



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS**

**(Reference: [Inquiry into the proposed Appropriation  
\(Loose-fill Asbestos Insulation Eradication\) Bill 2014–2015](#))**

**Members:**

**MR B SMYTH (Chair)  
MS M PORTER (Deputy Chair)  
MS N LAWDER  
MS Y BERRY**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**FRIDAY, 28 NOVEMBER 2014**

**Secretary to the committee:  
Dr A Cullen (Ph: 620 50142)**

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

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

## WITNESSES

<b>AHILAS, MS THEODORA</b> , National Practice Head, Asbestos Litigation Department, Maurice Blackburn Lawyers .....	<b>118</b>
<b>BARR, MR ANDREW</b> , Treasurer, Minister for Economic Development, Minister for Housing and Minister for Tourism and Events.....	<b>77</b>
<b>BELL, MR RONALD</b> , Chief Executive Officer, Real Estate Institute of the Australian Capital Territory .....	<b>31</b>
<b>BYLES, MR GARY</b> , Director-General, Territory and Municipal Services Directorate.....	<b>1</b>
<b>CHAMBERLAIN, MR JOHN</b> , Chair, Law Society of the ACT Property Law Committee.....	<b>109</b>
<b>GALLAGHER, MS KATY</b> , Chief Minister .....	<b>40</b>
<b>GENTLEMAN, MR MICK</b> , Minister for Planning.....	<b>63</b>
<b>HELYAR, MS SUSAN</b> , Director, ACT Council of Social Service Inc.....	<b>102</b>
<b>HESELTINE, MS BRIANNA</b> , Founder and Spokesperson, Fluffy Owners and Residents Action Group .....	<b>20</b>
<b>HOCKRIDGE, MR MARTIN</b> President, Law Society of the ACT.....	<b>109</b>
<b>KEFFORD, MR ANDREW</b> , Head, Asbestos Response Taskforce, Chief Minister, Treasury and Economic Development Directorate .....	<b>1, 40, 77</b>
<b>MEYER, MR JOHN</b> , Executive Director, Construction and Client Services, Construction and Client Services Division, Environment and Planning Directorate.....	<b>63</b>
<b>MINERS, MR STEPHEN</b> , Executive Director, Finance and Budget Division, Chief Minister, Treasury and Economic Development Directorate .....	<b>77</b>
<b>NICOL, MR DAVID</b> , Under Treasurer, Chief Minister, Treasury and Economic Development Directorate .....	<b>77</b>
<b>PERRAM, MR PHILLIP</b> , Executive Director, Business Enterprise Division, Territory and Municipal Services Directorate .....	<b>1</b>
<b>PONTON, MR BEN</b> , Deputy Director-General, Planning, Environment and Planning Directorate .....	<b>63</b>
<b>RATTENBURY, MR SHANE</b> , Minister for Territory and Municipal Services.....	<b>1</b>
<b>TRUSHELL, MR MICHAEL</b> , Director, ACT NoWaste .....	<b>1</b>
<b>WALSH, MR JONATHAN</b> , Senior Associate, Maurice Blackburn Lawyers.....	<b>118</b>

## **Privilege statement**

The Assembly has authorised the recording, broadcasting and re-broadcasting of these proceedings.

All witnesses making submissions or giving evidence to committees of the Legislative Assembly for the ACT are protected by parliamentary privilege.

“Parliamentary privilege” means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively, and enable those involved in committee processes to do so without obstruction, or fear of prosecution.

Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

While the Committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. 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; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

*Amended 20 May 2013*

**The committee met at 9.32 am.**

**RATTENBURY, MR SHANE**, Minister for Territory and Municipal Services  
**BYLES, MR GARY**, Director-General, Territory and Municipal Services Directorate  
**PERRAM, MR PHILLIP**, Executive Director, Business Enterprise Division,  
Territory and Municipal Services Directorate  
**TRUSHELL, MR MICHAEL**, Director, ACT NoWaste  
**KEFFORD, MR ANDREW**, Head, Asbestos Response Taskforce, Chief Minister,  
Treasury and Economic Development Directorate

**THE CHAIR:** Good morning and welcome to the public accounts committee inquiry into the proposed Appropriation (Loose-fill Asbestos Insulation Eradication) Bill 2014-2015. I formally declare open this public hearing of the standing committee.

The committee resolved on 17 November this year to inquire into the bill. The terms of reference for the committee's inquiry are the proposed bill and its explanatory statement. The Chief Minister wrote to the committee on 14 November this year asking it to consider the proposed bill and its explanatory statement in advance of the bill's formal introduction in the November sittings of the Legislative Assembly of the ACT.

The objective of the bill is to enable the use of funds from the commonwealth government's concessional loan to the territory to help pay for a buyback and demolition scheme for more than 1,000 properties affected by the potentially deadly loose-fill asbestos, commonly known as Mr Fluffy.

The committee is doing its best in a very tight time frame to balance the request of the government with providing an opportunity for those interested members of the community to submit their views. The committee acknowledges the short time frame in which it has to complete this important inquiry and with the overriding public interest in the proposed legislation.

While the committee will complete its inquiry with a report, the committee emphasises that the outcome of the inquiry will be more than its report alone; it will also be the evidence on the record from the two public hearings it will hold, as well as the views expressed from over 55 interested members of the community in their written submissions.

I wish to advise that the written submissions to the inquiry closed on Wednesday afternoon and the committee saw them only yesterday. As received and authorised by the committee, they will commence being published on the Assembly website today. Versions uploaded to the website where applicable will be redacted. We will remove residential and personal email details, phone numbers, contact details et cetera. The submissions will be published with only the surnames attached, to maintain the privacy of these home owners. In some instances the surnames have been withheld to protect the privacy of submitters.

Today the committee is hearing from ministers and representatives of key interest groups and organisations. On Monday, 1 December the committee will be hearing

from individuals drawn from the call for public written submissions.

I remind those present that the proceedings of the committee amount to the proceedings of the Assembly and I ask those present at the committee to follow the rules of the chair, to not interrupt proceedings and to follow any directions or requests from the committee secretary or the attendants.

On behalf of the committee, I would like to thank you, Mr Rattenbury, and your officials for attending today. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement before you on the table. Could you please confirm for the record that you understand the privilege implications of the statement?

**Mr Rattenbury:** Yes.

**THE CHAIR:** Thank you. I also remind witnesses that proceedings are being recorded by Hansard for transcription purposes, as well as being webstreamed and broadcast.

Minister, before we proceed to questions from the committee, would you like to make an opening statement?

**Mr Rattenbury:** I will just make a few brief comments. Predominantly with me today I have officials from ACT NoWaste. Their role in this is obviously through the west Belconnen landfill having been identified as the site where the waste from the demolished Mr Fluffy homes will be taken. NoWaste's responsibility essentially commences at the weighbridge on arrival. So, whilst I am happy to try and take broader questions, the primary responsibility we have is from the weighbridge in. If there are other TAMS related questions that members would like to ask, I am happy to try and cover those, but that is the primary responsibility we believe we have in this process.

**THE CHAIR:** Let us start with the weighbridge. How was it decided that all of the waste product would go to west Belconnen?

**Mr Rattenbury:** The ACT has, as you know, the two waste landfill stations in the territory, Mugga Lane and west Belconnen. While both are capable of taking Mr Fluffy waste, or the loose-fill asbestos waste as it might be better known, the west Belconnen site has the far greater capacity and certainly has capacity to receive the thousand-plus Mr Fluffy houses. Therefore, we considered that the more suitable site.

**THE CHAIR:** What is the expectation in terms of the amount of demolition material that will go to the landfill?

**Mr Rattenbury:** In terms of volume?

**THE CHAIR:** Yes.

**Mr Rattenbury:** That is not fully determined at this point in time. Obviously we know roughly the number of houses. At this stage only four demolished Mr Fluffy

homes have been taken to the west Belconnen site. That is not at this point enough of a sample to get a clear or an accurate view of the average amount per site. Obviously, further information will come as more work is done by the task force and as a greater understanding of the houses evolves.

**THE CHAIR:** Could you take the committee through what will happen when it arrives at the tip and how it is secured?

**Mr Rattenbury:** I will ask Mr Perram to go through that in more detail.

**Mr Perram:** The process at this stage is that it will be authorised on site through task force processes. It will be authorised to come to the weighbridge. The material will be weighed in—no different from the existing processes adopted at the site. It will go to a designated site that is controlled and the protocols related to the disposal of asbestos, including the workplace health and safety requirements, will be required and a cover placed upon the material. That is probably the easiest way to describe the process.

**THE CHAIR:** How is it secured? Asbestos blowing around west Belconnen? How is it kept securely?

**Mr Rattenbury:** There is clearly no intention for asbestos to be blowing around west Belconnen, Mr Smyth. There are already established protocols for dealing with loose-fill asbestos waste. The area where there is work to be done is obviously a scale issue. With the large number of waste coming from properties, we need to do more work on those protocols, but certainly the principles that already exist for disposing of this waste will continue. There are a couple of different points: as each load arrives, then the protocol at this stage is that 300 millimetres of cover will be put on the site at the end of each day, and the ultimate capping of the area will be done in accordance with EPA requirements. There are those three stages: the individual load delivery, the daily capping and then the ultimate capping of the site once the program is complete.

**THE CHAIR:** If a load is dumped, is it damped down to stop dust blowing around, or do we wait until the end of the day when we put the 300 millimetres of cover on it?

**Mr Perram:** The protocols established for the removal of the materials from the homes is that when it arrives at west Belconnen it is in a bonded state. I do not have the scientific knowledge, but my understanding is that a superglue type material is used to bond the materials before they are loaded into the vehicles. That material, of course, maintains the bond and that gives the integrity to stop it blowing around or moving during the process of removal and disposal.

**THE CHAIR:** But that is done on the site of the individual houses?

**Mr Perram:** That is correct, as I understand it. The task force would be best placed to give you the answer on that.

**MS PORTER:** My question is around the same sort of process. Could we have supplied to us those EPA guidelines? It would be good for us to have the guidelines to know what they say. Could you take that on notice, please?

**Mr Rattenbury:** We will take that on notice. I will just confirm with Minister Gentleman or Minister Corbell who provides that, but we will ensure it gets provided.

**MS PORTER:** I do not think that minister is appearing before us, so if you could undertake to ask the minister's office for that that would be fantastic.

**Mr Rattenbury:** Yes.

**MS PORTER:** I do not know where we would find this information, but we would like a bit more information about how it gets bonded and everything. The other concern I have is about the underground water. I am not quite sure of the terminology, but there is water under the ground that already exists.

**Mr Rattenbury:** The water table.

**MS PORTER:** The water table, yes, and then above ground water which is runoff that goes into our waterways at various places, and we know there is a river system that runs along there, a creek system. My concern over time is around what protection there is for those water systems, because obviously that is important.

**Mr Perram:** As the minister said, the capping is the key component there of separation of stormwater and rainwater. The capping will be based on impervious level, most likely clay, and then a soil level above that. The water that is taken off that goes into a separation from any water that comes out of the actual existing landfill. The existing landfill moisture goes into leachate dams, which are then treated before they can be released. The stormwater goes off the site and into the normal area. So there is a maintained separation of both types of water. It is my understanding that the task force has found through scientific advice that the asbestos fibres do not move through groundwater—they are literally trapped once they are buried—and that there is no risk of groundwater transmission of those fibres.

**MS LAWDER:** Along a similar theme: notwithstanding that you have said that the asbestos fibres are trapped and do not go through the groundwater, do you go through a process of providing information or consulting with, for example, the New South Wales government, which borders the landfill area, or the Murray Darling water catchment authority in terms of providing information to them?

**Mr Perram:** The authorisation for disposal of the materials on the site has been through a rigorous process. The original part of that process would have required submissions from both those parties in respect of impacts on the area. We are doing nothing outside the existing environmental authorisation for the site. There is disposal of bonded asbestos on the site at the moment. It has been happening for many, many years, and the protocols have been established and proved very effective.

**MS LAWDER:** In the longer term, will it remain a tip or will it be unusable forever because of the bonded asbestos that will be stored there?

**Mr Perram:** A very good question. I would anticipate that once it is capped, there would be uses it would be able to be put to. Certainly you would not be able to construct on top of it and have piers of buildings drilled down through the asbestos

material; I think that is self-evident. In relation to the potential for having playing fields or walking tracks on top of, say, a two-metre clay cap and a metre soil level, I can see no reason why that would not work.

I would think the greater limitation at west Belconnen at the moment would be the methane produced from the previous landfill there. There is going to be a time frame before that can happen. In relation to the opportunities for the future development of it, we will be in discussion with the LDA and Riverview in respect of their ideas in respect of future use—the terraforming above the site where the asbestos is disposed of so that in that way we have created something that is usable in the future, but it may be 10 or 15 years from now.

**MS BERRY:** Has the west Belconnen facility always been an asbestos disposal site in Canberra?

**Mr Perram:** Long before my time. I do not know about always, but I certainly do know it has a major asbestos pit that has accepted the four houses in reasonably recent time and it has accepted construction bonded asbestos in the previous borrow pit in the five years that I have been involved with it.

**MS BERRY:** So it is not a new disposal site for asbestos in the ACT?

**Mr Perram:** No, not at all.

**MS BERRY:** Have there been any other options investigated for asbestos disposal in the ACT or in the region?

**Mr Perram:** My understanding is that the task force looked at other options. I am not sure what those options were or how they explored those. We were asked to give our opinion on how we could control it, how we could manage it safely and whether we had the capacity to handle it at the west Belconnen site—and advised the task force we could do that.

**MS BERRY:** When it arrives at the weighbridge at the disposal site, you said there are protocols. I know you are going to provide the information from the EPA on some of the other things that happen once it gets there, but once it gets to the weighbridge, do you just weigh it? Does the person from the task force check that it has all been completely sealed up or is it checked before it leaves the house? Or are those questions we should ask the task force?

**Mr Perram:** They are questions you should ask the task force. The presumption we have worked on, based on the task force's advice, is that it will be bonded by the time it gets to us.

**MS BERRY:** So all the other information around safety measures for the storage of the asbestos is something we should ask the task force? Could you go into it a bit more? Once it goes from the weighbridge and it is dumped into a pit, is it watered down when it gets there? What is the process throughout each day?

**Mr Perram:** As the minister said, there is going to be a protocol in relation to the



scale. We currently do the disposal, as we said before, of bonded asbestos. If it is bonded asbestos, as we have identified, and the task force is comfortable with that, we will take it through the weighbridge. It will go down, it will be tipped, it will be covered, and then the next load should come in and be tipped and covered as well, to minimise any exposure there at all. Like every landfill, it will just be built up in layers, basically.

**MS BERRY:** How is the community going to be consulted about the impact on the roads and the traffic around the streets leading to the tip?

**Mr Perram:** The road design at the moment is for about 6,500 vehicles a day. My understanding is that it is running at about 5,800. As you know, we have currently got disposal of organic waste occurring at west Belconnen as well. I am unaware—we certainly have not had it through NOWaste—of a complaint about increased traffic through that. I would anticipate that through the process there would not be a significant increase on that number of vehicles.

The borrow pit use at the moment, with the bonded asbestos going into that, has peaks and troughs. Perhaps the ASIO building was one of the major ones; a significant amount of material went in at that time. I think people are used to a fair volume of trucks, particularly, going through that area.

**THE CHAIR:** What is the name of the road?

**MS BERRY:** Southern Cross Drive.

**Mr Perram:** And it comes onto Parkwood Road.

**MS BERRY:** The road leading to the actual waste, though, coming off Southern Cross Drive—there was a bit of work done there when west Macgregor and behind the Holt golf course was built, so there has been a bit of work on upgrading that road. But with the extra heavy vehicle traffic on that road, I expect that there will be some deterioration because of the increased heavy loads—not the volume, but the heavy traffic. Does TAMS have a plan for how it is going to manage that so that small potholes do not become huge pits on the roads on the way down—that they are given priority, if you like?

**Mr Perram:** Certainly there is “Fix my street”, which is a reportable area. And I am aware that the director-general has already talked to my peer who looks after roads and said that he expects a regime of inspections during the transportation along that road.

**MS BERRY:** Will there be a traffic management plan particularly for Southern Cross Drive? Also, of course, there will be individual plans for each of the suburbs, I guess, once this process starts.

**Mr Rattenbury:** I think that is one of the things that still need to be determined. The task force, as I am sure they can detail later, at this point do not have a defined plan for when the demolitions will take place and in what geographical area. They are certainly looking at options to try and get some efficiency out of that. Mr Kefford and

the Chief Minister can talk more about that, but I think that will then shape whether TAMS needs to put specific temporary traffic management plans in place. That is probably an area where further work will need to be done once the task force has a clearer sense of the demolition timetable.

**MS BERRY:** From the advice that you have been given on the disposal of asbestos at west Belconnen from when it comes to the weighbridge, there is no risk to the community of leakage from the trucks as they come to the tip?

**Mr Perram:** The task force advice to us is that it will be bonded asbestos when it arrives with us. We will still have our protocols on site. You would have seen the moon suits that are used. That will be in very close proximity to the disposal area. We are advised that our protocols are reasonable at this stage. But as the minister said, because of that scale increase, we need to make sure that the protocols we have are appropriate for disposal of lots of material in a short period as opposed to individual materials on an ad hoc basis.

**MR COE:** With regard to the remediation of 20 or 25 years ago, whereabouts was all the loose-fill asbestos deposited?

**Mr Perram:** I literally do not know. I cannot answer that for you.

**Mr Rattenbury:** We will have to take that on notice. I understood it was west Belconnen, but I am reluctant to speculate.

**MR COE:** Has there been any research or any studying of the processes that were undertaken in 1989, 1990, 1991 and thereabouts with regard to transportation and depositing of the waste?

**Mr Rattenbury:** We will add an official to the table and we can get some more information for you. Mr Kefford from the task force will join us.

**Mr Kefford:** Mr Coe, the material from the original remediation program was dumped in what was, I understand, the former quarry site which now sits behind Palmerston, in the grassland behind what would be the eastern border of Palmerston.

**MR COE:** The nature reserve there?

**Mr Kefford:** Yes. There is a brief mention of this in the material that the task force has released.

**MR COE:** In terms of the territory archives and TAMS archives, has there been an extensive search of all documentation relating to the remediation of 20 or 25 years ago?

**Mr Kefford:** I am not quite sure where you are going with that question, Mr Coe. Certainly as part of the ongoing engagement with this issue over time, we have an understanding of the way in which the program was conducted. We have certainly done that in the time since the task force was formed. Indeed I have had conversations with some of the senior officials who were responsible for the asbestos branch and the

conduct of the original program at the time. That has tended to be more in terms of the conduct of the actual removal works rather than the disposal element of that program. But certainly it is material that the task force currently has as part of its responsibilities, yes.

**MR COE:** In terms of the rhetorical question about where I am going with it, it is to make sure that we do not repeat the errors of the past and so we have a good understanding of what exactly did happen 20 or 25 years ago.

**Mr Rattenbury:** Which areas are you concerned about, Mr Coe?

**MR COE:** Just in terms of the whole scheme. Obviously it did not work. I am not necessarily talking about waste disposal; it is in terms of the entire scheme. It is very important that we have got as much information as possible about the processes undertaken 20 or 25 years ago. To that end, are there records about the volume or the weight of materials that were taken out of houses 20 or 25 years ago, and are there records about how much waste was deposited in that old quarry site behind Palmerston?

**Mr Kefford:** Yes; certainly there are. Each property has what is called the removal files; they are records of what was in each house, what was taken. There is a good understanding of what was dumped at that site behind Palmerston. It was also used for some of the rubble from the Royal Canberra Hospital. It was used as a builders' rubble dump site as well. There is a good understanding of what is there and the way in which the asbestos waste was disposed there.

**MR COE:** Palmerston probably would have been gazetted around that time. The first people, I imagine, would have moved in about 1992 or 1993. Were there any strategies in place with regard to proximity to houses and proximity to other construction sites that are relevant for TAMS and their planning for Parkwood?

**Mr Kefford:** I would have to take the detail of that on notice, Mr Coe. I am happy to see what we can find before we are back on this afternoon with the Chief Minister, if that would be helpful. Certainly the process that was followed, as best we understand it, is essentially that which is proposed for Belconnen, which is the safe transport, dumping and burial of the waste. As to the issues that go to the original program, I suspect the concerns are more to do with the remnant asbestos in the houses than the way in which the waste has been disposed of, although the documents that we have published indicate that as part of the process, we are confirming that that waste remains safely contained.

**Mr Rattenbury:** I might add in terms of your question around proximity, Mr Coe, that the nearest residential properties to the west Belconnen site are 1.2 kilometres away from the proposed pit area.

**MR COE:** I imagine they are the properties on and around Britten-Jones.

**Mr Rattenbury:** That is Macgregor.

**MR COE:** West Macgregor, is it?

**Mr Rattenbury:** Yes.

**MR COE:** As opposed to Britten-Jones. With regard to the capacity of the proposed pit at Parkwood, do you know how many cubic metres are spare there?

**Mr Perram:** The volume is not a concern at west Belconnen landfill. The preliminary designs that we have done, based on the information that we have available at the moment, include the disposal of all of the houses, and the cover material, and the capping, at the same time maintaining the borrow pit being available to the commercial areas of the city for the disposal of bonded asbestos and the emergency landfill being still available for the city.

**MR COE:** But what is the actual volume of that pit? I do not say this as a slight, but the reality is that there was a miscalculation with the volume at Mugga just recently, and I think we need to be absolutely certain about the capacity of the pit at Parkwood so that we do not get three-quarters of the way through the program and find ourselves in a bit of a bind.

**Mr Perram:** Certainly with the design capabilities we are putting into the west Belconnen site, as the information becomes available on not so much the weight but the volume of each of the houses for disposal, and becomes more sure, the greater the number of houses that go in—we have a design that has our current expectation, which is 100 per cent disposal, and we also have a design that is saying “If it is 150 per cent”. So we are allowing a 50 per cent leeway for increased house sizes or some volume consumption we are unaware of that comes along two years from now or three years from now.

**MR COE:** What is the average volume per house that you are working off?

**Mr Trushell:** The current assumption is based around 300 cubic metres per house. We have only got four houses that have been disposed of. At the moment that sample is too small for us to take a survey on. As we take on more houses we will have a survey done and we will use that to guide our planning.

**MR COE:** At 300 cubic metres, therefore, and 1,000 houses, you have got 300,000 cubic metres and then you have got another 50 per cent leeway there. Are you saying that you have got 450,000 cubic metres capacity at Parkwood in the pit?

**Mr Trushell:** Bear in mind that it is not like the landfill at Mugga where you have essentially got a finite area. It has got to be lime-leachate controlled. It is an actual constructed area. Essentially we designed a terrafill around what we believe is the area that we need. The design we have got at the moment, for example, can accommodate around 480,000 cubic metres. If we find we need more space we will go back to our engineering consultants and say, “Develop a design which will absolutely maximise the space,” so that we know the maximum that we might need if our estimates prove to not be as accurate as we build up our information.

**MR COE:** In terms of the shape of the land at Parkwood, the easiest way to comprehend the situation is: you have a pit, it fills up, it gets clay capped and it is as if

there never was a pit there. However, this is different, is it not? This is actually going to change the shape of the topography, is that right?

**Mr Rattenbury:** I think the best way to describe it is that it is not so much a hole that is being filled but it will become a land mass that will be shaped in different ways depending on the volume and some discussions with Riverview and the LDA. For example, a question was asked earlier whether the land might be available for use in the future. One of the considerations might be making it plateaued on the top. That might be suitable for sporting fields at a later point in time, for example.

**MR COE:** How much excavation has already taken place at the site? How far below the natural ground level are you starting at and how far above the natural ground level do you expect the pit to end up being?

**Mr Perram:** That is a very difficult question because we have not had those discussions with Riverview at the moment in respect of the future design. But remember that the ground level for much of that site is not the ground level; it is a filled site and it is a previous landfill site. If you can imagine taking the clay off the top that is there now and starting from that level and then working up from there, it will be moulded into the existing hills that are in there now. A lot of the design will be dependent upon hydroflux to ensure that we do not end up with real erosion and the maintenance of the site so that we can mow and ensure the long-term maintenance of the site at an appropriate level.

**MR COE:** With regard to that 300 cubic metres per house, does that include the scraping of soil taken off the block? If so, what portion of the block are you expecting to take a scraping of soil off? Is it simply going to be the footprint of the house and a metre or two either side, or is it going to be the absolute perimeter of the block, in which case, for a 700-square metre block, if you go down 30 centimetres, that alone is 200 cubic metres. I am curious to know what assumptions you have made for that clearance.

**Mr Kefford:** The code of practice which we are in the process of finalising with the Work Safety Commissioner for the demolition process indicates the area of the footprint of the house and then between two and three metres excavated to 100 millimetres as a matter of course. But then the digging that goes on beyond that is testing driven. If asbestos is found at that depth or at the edge of that perimeter, we will either go down or out until we stop finding the amosite asbestos. The block at Downer, we did take 300 millimetres off the whole block. That was a predetermined depth and decision to do that.

We have also indicated, though, getting to the other part of your question, that the expectation is that blocks will be cleared, recognising that the government has made decisions in relation to future development on the blocks and part of repairing those blocks for that work will be clearing.

**MR COE:** But that is a commercial decision as opposed to an asbestos-driven decision?

**Mr Kefford:** For that element, we will not be digging the block; we will simply be

clearing it in preparation for future development. In terms of the digging and removal of soil, that is ultimately a testing-driven thing so that either the depth that we go to or the extent around what was the footprint of the house will be determined by the asbestos assessor on the day of demolition.

**THE CHAIR:** Ms Berry has a supplementary.

**MS BERRY:** Just back to the weighbridge at Parkwood, after the homes have been disposed of there and after you have capped it each day, can you say exactly how much soil goes on top of the asbestos?

**Mr Trushell:** Thirty centimetres of day cover.

**MS BERRY:** That is above the cap, or do you cap it and then fill, cap fill, cap fill?

**Mr Trushell:** Are you talking about the final capping once the site is filled?

**MS BERRY:** Yes.

**Mr Trushell:** It is a three-metre final capping across the top of the site.

**MS BERRY:** Across the whole site?

**Mr Trushell:** Yes.

**MS BERRY:** But each time you cap it, you will have 30 centimetres each day?

**Mr Perram:** Each day there will be a 30-centimetre cap.

**MS BERRY:** So 30 centimetres each day and then at the end, three metres on top?

**Mr Trushell:** Correct.

**THE CHAIR:** Mr Hanson, a new question.

**MR HANSON:** The cost of this program, the entire cost of this element, can you break it down into where that money is spent? Is it estimated per house or is it an aggregate?

**Mr Perram:** The cost estimate that we have provided is on a volume basis in aggregate at this stage, with the cost of the capping on top of that of course. It is operation of the weighbridge, operation of the contractors that do the disposal of the materials, then it is based on a volume variant. There is a contingency in it, of course, because at this time we do not have the contracts relating to when it will be delivered, whether there are efficiencies to be gained or inefficiencies to be gained, because of other things that we have not struck in the delivery of the materials to the site.

**MR HANSON:** What is that estimate that you have provided?

**Mr Perram:** Our initial estimates are just on \$13 million.

**MR HANSON:** \$13 million for the whole program?

**Mr Perram:** That is right.

**MR HANSON:** How much contingency is in that? How confident are you that that is not going to blow out?

**Mr Perram:** I have not got the contingency figure there, but it is within that \$13.2 million. At this stage, based on the disposal of bonded asbestos at west Belconnen, we are comfortable that number is robust. We have nothing else to go on. That plus the capping is the number, and we have a contingency within it. I am sorry, I have not got that number.

**MR HANSON:** That is just from the weighbridge onwards, is it? The transportation costs are met by the particular contractors who are doing the demolition, but the disposal element is the weighbridge and beyond? There is the demolition of the homes and there is the transport. Are they three distinct contracts or is the transport part of the demolition contract or is it part of the dumping contract?

**Mr Kefford:** The way in which we propose to conduct the demolition part of the work will be to appoint a head contractor responsible for the asbestos removal element, the demolition of the house, the remediation of the block and the transportation of the waste to Belconnen.

**MR HANSON:** Once it is taken to Belconnen, it is at that point that it becomes a TAMS responsibility and NoWaste responsibility and that is the \$13 million component?

**Mr Perram:** That is correct. We will be invoicing directly to the task force for that as the peak body controlling the whole project.

**MR HANSON:** Have you broken that \$13 million down over the years? Have you got some estimate that the bulk of it is going to be in the first year or in the first two years and then it is going to be smaller amounts afterwards? Or have you just aggregated that over about five years?

**Mr Perram:** We have based it on the number of houses suggested by the task force, but because those contracts are not let at the moment there is movement potentially between the years. At this stage we are quite comfortable with the aggregate number.

**MR HANSON:** You have got 200 a year as part of that program? Is that the way it is plotted out?

**Mr Kefford:** At this point, because we have not completed the demolition tender process and because of the small number of firms that are doing this work, we do not know yet how quickly that process will be completed. The five years that has been used publicly is an essential estimate. So there is a reasonably smooth assumption in terms of the demolition work commencing towards the middle of next year in earnest.

But until we have a sense of how quickly people actually move out of their homes and then also what the capacity is when we tender, we do not know exactly yet how quickly that process will happen. Clearly while maintaining a premium on doing it safely, if we can have it done more quickly, we will seek to do that to minimise the disruption.

**MR HANSON:** This might be a question we can put to the Treasurer later and it goes a bit beyond the dumping: if you have made assumptions that there is going to be a reasonably flat program for this and then the experience is somewhat different from that, the total figure might not change—\$13 million for this and significantly more for demolition—but we might find then that the impact on each budget might be wildly different. Over a five-year program, yes, it might be reasonably accurate but you might find that, in actual fact, in the fifth year the expenditure is far less, whereas in the second year, for instance, it might be significantly more.

**Mr Kefford:** I would not perhaps describe it in the way that you have, but certainly at this point we just do not know because at this point we have not bought houses, we do not have that capacity settled. I would have thought by the time we get to next year's budget we will have a better sense of staging and sequencing and what the likely impacts year on year will be.

Certainly in the overall program we have a sense of what it looks like, but I think this is also partly why the loan and the appropriations are being structured in the way that they are, because there are a series of behavioural elements that go to how quickly we end up buying houses. But it has always been the case that the expectation is that there will be a significant cash cost as we buy the houses and then the year-on-year impacts will become clearer as we work out the timing and sequencing of demolition.

**MR HANSON:** People are signing up to the program. I do not know what the current figure is. It was 460, the last I heard. Are they giving an indication how quickly they are intending to move so that you are starting to refine that data, or are you waiting until later?

**Mr Kefford:** We are starting to get a sense of that but really we cannot make firm assessments of that until we know exactly what the demolition capacity available to the task force is and when people will actually do it. Today the number is just short of 600 in terms of applications to have houses valued. The way in which they are playing out on a straw poll is that there is a good proportion of that number who are looking to move quickly. There are others who are seeking to have conversations with us about staying in place for a period. At this stage, while we have asked for an indication of intent from the owners as they register for that part of the program, we have not really started to tie that down yet because there is a series of behavioural responses we are waiting for.

**MR HANSON:** There is the behavioural side of it but then there are also, I imagine, some bottlenecks in terms of the demolition side because of the capacity of the number of people that can do the demolitions. Is there going to be any potential bottleneck at the dump? Is there a maximum capacity so that you can handle two houses a day or you can handle five? Or is there no limit on the capacity? Is the dump itself going to be a bottleneck on the program?



**Mr Perram:** The preliminary discussions we have had at this stage with the task force suggest that we should be able to open a face that does not limit the number of houses on any particular day. It is a matter of ensuring that we have the day cover down. The face might be 50 metres long instead of 20 metres long and we work in that area. In regard to the availability of space at west Belconnen, I do not see that as a critical issue. I think we can expand it or contract it as required.

Just as a clarification, the number I should have provided you was \$13.9 million, not \$13.2 million.

**MR HANSON:** If there is a particularly busy period, if there is a surge over a six-month period, you will be able to handle that?

**Mr Perram:** Because of the way we currently have the preliminary designs with the layout approach, we should be able to expand that over a length and then come back along that length. So we do not see that as a particular problem.

**MR HANSON:** You may not have the data here, but of that \$13.9 million, can you provide a breakdown of what that comprises? Is that possible?

**Mr Perram:** We can do that.

**THE CHAIR:** Ms Berry has a supplementary, as do I.

**MS BERRY:** Going back to the weighbridge, when it is capped, what is it capped with each day?

**Mr Perram:** It is a non-contaminated material. It could be recycled soils that have come in from another site that are virgin material and have not been used before. That goes on top of it. For example, as the task force was saying, if the clearance of the site and the curtilage around the building have gone and we are taking more material off that site that we know is clean because it has been assessed, that may be used—

**MS BERRY:** As capping rather than—

**Mr Perram:** That is right.

**MS BERRY:** But you are going to keep soil to the side once you have a plan through the LDA about what might be future use for that land? You will have soil there, clean soil, or you will get clean soil from other areas for the final cap?

**Mr Perram:** That is exactly right.

**MS BERRY:** For people like me who live in west Belconnen, will there be any changes to the speed limit on the road?

**Mr Rattenbury:** Southern Cross Drive is currently 60, isn't it?

**MS BERRY:** Yes, it is currently 60. But with the increased volume of heavy vehicle

traffic, is there any conversation about reducing the speed limit along there temporarily?

