respect of energy regulation to the national regulator. The impact of those transfers on the ICRC Act was negligible.

The ICRC Act deals generically with price setting, arbitration on third party infrastructure, competitive neutrality, advice provision on government-regulated activities and so on. Presumably the government would want to retain those generic powers in the regulator, particularly when they were not affected by the changes in energy regulation.

**DR FOSKEY:** The future of the ICRC is unclear. What proposals are there for the future work of the commission? What do you see? How do you feel about all of that? Do you think you will have to cut the number of reports you conduct?

**Mr Corbell:** I will let Mr Baxter answer the second part of that question, but I do not believe the future of the ICRC is unclear.

**DR FOSKEY:** It was.

**Mr Corbell:** As I have indicated in my earlier comments, there remains an important function for an independent oversight agency to determine price structures, access to infrastructure and a range of other functions that are the responsibility of the ICRC.

That is particularly important in a competitive market for certain goods and services.

The government is supportive of the retention of an independent watchdog and regulator in this regard. The government's decisions following this year's budget do not change the independence of the work of the commissioners in that regard. The changes that we have made relate to the administrative structure but not the statutory framework.

**THE CHAIR:** What is in the report, where it says that its future is uncertain, is not something that you would stand by today?

**Mr Corbell:** It is not my report, it is the ICRC's report. I am just indicating to you from a government perspective that no decision has been made to remove the independent powers of the ICRC, and I do not anticipate any.

**DR FOSKEY:** There is a certain amount of reassurance in that. What about the number of reports that you produce and will produce, the quality of research and those kinds of impacts?

**Mr Baxter:** The number of reports will go down because we will not be doing gas and electricity. Quite a bit of reporting and various things occur there. There are still various compliance reports that we will be responsible for—obviously, there is still water. To the extent that we are asked to consider issues to do with transport costs or prices, there will be reports and so forth there. The government has from time to time, as you are aware, referred other matters to the ICRC as an independent body for advice, and the government presumably may consider that for the future.

In terms of the quality of the work and the research that is done, as I indicated earlier on, to some extent the model that we are moving to is a model that is very similar to where we started from, in the sense that my position has always been part time.

At that stage we had quite a small secretariat and we were much more reliant upon external assistance during matters of major inquiries. At other times the small, remaining secretariat was able to handle the day-to-day matters. That is very much the model that we will have going forward, commensurate with the work the commission will have here in the ACT.

**THE CHAIR:** I ask members if they would place any other questions on notice. I thank the Attorney-General, Mr Baxter and Mr Primrose for their attendance today.

**The committee adjourned at 4.01 pm.**