DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

26 September 2002

Thursday, 26 September 2002

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MR SPEAKER (Mr Berry) took the chair at 10.30 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

Petition
Block 12 Section 2 Belconnen

The following petition was lodged for presentation, by **Ms Tucker**, *from 121 residents.*

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory
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> The petition of certain members of the Australian Capital Territory draws to the attention of the Assembly the inappropriate development on Block 12 Section 2 Belconnen, at the intersection of Coulter Drive and Nettlefold Street, and the threat to its magnificent remnant Yellow Box/Red Gum woodland.
>
> Your petitioners therefore request the Assembly to call on the ACT Government to withdraw the block from development and preserve the area as public open space.

The Clerk having announced that the terms of the petition would be recorded in Hansard and a copy referred to the appropriate minister, the petition was received.

Board of inquiry into disability services
Papers and government response

MR WOOD (Minister for Urban Services, Minister for the Arts and Minister for Disability, Housing and Community Services) (10.32): Mr Speaker, for the information of members, I present the following papers:

> Board of Inquiry into Disability Services—
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> > Government response to the Recommendations of the Board of Inquiry into Disability Services, together with a tabling statement and *Steps to Reform—Reform and Action Strategy for Disability Services in the ACT 2002-05*, dated September 2002; and
> >
> > Disability Reform Group Response to the Recommendations of the Board of Inquiry into Disability Services, dated September 2002.

I seek leave to move a motion authorising the publication of the papers.

Leave granted.

MR WOOD: I move:

> That the documents entitled Government response to the Recommendations of the Board of Inquiry into Disability Services which includes a tabling statement and *Steps to Reform—Reform and Action Strategy for Disability Services in the ACT 2002-05*; and the Disability Reform Group Response to the Recommendations of the Board of Inquiry into Disability Services, be authorised for publication.

Question resolved in the affirmative.

MR WOOD: Mr Speaker, I move:

> That the Assembly takes note of the papers.

Mr Speaker, today I will table details of the government's comprehensive strategy of action to address one of the most critical reports into the administration of human services in the ACT.

On 19 February this year, the Chief Minister tabled the report of the board of inquiry into disability services. The report found that the rights and interests of people with disabilities had not been adequately or effectively protected by the policies and systems operating in the ACT. It found that the ACT had floundered in terms of policy and planning and that many of the practices and views of ACT service providers, particularly those in the government sector, had become entrenched.

The report warned of the urgent need to alter this environment and introduce change. It said that people with disabilities in the ACT deserved better services and support than they were receiving. It called for a clear vision of the care arrangements provided to people with disabilities, noting that this will require commitment by government, new vision, service innovation and strong leadership.

Mr Speaker, the service system in the ACT was not working well for people with disabilities. We can and should be doing better. Significant changes have already occurred. This is a giant step today which will continue the reform of the system. The government will not shy away from its responsibilities. The problems will be met head-on. We will provide the leadership and vision required to deliver substantial reform.

We now have a systematic strategy based on a series of actions and innovative steps. We have listened to the community. Our strategy of action has been shaped through a process of partnership and true consultation with many involved. Governments are often criticised for taking the easy way out. You throw money at a problem, make sure that you are seen to be doing so, and then hope it goes away. That is not our way. We have defined the problem, engaged with the community and set a path for reform that challenges the nature of the former system.

The government has worked closely with the community and the disability reform group in the formulation of the government response I am tabling today to the report of the board of inquiry. I would like to thank the disability reform group for their efforts and their dedication to the task. I acknowledge Mr Dennis Stabback and Ms Andrea Simmons, the co-chair, who are here today. I also want to acknowledge all the staff in Disability ACT and beyond who have worked so hard to get this together.

Mr Speaker, we propose a strategy of action to be implemented over the next three to five years. The strategy is contained in the document *Steps to Reform* that has been circulated. The reform process will be implemented through consultation and partnership

with people with disabilities, the families, carers, and government and non-government service providers.

The priority areas identified for action in *Steps to Reform* include: the design and introduction of individualised and flexible support for people with disabilities; the development of a comprehensive quality framework for the disability service sector; the amendment of the Disability Services Act 1991; the development and implementation of a workforce strategy; the provision of flexible and appropriate housing and tenancy options for people with disabilities; and a cross-government strategy and promotional campaign to ensure that the ACT community is welcoming and highly accessible to people with disabilities throughout their lives.

Mr Speaker, we have already made significant progress on delivering improved disability services. Our first budget, delivered in June this year, allocated an extra $2.5 million to disability services. For example, with this funding, we are substantially increasing our support for children with autism through the provision of more therapy staff and enhanced assessment services. We are providing more daytime support for people with disabilities, which will complement options already provided in the community. We are very keen to ensure that people with a disability are not inappropriately placed in nursing homes. Our budget funding will provide some alternative accommodation options for these people.

The government is also committed to addressing the needs of complex clients that cannot be met through existing service arrangements. This support is provided on a personal basis to people whose high support needs cannot be met through mainstream disability services. We are also committed to properly resourcing the community in the ongoing task of reform. To this end, funding has been allocated to enable the sector to better respond to the government's reform agenda that I am tabling today.

Mr Speaker, I wish to announce a range of initiatives which continue the reform process and which will radically change the way that services are provided. There will be wide advertising for the position of executive director of Disability ACT and the director responsible for service provision, and after that for key senior positions within the new department. These positions will be filled through national recruiting activities, with a view to gaining the best possible applicants for those important functions.

There will be a new community advisory structure. By the end of this year, the government will be seeking nominations for a community advisory group which will undertake the functions currently performed by the disability reform group and the disability advisory council. This will ensure that the group that has responsibility for advising government on disability matters generally also has a strong role in assisting us with the ongoing process of reform.

We will establish a register of experts to ensure that we have access to people with the best knowledge and experience in disability services. We have also created an innovation fund to encourage new opportunities and approaches to supporting people with disabilities. We want services that result in flexible, person-centred improvements in the long term. We also wish to encourage people to trial new ideas that will expand and improve on our current methods.

Centralised service access arrangements which provide a system gateway and information services will also be implemented. This is based on the local area coordinator concept and arrangements that successfully operate in Western Australia, Queensland, Victoria, Tasmania and the Northern Territory. Disability ACT will take a lead role in the provision of access services in the first instance.

Next month I will be establishing a disability housing working group, comprising representatives of government, peak disability organisations and people with disabilities, to further investigate appropriate housing and tenancy models and funding options for people with disabilities.

We also appreciate that there are issues that need to be addressed in relation to the disability services workforce. To this end, I will establish a working group, including government, non-government and union representatives, and people with disabilities, to develop a disability workforce strategy. The strategy will address issues such as staff recruitment, selection and retention, gaps in skills, workforce planning and human resource strategies.

In recognition of the needs of people with disabilities who are leaving school, we have expanded the post-school options program which commenced in 2000-01. This program is designed to assist young people with moderate to severe support needs to explore alternatives to employment, including options to increase their participation in the wider community.

The need for quality disability services was a significant element of the recommendations of the board of inquiry. With this in mind, we are working on the development of a quality framework which will include: a set of performance standards and quality indicators that support monitoring, evaluation of service performance and continuous quality improvement; an incident reporting system that supports safe practice and continuous improvement; strong and responsive internal complaint and client feedback processes; and an independent assessment of service performance, including the auditing of performance, as well as compliance with standards and legislation, with a particular focus on health and safety.

Mr Speaker, the government is in agreement with the broad direction of the majority of the recommendations of the board. Necessarily, where those recommendations have been tempered by decisions of the Supreme Court in relation to the natural justice accorded to several officers, we have again reflected on those matters in our response.

A key feature of the government's response to the safety issues raised by the board of inquiry is the creation of the position of Disability Services Commissioner. The commissioner, an office to be created in legislation, will have the power to audit compliance with service standards and to issue binding directions to rectify deficient services. These powers will apply to all government-funded services across both the government and the non-government sectors. I am particularly pleased that we have been able to respond positively on the matter of better planning of services across the government, through the development of memorandums of understanding and the promotion of life cycle services, where I am confident we can make real progress.

The government's response to the recommendations is based on positions of the disability reform group, and that is very important. Where we have differed in our approach to the DRG, the government has clearly outlined its views on the DRG's position. In a number of other areas, we have agreed with the tenor of the board's recommendations, while approaching the implementation in a manner that better reflects the ACT's circumstances, resources and service systems.

For example, instead of the commission model for disability services proposed in the board's recommendations, we have established the Department of Disability, Housing and Community Services. The intent of establishing independence from the Health portfolio has been achieved without necessarily adopting the specific approach recommended by the board.

In developing our response to the board's report, we considered it essential to engage the community in its formulation. Through the disability reform group, established by the Chief Minister earlier this year, we have produced a response that is sensitive to the needs of the community. We will continue to work with the DRG and the permanent advisory body, soon to be established, during the reform period. Importantly, the DRG undertook community consultations in the development of its response to the board's report.

I am also pleased to table today the disability reform group's response to the report of the board of inquiry. The DRG's response represents a very significant body of work on the part of this committed group of people. It has worked tirelessly to consider, in depth, the complex issues addressed in the inquiry. Again, I thank the members of the DRG for the effort they put in and the quality of their work.

The six points of difference between the DRG and the government response relate to the implementation of a small number of recommendations, rather than to the direction or substance of the proposed reforms. The first point of difference between the government and the DRG concerns the function of the Disability Services Commissioner, to whom I referred earlier.

We do not disagree about the importance of strong and independent statutory oversighting to ensure that services are performed properly and are complying with standards. The DRG, though, believe that the commissioner should also receive and investigate complaints. They have attached a copy of their proposal in their response to the board's report. *(Extension of time granted.)*

Mr Speaker, you will recall that in the government response to the Reid review, the Chief Minister committed to a review of statutory oversight and community advocacy bodies. This review, being undertaken as a joint project by the departments of Disability, Housing and Community Service, Justice and Community Safety, and Health and Community Care, will take a number of months to complete. This review will assess, amongst other matters, where the management of disability services complaints is best placed. The DRG, existing statutory office holders and the community will all be involved in this review process.

The second point of difference between the government and the DRG concerns the administrative location of the centralised service access arrangements. The board of inquiry recommended that a centralised service access mechanism be established to assess all people with disabilities, and subsequently assist in identifying options best suited to individual needs. The DRG has suggested that there should be further investigation and consultation on the appropriate service access model and provider. The government believes that in the first instance such a service should be located within government. We do not, however, disagree on the fundamental need to establish such a service.

The third point of difference concerns the board's recommendation that non-government organisations receive a greater proportion of the disability budget allocation. The DRG has proposed a budget time line for allocating new funding towards existing clients in non-government accommodation services. However, the government considers that, if this recommendation were adopted, all new growth funds would be consumed by existing clients, leaving no funds to meet the needs of new clients. The government recognises that the non-government sector will undertake more activity in providing care options. The government has proposed that, in the context of future budget deliberations, the issue be addressed by focusing on reforms that deliver consumer choice and innovative service models.

The fourth point of difference relates to the board's recommendation to reduce the disability program into a number of smaller service units. The DRG would like the disability program to limit the number of new clients to those who meet certain criteria. The government is currently reviewing the role of the disability program and is assessing whether it should continue to provide the same range of services, or whether some would be placed better elsewhere. I can assure families that, while various options are being considered, vacancies in the disability program will continue to be filled.

The fifth point of difference is in regard to arrangements for appointing the Community Advocate. The board of inquiry recommended that future appointments be for a period of seven years only. The DRG disagrees with this recommendation, suggesting that the position be publicly advertised every five years, and at the end of the current appointment. The government believes that all statutory officers should be treated equally and appointments will continue to be made in the same manner as is presently the case.

The final point of difference between the government and the DRG relates to the board's recommendation that the head of Disability ACT be a statutory office holder, able to exercise legislative power in support of people with disabilities. The DRG recommends amendments to the Disability Services Act to provide the head of Disability ACT with statutory powers.