**Mr Rattenbury:** There are no plans currently. As Mr Perram talked about earlier, we have had the experience with some extra trucks as a result of the current disposal of waste issues. We have certainly not had any significant feedback. I have not had any particular concerns raised with me. But it is something we will monitor. Again, there is a bit of an unknown in the sense of just how many trucks we will be seeing each day and therefore the impact that will have. I would be quite open, if there are particular concerns that come up, and TAMS will monitor it proactively as well.

**MS BERRY:** Will you have signage up? When you announced the opening of the tip temporarily, there was talk about reducing the speed limits on the road leading into the Parkwood tip. Will that still be the case for the disposal of the loose-fill asbestos homes?

**Mr Perram:** We would talk to the task force, particularly if there are peaks in respect of that. If there is a disposal where there are unusually high numbers of vehicles, I think that would be a good idea.

**THE CHAIR:** At 300 cubic metres per home, how many trucks is that?

**Mr Perram:** This is where it gets very complicated in the sense of weight versus volume. You could have a tonne of cubic metre; say there are some timbers in it, there could be a truckload. Normally it is 10 tonnes a truck. I do not think there is an easy answer to that. If it is soils, it is probably one for one—a cubic metre equals a tonne. Timbers and things like that are much lighter. It is very hard to say.

**THE CHAIR:** And the size of a truck is about 10 tonnes?

**Mr Perram:** It will depend on the contractor.

**THE CHAIR:** With the payments, in regard to the bill itself, TAMS does not get an appropriation from the bill but you will be charging the task force or the contractor; is that the way it works?

**Mr Perram:** Yes. It is the same as the current arrangement with the four houses we have disposed of. We will invoice the task force and they will reimburse that.

**THE CHAIR:** Is there an expectation that additional staff will be required?

**Mr Perram:** Staff is costed within the costs that are there. Additional staff are the contract staff for the weighbridge, the contractors for the disposal of the material, and we will require within the organisation itself we think one more staff member to handle and make sure those contracts are mitigated. Again that is covered within the cost there.

**THE CHAIR:** I think you took on notice from Mr Hanson a breakdown of the \$13.9 million?

**Mr Perram:** Yes.

**THE CHAIR:** So that will be broken into disposal costs, capping costs, costs of the materials et cetera?

**Mr Perram:** It was done very much at an aggregate level. We will see what we have got and we will come back to you.

**THE CHAIR:** In regard to the old quarry behind Palmerston, has there been any monitoring since the 90s as to any movement of the material that was put there?

**Mr Perram:** Not by NOWaste. It is probably an EPA question.

**Mr Kefford:** Mr Smyth, there has been an initial study of the site which was done by TAMS in connection with a potential road project around the back of the suburb. That indicated—and we are acting on it—that a more detailed study is necessary to confirm that the waste remains safely capped. We are conducting that work in consultation with our TAMS colleagues to do a survey of that site, as I say, to ensure that the material remains safely capped.

**THE CHAIR:** Can the committee have a copy of the study that prompted the further study? I assume it is a TAMS road study.

**Mr Rattenbury:** Yes, that is fine.

**THE CHAIR:** What were the concerns in the road study that prompted an additional study?

**Mr Rattenbury:** I will have to take that on notice, Mr Smyth. You may know that this is an area—I think it is Nudurr Drive.

**MR COE:** Currently it is a stump road that goes up to Abena Street; is that right?

**Mr Rattenbury:** Yes. We can probably go into the detail of that at annual reports, because TAMS is still to appear, on roads. So we could have a detailed discussion there, if you like.

**THE CHAIR:** The committee will not be attending that. Could you take it on notice?

**Mr Rattenbury:** Sure. I guess I am working on the assumption that the committee has a bill next week to focus on. I suspect this is going to be a long and ongoing issue over the next couple of years, so I am saying we can go into that particular detail at that time.

**THE CHAIR:** If the report could be provided—because PAC itself will be ongoing—and if we could have, as quickly as you could, a quick summary as to why the extra study was required, that would be gratefully received.

**Mr Rattenbury:** Of course.

**THE CHAIR:** Ms Lawder has a supplementary, as does Ms Berry.

**MS LAWDER:** You spoke about the contractor who will be responsible for bringing the waste to the dump site. At the weighbridge, you have NOWaste staff; is that correct?

**Mr Perram:** The weighbridge is staffed by contractors. But they are obviously instructed by NOWaste.

**MS LAWDER:** Once the trucks cross the weighbridge, the drivers and that contractor are under the instruction of the NOWaste or contractor staff; is that correct? They will be directing them. You have a staffing component. I think you said more people at the weighbridge and possibly one more contractor?

**Mr Perram:** One more staff member within NOWaste to manage the contracts and ensure the integrity of the whole process. The other part is that we would have staff within the weighbridge itself—as in contract staff—and contractors at the disposal site.

**MS LAWDER:** So they are all trained and you ensure they maintain credentials and that any new staff would be trained adequately for the asbestos program?

**Mr Perram:** Certainly that is the case. The weighbridge staff are required to have a certain standard of training before they are allowed to go into that site and they must have particular qualifications by the contractor which certifies, in my understanding, that they are able to manage asbestos on the disposal end—as I said before, with the moon suits and all the usual protection equipment.

**Mr Kefford:** I will just add some context, coming back to a question that Mr Perram indicated we might come back to. When the demolition occurs, the first thing that happens is the bulk of the remaining loose-fill asbestos is removed. Those fibres that remain, and indeed the whole of the structure, are then coated with glue to bond it. It is also subject to dust suppression and the load is wet when it is loaded at the site. That is done under the supervision of an asbestos removalist and asbestos assessors with air monitoring in place.

The trucks are covered. So when the load arrives at the weighbridge, yes, all of the staff are trained. The equipment is properly licensed, the staff are properly trained, and the load arrives wet and in a covered truck. So the risk during the transportation as well as that stage through to the dumping is very carefully monitored and regulated.

**MS LAWDER:** Is the training that people do an accreditation that lasts forever or are there refreshers? Is it a time period that you get accreditation for?

**Mr Perram:** The contractors are required to have qualified staff at all times at the disposal site. They have to give proof of—

**MS LAWDER:** But if I did the training, does that little certificate cover me for the rest of my working life or do I have to go back and do additional training every so often?

**Mr Kefford:** Ms Lawder, there is an ongoing obligation on all employers under the Work Health and Safety Act to ensure that their staff remain current in their understanding of safe work methods and proper approaches, and that obligation applies here. The other thing that is part of the amendments that the Assembly passed yesterday is a change to the definition of “principal contractor obligations” under the Work Health and Safety Act. While that generally has a financial threshold, it is now being moved to include the demolition of a house containing loose-fill asbestos. That increases the level of expectation, supervision and duties under the Work Health and Safety Act. That ongoing training is the responsibility of the firms doing the work, but the government, through the procurement process and through the monitoring and the active certification that goes on as part of that procurement process, will be continuing to follow that up and ensure that those accreditations remain in place. And the Work Safety Commissioner will have his normal regulatory role.

**THE CHAIR:** We are going to have to wrap up. Some supplementaries from Ms Porter and then we will finish with Ms Berry.

**MS PORTER:** With the protocols you have talked about, can the committee have a copy of the actual protocols for our records? Thank you very much. The other question is around public information. Ms Berry asked a question before about signage. Who is responsible for managing public information for people as this all rolls out, as far as saying, “Trucks are going to be coming down your road, this is what’s happening, this is how we’re managing it and this is how we’re going to make it safe for you”? Will there be a website that will be publicly available that everyone can go to and find out all the detail that Mr Kefford has been talking about? Just being told, “We have protocols and it’s safe,” doesn’t cut it with people. They want to know, “What are the protocols? How will it be safe? Where do I go if I have concerns?” There are all those kinds of things. Who will handle that public information dissemination and the queries as they come in?

**Mr Kefford:** Ms Porter, that will be the responsibility of the task force in relation to both the immediate neighbours and the broader community where we are conducting the demolitions, and also in this case with the west Belconnen community in relation to the transportation of waste.

As I indicated in my answer to Mr Hanson before, we do not expect to be seriously engaged in the demolition program until towards the middle of next year, by the time we have completed the tender process. One of the key things that we will be doing through the course of next year will be exactly the education, information and consultation piece that you are describing. That will fall under the responsibilities of the task force. Obviously, in relation to particular questions, we will work with our colleagues at TAMS to ensure that we have picked up the roads, the transportation, as well as the particular issues. We are starting to get residents of west Belconnen asking, “Is this okay? Is this going to work?”

**THE CHAIR:** A final supplementary, Ms Berry.

**MS BERRY:** Just on the weighbridge, that is a recycling depot out there at the moment. Is that going to stay there or is that going to be shut down and put somewhere else? Will people still be able to access that? How is that going to be

made safe?

**Mr Perram:** At this time we are unaware of any increased risk at all because of the location of that transfer station. The site will remain open.

**MS BERRY:** I just wondered about it.

**Mr Perram:** It is near the weighbridge but it is quite a distance from the disposal site.

**MS BERRY:** It is just that, with the road that you stop by to dispose of your paper, glass and things like that, the trucks and cars all come in the same way and people usually park on the side of the road to get their recycled cardboard or paper out.

**Mr Kefford:** Ms Berry, the trucks themselves are subject to checks before they leave the demolition site and then, as I have indicated, the loads are covered and wet at that point.

**MS BERRY:** I was not necessarily worried about that; I was more worried about the traffic issue.

**Mr Rattenbury:** We will take that on board, Ms Berry. We will make sure that the site has all of the necessary traffic management in place. We have six or seven months at least to think these things through. We will take that on board and double-check that.

**MS BERRY:** Thank you.

**THE CHAIR:** Minister, I thank you and your officials for appearing and for the answers that you have provided. A number of issues have been taken on notice. Could you provide them as quickly as you can, so that we can include them. If you cannot, PAC still continues in its role and we would expect the answers to be—

**Mr Rattenbury:** We will do our best to get everything to you as quickly as possible, Mr Smyth.

**THE CHAIR:** We would appreciate that. When available, the proof transcript will be forwarded to witnesses to provide an opportunity to check it and suggest any corrections. I thank you for your answers today, particularly Mr Byles, who is always so accurate and erudite.

**Mr Byles:** When you have good staff, Mr Smyth, you do not have to say a lot.

**Sitting suspended from 10.30 to 10.50 am.**

**HESELTINE, MS BRIANNA**, Founder and Spokesperson, Fluffy Owners and Residents Action Group

**THE CHAIR:** We will now restart the hearing into the proposed Appropriation (Loose-fill Asbestos Insulation Eradication) Bill 2014-2015 with a representative of the Fluffy Owners and Residents Action Group. Thank you for your attendance today.

To give the terms of reference for the committee, they are the proposed bill and its explanatory statement. The Chief Minister wrote to the committee on 14 November this year asking us to consider the proposed bill and its explanatory statement and the committee has determined to do an inquiry.

The objective of the bill is to enable the use of funds offered from the commonwealth government's concessional loan to the territory to help pay for the buyback and demolition scheme for more than 1,000 properties affected by the potentially deadly loose-fill asbestos, known as Mr Fluffy.

The committee acknowledges the short time frame in which it has to complete its work and that affected individuals have had to put together their submissions and attend. I wish to advise that the written submissions for the inquiry have now been received and authorised. They are being processed this morning and will appear today on the website.

In front of you is a privilege statement. I need to confirm for the record that you understand the implications of the statement, the pink card.

**Ms Heseltine:** Yes, I have read that.

**THE CHAIR:** And you understand the implications?

**Ms Heseltine:** Yes, I do.

**THE CHAIR:** Would you like to make an opening statement on behalf of FORAG?

**Ms Heseltine:** Yes, I would. I would like to thank the committee for asking me to come and speak today. I have not prepared a written submission given the very fast convening of the committee, but I appreciate the task at hand requires a swift response. I thank you for considering this draft bill.

The Fluffy Owners and Residents Action Group expresses its support for the draft appropriation bill in its current form. The purpose of the bill, as we understand it, is to facilitate the appropriation of money for the eradication of Mr Fluffy homes in Canberra. I can share with you that, given this is a publicly recorded hearing, I would like to note that the only points of departure in the group are the implementation issues around the scheme and not the appropriation bill itself, which is simply to, as we understand it, facilitate funds to ensure there is a long-term and enduring solution to Canberra's Mr Fluffy asbestos homes.

I would like to go through and share with the committee some of the background around why the Fluffy Owners and Residents Action Group formed to seek a long-

term solution to these homes. It goes into some of the health issues that we exposed over time and some of the research that we were able to do under freedom of information legislation.

As you know, between 1968 and 1979 a small business based in the Australian Capital Territory trading as Dirk Jansen and Co pumped crushed raw asbestos insulation into more than 1,000 properties in the ACT and also in the Queanbeyan area. The owner, Dirk Jansen, was known locally as Mr Fluffy.

In 1968 the commonwealth government governed the ACT, as you would know. In 1968, in July, it commissioned a report on the possible health hazards associated with the company's use of asbestos as insulation. In that report physicist Dr G Major recommended that the commonwealth government dissuade or even prevent the company from using asbestos as insulation due to the harmful nature of the substance. The risk to the community was acknowledged and Dr Major ended the report with the following warning:

With the present demand for insulation, Canberra may become a large market for asbestos insulation with many people in the community exposed because some asbestos will be carried out of the roof space by air currents.

On 20 December 1968, acting director Mr Arthur Spears from the commonwealth Department of Health forwarded Dr Major's report to the Secretary of the Department of the Interior, with a final recommendation. That recommendation reads as follows:

The results of our investigations have disclosed what appears to be a serious exposure to asbestos dust. In view of the harmful nature of this substance the use of asbestos fluff for the purposes of insulating should be discontinued ...

The advice from the department was elevated from the health medical's report to say it should be discontinued and not simply be dissuaded from use. From what we understand, the commonwealth government did not appear to act on that advice. Further, it is not known whether the commonwealth government shared this information with the New South Wales government to equip it to cease the company's operations in Queanbeyan. Over the following decade, the company went on to install asbestos insulation in more than 1,100 family homes in Canberra and Queanbeyan, as we understand it.

I will move on now to the particular type of asbestos in question. Asbestos is a general term used to describe two different classes of minerals. They have distinct physical properties. Chrysotile, which is commonly referred to as white asbestos, is now predominantly, as you may know, in white bonded sheeting. It is a member of the serpentine class of minerals. Amosite and crocidolite are commonly referred to as brown and blue asbestos respectively, and they belong to the amphibole class.

Mr Fluffy used raw, crushed amosite and crocidolite as home insulation. We understand that these particular types of asbestos carry particularly harmful properties. Unlike soluble curly fibre chrysotile, which may pose significant health implications following chronic high exposure, based on some research, amphibole asbestos fibres are sharp, needle-like and acid resistant, resulting in high biopersistence. We understand this means that amphibole asbestos can initiate deadly disease even with



short-term exposure.

According to Booker and North, while chrysotile has a half-life in the human lung of a few days, amosite and crocidolite have an estimated half-life in the human lung of 150 years. They say the following:

When breathed in, the longer of their straight, narrow, sharp, acid-resistant fibres can penetrate the lungs and surrounding tissue in such a way that they cannot be dissolved or removed by the body's defences. ... It is the build-up of such ineradicable fibres which gives rise to potentially fatal disease.

Two medical reports that I uncovered under freedom of information legislation with the commonwealth Department of the Prime Minister and Cabinet yielded the following: they were provided more than 20 years ago. They noted the serious health risks posed by the presence of Mr Fluffy asbestos insulation in homes to occupants, tradespeople and the community. One report predicted that more than one in 1,000 lifetime residents of Mr Fluffy asbestos homes would die from mesothelioma or lung cancer as a consequence of their exposure to asbestos in their homes.

Another report predicted a measurable excess of asbestos-related diseases in the resident population, with children at particular risk as their developing lung tissue is very susceptible to damage and because of the long latency period associated with asbestos-related diseases. Mr Peter Tighe, the head of the federal Asbestos Safety and Eradication Agency, believes advice on lifetime risks is actually outdated. Mr Tighe's view is that a single episode of exposure to Mr Fluffy asbestos can produce an asbestos-related disease such as mesothelioma. We certainly know there is no safe known level of exposure to asbestos.

A number of our group members in the Australian Capital Territory have reported instances of cancers which they believe may have possible links to living in their family homes. These cancers include cancers of the lung or mesothelium—more commonly known as mesothelioma—bowel disease from the ingestion of fibres, and kidney, breast, brain and prostate cancers. Mesothelioma, from my consultation with victims of the disease at the recent international conference on asbestos management and awareness in Melbourne, revealed that the malignant tumours form and crush the body's internal organs. These people have told me that it is a particularly painful disease to endure. I was very grateful to them for explaining to me some of the hardest health impacts of asbestos exposure. I have enormous respect for those advocates and all that they do to raise awareness about the risks of asbestos exposure.

I do not think it is important for me to go into the known scale of the problem. I think the survey done by the commonwealth government so many years ago was as comprehensive as any survey could possibly be. We know that more than 60,000 homes were surveyed and a number of those went on to be tested with lab tests. I think the ACT government has taken a highly appropriate step to decide to eradicate Canberra's Mr Fluffy asbestos homes.

I would like to say that, apart from the health risks, which have been primary for members of our group, a secondary consideration is the systemic failures that occur in relation to Canberra's Mr Fluffy homes. I bring for the committee's attention the fact

that we have market failures, including banks refusing to offer finance on new sales transactions. We have real estate agents who refuse to go into our homes to list them on the market for sale. We have service providers, like plumbers and electricians, understandably concerned and in some cases refusing to enter our homes to undertake maintenance work. I think anybody on the committee could understand that if one of the issues for your protection means the management of the asbestos in your home but you find it difficult to get tradespeople to maintain your home, that in itself is a significant consideration for anybody living in one of these homes.

On a final note, I would like to draw your attention to the recent communique from Australia's first international conference on asbestos awareness and management. That conference was attended by international epidemiologists, including Australian epidemiologists. It was attended by members of government agencies and unions, advocate groups and people who define themselves as victim groups, whom I see as very strong support groups for people who have asbestos-related disease. They noted:

It is the consensus of all delegates that all forms of asbestos fibres kill and the only solution is to eliminate the sources.

The international and national delegates all agreed that there is no known safe level of exposure to asbestos. I do not need to return to the other points on the communique. We know that amphibole asbestos has been said by some experts to be a particularly dangerous form. I think it is important to draw to the committee's attention that epidemiologists at that convention indicated that even white asbestos could produce asbestos-related disease even with one known point of exposure. For that reason, the Fluffy Owners and Residents Action Group supports the full eradication of Mr Fluffy homes in Canberra.

The final point I want to make before I turn over to the committee for the questions that I know you will no doubt have in relation to the expenditure of such a large sum of money to provide a policy response for 1,021 households is that there are many members in my group who do not feel that this solution in its current terms fits their needs. I believe that is a distinct point from the matter before the committee today—to consider the appropriation bill itself. But I wish to acknowledge and respect everybody's different views. We have been provided with a government solution from the ACT government. My family personally feels we have been thrown a lifeline, but I acknowledge that many people will experience varying feelings, from joy and jubilation to move on to deep grief over losing their family homes. Some of these people have lived in these homes for more than 50 years, and I acknowledge that their homes have been their sanctuaries, as mine has as well. Thank you.

**THE CHAIR:** For the record, how many people does FORAG represent?

**Ms Heseltine:** At the moment our numbers indicate that we have more than 600 families in the Fluffy Owners and Residents Action Group. I understand that approximately 10 of those families are Queanbeyan property owners. So, on balance, based on my current knowledge, we would have 590 families in the group.

**THE CHAIR:** In your submission you opened up with a line that you are in favour of the bill but there are implementation issues with the scheme, and you finished with

that same comment.

**Ms Heseltine:** Yes.

**THE CHAIR:** What are the implementation issues that are giving your members concern?

**Ms Heseltine:** I think it would be fair to say that there are two groups that have key concerns.

The first is there are a number of people who wished to live out their years in their family homes. With the scheme's current form, we understand that there will be a boarding-up policy, for want of a better term, which will make it very difficult for those people to live in their homes for the years that they wish to live in their homes. I think, on balance, it is very difficult for those families. As a spokesperson, it is my job to say what they think about this situation, and that is what I am doing by representing those views.

We have, for example, people in a beautiful home in Farrer who have worked for a lifetime building a garden. The idea of that home being knocked down and the garden destroyed is very distressing to that family. We also have other people who have lived in their homes for decades and wish to remain. They have sought consideration for permission in those instances to be given an exemption to live out their years in their homes.

**THE CHAIR:** That is to live out their years. And the second category?

**Ms Heseltine:** The second category is the people who wish to return to their land. Around 57 to 60 per cent of the members of the ACT chapter of the group wish to return to their communities and their blocks of land and rebuild. Those people wanted a significantly increased amount of funds in order to have rebuild costs. When it came back that the commonwealth government did not provide financial assistance, they turned to the issue to recognise that the ACT government needed to fund the solution itself but sought greater flexibility to work with the government to find a way to return to their land and rebuild.

**THE CHAIR:** Does FORAG have a recommendation on what greater assistance might be required?

**Ms Heseltine:** When you talk about the rate of assistance, do you mean the financial amount for each household or do you mean potentially the different terms of flexibility that could be provided?

**THE CHAIR:** Whatever is involved. What are your members telling you about what they need to be able to return to their land?

**Ms Heseltine:** The people who want to return to their land want the first right to buy back their blocks of land—not at market value at the time that they buy back in the future; they wish at that time to be able to buy back their land at the price at which they surrendered the block of land in the first place to the ACT government. They

have also sought financial assistance with accommodation during their rebuild time, because they will not have a home to live in. They also have sought financial assistance with rebuild costs. And they wanted the full coverage of the demolition of their Mr Fluffy home and the full asbestos management processes that go along with that, and the asbestos waste costs, to be covered by the ACT government as well.

**MS PORTER:** One of the questions that some of the residents have been raising is around the disposal of their goods.

**Ms Heseltine:** Yes.

**MS PORTER:** What are people saying to you about the disposal of the goods within their home, particularly those with hard surfaces?

**Ms Heseltine:** The people who have raised the issue about the disposal of goods come from those situations where asbestos has been found in living areas in their homes, in areas where goods could be contaminated, of a nature where asbestos fibres could settle—for example, fabric items such as lounges, non-hard surface items, clothes, toys, linen, paintings and potentially books in some cases. As you would know, these items are extremely expensive to replace. There has been from many people in the group a feeling of confusion about the advice, conflicting advice, from the asbestos industry and then some of the advice from the task force which has evolved over time to reflect the information base that they have been operating on.

I think we should all take a moment to recognise that if, in February of this year when the ACT government sent the letter to so many households, it knew what it knew now about the state of contamination in so many households, it would not have sent out that letter in the form it did. The ACT government has responded to an enormous growth in information and knowledge about the homes. On the same basis, the knowledge and information about the advice about the treatment of contaminated household goods have evolved, and the evolution and the potential stages of conflicting advice have caused distress to many people.

**MS PORTER:** Do you think the information has been evolving, has been unclear? What is it about the information that people are getting from the task force that you believe may have caused some confusion? Or is it the fact that people are not ready to receive the information or is it the form in which the information is being delivered? What is it about that information transfer that may have caused some confusion?

**Ms Heseltine:** My understanding, based on what people tell me, is that the homes in particular that are involved where the people have had to leave their homes due to the state of contamination, but also people who could return after a remediation of wardrobes but lost clothes and linen—the advice from the ACT government was at some stages seen potentially to be saying: “If in doubt, throw it out. You should not take the risk.” But people were then not left with financial reimbursement for those items. I think that caused a point of understandable distress for people, because they would probably err on the side of that advice if they could, and were funded to replace clothes, toys and linen. These costs could easily escalate into the tens of thousands of dollars. I know of one family who recently put in a claim with the Commonwealth Bank under their insurance policy for around \$200,000 of household contents. For

those families, it is extremely distressing to receive advice to say that your home has been contaminated and you need to dispose of a whole household's worth of goods.

I understand that, and I am not sure what else to do except what I have done, which is come to the government and seek reimbursement for those people for any goods that have had to be destroyed on the advice of asbestos assessors, contaminated items. I took forward those views and the government came forward with its decision.

**MS PORTER:** What are the insurance companies saying about that? Are people making claims for the loss of their goods?

**Ms Heseltine:** As I understand it, all of us who have looked at our insurance policies have absolute exclusions in place in relation to asbestos-related claims. For that reason, we have worked with the Commonwealth Bank recently—the head of lending services in Sydney, Matt Comyn, and others—to see if they will consider claims despite those exclusion clauses and apply a compassionate response. Those insurance claims are on foot and the assessments have yet to be revealed.

**MS PORTER:** My last question is around valuation and the reluctance of valuers to come into the home. What advice have you been giving your members around that and what discussions have you been having with the real estate fraternity around that?

**Ms Heseltine:** As the committee may know, I have a place—because I am an affected householder and have formed a group with so many affected householders—on the community and expert reference group chaired by Dr Sue Packer. Through that forum we have Ron Bell, the CEO of the Real Estate Institute. And along the way, through the CERG, I have shared the concerns of people about valuations. I think it is important to share that there was a point in time at which external evaluations were said not to be taken into consideration by the ACT government in the final decision point. We were given a response which said that the ACT government would fund two independent valuers under the Australian Property Institute who would apply arms-length valuations. Those valuers agreed to come into the homes, so the trouble and issue with the refusal to enter the homes were addressed by that response.

**THE CHAIR:** Ms Lawder.

**MS LAWDER:** I am happy to defer my question to Mr Hanson.

**MR HANSON:** Ms Heseltine, you have previously supported calls for a board of inquiry into this disaster.

**Ms Heseltine:** Yes.

**MR HANSON:** Can you outline to the committee why it is so important to you and, as I understand it, a lot of your members that there be a full board of inquiry into this whole issue?

**Ms Heseltine:** With so many thousands of lives deeply affected by the Mr Fluffy asbestos disaster, it would seem that there is only one course for the ACT government to consider—that is, to investigate in full the history, including the commonwealth

history, around Mr Fluffy asbestos homes. We feel that so many lives have been put at risk. We do not know the full risks. All of us who have lived in these homes must live with the knowledge that we have potentially exposed not only visiting family members, friends, tradespeople or others through our lack of knowledge about the ongoing asbestos contamination but also our own children. For that reason, I think that many of us feel that our children deserve to understand more of the history around the handling of the homes. For us, this is a matter of looking at information that has been made available over time and looking at the decisions made. Certainly, we believe that this should be an inquiry that spans all levels of government, including the ACT, commonwealth and New South Wales governments.

**MR HANSON:** You understand that an inquiry under the Inquiries Act—

**Ms Heseltine:** Would be ACT limited. For that reason, we would like to see terms of reference that are expanded. We want a coordinated national response to this issue, because we do not believe this issue has been left with us by the ACT government. We understand that the history of Mr Fluffy's operations occurred prior to 1989 and self-government in the Australian Capital Territory. We would ask the committee to consider that a future inquiry, to be most effective to affected householders, look at the commonwealth's history, and look at New South Wales and the knowledge that it has had in relation to the number of properties.

I draw to your attention that while jurisdictionally it is beyond your remit, I ask you to consider that we know that 58 properties potentially have been identified for many years in New South Wales. These people have been living with the full amount of Mr Fluffy asbestos in their homes. There are no protections, as we understand it, in their conveyancing deeds or schemes to provide a trigger point for knowledge. We know we have received a certificate of completion of asbestos removal work, which to us meant completion, to our solicitors. Many of us—my family included—did not see that certificate. It was buried at page 79 of a very lengthy contract of sale that went to my legal adviser, who sits on the Law Council of Australia's property law committee. He is the chair of that national body and a very well respected Canberra conveyancer.

We support an inquiry, certainly, Mr Hanson. We draw to your attention, though, that to be the most useful we believe it should span all of those levels of government.

**MS BERRY:** A supplementary on that. Understanding that an inquiry in the ACT would only be on the ACT, would it not be more appropriate for the commonwealth government to take responsibility for what is happening nationally around loose-fill asbestos and asbestos more generally and to conduct something like a royal commission?

**Ms Heseltine:** Yes, Ms Berry. But I must say to you that it is the strong wish of all of the members of the Fluffy Owners and Residents Action Group to first focus on a solution for us in relation to our homes. The treatment of people who wish to live out their years—if there could be more flexibility for those families. The people who wish to return to their blocks of land and rebuild—if there could be more flexibility so they could actually afford to do that. It was meaningful to them. I think they would deeply appreciate that. Those who wish to sell up and move on—of course, they are the

happiest in the group. There are a significant number; we understand it is approximately 45 per cent of our ACT group members. The current decision fits their needs. But we certainly believe there is commonwealth history here that needs to be investigated.

I shared yesterday in the press the views of the group that we feel disappointed with the commonwealth's response to the memorandum of understanding. We believe this is an issue—a policy issue, a serious policy issue—requiring governments to govern.

We understand that there were a series of courses of action investigated by our lawyers over a possible class action. Those courses of action related to trigger points at specific points in time over the many decades since 1968, when Dirk Jansen began his operations in the ACT.

Unfortunately, that advice revealed that in respect of action against the commonwealth, irrespective of duty of care issues and courses of action, we would be statute barred because more than six years had elapsed given the long history that has occurred since the commonwealth did not act on that advice that it commissioned in relation to Mr Fluffy. We feel very strongly that the commonwealth should come in with financial assistance in the terms of the memorandum of understanding's framework, which would see two-thirds of the scheme funded by the commonwealth government.

That is a moral observation, though, from people affected. We understand the fiscal constraints that the current commonwealth government faces. But, certainly, when you think about this issue, it is not something that the ACT government had carriage of when Mr Fluffy was operating. The government formed in 1989. I draw to your attention as well that it did not even have carriage of the design of this ill-fated removal program. It inherited that program decision from the Prime Minister at the time, who I believe was Bob Hawke.

**MS BERRY:** Ms Heseltine, regarding the people who say they want to stay, I understand that people have been bombarded with information and there is some grief and shock that goes with it, but do you think they understand the health implications, not just for them but for people who come into their homes, their family? Is that sort of information getting through?

**Ms Heseltine:** Ms Berry, I think it is fair to say that people have been provided with a full complement of information in relation to their homes by this stage. I would say that those people say to me that their first response is, "If I have been exposed for four decades, what does it matter now to me?" For those people, all I can say is that they are entitled to their feelings and their response in relation to their home.

I do draw to their attention that if they have visiting grandchildren, if they wish to engage the services of trades or have other community members visit, like carers or meals on wheels, there would be an issue there for their consideration. They understand that and they say that they would like to seek some consideration potentially to have asbestos management plans which can provide some level of protection to those visitors. I think that that is their view.

**MS BERRY:** Has FORAG lobbied the commonwealth government for more financial assistance as a body itself outside of the ACT government negotiations?

**Ms Heseltine:** Yes, we have. I have met with Senator Abetz twice. On the first occasion I met with him with all of Canberra's federal members and I put the case to the commonwealth that we understood the history and wished for the commonwealth to come forward with a response to assist the ACT government on terms that it and the Chief Minister of the ACT government could form together. We recognise that this is a decision for ministers. I went as an affected home owner bringing forward the views of affected home owners.

At the second meeting I took a party of people, including people from Queanbeyan. We took the opportunity to raise with Senator Abetz and with the commonwealth that we would seek the commonwealth to provide financial assistance. We hoped that it would provide that financial assistance in line with the memorandum of understanding.

On that occasion we also asked for financial assistance for New South Wales but acknowledged that was a matter for the commonwealth. At that time Senator Abetz took the opportunity to say that he understood the risks that we were facing. He said that he would work with the ACT government to provide a response. I think, though, it is appropriate to say that we always understood the bounds of that conversation. We were affected home owners and we respected that it was a matter for ministers to discuss the details, particularly in relation to cabinet privilege of some of the finer details around funding. So I always respected the boundaries of those conversations and I appreciated the opportunity for our families to go and make those representations to the commonwealth.

**MS BERRY:** Just on the number of people who have signed up to the scheme so far, some of those people might be members of FORAG and might have some differing views about the implementation of that.

**Ms Heseltine:** Yes.

**MS BERRY:** I understand the task force is going to be talking with families and home owners one on one from now on.

**Ms Heseltine:** Yes.

**MS BERRY:** So the actual detail of the bill and the implementation will then be explained. Is that something that you think will be of assistance to families in making a decision about whether they stay, whether they go or whether they want to buy back their land or not?

**Ms Heseltine:** Thank you, Ms Berry. I believe it will be. But I think fundamentally for those conversations to be meaningful to the people affected, they would probably wish to see some flexibility from the response. I do not know the extent to which the impacts on the implementation of the decision have also been formed and firmed up by the ACT government. But I think there is an expectation that if there is a conversation, there could be an opportunity to have flexibility from the government in relation to each family home. I do not know how feasible that really is in practice and



that will be a matter for the government to decide.

But, certainly, along the way our group members have told me that they believe statements have been made that did give rise to an expectation of some flexibility, particularly in relation to the timing of when people leave the homes and their ability to return to their land and rebuild, given that that was such a strong enduring theme among home owners in Canberra.

**THE CHAIR:** Dr Bourke, do you have a question?

**DR BOURKE:** I will defer and allow Ms Berry to continue her questions.

**MS BERRY:** I wondered about the information. I think everybody in Canberra has been touched by this in some way, but I wonder whether the information from the task force—I know there has been a lot—is answering people's questions and is the information covering all the concerns that they have?

**Ms Heseltine:** I think there are two ways to answer this question, Ms Berry, if I am going to speak honestly on behalf of the group: the provision of the information itself and how we feel about it. That is the secondary issue. I think it is only fair to point out to you that how we feel about it is a strong and enduring theme in our responses. The information itself is there. I know that we are dealing with a very traumatised population of people. I sometimes have to read documents nowadays three times before I can take in what they are saying. I draw to your attention that there potentially has been confusion. As a bureaucrat myself, I can only say to you that it is a common theme that people say they receive information from governments or government officials and they say they do not understand it.

I think the task force has said that they would be responsive to advice about clearer, plainer language and less words and, if there is flexibility, a chance to really influence the outcome for each family. I think that is how people probably genuinely feel. Everything I have done has been my best endeavours to represent such a large group of people. I have done that faithfully at every step of the way. I understand that there will be some people who have been devastated by this decision, and I stand by everybody's feelings in response to it. However, on balance, I simply do not know what, in the absence of commonwealth funding, the ACT government could possibly fund in addition to what has been tabled in this appropriation bill.

**THE CHAIR:** Time has unfortunately run out. On behalf of the committee I thank you for your attendance today.

**BELL, MR RONALD**, Chief Executive Officer, Real Estate Institute of the Australian Capital Territory

**THE CHAIR:** Welcome to the public hearing of the public accounts committee inquiry into the Appropriation (Loose-Fill Asbestos Insulation Eradication) Bill 2014-2015. The terms of reference of the committee's inquiry are the proposed bill and its explanatory statement. The committee took the decision to hold this inquiry following a letter from the Chief Minister, which was dated 14 November, asking us to consider the proposed bill and its statement in advance of the bill's introduction, which, of course, was tabled on Tuesday of this week.

The objective of the bill is to enable the use of funds from the commonwealth government's concessional loan to the territory to help pay for the buyback and demolition scheme for more than 1,000 affected properties with the potentially deadly loose-fill asbestos Mr Fluffy in their roofs. We have a very short time frame to do this. There will be two public hearings, today and Monday.

There is a privilege statement in front of you. I need to confirm for the record that you have read and understand the implications of the privilege statement?

**Mr Bell:** Yes, I have read it and understand it.

**THE CHAIR:** Would you like to make an opening statement to the committee?

**Mr Bell:** Thank you for the invitation to be here and thank you for the opportunity to make a brief statement. Principally the area of major concern for me as the chief executive of the real estate agents has been to ensure that all agents understood their responsibilities of disclosure and the way that they should be treating their clients and being as helpful as they can throughout this particular situation.

We first became involved probably in the first quarter of this year. A series of meetings and seminars were held, a major one involving WorkSafe, Mr Andrew Kefford, and the industrial relations people along with our legal people. At that time we spent a lot of time emphasising the need for proper disclosure and the need for agents to be aware of the vendors' and landlords' responsibilities in terms of their level of disclosure as well.

We prepared a whole list of questions that we sought for agents to include in their agreements, both from a property management perspective and also from a sales point. Not all have used those questions that way but we have been encouraging it as much as we can. We have continued with warnings of disclosure and the need to be as compassionate and as helpful as possible through this time.

I open every seminar that we organise and run with a statement about the Mr Fluffy situation, and we continue through newsletters and other forms of communication to press the point. With anything that has come out of the task force where we have been requested to make sure that the industry is well informed, we have acted immediately.

As a consequence of all of that, the Chief Minister saw fit to appoint me to the

community expert reference group. I am trying to make a contribution on that particular group. I have attended a series of public meetings. One, in particular, was at Kambah where there were a significant number of people—close to 500, I believe—and my observation at that time was that 80 per cent of those people were cranky. I have opened the door so that anybody who wanted to contact me could do so, and I would walk them through the processes as much as I could.

In fact, I am taking an elderly lady to see Mr Kefford next week because I felt that she did not fully understand the package that was presented, although I felt the package was pretty good, I might add. I will take her along and sit with her through that process to make sure that she—she will be treated the right way—does walk away fully understanding the process that is in place for her.

On that basis, I have had quite a number of experiences with people who have the problem. I have had grown men on the phone crying because of family situations and the stress that has been caused to them and their family. I have certainly had a lot of people who have been unable to find appropriate accommodation when they have decided to leave the family home. We have set about putting things in place that would help them do that.

The latest one was yesterday where a 73-year-old lady has been accommodated by one of our agents in Belconnen, and he emailed me this morning and said everything is in place, she has now been approved by the owner to go into this property and she will be right, so to stop worrying. That sort of thing is ongoing for us and we will continue with it right through to the end of this process.

**THE CHAIR:** You mentioned that you had suggested to agents that a copy of inclusion clauses be in contracts. Is it possible for you to provide a copy of that document to the committee?

**Mr Bell:** Of course.

**THE CHAIR:** Is the average cost of conveyancing for a home in the ACT known and, if so, how much is it?

**Mr Bell:** It probably varies on where you are and what suburb you might be in. I would think \$2,000 would be about the average.

**THE CHAIR:** What will the effect of this be on the market as it currently exists? A thousand houses are about to be withdrawn and there will be a thousand people either purchasing or renting and then at some stage the government will release housing blocks back on the market. What kind of effect is this going to have on prices?

**Mr Bell:** I had hoped that any spike in the market would be minimal. I am finding that is not the case. I am finding that not only does our market have about 1,000 houses fewer than what it should have for this time of the year and for the size of the territory, but we now have the problem where Fluffy owners are fairly active in the marketplace and seeking to get some sort of resolution.

The other problem, if I may say so, is that availability of land in the ACT does not

exist. If you want to buy a block of land to build a house on, you might have to wait three years while they build the road and put in the sewerage, the electricity and everything else there. When we were advised at a committee stage that there might be 300 blocks available for Mr Fluffy owners to purchase and move into a new home, it was not quite right because it will take some considerable time before the land that they were talking about in Moncrieff and other suburbs will be ready to build on. Of course, to build a house takes another 12 months.

The impact on the market, as you asked, is that I think it is going to have a fairly—I will not say severe—serious impact, and that is contrary to what I have been saying in the last couple of weeks.

**THE CHAIR:** That is because of your experience of the reporting back from the members of the institute?

**Mr Bell:** Yes.

**THE CHAIR:** Does that mean that if I am a Fluffy home owner and I got a valuation as at 28 October the value of that valuation is already being eroded because of what you have described as the serious impacts on the market?

**Mr Bell:** “Eroded” is probably not the right word, but a real estate assessment of the value of a property will always be higher than that of a true valuation. I fully understand that the government has to go through a process of having the appropriate people sign off on this sort of thing. Using the Australian Property Institute and valuers is proper and right. The impact of Mr Fluffy owners purchasing—I had one yesterday where there were two Fluffy owners competing for the same house. The vendor became stressed because they were accepting a bid and then another one was coming in over the top. In the end, the vendor decided that they would stop at the first bid and offer it back to the first person and say, “There will not be any more bids.” I was pleased with that, because there were no contracts, no agreements, no acceptance in place. I was pleased that somebody had a little compassion there from a seller point of view.

**MR HANSON:** Hear, hear!

**Mr Bell:** Yes, that is important.

**THE CHAIR:** That Canberra spirit is shining through, and that is a good thing.

**Mr Bell:** Generous people.

**THE CHAIR:** Ms Porter has a supplementary then we will move to her substantive question.

**MS PORTER:** I had a supplementary around how the market is going to behave, around the questions that the chair was asking you. Do you believe there might be peaks and troughs, though, because of the fact that some people will want to move immediately and others will want to move later? We are not quite sure how it will all pan out. Do you imagine there might be other influences with movements around the

commonwealth that we hear about, with whole departments being moved from here to other places? Do you think other influences, such as commonwealth decisions about whole departments being moved from here to other places and about selling any land that they own in the ACT and the decisions of home owners about when they move and when they do not move, will have an effect?

**MR HANSON:** I know this is a bit unusual but Ms Porter just referred to news reports of whole departments moving. I wonder if she could point to—

**MS PORTER:** I thought that tax was moving. I was of the understanding that—

**MR HANSON:** A small number out of a department, I understand.

**MS PORTER:** Sorry. It was my understanding that tax was moving. I do not think it really matters.

**THE CHAIR:** We have got limited time.

**MS PORTER:** I am quite happy for any clarification around that, but I am referring to any commonwealth decisions around moving anybody from any department to somewhere else in another place entirely or decisions around selling land that the commonwealth may possess here. We do not know what the commonwealth is deciding from day to day, to be honest. So let us proceed on the basis that this is an unknown. What kinds of influences do you think these might have on this whole situation?

**Mr Bell:** I will revert to an earlier statement I made at the beginning to say that we have about a thousand fewer houses on the market than we would normally have at this time of the year. The impact of redundancies in the federal public service has not really shown its head yet, and there have been a significant number of those. The impact of tax or somebody moving to Gosford means there will be some change in that and that may assist, if nothing else, with accommodating some of the needs and demands that are coming through. It might put it down a little.

The important thing is that it is 1,021 possible purchasers or renters over a five or maybe seven-year program. You have got to look at that in context and the effect that that will have. In the meantime I am anxious not to see an artificial boom get built into the marketplace because it will fall back very quickly if that is the case.

**MS PORTER:** My substantive question is around something that was said to us before by Ms Heseltine of the Fluffy Owners and Residents Action Group that initially it was difficult for some people to get their homes valued because there was a reluctance on the part of some of the agents to actually enter the homes. What is your experience of what is happening around that and how is that being managed? One can imagine the reluctance of people to enter homes. I am not criticising in any way people for being reluctant. I am just wondering how that is being handled by your institute.

**Mr Bell:** Firstly, agents are not valuers, but they may go to form an assessment on the value or the end selling price of a property. That is the owner's right to do so and it is

proper to do so, so that they have some feeling about what valuers are going to do. I mentioned that valuations by registered valuers against real estate assessments are always going to be a little bit lower. But, as I understand it from the task force, quite a number of people have accepted the valuations already and are proceeding to quit the property and move. So it appears that it might be levelling itself out in the right way, given the instructions to the valuers that they are to ignore the presence of asbestos, that the property is in good working order and there are no unapproved structures and all that sort of thing. It appears to be working out the right way and I would think that will continue. It needs to settle down, Ms Porter, and the angst to be taken out of it. We have only started this angst since the beginning of November. We are trying to get that watered down and take that out of it, and I am sure everything will start to flow a little bit better.

People moving out of the territory: yes, that will help for a little while. People are understanding that they do not have to move straightaway; they do not have to accept the offer put forward by the territory, but, certainly, they have to attend to the problem at some point. I would think, whilst there will be a spike in the market, it should be able to be handled.

**MS PORTER:** It is around the emotional support of people—you talked about them not being able to understand the information, even though—

**Mr Bell:** The elderly people are having difficulty understanding.

**MS PORTER:** Do you believe that your members and the people you are dealing with are getting enough emotional support at the moment to be able to deal with this right now? Is it necessary for the government to provide more in the way of psychological support in order for them to be able to deal with this matter?

**Mr Bell:** I think they are providing that support. Within that group that I belong to, there are people there who are very much aware of the psychological issues and the need for comfort and the need to be supportive in every possible way. Every time we meet they speak openly about what is needed and what is to be achieved on that basis. So, yes, I do think there is plenty out there. Are they asking for it? I am not sure about that. But, if they ask for it, I am sure it is there.

**MS LAWDER:** Mr Bell, you mentioned that you feel there are already about a thousand fewer homes on the market than we might need and that the Mr Fluffy event may have a serious impact on the market, although originally you had not necessarily thought that. From the early stages that we are at, do you have a feel for whether people who live in Mr Fluffy homes are looking to buy another home and whether they want it to be new, because they are a bit scarred from buying an existing older home in the past, or whether some people may take the opportunity to move to an apartment? Have you seen any trend in the way people are looking to purchase a new place, or is it too early for that?

**Mr Bell:** It could be too early for it. There is a financial impact here. It may be very difficult for a lot of people to proceed in that way, to move to new housing accommodation, detached accommodation, simply because of the imbalance that is there, unless they are on Mugga Way or somewhere and have given up their property.

At the last meeting that Ms Heseltine organised at Kambah, I was actually booed for suggesting that people would move towards apartments, retirement villages and what have you. But in actual fact they will. The letters and the phone calls I had after that were to say, “Well, that’s exactly what I’m going to do. I am going to go that way, but, firstly, get my valuation and work out where I’m going to go.” There is going to be a need to get into a diverse range of housing by a lot of people and a lot of it is going to be governed by the price.

**MS LAWDER:** Do you feel we have enough of that diverse range available to meet those needs?

**Mr Bell:** I think you have everything but blocks of land.

**MS BERRY:** You told a story before about sellers deciding not to go through with the auction process—going with a bid rather than continuing on with the auction and Mr Fluffy home owners bidding against each other. I know it is pretty early in the game and there is probably a little bit of panic in the community from home owners who are trying to find out what is out there and perhaps being able to make the move. Are you finding at this stage that buyers who are not Mr Fluffy home owners are leaving the market for Mr Fluffy home owners to have priority?

**Mr Bell:** No, I do not find that. If you look at the Saturday results of the auction clearances, they are over 50 per cent—over 60 per cent in some cases. There are plenty of people out there competing for the properties. The problem is that there is not the diverse range of properties on the market that would cater for everybody looking for accommodation. It is going to be a while before we achieve that. The Fluffy owners could be creating a little bit of anxiety with other potential buyers who might feel that they have got more money than they have and they are a little bit more desperate to go and buy something. That is not going to be the case in every sale.

**MS BERRY:** Have members of the Real Estate Institute been meeting about how you manage the emotions of people and the volatility of the market at the moment given this unique circumstance that the ACT is going through right now? Is there work being done about how real estate agents react to this? I do not want to make them out to be the bad guys in this.

**Mr Bell:** They are certainly not.

**MS BERRY:** Of course not.

**Mr Bell:** Most of our communication today covers off on Mr Fluffy aspects, whether it is the emotional side of it or that you need to be more compassionate, you need to ask more questions, you need to talk more to people. We are doing that all the time. I will continue to do that until I see the place is settling down and that everybody understands their responsibilities with this. The penalty for non-disclosure is huge, and I do not want the government to find that they need a scapegoat to pin someone to the wall with a million dollar fine. I want to make sure the communication goes not only to the members of the institute but to all agents. There are about 800 of them. They are on my database and they get information all the time about being careful, about understanding what their responsibilities are and whether they are asking the

questions. I have been into older houses in Deakin and I have asked the question of the agent, “Is this a Mr Fluffy home?” I have had the answer, “I don’t know” and I have had to say, “You need to know. You have to find out. If it was not your responsibility in the past, it is today. You need to know, and you need to then tell people. As they walk through the door, they want to be sure that what you are telling them is the truth.”

**MR HANSON:** The thousand fewer homes on the market than would normally be the case: have you done any analysis of why that is so, and is there any element of Mr Fluffy involved in that or is that just coincidental?

**Mr Bell:** No, I do not think it has anything to do with Mr Fluffy. I think it has a lot to do with the availability of serviced land. I think it has a lot to do with uncertainty in the marketplace by those who perhaps are a little worried about their future and are waiting to see. That will happen for some considerable time I would think. I cannot see us getting back to the right level of housing for at least 12 months.

**MR HANSON:** What has gone wrong with land supply? Have you looked into that?

**Mr Bell:** I remember when we used to sell land when there was a road in front of it and there was sewerage and a light pole. We do not do that anymore. We sell something that has been pegged out—no roads, no nothing—and we ask somebody to pay \$200,000, \$300,000, maybe \$400,000, for it and wait two years while it is being serviced and fixed up, and then those people have got to wait another 12 months while they build their home. Then in some instances what was pegged out is not the end result for them. For whatever reason, governments have changed their mind about the way that they have a land supply.

**MR HANSON:** How recent is that phenomenon? Has it been evolving over the last few years?

**Mr Bell:** I think probably for the last 10 years that is the way it has been going. As you know, I hate to see rates go across the border, but developments such as Googong and Tralee will be very successful.

**MR HANSON:** So the problem we might see for Mr Fluffy home owners, if there are blocks available ready to go in Googong and Tralee, is that they do not get the stamp duty waived if they go to New South Wales, do they?

**Mr Bell:** No, they do not.

**MR HANSON:** So we may have a situation where there is a block of land ready to go, they cannot go to the ACT but they could go to New South Wales but they do not get the—

**Mr Bell:** They do not, but the land is going to be cheaper and the process will be quicker. So there is a saving in both those areas.

**MR HANSON:** So they will balance that up?



**Mr Bell:** It is a commercial decision you make.

**MR HANSON:** This might be a question for another day, but have you done any body of work to see what those flaws are in the ACT system?

**Mr Bell:** No, I have left that to the other industry associations to run with because they are heavily involved in that sort of activity. We have been on the fringe, and because we are on the fringe I have decided maybe we should not be too vocal about it. But here I am today being vocal about it.

**THE CHAIR:** Ms Porter has a back-up question.

**MS PORTER:** It was around the questions that Ms Berry was asking you before about the emotional and psychological impact. I am also concerned about the emotional and psychological impact on your members and the other agents because, if they are working with these people and, as you say, being compassionate and doing all those things that you are suggesting that they should do when they have any contact at all with Mr Fluffy owners, who is looking after you and who is looking after them? Every time you hear these stories, they have an impact. What has your institute suggested or put in place or investigated in terms of looking after your members?

**Mr Bell:** Ms Porter, absolutely nothing. You have now given me another job. I suppose the agents have been very mindful of what they have got to do for everybody and they have not expressed to me any concerns for themselves. There have been concerns for staff where there are property managers involved, doing inspections and organising for service people to repair things when they know it is a Mr Fluffy home. There was quite a lot of concern as to how you now identify. Back in May we were saying, "Well, maybe we should have a list of what's available so that you could call us and we could make sure that you understood it." The government decided on a plate to go in the meter box. I think that is not a bad result. It identifies that that is a house. The impact of what it does to those who look at it and decide that they are not going to fix the washing machine? I am not sure about that. But I think in the end it all gets resolved one way or the other.

In terms of emotional impact on real estate members, they have got to be big and tough, Ms Porter, and we just have to let them be that way.

**THE CHAIR:** A final question to follow up on your earlier comment about a serious impact on the market. What can the government do to lessen that serious impact?

**Mr Bell:** Chairman, I do not think it can do very much at all. I think one of the areas that have to be addressed is the way that we do land supply. Apart from that, I really believe probably the government are doing everything they possibly can in this area. I am not sure that there is another step they can take. I am very much aware of the pressures that the task force are under and I am very pleased about the results that they are achieving at this point of time. If that continues, the government and those involved are probably doing the very best they can.

**THE CHAIR:** We will ask the Minister for Planning about land supply this afternoon.

Thank you, Mr Bell, for your attendance today. You have taken a question on notice and if you could get us that information quickly that would be appreciated. A proof transcript will be forwarded when it is available, for you to read and offer any suggestions for corrections if required.

**Sitting suspended from 12 noon to 1.01 pm.**

**GALLAGHER, MS KATY**, Chief Minister

**KEFFORD, MR ANDREW**, Head, Asbestos Response Taskforce, Chief Minister,  
Treasury and Economic Development Directorate

**THE CHAIR:** Good afternoon and welcome to this afternoon's hearing of the public accounts committee inquiry into the proposed Appropriation (Loose-Fill Asbestos Insulation Eradication) Bill 2014-2015. The committee resolved on 17 November 2014 to inquire into this bill. The terms of reference for the committee's inquiry are the proposed bill and its explanatory statement. The Chief Minister wrote to the committee on 14 November 2014 asking it to consider the proposed bill and its explanatory statement in advance of the bill's formal introduction in the November sittings of the Legislative Assembly, which occurred on Tuesday.

The objective of the bill is to enable the use of funds from the commonwealth government's concessional loan to the territory to help pay for the buyback and demolition scheme for more than 1,000 properties affected by the potentially deadly loose-fill asbestos, known as Mr Fluffy.

The committee is doing its best in a very tight time frame to balance the request of the government for a speedy resolution of the bill, as well as to provide an opportunity for those interested members of the community who wanted to submit their views.

The committee acknowledges the short time frame in which it has to complete this important inquiry, as well as the overriding public interest in the proposed legislation. While the committee will complete its inquiry with its report, the committee emphasises that the outcome of its inquiry will be more than the report alone. It will also be the evidence on the record from the two public hearings it is holding and the views of over 55 interested members of the community as submitted in written submissions, the majority of which are now on the website.

I am also pleased to advise that written submissions to the inquiry as received and authorised by the committee are now available for viewing. Versions uploaded to the website where applicable will redact residential and personal details, emails, phone contacts et cetera. There is no list of Mr Fluffy houses, and the public accounts committee will not be publishing even an amended one. The submissions will be published with surnames attached. In some instances the surnames will be withheld to protect the privacy of submitters.

This afternoon the committee will be hearing from three ministers. We will hear from the Chief Minister, followed by the Minister for Planning and then the Treasurer.

I will now ask those appearing to confirm for the record that you understand the privilege statement and its impact.

**Mr Kefford:** Thank you, chair.

**THE CHAIR:** Thank you for that acknowledgement. I remind witnesses that the proceedings are being recorded by Hansard for transcription purposes as well as being webstreamed and broadcast live. I remind all those present that the proceedings of the

committee amount to a proceeding of the Assembly and I ask those present to follow the rulings of the chair, not to interrupt proceedings and to follow any directions given.

Chief Minister, you have suggested you would prefer to go straight to questions, so we might start with some of the questions that clearly emerge from the submissions and from this morning's discussions. It would seem a large percentage of the people who are affected would like their homes to be demolished, to allow them simply to return to their blocks and rebuild their lives. Some of the numbers this morning were that 50 or 60 per cent of those that have been in contact with FORAG, for instance, would simply like to go back to their block. Is that possible and how would that happen?

**Ms Gallagher:** I welcome the opportunity to appear today. As part of the government's buyback offer we have been cognisant of the desire of home owners affected who may wish to return to their block. As part of the government's proposed preferred way forward and proposal we have put out that people are currently considering, there is the first right to return to those blocks.

The issue that I think is causing concern is that, as part of our ability to recoup some of the costs associated with the buyback, we are looking at adding development rights to those blocks, and that would increase the price of the land. That is causing some concern to home owners. If we do not do that, if we do not look to take uplift out of the land, it would mean that you could add around \$90 million to \$100 million to the cost of the scheme overall.

**THE CHAIR:** Where is the government with, as you call it, the first right to return? Has it been ruled out?

**Ms Gallagher:** No, that is part of the offer—that people indicate at the time when they opt in to the scheme. As of today we have 571 of the 1,021 homes, although a small number of those are public housing. So there are 571 of 1,000 homes where the home owners have opted in to undertake the valuation process. At that point in time they can indicate whether they would like to have the opportunity to rebuy their block. I saw some figures on that yesterday. That is about 25 per cent, I think.

**Mr Kefford:** It is a bit higher, Chief Minister. We have not done those numbers on today's registrations, but when we last looked, of the around 550 that we had done, about 250 had indicated a desire to return to their block. The remainder had either said no or were uncertain on that point.

**MR HANSON:** The \$90 million or \$100 million figure that you used, is that assuming no uplift on all the blocks or is that taking into account that only 50 per cent have indicated a desire to return?

**Ms Gallagher:** That is the total net value uplift from the blocks that would be rezoned, and only those over 700 square metres are being considered. Some of that comes from the extra development rights and a portion of that comes from having clean blocks to resell to the market.

**MR HANSON:** So if only 50 per cent, or whatever number, expressed that desire to

return, that amount would be more like \$40 million or \$50 million; is that right?

**Ms Gallagher:** Yes. If we are looking at it in dollar terms, if you are looking at having to find another way to, say, recoup \$90 million to \$100 million, it is around \$660 per household in Canberra, if you apply that to the rates base. If you halve that, you would have to look at recouping about \$330 across the rates base, if we were wanting to maintain the overall net cost at \$300 million to \$400 million, which we have accepted is going to be the true cost of the scheme.

**MS PORTER:** I have a couple of questions of clarification about that. When you mentioned people expressing interest in buying back the block, are we talking about them wanting to buy back their whole block? Is that what you are saying? Is that what you mean by “buying back my block”?

**Ms Gallagher:** Yes.

**MS PORTER:** That is correct?

**Ms Gallagher:** Yes. It might have extra development rights attached to that block.

**MS PORTER:** But they want to buy their whole block back?

**Ms Gallagher:** Yes.

**MS PORTER:** The second thing is: when you are talking in terms of the dollars that you have just been explaining to Mr Hanson and to the chair, there has been a lot of commentary in the media about the government actually profiting from this subdivision of land and uplifting of land et cetera. Is what you are saying that the government will not be profiting from that, and that in fact the money will be going back in to making sure that the scheme works, and that is necessary, desirable or whatever the terminology would be to make the net cost of the scheme manageable, or would there be an amount of profit if everybody decided to allow the government to buy back their blocks and to subdivide the large blocks?

**Ms Gallagher:** There is no profit associated with the scheme at all. There is an acceptance by the government that there is a minimum net cost of between \$300 million and \$400 million, and that is because there are some costs that cannot be recouped. We are offering to buy homes that are currently being valued at zero or close to zero because of asbestos contamination, and we are offering to buy them at market rates as if the asbestos was not present. We also have the cost of buying the house and the land, the demolition costs, the waste, the remediation costs—they are all being met.

The majority of that is sunk costs—the house, the demolition, the waste removal, the decontamination. The only offset to that is the land and being able to resell the land. We expect it to be a net cost of between \$300 million and \$400 million. It is hard to say because we are just starting the valuation process with homes now. The uplift from the land and the reselling of blank blocks would provide some offset to that net cost. If you do not proceed with that, you just add that into the net cost. So instead of being between \$300 million and \$400 million, you would add between \$50 million

and \$100 million to that bill. That is the bill to the ACT community, not the ACT government.

**MS PORTER:** I have a new question. Some affected home owners wish to assist themselves with the clean-up of their homes. They want to be involved in some way in taking their possessions from their home, being able to clean those, particularly those with hard surfaces. So they want to be involved in that in some way. Is that going to be possible? Are people going to be able to retain some of their possessions that can be cleaned safely?

**Mr Kefford:** Ms Porter, the answer to that question in short is yes. We have been working with the Chief Health Officer, the Work Safety Commissioner and some of the asbestos experts who assisted us in the development of the task force's report to prepare a policy in relation to the removal of contents from the affected houses, which has been published and provided to the home owners.

In short, that policy says that goods that have been stored in a subfloor or in the ceiling should be presumed to be contaminated. Goods that are in a cupboard where we found asbestos should be presumed to be contaminated. But in most cases in most homes it is not the case that everything needs to be thrown out. That is a decision that needs to be made based on the asbestos assessment for that particular property and it is a decision that home owners will need to make with that advice in mind. That document also countenances the wiping of hard surfaces, if that is something the home owners wish to do. But, at the end of the day, the decision in relation to contents, apart from those areas where contamination is presumed, has to be made case by case based on the asbestos assessment for that home.

**MS PORTER:** It appears that, with insurance policies that people have, they have no coverage; is that correct?

**Ms Gallagher:** That is right.

**MS PORTER:** That is our understanding. One would imagine that would apply to the contents as well as the actual building. Therefore, if they have possessions that they have to dispose of because of fibres being found where they are stored—whether they are inside a cupboard, inside the roof or underneath—and the cost is more than the actual compensation or assistance that the government has offered at the moment, where do these people go?

**Ms Gallagher:** In general I can answer the question. We have tried to be as generous as we can in terms of the financial assistance we can provide to people. But we cannot replace old for new. We cannot accept all of the costs of everything, because then we would not be able to financially proceed with the scheme. We have looked at all of these issues and agonised over all of these issues for the last three months or so as we have been trying to work out how to put on the table the fairest offer to everybody, mindful that we cannot individually negotiate a particular or separate package with everybody.

The idea of the financial assistance which allowed people to move out of their homes is now extended to provide people with some financial assistance for some of the

costs. I accept that for some people it might not be all of the costs and for some people it is more than the costs. But again it is very hard to be able to cover everything for everybody. It simply becomes an unaffordable scheme.

In terms of the financial assistance, the payments of financial assistance to families already exceed \$2.5 million. That is money that has been going out since the original decision was taken to establish the task force and provide some financial assistance. That is money that has gone to individual home owners. Some of them have had a bit more where they have been in severe financial hardship. We have negotiated on a number of individual homes. But certainly the \$10,000 and then the \$2,000 for every child is meant to offset some of the costs—not all but some. That is where I have also gone to the corporate sector and the utilities, the banks, to try and minimise costs for people, mindful that every time anybody moves there is a range of costs incurred by home owners. We would argue that we should be looking as a corporate and government sector to reduce those costs where we can.

**MS PORTER:** And the reception you have got?

**Ms Gallagher:** So far everyone has been pretty good. Some are more organised than others, I think it is fair to say. Some have prioritised and put in place teams and arrangements to deal with Fluffy home owners. Others are in the process of doing it. But so far it has been a positive response.

**Mr Kefford:** Ms Porter, the task force has had conversations just this week with a number of the big insurance companies, who are beginning to engage with the sort of response that the banks have been leading in terms of putting in place teams. We are hearing that there are some home owners who are having some success in discussing their circumstances with insurers, and our encouragement has been for individuals to take that up with their insurer. The task force had a discussion with the Insurance Council some time ago just to raise awareness of the issue and the circumstances. It really is something where we are relying, as we are with the banks, on the corporate sector exercising some discretion for people who are in difficult circumstances.

**THE CHAIR:** Before we move to Ms Lawder, is there any further assistance? For the completeness of the record, what other assistance is offered for legal fees, stamp duty forgone et cetera?

**Ms Gallagher:** The buyback offer includes purchasing the home and land at market rates, as if asbestos was not present, through an agreed valuation process. There is also the waiving of stamp duty from the purchase of the next home. There is \$10,000 for every home owner and \$2,000 for any additional child. There is \$1,000 assistance to take financial legal advice on the offer. There is also the counselling assistance that has been put in place by Medicare Local, or through the government with Medicare Local, to meet some of the needs of home owners affected.

**THE CHAIR:** A final question from Ms Porter and then Ms Lawder.

**MS PORTER:** I just want to clarify: if you want to stay for a little while and have the valuation a little bit later—do people have to have the valuation now, or can they have a valuation a little bit later? If they have the valuation a little bit later, it may reflect

the market at that particular time?

**Ms Gallagher:** This goes to the date of the valuation issue, which people have raised?

**MS PORTER:** Yes, because it is around purchasing at a later date in a market that may have changed. That is my understanding.

**Ms Gallagher:** There have been concerns raised about this, and we have looked at it pretty carefully. Mr Kefford can go through it in detail, but it is the only way, to have the fixed date, that we can provide a fair scheme for everybody. It is very hard to control the market and to understand what the market might do. There are mixed views on that; some think there will be a significant impact in the market, others think minimal and others think none. It will be somewhere in between, I imagine. So it is very hard to start pricing in possibilities of what might happen. We have looked at it closely.

**Mr Kefford:** It was the very clear advice of the Property Institute that the government should adopt a single reference point for the valuation process, and that is consistent with other similar schemes. In terms of when that offer is taken up, the home owner of an affected house as at 28 October can elect to take that up at any point between now and 30 June next year, but the valuation date is fixed at 28 October. So there is a choice around timing, but the choice of timing in beginning that process has no effect on the date of valuation.

**MS PORTER:** So, if they decide at 30 June that they still do not want to take up the offer, is there a time in which they can change their mind? I am not quite sure what happens beyond that date.

**Mr Kefford:** The way the program has been designed and announced is that, unless an owner has returned to the task force the form that the Chief Minister mentioned before to elect to participate in the scheme by 30 June next year, they are outside the program and are not eligible for assistance.

**MR HANSON:** Chair, may I have a supplementary, please.

**THE CHAIR:** A supplementary, Mr Hanson, and then to Ms Lawder.

**MR HANSON:** The issue we just discussed about 28 October and the effect on the market: I do not know if you heard Mr Bell's advice earlier, Mr Kefford, but basically he said he has changed his advice—that previously he had said there would not be a significant impact on the market. That was the advice, based on assumptions. And the evidence he provided this morning was that he has basically changed that advice now because the reality is that it is having—I think he used the words “significant impact” or something to that effect.

I understand that the design of this program was based on advice that you got from a number of people and that advice was that it would not necessarily cause a significant fluctuation. We have now heard today that that advice was wrong, that the reality on the ground is that it is having a significant impact. Is there a chance of revisiting the issue of the fixed point valuation, given that now those Mr Fluffy home owners are



seeing escalations in the property market? He did not specify a figure, but it is pretty clear that you have Mr Fluffy home owners who are desperate trying to outbid each other; he cited a couple of examples. Can that be revisited, or is that locked in stone?

**Ms Gallagher:** I take advice on these matters. Ron Bell has been one person that has provided information to us. It might be useful for the committee to speak to the API, the Australian Property Institute, because they have also provided the government with information on this. Part of the scheme is to encourage people to make decisions in a timely way. On one hand we are saying these homes are not okay to live in, we want to demolish them, and we have also tried to put in place a scheme where there is some equity and fairness in it as well so that, just in case you hang out longer before you make a decision, that does not result in a financial benefit that others who have moved early will not get. Again, that is when it has to come down to trying to guess what is going to happen in the market over the next few months. We do not want to encourage a situation where people are holding on and holding on and holding on, because they might get a higher valuation for their home and that is in their best financial interest, as opposed to what we are trying to do here, which is to encourage people out of their homes so that these homes can be demolished.

**MR HANSON:** I appreciate that. But the point I am making is that the scheme was designed based on advice, and it turns out that that advice was incorrect. Advice was given based on assumptions, and then when the rubber hits the road it can be different. It now is proven that that advice was wrong; therefore, I guess the information that you have had to make that decision has changed. Is there scope to change the policy? Have you looked at how it could be changed? Have you looked at other alternatives and realised that you would create as many problems perhaps as you are trying to resolve?