These powers would include ensuring a whole-of-government approach, policy development, a person-centred focus, and responsibilities for funding, service provision and quality assurance across the sector. The government will make the executive director of Disability ACT and the chief executive of the department accountable for these matters by way of their administrative responsibilities and performance agreements. It is therefore unnecessary to create these powers in legislation. We do not regard these

differences lightly. We are committed to continuing to work closely with the reform group, as well as the new advisory group, to close the gaps between us.

Mr Speaker, what will the government's strategy of action deliver for people with disabilities? It will provide an integrated quality service system that will be flexible and responsive to need. People with disabilities and their significant support networks will participate fully in the development and ongoing improvement of the disability service sector. In other words, services and policy will be driven through consumer involvement.

Services will be person centred, directly based on the needs of people. The disabilities sector will be more accessible and transparent. Information on services will be readily available and will be crafted to assist people with disabilities and their families to make the right choices for them.

Government and the broader sector will listen to and value the contributions of people with disabilities, their families and carers. We will work in partnership with them. Importantly, we will have a policy framework that will support people with disabilities in the Canberra community in an equitable way.

With my total commitment and the willingness of all in the new department, people with disabilities and their carers and support groups will, at all times, be able to speak freely—fiercely, if they wish—about their worries, complaints, views and aspirations. This is a major, essential aspect of the reform.

Mr Speaker, this government readily accepts both the need to build and the challenge of building a better disability services system. We have engaged and will continue to engage the community in establishing the path to reform. In order to assure members of our commitment to the reform agenda we have laid out, I will be reporting to the Assembly on our progress every six months.

While in opposition, Labor, with Ms Tucker, called for an urgent inquiry into disability services. We did this because the community was telling us that there were problems in many areas of service delivery. They were right. However, the importance of this issue must raise the debate above political point scoring. It is time to move forward.

With the assistance of the DRG, this government has developed a far-reaching response to the findings of the board that will significantly improve services and support for people with disabilities. The comprehensive, systematic reform process will remain a top priority of the Labor government. We are absolutely committed to listening to people with disabilities, their families, carers and representative groups.

This commitment will continue into the future as we work in close consultation with the disability sector to implement the initiatives already announced and to pursue the further substantial reforms mapped out over the next three to five years. Under this government, people with disabilities, the families and carers can be confident that they will be supported, valued, consulted and respected throughout the process of reform and beyond.

Debate (on motion by **Mr Smyth**) adjourned to the next sitting.

Criminal Code 2002

Mr Stanhope, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (10.58): I move:

> That this bill be agreed to in principle.

Mr Speaker, with this bill, the ACT will enter into the second stage of the criminal code project. It is a mammoth undertaking that began in September last year with the Criminal Code 2001 Act and, on best estimates, will not be completed until 2006.

The Model Criminal Code Officers Committee, established by the Standing Committee of Attorneys-General more than a decade ago, has prepared over nine reports since its inception. Chapter 2 of the model criminal code dealt with the principles of criminal responsibility and is the model for chapter 2 of this bill. Each successive report released by the Model Criminal Code Officers Committee, MCCOC, has included detailed model legislation designed to operate within the basic framework that will be laid down by chapter 2 of this bill. You might say that chapter 2 is the operating system that provides the basic environment for the rest of the program to run.

We are on a path that will progressively reform the whole of the criminal law of the ACT. A thorough review and, where appropriate, implementation of each of the chapters of the model criminal code is only part of the exercise. The other components of the process will run simultaneously with the first. All new legislation with criminal law implications will be written to conform to the general principles of criminal responsibility in chapter 2 of the bill or, to extend the analogy, written in a language that the chapter 2 operating system understands.

All existing legislation in the ACT statute book will also be reviewed, act by act, regulation by regulation, until all offences and related provisions in the ACT are in a form that is consistent with the code and in language that is as plain as the subject matter will allow. But the undertaking does not stop there. There is still the arduous task of reviewing the common law for any offences that are worthy of inclusion in a statutory form in the code.

Mr Speaker, I said that this is a mammoth undertaking, and indeed it is, but we should not baulk because of the enormous scope of the task ahead. If we do not do it now, when will it be done? We are in the midst of a modern age that is travelling at a pace that many of us do not care to contemplate. Certainly, this brings with it new challenges for dealing with crime, and the code is the best way forward to meet the challenge.

But its advantages extend beyond that. The template of basic principles that it applies to every offence is simply a distillation of the law as it currently exists, but located in a convenient place, comparatively brief and in terms that most of us can understand. The “notwithstandings”, “forthwiths” and “hereinbefores” of the past kept the law cloistered and at arms length. By contrast, the code is about accessibility. It is fashioned for

a modern age that puts a premium on access to information that is clear, precise and to the point and can be relied upon for effective action. If we demand that in all other fields of human endeavour, we should demand it of the law and certainly the criminal law.

The code has yet another important advantage. The object of those who first sat down to frame it was to achieve uniformity in the criminal law across the nation. Our lives are no longer confined to the sometimes arbitrary boundaries fixed in the 18th and 19th centuries, and for the ACT, in the early years of the last century. In common with the rest of the globalising world, we are a nation of travellers. It would not be unusual for a person to wake in Canberra at seven in the morning one day, do a few hours of work till the mid-afternoon in Adelaide and sit down to dinner in the evening in Perth. This is a feature of modern Australian life that the criminal law can no longer choose to ignore. The hodgepodge of laws, rules and procedures with which we contend are an unnecessary complexity no longer suited to the way we live.

Chapter 2 and a substantial proportion of the rest of the model criminal code have already been enacted by the Commonwealth. The ACT has already passed a number of parts of the model code, including provisions relating to sexual servitude, bushfires, food contamination and female genital mutilation. We will be the second jurisdiction to enact chapter 2 in its entirety. All other jurisdictions have enacted various parts of the model code, including New South Wales, which also enacted chapter 4 last year. It is clear that uniformity in the criminal law is becoming a reality and the passage of this bill will ensure that it is part of the ACT's reality as well.

Mr Speaker, this bill includes all the material provisions of the criminal code 2001 and will repeal that act to avoid the numbering confusion that often comes with amending an act section by section. The bill also includes a new chapter 1, which is an important part of the codification process because it will effectively eliminate all common law offences in the ACT after it comes into force in January 2006. The reason for the delay is, of course, to allow time to research and examine the common law offences and to determine those to be kept and converted in statutory form in the code.

Chapter 2 of the bill completes the phase commenced last year by incorporating all the principles of criminal responsibility recommended in chapter 2 of the officers' reports. The added clauses concern such matters as the criminal responsibility of children and young persons, the mentally impaired, intoxicated persons and corporations. Provision is also made for the defences, such as self-defence, duress, emergency and lawful authority and part 2.4 sets out the extension offences, such as attempt, conspiracy, incitement and complicity, which was aiding and abetting in the old language. Finally, part 2.7 adds the provisions that give extraterritorial application to ACT offences where there is a relevant connection with the ACT.

Perhaps the most significant addition is new clause 22. It provides a mechanism in the code that allows for the fault elements of intention or recklessness to be applied to a physical element of an offence if strict or absolute liability does not apply and the provision does not say what fault element should apply. For this reason, it is commonly referred to as the default fault element provision.

Mr Speaker, my government listens to what the community want. Before and since the passage of the code act 2001, the legal profession and others have warned that the default fault element provision is a vital part of the scheme developed by officers and should be included. It provides an important safety net that ensures that a fault-based offence that fails to specify the fault element that applies to a physical element of the offence will have a fault element attributed to it. This will eliminate the consequences of a mistake and ensure that the courts are not left with a mess that in some cases they are simply unable to rectify.

The draft offences that confront instructors and drafters alike are often so complex that they simply cannot be expected to always identify all the physical elements of an offence with accuracy. This provision ensures that if a mistake is made, the code will go into default mode and retrieve the situation. The provision sets out a formula for determining whether intention or recklessness should apply, ensuring that an inappropriate fault element is not applied.

Some, but not all, of the provisions of chapter 2 of the bill will come into force on 1 January 2003. Clause 10 of the bill sets out the clauses that will apply immediately in relation to all offences, whether they were created before or after 1 January 2003. They include the clauses relating to the burden and standard of proof, children, intoxication, and the extension offences, such as attempt and conspiracy. The corresponding provisions in the Crimes Act 1900 and the Children and Young People Act 1999 will be repealed to make way for the new.

Except for the clauses concerning mental impairment, the rest of chapter 2 will apply immediately to all offences created after 1 January 2003, but not to the offences created before that date. The code will not apply to existing offences until January 2006. Again, this is to allow sufficient time to redraft the offences and related provisions so that they conform to the principles of the code. The provisions concerning the mentally impaired require special consideration because a number of important concepts covered by the special procedures in the Mental Health (Treatment and Care) Act 1994 and part 13 of the Crimes Act 1900 are defined differently in the related provisions in chapter 2. These matters need to be reconciled before the impairment clauses of the code can apply to them, so they have been delayed until January 2006.

Mr Speaker, chapter 4 of the bill will enact modern property damage, computer and sabotage offences based on the recommendations in the January 2001 officers' report entitled "Damage and computer offences". The new updated offences will take effect on 1 January of next year and will replace the existing computer and property damage offences in the Crimes Act.

Although it may not be immediately apparent, there is a logic to including these offences in the same package, because they are all broadly connected in some way. The computer offences apply familiar concepts of criminal damage to conduct that impairs computer data or electronic communications between computers. The sabotage offences are, in turn, directed at those who cause or threaten to cause damage to a public facility by committing a property damage offence or by causing an unauthorised computer function.

The property damage offences appear in part 4.1 of chapter 4 and are based on a broad definition of damage so that their reach extends beyond the usual kind of damage to catch conduct that causes property to be physically lost or for a function or use of the property to be lost. Also, they depart from the more traditional approach of such offences by applying to any relevant damage, regardless of the value of the property involved.

The part begins with a general offence that applies to the damage of all kind of tangible property and by whatever means and carries a maximum penalty of 10 years imprisonment. This is supplemented by a range of other more specific offences, including arson, which applies a maximum penalty of 15 years imprisonment and is limited to damage to buildings and vehicles caused by fire or explosives. It is the only offence in this part that can be committed by the owner of the property damaged.

The bushfires offence reproduces the offence that is already in the Crimes Act and applies if a person causes a fire and is reckless about the fire spreading onto the property of someone else. It also carries a maximum penalty of 15 years imprisonment. The part also includes offences of threatening to cause property damage. The basic offence carries a maximum penalty of two years imprisonment and applies to threats to damage property of any kind. The more serious offence concerns threats to damage property to induce fear of death or injury and to threats to damage property by arson, both of which carry a maximum penalty of seven years imprisonment.

The most novel offences in the part is the offence of possessing a thing with the intention of damaging the property of someone else. It is designed to catch people who are preparing to commit an offence, and carries a maximum penalty of three years imprisonment.

The computer offences in part 4.2 of chapter 4 target the unlawful access, modification or impairment of computer data and the unauthorised impairment of electronic communications between computers. The first of these offences is aimed at those who, without the authorisation required, access or modify computer data or impair electronic communications between computers to commit a serious offence.

Usually, offences of this kind are limited to the use of computers to commit a fraud or some other dishonesty offence, but this provision applies to an intention to commit any serious offence that attracts a penalty of five years imprisonment or more. The maximum penalty for this offence is the same as the penalty that applies for the serious offence involved.

The next offence prohibits unauthorised modification of computer data to impair access to or the reliability of the data. The offence is aimed at a range of activities, including a person who hacks into a computer via the internet to modify programs. The penalty that applies is a maximum of 10 years imprisonment.

Provision is also made for two similar, less serious offences. The first concerns the unauthorised impairment of data held in a computer disk, credit card or other such device and carries a maximum penalty of two years imprisonment. The second involves the unauthorised access to or modification of restricted data, which applies a maximum penalty of two years imprisonment. Restricted data is defined as data restricted by some kind of access control system, such as a password.

An offence of causing an unauthorised impairment of electronic communications between computers is also included. It is designed to catch activities such as flooding a website with a large volume of unwanted messages to cause the computer server to crash. A maximum of 10 years imprisonment applies for this offence.

Finally, there are two offences relating to the possession and supply of data or programs intended for use in the commission of a computer offence. They attract a maximum penalty of three years imprisonment and are aimed at those who possess or trade in programs designed to hack into or infect and damage computer systems.

The final part of the bill deals with sabotage and threatened sabotage. The ACT does not have an adequate regime for dealing with sabotage and threatened sabotage. The offences that loosely touch on this subject, in division 6.7 of the Crimes Act, are outdated and have only limited application to today's methods of attack. They are not sufficiently comprehensive to protect the full range of public facilities and infrastructure that are at risk in today's climate.

The sabotage and threatened sabotage offences in the bill are directed at terrorists and others who damage or destroy or threaten to destroy public facilities, infrastructure or government offices. There is no restriction on the means of causing damage or disruption, provided they involve committing an offence of property damage or an unauthorised computer function. There also has to be an intention to cause major disruption to government functions or major disruption to the use of services by the public or major economic loss. The maximum penalty is 25 years imprisonment for the sabotage offence and 15 years imprisonment for the threatened sabotage offence.

I have to say that I think that these proposed amendments to the criminal law are very timely and I commend the code and explanatory memorandum to the Assembly.

Debate (on motion by **Mr Stefaniak**) adjourned to the next sitting.

Civil Law (Wrongs) Amendment Bill 2002

Mr Stanhope, on behalf of **Mr Wood,** pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (11:13): I move:

> That this bill be agreed to in principle.

Mr Speaker, a few weeks ago we marked the first anniversary of the terrible events of September 11 last year. It is perhaps only now, one year later, that we have become aware of the full implications of those acts of terror. As a direct consequence of that act, reinsurance for acts of terror is no longer available for general insurers, which includes compulsory third party insurance. The ACT scheme provider, NRMA Insurance Ltd, has

been unable to obtain reinsurance for acts of terrorism from any reputable international reinsurer for the premium year which commenced on 1 July 2002.

Mr Speaker, there is little prospect of reinsurance cover for acts of terror becoming available for CTP insurance in the foreseeable future. Without such offsetting cover, it is unlikely that any insurer would be prepared to operate in circumstances where it was, itself, fully exposed to claims for acts of terrorism. Indeed, it is most unlikely that the Australian Prudential Regulatory Authority, which is responsible for regulating the insurance industry, would be prepared to let any insurer do so.

As was also done with workers compensation, the government offered a temporary indemnity to NRMA Insurance Ltd in respect of the ACT CTP scheme. However, it was made clear to NRMA that this was only viable as a short-term solution pending the passage of legislation designed to provide a longer-term solution. The Civil Law (Wrongs) Amendment Bill 2002 is intended to provide that longer-term solution. It proposes that there will be no right of action for death or injury arising out of the use of a motor vehicle if the death or injury is caused by an act of terrorism committed before 1 October 2004.

The effect of this bill is that there will be no right of action for death or injury against the owner or driver of a motor vehicle who is innocently caught up in an act of terrorism, or against his or her insurer. The approach adopted in this bill is consistent with the approach adopted in Queensland and New South Wales, the two other jurisdictions in Australia where CTP insurance is underwritten by private insurers.

The bill provides for two exceptions. Firstly, someone responsible for committing or promoting an act of terrorism using a motor vehicle will remain liable to civil action for any injury or death caused by it. This would, of course, be in addition to the full sanctions of the criminal law available to the courts. Secondly, the exclusion of a right of action proposed by the bill will not affect workers compensation entitlements under the Workers Compensation Act 1951 or under corresponding Commonwealth, state and territory laws. This exception is intended to maintain consistency with the Workers Compensation (Acts of Terrorism) Amendment Act 2002 passed by the Assembly in June 2002.

While the solution proposed in the bill provides the certainty which the ACT CTP scheme needs to continue to operate in the current environment, it is not intended to be a permanent solution. To encourage the return of reinsurers to the market and to encourage NRMA Insurance Ltd to endeavour to obtain reinsurance for acts of terrorism on commercial terms, the bill has been given a finite life. The amendments will therefore expire on 31 December 2004.

The two-year period provided for in the bill will give NRMA Insurance Ltd's reinsurers time to assess the real risks that they face and return to the market with an effective and financially viable product for the territory's CTP scheme. During this period, the government will monitor the relative positions of both NRMA, as the CTP insurer, and the reinsurance market. I commend the bill to the Assembly.

Mr Humphries: Mr Speaker, I rise on a point of order. This bill is a bill which apparently amends the Civil Law (Wrongs) Act 2002. Of course, there is no Civil Law (Wrongs) Act 2002 at this stage. I would ask you whether it is within standing orders for a bill to amend an act which does not exist and whether the amendments which are contained in this bill would be more appropriately moved as amendments to the bill which is before the house this afternoon, namely, the Civil Law (Wrongs) Bill 2002.

MR SPEAKER: I will take some advice on that, Mr Humphries. Meanwhile, it may be appropriate to move that the debate be adjourned. I will report back to the Assembly in due course.

Debate (on motion by **Mr Stefaniak**) adjourned to the next sitting.

Domestic Animals (Amendment) Bill 2002

Mr Stanhope, on behalf of **Mr Wood**, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (11.18): I move:

> That this bill be agreed to in principle.

Mr Speaker, today I bring to the Assembly a bill to address a series of minor issues with the Domestic Animals Act 2000. That act has been in operation for over a year and a number of matters have arisen that require minor amendments to the act. The government recognises that there is a balance between allowing pet owners to have their dogs in the urban environment and respecting the rights and safety of others. Experience in using the act has highlighted some minor issues for finetuning to make it easier and fairer for the community, pet owners and regulators.

The details of these changes appear in the bill and the explanatory memorandum. Very briefly, the bill makes it clear that dogs should wear their registration tags whenever they are away from home. It introduces a provision that makes it an offence for a dog to be unrestrained on private premises without the occupier's consent, making this similar to the provisions relating to restraining dogs in public. This allows action to be taken when unrestrained dogs roam onto private property.

The bill alters the attacking and harassing dog offence to operate as intended and make both attacking and harassing separate offences whether or not the dog is with a carer. The provisions relating to the return of dogs after seizure by an inspector have been restated, making them clearer. The bill makes it possible for a nuisance notice to be issued to the occupier of premises where the owner of the nuisance animal cannot be contacted.

The bill empowers inspectors to seize a nuisance animal after its owner has been charged with a nuisance offence. This removes the requirement for a warrant. However, the decision to seize an animal can only be issued if there is sufficient evidence to lay the

charge, which would have been required to obtain the warrant in the first place. This, in fact, removes an unnecessary step in the process.

These amendments will make administration of the act simpler. In addition, the offences will be more consistent internally.

I commend the bill to the Assembly.

Debate (on motion by **Mr Cornwell**) adjourned to the next sitting.

Lakes Amendment Bill 2002

Mr Stanhope, on behalf of **Mr Wood**, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (11.21): I move:

> That this bill be agreed to in principle.

Mr Speaker, today I bring to the Assembly a bill to amend the Lakes Act 1976. The Lakes Act 1976 prohibits the use of powerboats on or in a lake without an authorisation. The act provides a mechanism for obtaining an authorisation to use a powerboat on or in a lake within the ACT. The bulk of all powerboat use in the ACT is for water skiing on the Molonglo Reach, the body of water upstream of the Dairy Road bridge. Currently, all powerboat owners, including ACT residents using the reach, must hold an interstate boat licence and boat registration before they can apply for an authorisation to use their boat in the ACT.

The amendments will allow us to set up an arrangement where interstate licence holders driving registered boats will not need to fill in any paperwork to be able to use the water skiing area at Molonglo Reach, provided they use the booking system. The bill also provides for the minister to establish conditions for the use of powerboats under this arrangement. This power will be used to impose appropriate safety conditions and require use of the booking system mentioned. These changes to the act will remove the need for an unnecessary administrative procedure, while still maintaining safety for users of the area.

The bill also amends the act to update the reference to the Environment Protection Authority. This follows on the change to the name of that authority from Environment Management Authority made last year.

Mr Speaker, I commend the bill to the Assembly.

Debate (on motion by **Mr Cornwell**) adjourned to the next sitting.

Planning and Land (Consequential Amendments) Bill 2002

Mr Corbell, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR CORBELL (Minister for Education, Youth and Family Affairs, Minister for Planning and Minister for Industrial Relations) (11.23): I move:

> That this bill be agreed to in principle.

Members will recall that when I presented the Planning and Land Bill 2002 on 27 June this year, I foreshadowed that I would bring forward further legislation required to give effect to the governance structures provided for by that bill. The consequential amendments bill effects a range of changes to transfer responsibility for the performance of planning and land management functions to the Planning and Land Authority and the Planning and Land Council and also to reinforce the independence of the authority and improve the clarity of our planning system.

In the lead-up to the presentation of this bill, members will already have observed a number of attempts to unduly frighten the public and, to an extent, ourselves into believing that this legislative package contains some hidden or malevolent agenda. The devil is in the detail, has been the claim. In fact, in this case, all that is in the detail is the detail.

Members will now have had an opportunity to read the Planning and Land Bill in full. It is clear that legislation providing for the constitution of three new organisations must be supported by a large package of amendments to other acts and regulations that make the functions of those organisations operate properly. That is what the bill does. It does not make policy changes in addition to those already presented in the Planning and Land Bill and foreshadowed in my presentation speech on 27 June this year. However, it does illustrate for members the way in which the policy changes will operate.

There are several distinct areas of change. Firstly, the principal amendments aim to maintain the power of the executive and the minister in terms of setting policy directions. The Planning and Land Authority is to assume responsibility for the management of many of the functions governed by the land act. Broadly speaking, the authority will have the following general functions: administration of the Territory Plan; granting and administration of crown leases on behalf of the Australian Capital Territory executive; building regulation; management of certain unleased territory land, including the granting of licences in some circumstances; and processing and determination of development applications.

Secondly, the bill makes a number of changes to the land act and to other acts and regulations to transfer responsibility for the management of the above functions to the Planning and Land Authority. Thirdly, the minister will continue to have call-in powers under the land act. The bill further clarifies the call-in process by providing for the publication of advice received from the Planning and Land Authority and the Planning and Land Council.

Fourthly, the Planning and Land Authority will have a new power to reconsider its own decisions on development applications. This new function will enable the authority to engage in effective conflict resolution and revisit decisions in order to achieve better outcomes, to the benefit of the community, objectors and applicants, without resort to the formal Administrative Appeals Tribunal review process. I need to stress, Mr Speaker, that the power does not affect the right of a person to seek a review in the Administrative Appeals Tribunal. It is an additional function, not in substitution for the existing opportunities for review. It is important to reiterate that point.

Members of the Assembly will also note that part 3 of the act, heritage, is not being substantially amended. Part 3 is under separate review at this time and the government will come forward with amending legislation when that review is complete. Similarly, part 4 of the land act, which relates to environmental assessments and inquiries, is not being significantly amended. The bill does, however, include a note that the environment minister, as the minister responsible for administering part 4, may delegate functions to the Planning and Land Authority to perform the minister's functions.

Several acts and regulations are being amended by this bill to align with changes to the land act, particularly in respect of references to a planning authority and the transfer of certain functions to the new Planning and Land Authority. Mr Speaker, it will be important when members are considering and debating these amendments that their impact not be overstated. Many of the functional responsibilities under the land act and other legislation are being transferred to the new authority. However, the direction and review of policy will remain with the government, the Assembly, the executive and the minister, as currently provided.