**Ms Gallagher:** Yes.

**Mr Kefford:** Mr Hanson, one of the elements of this conversation is that, the real estate market being what it is, there will be responses no matter what we do at what time. So our advice to the government was to pick a single date. As well as that, there is a very deliberate intent in that to encourage people, as the Chief Minister has just said, to leave their homes. Part of this conversation—I respect Mr Bell’s experience and his comments this morning—is that it is not the case that there are a thousand families being forced out of their homes all at the same time. It will take place over a number of years. We have got people asking to stay in their homes for some time. I think around 12,000 properties change hands in Canberra each year. So in the context of the overall market this is—

**MR HANSON:** The other point he made that is interesting is that that might be the traditional number, but at the moment it is about two-thirds of the traditional amount that would normally be on the market. For whatever reason, there is an anomaly at the moment. It might just be unfortunate timing; whereas normally there are 3,000 homes on the market, there are only 2,000. So those assumptions, if those parameters were based on those 12,000 transactions and maybe there are only 8,000 occurring—that, again, would affect it.

**Mr Kefford:** That may be the case, Mr Hanson. It changes the proportion, but I still

think it remains the case that we are not forcing a thousand families into the market immediately. We are talking to families who are choosing to move interstate. We are talking to people who are choosing to go elsewhere. Whichever design principles one sought to adopt, there would always be a market response around them. So our advice has been to stay with the single date.

**THE CHAIR:** Ms Berry has a supplementary, then I have a supplementary, then we will go to Ms Lawder.

**MS BERRY:** Could the ACT government have had more flexibility in its scheme had there been more generous support from the commonwealth?

**Ms Gallagher:** On one level, to be fair to the commonwealth, we provided them with draft guidelines of how we saw a buyback scheme working, and it was not any different to what we have gone out with. It is hard to say. If they had been prepared to share the net cost of the scheme, I think possibly you would have more flexibility because then all of the subsequent decisions you take would not just affect the ACT budget. We were looking for them to share the cost two to one. That was our starting point—the net costs of the scheme—in line with the MOU. The decision they have taken is that they are not prepared to accept any liability or any of the net costs of the scheme; the low-interest loan is the only assistance they will provide. So possibly, but I think it would still come down to this: the only difference is around the value uplift from the land. That is probably the only other thing that we would have some flexibility on. That is my guess.

In terms of the offer, when we have compared it with other government buyback schemes where they have occurred—and we have looked at them—in fire damaged areas of Australia and in New Zealand where they have had to buy back homes affected by earthquakes, on any measure the ACT government's offer is generous.

**MS BERRY:** From the experience of the bushfires here in Canberra in 2003, where all of a sudden there were a lot of people without homes and wanting to find homes for themselves, did we find that there was a softening after the initial panic, I suppose, to get into another home? Was there any experience around that?

**Ms Gallagher:** That was about 500 homes immediately. There was some impact from that at the time. What changed, from my recollection, was that a lot of people who said they wanted to return to their blocks did not ultimately return to their blocks. When they found another home, they set up that home. So we did not see anywhere near the numbers that originally intended to rebuild and go back to their blocks. I do not know how much of that will occur here, because of the trauma and the emotional upheaval. This incident has affected 4,500 people directly. Because the demolition program will happen over a number of years, it is hard to tell whether, by the time the block the person originally owned is cleaned, that will affect their decision to come back. It may be that two or three years have elapsed since the original move, and that may affect people's decisions. It is hard to tell what it will look like in a couple of years time.

**THE CHAIR:** Mr Bell, when he spoke to the committee before lunch—I would get you to read the transcript when it is available, if you did not hear, and I think

Mr Kefford was here for most of it—said initially that the view of the REI was that it would not have an impact or that, if there was a spike, it would be minimal. He said that what has come to his attention in the last couple of weeks—I forget the word he used; I do not think he said a severe impact, but he said a serious impact. He called it an artificial boom. He quoted the case where Fluffy house owners were competing against the others and fuelling the fight.

The problem is that if you have a valuation at 28 October but the market is now moving away, how do people afford to move back into their areas, or stay in the same area if that is what they wanted, if the funds that are being provided are immediately diminished by the shift in the market?

**Ms Gallagher:** Again, we have always understood that we cannot control the market response to this. The decisions we have taken are about what is the right thing to do now for people who are living in homes that are worth zero. When they are valued, particularly with the extensively contaminated homes, they are worth zero.

The decision was less about what the market is going to do and more about what is the right thing to do to enable people to realise their financial investment—which is the problem we have been trying to solve from the beginning, really. I think it clouded decisions about the original clean-up program way back when, because people were very keen to ensure that the homes, once they were cleaned, were of the same value that everybody else has. That has gone along very nicely for 20-odd years, until we got to this point, and we have seen the results of that.

So that has been the government's intention. I am not sure there is any perfect way of us being able to factor in what the market does. We have got similar situations of people who moved early—who went early, ahead of the buyback scheme—and whether that was the right thing to do. There were people who sold their homes for \$50,000 less because of the asbestos and had already committed somewhere else. We cannot control any of those decisions. To some extent, even though it is very difficult to say it, it is the same answer for the people now considering the buyback. What we will do is buy your home and your land at market rate. What you choose to do with that—how you spend it, what house you buy—is a matter for you.

**THE CHAIR:** A final supplementary from Mr Hanson and then Ms Lawder.

**MR HANSON:** I want to follow up on the question from Ms Berry. As I understand it, and it is an important point, the scheme that is on the table is essentially the scheme agreed between the ACT and the commonwealth and was not going to change—

**Ms Gallagher:** We did not agree on the scheme with them. We did not agree line by line, but the proposal we put to them is the scheme we now have.

**MR HANSON:** That is right. And the scheme was not going to vary based on the commonwealth's contribution. Essentially, the effect of the commonwealth's contribution is on the ACT budget.

**Ms Gallagher:** Yes.

**MR HANSON:** If they had been more or less generous, there would have been an impact on the ACT budget, and that is where the impact is rather than on the scheme.

**Ms Gallagher:** Yes, I accept all of that. This is the scheme that we put to the commonwealth. The only difference is that we asked them to share, two to one, the net costs. If they had done that, the impact on our budget would be less, so maybe we would have more flexibility to deal with this issue of returning to the block. But that is not the case.

**MS LAWDER:** What was the evidence or document trail that led you to identify the thousand and whatever homes, and how confident are you that there are not still some homes that have been missed?

**Ms Gallagher:** There has been a long history, as you know. There is about 50 years of documents around the Mr Fluffy saga. The issue that led to the letter being written in February, which started off the second wave of assessment of Mr Fluffy homes, was the Downer house, which had come to our attention as a missed house. There have been six missed houses since the original decontamination and cleaning program was conducted. The Downer house—we bought back that house from the owner. A decision was taken then to look at the extent of the asbestos contamination and do a forensic demolition of that.

I have to say—I have said it a couple of times in the chamber—that the public servants who advised the government on that are the unsung heroes of this. Their advice to the government was to do a forensic demolition. That report came back. It showed extensive contamination, to a much greater degree than had previously been understood. But it was a missed house; it was not a cleaned house. The learnings from that report led to the government believing that we should write to all the Mr Fluffy home owners and urge them to get a further asbestos assessment done. That happened in February. Assessments started being done between February and April-May, around Easter. That was really when a number of home owners got their first assessments back. Between that time and August, it became clear that, as the assessments rolled in, more and more houses which were originally thought to be cleaned and safe were no longer thought to be so. That is what has got us to where we are today.

In relation to the missed homes, at the time of the cleaning program, 65,000 homes were visually inspected. That was the catchment of the extent of homes in Canberra at the time. The houses were identified through that process—the 1,021. There were a few more, I think, but they have since been demolished. Since that happened in the late 1980s, early 1990s—in between then and now, there have been six homes identified. It is possible there are further missed homes out there, but it is six in 25 years. That would lead you to believe that there would not be too many more if there were, but people should always be cautious, I think, if you are in an older house.

**MS LAWDER:** What if one popped up next year or in five years time? What would the government do?

**Ms Gallagher:** We would have to do the same thing we are doing now. We would have to buy it back and demolish it.

**MS LAWDER:** For the couple where their houses had already been demolished, will the government be undertaking any site remediation work? Those homes, new homes built on old Mr Fluffy blocks—what might happen to them?

**Ms Gallagher:** Not the homes that have been demolished since February this year but the ones prior to that?

**MS LAWDER:** Yes.

**Mr Kefford:** Ms Lawder, there were around 1,080 on the original remediation list. The list of properties affected is the list of those properties that were remediated. The ones that have been demolished—there is no current intention to return to those sites. In many cases we have had conversations with a few owners of the houses; in many cases the footprint of their original house is now under a slab and there is no particular need to return to them at this point. The focus of the work of the task force has been on the current houses; we will continue to focus there. There is nothing to suggest that a house, once it has been completely demolished and removed, continues to pose a threat. But for clarity, I would say that we consider a house, even where it has been extensively renovated but still maintains part of the old house, to be an affected house. The only ones that are not part of the current scheme are those that have been completely demolished and removed.

**MS LAWDER:** So those that have been completely demolished and removed—were they known Mr Fluffy homes, and were they demolished in accordance with the asbestos removal guidelines?

**Mr Kefford:** Since the original program, the certificate of completion from the original program says: “This house was cleaned as part of the program. There are residual fibres in the walls and you should consult”—at that point—“the building, electrical and plumbing controller”—I think it was, the building controller—“before you do any work.” There has been a regime in place for that whole period in relation to works on affected houses, but on a case-by-case basis. I cannot give a specific answer on every house, but there has certainly been a regime governing the demolition of those in place for that whole period.

**MS BERRY:** I have a supplementary about the Downer house. When you say that there was forensic work into the demolition of that home, with some of the things that you learnt from the demolition of that home—it was not a home that was remediated—

**Ms Gallagher:** It was a missed home, so it had not been cleaned.

**MS BERRY:** What was learned from that home about the effects of loose-fill asbestos in homes that were attempted to be remediated by the commonwealth government?

**Mr Kefford:** Part of the issue with the house in Downer was the degree of the contamination inside. In some significant part, that was due to it having got into the air-conditioning system and the heating system of that house. But really the forensic

piece allowed us to gain a much better understanding of how the fibres had migrated particularly through the walls and the wall cavities. From the original program, the language had been about residual fibres in the walls. The understanding of how they had got through, and why the subfloor of that house was as badly contaminated as it was, was probably the significant learning from that process—recognising, of course, that there had been 20-something more years of unremediated asbestos in the roof to allow that to happen. Nevertheless, the way in which that process was conducted gave us a much better understanding of where the fibres had gone, how they had moved through the structure and where we could reasonably expect them to be, even in a remediated house.

**MS BERRY:** What experts were consulted as part of that, or involved in that process?

**Mr Kefford:** The whole process was undertaken under the office of industrial relations, which at that point was in the Chief Minister and Cabinet Directorate, but it was done in consultation with the Asbestos Regulators Forum, which is chaired by the Work Safety Commissioner and has on it the construction licensing registrar from ACTPLA, the EPA and others inside the government who are responsible for the asbestos issue more broadly. We worked with Robson Environmental; they conducted the assessments and provided the report which was released by the government at the end of last year.

**MS BERRY:** I have some questions about the business community's response to this. What sort of response has the ACT had from the business community for assistance?

**Ms Gallagher:** In typical Canberra style, I think everyone is wanting to provide assistance where they can. The Canberra Business Chamber has just been appointed to the community reference group as an additional member, in recognition of their interest in making sure they do what they can. I think the community reference group is going to undertake some more work in this area. People are wanting to help; it is just a matter of coordinating some of that assistance and really getting a better understanding of what further assistance could be provided. It is a very typical Canberra response: there are a thousand-odd home owners and their families that need a bit of a helping hand at the moment. Sue Packer and the reference group will do some more work in this area.

**MS BERRY:** There were some concerns raised this morning by Ms Heseltine about some banks and insurers and other tradespeople not being very supportive or turning their backs on Mr Fluffy homes. Have you done any work with any of those sorts of organisations, with banks and things like that, and what has been their response?

**Ms Gallagher:** I have sent letters out to everyone I can think of, and even people I did not think of that the task force told me to think of, and then they sent me another 20 letters to sign. The task force has been meeting with individual organisations, whether it be banks or utilities, to talk with them and make sure that there is a bit of a joined-up response. I think the worst thing for affected home owners is when they contact their institution and they say, "Well, we don't know what Mr Fluffy is." That is not the response we want people to have.

It is still in its early days, but I think the framework is there, the communication is

there. The task force obviously has been under enormous pressure since it was established but particularly since the buyback scheme has been announced. They are trying to prioritise individual home owners and have discussions with them and at the same time trying to build in the community capacity and organisational capacity around it.

I think it is coming together, but if individual home owners have particular banks that they are having trouble with or any other business then I would suggest letting the task force deal with them is a good idea.

**Mr Kefford:** We have spoken to a number of banks in this respect about individual cases. I have also provided—owners should receive them today—a letter of comfort from the task force because one of the issues that were being encountered is banks not being prepared to provide a second mortgage to people on an asset that they have concerns about being next to worthless. So we have provided the letter of comfort that says the affected house is subject to an offer from the government for purchase at market value.

Whenever we have had a conversation with a bank in that space, at that point they have stopped talking about mortgage insurance and guarantees and have sought to provide assistance. We have a member of staff who is just doing this work at the moment. If we can assist in individual cases or with briefing banks or briefing insurers or utilities—we have met with ACTEW, ACTEW Water and others to assist them to understand the context if they are not from Canberra. Then once they do, we are finding a lot of their responses are akin to what they would do after a fire. So a number of the banks—I am starting to hear them advertise now—have appointed a special hotline number or a special person with authority to deal with this. I think the corporate response is starting to come, as the Chief Minister has described it, but it is also something that we can continue to intervene in if we need to.

**MS BERRY:** Regarding the work of the task force, have you been having one-on-one conversations with home owners?

**Ms Gallagher:** Yes.

**Mr Kefford:** Yes, either personally with me and my senior staff or through the personal support team. There is an ongoing very constant stream of individual conversations because we now have to break down a program of about 1,000 homes to 1,000 individual conversations. So that is something we are continuing to do and would certainly encourage home owners to do so that they can understand exactly how the scheme fits their circumstances and also how we can assist in navigating through what is a very complex set of circumstances.

**Ms Gallagher:** In terms of the task force capacity, it has gone from one to 35 staff and, on the personal support side, that is going to increase to 12 pretty quickly. It is at eight and it is going to 12. Considering the numbers of staff managing the workload, they are doing very well. I have certainly let Mr Kefford know that for any resources, even if we have to ramp them up in the short term and wind them back in the long term, all reasonable requests have been agreed to.

**MR HANSON:** I want to look at the issue of what happens to people who do not sign on to the scheme. It is still a little unclear. There is a veiled threat—a veiled assumption, suspicion—that for people who do not sign on, at some stage down the track there will be a compulsory acquisition of their property and that that acquisition will be at a price that acknowledges that the house is affected by loose-fill asbestos. But it is unclear. So the problem that some people have expressed to me is they do not want to sign on to the government's scheme for whatever reason, but they do not know what the alternative means. It is a difficult position to be in.

**Ms Gallagher:** It is, yes.

**MR HANSON:** Is the government able to provide some clarity about what it means for people who do not sign on? I am not just talking about the fact that they have got to seal up their lights and so on; they are the temporary measures. I am talking about in the longer term: what happens to those people and those houses that do not sign on? At the moment it is somewhat vague?

**Ms Gallagher:** Yes, it is vague. My hope is that people take up the offer of the buyback and do not take it up under the feeling that they are being threatened with an inferior offer. That was the reason behind having 30 June next year as the cut-off point. In a way, that will clearly show how many people are in and how many are out. In a sense, we can deal with that issue then.

But I accept that people want to know what the options are. We have not taken any decision other than that all of these homes need to be demolished. That is the clear advice. There is no other way. There is no other way to make these homes safe. That even goes for the homes that have very little contamination. Because what they continue to have is contamination. Yes, it might be a little, but they are contaminated. They therefore are worth less than the market value and at some point in time someone else is going to have to deal with it, and they have “Mr Fluffy” well and truly stamped all over their file. That is a problem for any member of the ACT community.

That is the decision we have taken. Every house has to come down. The buyback scheme provides the voluntary opportunity to come in and realise the financial investment. I know it does not deal with all the emotional investment and all the hurt, ache and grief that is associated with that, but, in a very pure transactional sense, it deals with the financial investment.

If there are people who do not want to take part in the scheme, who might want to pursue other avenues, we will have to deal with that. And the very clear legal advice we have got is that we can resume the lease compulsorily, and we would have to provide just compensation for that. And just compensation would not necessarily be the same as the buyback offer—in a purely legalistic sense—but we have not taken any decisions on that.

**MR HANSON:** When, then, do you anticipate making those decisions and advising people of those decisions? Will it be prior to the 30 June cut-off next year or will it be after that date? Are you going to see where you get to with how many people have signed on and hope that everyone does, or are you going to provide that advice prior?



**Ms Gallagher:** I think what we would have to do in, say, March next year is to provide an update to people about how it is going. I know this will be a matter of constant public consumption anyway, so we probably do not have to do it too formally. But I think we would have to start impressing upon those who are not participating in the scheme prior to the scheme closing what that might mean to them and making sure they are getting good financial advice around that.

I think it would come back down to once we deal with the people who do want to go and want to go quickly and are happy with the buyback scheme—or, if not happy, happy enough—the task force will then shift its concentration to those that have not willingly come forward to participate. And then we deal with that. Part of that, I think, is making sure, prior to the close-off of the scheme, that people have all of their financial advice, independently provided to them, in front of them before that choice is taken away.

**MR HANSON:** Could the advice that you have been provided that says that these homes have got to be demolished be provided to the committee?

**Ms Gallagher:** It is in the task force report.

**MR HANSON:** All of that advice is in the report?

**Ms Gallagher:** Yes. One recommendation in the report is that these homes must be demolished, that there is no safe way of—

**MR HANSON:** But what I am talking about is all of the technical advice that was provided to government that then informed that decision. I understand that that is in the report, as in the recommendation, but is all the advice in the report as well?

**Mr Kefford:** The results of our consultations are in that report. We have, of course, notes of all of our various conversations along the way. But the one thing I would say about all of those is that none of the experts to whom we spoke said to do anything else than knock them down.

**MR HANSON:** And the list of who those experts—

**Mr Kefford:** Is in the report.

**MR HANSON:** And the summation of their advice is in the report?

**Mr Kefford:** Yes.

**MS BERRY:** Chief Minister, you talked about the financial solution to this. What sort of emotional support is being provided to Mr Fluffy home owners?

**Ms Gallagher:** From the government's point of view, it is the personal support team, which is the person's contact officer within the task force. We have also been very keen to put in place the arrangements that Medicare Local are doing with access to a range of counselling, and the government is funding that. We have had a number of

individuals who have required a bit more and we have been able to provide that. We cannot do everything. Obviously the most important people are their family and friends and some of the groups that have been formed around this, and the community's response to them is all part of it.

Where we can provide something, we have genuinely tried to do it. But we cannot take away people's grief and pain and the emotional upheaval that has been caused this year. I am afraid there aren't any of us that can do that. That is going to remain. When you think about what has happened to the families since February this year to where we are today, it is has taken a massive emotional toll on all of them.

**THE CHAIR:** Ms Porter, a supplementary.

**MS PORTER:** Chief Minister, one of the things that has been going through my mind when we have been discussing the emotional impact is what happened during the 2003 firestorm and the after effects and the recovery time after that. I am wondering about what, if anything, we are going to be able to offer people who live adjacent to or in the same street as people who are not in Mr Fluffy houses and who may suffer an amount of what people suffered from before, which was labelled—I do not know whether it is correct terminology—survival guilt, and also concern about what is happening to their whole lives in relation to their neighbourhoods. Maybe they have got two or three houses in their street or maybe only one next door or something. So they are having all this upheaval around them, worrying about their own health et cetera, et cetera. What is it that we can do to assist them, if anything?

The other point around that is that I recall that people were very willing to help and came forward as a community. We do have a wonderful community, like you are saying. But, unfortunately, some of that assistance they were offering was not appropriate and it took people offline from the task force or wherever to deal with that. Do we have a small subgroup who are forming around the donation of inappropriate things?

If you look back on the records—I was part of that small subgroup, if you recall, Chief Minister—

**Ms Gallagher:** I do.

**MS PORTER:** We dealt with the donation of inappropriate things. It was a huge problem. People are going to want to do that. They are going to say, "I've got a this and I've got a that, and you can have this and that and the other," as people are trying to re-establish themselves. Sometimes it is just a matter of people wanting to be generous but, unfortunately, their generosity clouds their good judgment and then the person who is being offered the thing feels a terrible sense of guilt because they do not actually want it.

The government certainly does not want to stockpile a whole lot of washing machines that may need just a little adjustment to make them work or something like that, or a fridge that does not quite work properly but, you know, if you did such and such it will work. These were live examples of which I am sure the reports will give you many if you look back. How are we going to deal with all of that?

**Ms Gallagher:** I have to say the priority at the moment is to try to individually support the affected home owners. But there has been some thinking done about particularly when demolitions start to go into those areas and have meetings and make people available so that we can provide comfort to people. I think there is going to be a range of concerns. There will be the grief of losing neighbours, even if it is for a relatively short time. There will be concern about asbestos removal practices and what it means for people and how long that work is going to take and who is going to do it and how safe it is. And then there will be issues not only from that affected suburb but issues through the city as people are worried about how the waste is transported and ultimately where it ends up.

There will be discussions about changes to planning laws within these suburbs. There are 58 suburbs affected. We are very aware that we are going to need 58 localised responses to what is happening in that suburb and then an overarching response to what is happening across the city, particularly as we move the asbestos contamination through the city. There is a lot of thinking going into that. But we have not finalised individual arrangements yet because the focus at the moment is on trying to assist the families with processing the information about the buyback scheme.

In relation to some of the offers of donations, I have to say that we have not been inundated. It is not a sudden loss. This is part of the issue in terms of the emotional response to this. It is not that a house was there and then is there no longer. The house is still there. The gardens are still there. We are asking people to leave. It has a different sort of heart-wrenching effect. But we have certainly not been dealing with the response we got in the first days after the bushfires—basically gymnasiums full of donated equipment. We have not had that. It may come in time. Again, the community reference group has been giving some thinking to how to respond to that if it comes and whether there is a need for, say, 500 washing machines and 500 of this at that time and, when that is known, how to coordinate it. It will be done, but not this side of Christmas.

**MS LAWDER:** A supplementary, following on from the question about neighbours. Has there been any contact with or thought about contact with people who may have previously lived in the homes and may not have known that they were Mr Fluffy homes, and how is that happening?

**Mr Kefford:** Since the task force was set up, over 2,500 people have registered with us. A good number of the people who are not in a house at the moment were asking exactly that question: is my house on the list? That was a fairly common one at the start and then more commonly after that was: is the house I used to live in on the list? So we have put in place arrangements through the planning authority for people to ask that question at no charge so they can at least find out if there was the potential for them to have had historical exposure to asbestos in a house.

Again, the focus at the moment has to be on dealing with the issues that are in front of us right now, but clearly as this issue begins to move to different phases there will perhaps be an opportunity to return to engagement with people who used to live in the homes. Certainly the health study that has been flagged as part of the response will not immediately but in its subsequent stages seek to engage with former residents.

**Ms Gallagher:** At some point in the future—my thinking is at the end of the buyback offer—the list of the homes will be published. That will provide information that is not currently available and it will certainly alert people who may have lived in those homes; they will recognise that address. We have to discuss it further with Mr Kefford. I think we are trying to balance the rights and need for people’s privacy with a broader issue of community safety. Our decision to date has been not to publish the list, but I think in time that will have to be done.

**MS LAWDER:** You mentioned before that people’s houses are still there and their lovely gardens. Will people be able to remove plants from their gardens and give them to others or take them with them to their new homes?

**Mr Kefford:** Yes, in most cases. Leaving aside what can physically be done, our advice is that there is no reason why we could not move plants, particularly where people have indicated they do not wish to return to the block. They can be taken, yes.

**THE CHAIR:** As a supplementary, if they do wish to return to the block, will the block have to have all the plant covering removed?

**Mr Kefford:** This is where we got to this morning, Mr Smyth. The starting point is that the blocks are cleared, yes.

**THE CHAIR:** Chief Minister, a number of submissions have raised some interesting cases, and some will be just particular to one individual. Submission 12 is the case of a family who had exchanged contracts, discovered it was a Mr Fluffy home, did the right thing and pulled back from the sale and then subsequently, having had a valuation, sold the house for \$80,000 less. Will they be compensated for that \$80,000 loss, given they have entered into another contract on a new home in Forde or Wright, I think?

**Ms Gallagher:** Yes, I am aware of that family. I have met with them. We have flicked this to and fro, from me to the task force, trying to understand what the right response is. In a very hard sense and pure sense, the answer is no; the people made that decision themselves to sell ahead of the announcement of the buyback scheme. Again it is very difficult to go back and try—

**THE CHAIR:** But it was after the February letter and had they actually enforced the sale, which they were quite able to do, the new owners would now be getting the full price.

**Ms Gallagher:** It is a difficult one, and there are a couple like that. The advice from the task force to me at the moment—unless it has changed—is that it is very difficult to go back and try and cover off people’s individual circumstances when they have made the decision to sell in absence of the buyback scheme. But I have met that family and I understand the issues. We have to keep it under advisement at the moment.

**Mr Kefford:** With the new owners of that property, their offer will be the contract price, not a value. So if a property has sold since February, the offer is the contract

price.

**MR SMYTH:** Correct. So the family that could have sold it at a price \$80,000 beyond—I think we all appreciate there will be individual cases here, and a lot of the submissions say the problem with dealing with a group like FORAG is that they do not necessarily represent the individual circumstances of each group. It is pleasing to hear that you are now saying you will be dealing with individuals one by one.

**Ms Gallagher:** We have from the beginning. FORAG just became a large group within a group. But I do not think we have ever taken the view that they are the only people talking on behalf of affected home owners. We have been to many a meeting, either individually or in large forums, with home owners. Andrew has been under the lights at 11 o'clock being booted out of school gymnasiums, talking to individual families. It is an important part of what we do. I can tell you that we have entered into individual arrangements with people based on their particular circumstances. Every circumstance you can imagine, I think, is included in this group.

**THE CHAIR:** It is not in all of the submissions, but there is a consistent commentary that the government seem to place undue weight on what FORAG was saying rather than taking into account individual circumstances. But perhaps you will read the submissions.

A number of the submissions put the case that the government had information from 2005 and did not act appropriately, that more information should have been made available after 2005 and that, indeed, after 2010—that was the asbestos task force report—again they had information that they did not act upon. One submission calls it maladministration and calls for a board of inquiry. How do you respond to those allegations or questions that you had information as the industrial relations minister in 2005 and did not act appropriately?

**Ms Gallagher:** It is important that this comes out. I am sure once we have got through the buyback scheme and some of the other issues, I certainly believe there should be a very thorough analysis of what has happened with the Mr Fluffy administration, going back to the original decision to allow him to spray this into people's roofs when it was clearly well understood by people that there was significant risk attached to that, and all the way through.

I can honestly tell you that in 2005—I was the responsible minister; I was the one that had set up a whole range of work relating to asbestos management in the territory—there was absolutely no information before the government that said these homes were unsafe, or unsafe to live in. A number of recommendations were made, all of which were accepted and implemented.

After 2006—and I had implemented a number of the reforms—Minister Barr took over for a period of a few years. I think another minister took over and then it returned to me in 2010, as we were doing the review of 2005. That review overall said the recommendations had been implemented and the right things had been done but that further steps needed to be taken, and they were in the process; they were certainly done as well.

I can honestly assure you that if anyone had ever said to me in 2005 that those homes were unsafe and that a review into the Mr Fluffy homes needed to be done, I would have acted upon it. But that was not the information. The information came from the Downer house.

**MR HANSON:** When you say at the end of the buyback scheme, you are saying as of 1 July 2015, when we have decisions about who has signed on or not, you support a board of inquiry—

**Ms Gallagher:** No, I did not say that.

**MR HANSON:** into your actions, those of Mr Barr and prior decisions made by the commonwealth?

**Ms Gallagher:** No, I did not say that at all. What I said was at some point in time—and this program is going to go for five years.

**MR HANSON:** So you are saying we would not have a board of inquiry for five years?

**Ms Gallagher:** It is a matter for the Assembly, ultimately. I think—

**MR HANSON:** No, a minister appoints a board of inquiry, not the Assembly. You can do this at any time you like.

**Ms Gallagher:** We have taken the view and worked together as an Assembly on this, which is what my original response was. This is a matter for the Assembly to deal with. I think there is merit in having some process which looks, going back to when this man was operating, at why he was operating, right up to this program, the houses being demolished and everything in between. It has involved various administrations of the ACT government, it has involved various administrations of the commonwealth government and it has involved a lot of people. Ultimately, it has come at enormous cost, emotionally and financially. I think that job needs to be done. But it will be up to—

**MR HANSON:** The point—

**Ms Gallagher:** If I can just finish, Mr Hanson. I think it is about choosing the right time for that to happen, and when that should happen is the key. But it will happen.

**MR HANSON:** The point that Mr Smyth is making is that there are a number of submissions—I am aware of a lot of people; it was raised in the *Canberra Times* as well—that there is some evidence and allegations that you had information before you as the relevant minister in 2005 and failed to act on that. There are concerns that there is a desire from you to push out any inquiry well beyond the next four or five years, when there are understandably people who are now going to be potentially homeless. People are losing their livelihoods, and in essence seeing their homes demolished, and they want a full and open inquiry into what went wrong—not just in the last nine years under your administration but also prior. Will you commit to a board of inquiry to be established on 1 July 2015?

**Ms Gallagher:** No, I will not. I do not think this is the appropriate forum to have that discussion, Mr Hanson. I am really disappointed in the approach you have taken this afternoon when we have worked very closely together on providing a united front on the way that we deal with this issue. I can honestly say to you that if in 2005 we had the information that is available to us today, we would have acted in 2005. There is simply no other minister in this place that has done what I have done around asbestos protection and safety in the ACT. The record stands for itself. Nothing happened—nothing happened—between the clean-up program and 2005; nothing.

In 2005 we did a whole piece of work around how to manage asbestos contamination in the city. The difference was at that point in time we did not treat Mr Fluffy homes as though they were any different to any other home that had asbestos. So the response was a generic one, and I think the history behind that came from the fact that nobody wanted to identify and isolate a group of homes and make them valueless. The approach the government took was to write to the Mr Fluffy homes and remind them, in line with the recommendation of the report, and then other asbestos regulation occurred across the board for any home built after this period of time, specifically to not demonise 1,000 homes and make them valueless.

Now we know that we cannot avoid that issue, we are responding. But I am very happy to have my record thoroughly examined. I think it will need to be, along with that of every other responsible minister of many governments, to see what happened and why it happened. But I do not believe that I need to be railroaded into that today when the process around what we are here to talk about under the appropriation bill is how to finance a buyback scheme and allow people at least the financial compensation for the situation they find themselves in.

**MR HANSON:** You basically said you are happy—

**THE CHAIR:** We will leave it there for the moment. We only have a few minutes left. I raised it because it is raised in the submissions to the appropriation bill. As chair I believe it is quite appropriate to raise these issues because people are seeking answers.

**Ms Gallagher:** Yes, and I have answered it.

**THE CHAIR:** I have a final question on this particular submission: the level of compensation offered, for instance, when we did the sheep-dip clean-up, which started in 1996, was apparently \$40,000 per family. Did the task force look at what was done during the clean-up of the sheep-dip sites and have they done any comparisons with the compensation offered there to what you are offering now?

**Ms Gallagher:** We have done comparisons of the financial assistance that has been offered in a number of buyback schemes. It does vary depending on the amount of people affected. We have over 1,000 homes affected, and that has informed some of the decisions we have taken. But, overall, it has allowed us to finance a buyback scheme of the magnitude that we are doing, which is allowing people much more financial support than would be allowed had we refused to undertake a buyback scheme or allowed the market to resolve it.

**THE CHAIR:** Ms Berry has a supplementary.

**MS BERRY:** I want to know what the priorities of the government were in setting up the task force in addressing this issue around the Mr Fluffy homes.

**Ms Gallagher:** We took some decisions late last year, in late December last year, about writing to Mr Fluffy home owners. We set up a small group, once that letter was sent out, at Canberra Connect to respond to people as they had questions. It is fair to say that the response was very modest on initial send-out of that letter. It took until almost April—April is when we started noticing a bit of an increase in the needs and responses coming from home owners. We have tried to be flexible as that has rolled out.

As more home owners are getting in contact, as more asbestos assessment reports were getting done showing levels of contamination, as that continued, we have tried to ramp up the response of the task force to align that to what it is today, which is a pretty modest but efficient organisation. The feedback we have had from Fluffy home owners is that it has been doing its job really well.

**MS BERRY:** This is a unique situation, isn't it? Is there anything similar to this around Australia that we have been able to look at or are we the only ones in this situation?

**Ms Gallagher:** I would say that New South Wales are still maintaining that it is safe to live in these homes as long as the roof is sealed, in terms of the advice that they are providing currently to their community. I expect that they will have to look at that and reassess it. They have a committee process underway at the moment. But they certainly would not have it on the scale that we have it. So it is unique in that sense. It has been recognised by international asbestos experts that the ACT government is acting very quickly and over and above what most administrations are doing, considering the level of cost involved.