The much debated call-in power under the land act will remain, but the minister will under these amendments be required to take into account advice received from the authority and the Planning and Land Council. When the minister gives the authority notice that a matter may be called in, the authority will not be able to proceed to make a decision. That notice will be a notifiable instrument. The change will add to my amendments to the act last year to make the exercise of the call-in power more accountable.

As I noted when I presented the Planning and Land Bill, the consequential amendments bill makes a very important change to the power to decide development applications. One serious weakness in the system to date has been that the decision maker has had very little scope to resolve the concerns of either objectors or applicants after a decision has been made, unless it is possible to make a minor amendment to an approval. That has forced a resolution of many matters in the AAT rather than through an agreed process prior to having to resort to the formal appeal mechanism through the AAT.

To address the situation, the bill adds sections 246 to 246C to the land act. Together, those sections will allow the authority, on application by the proponent, to reconsider a decision on a development application. Any objectors must be given an opportunity to comment on a proposed reconsideration, and those comments must be taken into account. It is important to note, Mr Speaker, that reconsideration of a decision may not result in a decision that would not have been possible in respect of the original application.

After the authority has reconsidered a development application, it must either confirm or vary the original decision and notify the applicant and any person who commented on either the original application or the application to reconsider the proposal. If a person is not satisfied with the new decision, they may exercise any right of appeal to the AAT that exists in relation to the new decision. The right is not affected by the authority's power to reconsider its decision.

Mr Speaker, the bill makes very few changes that relate to the making of orders. Members should note that the government has developed separate legislation which comprehensively reviews the enforcement provisions under the land act, most of which are not consequential upon passage of the Planning and Land Bill.

Members will be aware that this reform package includes a new proposal to review the appeals system for planning and development matters. Clearly, the required amendments to the AAT legislation are not appropriate for inclusion in this bill. The government is presenting separate legislation to give effect to its policies on planning appeals. This will be provided as an exposure draft for members and to the Standing Committee on Planning and the Environment for consideration as part of its inquiry into the operation of the Planning and Land Bill.

One further proposal remains to be mentioned, Mr Speaker. The Planning and Land Bill provides that its regulations will set out the kinds of proposals that are to be referred by the Planning and Land Authority to the Planning and Land Council for advice. While no such regulations are required until the bill is passed and commenced, I can advise members that I propose to table regulations that will require the reference of significant proposals that propose change to planning policy, may raise a policy issue or a policy interpretation issue, or may have a substantial impact on a locality.

There will be time enough to examine the details of the bill and its effects. As I have already noted, Mr Speaker, the Assembly determined on 22 August this year that the Planning and Land Bill should be referred to the Assembly's Standing Committee on Planning and Environment. At that time, I foreshadowed my intention to also refer the consequential amendments bill to the committee. For the purpose of better informing the committee, I will also provide an early draft of proposed regulations under the planning and land act, together with the bills, to assist the committee's deliberations.

In conjunction with the review of the operations of the planning appeals system, the Planning and Land Bill 2002, and this Planning and Land (Consequential Amendments) Bill, we have laid down the foundations for a stronger and more progressive planning and land system for the territory. I look forward to the committee's report in November. In the meantime, I wish to repeat to all members, and now also extend to the committee, my offer to provide information about and to discuss this opportunity to regenerate the territory's planning system and move it into a sustained period of strategic leadership in planning.

I commend the bill to the house.

Debate (on motion by **Mrs Dunne**) adjourned to the next sitting.

Gungahlin—street names

Ms Dundas, in accordance with standing order 128, fixed the next day of sitting as the time for the moving of this motion.

2001-02 annual reports—select committee
Appointment

MR HARGREAVES (11.35): I move:

That:

(1) the annual and financial reports for the calendar year 2001 and the financial year 2001-2002 presented to the Assembly pursuant to the Annual Reports (Government Agencies) Act 1995 stand referred, on presentation, to a select committee on annual reports for inquiry and report;

(2) the committee be composed of:

(a) two members to be nominated by the government;

(b) two members to be nominated by the opposition; and

(c) one member to be nominated by the ACT Greens or the Australian Democrats;

to be notified in writing to the Speaker by 4.00 pm today;

(3) the committee report by the first sitting day in 2003; and

(4) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

Mr Speaker, the Labor Party wishes to have annual reports referred to a select committee so as to be consistent with its position as indicated in this place in the past. I do not think anything further needs to be said.

MR STEFANIAK (11.36): Mr Speaker, the opposition will be opposing this motion. We suggest that notice No 3 should apply. It is a complete waste to set up a special committee to consider annual reports when we have a perfectly good system, the one which applied last year. Having the relevant standing committees deal with annual reports is far preferable to setting up a select committee at additional inconvenience and expense to the Assembly. The standing committees have proven that they do a good job with annual reports.

MS DUNDAS (11.37): The Democrats will also be opposing this motion and supporting the motion to be put forward by Mr Stefaniak. The establishment of a select committee asks a small group of MLAs to scrutinise the annual reports of all departments. The scrutiny of these reports needs to be thorough and specialised. I believe the standing committees are better suited to the job than a select committee.

As a member of three of the Assembly's standing committees, I am not trying to get out of more work. I look forward to scrutinising the annual reports, as the budget consultation process, the debate on the budget and the month long budget estimates hearings raised many questions that hopefully will be answered in the information in the

annual reports. Hopefully, the information that was lacking in the budget process will be available through these reports, which I believe are to be tabled today.

We oppose this motion from the government, believing that the standing committees have the specialised knowledge required to fully scrutinise annual reports.

MR CORBELL (Minister for Education, Youth and Family Affairs, Minister for Planning and Minister for Industrial Relations) (11.38): I speak in support of Mr Hargreaves' proposal. The argument presented by Mr Stefaniak and Ms Dundas may have been relevant when we had a standing committee structure which sought to mirror portfolio responsibilities. There may have been some merit in that. But we no longer have a standing committee structure that mirrors portfolio responsibilities. It is far more diverse, and standing committees frequently cover a number of portfolio responsibilities of ministers and departments. So I do not think it is the most effective way of achieving scrutiny.

The Labor Party has maintained for some time that the committee that examines the prospective expenditure through the estimates process should be the committee that examines what has occurred over the past year. It is a logical extension of the Estimates Committee process, and we believe it is the most appropriate in these circumstances.

Question resolved in the negative.

2001-02 annual reports—referral to standing committees

MR STEFANIAK (11.39): I move:

> That notwithstanding the resolution of the Assembly of 11 December 2001 establishing standing committees:
>
> (1) the annual and financial reports for the calendar year 2001 and the financial year 2001-2002 presented to the Assembly pursuant to the Annual Reports (Government Agencies) Act 1995 stand referred to the standing committees, on presentation, in accordance with a schedule to be determined by the Speaker;
>
> (2) committees inquire into and report on the annual reports by the first sitting day in 2003;
>
> (3) notwithstanding standing order 229, only one standing committee may meet for the consideration of the inquiry into the calendar year 2001 and 2001-2002 annual and financial reports at any given period of time; and
>
> (4) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

I have already said that this is the preferred method. I note Mr Corbell's point. I refer him to paragraph (3), which permits only one committee to operate at a time. That is logical. It will assist ministers, public servants and members who sit on more than one committee, especially Ms Tucker and Ms Dundas. That is a very sensible part of the motion. I commend the motion to the Assembly.

Question resolved in the affirmative.

Planning and Environment—Standing Committee
Reference

MS DUNDAS (11.40): Mr Speaker, I seek leave to move a motion with regard to the Planning and Land (Consequential Amendments) Bill.

Leave granted

MS DUNDAS: I move:

> (1) Notwithstanding the provision of standing order 174, the Planning and Land (Consequential Amendments) Bill 2002 be referred to the Standing Committee on Planning and Environment for inquiry and report by 12 November 2002.
>
> (2) On the committee presenting its report on the bill to the Assembly, resumption of debate on the question that this bill be agreed to in principle be set down as an order of the day for the next sitting.

This motion refers the Planning and Land Environment (Consequential Amendments) Bill to the standing committee, as we did with the Planning and Land Bill proper, so that the committee will have all of the bills together as it considers this new mechanism.

MR CORBELL (Minister for Education, Youth and Family Affairs, Minister for Planning and Minister for Industrial Relations) (11.41): Mr Speaker, the government will be supporting this referral, as I indicated in my tabling speech. It has always been the government's intention to refer the consequential amendments to the committee as part of its inquiry into the substantive legislation, the Planning and Land Bill 2002.

Question resolved in the affirmative.

Estimates 2002-2003—Select Committee
Report

Debate resumed from 20 August 2002, on motion by **Mr Humphries**:

> That the report be noted

Question resolved in the affirmative

Estimates 2002-2003—Select Committee
Report—government response

Debate resumed from 27 August 2002, on motion by **Mr Smyth**:

> That the Assembly takes note of the paper.

Question resolved in the affirmative.

Community Services and Social Equity—Standing Committee
Inquiry

MR HARGREAVES: Mr Speaker, I seek leave to make a statement regarding a new inquiry.

Leave granted.

MR HARGREAVES: The Standing Committee on Community Services and Social Equity has resolved to conduct an inquiry into:

(1) The effectiveness of support services for families of people in custody from the ACT with particular reference to:

- availability;
- services to families while the family member is in custody;
- support for partners anticipating the return of the other partner from custody, specific support for children anticipating the return of a parent and general support for the family unit anticipating the return of a family member from custody;
- services to families following the release from custody of the family member;
- coordination of services.

(2) The availability and effectiveness of services to assist young people in the transition from Quamby into the community with particular emphasis on:

- coordination and cooperation between the government and non-government sectors in the provision of relevant programs; and
- coordination and cooperation within and between the government agencies in the provision of relevant programs.

(3) Any other related matter.

The intention of this inquiry is to identify for the benefit of the government, the Assembly and the community what services we provide for people affected by the incarceration of a family member. We often forget the secondary victim of crime. In an assault, obviously the person assaulted is the primary victim, but often the families of the perpetrator are also victims. We wish to look into what services, particularly emotional and physical support services, are provided for the families who have one of their members in jail.

We are concerned also about emotional support for people anticipating the release back into the community of someone who has been incarcerated. A man going to jail for 10 years may leave behind a six-year-old son. By the time he comes out of jail his son, now 16, has grown up and become the significant male in the family. Having been rehabilitated, the man wants his job back as the significant male in the family. We do not seem to have any support services to help such a family.

We do not have any effective services to support women anticipating the renewal of an emotional and physical relationship. Once a person has been released from incarceration, support services are needed to make sure their restoration to the community is successful.

The committee wants to look at the right hand end of the continuum of the restorative justice principle. We will not be looking into the need for jails. We will not be looking into the programs which exist within the jail system. That is outside the purview of this committee. It is within the purview of the Legal Affairs Committee.

We will be looking at what government and non-government services exist or should exist and advising government and the Assembly on the provision of services for people who have been affected by the incarceration of a family member. We have to deal with the restoration of that person and where they fit within our community.

I advise the Assembly that the committee will be picking up this inquiry. The committee will seek submissions fairly shortly, but work on the issue will probably be undertaken in the first six months of 2003. Unless everything falls into place beautifully, I do not anticipate bringing a report to the Assembly until the middle of 2003.

Public Accounts—Standing Committee
Inquiry

MR SMYTH: Mr Speaker, pursuant to standing order 246A, the Standing Committee on Public Accounts has resolved that I make a statement regarding Auditor-General's report No 7 of 2001, entitled *Managing Canberra Urban Parks and Open Spaces*. I seek leave to table the statement.

Leave granted.

MR SMYTH: I present the following paper:

> Public Accounts—Standing Committee—Auditor-General's Report No 7, 2001—*Managing Canberra Urban Parks and Open Spaces*—Statement by Chair, dated 26 September 2002.

I will limit my comments to remarking that the Auditor-General found no evidence of significant inefficiencies in the management of urban parks and open spaces. The Public Accounts Committee therefore does not believe that any additional investigation by it would be constructive.