**THE CHAIR:** In regard to that, can you take this on notice: you said you had done some analysis of previous buyback schemes and the like. Is that available to the committee?

**Mr Kefford:** We can answer that on notice, Mr Smyth, yes.

**THE CHAIR:** In particular, because you are the only ones who have access to the records now, the detail of what was provided for the sheep-dip buyback scheme.

**Ms Gallagher:** The task force is not going to take that responsibility. I will have a look at what that means. I am not going to have people trawling through boxes. But if it is easily provided, yes. It was nowhere near on this scale.

**THE CHAIR:** Certainly, but it is a comparison within the territory. A final question from Ms Porter.

**MS PORTER:** There does seem to be some confusion in some of the commentary



from home owners and other commentary. There is some confusion around the stamp duty, how that will be managed and what that actually means. I am not asking you to detail it all now, because we have only—

**Ms Gallagher:** We are just waiving it. So people are not paying it on their next purchase.

**MS PORTER:** No matter when they purchase? No matter how much that costs?

**Ms Gallagher:** Up to the value of the home that they have sold—like for like.

**MS PORTER:** So it is on the value of the house they have sold, not on the value of the house that they are buying?

**Ms Gallagher:** That is right. It allows them to buy a home of similar value to the one they have just sold without any additional cost. But if people want to perhaps buy a better house, I am not sure that is something the government needs to subsidise.

**MS PORTER:** I do not think that is the concern, around buying a better house. I think it is about where the prices of houses go up. If I buy an apple now and it costs me \$2 and then I buy an apple tomorrow and it costs me \$3, obviously that is a difference. It is the same apple but it costs more. I think that is where the concern lies.

**THE CHAIR:** Our time has come to an end. Thank you for your attendance and for Mr Kefford's presence here today, Chief Minister. You have taken questions on notice. Could you provide the answers to those as quickly as possible. We appreciate it might not be able to be done before we report, but PAC still continues so we would like those answers at some stage. When available, a proof transcript will be forwarded and you will have the opportunity to check the transcript and suggest any corrections if necessary.

**GENTLEMAN, MR MICK**, Minister for Planning

**PONTON, MR BEN**, Deputy Director-General, Planning, Environment and Planning Directorate

**MEYER, MR JOHN**, Executive Director, Construction and Client Services, Construction and Client Services Division, Environment and Planning Directorate

**THE CHAIR:** Thank you for your presence this afternoon and welcome to the public accounts committee inquiry into the proposed Appropriation (Loose-fill Asbestos Insulation Eradication) Bill 2014-2015.

The Chief Minister wrote to the committee on 14 November this year asking it to consider the proposed bill, which has since been tabled, on Tuesday of this week, in the Legislative Assembly. The objective of the bill is to enable the use of funds from the commonwealth government's concessional loan to the territory to help pay for the buyback and demolition scheme for more than 1,000 properties affected by the potentially deadly loose-fill asbestos known as Mr Fluffy.

The committee will do its best in a very tight time frame to balance the request from the government for the enabling legislation to be passed before Christmas but also to provide an opportunity for interested members of the community to submit their views and have their say. We acknowledge the short time frames.

Whilst the committee will complete its inquiry with a report, the committee emphasises that the outcome of this inquiry will be more than just the report alone; it will also be in the evidence on the record from the two public hearings it is holding and the views of over 55 interested members of the community who have taken the time to submit written submissions. The submissions are now, I understand, available on the website. For reasons of privacy, where necessary, we have redacted residential and personal email and telephone contacts so as not to inadvertently publish a small but interesting list of Mr Fluffy homes. The submissions will be published with the surnames attached, although in some cases, for privacy, they may well be withdrawn as well.

Minister Gentleman, thank you for attending today with your officials. I draw your attention to the privilege statement before you on the desk and ask that you all indicate that you have read and understand the implications of the privilege statement?

**Mr Gentleman:** Yes.

**Mr Ponton:** Yes.

**THE CHAIR:** So acknowledged, thank you. Minister, would you like to make an opening statement before we proceed to questions?

**Mr Gentleman:** Thank you, Mr Chairman, and thank you, committee members. I have a short statement.

The Environment and Planning Directorate, which I have charge of in my role as

planning minister, has been investigating possible planning provisions that may be applied to the blocks identified as loose-fill asbestos affected blocks in the ACT that have been or will be purchased by the Asbestos Response Taskforce through the buyback program to enable greater flexibility for redevelopment of loose-fill asbestos blocks. We are looking at perhaps relaxing certain planning provisions applicable to those blocks.

**THE CHAIR:** In your responsibility as the planning minister, what will happen to the blocks? We have heard that perhaps the bulk of the blocks are of a suitable size—over 700 metres—to allow them to be subdivided or have different activity undertaken on those blocks. Is it the case that it will only be confined to dual occupancies, or will larger developments be allowed on the blocks?

**Mr Gentleman:** It depends, of course, on the size of those blocks, but it may be that we will not have to amend the territory plan or change the zonings for those particular blocks; we may be able to use regulation. I will ask directorate officials to give you some more detail.

**Mr Ponton:** The proposal as it currently stands, Mr Smyth, is for allowing a unit titling of dual occupancies in the RZ1 zone. The advice we have provided to the minister relates to that issue. To answer your question as to whether or not larger blocks would have multi-unit developments, which I think is where you are heading with that—not in the RZ1 zone, but certainly there are some blocks that are located in the RZ2 zone where that is already a permitted use.

**MS PORTER:** Sorry; I did not quite catch what you said in the last part of the sentence.

**Mr Ponton:** In the RZ2 zone, multi-unit development is already a permitted use, so therefore no territory plan variation would be required in that respect.

**THE CHAIR:** Just for clarity, if the block is of an appropriate size and it is RZ1, the government is looking at the ability to unit title that block?

**Mr Ponton:** That is correct, although, having said that, there may be some blocks of a sufficient size and location—for example, corner blocks—where it might be more appropriate to subdivide the block. But the proposal as it stands is for unit titling.

**THE CHAIR:** Let us go to unit titling first. Does that simply mean you can have two dwellings on that block, or will it allow for more?

**Mr Ponton:** Two.

**THE CHAIR:** So if it is RZ1, the proposal is unit titling, which would allow two blocks?

**Mr Ponton:** That is correct.

**THE CHAIR:** Unless it is a corner block where the corner blocks seem to be larger, and then the government will be looking at subdividing those blocks?

**Mr Ponton:** Yes.

**THE CHAIR:** What size do you need to subdivide?

**Mr Ponton:** It really depends on the particular circumstances, Mr Smyth, and the frontage. If it is a nice even frontage, you might be looking at a larger block of 1,500 square metres or 1,400 square metres where you can get a neat boundary. But each one would need to be looked at on its particular merits.

**THE CHAIR:** What would be the minimum sized block allowed if you subdivided?

**Mr Ponton:** Again, that is difficult to answer without actually going through and undertaking that analysis. For each area you would be looking at the existing subdivision pattern, existing lot sizes and what would be reasonable. For example, if you had a whole series of blocks in an older suburb that were 1,200 or 1,500 square metres, you would not want to be going down to 400 square metres. It would be an exercise of having to run through it; look at the particular site, location and circumstances; make an assessment from that point; and then provide further advice. We would need to provide further advice to the government in that respect.

**THE CHAIR:** The RZ2 blocks which currently are allowed to have multi-units on them—how many dwellings will be allowed on a block in an RZ2 zone?

**Mr Ponton:** It depends on the size of the block. The plot ratio that is permitted in an RZ2 zone, as I recall, is 50 per cent, and then there are other restrictions in terms of heights, so two storeys; setbacks; and car parking requirements. There is no set number; it comes down to the building envelope. If you have a mix of one, two and three-bedroom units, it could be a varying number, depending on what the design could actually achieve on the size of the block itself.

**THE CHAIR:** In these suburbs the government clearly has large holdings of ACT public housing. Where there are ACT public housing blocks next to or behind a Mr Fluffy block, will the government look at amalgamating several blocks and thereby allowing a larger density to go on the combined blocks?

**Mr Gentleman:** That is an option that we can certainly look at. It would depend on the needs of the community, and the best outcomes for the community as well.

**THE CHAIR:** Do we know how many housing blocks are next to or contiguous to Mr Fluffy blocks? Has that work been done?

**Mr Gentleman:** We know how many Mr Fluffy blocks there are. There are 863 blocks in the RZ1 zone and 149 blocks in RZ2. Of the 863, there are 567 blocks greater than 800 square metres. That might help your calculations for the other context there. And 771 blocks have a block area greater than 700 square metres. In regard to those that are associated, we would have to come back.

**THE CHAIR:** Of the Mr Fluffy blocks, what percentage are eligible for some form of redevelopment?

**Mr Gentleman:** All those purchased, I would imagine.

**Mr Ponton:** The figures—

**THE CHAIR:** With greater than a single dwelling.

**Mr Ponton:** On the figures the minister gave you, with the 567 blocks that are greater than 800 square metres, that is the current requirement for dual occupancy in the RZ1 zone but without unit titling. The proposal is to consider reducing that to be consistent with the RZ2, which would be 700 square metres. So it would be 771 blocks that could be redeveloped for dual occupancy. That is a very high figure; again, we need to go through and look at the particular constraints of each of those sites to determine whether or not you could reasonably build a dual occupancy on those. On face value, you would expect that you would be able to.

**THE CHAIR:** What is that? Eighty per cent, 90 per cent?

**Mr Ponton:** It is 89.3 per cent.

**THE CHAIR:** So 89.3 per cent of the blocks potentially could end up as a dual occupancy or multi-unit development.

**Mr Ponton:** That is of the 863 blocks.

**THE CHAIR:** Yes, of the RZ1s. A supplementary, Ms Lawder.

**MS LAWDER:** Following from Mr Smyth's question, is there currently a minimum size in the ACT for a block?

**Mr Ponton:** No, there is not. There is a subdivision code for greenfields. Again, it comes down to solar orientation, density controls in precinct codes. The short answer to your question is no, there is not. For example, in some greenfields estates, you might have very small blocks of 200 square metres with terraces on them, but then there are also larger 800 square metre blocks.

**MS LAWDER:** Again following on from Mr Smyth's question, you have identified the number of blocks available and perhaps eligible for subdivision or rezoning. Have you looked at where there might be a Mr Fluffy house here, a public housing property here and a Mr Fluffy house there, for example, or behind, and how many of those there might be?

**Mr Gentleman:** We have not done that work yet. We have not worked with Mr Barr's portfolio on that particular part of public housing. It is certainly something we could look at.

**MS LAWDER:** But you have not looked at it yet?

**Mr Gentleman:** No.

**MS PORTER:** I have a supplementary question. I think I heard Mr Ponton say something different—that you would take into consideration the character of the neighbourhood. Did I hear you say that?

**Mr Ponton:** That is correct, yes, in terms of subdivision.

**MS PORTER:** If you go to, for instance, a suburb like Hawker, where I live, as a matter of fact, but that is immaterial—

**Mr Gentleman:** On a very large block, as I remember.

**MS PORTER:** There are some very large blocks. That is why I am using that as an example. They are right up the back, a number of them backing onto the Pinnacle or adjacent to it. That has got a particular character, as you can imagine. Would you be taking that into account when you are thinking about what you might do with those particular blocks?

**Mr Gentleman:** Yes. We take the whole suburb into account—the siting and style of the suburb. There are areas in Hawker which have very large blocks; others are quite small. There are some blocks there with multistorey development, as you are aware, off Beetaloo Street. All of that would be taken into account.

**Mr Ponton:** In terms of the dual occupancies, there are restrictions. For example, if the house has been located behind another, there are further restrictions in terms of the size of those. And how those dual occupancies might present to the street is an important consideration under existing rules. I gave that answer related to the subdivision and size of subsequent blocks. If we were to subdivide, for example, corner blocks, that is where it would be particularly important to make sure, in terms of the streetscape, that you did not end up with a series of larger blocks and then a number of 300 square metre blocks that you might find in greenfields areas.

**MS PORTER:** I have a question around the public housing question that the chair asked about. I believe the government still has a policy around salt and peppering of public housing so that, as we have learnt over time, we do not build huge blocks of public housing all together in the one place. That is not desirable. Will this be taken into account when you are looking at the suggestion that the chair has made, that there may be a possibility of obtaining these Mr Fluffy blocks here, here, here and here and then deciding: “Okay, we’ve got six public houses in that area. We’ll sell them at the same time and now we’ll turn them all into public housing.” Would there be any thinking around the effect that might have on policy the government has?

**Mr Gentleman:** It is certainly government policy to salt and pepper. However, there is some small group government housing or social housing in the territory, as you are probably aware. A really good example is in Macquarie, not far from the Jamison Centre. There is some older persons accommodation, which was constructed a little while ago; it is a very good outcome for the people that live there. Those sorts of things are in the mix as well, to have a think about. But it is more in Mr Barr’s portfolio.

**MS PORTER:** We can ask Mr Barr that question later.

**MS BERRY:** I have a supplementary. If one of these homes is a massive battleaxe block in the middle of a whole bunch of other blocks, would it be able to be zoned for a townhouse? It would be right in the middle looking out over other people's backyards. This is a different sort of circumstance: rather than homes sitting alongside each other, or behind, it is a home sitting in the middle.

**Mr Gentleman:** It is something to certainly consider, but I am not sure that we would look at whether that is the best outcome for that particular block. But whether the zoning allows us to—

**Mr Ponton:** In terms of the relevant codes, there would be restrictions around access. Often those battleaxe blocks have quite narrow accesses. If you were going to have more than one home accessing down that battleaxe arm, that would certainly be a consideration. Again, as I said earlier to Mr Smyth, it is a case-by-case basis. You need to comply with the codes, but my initial reaction to that circumstance would be that it would be less likely that you would see a dual occupancy on a battleaxe block surrounded by other homes than you would if it had street frontage.

**MS LAWDER:** If I am clear on what we have heard, you will be looking at, for example, with large blocks, the character of the suburb and whether it is appropriate to rezone them or subdivide them. I am unsure how that fits with what I feel we have heard so far from other witnesses, for example, the Chief Minister, and the impact on the bottom line, where a quite high percentage of the blocks have been identified for subdividing or rezoning in order to minimise the hit to the territory's budgets. Can you explain to me how this is the case?

**Mr Gentleman:** It is the difference between, as we talked about earlier, whether you are rezoning or subdividing. Mr Ponton will give you some more detail.

**Mr Ponton:** I think it is important to make a distinction between subdivision and unit title. The primary focus in terms of the work that the planning authority has been doing has been around dual occupancies and the opportunities in the RZ1 zone for dual occupancy. The question was asked, however, about subdivision, and I think there would be very few sites that would be appropriate for straight-out subdivision. As I said, you would need to look at the particular circumstances, and that would be primarily your corner blocks, because you can get two frontages. In most cases, you would be looking at subdividing in half, you would think.

I think I made the reference to street character if there was a proposal to subdivide into three, four or five. That is a different character in terms of your RZ1, whereas dual occupancy is still a suburban character. That is the point I am trying to make. What is being proposed is about maintaining the suburban character in the RZ1 zone. Your higher densities would be in the RZ2 zone. We make that distinction between subdivision, which would be a very small number, and the primary focus, which is dual occupancy.

**MS LAWDER:** Originally we had spoken quite a bit about rezoning, and it was you who introduced subdivision to that. Are you saying that, if you were in an area where there were very few dual occupancies or higher density, even if you had four

Mr Fluffy homes right next to each other, you would not look at rezoning to a slightly higher medium or higher density?

**Mr Gentleman:** What we are looking at is not rezoning; it is looking at keeping the current zones but allowing amendments to the building size which would allow you to have a couple of different properties on the one block. At the moment, there is no need to change the zones. We are looking at those, as I said, that are currently in RZ1, where you are allowed to look at the larger size, if it is 800 square metres or bigger. We are looking at bringing that back to 700 square metres and saying, “If it’s 700 square metres then we could look at dual occupancy.”

**MR HANSON:** A supplementary on that. The dollars in terms of the uplift: have you guys looked at that? When you have got the blocks as they are now and what they are worth and then the comparison that if you apply the subdivision or the unit title change, then that uplift equals the \$90 million—if everyone engages. Have you done that body of work or is that done by someone else?

**Mr Gentleman:** No. That is being done by the task force and EDD.

**MR HANSON:** You did not have any involvement in that?

**Mr Gentleman:** No.

**MR HANSON:** Who has the data on how many blocks there are, how many will be subject to subdivision, how many will be subject to change in unit title? Is it done specifically to say, “These are the following blocks that we think can be subdivided,” or is it just a ballpark? I am trying to find a sense of how accurate that figure is, how detailed has it been. Have people gone to each block to do an evaluation and say, “We can subdivide this one, therefore it will uplift the value by 30 per cent,” or has it been done as a macro guess based on an average block size?

**Mr Gentleman:** As I mentioned, that work was done by the task force. We could tell you how many blocks there are, of course, but how many are purchased and then what work goes on with those blocks will depend on the uplift. That is my view, but I have not done that work; that has been done by the task force and EDD.

**MR HANSON:** In terms of the subdivision or the titling, that will be done through the process. Demolition would occur and then essentially, once that block is ready for market, we will know whether it has been subdivided or it is unit title. At what stage?

**Mr Ponton:** Mr Hanson, in terms of dual occupancy, if the site is cleared and clean then what is being proposed is a change to the rules of the territory plan that would allow the subsequent owner to build a dual occupancy building. So that would then require the approval of the building and the unit titling would not actually occur until the building is at a certain stage, usually slab level, where you then get a survey undertaken, and then once the building is completed you finalise the unit title plans, so it becomes a units plan at that point.

To answer your question, you really need to have an approval for the building before you can even contemplate the unit title. If there were subdivisions—as I said, I would



expect that would be a very small number—then that could occur prior to any buildings being applied for to be built on the land.

**MR HANSON:** So most people will essentially be able to buy their block back as is?

**Mr Ponton:** That is correct.

**MR HANSON:** Noting that, because of the fact that it now can have a dual occie on it, it is likely to be more expensive than it would otherwise have been?

**Mr Ponton:** One would expect that the value would increase as a result of that.

**MR HANSON:** It might again be a bit of an estimate, but if you have a standard block—the standard size block is about 700, is it, or something like that?—that is worth X amount and you apply this new provision to it so that it can have a dual occie on it, is the uplift there five per cent, 10 per cent, 20 per cent? Is there a reasonable expectation that people then will know that, when they come back to their block, aside from the market forces, having had this planning change to it, their block is likely to be a certain amount more expensive? I assume that work must have been done somewhere to come up with that \$90 million figure.

**Mr Gentleman:** Yes, but it is not really a planning matter. That is work that has been done, as I mentioned, by the task force and EDD. It has not been done by me.

**THE CHAIR:** In a follow-up to that, was Planning asked for advice on which blocks are suitable for redevelopment? If you are going to maintain the character of the suburb and judge which blocks can be developed, that would affect the value that you can realise from the resale.

**Mr Ponton:** With the figures that we mentioned earlier, at a high level, we provided that advice in terms of what the current zoning allows for. Given the size of the parcels and the fact they have had a home on them before, you would expect that you would be able to, at the very least, get a dual occupancy on each of those. But you cannot guarantee that. Those figures that we gave you earlier I think are reasonable to make assumptions on.

**THE CHAIR:** A letter from the Treasurer to the committee said, “This matter is expected to be in part offset by processing the resale of the remediated land which is forecast to generate around \$531 million in revenue.” Did you have any input into that value?

**Mr Ponton:** No.

**THE CHAIR:** Has Planning had discussions with Treasury about the likelihood of which blocks can be redeveloped, or is this based on assumptions that Treasury have made on their own?

**Mr Gentleman:** Those figures that we gave you earlier on are the available blocks that can be developed.

**THE CHAIR:** You are saying they will all be developed? You are saying the 89.3 per cent will be redeveloped as dual occs?

**Mr Gentleman:** They can be.

**THE CHAIR:** I think Mr Ponton said there would be discussion and consideration about the nature of the street.

**Mr Ponton:** In terms of those that are for dual occupancy, we are saying that the size of those blocks would reasonably suggest that you could accommodate a dual occupancy on each of those. The difference when I was talking about streetscape, character and the like, was that, for that very small number, you are looking at subdivision. That would only be if the proposal was to subdivide more than in half. If you are looking at a dual occupancy, it is essentially one home into two. You would expect for your corner blocks the same would be the case. But if the suggestion was that if you would subdivide into three or four, then you would need to have a much closer look.

My expectation would be based on the figures that we have provided to our colleagues in the task force. The assumption has been made that that would relate to from one to two homes on each of those, not that you might get three or four, because that work has not been done yet. What we are saying is that it would not be an unreasonable thing to do for some of those larger blocks to have a closer look at those that might facilitate subdivision. But the work has been done on dual occupancies. So from one to two.

**MS BERRY:** Has any work been done on the length of time that a block can remain empty? There will be some suburbs that have a number of blocks that will be bought by different people, perhaps Mr Fluffy home owners or perhaps other people, and they may be empty without any building on them for a little while. Has any work been done around that, like not leaving the blocks derelict and empty for years in the future?

**Mr Gentleman:** Interestingly, we had a similar question in the chamber just the other day in question time. I will be talking with the directorate at our normal Monday briefings about what we can do about blocks that are left for a long time. We are looking to encourage people to invest, so there is an opportunity there. We used to have commence and complete fees before and strict parameters around when people should start construction and when it should be completed. Those have been relaxed a bit, but we still want to make sure that they are not left for too long. That is the work that EPD and I will be doing in the forward months.

**MS BERRY:** You might not be able to answer this one, but if a block is able to be a dual occupancy block and if a current Mr Fluffy home owner only wants to buy half of it or live in half of it—wants to downsize—is that possible? How would that happen practically on the ground? How would that happen if that is what they wanted to do?

**Mr Gentleman:** We would go through this process of sale and then—

**MS BERRY:** They would be given an option to buy that half of their block?

**Mr Gentleman:** That would be done through the task force. Ours is the planning side. My understanding is at this time, I think, yes.

**MS BERRY:** If you downsize now you do not have to pay stamp duty.

**Mr Gentleman:** There is some incentive, as I understand it, for older persons that are downsizing; they get a waiver on their stamp duty. That is being progressed, as is the removal of stamp duty overarchingly, but at the moment it is for older persons that are downsizing.

**MR HANSON:** My understanding is that this can be done by regulation and there will not be any changes brought to the Assembly. But I have heard discussion that there may be changes necessary for some heritage aspects or some environmental. I do not know if that is to do with cutting down a bunch of trees or demolishing homes that are heritage listed. Are you aware of those particular issues or is that someone else's responsibility?

**Mr Gentleman:** There would be some properties that have some heritage value that may be affected by Mr Fluffy.

**Mr Ponton:** The Heritage Council have carefully considered this particular issue and they have formed the view that, given the potential safety issues associated with these homes, they would not object to the demolition of those homes. As I understand it—this might be a question for the task force—the analysis that has been undertaken proposes not to provide for dual occupancies on those sites. That comes down to respecting the original citation for what are usually precincts and that the redeveloped sites would need to respect the existing guidelines in place. I understand that the Heritage Council are currently finalising a policy in that respect.

**MR HANSON:** And the environmental society are aware of that?

**Mr Ponton:** That is not something that I can comment on.

**MR HANSON:** When people go through the planning process to rebuild, essentially, noting that I imagine this will cause a surge of activity, is there a look at putting on extra staff so that we do not have a situation where the system gets clogged with a whole bunch of DAs?

**Mr Gentleman:** Certainly I will work with EPD to get the best results we can on that. If we need some extra staff, that would have to be a budget bid, which I would be happy to argue for.

**MR HANSON:** The point being then that that has not been factored in at the moment into this appropriation. So, given that there is going to be a bunch of activity that is going to occur—although there is an attempt to smooth this out, I would imagine there will be a surge where over a couple of years you are going to get significantly more DAs than you would normally get—you would not want delays. What is going to be your mechanism to cope with the additional potentially thousand or more DAs? Are

you going to look at additional staff or is that going to cause delay?

**Mr Meyer:** I cannot comment from the DA perspective specifically. I am not sure if we are looking at exemptions for DAs initially. But certainly the normal processes in terms of demolition and then rebuild will be oversighted by EPD. In that regard we have identified what we believe will be a likely work flow over a period of time. At this stage we still believe that within our existing inspectorate resources we will be able to deal with those sites expeditiously in the normal way, noting that, in particular, some elements of construction activity will be declining, particularly over the next 12 months or so, so it does give us some capacity, Mr Hanson, to deal with that.

Clearly, we will be working closely with the task force to map this activity out and we will most likely have designated inspectorate teams that will be able to handle these to make sure we do not—

**MR HANSON:** There is nothing in the approp bill from you—you have put no bids in?

**Mr Meyer:** Not from that side, no, not specifically around the Mr Fluffy cases.

**MR HANSON:** Anything from a planning side that has gone into the approp bill, financially?

**Mr Ponton:** No.

**Mr Gentleman:** Just to come back to your question regarding the amount of development applications that will come in, you heard from the task force manager earlier on who said that this will happen over a period of time. It will not be a thousand DAs straight up; it will happen over a staged period.

**MR HANSON:** No, but I imagine there will be spikes. If you are going to get an extra 300 in a year or an extra 400, what does that mean? I would have thought that, if you were to get a whole bunch of extra work, that either means it gets done slower or you need to put on extra staff. I am a little surprised that that has not been factored in in term of resources required for your directorate as part of the approp bill.

**Mr Ponton:** Mr Hanson, if I may, we do see peaks and troughs over time with development applications, so it is not unusual. In 2009, for example, there were changes to the Unit Titles Act, so we saw a peak at that time. There are changes for the territory plan and people are aware of those potential changes so you will see peaks. What we tend to do is monitor the timeliness of the development decisions and if we need to reallocate staff we can do that. It is just a case of watching, monitoring and making sure as best we can that we deal with those peaks should they occur.

**THE CHAIR:** The maintenance of the blocks once they are purchased by the government will fall to whom? Is that an LDA issue? Is that for planning?

**Mr Gentleman:** That will be Property Group, Mr Smyth.

**THE CHAIR:** Some of the financials that the government have provided to the

committee see the revenue from sales. It is \$53 million in 2015-16, \$79 million in 2016-17, \$132 million, \$132 million and \$79 million. What is the ratio of staff to DAs approved in a year?

**Mr Gentleman:** Mr Smyth, we would have to take that on notice. There are hundreds of DAs a year—more than hundreds. We will take that on notice.

**THE CHAIR:** Who would do the coordination, for instance, if Housing saw an opportunity to do some redevelopment with combined Mr Fluffy blocks? Will that be LDA or will that be through Planning?

**Mr Gentleman:** It would be the Land Development Agency.

**THE CHAIR:** We have had one submission from an individual who it would appear is not a Mr Fluffy owner but is quite concerned for his street. How will you guarantee that the amenities will be protected once the permission for subdivision is given? How do you control what goes on and ensure that the street character is not changed?

**Mr Ponton:** It is important to note at this point, Mr Smyth, that dual occupancy in the RZ1 zone is already permitted. So in that respect the rules are already in place that seek to address those issues. In terms of traffic management, like any normal DA, we would need to consider whether or not the road has capacity, garbage collection and those sorts of things. But, as I said, those rules already exist in the territory plan because dual occupancy is already permitted, the difference being that the government is proposing to allow unit titling so that the sites can be sold separately. Those rules also include, for example, ensuring that the two homes either present as two separate homes in the streetscape or, if one is located behind the other, there is a smaller plot ratio so that you start to get some planting space and garden around the homes. Does that address your question?

**THE CHAIR:** I think it is probably more a question for the LDA.

**Mr Gentleman:** In regard to amenity overall, we can certainly have some control over the style and size of properties, but amenity is in the eye of the beholder. Some properties that you see may not be, in your view, very artistic, but in some other's view they may be.

**THE CHAIR:** But streets have a certain characteristic.

**Mr Gentleman:** Certainly, yes.

**THE CHAIR:** A street in Curtin built in 1969 is entirely different from a street in Palmerston built in 1994.

**Mr Gentleman:** That was highlighted by Mr Ponton's comments about the view of the neighbourhood overarching.

**THE CHAIR:** A number of these blocks, for instance, will have significant trees and plantings on them. Normally if a significant tree is removed from a block there is a requirement for it to be returned. With the block ratios, the plot ratios, will vegetation

plans be required to ensure that the character of the area is returned?

**Mr Gentleman:** That would be an LDA requirement—no, part of the normal DA.

**THE CHAIR:** So is it LDA?

**Mr Gentleman:** No, it is part of the normal development application process.

**THE CHAIR:** If that is part of the DA, what will the move there be, because this is another burden? To establish a garden can be very expensive and very costly, particularly in some of the older areas with the developed trees and the foliage cover. Will it be insisted that that be returned as quickly as possible?

**Mr Gentleman:** Yes.

**Mr Ponton:** For dual occupancy, the normal process would be that the Planning Authority are provided with a landscape plan. In terms of the speed with which that landscape is implemented, that would need to be done as part of the final certificate, the final unit title certificate, but it need not be particularly onerous in terms of the landscape. You are not looking for super advanced species of trees, for example. That is not a normal DA requirement.

**MS PORTER:** The rules around objecting to a DA: minister, could you explain to us if there will be any difference to the way that is handled in relation to these areas? I understand that with the blocks different things will be allowed to happen on them, but once a submission for a building is put up and the DA goes up on the website will there be the same kind of arrangements? You have so long to be able to say whether you think that is okay or not?

**Mr Gentleman:** The period of notification.

**MS PORTER:** Will that be the same, and when people object in what way will those objections be dealt with? Will that be any different or will they all be the same? Are you anticipating that you might need maybe a slightly longer period of notification, given that there may be a number of changes in a given area which might cause people some disquiet and therefore some added stress on the staff to be able to handle those different kinds of things that will be happening all at the same time maybe in a certain area?

**Mr Gentleman:** Already in some areas a number of development applications occur in a similar area. I will ask Mr Ponton to give you the detail on the time lines.

**Mr Ponton:** In terms of the work that we have done in our conversations with the task force, Ms Porter, there has been no discussion of making changes to the existing provisions. At this point my expectation would be that the DAs would be notified for the normal period, which is 15 working days for dual occupancy, notified to the neighbours and a sign on the property. The submissions that are received would be considered in the usual way, as required by the act, which is that the Planning and Land Authority must carefully consider those submissions in making its final decision.

**MS PORTER:** You do not anticipate that you will need any additional staffing—going back to Mr Hanson’s question about staffing? You do not believe you will need to consider additional support for the staff around that? It is not only the fact that there may be a spike in workload but the nature of the particular workload involving those kinds of situations—going back to the period of the fires where perhaps people living next door to these blocks are already agitated by what is happening, so the staff may have further stress added. I am just concerned about what is happening about the staffing at your directorate and the Planning Authority as to how that is going to be handled.

**Mr Gentleman:** There are two things to have a think about: one is, as Mr Ponton and Mr Meyer talked about earlier on, the amount of development applications that come in over a period of time; we do have peaks and troughs and we need to get ready for those. That is in a staffing sense. In regard to notification, it would be up to me to consider whether or not we extend the notification period. We certainly can; there is an option there for us to do that. We will have a look at that and see whether it is necessary and whether it is appropriate, too, in that matter.

**MS LAWDER:** A supplementary: if there is an objection, is that an additional 30 days added?

**Mr Ponton:** An additional 15 days for the Planning Authority to make its decision if there is an objection, so in terms of the statutory time frame.

**MS LAWDER:** If there was more than one objection, it is still the standard 15 days?

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

**THE CHAIR:** Members, we might draw it to a close there.

**Mr Gentleman:** Mr Chairman, if I could just come back to a question asked earlier on in regard to a home owner that has sold and wishes to purchase back on the block that may be subdivided. They will have first right of refusal, so there is that option, yes, Ms Berry.

**THE CHAIR:** A couple of things have been taken on notice and it would be appreciated if the committee could have those as quickly as possible. We intend to report next Wednesday, but even if they are not available before then the public accounts committee continues, so we do expect an answer. When transcripts are available, a proof will be forwarded to witnesses for an opportunity to check the transcript and suggest any corrections. On behalf of the committee, I thank you, minister, and your officials for appearing today.

**Mr Gentleman:** Thank you, Mr Chairman, and committee members.

**Short adjournment.**

**BARR, MR ANDREW**, Treasurer, Minister for Economic Development, Minister for Housing and Minister for Tourism and Events

**NICOL, MR DAVID**, Under Treasurer, Chief Minister, Treasury and Economic Development Directorate

**MINERS, MR STEPHEN**, Executive Director, Finance and Budget Division, Chief Minister, Treasury and Economic Development Directorate

**KEFFORD, MR ANDREW**, Head, Asbestos Response Taskforce, Chief Minister, Treasury and Economic Development Directorate

**THE CHAIR:** Minister, welcome, and thank you to you and your officials for appearing today at the public accounts inquiry into the proposed Appropriation (Loose-fill Asbestos Insulation Eradication) Bill 2014-2015. The terms of reference for the committee inquiry are the proposed bill and its explanatory memorandum. The committee resolved on 17 November to inquire into this bill. This followed the Chief Minister writing to the committee on 14 November to ask it to consider the proposed bill and its explanatory statement in advance of the bill's formal introduction in the November sittings of the Legislative Assembly, which, of course, occurred on Tuesday.

The objective of the bill is to enable the use of funds from the commonwealth government's concessional loan to the territory to help pay for the buyback and demolition scheme for more than 1,000 properties affected by the potentially deadly loose-fill asbestos known as Mr Fluffy.

The committee will do its best in a very tight time frame to balance the request of the government to pass this bill before Christmas as well as to provide the opportunity for those interested members of the community to submit their views to the review.

The committee acknowledges the short time frame in which it has to complete this report and inquiry and the overriding public interest in the proposed legislation. While the committee will complete its inquiry with the report, the committee emphasises that the outcome of its inquiry will be more than just the report alone but will also be the evidence on the record from the two days of public hearings it will hold and the views of now more than 55 interested members of the community as submitted in written submissions.

I wish to advise that the submissions have been authorised and are now on the website. Versions uploaded to the website where applicable will redact residential and personal email and phone contact details. We simply do not want to inadvertently publish a small list of Mr Fluffy homes. The submissions will be published with surnames attached except in some instances where they have been withheld to protect the privacy of the submitters.

Treasurer, we have heard from a number of your colleagues earlier in the day. I now ask: would you please confirm that you have read and understand the implications of the privilege statement on the table before you?

**Mr Barr:** Yes.



**THE CHAIR:** So acknowledged by all at the table; thank you. I remind witnesses that the proceedings are being recorded by Hansard for transcription purposes and are being webstreamed as well as broadcast. Before we proceed to questions, Treasurer, would you like to make an opening statement?

**Mr Barr:** No, thank you.

**THE CHAIR:** For the record, the committee received, following a briefing the other day, some updated financials from the Treasurer, and I thank you for that. Could we go to the third page, where we see the net impact on the operating balance. I notice, Treasurer, you have not then added the total HNOB impacts excluding contingency to the data provided in the budget papers, so that we get an update of the surpluses or deficits. Is there a reason for not doing that?

**Mr Barr:** We will publish that in the midyear update because there will be other variables that will be impacted, most particularly when the commonwealth update their forecasts for the midyear, which I understand will come out shortly. We traditionally provide our midyear update in late January, early February—certainly by 15 February; that is our requirement by law. We generally wait until after the commonwealth so that we can factor in any changes that are pertinent to the territory's accounts, and we will provide that update at that point.

**THE CHAIR:** I have brought budget paper 3; I can add these together and publish the numbers. Why wouldn't you do that, with the proviso, of course, that it is going to be updated in the midyear?

**Mr Barr:** You can do the maths, but there are a range of other things that will change. I will issue one update, not two, and we will then provide further updates of the anticipated outcome in the current fiscal year in the context of next year's budget.

**Mr Nicol:** Mr Smyth, I would also suggest by the time we publish the midyear update we will have a bit better handle on the timing, particularly in the first two years. We do not expect that will change the overall impact. But just when that hit occurs on the budget is critically dependent on when the contracts to settle the purchases are settled. So it is whether it is before 30 June or after 30 June.

**THE CHAIR:** The last paragraph on the front page of your letter, Treasurer, contains the three key numbers. I will read it for the record:

The financial modelling indicates that the scheme is expected to have a net cash cost to the government of approximately \$366 million not including the interest costs on the loan from the commonwealth. Under the scheme the government expects to spend around \$897 million purchasing and remediating properties and undertaking the administrative tasks associated with the scheme. This amount is expected to be partly offset by the proceeds from the resale of remediated land which is forecast to generate around \$531 million in revenue.

Can you give us a run-through on how the \$531 million figure was determined?

**Mr Miners:** That is built up from a number of factors. The incoming revenue reflects a number of things. The amount starts with the value of the land that we purchase. So

we have been assuming we will at least get that value back. It is then based on an uplift on that value based through unit titling of land. That value was calculated as a 25 per cent uplift in value on average across 88 per cent of the blocks. That 88 per cent of the blocks that we applied that uplift to is consistent with the numbers you heard earlier in terms of the number of blocks or proportion of blocks that are over 700 square metres.

**THE CHAIR:** What makes you assume that all 88 per cent will be suitable for unit titling or redevelopment in that way?

**Mr Miners:** These numbers and the modelling we have done are based on averages. So everything running through all our modelling is based on an average. We take all the blocks and take an average uplift. This does not mean that all 88 per cent of blocks will get a 25 per cent uplift. It means that some of those blocks may get a zero uplift; some may get a larger uplift. On average, though, we take the average and we spread it across the number of blocks that are capable of getting uplift. We certainly have not gone through and looked at every block and done it block by block. That is simply not possible to do within the time and it would not add greatly to the accuracy. We have done it on an average basis.

**Mr Nicol:** I add that it is an estimate of what the revenue will be. If, on average, fewer than 88 per cent are unit titled or, on average, the uplift is less than 25 per cent, the amount of revenue will be lower. Similarly, if those averages are conservative, the amount of revenue will be higher. It will be what it will be, essentially. It is an estimate based on those rules of thumb.

**THE CHAIR:** How did you come to the conclusion that it was a 25 per cent uplift?

**Mr Miners:** It was advice from the Property Institute and from other sources within government as well, to try and come up with an average number.

**Mr Kefford:** Mr Smyth, we undertook a process of valuation on a small number of blocks to get a sense of what the average uplift might be, recognising all of the constraints that the Under Treasurer has referred to. We looked at a range of blocks of different sizes across different suburbs to get an indication, recognising all of the behavioural elements that will come into play in what the answer will actually be.

**THE CHAIR:** Given that for the bulk of the land sales all the revenue is 2017-18 and 2018-19, is that not a dramatic underestimation? It is three or four years before you expect to get these returns.

**Mr Miners:** The way we have modelled this is that we anticipate there is a reasonably consistent flow of resale. We have them progressively coming to market, so it will depend on a number of factors. The modelling is that the bulk of the properties will return in 2017-18 and 2018-19. We have about half the properties returning in those two years. That reflects the fact that it will take time to get the scheme up and running, it will then take time to actually demolish the properties and then to get them back on to the market. We expect that to be spread effectively over five or six years in getting them back on to the market.

**THE CHAIR:** Could the committee see the advice that the Property Institute provided?

**Mr Kefford:** I am happy to take that on notice, Mr Smyth.

**MS PORTER:** Earlier we were discussing with the Minister for Planning the possibility of some Mr Fluffy blocks being located in a similar area to public housing blocks and that there could be an opportunity for you as Minister for Housing to decide to demolish those houses in that area and to then amalgamate some blocks. I was asking some questions around the government's policy on salt and peppering.

Also, we heard from Mr Ponton about the fact that there will be consideration given to the nature of the neighbourhood—the current nature and feel of the neighbourhood—which goes to some of the behavioural factors we were talking about. Could you make some comments about how you as Minister for Housing would be looking to manage those particular questions?

**Mr Barr:** The issue largely will be contained to RZ2 and RZ3 zones where there might be Mr Fluffy properties and Housing properties. So that existing planning zone framework would give the capacity to be identified for further consolidation in terms of density. I think the advice is that there are a number of properties that would fall into that category, noting that about 80 per cent of all properties in the territory are within RZ1 zoning. So we are talking about the exception rather than the rule.

Some mapping has been done to look at where public housing properties might be co-joined with these particular properties, but I would not want to overstate the potential here for significant change. I suspect there will be some opportunities but they will be rare. The housing portfolio would also have to consider the existing tenancies within those particular properties that might be adjacent. It would be premature to suggest that because someone who lived in a public housing property lived next door to a Mr Fluffy property, that would immediately trigger a demolition of the public housing property. That would not be the case. We would need to consider it on a case-by-case basis, based also on the capacity of the housing portfolio to find alternative accommodation for residents who may be impacted.

However, if there is a rare circumstance where there is a public housing property that might become vacant or within our asset management plan would be scheduled for disposal, we could certainly look at an opportunity for a larger scale development that would include both the cleared Mr Fluffy blocks and potentially some adjoining public housing properties. But to suggest that this would be commonplace would be wrong. I am certainly not factoring in any significant level of change in that context. There is a much broader reform agenda in the housing portfolio that stands entirely separate from this particular process.

**MS PORTER:** How is all of this playing out in the government's larger agenda in relation to other decisions that are being made about reuse of land et cetera?

**Mr Barr:** We will increase the amount of greenfield land that we release in the coming fiscal year through the Land Development Agency. Around 300 additional blocks can be put to the market. We may be able to increase that slightly, depending

on the final data returns of take-up of the government's buyback offer and then discussions with those who may be looking to acquire land to build a new house in one of those areas where we have land available as opposed to those who are looking to buy an established property, recognising that there may be some short-term boost to demand within the housing market in the territory. But to put some context on that, 700 properties a month on average transacted in the ACT over the last five years—so 8½ thousand a year. Any potential increase of between 500 and 1,000 extra purchases in the market would not dramatically impact on the Canberra market, given the relatively modest level of turnover that we are seeing now. We are in fact below our five-year average in turnover in recent times.

There is capacity for the market to respond, and I have indicated publicly before that it is quite reasonable to expect that there will be a supply-side response from people who were holding off putting their property on the market because they felt it was a buyers' market and who might now feel there is demand for their property in particular locations. They may well see what they can get in the market. But let us face it: this property market has been flat for three or four years, and every indication is that the midyear update from the commonwealth and the next commonwealth budget will slash even more and will have an even greater depressive impact on real estate in the territory. There are always those who will talk things up, but the best barometer of performance of the Canberra real estate market is to look at the level of employment in the city. If the commonwealth slash thousands more jobs from our economy, that has to have a flow-through impact on the real estate market.

**THE CHAIR:** That seems to be contrary to what Mr Bell from the Real Estate Institute had to say this morning. He said they had not seen an impact from changes at the commonwealth level and that despite their original impression that there would not be a spike because of Mr Fluffy—he used the words “serious impact is occurring”.

**Mr Barr:** Ron and I have had this discussion. I have looked at the data in terms of where the property market has gone. Of course real estate agents always talk things up. It is their job; they are always looking to do that.

**MR HANSON:** Are you saying he is fabricating his evidence for commercial purposes?

**Mr Barr:** No, I am not suggesting that. I know Ron very well. He will take a very positive and optimistic view about where the real estate market will go, but we will take a frank and realistic assessment and look at what is a key factor—the level of employment in the city. If jobs are being transferred out of Canberra and the people go with them, that has to have an impact on the housing market.

**THE CHAIR:** He said, contrary to that view, that in fact there were probably a thousand fewer houses on the market than there normally were and that—

**Mr Barr:** That is right, because why would you try and sell in this market?

**THE CHAIR:** He relayed the case that there are Mr Fluffy home owners or potential purchasers who are fighting each other over a particular house.

**Mr Barr:** That may well be the case, but that would be after a particular house. There are some houses that are unique and might be highly desirable. I am talking about the property market in aggregate.

**THE CHAIR:** He then said that the heart of the problem is land supply and that the government has—

**MS BERRY:** I do not think he said “at the heart”. He said it was one of the issues.

**Mr Barr:** And we have released record amounts of land. I am happy to release more. I will continue to release land whilst ever there are people who want to buy it. The issue that I have had as Treasurer is not wanting to put revenue forecasts and expectations into the budget that are unrealistic. I have said consistently that we will continue to release land as long as there is a market for it. And we will. We will put at least another 300 blocks on the market, if not more, if there is demand.

**MR HANSON:** A supplementary on that?

**THE CHAIR:** I suggest you read his transcript from this morning. A supplementary for Mr Hanson, then a new question from Ms Lawder.

**MR HANSON:** You said that Mr Bell, because he is a real estate agent, would always be talking the market up. But in fact his advice to government and the task force was not that the market would go up because of Mr Fluffy; it was contrary to that. The advice he gave was that there would be, as I understand it, a very limited effect from this.

**Mr Barr:** That is what I just said.

**MR HANSON:** Just wait for me to finish. He has now come back to say that the reality is different—that although the advice was that it would not, the reality is that it is hitting the market. You cannot have it both ways. You cannot say: “He’s a real estate agent. He’s going to always talk the market up.” The original advice was exactly the opposite of that. It is just that now the experience he and his members are having out there is that the reality is that Mr Fluffy home owners are competing with one another. Before you cast aspersions on Mr Bell’s intent, he has been conservative in his advice, and it is just the reality of what is now happening.

**Mr Barr:** Is there a question in that or is that just a statement?

**MR HANSON:** I was wondering why you were verballing him.

**Mr Barr:** I am not verballing him. I have stated a view. He may have a contrary view. I know Ron very well; we discuss these matters regularly. We will see. As I said, I have maintained the flexibility to increase land supply in greenfield estates, but I cannot increase land supply in established suburbs; that is fixed—short of the proposals we have here, obviously, around subdivision and unit titling of particular blocks.

**MR HANSON:** On the land supply in greenfield sites, another point he made is that

because the land supply is being released at the moment, it is essentially not ready for people to build on.

**Mr Barr:** But the 10,000 blocks that were released three years ago are.

**MR HANSON:** But they have already been purchased?

**Mr Barr:** Not all of them.

**MR HANSON:** How many of the 10,000 that are ready for people to build on are available on the market?

**Mr Barr:** We can get some data on that. Not everyone who purchased three years ago decides to build now, and some blocks are available.

**MR HANSON:** How many greenfield blocks currently available for sale in the ACT are ready to build on—they have got roads, sewerage, lights and all the necessary bits and bobs ready to go so that people can go and build? How many greenfield sites of that nature are available for sale in the ACT?

**Mr Barr:** At this point in time, very low. I will need to check on the LDA website to see what might be available over the counter. But we will be having future land releases, programmed land releases.

**MR HANSON:** The problem is, though, that the land releases that you bring on—the advice we got from Mr Bell is that, because the land releases are on sites often without the necessary infrastructure so that you can actually go and build, you might release that land but that is not going to affect the ability for Mr Fluffy home owners and others to build for another two or three years until it is ready to go.

**Mr Barr:** Not tomorrow, but for those who wish to take up the offer and build in 2016, land that is released now will be important for them. I am not suggesting that the increase in land supply in the next fiscal year will meet the needs of the close to 600 who have initially registered, but not everyone will take up the offer to move immediately, and there will be those who may wish to rent in the interim and then build a new house.

**MR HANSON:** The problem is that in relation to the purchase of those blocks now, how do they do that if they have not sold their properties? If they are going to move out later, they are not moving out until 2016-17 because that is when a block will become available. How do they go and buy a block now, in anticipation of moving in in 2016-17, when they have not got any money?

**Mr Barr:** Because settlement terms can be delayed to allow for that to occur.

**MR HANSON:** You are going to delay settlement on these new blocks—

**Mr Barr:** People can pay a deposit on a new block and then pay the balance at a later point. That is how—

**MR HANSON:** But where do these Mr Fluffy home owners, who are going to lose a lot of money, all of a sudden find a deposit for a block that they cannot move to and cannot build on until 2016-17?

**Mr Barr:** We can also negotiate on the settlement time for moving out of their existing property.

**MR HANSON:** But they do not get the money until they move out, do they?

**Mr Kefford:** Mr Hanson, this is a question that has been raised with us by a number of home owners in recent times. The normal approach, the expectation, is that we will not, as would happen in an ordinary transaction, pay a deposit which is held in a solicitor's trust account anyway. I would have thought that in these circumstances there is no reason in principle why we could not make some kind of prepayment on the settlement sum to allow us to work with colleagues in the LDA to assist people into a new home.

**MR HANSON:** Is that in regs or has that been advised to people?

**Mr Kefford:** Mr Hanson, there are lots of things that we are coming across as we have individual discussions with home owners and we are then communicating those answers through the newsletter and other places. This is not something which had been explicitly raised with the task force until very recently. It is something which we can think about, but here at the table I cannot think of an obstacle that would prevent us from doing that.

**MR HANSON:** You can look at it, because it might be a good recommendation for the report. We have got to look after these people who might say, "Okay, I want to move to a new block in whatever land you are releasing," but land is not going to be available for them to start building for two or three years. What do they do in the interim? If they cannot purchase that block now because they do not have the deposit, they are mindful that essentially they are going to be building in a market two or three years on when prices have escalated. If there can be some flexibility in the purchase of those blocks—

**Mr Barr:** Or, if the experience of the last couple of years is continued, the housing market may not move at all. And if the commonwealth cuts get deeper, Mr Hanson, it could well go the other way.

**MR HANSON:** It might, but they still need to be able to find a deposit. They do not have the money until they leave that property.

**Mr Kefford:** Mr Hanson, you will recall from our earlier discussions that we were contemplating a similar arrangement to assist in the costs of the asbestos management plans that have been foreshadowed as part of the announcement. It is a path we have already contemplated, although not in this context.

**THE CHAIR:** Ms Berry had a supplementary, and then a new question from Ms Lawder.

**MS BERRY:** Mr Bell also said this morning that he did not think there was anything the government could do other than what they have already done in addressing this issue. Could you—

**THE CHAIR:** Except for releasing more land.

**Mr Barr:** Which we are doing.

**MS BERRY:** Could you tell us what else the government has done?

**Mr Barr:** In the last three years, we have undertaken the largest ever program of land release. Many thousands of blocks have been put onto the market, so much so that the HIA, in their observation of the work of each of the states and territories on meeting housing supply needs, acknowledged that the ACT was the only one who had achieved the benchmark target of releasing enough land to meet the anticipated levels of demand.

The issue that is pertinent across Australia, and one of the reasons why housing affordability has been a challenge in Australia for the last 15 years, is that we have been building about 100,000 houses too few across the country each year. The HIA undertook an analysis that looked at how each state and territory was performing against the demand-side requirements in each jurisdiction. I was at an event with the HIA yesterday; Harley Dale, their chief economist, made these comments publicly—that the ACT had been the only jurisdiction that got to the HIA target. And we got there early; we got there three years ago.

As I said to Mr Smyth, we will continue to release land whilst ever there is a market. But it was not that long ago that certain leading players in the development and real estate industry in this city were cautioning the government against releasing more land in certain areas because it would impact upon the ability of existing sites to achieve the pre-sale targets necessary in order for the actual physical construction of new dwellings, particularly multi-unit dwellings, to go ahead. If they do not reach that figure, which tends to be in the order of about 70 per cent pre sale, the construction does not take place, so all the people who bought off the plan do not ever get their housing.

Whilst there is an intuitive and simplistic view that you should just flood the market with land, particularly in the multi-unit market, if you do that, none of the individual developments will achieve enough level of pre-sale for the development to actually go ahead. Then you have entirely undermined the purpose of your supply-side policy.

Having made those observations about the multi-unit market, in terms of single residential dwellings, it is acknowledged that there is still demand, so we will release nearly 4,000 dwelling sites next year and have a land release target that is in the order of 3,500 to 4,000 for the years ahead. Most people accept that the underlying level of demand within the ACT in normal circumstances is around 2,750 to 3,000 properties a year. We will be going above that year on year for some time into the future. Frankly, if we can sell more land, we will. I have no interest at all in choking off the supply of land. I have every interest in ensuring that there is equilibrium in the housing market. That is what we are seeking to do. It is why we have changed our stamp duty policies



and why we have re-targeted the first homebuyers grant towards the construction of new properties, to remove some of the house price inflation from the market, improve affordability and actually incentivise the construction of new dwellings in the city.

Those policies do not come without their levels of controversy. Some people in the city do not like any change—do not want urban renewal and do not want development occurring near them. Yet there is a very strong part of the market—who tend to be younger, and less vocal on ABC radio, on ABC television or in letters to the editor in the *Canberra Times*—whose needs need to be met. That is my focus.

**MS LAWDER:** Continuing from what others have said, Mr Bell spoke a bit about the fact that he thought some people may go to Tralee or Googong because of the availability of land. I have also heard of some people talking about perhaps bringing forward their five years in advance retirement plans, for example. That might mean moving down the coast. Those people do not get the stamp duty exemption because they are buying in New South Wales.

**Mr Barr:** Yes. New South Wales has a very regressive stamp duty regime. They are not as enlightened as the ACT in seeking to abolish stamp duty.

**MS LAWDER:** These people feel a little disadvantaged because one couple I have spoken to—

**Mr Barr:** I will happily raise the matter of stamp duty as a pernicious tax that should be phased out with the New South Wales Premier and Treasurer—

**MS LAWDER:** If I could finish my question—

**Mr Barr:** I would invite the Canberra Liberals to join me in support of the abolition of stamp duty in the ACT.

**MS LAWDER:** If I could finish my question now. The package appears to say that stamp duty will be waived. It does not say “if buying in the ACT”. So they felt a little disadvantaged when they found that out, and they had quotes of up to \$20,000 to move with removalists and various fees and charges. Again, they feel disadvantaged. If there was not a 100 per cent take-up, for example, of the package, would you be able to relook at the allocation of funds and perhaps help some of those people?

**Mr Barr:** I cannot offer stamp duty concessions in other jurisdictions, but I can certainly lobby on behalf of, indeed, all Australians to see other state and territory governments start the wind-back of stamp duty. It is a bad tax; it should be abolished.

**MR HANSON:** It is about Mr Fluffy, Mr Barr. Do you think that this is an appropriate venue to be trying to score political points like that? Really, come on.

**Mr Barr:** I am responding to a question about stamp duty in New South Wales.

**MR HANSON:** No, you are not; you are trying to—

**MS LAWDER:** But for these particular people?

**THE CHAIR:** Members, please.

**Mr Barr:** I am responding to a question about stamp duty in New South Wales. Yes, I believe stamp duty is too high in New South Wales and they should be lowering it.

**MS LAWDER:** And the rest of my question was about if there may be at some time in the future a relook at reallocation of the funds to help out people in those sorts of situations.

**Mr Barr:** Again, I cannot offer tax concessions in other jurisdictions. In terms of other assistance provided, if people are moving into New South Wales or elsewhere, it is very difficult for the ACT government to provide that assistance. We can, however, provide a range of tax concessions and incentives, including our downsizing concession for those looking to downsize, who are at retirement age, where the stamp duty is only \$20 for eligible participants in that scheme. Yes, we are very cognisant of how stamp duty impacts upon people's housing choices. That is why we have sought to phase it out almost completely for first home buyers and those seeking to downsize and why in every budget that I have been Treasurer I have cut stamp duty.

**MR HANSON:** A supplementary: a lot of these people are going to be rebuilding and moving into homes and paying the highest rates in the country that are going up at over 10 per cent a year. Have you given any thought to waiving some of the increases, the 10 per cent increases, in rates every year that these people will be required to pay to offset our stamp duty? You want to play those games?

**Mr Barr:** Rate increases will moderate in the forward estimates period after insurance tax is abolished. That process is complete in the 2016 budget and, therefore, the expected increases in rates will moderate significantly.

The other factor, obviously, that impacts on the size of rate increases annually is the wage-price index. That has been somewhat lower in the territory in recent times and it would be reasonable to anticipate that flowing through to lower annual rate increase. The ACT does not have the highest rates in the country. I think it is also worth noting, of course, that, as a government that provides both municipal and state-level services, comparisons between our rates, which are levied for municipal and state-level functions and local council rates, are disingenuous.

**MS BERRY:** Minister, this morning we heard from Ms Heseltine about some of the views of members of her organisation. She talked how some home owners wanted to buy back the land but at the price that it was valued at in October this year as opposed to the price that it might be later after it has been cleared. What effect would that have if the government was to sell the land at the existing value rather than at the value of it when it is cleared?

**Mr Barr:** An interesting question.

**Mr Miners:** The main difference from a costing perspective would be that, in terms of the accounts and the government's finances, they would receive less revenue from that sale, which would increase the cost of the scheme basically by that amount. So

the uplift that is factored into the model is around the \$90 million, which I think the Chief Minister mentioned earlier, and that revenue would not be collected, so that would just be a cost that would be effectively borne by the government.

**Mr Barr:** Borne by other taxpayers.

**MS BERRY:** All of the work that you have done on the scheme and the cost and everything talks about the homes as if they were being purchased by the government and the land was sold back. Some of the home owners have asked if the government were to buy back the homes and remediate the block but then give the block back to the home owners. There are lots of scenarios that people have mentioned in their submissions about different ways they see that they should be compensated for this terrible thing that is happening in our community. First of all, they will be compensated for the cost of their home being demolished but then the emotional cost that comes with that as well is probably something that does not come at any price. The things that people are talking about are: what are the options for different people in different circumstances and are these things that the government can consider?

**Mr Barr:** Ultimately the government can consider a range of options, but the more important question is what the community can afford. In the end, the scheme that the Chief Minister has put forward is at the upper edge of affordability for the territory. Any greater loss is borne by other taxpayers. That is the reality of this.

There are myriad ways to be more generous, but I must say, sitting in the position of Treasurer, I am very, very conscious that this is other people's money that we are talking about here. Whilst we have endeavoured to be as generous as possible, recognising all of the issues that people confront, there are economic and fiscal realities that confront the territory, the territory budget and, of course, every other ratepayer.

For all of the representations that I have had in relation to the scheme, they have been probably equally balanced between those who think it is too generous and that taxpayers should not be making the level of contribution that they are and those who are arguing for an even more generous set of arrangements. That is the nature of a democracy and of public debate. You are going to get that range of views.

Ultimately we will have to settle on, and have settled on, an approach that I think balances those competing interests and competing priorities. I was pleased with the announcement from Standard & Poor's that the territory's credit rating, AAA stable, would remain within the parameters that we have outlined with this particular scheme. The next couple of territory budgets will be some of the most challenging ever constructed in self-government, in that period. The big downside risk is, of course, what the federal Liberal government does in its midyear update and its budget next year.

They are my major concerns. I think what we have put forward here has struck the right balance, is compassionate and deals with the problem in a way that we can just afford. But any more and there are significant challenges for the territory. As Treasurer, I have to be cognisant of that. That is the advice that I will provide and have been providing my cabinet colleagues and, indeed, been observing publicly. This

is at the outer limit of affordability for the territory. If there had been a greater commonwealth contribution, maybe things would be different, but there is not. It is what it is and we are responding appropriately.

**MR HANSON:** As a note, on the balance between those who are saying it is too generous and not generous enough, I will just let you know that I do not think I have seen a single submission to this inquiry that is saying that the ACT government is being too generous.

**Mr Barr:** Most people who would have been interested in presenting to this particular inquiry would be those seeking more, not—

**MR HANSON:** No doubt most people talking to the Treasurer might have a slightly different view as well.

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

**MR HANSON:** Treasurer, the \$366 million figure that you cited, that is based on an assumption of a certain number of blocks and 25 per cent uplift. Have you looked at what risk there is in that? Is that a clear band? Is that the middle of a band?

**Mr Barr:** Between about \$300 million and \$400 million.

**MR HANSON:** So \$366 million is about midway. It may be as inexpensive as \$300 million—not that that is inexpensive. It may be as low as \$300 million or as high as \$400 million?

**Mr Barr:** To put some it in context, \$300 million is the Majura parkway. It is half the cost of a new convention centre, potentially.

**MR HANSON:** But only a third of light rail.

**Mr Barr:** Amongst other things. That is the range. Time will tell on the exact figure. Treasury officials have done diligent work to provide the government with the best possible advice at this point.

**MR HANSON:** Maybe as it rolls out it will be clearer.

**Mr Nicol:** I will just add a bit of detail. If there was no uplift, we would lose \$90 million of net sales, which would lift that \$366 million to \$450 million. So the \$366 million at net—

**MR HANSON:** That is assuming there is 100 per cent of—

**Mr Nicol:** That is right.

**Mr Barr:** I do not think there will be no uplift. You cannot take that extreme and say there will be none. But, yes, obviously there needs to be a range.

**MR HANSON:** You have assumed 80 per cent of properties have uplift; is that right?

**Mr Nicol:** 88 per cent. That \$366 million also is based on assumptions about the value of houses that we are going to buy, which is still to be determined, and obviously the cost of remediation and storage and doing that in a proper and appropriate way.

**MR HANSON:** That will be back at estimates in years to come and see how accurate you were.

**Mr Nicol:** No doubt.

**MR HANSON:** I was going to say that I will look forward to that, but I probably won't. You said that there was also the cost of interest to the commonwealth in addition to the \$366 million. How much is that?

**Mr Barr:** It will be \$12.47 million in the current fiscal year and around \$35 million annually.

**Mr Nicol:** That is correct.

**THE CHAIR:** On that, is there a reason why you did not include the interest in this document?

**Mr Nicol:** It is actually included in the second-last line, Mr Smyth.

**THE CHAIR:** There are two attachment Bs. Are we missing attachment A, or is one just incorrectly named?

**Mr Miners:** There would have been two pages to it. We can certainly provide the interest line.

**MR HANSON:** So it is \$366 million plus \$35 million?

**Mr Nicol:** Yes, plus the interest costs.

**THE CHAIR:** On the coloured sheet that has got the red colouring—

**Mr Barr:** There is a reasonable amount of red ink.

**THE CHAIR:** it says, “The analysis excludes the impact of financing costs interest.” So are you saying it is in the second-last line, which is the contingency line?

**Mr Barr:** We will make sure everyone is looking at the same document.

**THE CHAIR:** This is labelled “Attachment B” but the following page I have got is also labelled “Attachment B”.

**Mr Miners:** That one does not have interest in it, but we can certainly provide that interest.

**THE CHAIR:** Can we have a copy of the document you have got?

**MR HANSON:** I will just go back to this point: that \$35 million a year is over how many years?

**Mr Barr:** Until the loan is repaid.

**MR HANSON:** What is your estimate for how long until the loan is repaid?

**Mr Nicol:** The loan term from the commonwealth is 10 years.

**MR HANSON:** I assume it draws down, does it not?

**Mr Nicol:** Yes.

**MR HANSON:** You are not going to just pay it off right at the end with interest?

**Mr Nicol:** We are still in negotiations with the commonwealth.

**Mr Barr:** That might be because it is a very low interest rate. That is the whole point: they have given us a concessional rate.

**MR HANSON:** So you can use that for other things?

**Mr Barr:** Given that the territory has a range of other borrowings at a higher rate, it would make sense to pay those ones off earlier than paying off the one that is at the lowest rate. That is prudent.

**MR HANSON:** So \$366 million is the net cost of the demolish and resale type.

**Mr Nicol:** Yes.

**MR HANSON:** And then there is the \$35 million a year, which is over 10 years. That is the maximum term of the loan, I understand.

**Mr Nicol:** Yes.

**MR HANSON:** So you are really talking about a full hit, full cost, of \$700 million?

**Mr Nicol:** Every time the government spends money when it is in a net debt position, it has to borrow and that cost is incurred, yes.

**MR HANSON:** Yes. Really the impact on the budget over the decade is \$700 million?

**Mr Barr:** Yes, that is correct. That is right. It is a very generous offer.

**MR HANSON:** I think that figure probably has not been put out. Certainly in the conversations that we have had, I, maybe erroneously, assumed it included the financing—or that is the way it has been presented.

**Mr Barr:** That would have just been the financing, given—

**MR HANSON:** But, anyway, I think people have heard the figure of \$300 million or \$400 million—

**Mr Barr:** That is the scheme—

**MR HANSON:** but certainly the full cost of the interest and the—

**Mr Barr:** The scheme is different from the financing.

**MR HANSON:** The scheme is different from the financing; I appreciate that. But then we are talking here about the effect on the budget over the decade, and essentially the net effect on the budget, we are saying, is in the order of \$700 million?

**Mr Nicol:** Before we agree to that, the critical assumptions will be when we start selling the blocks, when we start repaying the loan, what the commonwealth interest rate is. The \$35 million a year is based on the full billion dollars at 3.5 per cent. Commonwealth interest rates are currently lower than that, so it might be lower. Once we start repaying the loan, obviously financing costs come down. So it will not quite be the full \$35 million a year for 10 years.

**MR HANSON:** Then there may be net savings because you are saving money on that loan that you would otherwise be paying on loans on the market.

**Mr Nicol:** The entire impact on the bottom line is a very complex calculation. The reason we present it this way is that usually when we talk about budget measures we talk about the cost of the measure; we do not add the financing costs on to each budget measure.

**MR HANSON:** No, no.

**Mr Nicol:** But there is a financing cost associated.

**MR HANSON:** There is a financing cost, but then that is the gross financing cost as opposed to perhaps the net financing cost.

**Mr Nicol:** The gross financing cost; that is right.

**MR HANSON:** So the gross financing cost is \$350 million, perhaps, over a decade. Have you looked at what the net financing cost is?

**Mr Nicol:** I am not sure. We will do that in the budget midyear update when we put all of the numbers in the budget and press the recalculate button and see what our cash flows are overall.

**Mr Barr:** Obviously there are a range of other decisions that will impact and there are provisions that were made in the budget on the capital side, and we have already indicated that there are some projects that will now not proceed in the time frame that

we had originally anticipated.

**MR HANSON:** So the midyear update will include the net financing costs?

**Mr Nicol:** Yes. I might add that I would recommend to the government that we provide a little bit more detail on how that financing cost is calculated this time round, just because it is so complicated.

**MR HANSON:** You did recommend or you will recommend they do?

**Mr Nicol:** I will recommend that they will on this occasion, because it is so complicated.

**Mr Barr:** Of course, there are a range of other—

**THE CHAIR:** We look forward to that in the midyear review.

**Mr Nicol:** Yes.

**Mr Barr:** And in the future budgets, but of course there are a range of other policy decisions that the government has already taken that will be factored into the midyear review and that we will take in the context of future budgets, around particularly the infrastructure program. But I stress and remind the committee that we did make a provision in last year's budget for the future infrastructure program and did not allocate, particularly in the outyears, specific projects against that provision until we had a greater sense of the exact timing of those projects and the cost of those projects and the procurement methodology behind those projects.