Executive business—precedence

Motion (by **Mr Corbell**) agreed to:

> That executive business be called on forthwith

Legislative Assembly—number of members

Mr Stanhope , in accordance with standing order 128, fixed the next day of sitting as the time for the moving of this motion.

Civil Law (Wrongs) Bill 2002

Debate resumed from 24 September 2002, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MS TUCKER (11.52): The Civil Law (Wrongs) Bill is the first stage of this government's response to the so-called insurance crisis. The ACT Greens will be supporting this bill overall, although we do have concerns with some of the strategies government is pursuing through this legislation. I will address the specific concerns in the detail stage.

First of all, I would like to congratulate the government for taking an approach by which it does not fall prey to the insurance panic which has seen other governments around Australia sacrifice the rights or entitlements of victims of negligence in order to assist the insurance industry to make up for past business mistakes. In other words, we have not heard the same kind of "litigious society" and "outrageous court awards" posturing that seems to come second nature to the New South Wales Carr government, for example. This bill does not put absolute caps on awards for damages and leaves a lot of the decisions about proportional responsibility in the hands of the court, where we believe they should be.

As the government has made clear, this bill is the first stage of a three-stage approach to insurance issues facing the community. This bill is intended to provide a framework for tort law on top of which further reform can be built. In other words, it is not all particularly far reaching.

That of course is not necessarily a bad thing. While there are some urgent issues facing us, tort law has evolved over several hundred years as a forum to articulate what is right and wrong. It is that aspect of the law with which citizens can engage and where the notion of access and equity, however moderated by the business of lawyers and the courts, comes into play.

We have to be fairly careful about how we play around with notions of responsibility and negligence. The various protections of the law, in civil as well as criminal matters, are fundamental to the kind of society we have and want to keep. Of course, many of the most pressing concerns revolve around compensation, injury (potential and actual) and insurance.

There are more accidents and injuries to people than there are claims in court or awards made out. One of the underlying inadequacies of the system in Australia is that universal health care and welfare systems do not necessarily afford people the quality of care they need. So there is considerable pressure on the court system to perform as a compensation tribunal. Given the patchwork nature of compensation insurance, there are inequities in

the court taking that role, and this strikes hardest at people suffering serious and permanent impairment.

Further down the track, perhaps we can look at a more comprehensive, possibly national compensation scheme. The work we are doing in looking at how the current system works in the ACT may be a useful part of the process.

This bill provides protection for a person who acts in a medical emergency to assist someone but who is inadvertently responsible for injury or damage, the so-called good samaritan. Everyone seems keen to see this provision in the law, and the analysis in the explanatory memorandum is entertaining, with reference to actions for allergic reaction to wine, et cetera. As far as I am aware, no such actions have been taken.

The bill allows someone with good intent to leap in and offer emergency medical attention, cause damage and escape legal responsibility. The purpose of tort law is not to punish bad intentions but to acknowledge bad consequences. It remains to be seen whether the requirement to act honestly and without recklessness will provide enough protection for the party who is "helped".

The other protection in this bill is for volunteers of community organisations. The intent here is clear as well, but without some amendment there could be unintended consequences. I know the Democrats will be moving some amendments, and I will be moving one myself.

My chief concern is that, as the bill stands, members of any organisation could be found to share the liability of anyone else in their group. If the organisation is not incorporated and if through the act of a member damage or injury is caused, every single member of the organisation could be liable.

Such an outcome, it seems, would run completely against the intent of the part. I will move an amendment to ensure that this kind of redistributive protection applies only to community organisations which are incorporated and so offer the protection of limited liability to its members and, hopefully, insurance cover as well.

In this context, I would like to commend the government's decision to offer public liability insurance above $5 million and so require community groups to seek cover only to that level. While very few, if any, public liability claims have reached $5 million in the ACT, getting insurance cover up to $10 million or $20 million has always been a significant cost for community groups. In taking on this top-end risk, the government has found a way to bring down insurance premiums for the community/volunteer sector.

Importantly, this bill makes more coherent sense of how people's negligence and wrongdoing so often overlap and interfere with, or contribute to, each other. This bill abolishes the common law rule that precludes anyone who is liable in damages to any right to damages against any other wrongdoer. It gives the courts the responsibility to apportion liability responsibility when people contribute in varying degrees to the damage through their criminal activity, intoxication or irresponsible behaviour.

This bill also puts the responsibility back on individuals not to drive when intoxicated, not to travel in cars without wearing safety belts, not to ride motorbikes without wearing a helmet and so on. This is all part of an overall process about making civil laws around negligence and damages congruent with our criminal law and with other community expectations.

Another key change is that the court will now be able to award damages in the form of structured settlements. This will make a significant change to the living conditions of people suffering permanent injury, ensuring greater certainty and comfort. The key issue is that we are waiting for the Commonwealth government to amend the taxation law to exempt such settlements. When every government may be criticised for acting slowly during the so-called insurance crisis, this is something the Commonwealth government could do now.

Happily, this proposed section includes an explicit statement that courts can make a finding of liability independently of awards of damages. This has the potential to simplify complex cases and allow people to get on with their lives to some extent while waiting for injuries to stabilise and compensation to be determined.

This bill incorporates the 2001 Defamation Act, which was in itself a progressive step towards public redress and away from financial penalties and drawn-out court cases. The Greens have expressed an interest in further reform to lessen the protections available to corporations and public figures against public interest contentions. This act, however, has been in force for only a few months, and it is too early to see how effective it is proving to be, so further change would be premature.

Other acts and law modernised in this bill include liability relating to innkeepers or travellers, common carriers, occupiers and animals.

The more contentious areas of this bill lie in the limitations on cost. There is a popular presumption that legal costs are driving up insurance premiums and that we can always blame the lawyers if the system is not working well. During the detail stage I will address the issues of limiting costs in personal injuries damages matters and making lawyers personally carry the cost of cases with no reasonable prospect of success.

My overarching comment at this stage is that it would be good to have evidence that these really are cost drivers in the insurance equation and that there are no significant access or equity consequences to such an approach. But evidence has not been produced to back up these initiatives, leaving me to imagine that it is simply a way of keeping the insurance industry on side.

This deal allows for neutral evaluation, which may or may not expedite the process, depending on the quality of personnel and the level of resources available to the court. I will make further comments on that at the detail stage as well.

In part 11.2, commendably, there are fairly significant reporting requirements for insurers. One of the key problems we have faced in the ACT in regard to workers compensation, public liability and professional indemnity insurance is that we have not known the reality of the business.

If insurance did not perform such a fundamental role in providing a framework for protection and compensation in our society, it would not be such an issue. The workers compensation scheme introduced last year was the first step in this direction, while this bill carries it further. It will be fascinating to see the real arithmetic of the insurance industry in the ACT.

Finally, certain outmoded common law actions and rules are abolished. Their abolition is certainly due.

MR STEFANIAK (12.02): Mr Speaker, the opposition will be supporting this bill. I have one amendment, and there are other amendments. I will comment on them at the detail stage. But we do have a number of reservations, and it will be very interesting to see how the legislation pans out in principle.

The Chief Minister, in trumpeting this bill, told us that Australian insurers are in turmoil and that companies have disappeared or collapsed. That is true. He said that products have been withdrawn or increased in price. That is certainly so. Only yesterday the owner of a tavern complained to me about an excessive increase in insurance and some inconsistencies in what he has to pay for an outside entertainment area. The Chief Minister also said:

> Every business, every community group and every family have been touched. Some have been hit hard.
>
> Explanations from Australian insurers have been unimpressive.

Yes, that is all true. But I wonder whether this bill is going to hit the spot and reduce that. In some areas I think it will be of assistance but in other areas it will not.

This bill changes and codifies a number of areas of the civil law. It creates a framework for the existing law of torts. I note with some satisfaction protection for good samaritans, although not as much as I would like to see. The Chief Minister went through the story of the good samaritan. He said that modern law really does extend scant protection to a good samaritan's actions. Under current law a good samaritan could be exposed to any number of actions, including action for damage from an adverse reaction to the wine, for damage to clothing from oil, for injuries occasioned as a result of being on the donkey, for problems that might have arisen from failure to provide sufficient lodgings and from negligent misstatement or from problems with the laws dealing with innkeepers. It is very sad that good samaritans could be reluctant to act because they could be sued. This bill goes some way to ensuring that good samaritans who act in good faith and who do not act recklessly are offered some protection.

That may not extend to community organisations. There might be some problems there. That is something we will be looking at closely. Many community organisations are small. Community organisations have been hit particularly hard by the insurance crisis. We have seen problems with some of the riding schools, for example. The riding school at Mugga Park has ceased operating. The equestrian centre is ceasing operations. Sporting groups have been hard hit by the insurance crisis. Some are at a loss as to whether they can carry on. I will be interested to see how this law, which will be passed

today, pans out for community organisations. The liability will still attach to them, and more work will need to be done.

The individual, if acting in good faith and within the relevant restrictions in the bill, will be offered a measure of protection. That at least is an advance. But a lot more needs to be done. My colleague Mr Smyth has some bills on the table which address those issues. There are going to be further problems. I wonder whether this has been a particularly good advance for community organisations.

The bill codifies a number of aspects of the common law. I do not have any great drama with that. The bill, in covering wrongful acts or neglect causing death, codifies existing law. That will do absolutely nothing for the insurance crisis. The bill also deals with injuries arising from mental or nervous shock, again codifying effectively what has become the case law. I do not know whether that will reduce premiums.

There are some good aspects in the bill as it relates to contributory negligence. I am quite happy to see some of the improvements. The law will exclude a right of action for damages if the injured person's conduct contributed materially to the risk of injury or if the injured person was engaged in serious criminal activity. I have an amendment to that, but it is good to put that in the law. I am pleased to see that.

That exclusion does not apply when the criminal activity is causally irrelevant to the injury and negligence of the defendant. That is fine. When I was being briefed by the departmental officers, some good examples were given. The Chief Minister's speech refers to a collapsing shelf in a supermarket when the defendant in a criminal action—or plaintiff in the civil action—was shoplifting. Obviously an injury as a result has nothing to do with the criminal act and the person may be entitled to damages. The court retains a discretion there.

I am pleased to see the government support the proposition that a person who sustains injury whilst committing a serious offence should bear their own losses, if their criminal act substantially contributes to their losses. That is good.

It is good that the bill establishes a presumption of contributory negligence where a person is injured whilst under the influence of alcohol or under the influence of a drug, particularly in relation to motor vehicle offences. There is a rebuttal presumption if a plaintiff can establish that the intoxication was not self-induced, as with drink spiking, for example. There are checks and balances there. That is fine.

The bill also establishes a presumption of contributory negligence if a person chooses to rely on the skill and care of a person the plaintiff knows to be intoxicated. I have no problems with that. Ms Tucker mentioned the presumption of contributing negligence for a person who does not adhere to specified safety rules, rules we all are aware of, such as rules about wearing seatbelts or a helmet.

The bill also consolidates some reforms that allow a court to order compensation for loss of capacity to perform household or domestic services. It makes a number of other reforms. I will not comment on all of them. They are fine. The bill consolidates the revolutionary defamation laws passed in the Assembly in 2001. It also provides a modern restatement of the defence to an action for trespass to land. It provides

a modern form of the old imperial law that ameliorated the strict liability placed on innkeepers and common carriers by the common law.

Chapter 8 provides a new statutory formulation of existing law concerning occupiers' liability. That codifies the rules in the High Court case of Zaluzna in the early 1990s involving a slip in a supermarket. The government says it has done that for clarity. I note that the Law Society does not particularly like that. I also note that it does not regard it as being terribly important in the greater scheme of things.

There are a number of controversial aspects to this bill, particularly in relation to costs. I will deal with some of those now. The Law Society has some concerns about part 10.1. They are concerned that the government is not allowing them to contract out of arrangements, as can occur in New South Wales. Much of this bill is similar to New South Wales legislation, but in that respect it is not. The government says that the Law Society indicated they do that every time. There is a point of contention there. We will see how that part of the bill operates.

Barristers' fees are another contentious issue. Ms Tucker has an amendment. I will be interested to hear what she says in relation to that. The opposition is very keen to see whether she has a point. The profession is concerned about that. They say barristers' fees should not be included in costs but should be a disbursement. The government says that they are part of total legal costs.

I am pleased to see the government has taken note of the profession's concerns about $100,000 as the limit and dropped it to $50,000. That is sensible, because that applies in other jurisdictions. The $100,000 was picked because New South Wales, the first jurisdiction off the mark, went that route. Other jurisdictions, however, have limited it to $50,000. That is particularly applicable figure in the ACT, because that is the limit for a claim in the Magistrates Court. It makes eminent sense to make that change, and the opposition is very supportive of that. I understand the profession is quite happy with that. That is a good amendment the government will be moving when we get to the detail stage.

Part 10.2 deals with reasonable prospects of success. This is something the profession is very concerned about. There has been a tradition in the legal system in Australia, going back to the United Kingdom—it used to apply in the United States—that a person is entitled to their day in court. If they want to take an action, even if it is not a very smart action to take, they are entitled to have their day in court. They will suffer the consequences if their action does not have legs. The bill winds that back, although probably not quite as much as some people in the profession might fear. The government would say that civil law reform is going this way, that US courts already do it and that all the Law Society wants to do is keep the bad old ways.

The "reasonable prospects of success" test will not apply at any stage before a matter is ready to be set down for hearing. In a civil case, a hell of a lot of work happens before then. Having been involved in a few myself, I know that most of the work does. Quite often when you are ready to set a matter down for hearing, it is about time to start talking turkey and settle. At least that is excluded. That takes out a significant chunk of the time in most civil cases.

Clause 120 (3) will not apply to a Donoghue and Stevenson situation. That is where some groundbreaking stuff might be occurring. The clause reads.

> … this part does not apply to a claim for damages if the court considers that it is in the interests of justice for the claim to be continued and makes an order to that effect.

The law might need changing, and it is important to run the matter as a test case. My colleague Mr Smyth asked whether it was like a Mabo situation. Mabo was a very different case and is not relevant to this, but it was a groundbreaking decision. So it is probably a Mabo-type case, if you are not familiar with Donoghue and Stevenson. Mrs Donoghue drank from a bottle which had a snail in it and became very ill. She had a lot of shock as a result and successfully sued the manufacturers of the soft drink. That case in the 1930s revolutionised the law of torts.

Mr Stanhope: Ginger beer.

MR STEFANIAK: Ginger beer, it was. Those cases crop up, and it is crucially important that people are able to run them. It will be very interesting to see how this part pans out, because there are a lot of issues around it. It might have the potential to drop some costs. It will be very interesting to see what effect the two points I have raised about the reasonable prospects of success not kicking in until the matter is ready to be set down for hearing and the legislation not applying in the Donoghue and Stevenson situation have. I hope the legislation covers all situations where plaintiffs' rights to bring actions are protected. *(Extension of time granted.)* A neutral evaluator will look at whether a Donoghue and Stevenson-type of situation should be able to proceed under clause 120 (3). That would be a deputy registrar. That follows the New South Wales earlier approach, and that is probably quite sensible.

I will be moving an amendment to clause 34 (1) (a). The government has the standard of proof as "beyond reasonable doubt". I think it should be "on the balance of probabilities". I will speak more to that when the time comes.

MS DUNDAS (12.18): The ACT Democrats welcome the introduction of the Civil Law (Wrongs) Bill as part of the government's response to the current crisis in the insurance market. The crisis has been a big issue facing this territory over the last 12 months, with the collapse of HIH in the domestic market, then the collapse of the international reinsurance market following the tragic events in New York just over a year ago.

The increases in premiums over the last year have been well documented. They have caused many organisations either to cancel events or to cut back activities. The inability of charities to obtain liability cover for fundraising events is likely to impact significantly on revenues collected by many charities this year. It will be a very difficult year for many charities and sporting groups to balance their books.

All governments in Australia have acknowledged that there is a crisis in the public liability insurance industry. All agree that there is a need for action to ensure that the community does not lose the contribution of many charities, sporting groups, community services and volunteers.

In other states and federally the blame has been laid squarely at the feet of the legal profession. Small business minister, Joe Hockey said:

> It's not good enough for the legal profession to pray upon people's vulnerability and try to take people for a ride, turning the legal system into a lottery system.

The tabloid press has given wide publicity to million dollar cases around people who it appears have not exercised commonsense. Commonsense was lacking by many premiers. I congratulate the Attorney-General for not putting forward a process that strips away rights. I am also pleased with the approach the Attorney and his office have taken in this regard.

My criticisms of the Stanhope government regarding the public liability crisis are reserved largely for the Treasurer, and they are documented in previous comments I have made in this chamber and in the media. To ensure that premiums fall, it is necessary to have a more comprehensive analysis of why the premiums have risen and to address these causes rather than aiming for a cheap headline.

The federal government and the Insurance Council have argued that the principal reason for the rise in public liability premiums is a rise in client claims and in litigation. However, the most recent figures from the Australian Prudential Regulatory Authority show that the growth in claims has slackened off and fell sharply in 2001.

The APRA figures show that June 1999 to December 2000 was a very poor period for public liability insurers. However, the first six months of 2001 saw new claims fall by over 20 per cent and outstanding claims fall to the same level as four years ago. The fall-off in claims was even more sharp in figures for amounts paid out in claims, which in real terms were lower in 2000-01 than they were for the three years before. Over the course of the last five years, claims have fallen from 65 per cent of total claims expense to just 53 per cent.

But insurance is an industry that operates in cycles. While we are all comfortable with the boom/bust cycles of the housing industry, it seems no-one was prepared for such extremes in insurance.

If claim figures are down, that would suggest that litigation is also down. The Productivity Commission annual report on government services showed that total civil lodgments in supreme, federal and district courts were lower in 1999-2000 than in any year since 1993-94.

In short, I believe the following conclusions can be made. There is no evidence of a blow-out in litigation rates in Australia. The cost of settling claims appeared to fall sharply in 2001 and is now lower in real terms than it was four years ago. The number of outstanding claims has returned to the level of four years ago. The cost of claims is a factor, but not the key factor, in driving the rise in public liability premiums, although recouping costs of recent losses could be part of it.

Given these conclusions, there is no reason to strip back people's rights. This bill is a sound approach, placing restrictions on both the insurance industry and the legal profession and working to maintain the rights of citizens.

The bill is not perfect, as many have said today. I have circulated amendments, as have the government, Ms Tucker and the opposition. I will address the amendments as they arise.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour.

Sitting suspended from 12.24 to 2.30 pm.

Questions without notice

Calvary Hospital

MR SMYTH: Mr Speaker, my question is for Mr Stanhope as Health Minister. Minister, in the *Canberra Times* of 14 September 2002, Dr Marielle Ruigrok, Director of Calvary emergency department, is quoted as saying:

> "I need 10 full-time equivalent [medical officers] to staff the roster appropriately so that it's covered—I've only got five and a half."

The article then continues:

> Dr Ruigrok said the emergency department desperately needed more nurses but funding cuts had ruled out recruitment drives.

Calvary Hospital estimated that the workload of the emergency department will increase by 7 per cent this financial year and has slashed funding in other areas, such as elective surgery, to help make up the funding shortfall. Given that the workload of the emergency department is expected to increase by 7 per cent, why have you cut its funding?

MR STANHOPE: The government has not cut funding to Calvary Hospital—as I have explained on a number of occasions, particularly in the context of the debate on the budget and government support for health and hospitals in the ACT. In fact, the government has increased funding to Calvary Hospital on a budget-to-budget basis quite significantly.

It may be, Mr Smyth, that Calvary Hospital has made a number of adjustments to its internal allocations, and those are matters for Calvary Hospital management. But the ACT government has not cut funding to Calvary Hospital. On the contrary, we have increased funding to Calvary Hospital quite significantly, and those increasing funds are over and above the significant additional moneys that were provided to Calvary Hospital after we took office. I do not have those numbers here at the moment, but I have provided them to members of the Assembly previously.

It certainly is true that over the last year Calvary Hospital's throughput increased enormously. Calvary Hospital really did thunder along. Its output was just enormous—funded in major part by the additional moneys provided to Calvary Hospital by my government. Significantly increased funds were provided to Calvary Hospital, as a result of which its throughput increased enormously. There is no doubt about that.

But it was a rate of extra funding for the hospital that simply wasn't sustainable. We provided, I think, a 12 per cent increase in funding to Calvary Public Hospital, budget-to-budget, and Calvary Hospital have made some adjustments internally. If Calvary Hospital have cut funding to the emergency department, that is a decision they have made. It is not a decision that I or the ACT department of health were involved in.

In terms of the specific funding increases, the moneys that were provided by way of supplementation to enhance throughput to Calvary Hospital, I am happy to take the numbers on notice and will happily provide them, hopefully, today.

Liability insurance—equestrian park

MR HUMPHRIES: My question is to the Treasurer. Treasurer, at the Estimates Committee hearing of 17 July this year you said:

> I do not think we've had anyone that's come to us that hasn't been able to get insurance.

That was in the context of rejecting proposals from the Liberal Party for improvement to the position of those facing difficulties with rising insurance premiums.

As you are now aware, the equestrian park at Hall has closed down, with the loss of five jobs. Forest Park Riding School is also facing closure. Between the two of them, 33 jobs are in jeopardy.

Would you concede that this is an omen that the entire horse-riding industry in the ACT faces the prospect of shutdown because insurance is simply not available? What does the government now propose to do to protect the hundreds of jobs of Canberrans tied up in this industry?

MR QUINLAN: I thank the Leader of the Opposition for his question. Yes, it is a matter of great concern. First of all, the riding businesses that have come to us have been our first "failure", if you like, in trying to find insurance cover.

There is insurance cover available for some areas of the equine industry: those that are associated with the national association and those that have put in place risk management procedures. I think one of the players in the field has found insurance, but I would have to say we are concerned about the actual provider of the insurance and the fact that it is registered in the Cayman Islands.

There is now quite clearly a difficulty with the insurance of this specific area. It is an international problem; it is a problem that has now infested the United States. The practices of insurance companies applied in the United States are being applied in Australia.

Something like 42 or 43 states in the United States of America have had to put in specific legislation. For the class of equine activity that has considerable risk associated with it, there will be a requirement for the individual taking part to take out personal accident insurance.

We understand that this has now emerged as a distinct problem. Our people have discussed it with our counterparts interstate, who are just catching up. I have to congratulate our local administrators for being on the ball in relation to this.

But it will be necessary to bring in legislation that mirrors what happens in the United States of America. That separates equine activities that are relatively well managed, have risk management plans and can be reasonably well controlled from those that people might indulge in to the edge.

Mr Dunne: Does that include the carousel?

MR QUINLAN: It is a specific area, and we will be looking to introduce legislation specifically to cater for this problem. It is an individual problem. It is a problem that relates to areas involving horse riding as opposed to quite other areas.

Mr Dunne: What about the horses on the carousel?

MR HUMPHRIES: I have a supplementary question. Minister, given that jobs are disappearing literally as we speak, what is the timetable for the legislation you have just spoken about?

MR QUINLAN: That is about it, I have got to say. It has been brought to my attention only in the last couple of days that the equine industry won't be able to be catered for in the way other—

Mr Humphries: We raised it two months ago in the Estimates Committee.

MR QUINLAN: Let me say you stumbled across it. What you put forward is, as I have described before, a dog's breakfast, and we want to fix it properly.

Casino Canberra

MS TUCKER: My question is for Mr Quinlan. Minister, I am sure you are aware of the very disturbing advertising campaign conducted by Casino Canberra. The casino has been promoting in Vietnamese newspapers in Cabramatta very cheap transport, accommodation and meals to people who come to gamble in the Canberra Casino. The package costs $60 for a weekend. It includes one night's twin-share accommodation, free noodle lunch on Saturday, free Asian lunch on Sunday, tour of Canberra on Sunday morning, transport to and from Canberra from Sydney, free membership of the casino and a $25 voucher for gaming. There is a condition, however: minimum play $1,000—and you do have to be over 18 years. The ad also includes, in a prominent box: "Jackpot $7,923.10".