The midyear update, but, more importantly, next year's budget, will give greater clarity in relation to certainly the four-year forward estimates period, and the government has a range of decisions it has to take. Postponing a number of infrastructure projects or delaying when we make any payments on them obviously impacts upon both the fiscal and the headline net operating balance and cash position of the government over the forward estimates period. Of course, we could also make a decision to sell more assets to generate the cash to pay for a number of the infrastructure priorities.

**MR HANSON:** You will get those decisions in next year's budget.

**Mr Barr:** We have already done that. I have already announced one of them—we are selling 300 more blocks of land, so there is another asset sale that you can add to the list. We are increasing our land supply.

**THE CHAIR:** We are running out of time and Ms Lawder has a supplementary question.

**MS LAWDER:** A supplementary question: you have got an assumption that 88 per cent of properties can be unit titled or subdivided. What has happened with the other 12 per cent?



**Mr Miners:** The other 12 per cent are below the 700 square metres, so we assume there is no uplift at all on those blocks because they will just be returned to the market in their existing form.

**MS LAWDER:** If we have an assumption on these figures of 100 per cent take-up, 88 per cent can be unit titled or subdivided and an uplift of 25 per cent, what discussions have you had with Minister Gentleman and his department about the pressing need to allow these blocks to be unit titled or subdivided to avoid a greater impact on the bottom line? As you said, minister, you are cognisant of the impact on all Canberrans.

**Mr Barr:** I have had those discussions with the Chief Minister and we will be making some announcements in relation to a task force to work through those issues quickly and to provide certainty to the market in 2015.

**MS LAWDER:** Does it give perhaps a greater likelihood of compulsory acquisition of other blocks down the line?

**Mr Barr:** I would not comment on that at this point. I do not think there is any reason to speculate on that. I would not give that any credence.

**THE CHAIR:** Could we go back to the reason for not including the interest in the analysis, given that we are appropriating \$762 million. But on what I have got written as “attachment B” the bottom line says that total appropriation is only \$750 million.

**Mr Barr:** And there is the appropriation for the territory banking account, so we are appropriating that interest.

**THE CHAIR:** Yes, but that is not included in—

**Mr Miners:** No, we have not put it in the model. It is fairly standard when we do the modelling not to include interest. It is a fairly typical way; otherwise every time we model anything we would be putting interest in. Every time you put in a new policy, you would have to calculate the interest, and it just does not work that way. But it is explicitly set out in the appropriation bill, the interest cost that is being appropriated. In terms of what the Assembly is being asked to pass, it is very clear. In terms of the modelling we provided to you, it is not in there because it is a cost that is the same for every project that we cost.

**THE CHAIR:** In the cash analysis, where the total impact is minus \$480 million, is it minus \$480 million or is it minus \$492 million?

**Mr Miners:** It is \$480 million without the impact of the interest.

**THE CHAIR:** With the interest it is minus \$492 million?

**Mr Miners:** That would be correct.

**THE CHAIR:** I accept that you do not do it, but it seems odd that something that is obvious because we are appropriating it is not included in this document.

**Mr Miners:** I think it reflects the difference between a model and a bill that is being introduced into the Assembly. There is certainly no intent to hide anything by not putting it in there. It is just—

**Mr Barr:** It is explicit in an appropriation that—

**THE CHAIR:** That is the difference. I find it odd. I hear what you are saying—I am not sure I accept it, but I hear what you are saying. Can we go to the loan. The loan is as of what date and when is the repayment date?

**Mr Miners:** We still are negotiating that with the commonwealth; those discussions are ongoing. We expect that the loan would make \$750 million available in January this year and \$250 million to become available in the next financial year.

**THE CHAIR:** So in a sense, if we pass the bill next Thursday, are we passing a bill that we cannot actually fulfil because you have not signed the loan? You do not have the \$750 million?

**Mr Barr:** It would give the territory the capacity to make the payments.

**Mr Nicol:** The commonwealth has introduced legislation to appropriate the loan to us. So, yes, we do have to come to a formal agreement. We are very close. We are, in a sense, anticipating that agreement. I do not have any doubt—

**Mr Barr:** There is no reason to believe the federal government will renege on this.

**THE CHAIR:** There is the Senate.

**Mr Barr:** I think the Labor Party is supporting it in the Senate, so I do not think there are any issues there. More cynical people than me, Mr Smyth, might be worried about the federal government's ability to honour its promises.

**THE CHAIR:** You are assuming it will be passed next week, or before the last sitting day?

**Mr Nicol:** The federal government legislation?

**THE CHAIR:** Yes.

**Mr Nicol:** I am going from memory, but I think that is correct.

**Mr Kefford:** Mr Smyth, the expectation that commonwealth officials are communicating to us as part of the discussions is that there is agreement between parties in the federal parliament to pass this legislation this year.

**THE CHAIR:** Then the bill will be passed by the Assembly next Thursday. Can you start making payments then immediately?

**Mr Kefford:** The advice on the legal position, Mr Smyth, is that the point when the

bill has been signed by Madam Speaker and notified is sufficient authority for us to exchange on contracts. There is a cash management question, to which I will defer to my Treasury colleagues, in terms of making actual settlements on properties before Christmas, which we have been asked to do in a number of cases, but we do not expect that to be such a significant number that it cannot be managed within the territory's cash reserves before the commonwealth cash actually becomes available. There is a difference between the legal authority to spend, which is the appropriation bill, and the provision of the cash from the commonwealth in due course.

**THE CHAIR:** What is your expected expenditure before Christmas?

**Mr Kefford:** At this stage there are fewer than 10 houses that I am aware of where we are being asked to exchange, mostly because the owners have bought something else. But, because of the timing available for the valuation process to be concluded, I do not expect to end up actually owning very many houses at all before Christmas. The expectation will be that that will commence seriously in January.

**THE CHAIR:** Does that mean that it is not urgent to pass the bill by Christmas? There is the Treasurer's advance or I assume in the LDA you have the right to purchase and sell property. Could it not have been handled by that agency and, therefore, we could have had more time to discuss this bill?

**Mr Barr:** No, not on the scale that I anticipate—

**THE CHAIR:** Well, what is the scale, if it is only 10 homes before Christmas?

**Mr Barr:** Presuming we were not going to come back on 1 January or between Christmas and New Year's Eve—

**THE CHAIR:** What is your expectation in January?

**Mr Barr:** We are sitting next Thursday, Brendan, and we are going to pass a bill next Thursday.

**THE CHAIR:** It is a reasonable question. We are doing a quick inquiry on this. There are more than 50 submissions already. There are people obviously who have not submitted because of time frames. There is a huge amount of public interest in this. The explanation was that we needed the money before we rose so that you could settle before Christmas. We now find that it is only fewer than 10 houses potentially before Christmas, which will be cash managed anyway because we might not have signed the deal with the commonwealth. If it is 10 or fewer houses in December, how many are you expecting to settle in January and how many would you expect to settle in February that necessitate this bill being passed next week?

**Mr Kefford:** Mr Smyth, there are two issues there: one is we cannot exchange on anything until this is passed. We cannot exchange on any properties at all until the Assembly has authorised the appropriation.

**THE CHAIR:** You could not use the Treasurer's advance for that purpose?

**Mr Kefford:** No.

**THE CHAIR:** Why not?

**Mr Barr:** I would not approve it.

**THE CHAIR:** Why not?

**Mr Barr:** Because it would not meet the criteria for the use of the Treasurer's advance, in my view, particularly when I have got a piece of legislation before the Assembly to authorise it.

**THE CHAIR:** I am just asking the question.

**Mr Barr:** I would not use the Treasurer's advance when I have got a bill before the Assembly.

**THE CHAIR:** What is the expectation? Fewer than 10 houses in December. How many in January and how many in February?

**Mr Kefford:** At this stage, Mr Smyth, there are 570 valuations in the process. The expectation is that the Property Institute will have the valuation process completed on around 400 homes before Christmas. Our expectation is that there is a significant proportion of those houses that will be looking for us to settle within 30 days of the offer being made, which starts falling due in January.

**THE CHAIR:** You expect to do a significant number of the 400?

**Mr Kefford:** Yes, absolutely.

**MS LAWDER:** It is my understanding there have been a few legal cases launched. Have you allowed for legal costs in your budgeting?

**Mr Nicol:** To defend the legal cases?

**MS LAWDER:** Yes.

**Mr Nicol:** No, this costing is purely for the scheme to purchase the houses.

**Mr Barr:** The Justice and Community Safety area has its own appropriations and budgets around legal matters.

**MS BERRY:** On the attachment B with less colour, on the task force costs, it talks about the medical studies and assistance and asbestos remitted by assumptions, central scenario, full take-up in 2014-15. Is that the same title?

**Mr Nicol:** That is the assumptions page.

**MS BERRY:** Yes; it is the assumptions page. I am asking about the medical studies and assistance.

**Mr Kefford:** Ms Berry, following the health forums that the task force hosted in, from memory, late July and early August, a commitment has been given to conduct a longitudinal study of the health impacts for residents of the houses. That process is being currently negotiated between the Chief Health Officer and his office and the institution that will conduct that full-scale study. Appropriation is sought for the first phases of that study as part of the work of the task force.

**MS BERRY:** The asbestos containment part—what is that about?

**Mr Kefford:** I think that is the current study of the Palmerston site, about which we spoke this morning. That is the cost of the study that has been commissioned.

**MS PORTER:** I have a supplementary to Mr Kefford about the longitudinal study. Will that be a random selection of people? Will it be everybody, all the affected people? Or will it be an opt-in?

**Mr Kefford:** I think it is a mix of each of those, Ms Porter. The first phase will not involve the full cohort of current residents, as I understand it. But the intention is that over time it will be expanded. The first phase will focus on the current residents in the houses. Over time, as I think we mentioned earlier in the day, former residents will be able to participate in that study. From my understanding of the process, the first stage involves surveys with the current residents and an examination, basically a data matching exercise, across a range of institutions and databases around mesothelioma, to begin to build an overall understanding of the nature of the prevalence of disease amongst people who may have lived in one of the houses.

**THE CHAIR:** If we could go back to the assumptions page, the line “Asbestos assessments, \$1.6 million”—that is for the study of the old quarry at Palmerston?

**Mr Kefford:** No. The asbestos assessments line, Mr Smyth, is us paying for the assessment of the houses.

**THE CHAIR:** How much is the study into the Palmerston quarry costing?

**Mr Kefford:** The study itself is the \$250,000.

**Mr Miners:** That is the asbestos containment line on that page.

**THE CHAIR:** What is the \$10 million in 2015-16 then?

**Mr Miners:** That is if works need to be done. It is providing for any work that needs to be done.

**THE CHAIR:** What is the problem that you are expecting to spend \$10 million in containment at Palmerston on?

**Mr Kefford:** At this stage, Mr Smyth, there is not one. The advice from the preliminary study that was done of the site was that a further and more detailed study be undertaken. That is the process that is being dealt with at this point.

**THE CHAIR:** We are not appropriating that?

**Mr Nicol:** No. It is an estimate.

**Mr Kefford:** The only costs at this stage are a second and more detailed study of the site.

**THE CHAIR:** If we go back to the loan—I appreciate that the final detail has not been negotiated, but is it over 10 years?

**Mr Nicol:** Yes, that is correct.

**THE CHAIR:** And the option on the repayment is that you may hold off until the 10th year and pay it all back in a lump sum?

**Mr Nicol:** No; we expect to start repayments in year 5 and go on and make an annual payment—so probably \$50 million in year 5, \$100 million in years 6 to 9 and then the balance in year 10. That is probably what will happen.

**THE CHAIR:** Year 5 will be 2020-21 or 2019-20?

**Mr Miners:** Can I take that on notice and get back to you?

**THE CHAIR:** Call it 2020. We would then start repayments of perhaps \$50 million to \$100 million a year to about 2025, with a view to it being paid off in year 10, by approximately 2030?

**Mr Nicol:** That is right.

**Mr Miners:** You end up with around half, and half paid in the last year.

**THE CHAIR:** With \$500 million owing?

**Mr Miners:** Around that number. Again, as I say, that is still subject to negotiation. None of that is locked in by any stretch.

**THE CHAIR:** When do you expect to sign the deal with the feds?

**Mr Miners:** Again, we are still in discussions around that, but certainly before Christmas.

**Mr Kefford:** The original undertaking given by Senator Abetz was to have funds available in January. Our expectation is that outstanding issues with our commonwealth colleagues can be settled and we can put it in front of the minister shortly.

**THE CHAIR:** Ms Porter, any questions?

**MS PORTER:** No.

**MS BERRY:** I have a question about the property security. These homes—when they are empty of people, will they be boarded up and secured, with fencing and mobile security officers? Is that the plan?

**Mr Kefford:** The intention is that at the point a house is vacated, the government has given an undertaking to dispose of contaminated contents. We will do that basically when we take possession. I would not anticipate wholesale boarding up of houses. Essentially what we are talking about with that function is, first of all, a capacity for neighbours to ring the task force and say: “Look, there’s an issue with the house. Can you come and fix it?” But it is also about the maintenance of the external appearance of the property, recognising that it may be some months before we actually get to demolition.

**MS BERRY:** But there is no concern? Because it is already in its own sort of protective shell, there is no danger?

**Mr Kefford:** Provided it is in a reasonable condition, there is no suggestion that a standing house poses a risk outside. This element is that it is a house that the government will own; we are responsible for ensuring its ongoing security and safety, and also recognise that we will need to maintain the gardens in a reasonable state of appearance so that we have not got what appear to be derelict houses in community streets.

**MS BERRY:** So that includes that as well?

**Mr Kefford:** Yes. It is a process where basically, while we are responsible for the houses, we will maintain their security and appearance so that they do not become an eyesore in streets—especially if we have got twos and threes together, as happens.

**MS PORTER:** Ms Berry just asked about security. She said: would there be roaming security people going up and down the streets or whatever? My concern is not about the look of it but about opportunistic vandalism—people thinking: “This is an unoccupied house. I’ll go and break in and see what there may be that I can steal.” Or: “I’ll squat in it.” How are we going to prevent that kind of behaviour? I know we cannot prevent it, but how are we going to guard against it?

**Mr Kefford:** Part of that will be being very clear about what we will be doing at the point houses are vacated. That is that they will be left empty. At the point when people have left their home, we will be taking steps to secure it. There are already existing arrangements in place for out-of-hours repairs and so on for the rest of the government’s property portfolio; this will be dealt with as part of that. And there will be arrangements for neighbours, if there is a concern about a house, to make contact with the task force. It will be dealt with.

**THE CHAIR:** We have had this discussion in private briefings, but will soft furnishings or goods left behind which might present a temptation be removed immediately and dumped?

**Mr Kefford:** Essentially the surrendered deed provides for us to take vacant

possession of the homes—except, as I say, for contents that owners choose to leave behind. We will move in and then remove the rest of the contents at that point. We will be very open that that is what we are doing. So there is nothing left in the houses.

**THE CHAIR:** Do we know how many of the owners are pensioners and do we know how many are self-funded superannuants?

**Mr Kefford:** No. There are obviously some in that circumstance, and we are speaking with them as part of their individual discussions. The government has made representations to the commonwealth in relation to the impact of the buyback on pension and other commonwealth government entitlements. We have now lodged the application for the capital gains tax class ruling. Having had it raised with us by a number of home owners, we are making similar representations to superannuation funds and the commonwealth minister responsible, as we have done in relation to social security, banks and so on—again, seeking their discretion and assistance, to the extent that that is possible, in allowing people to release funds that they may have in super funds and then make payments back in and so on. We will continue to make representations of that nature.

**THE CHAIR:** Our time has come to an end. You have offered to take a number of questions on notice and seek further information. If that could be done expeditiously for inclusion in the report, we would be most grateful. If it is not available by next Wednesday, the PAC itself continues and would seek those answers to those questions as a matter of course. A proof transcript will be forwarded when available. It will give you the opportunity to check and suggest any corrections, which the committee will take on board.

Minister, on behalf of the committee, I thank you and your staff for appearing today.



**HELYAR, MS SUSAN**, Director, ACT Council of Social Service Inc

**THE CHAIR:** Good afternoon and welcome to this session of the public accounts committee inquiring into the proposed Appropriation (Loose-fill Asbestos Insulation Eradication) Bill 2014-2015. We welcome Ms Helyar from the ACT Council of Social Service and thank her for appearing this afternoon.

The committee resolved on 17 November 2014 to inquire into the bill. The terms of reference for the committee's inquiry are the proposed bill and its explanatory statement. This followed the Chief Minister writing to the committee on 14 November this year asking us to consider the then proposed bill and its explanatory statement in advance of the bill's formal introduction, which occurred on Tuesday of this week.

The objective of the bill is to enable the use of funds from the commonwealth government's concessional loan to the territory to help pay for the buyback and demolition scheme for more than 1,000 properties affected by the potentially deadly loose-fill asbestos known as Mr Fluffy. The committee is doing its best in a very tight time frame to balance the request of the government for passing of the bill before Christmas, but we want to provide an opportunity for those interested members of the community to submit their views.

The committee acknowledges the short time frame in which to complete this important inquiry and the overriding public interest in the proposed legislation. While the committee will complete its inquiry with a report, hopefully to be tabled next week, the committee emphasises that the outcome of its inquiry will be more than the report alone; it will also be the evidence on record from the two public hearings that will be held, as well as the views of more than 55 interested members of the community who have submitted written submissions.

I wish to advise that the submissions are now on the website. The versions loaded have redacted residential and personal email and phone contact details, and in some cases even the name of the submitter, to protect their privacy. This was because the committee did not want to inadvertently publish a list of Mr Fluffy homes.

Today we have heard from a range of ministers. We now continue with the ACT Council of Social Service. Have you seen the privilege statement on the table before you and do you understand its implications?

**Ms Helyar:** Yes.

**THE CHAIR:** Thank you. I remind you that the proceedings are being recorded by Hansard for transcription purposes as well as being webstreamed and broadcast.

Welcome, Ms Helyar, to the hearing this afternoon. The committee has particularly asked for ACTCOSS's view of the impact of the Mr Fluffy buyback scheme on affordable housing but we would be more than interested in any other views that you have. Ms Helyar, would you like to make an opening statement to the inquiry?

**Ms Helyar:** I was invited to come and speak on affordable housing, so the only opening remark I would wish to make is that there has been significant public

commentary on the risk to house prices escalating in the ACT with a substantial number of people looking for new housing through the buyback scheme. The ACT Council of Social Service acknowledges that and it acknowledges the work of the residents action group on those issues and defers to them on the detail in terms of the impacts on those households.

The National Housing Supply Council found when they did their last work—their last published paper was a couple of years ago—that the ACT had a shortfall of about 10,000 houses in the affordable housing segment of the housing market. My view is that there is some benefit potentially in the buyback process with the plans around potentially subdividing blocks, changing planning regulations and looking at some different ways to achieve infill that may contribute to assisting with addressing the need for more housing. In the scheme of things, given we have a 10,000 household dwelling shortage, the 1,000 Mr Fluffy households are just part of what is a much bigger issue.

**THE CHAIR:** Are there any particular concerns from ACTCOSS about the short-term impact on the market as opposed to what will occur over the next four or five years?

**Ms Helyar:** I think we have seen some issues around places where there are a larger number of Mr Fluffy residences in single suburbs. There is a risk of the market heating up in those places. We would argue there needs to be as short a time as possible between the evaluations that happened in October and the opportunity for people to get access to the money to purchase their next dwelling because that will minimise the risk of the market escalating with respect to people being able to get into the market.

**MS PORTER:** What are your member agencies saying to you about their concerns about the impact of the saga on people that are coming to them? You have a number of member agencies that deal with a whole range of human situations, such as the Mental Health Foundation; health consumers come to mind. They would have had Mr Fluffy owners perhaps coming and talking to them about the various impacts of what is happening to them right now, what they anticipate might happen or what is happening to their family, friends et cetera. What are they saying to you? Could you give us some examples of what your member agencies are reporting to you?

**Ms Helyar:** We are not getting a lot of reporting. I think people who are residents of Mr Fluffy houses are making use of the more targeted resources that are being made available through the task force for those households. I am not having reported to me a massive influx in demand associated with that, which I think is partly to do with the fact that there are other options for service and support being offered particularly to those residents. What I have been considering is that if we think of 1,000 households being affected in the same way that happens when you have a natural disaster event—

**MS PORTER:** Such as the bushfires?

**Ms Helyar:** Yes. If we think about that, we know that households often in the busy time immediately post event are focused, they are getting the extra assistance and their needs are recognised. It is often two years, and, as we know from the

Queensland floods, even five years down the track, households are really struggling. Often their resources have been spent by then. Their emotional resources have been spent as well. There are often relationship breakdowns that happen two years post traumatic event. That is probably more of what I would be concerned about—that we recognise that this will be like other natural disasters where the recovery effort needs to be quite long term. I think we are learning more from the natural disasters about how long that recovery effort is.

One of the issues around recovery from a traumatic event is that people often are underinsured. I know that is not particularly an issue with this group, but it may be longer term, in that people are often quite underinsured on their house and their car. Two years down the track, when everything is falling down around them and they are not as financially resilient as they might have been, other small events, risk events, like their car breaking down or they have a number of major appliances breaking down at once, mean they do not have the money to deal with that. They cannot call on their insurance. That puts people into a spiral of financial hardship and can further exacerbate the hardships associated with the initial event. That would be the biggest risk that our members would have to be dealing with—that stuff two years and up to five years down the track.

**MS PORTER:** You are not talking about the immediate insurance, because you know they are not covered for this event?

**Ms Helyar:** Yes.

**MS PORTER:** What would your advice be to us as a committee in terms of looking at what we could suggest as something the government might look at doing in order to address this long-term issue?

**Ms Helyar:** We need to build in to the bill some resourcing around the long-term impacts. It is not just the physical buildings that are the problem for these households. There has been significant attention paid to emotional wellbeing and people accessing support right now, and I think that needs to be built in to the forward projections of the cost that will be incurred in the community.

Long term, people do not need to continue to be a part of the Mr Fluffy world; there needs to be room for those resources to flow out into everyday services where people may not identify it as a Mr Fluffy issue. There will need to be increased capacity to respond to people's needs over the long term. That would be what I would hope this committee could build into their report—some recommendations around how to build into the forward financial planning some resources for community services to be responding. You could get good advice particularly from the Queensland floods. I think there has been some good research and analysis done by organisations up there around the long-term impacts of a substantial traumatic event.

**THE CHAIR:** It is when the apparent physical dilemma has been resolved that often the personal and psychological come to the fore.

**Ms Helyar:** And it is the stress. People can work at that heightened level of anxiety and responsiveness for so long. It seems that about two years out is when you cannot

do that anymore and that is when your relationships start having trouble.

Interestingly, one of the things that might have come out of the Canberra bushfires is that the Australian Early Development Index figures for the Weston Creek area were quite poor for the five to 10 years post bushfire, and it is in communities in which you would not normally expect to see those poor results for early childhood because their other risk and protective factors would not put them in that cohort. But there was some speculation that it potentially was that traumatic event that mucked the families up for a little while and created some long-term risk factors that would not have otherwise been there.

**THE CHAIR:** For members that were not here, there were discussions in the Assembly when the government wound up the services for the bushfire victims about whether it was too early. I think in hindsight, yes, it was.

**MS PORTER:** That was my question: would you see a recovery task force forming to continue the work of monitoring and putting in place some long-term responses, or would you see it being more of a scattergun approach in that the government would say to organisations such as yours, “You tell us what your demand is and then we will respond to that”? Or is it a mixture of both of those kinds of things?

**Ms Helyar:** I think it would be valuable to do the data collection long term on that particular cohort in the community. It would be useful to do that because then we could start to learn more about what happens to people who have this particular experience. I do not think the response should be quarantined to say, “If you’re a Mr Fluffy family, this is what you get.” We should be following those families and understanding the longer term trajectories for them. But we should be putting the resources into the service system as a whole, because that provides people with choice and diversity around how they get access to the resources they need.

**MS PORTER:** Do we know with the Queensland floods what the propensity was to want to hang on to that label and for others to let go?

**Ms Helyar:** I do not know that.

**MS PORTER:** I know in 2003 we had a group of people who did not and still do not want to get rid of that label, but others have moved on a long time ago.

**Ms Helyar:** That is right. The funding needs to recognise that there are quite diverse ways people end up accessing services. People may never say, “Oh, this is a long-term impact of all that happened,” but it does not mean they should not have an entitlement to additional access.

**MS LAWDER:** My question follows on from Ms Porter’s question. Obviously what the committee is looking at is the very real human tragedy for the Mr Fluffy home owners and residents. I am also wondering whether you, your board or members have talked about a flow-on effect. For example, if Mr Fluffy residents suddenly are entering the rental market, what does that mean for other members of our community and how are you planning to address that? You might not be dealing specifically with Mr Fluffy residents but do you think there may be a flow-on effect?

**Ms Helyar:** That is why in my opening remarks I said Mr Fluffy is 1,000 households and actually we know there are 10,000 less dwellings than we need in the affordable housing market. I think there will be some effect, but the underlying issue is the lack of affordable housing. So the underlying response needs to be about how we make a substantial investment in affordable housing, both in the rental and in the purchase market, and how we get better at having a more diverse housing stock. Certainly, some work we are doing with our housing policy consortium is looking at that. There will be some effect, but I think that the risk of not being able to access affordable housing is much bigger than the risk presented by those residents coming into the market.

**MS LAWDER:** Of course, we do not have a crystal ball. Touch wood, there will not be some other emergency that comes up in addition to the Mr Fluffy crisis. You probably saw during the week a newspaper article about Canberra South Motor Park potentially being sold, and there may be hundreds of people there displaced. Nothing ever happens in isolation. It will be very difficult for many services.

**Ms Helyar:** My understanding is that the Canberra South Motor Park are going to work really hard to make sure the community there is treated respectfully and given options. We have had some reassurance that that is what they would look to do, so we will be hopeful to see that happen. We are happy to support them to make sure that happens.

**MS BERRY:** Regarding this crisis for Mr Fluffy home owners and the Canberra community, it is not something we could have predicted, so just releasing land is not going to solve the issues that Mr Fluffy home owners face both financially and emotionally. Is there anything else you think that the government could have done as far as the work they have done with the appropriation bill and the scheme to finally get rid of loose-fill asbestos homes in the ACT and assist people as fairly as the ACT government can? Do you think there is anything else that the government could have done in this situation to make it better, or, with more support from the commonwealth government, what could have happened? Any ideas?

**Ms Helyar:** I do not think I am qualified to speak on that. Certainly I would say that I think we are grateful to the ACT government for stepping up to this mark. There has been debate about their legal obligation, but I think people needed certainty and they needed a response. This was basically a consumer protection issue, really. There was a failure of consumer protection at some point along the way. Wherever that happened, it has been very important that the ACT government has recognised that and said, "We'll work with this." I think the loan from the commonwealth is good but I think the onus has fallen on the ACT government to make this happen.

**MS BERRY:** To be clear, there is nothing good about this. There is nothing good. There is no financial compensation that could make this go away for anybody. The ACT government has put some funding aside for a longitudinal or long-term health study of the effects of Mr Fluffy, but do you think that should then also include the trauma for young people, particularly children?

**Ms Helyar:** It should look at the families overall. From our experience of the

bushfires and what we know from other community recovery processes, there are these impacts on children. We know it from a whole lot of research. Children who have high levels of stress between the ages of nought and four have a long-term impact from that high level of stress. Whatever we can do to reduce stress on parents that reduces stress on children and creates space for children to be in other places where they are not having to think about this and their parents have some space to deal with things where they are not having to manage their children's needs as well as dealing with all the work that comes out of having to relocate, it would be very important to monitor across the household what is going on.

We know more and more about the impacts of trauma long term in people's lives. Having some good, sophisticated measures of what is going on for these households is important. Lots of people do really well, having had very adverse circumstances. Part of what is valuable about the research is that you can work out that there was this whole cohort of people who had a very similar experience and some of them did really well and some of them did not. What was different? The research across different ages and across different roles in families would be incredibly valuable long term.

The health needs are not just about asbestos-related health things; it needs to be about their emotional wellbeing. We know it is that emotional stuff that has the long-term risk of chronic disease and mental health problems.

**THE CHAIR:** Ms Lawder, do you have a question?

**MS LAWDER:** So many questions; pick one. If your member organisations saw an increase in demand for services that they felt was attributable to Mr Fluffy for some reason—mental health or other particular services—what might you be able to do to assist those services?

**Ms Helyar:** The first thing would be to set in place where we anticipate there will be increased needs. I think it will be about mental health, family relationships and emergency financial assistance, also financial literacy and advocacy services. They would be the places where you would expect to see some increased need. You hope this will not happen, but in the worst circumstances it might also affect more people becoming homeless or needing support around their tenancies or whatever.

What would be useful is for people to be able to provide information back to government around that happening and for there to be room for that to be taken into account in funding arrangements. Like I talked about before, if we can monitor this over a long time and just watch where they go and what they do, which needs emerge, that will be useful.

**MS LAWDER:** It reminds me of what you said earlier about people with heightened levels of stress coping but perhaps two years down the track it all comes home to roost. That can be especially true for domestic violence and family violence as well—increased levels—as well as relationship breakdown.

**Ms Helyar:** There is risk around that.

**MS LAWDER:** Is it an issue as well in the domestic violence area?

**Ms Helyar:** Yes. Thank you, Nicole, yes. Family violence can get worse in these circumstances.

**MS PORTER:** And self-harm, I would imagine.

**Ms Helyar:** Yes, it may very well be.

**MS PORTER:** There are organisations that deal in that space.

**Ms Helyar:** I want to make it clear that this is not an inevitable trajectory for families that are coping with this.

**MS PORTER:** No, it is just something we need to be aware of.

**Ms Helyar:** There are risk factors. Lots of people have lots of risk factors and do really well, and it is because they have good protective factors, and we can build in good protection in the way that we respond.

**MS LAWDER:** Or even good networks.

**Ms Helyar:** Exactly. They have got people they can call on for support. They have got personal resources to make use of. They have got families and schools and churches that can rally around them when they need that, and we just need to make sure that those systems continue to get access to resources to do the things they do really well.

**THE CHAIR:** We are rapidly running out of time. Any final questions? To close, what advice would you give to government, particularly on the housing affordability side of things and then on the personal management side of things?

**Ms Helyar:** I think I have spoken a lot about the personal management stuff, but, to reiterate on the affordable housing, I think this is an opportunity for us to think about land use differently. We can think about planning processes differently so that, as these blocks come up, we have affordable housing outcomes as one of the things that we look to be achieving in rebuilding on those blocks.

**THE CHAIR:** There being no further questions, thanks for attending at short notice—we appreciate that—and thank you for the advice and particularly the experience that ACTCOSS still have in their minds post the bushfires. We will send you a transcript, which will be forwarded when available, to check to see if there are any corrections you would like to make. I do not believe you took any questions on notice, so there will be no further response required there. Thank you very much for appearing this afternoon.

**HOCKRIDGE, MR MARTIN** President, Law Society of the ACT  
**CHAMBERLAIN, MR JOHN**, Chair, Law Society of the ACT Property Law Committee

**THE CHAIR:** Good afternoon, gentlemen, and welcome to this session of the public accounts committee inquiry into the proposed Appropriation (Loose-fill Asbestos Insulation Eradication) Bill 2014-2015.

The committee resolved to conduct this inquiry on 17 November following a letter from the Chief Minister of 14 November asking if we would consider the then proposed bill and its explanatory statement in advance of the bill's formal introduction to the Assembly, which occurred on Tuesday. The terms of reference for the committee's inquiry are the proposed bill and its explanatory statement.

The objective of the bill is to enable the use of funds from the commonwealth government's concessional loan to the territory to help pay for the buyback and demolition scheme for more than a thousand properties affected by the potentially deadly loose-fill asbestos known as Mr Fluffy.

The committee is doing its best in a very tight time frame to meet the request of the government for resolution of the bill before Christmas but also to provide an opportunity for those interested members of the community to submit their views. We have received more than 55 submissions, the majority of which are now on the website. All of them have been redacted to take away residential and personal contact details and, in a few cases, the names, to protect the privacy of submitters so that the committee also does not inadvertently produce a short list of Fluffy homes.

Today the committee has heard from various ministers and representatives of key interest groups. We thank the Law Society of the ACT for attending.

On the table in front of you is a privilege statement. Could you confirm for the record that you understand the privilege implications of the statement?

**Mr Hockridge:** I do, thank you, Mr Chairman.

**THE CHAIR:** So acknowledged. For your information, proceedings are being recorded by Hansard for transcription, as well as being webstreamed and broadcast. Would you like to make an opening statement, Mr Hockridge?

**Mr Hockridge:** I will, indeed. Thank you for the opportunity to appear here today. We provided a written submission, but only yesterday. In regard to the issue, the society notes several matters in respect to the buyback scheme that we would wish to talk about. First of all, of course relevant to our members, is the requirement for legal practitioners to provide a solicitor's certificate under the terms of the scheme. Our issue with that is some limitation on their ability—that is, my members' ability, solicitors acting for the affected people—to be able to give full and frank advice in the absence of further information from the government, particularly in respect to what is to happen from the government's point of view with people who are affected but elect not to be part of the buyback scheme.



The second issue: we appreciate that there is a large degree of flexibility being extended in the implementation of the scheme, and we commend the government for that, but certainly as lawyers we would like to see as much flexibility in the scheme as possible to appropriately deal with specific individual circumstances. We particularly note that it is our understanding that a number of people who are directly affected in this circumstance are elderly, so it may well be that there needs to be some flexibility around things such as time limits that are being placed, particularly taking into account that, if you miss a time limit, you might have to go back and start again.