My office has been speaking with Councillor Tang No of Fairfield City Council. He has written to the casino and to the Gambling and Racing Commission protesting at this marketing strategy, which is clearly predatory, and forwarding copies of a petition. Councillor No reports that problem gambling has been identified as a major problem in the community.

Minister, what steps, in the interests of reducing social harm, has our regulatory body, the Gambling and Racing Commission, taken to investigate the casino's advertising strategy and the people it is attracting?

MR QUINLAN: Thank you, Ms Tucker. This is an important question. First of all, hearsay tells me that the promotion was a failure and will be discontinued. However, it does point up the need for codes of practice.

As it currently stands, there is no regulation or legislation that the casino has transgressed. However, the Gambling and Racing Commission is preparing a code of practice, which should at least be circulated for discussion by December. This form of predatory advertising would be outside the code of practice.

There is not, as I stand here, a provision that would prohibit the casino doing this, but in all probability there will be in the foreseeable future. As I have said, hearsay advice tells me that the actual promotion did not really work and will not be continued.

The New South Wales government is, clearly, aware of it. It has been debated in the New South Wales parliament, where the relevant minister is on *Hansard* as saying he was going to be in contact with me about it. I am yet to hear from him. But I have been advised—I have followed this up—that the draft code of practice being prepared would prohibit this form of promotion.

MS TUCKER: I have a supplementary question. Can you clarify that that draft code of practice would be mandatory and not voluntary?

MR QUINLAN: It would be a code of practice. In the first instance, it would be voluntary. That is a code of practice. Of course, these things have much more force than simply having people say they agree to abide by them most of the time.

The casino would be aware that if they did transgress the code of practice the government would feel disposed to put the full force of the law behind a code of practice. Personally, in some areas, I have a preference for a code of practice. I have a preference for giving enterprises like the casino at least the opportunity for self-management and self-regulation, but with the proviso that, if the casino or any other organisation did transgress the code of practice, then the more formal processes would have to be introduced.

Nurses

MR PRATT: My question is to the Minister for Health, Mr Stanhope. I refer to an article in the *Canberra Times* of 18 September 2002, concerning the nursing shortage. That article states:

> Australian Nursing Federation ACT president Robyn Staniforth said yesterday there was a nursing shortage in Canberra, particularly in critical care, renal medicine, mental health, midwifery and aged care.
> …
> There were 103 vacancies for nurses in public hospitals and community care.

The article continued:

> "There's been lots of reports but not much action," Ms Staniforth said.
>
> "I hope the report scares bureaucrats and government to do something now or we're in dire straits."

Can the minister advise whether his government has an active recruitment process in place, and how successful it has been in filling the 103 vacancies in the public health system? Will the recent cutbacks in the hospital system, such as not filling short-term vacancies and cuts in the use of agency nurses to meet the workload, put further pressure on nursing staff?

MR STANHOPE: The nursing shortage in the ACT, the nursing shortage in Australia and the nursing shortage internationally is something that all jurisdictions, all governments, all hospitals and all health services have been grappling with now for years. There is a major shortage of nurses in Australia, in the ACT and internationally, and this has been bedevilling health care systems for years.

I would suggest that it was one of the major issues faced by the previous government in the seven long years we endured, when we saw absolutely no action and no attention to these issues. Indeed, we saw the previous government, through the previous minister for health, simply harangue nurses and force them, with the Australian Nursing Federation, into the most protracted period of industrial disputation we have seen in a decade.

Some of the enduring images I retain of your period in government—we won't go to Bruce Stadium or Hall/Kinlyside, and we won't go to a range of other places we might go to—are the language and the behaviour of your minister for health and of your government in relation to nurses in this territory, the absolutely appalling way your minister spoke about the head of the Nursing Federation and nurses as members of a profession, the way you sought to grind them down and the way you persisted in that protracted period of industrial disputation with nurses.

If one thinks of the most protracted industrial dispute of the last five years, it was the dispute which you engineered, generated and refused to settle with nurses in the ACT. It is quite ironic now to see you, as an opposition, asking questions about nursing shortages.

Mr Humphries: I have a point of order, Mr Speaker. This question is about the low opinion of Ms Staniforth, from the Nursing Federation, of this government, not the previous government. Will the Chief Minister answer the question?

MR STANHOPE: I was providing some background and pointing out the irony as context for the answer I am about to give.

Mr Humphries: Where's the answer to this question?

Mrs Dunne: You can't answer it, because you have nothing to say for yourself.

MR STANHOPE: We do have something to say. Within eight weeks of taking government last November, to the great relief of the people of Canberra, we settled the nurses dispute. We settled it within eight weeks of coming into government because we treated the union, the nurses and the nursing profession with due respect.

One of the great things that have been identified through the report that you refer to, Mr Pratt, is the reason why tens of thousands of Australian nurses have left the profession. It is not always about money and conditions.

It is interesting and very revealing that, when nurses who have left the profession are asked, "Why is it that you have left the profession? Why is it that you won't come back into the profession?", they do not put "pay and conditions" at the top of the list; they put "lack of respect" there. That is the point I am making about the way in which you treated nurses and nursing as a profession in your period of government.

We moved to address those issues of pay and conditions, and we settled the dispute. You ran a dispute for a year; we settled it in eight weeks. We settled it by negotiating an EBA that the Nursing Federation was prepared to sign up to, with significant increases in pay and significant recognition of nursing as a profession.

As a result of that and as a direct response to the second appropriation bill, which we passed before Christmas—within 10 weeks of coming into government—we provided significant additional moneys for nurses and have employed an additional 49.9 full-time equivalent nurses.

That is what we did within the first three months of taking government: settled a dispute which you engineered, which ran for a year; increased nurses' pay; respected them as a profession; nurtured nursing as a profession, acknowledging it as one of the most significant of the professions in the delivery of health care—

Opposition members interjecting—

MR SPEAKER: Order! Members of the opposition will come to order, please.

MR STANHOPE: We employed an additional 49.9 full-time equivalent nurses, and we have in place a range of strategies to deal, to the best of our capacity, with the very issues raised in your question, Mr Pratt. We seek actively to encourage nurses who have left the profession back into it, through a very active scholarship program. We encourage, acknowledge and respect nursing as a profession.

Mr Smyth: Do you?

Mrs Dunne: Where are they?

MR SPEAKER: That includes you, Mr Smyth, and you, Mrs Dunne.

MR STANHOPE: A lot more nurses are employed now, Mrs Dunne, than when you were around pulling the levers, let me tell you that.

Kippax library

MS DUNDAS: My question is for the Minister for Urban Services. Minister, earlier this year you were stating that the $310,000 provided in the 2001-02 budget for design proposals relating to the Kippax library could not be spent until planning issues at Kippax had been resolved. However, during estimates, this figure was down to only $100,000, with $70,000 being rolled over, as $30,000 was being spent on the general Belconnen library needs analysis. What has happened to the original $310,000 from the 2001-02 budget for the Kippax library? Has it been rolled over, minus the $30,000 already expended?

MR WOOD: Yes, an amount of money has been rolled over, Ms Dundas. I cannot tell you the precise amount at this stage; I will get back to you and let you know. There have been considerable delays with that as the broad planning process continues.

I am in discussion with others about whether we can take some steps independent of that to keep it moving, as it has been on the boil there for quite some time. There is money there for planning and other works. I will get you the precise amount later on.

MS DUNDAS: I have a supplementary question. When we actually know how much money we are talking about and, if the Kippax group centre planning issues are resolved this year, will you commit to spending the remainder of this money, however much it happens to be, on a planning study focused specifically on Kippax library within this financial year?

MR WOOD: There are a couple of planning things. The planning activity around the library itself is substantially finished—that is, the discussion with the community and professionals about what a library should do. That has been substantially done, but there are broader planning issues there that need working through. We are concerned about the delays, and we will see what we can do.

As to confirmation about money for construction of the library, that is an issue for next year's budget process. I expect I will go back to that process with a whole host of claims and see what Mr Quinlan and my colleagues will be able to match, amongst all the claims that the budget cabinet considers.

Urban open space

MR SPEAKER: Mr Hargreaves, do you have a question?

MR HARGREAVES: Mrs Dunne was on her feet long before me, Mr Speaker.

MR SPEAKER: Mrs Dunne, I trust you want to ask about the carousel now, as you were so keen to ask the question by way of intervention earlier.

MRS DUNNE: No, I do not. I am only standing because the members of the government are so slow to come to their feet. But I will not get an answer about the carousel, so I won't ask the question. I will ask my question of the Minister for Planning—and it is not about Gungahlin Drive.

I refer to the minister's announcement on 17 September concerning the protection of Canberra's open space. In that statement, Minister, you said:

> At the last election Labor promised to once and for all identify and classify all unleased land in the Territory.

In actual fact, what you said at the last election was that you promised to identify and classify Canberra's open space network.

Can you clarify for members when you decided that every piece of unleased land is currently up for grabs, and does this include the proposed new suburbs of Moncrieff, Kenny, Crace, Kinlyside, Casey, Taylor, Forde, Throsby, Harrison and Gungahlin?

MR CORBELL: I am happy to clarify the process for Mrs Dunne. As I previously indicated in question time in an earlier sitting, I was happy to provide to any members who requested it the criteria being used by PALM, as well as the interim audit process used by Land Group in relation to land they have responsibility for.

To come to the key issue raised by Mrs Dunne: the assessment does not include land which is not currently within the urban area. For instance, it does not include forest land; nor does it include hills, ridges and buffer areas. That is the first point to make.

Applications are being processed by Land Group and PALM from a diverse range of groups for a variety of purposes for the use of land that could be included within the open space network project. The applications for these sites are generally for direct sale, and these are at various stages of assessment.

These applications are at various stages of consideration, which means they will be treated in a somewhat different manner to other parcels of land. In particular, where an in-principle agreement for the sale of land has been given, the community organisation would have a reasonable expectation that their application has been agreed to, subject to the remaining actions being undertaken. For example, where there is in-principle agreement to the sale of the land and community consultation has commenced, the land should not be included within the broader open space network project.

Mrs Dunne: On a point of order, Mr Speaker: I think we have heard this answer before, to the question that Ms Tucker asked earlier about the pocket park in Yarralumla. My question was about the criteria for the open space analysis. This is not about land previously classified as community land. In any case, the way the minister is going, he has actually already answered the question, and he is wasting our time.

MR SPEAKER: Mrs Dunne, you asked the question. I am afraid the minister can answer the question however he wishes. If he doesn't wish to proceed and you are satisfied, we will move to the next question without notice.

MR CORBELL: Mrs Dunne just said she was happy with my answer, so I have stopped.

Land shortage

MR STEFANIAK: Mr Speaker, my question is also to the Minister for Planning. Minister, in the *Canberra Times* of 5 September, the following was attributed to you:

> There is a real and increasingly immediate prospect now that this land supply will be exhausted within the next 5-10 years if current population growth lifts even modestly above its current 1 per cent, or if further land is removed from the residential land release program due to ecological concerns.

Is the minister aware of the deep anxiety caused in the building industry, one of the real drivers of growth and employment in this territory, by his remarks? Will the minister now identify to the Assembly those greenfield development sites he considers at risk and why they are risk? If he won't, why won't he?

MR CORBELL: I am very happy to answer Mr Stefaniak's question. I can appreciate the concern in the building industry—as much as the government has concerns about it itself. But it would be foolish of this government to not make public its concerns about prospective land supply and instead continue, as the Liberals would like it to do, as though everything was fine. The reality is that everything may not be fine. The situation of our land supply may very well change in ways that we could not have predicted even a few years ago.