We are also interested in the “as soon as possible” approach. I know it has been indicated that the government will provide additional information in respect to restrictions that are going to be placed on those remaining in affected houses in the medium term, people who do not participate in the buyback scheme. We understand that some information has been provided about what those people will be required to do in respect to their homes. But the sooner that is clarified and made available to affected people is very important.

The last issue that we would raise is in respect to the legal costs arrangements of \$1,000. In respect to providing advice in order to complete the solicitor’s certificate, we think \$1,000 is enough, if I can put it that way. Of course, it is important for house owners to understand that in the longer term in respect to conveyancing for any new houses, for example, there may well be disbursements, property reports and things of that nature that certainly would take legal costs in that context above \$1,000. We need to be sure that that is being clarified.

One of the main issues, of course, given what I have already commented on in regard to further information, is that we understand that, if the government was to proceed in future months or years to a compulsory acquisition situation, under the Lands Acquisition Act 1994 the view will be taken that compensation for the houses would be on the basis of the houses being affected by Mr Fluffy which, of course, is a very significantly different valuation to what is proposed under the buyback scheme.

It is important for lawyers giving advice to affected people that those issues in particular are clarified as soon as possible so that we are in a position to say what the position will be. Of course, at the end of the day there may be an argument about that, but it would still help that we are in a position to know exactly what it is the government wishes to do. At this stage, the government have indicated, appropriately, that they have not made a final decision about whether they are going to proceed down the compulsory acquisition path. Again, as soon as we are in a position to know those issues, the better. I have already indicated that we urge that the consideration of exceptional circumstances for individuals be available.

Mr Chairman, my chief executive officer has expanded on these issues in the written response that we have provided. Mr Chamberlain has kindly agreed to accompany me today because he is across the issues of a technical nature much better than I am.

**THE CHAIR:** The issue of the certificate: how important is it and at this stage how badly are your members impeded by the lack of information? Would you be advising them at this stage to go ahead and issue the solicitor’s certificate on the basis of what you know at this time?

**Mr Chamberlain:** We have reviewed the certificate. We had some concerns initially that we had not had an opportunity to make submissions or have some input in relation to what is in that certificate. However, now that we have seen it, it is actually quite general—it is quite broad—and we are quite happy with the form of the certificate and the information required.

We would not suggest advising our members not to sign the certificate. The certificate specifically restricts the solicitor's advice to the deed of surrender and the forfeiture of rights in signing the deed of surrender. The issue that the members will have will be that the affected owners, when they come in, will need advice on the deed and the rights they forfeit. But they will almost definitely ask us what their options are: whether they should proceed with the scheme or whether they should not proceed. In relation to advising on options, our members will have difficulty in giving the clients good and robust advice in relation to what may or may not happen should they not opt in to the scheme.

Specifically, regarding the stage 2 regulatory infrastructure that will be built in—and, finally, if and when there is a stage 3 of compulsory acquisition—it is very difficult to advise owners if it happens. We do not know if it will happen—what compensation they might be entitled to under relevant sections of the Lands Acquisition Act or otherwise.

**THE CHAIR:** What correspondence or contact have you had with the government and have you sought a meeting to clarify these issues?

**Mr Hockridge:** We have had several meetings with the task force, and the first meeting included the Solicitor-General. We have had an opportunity to talk to them about these issues and we have already raised with them the importance of them coming to a conclusion about what the process will be for those who do not join the buyback. We have been able to raise the concern.

We have also had the benefit of members of the task force presenting at a meeting of members who are interested in the issue and, in all likelihood, will be dealing with people affected by the insulation issue.

**Mr Chamberlain:** On the task force, we had four or five members meet with me and Martin at the society initially. They also came along to a property CPD—continuing professional development—seminar recently for all of our members. It was open to all of our members. It has been very good.

In relation to the discussions on where there may be disagreement or issues in relation to compulsory acquisition, we raised with the task force, including the Solicitor-General, perhaps a different interpretation of section 51 of the Lands Acquisition Act. We think that particular section is an area where we would like some clarification, and perhaps it would be best if there was an agreed position.

**MS PORTER:** I have a couple of questions. One is around that section you just talked about. Can you tell us what the difference of opinion is? Is it between how you and the government interpret the clause? It is probably in here somewhere, but could

you explain it to me in plain English.

**Mr Chamberlain:** Section 51 of the Lands Acquisition Act applies where government compulsorily acquires a person's land and where that land contains a dwelling and where that dwelling was an owner's principal place of residence immediately before acquisition. Basically it is when the government takes a person's home.

It goes on to say that the amount of compensation payable in that circumstance is the greater of (a) the amount they would have received under the act anyway, which is essentially market value, or (b) the aggregate of the costs to the person of acquiring a reasonably equivalent interest in land that entitles the person to occupation in a reasonably equivalent dwelling.

I understand that the government's position in relation to compulsory acquisition is that, for a person to obtain a reasonably equivalent interest in land with a reasonably equivalent dwelling, if the government is acquiring a property affected by Mr Fluffy, the amount that should be compensated is the amount it would cost for that person to acquire another property affected by Mr Fluffy. The society does not necessarily agree with that.

It is perhaps best explained with an example. If you have an owner with a four-bedroom ensuite house in Yarralumla on a 1,200 square metre block that is affected by Mr Fluffy, if that property was compulsorily acquired, I think the question would be: is there a similar property in Yarralumla or the surrounding regions that has four bedrooms and an ensuite on a similar size block? If there is and it is affected by Mr Fluffy, I agree that is a similar property. However, if there is not a similar property that is affected by Mr Fluffy—I imagine at that stage it is very unlikely that there would be—is the position of the government that they would then compensate for the costs of acquiring a similar property not affected by Mr Fluffy? I would suggest that is a higher amount of money than is offered in the buyback scheme.

**MS PORTER:** My other question was a matter of clarification around what you said about advising them about the certificate. Did you say you would be advising them to sign it or that you would not be advising? I did not quite pick up what you said.

**Mr Chamberlain:** We would not advise our members to not sign.

**MS PORTER:** In other words, you would advise them to sign?

**Mr Chamberlain:** We would suggest that it is open to them to sign it, if they choose to. We would certainly not suggest that they should not.

**MS PORTER:** My substantive question is again a clarification and is around what you said, Mr Hockridge, about older persons living in their homes. You said there were a number of people who were elderly. Is that the way you described them?

**Mr Hockridge:** It was. I must say that I am not across who is involved, of course. It is just—

**MS PORTER:** No; is that what you said?

**Mr Hockridge:** Yes.

**MS PORTER:** That age group, in other words?

**Mr Hockridge:** Yes.

**MS PORTER:** You said something about there needing to be special arrangements or that the government would need to be cognisant of some certain issues. I cannot recall what you said. Perhaps you could explain what you were getting at, please.

**Mr Hockridge:** What I was saying was: it is just really good that there be flexibility in the scheme generally and that should extend to the whole range of circumstances that may be brought to the attention of the task force.

In respect to the comment that I was making about the elderly, if people have received from the government an indication of what the valuation of their property has been and they need to take time to consider it—maybe they have moved into the area for the purpose of being close to family or something like that—they may take a little bit longer to make a decision about the next step in the process. I was wanting to say that, if that was the situation being brought to the task force, there should be some flexibility if there was, for some reason, the possibility that a critical date would be missed and the whole process would have to start again. That explains the situation.

**MS PORTER:** So, for instance, if they were considering changing their lifestyle and, say, moving into a retirement village or something similar, they may need to consider that for a bit longer in terms of discussing that with their family et cetera, and may not be ready on whatever the cut-off date is to make that decision? Is that the kind of thing you are suggesting?

**Mr Hockridge:** That is the kind of thing I am thinking of. I must say that, in terms of providing specific examples, I am not personally in a position to do that. But certainly I have had enough experience with these sorts of things in the past that, once the scheme comes into effect, people can come in with an entirely unexpected scenario. I just do not want the scheme to be one that does not allow flexibility, taking into account any exceptional circumstances that are being raised.

**MS PORTER:** I think you mentioned in your submission the cost of the legal advice and the amount of money that is being allowed as compensation for that. Were you saying that you did not believe that that would be adequate?

**Mr Hockridge:** I am saying that it is adequate in our view in respect to the solicitor signing the certificate that is part of the scheme. That aspect needs to be distinguished from the possibility that there will be other legal costs in respect to conveyancing for a new house, for example, or other issues which will take it away from that very specific area. Those costs might be more than \$1,000.

**MS LAWDER:** In your submission you have written at the top of page 2, “The government has specifically reserved its right to compulsorily acquire and/or

condemn affected houses in the future.” Where did that advice come from? Where did you find that or who told you that? Is that in the agreement that people sign?

**Mr Chamberlain:** I am trying to think of the name of the document. It was certainly in the batch of documents that the task force released. It specifically said that the government reserves its rights to compulsory acquisition. I believe it is phrased in such a way as to say that the government has not determined that it will compulsorily acquire; however, it reserves its right to do so.

**MS LAWDER:** And/or condemn? That was in there as well?

**Mr Chamberlain:** I could not speak to that. I do not recall seeing “and/or condemn”.

**MS LAWDER:** Are you aware of other instances in the ACT where that has been applied, the compulsory acquisition, in recent times?

**Mr Chamberlain:** Not in my experience. I understand that it does occur, mostly in relation to smaller parts of land—not entire parcels—where, for example, there might be road widening and a small amount is required, or in relation to infrastructure or something like that. I am not aware of entire parcels of dwellings being compulsorily acquired.

**MS LAWDER:** To briefly follow up on Ms Porter’s comment, there is the \$1,000 which you felt would be sufficient for signing the certificate but then there are conveyancing costs, and this could be a complex rather than a standard conveyance; that is what I think you have written in your submission?

**Mr Hockridge:** That is right.

**MS LAWDER:** Have the task force or the government—I know they have written to banks, insurers and all sorts of other organisations about waiving fees and things like that—written to the Law Society and asked whether your members may be able to provide discounts or some kind of leeway for people affected by this?

**Mr Hockridge:** No, they have not written to us.

**Mr Chamberlain:** We have not received any correspondence, although with the CPD, when they were presenting to members, they said perhaps members could reduce fees or take into consideration the position that the affected home owners are in.

**MS LAWDER:** That would be a firm by firm or solicitor by solicitor decision?

**Mr Chamberlain:** Yes, that is correct.

**MS PORTER:** What was the acronym you used?

**Mr Chamberlain:** CPD—continuing professional development.

**MS BERRY:** On the same theme, regarding the certificate, you are saying you do not have enough information to advise members of the community who come to talk with

you about whether or not they should enter the scheme—that that will cost money and then the conveyancing would cost money as well?

**Mr Chamberlain:** I will clarify that. In relation to the scheme, there are three distinct jobs for solicitors: one is to advise in relation to the deed and sign the certificate; the second one is to undertake the conveyance of the sale of the property, or surrender, technically; and the third would be the conveyance for the purchase of a replacement dwelling, if they were to do that.

In relation to the fees, \$1,000 we would consider is certainly adequate in relation to providing advice on the document and providing a certificate. In relation to the second job, which is the conveyance of the sale or the surrender of the property, it is open to our members to charge what they like, and we think it is likely it will not be sufficient to cover those two jobs. In relation to the third job of acquiring or purchasing a new property, it is very unlikely to cover all three.

In relation to the question as to whether there is enough information to provide or sign the certificate, we think there is. We can provide advice on the deed and the forfeiture of the rights in the deed. That is all that is required under the certificate.

**MS BERRY:** That is the cost of the advice and the signature for the certificate—that is one of the costs?

**Mr Chamberlain:** Yes, that is right.

**MS BERRY:** With the conveyancing cost of \$1,000, you are saying that might not be enough because this is not a standard conveyance, but they will all be the same conveyances for the people, if they all decide to, and there are 1,000 of them that will, if they decide to accept the offer, be the same?

**Mr Chamberlain:** That is correct. If the 1,000 owners went to one or two or a few firms, I think you are right. It would be reasonable that the costs could be significantly reduced. But I imagine that the 1,000 or however many opt in are going to go to various solicitors. Those solicitors are unlikely to have seen the deed or be familiar with it. They are going to need to read it in good detail, whereas for a standard conveyance where a precedent or standard contract is used, they would be familiar with those terms.

**MS BERRY:** Which is the one that is developed by the ACT Law Society?

**Mr Chamberlain:** That is correct.

**MS BERRY:** But it could be a standard one if the ACT Law Society distributed it?

**Mr Chamberlain:** If the solicitors were aware of the details and the terms.

**MS BERRY:** To your members, I suppose.

**Mr Chamberlain:** Yes.

**MS BERRY:** What was the third thing? The conveyancing for a new home purchase?

**Mr Chamberlain:** Yes.

**MS LAWDER:** I have a supplementary. You have also written about proposed additional restrictions on the amenity of affected properties if people chose not to move out. I think what you are saying is that in some ways it is like a compulsion for people to sign up now because the future is so uncertain; they have no certainty about compulsory buyback, demolition or what might happen if they do not. In that way it is perhaps unfair to ask people to sign up when they do not know what their other option is. Is that what you are implying here?

**Mr Chamberlain:** Yes, it is.

**MS LAWDER:** It is a choice that is a very difficult choice to make?

**Mr Chamberlain:** It is.

**Mr Hockridge:** Also what they would be required to do in respect of the house if they decided to live in it. The sooner we are aware of what the government expects in that regard—

**MS LAWDER:** You can provide informed advice.

**Mr Hockridge:** Yes.

**MS BERRY:** But it would not be advice on whether or not they enter the scheme or leave or stay; it would just be, “This is the information we have.”

**Mr Hockridge:** Yes.

**THE CHAIR:** Individuals will come to their lawyers seeking advice on your understanding of the law and what it means. If there are gaps in the knowledge, it will be very hard for your members to inform people adequately, surely?

**Mr Chamberlain:** And I would suggest hard for people to understand if we are telling them, “This may or may not happen, and if this does happen, we don’t know what you will get.”

**THE CHAIR:** Do you have further meetings with the government planned? With this bill, in theory, the government wants to pass it next Thursday and the acquisitions will begin, or the transfers will begin.

**Mr Hockridge:** There is no actual meeting scheduled, but there is a bit of an open-door arrangement. Certainly the task force have said they are happy to come and talk to us again or answer any questions that we have.

**THE CHAIR:** In your summary there are four dot points on the last page of your submission. Have you put those four dot points in writing to the government for answer?

**Mr Hockridge:** We can put it in writing. We have not at this stage.

**THE CHAIR:** Is the government aware that these things are still outstanding?

**Mr Hockridge:** We have certainly raised it on several occasions.

**THE CHAIR:** Thank you for appearing today. When the proof transcript has arrived, it will be forwarded to you so that you have an opportunity to check it and suggest any corrections.



**AHILAS, MS THEODORA**, National Practice Head, Asbestos Litigation Department, Maurice Blackburn Lawyers

**WALSH, MR JONATHAN**, Senior Associate, Maurice Blackburn Lawyers

**THE CHAIR:** Thank you to Maurice Blackburn Lawyers for your request to appear this afternoon. Welcome to the public accounts committee inquiry into the proposed Appropriation (Loose-fill Asbestos Insulation Eradication) Bill 2014-2015.

The committee resolved on 17 November to inquire into the bill following a letter from the Chief Minister asking us to consider the proposed bill and explanatory statement in advance of the bill's formal introduction, which of course occurred on Tuesday of this week. The terms of reference for the committee inquiry are the proposed bill and its explanatory statement. The objective of the bill is to enable the use of funds from the commonwealth government's concessional loan to the territory to help pay for the buyback and demolition scheme for more than 1,000 properties affected by the potentially deadly loose-fill asbestos known as Mr Fluffy.

The committee is doing its best in a very tight time frame to balance the request of the government for the review to be done to enable the passing of the bill next Thursday and also to provide the opportunity for interested members of the community to submit their views. If you have not viewed the website, we have now published 55 statements from the community. For your information, where personal details, including addresses, appear in those statements, they have been redacted so that the committee does not inadvertently publish a smaller list of Mr Fluffy homes. Most have surnames attached; in some cases they have been removed as well to protect privacy.

Various groups have appeared today. I need to draw your attention to the privilege statement on the table, the pink card. Can you confirm for the record that you understand the privilege implications of that statement?

**Ms Ahilas:** Thank you; we both understand.

**Mr Walsh:** We do.

**THE CHAIR:** So confirmed; thank you very much. For your information these proceedings are being recorded by Hansard for transcription purposes as well as being webstreamed and broadcast. Would you like to make an opening statement to the committee?

**Ms Ahilas:** Yes, thank you. We have not presented a formal report. We are happy to do so to the committee, but we are here in the capacity to give you some insight as to the personal stories that have come our way, over the last eight months predominantly but in the last 20 years that I have been practising in the asbestos litigation space. We thought it was important to bring this insight to the committee.

Firstly, Maurice Blackburn applauds the bravery of the ACT government announcement with respect to the buyback scheme relating to the Mr Fluffy homes. From our personal experience, having investigated the legal aspects of this issue in the

past, and more specifically since February this year, it has become immediately apparent that the legal issues involved are highly complex and convoluted and there is no simple legal solution to the myriad different legal problems that arise from the Mr Fluffy exposure or a Mr Fluffy home.

Had the ACT government not taken this step, it would have forced some classes of home owners to pursue their legal entitlements through the courts. This would have been expensive, would have been time consuming and, in some cases, would have offered a potentially inadequate solution to the problem.

We act for victims of asbestos disease, principally those suffering from mesothelioma. We have seen the human tragedy of that disease. From our work and from the critical scientific and medical facts which directly relate to the recent ACT experience, it is fair to make two fundamentally important statements to this committee.

There is no safe level of exposure to asbestos. There is a latency period and incubation of approximately 20 to 70 years arising from this exposure, with a mid-point of about 40 to 45 years. Since February 2014 approximately 250 affected home owners have made contact with us in relation to the Mr Fluffy insulation. Those inquiries broadly involve two categories. There are those with currently identifiable asbestos disease who have personal injury claims. It is not the forum to address you on this category today but I raise it because it becomes very important for any decision making.

The second category arising from this matter is the home owners who are concerned about the devaluation of their properties associated with the remediation. Others involve obligations of landlords to the tenants in a Mr Fluffy home, privacy issues in relation to the publishing and release of location of properties and the human element arising from it.

Just to highlight the impact and the problems that this committee faces, we draw your attention to three possible scenarios that have arisen through our experience in the last eight months, and we will give them to you as examples.

Example 1 is a young couple with a young family. The house was purchased in 2010. The house was fully renovated to their liking at the time of purchase. At the time of purchase they engaged a specialist property lawyer to attend to and advise on the legal aspects of that purchase. There was a lengthy contract of which one small clause dealt with the historic asbestos removal from that property. The reading and interpretation of this clause alluded to a bonded asbestos product in situ, not loose amosite free-flowing contaminants from that. Whilst advice was received, at no point were they made aware of the continuing contamination of their property or, more importantly, of the possible extreme health risks faced by continuing to inhabit such a dwelling.

Example 2 is a 60-year-old couple with no children left at home. This couple purchased their Mr Fluffy house post the 1989-93 remediation program. They believed their house was asbestos free. Whilst they were aware that they were purchasing a Mr Fluffy home, they were led to believe that the remediation process was completely successful. As with the first example, this home owner believed they were provided with a certificate of asbestos removal, which led them to believe that

the remediation program had been successful and there was no ongoing issue in relation to contaminant from loose-form asbestos. They, too, had no idea of the magnitude of the risk they were facing to their health, the health of their family and, importantly, the health of visitors to their home and the community.

Example 3 is an elderly couple in their late 70s. They purchased their home in the 1960s. They migrated to Australia from postwar Europe. This couple was a customer of Mr Fluffy and purchased the right from Mr Fluffy to have the insulation put into their property in the late 1960s. They were also actively involved in the remediation program between 1989 and 1993. Their intention was to live out their final days in the family home where they had raised their family. Their intention was to move from there to a nursing home or death.

The above examples illustrate the vast spectrum of people who fall into the different categories of home owners. It is potentially and patently clear that not one glove fits all. That is the issue that arises from the people that made contact with us. Whilst, as I said earlier, it is to be applauded that this program is on foot for the remediation, the only remediation appears to be buyback and demolition of these properties to bedrock. But what has become vital, from the few examples I have given for this committee, is to provide a remediation program or buyback program that assists with the different categories of people you are dealing with. That has become a very big issue for people since the buyback program was announced. We have had, it is fair to say, almost 100 phone calls from very distressed home owners who really do not know what their position is.

What is vital for this committee and the ACT government more broadly is to ensure that the details and specifics of the buyback program are drafted in a timely fashion with the various scenarios taken into consideration. The threshold issues we can see are as follows. What happens to home owners who do not opt in to the system? That is a big issue for people. What is their continuing legal liability to themselves, visitors and the community at large? Will the government resume their property later on? What does the future hold for people who do that? What is the legal liability around prospective sales of such property if people have not demolished or have chosen not to opt into the system? What is the issue with prospective leases on those properties?

The threat of imposing sanctions on home owners who do not opt into the scheme is a big issue for people. There is the group that say, "We're going to opt in." What is the ramification of opting in? Then there is the group that say: "What happens to us if we decide we don't want to opt in? Where do we stand with all of this? Who is going to look after our interest?" Not enough is known of the details of the scheme for home owners to make an educated decision and to obtain adequate legal advice.

I take on what was said earlier by my colleagues. It is very difficult for people. We do not practise in the space of giving people property advice; we are not here as experts in that space. But it is very difficult to even give people an overview of their legal entitlements when not enough detail is provided about the scheme.

We both appreciate that you are working to a very strict timetable, but without specific details about the scheme it is very hard for people to go and see a lawyer who can then give them educated advice and legal advice about the position and what

flows from it.

It would appear also that the money made available for getting legal advice is not enough. We are reading this as saying that \$1,000 is being provided by the scheme to allow people a contribution to getting some legal advice. This would suggest that home owners would need to take up the shortfall to obtain proper and further advice when it is available to them. With respect, this adds insult to injury for people in this position. These are home owners who have found themselves in a dreadful position by no fault of their own and purely in an innocent situation. A lot of people are saying to us, “How can we go out and get proper legal advice when there’s not enough money for us to seek that advice?” I do not want to sound here like a party who is waving the flag for higher legal advice, but it is important, firstly, that the scheme is introduced properly, and that there is detailed analysis of what is expected so people can take that document to a lawyer, a conveyancer or someone who is in that space to get proper advice on their legal entitlements.

As is obvious from the above overview—and that is all I am going to give to you today—the issues are complex and unique. We would submit that more details are needed about the program, more clarity is needed around the legal obligations for those who do not opt into the program, there needs to be an extension of time in which home owners are given the right to opt in and out once they understand the ramifications of the program in detail, and there needs to be an increase in the allowance to access proper legal advice.

I would like to say at this point that this appears from my understanding to be a world-first problem—not a First World problem but a situation that is not unique to the ACT but is unique in the way the government is trying to deal with it. It is an opportunity to create the best scheme possible for those affected by this. At this stage, we understand there are 1,050 home owners affected, but we would suggest that there are probably more homes, and certainly commercial buildings, affected by this issue—let alone what has arisen in New South Wales and possibly other states of Australia.

It is an opportunity for this community to prepare an excellent document, or submissions to the government for an excellent document, to allow a scheme for buyback to be world class.

We thank you for the opportunity to address you. We are happy to offer you a number of examples of the human face and what happens to people diagnosed with the disease. Although that is not the space of this, it does correspond to what is going on with this particular issue.

**THE CHAIR:** You mentioned that in your contacts there were two sorts: those that are disease related and home owners. Without revealing details, can you tell me how many disease-related cases have approached you?

**Ms Ahilas:** I can tell you, because it is going to hit the papers, the press, next week, that we are currently running a claim for a gentleman with mesothelioma. We also have instructions from at least half a dozen other people who have asbestos disease from Mr Fluffy exposure. We have also got a couple of cases for widows whose spouses died from mesothelioma caused by Mr Fluffy exposure. They are all ACT

exposures.

**THE CHAIR:** Is that approximately 10 or 12 cases?

**Ms Ahilas:** Probably less than 10 at the moment, but given the latency period, let us put this into context. There are about 700 people diagnosed with mesothelioma annually in Australia. Let us put it into further context: we are the country with the highest incidence of asbestos disease in the world. It is a very rare disease. When you think of how rare this disease is and how many people have come forward in a short space of time with identifiable asbestos disease, it is a problem. And we will see more of it, I hazard to say, into the future.

**THE CHAIR:** You finished by saying that we need more detailed clarity and potential extension of time. What detail is currently missing from the scheme?

**Ms Ahilas:** The people who have contacted us are concerned about what happens to them if they opt out, what is going to happen into the future. There are the different scenarios of the home owners. The older people are very concerned about what is going to happen to them. Some people say, "I'm just going to stay here." Then they say, "But I don't want to leave this legacy for my children in my will." They are really frightened about what will happen. I do not know the answer to the practicalities of how that translates, but I think there needs to be some clarity around what people will receive, how it will be received, the quotes that are going to be received for the value of their property and what happens to people if they decide to opt out or not opt into the system.

**THE CHAIR:** You mentioned the need for additional legal assistance. What would be a reasonable sum to help people get the appropriate assistance?

**Ms Ahilas:** It is very hard. I was listening to the debate earlier about having a group or a class. If they go to one lawyer and that lawyer gives the advice, then, if you have 1,000 home owners who get \$1,000, that is multiplied. If it is diluted by people going to 30 different lawyers and trying to get the advice, \$1,000 will not get you the high-end advice that you need. This is unique. This is not your typical conveyance. \$1,000 will not get you the advice you need to get advice on the opt-in opt-out buyback, the buy-in buy-out system, the deed and the conveyance. I hate to put a monetary sum on it, but I cannot imagine it being done for less than \$5,000. But don't quote me on that.

**THE CHAIR:** It is on the transcript; we do not have to quote you.

**MS PORTER:** What do you see are particular things that are facing the older population that you talked about?

**Ms Ahilas:** They are really concerned about not having anywhere to go: "Can I go into a nursing home?" "Will I have enough money to move into another home?" "I don't have the energy to buy another house; I planned to live out my life in this house." I know these are emotive answers, but this is what people are telling me. "I'm too old to go through this." "I'm too old to go and look for another house." "I'm too old to go and move." These are a lot of the issues that people are talking to me about.

Nursing homes particularly are very concerning for people. I will give you an example. I have a gentleman who has lung cancer. He owns a Mr Fluffy home. As a result of his condition, he has become wheelchair bound. He is very disturbed about trying to find a place to move himself and his wife in his lifetime, before he dies, to sort out this situation that has arisen. If he was not in a Mr Fluffy home, he would have lived out his final days at home. Sure, he would have developed lung cancer—perhaps, or perhaps not. Even though he is wheelchair bound, they would have accommodated for that. But now the added burden is to sell the home and his beautiful cellar and try and move himself and his wife into a nursing home facility or an aged care facility before he dies.

**MS LAWDER:** Have you had any contact from some of the home owners whose homes have been cleaned of Mr Fluffy and in the more recent round of testing have been told their home is clean, but who are expected to still participate in the scheme?

**Ms Ahilas:** Yes, we have. We are happy to ask those people to contact you if you are interested in speaking to them personally. Yes, we have. Or there are people who were told—this is another issue that arises—that their house was examined and is asbestos free, and then they get another report and they find asbestos in it. There are a lot of those issues that have arisen.

**MS LAWDER:** If you had the asbestos cleaned years ago and then tested again recently and it is clean now, is there a reason why you need to participate in this scheme?

**Ms Ahilas:** The asbestos we are talking about in this case is free-flowing amosite. It is not a bonded product, as I mentioned earlier. If you are dealing with an asbestos cement fibro sheet, which is a bonded product, in situ and not in a dilapidated state, there is no risk, because airborne dust is not created from that asbestos. The problem that arises is if you live in a home where airborne dust may be created. It is not airborne dust that you can see with the naked eye, so you can never be 100 per cent sure that a house has been cleaned from amosite asbestos. It may look clean on testing because of where you tested at that particular time, but there still might be residue fibres. Given what I said earlier about there being no low-dose threshold for asbestos disease such as mesothelioma, you may still be inadvertently being exposed to asbestos in a home although it is clean according to the testing.

The only remediation, the only solution to this problem, is the solution that has been addressed, and that is demolition. It has to be a demolition to bedrock, because you still have contaminants in the soil. We acted for a lady with mesothelioma last year who had two exposures. One was from what appeared to be a Mr Fluffy exposure from a neighbour's house that was remediated in the 1989 to 1997 remediation program. She was a neighbour. From that example, free-flowing asbestos went into the community, even during the remediation, when proper tarpaulins were put around and everything was done according to proper protocol at the time.

**MS LAWDER:** Do you think perhaps for some people the certificate saying “clean” is adding to their confusion and distress?

**Ms Ahilas:** Absolutely.

**MS BERRY:** We heard today about the Downer house and how, through the demolition of that house, they could see that the asbestos fibres had moved from the roof space into the walls and underneath the house, so the house was clearly not clean. It was not one of the houses that was cleaned during the remediation, but through that, they could see that it would never be clean. So people have to leave. I think that is one of the things: for people who are thinking that they want to stay in their homes, they are putting themselves at risk.

**Ms Ahilas:** It is a live issue. It really is, because you can never clean these houses. It was free-flowing amosite asbestos. It was loose fibres that were pumped into the ceiling cavity space, which come through. It is like dust. You can never be rid of dust. You dust, and then dust comes back. As I said, it is not visible to the naked eye. But within that, we have a contaminant which is deadly to humans. Not everyone who is exposed is going to develop mesothelioma; I do not want to suggest that that is the case. But there is a risk that someone who is exposed, as we can see is happening, will develop mesothelioma from it.

**MS BERRY:** You said that you have these cases—fewer than 10 cases, or perhaps more will come, following everything that has been happening in the community. You say you have got cases that are running—against whom?

**Ms Ahilas:** We are running a case at the moment against the commonwealth.

**MS BERRY:** Is that the mesothelioma—

**Ms Ahilas:** Yes.

**THE CHAIR:** In the three scenarios you posed, with scenario 1, the young family got a contract that had a clause in it. Are you suggesting that there is some liability of lawyers who have processed these conveyances and not informed the clients of the presence of Mr Fluffy?

**Ms Ahilas:** I am suggesting that there could be a legal case mounted in scenario A, possibly against a lawyer or a conveyancer who did not look—I am not saying they did not—at the advice given about the contaminant and the effect of that. There could be; I am not saying that there is. There is the possibility of a case being mounted in that space. That is not for a personal injuries claim; I am putting that to the side. I am talking about devaluation of property; I am talking about the other issue. The two issues need to be kept separate and not blurred. They are very different and they are run very differently.

**THE CHAIR:** And the 60-year-old couple who bought it post the 1993 clean-up and thought they were asbestos free—if you read the certificate, it does say that there may be contaminants still in the house. Is that a case of buyer beware, or should they have been informed more specifically that, although it says it is asbestos free, it is not really. You made the point constantly that you can never get rid of this stuff.

**Ms Ahilas:** Buyer beware, of course. And that would be a good defence for anybody who would be defending a claim like that. But when you drill down and you look at

the certificate that was attached to all these purchases, it really implies that it is asbestos free from a bonded product, even with the letters that came to the home owners as close as February this year. It is an interpretive issue. People would not interpret it—unless you were really across the issue, which people are today—as having any contaminant in your home of that magnitude. You would interpret it as having perhaps in the past having had some asbestos which has been remediated by the removal of it. Home owners did not know of the magnitude of it. So you put it away and think: “Okay, my home was remediated. It’s fine. I’m living in it.”

**MS LAWDER:** When you started off, you said there is no safe level, and we have heard that from others as well. However, a number of people who have made submissions to the committee have talked about wanting to remain in their homes. As a solicitor, if they came to you, would you be giving them that advice—that there is no safe level?

**Ms Ahilas:** Absolutely. I do not resile from that, because that is the scientific and medical position. Any known exposure within the latency period can make a material contribution to developing mesothelioma. There is no safe level of exposure. As I said earlier, it is not to say that you will develop disease, but you are at risk of developing disease. The question then arises—you have not posed this, but I will pose it—is there a contributing negligence argument if you were to mount a legal case for home owners who actually stay in their homes who later develop disease? In 2014, everybody knows—especially everybody in the ACT—that living in a Mr Fluffy home is potentially dangerous. That is the balancing act of dealing with the problem—how to deal with it and the issue that arises for people who are really scared of moving out of their homes.

I am not suggesting that people stay in their homes, but what I am suggesting is that perhaps it is made easier for them to move out of their homes. There are a couple of categories that need to be addressed.

**MS BERRY:** When you say made easier, there is nothing easy or good about this.

**Ms Ahilas:** I know.

**MS BERRY:** What sort of things do you mean?

**Ms Ahilas:** I do not know the answer. I am relying on the expertise of this committee—everyone is—to address that. As I said, with the example of older people who may want to move into nursing homes, perhaps it is about making nursing homes within the community available to them, to have access or to get to the top of the queue, if that is the case, because they are in a Mr Fluffy home—and not make it an almost impossible hurdle for them to access these things. Whilst the majority of people—

**MS LAWDER:** There could be a financial barrier even.

**Ms Ahilas:** It could be, of course. Whilst most people will opt into the scheme—as I said when I introduced it, it is to be applauded, because it has been dealt with finally—there are certain groups of people in that category who really need to be



looked at individually. That is all I am saying.

**THE CHAIR:** Thank you for your time. There being no further questions, we thank you for your attendance today. We will provide you with a copy of the proof transcript when it is available. If there are any corrections you would like to make or you would like to provide any further information, please provide them and we will look at that.

**The committee adjourned at 5.54 pm.**