As I indicated in my answer to Mr Stefaniak yesterday, first of all, Canberra has a finite supply of residential land. Secondly, the main development front is increasingly focused in the north Gungahlin area. Thirdly, that land is subject to considerations, in particular the yellow box/red gum grassy woodland community, which is an endangered ecological community. Fourthly, if assessments by the community result in changes in expectation as to what sort of land should be protected as part of that ecological community, it may result in less land being available than we originally predicted.

Those are the circumstances that the government believes are an important consideration now. They are not some esoteric debate for 10 or 20 years time. They are key issues that the government needs to be aware of now, and this government is aware of them. It is incumbent on this government to signal those issues early to the broader community, which is what I have done.

MR STEFANIAK: I have a supplementary question. Is the minister aware that his policy prevarications are already giving rise to several schemes for dormitory suburbs across the border in New South Wales? How can he square this exporting of sprawl with his professed commitment to sustainable development?

MR CORBELL: The Liberals can't have it both ways. The Liberals can't claim that there is 30 years worth of land supply and then criticise urban sprawl. You are on the record as saying you think there is 30 years worth of land supply left in Canberra and there is nothing to worry about. That is what Mrs Dunne has said.

This government is saying it does not think that is the case. Environmental considerations may change. Ecological considerations may change and planning considerations may change, which may result in a reduction of the land supply. That is why the government is signalling this issue.

Mr Dunne: This is real pie-in-the-sky stuff.

MR SPEAKER: Order! Mrs Dunne, I asked you to come to order several times yesterday and several times today. I call on you now to desist. Mr Stefaniak asked the question. He is entitled to be able to hear the answer.

MR CORBELL: The areas of land that are of concern, as I have indicated, are areas of land generally in the north Gungahlin area. The north Gungahlin area is currently an area of undeveloped land, which has a very high level of yellow box/red gum grassy woodland community situated within it of varying degrees of ecological quality: very high, high, medium, low, and so on. If our community starts making decisions and saying, "We believe this ecological community is so rare that we have to shift the basis on which we decide which areas should and should not be protected," that will inevitably have consequences for the availability of residential land.

That is what this government is saying. We are not running away and hiding from the issue. In fact, we want to be upfront about the issue. We want to be on the front foot about it and say it is an issue that the government is aware of and the community needs to think about too.

Ecological concerns are important but, equally, impacts on residential land supply are important, and we need to take account of social and economic as well as environmental issues when we make judgments about these matters. That is what this government is saying and it is for the same reason we will continue to say it. We believe it is an issue of significant importance to the community.

Assembly—accessibility

MR HARGREAVES: My question is to the Chief Minister. In a keynote address that launched the Labor Party's 2001 election campaign, the Chief Minister said that members of this place should not become "ensconced in ivory tower isolation in Civic". What is the government doing to ensure its members are accessible to all Canberrans?

MR STANHOPE: We certainly have not become ensconced in ivory tower isolation. This is the most successful of governments and is acknowledged as such and always has been.

We have set major new standards in consultation, accountability and our willingness and determination to listen to the people of Canberra. That is acknowledged by the community. There is none of the false consultation or listening that the other side did in government.

Further to its determination to consult as broadly as possible, cabinet has agreed that it will meet in the different town centres of the ACT. The first of these meetings will be held next week at the Tuggeranong community centre. Cabinet will then meet with the Tuggeranong community and Tuggeranong representative organisations.

There has been an absolutely overwhelming response by the people of Tuggeranong and by Tuggeranong representative—

Mr Corbell: I wonder how many the shadow cabinet would get?

MR STANHOPE: Well, the shadow cabinet—I wonder who would turn up. Whom do you reckon would turn up? Who would be interested?

Mr Corbell: Half the shadow cabinet wouldn't turn up.

MR STANHOPE: No, they wouldn't. That's right—the ones that haven't been expelled yet. The books are being kept, we see. The accounts are being marked. How many press releases have you put out lately, Mr Cornwell? We are counting too, mate. When you get a bit low, we'll be whipping around and nudge you and say, "Greg, mate, your numbers are down a bit. You're in strife. The dossiers are being kept, Greg. I'd be watching it, mate."

As you quite rightly point out, Mr Hargreaves, this government is determined to consult. It is determined to be available. It is determined to be more available than it has been.

The first of this government's cabinet meetings at the town centres will be held at the Tuggeranong community centre next Monday. The response from the Tuggeranong community has been overwhelming. It is heartening to see the real keenness that exists within the community to meet with and engage with this government on all those matters that are of great interest to the people of Canberra.

Calvary funding priorities

MR CORNWELL: My question is not, in fact, to Mr Wood. You have intimidated us, Mr Wood, with that array of books in front of you. It has quite concerned us, so I will take an easier target and ask the Chief Minister—as Minister for Health.

I refer to a letter to the editor published in the *Canberra Times* on 18 September from Dr Peter Hughes, the ACT chairman of the Australian Association of Surgeons, which reads:

> So the A.C.T. Department of Health is spending $1.5 million to buy out St John of God Pathology, which had contracts with Calvary Hospital to provide pathology services.
>
> St John of God Pathology had agreed to sell to a private pathology provider for that amount, but were persuaded—

that's an interesting word—

> by ACT Health to sell to them. Why has ACT Health suddenly got $1.5 million to spare to provide a service that would have been provided at no cost to the ACT Department of Health?
>
> Why is that spare $1.5 million not being spent on reducing public-hospital waiting lists and on providing other health services that are currently being reduced or closed down?

Mr Corbell: I doubt that St John of God provide the service for free, Mr Cornwell.

MR CORNWELL: I am talking to the organ-grinder, thank you, Mr Corbell. Those were the questions, Chief Minister, that were posed in Dr Hughes' letter. I did not see any answers to them in the media, so I am asking you those questions now.

MR STANHOPE: It is a pity, Mr Cornwell, that you do not read the paper as assiduously every day as you did on that day, because there was a very fine and detailed response to the letter provided by Dr Gregory, the head of the department of health, a couple of days after Dr Hughes' letter. It explained quite fully all the misconceptions and mistakes that were contained in Dr Hughes' letter.

If you had continued to read as assiduously as you did that day, Mr Cornwell, you would be much better informed. There was a full response to Dr Hughes' letter provided in letters to the editor in the *Canberra Times* just a couple of days later.

Your question, based on that limited information and badly researched as it was—who writes your questions, Mr Cornwell?—repeats the mistakes that clouded Dr Hughes' judgment.

St John of God has supplied Calvary Public Hospital pathology services since November 1999 under a contract let by Mr Moore when he decided to tender out that service, which had previously been provided by ACT Pathology. The maintenance of two pathology providers in the public sector in a jurisdiction as small as the ACT was not particularly efficient. I certainly do not believe it served the best long-term ends of an integrated system in the ACT.

In June of this year the territory policy changed following our response to the Reid review, which stressed highly the importance—of which we are all aware—of an integrated pathology service to demonstrate improved efficiencies, effectiveness and responsiveness. In this context the territory entered into discussions with St John of God and Calvary Health Care to seek an amicable solution for the satisfactory transmission of a service provision to ACT Pathology.

As a result, the ACT Health and Community Care service acquired the St John of God public pathology business and Calvary Health Care. ACT Pathology will be the sole provider to ACT public hospitals and will continue to provide both public hospitals with 24-hour, on-site pathology services.

This is a move to an integrated service, which will not increase the cost to taxpayers. That is one of the great misapprehensions you are under—and if you took your advice from Dr Hughes, he was under it as well. It is about maximising the financial and clinical benefits of integration.

There are also significant benefits to be had in medical training and research. The costs of equipment, payments for service delivery, the revenue stream and staff-related costs are managed within the level of funding that Calvary currently has available to pay for pathology services.

Drought

MS GALLAGHER: My question is to the Minister for Urban Services, Mr Wood. Minister, members are very well aware of the severe drought conditions prevailing across most of New South Wales and that areas adjacent to the ACT have been declared drought affected. Can you inform the house of the situation in the ACT?

MR WOOD: I am sure that members know it is pretty dry. That rain a week or two ago was a big help, but still only a temporary help. It looks like it is going to get worse.

Conditions in the ACT will continue to be monitored by Environment ACT, which has the responsibility of looking at this and making any recommendations. It is not proposed right now to declare a drought, although it is recognised that feed levels on farms are low, following the recent hard winter. But we will review the situation in October and November.

As you indicate, Ms Gallagher, areas to the east and north of the ACT in New South Wales have been declared drought affected by their government. Nevertheless, I understand that drought assistance is not available to an area that has being drought declared for some six months.

Drought was last declared in the ACT in 1998—by Mr Smyth, I presume—between April and October. The ACT government did not provide subsidies to farmers during that drought period.

Factors to be taken into account when considering a drought declaration include rainfall and evaporation over the last two seasons, soil moisture and farm dam water levels, paddock and feed conditions and the views of ACT rural lessees.

If the need arises as we monitor the situation, I will declare a drought in the ACT, after taking advice from Environment ACT.

Children's and family services in Gungahlin

MS MacDONALD: My question is to the Minister for Education, Youth and Family Services. Minister, children's and family services in Gungahlin had been neglected under the previous government. Can you inform the Assembly how this government is reversing this neglect?

MR CORBELL: Under the previous government we saw a singular level of neglect. They made no effort whatsoever to address the issues facing children and families in the Gungahlin area, despite the fact that the Gungahlin region has the highest birth rate of any district in the ACT and is the fastest growing area of the ACT. Indeed, even when

childcare centres were turning away children and their families, the Liberal Party did nothing.

I remember asking a question in the Assembly at the time of the then minister, Mr Moore, and he said there was no crisis. There were 250 families on the waiting list for childcare centres in Gungahlin, and Mr Moore said there was no crisis.

Last year I joined the parents at the Nicholls and Ngunnawal childcare centres in calling on the Liberals to act. They failed to, but I am pleased to report to members of the Assembly that this government has acted.

Indeed, this government has invested $700,000 and has already put in place an additional 54 childcare places in the Nicholls and Ngunnawal childcare centres to try to meet some of the demand for childcare facilities in Gungahlin. An additional 54 places are already operating, through two new transportables.

An additional $2 million will be spent on a permanent childcare facility in Gungahlin town centre, which will accommodate close to an additional 100 children. This government, in its term, will boost childcare facilities overall by over 150 places, something the previous government could only seek to emulate.

But the government is doing much more than those two initiatives. It is investing money in additional schools: a new preschool, a new primary school and a new high school for the Gungahlin area.

What did this mob do when they were in government? They knew that the Nicholls, Palmerston and Ngunnawal schools were at capacity, and yet they deferred the construction of new primary schools and new high schools for two consecutive years. They delayed those capital works projects, so instead the kids had to go into the classrooms of existing schools in crowded facilities. They refused to spend the money on capital works to improve education provision in the Gungahlin area.

Again, I am pleased to report that this government has acted to deliver an additional $28 million for the building of a much-needed primary school and a high school in the Gungahlin area. The primary school will open in Amaroo in 2004 and the high school in 2005. These schools should have been built over two years ago. The previous government failed to act; this government is addressing the issue.

I was very pleased at lunchtime today to be out in Amaroo and turn the first sod for a new preschool at Amaroo. The government has set aside $1 million to build a new preschool at Amaroo, and that construction is also under way.

MR SPEAKER: Order! Members of the opposition, if you want to have a conversation, there is a lobby especially constructed for your comfort out there.

MR CORBELL: I can understand their embarrassment at their neglect in acting on this issue and their failure to put the money into Gungahlin to deliver the educational facilities that community needs. But this government is serious about doing so.

Mr Dunne: All you did was take the money in the budget—

MR SPEAKER: Order, Mrs Dunne! this is the third or fourth time today that I have drawn to your attention that those sorts of interjections are inconsistent with the standing orders and could bring the wrath of the Speaker. It might be a good idea to ease off.

MR CORBELL: Thank you, Mr Speaker. I am not surprised the Liberal Party seek to chat amongst themselves. That is the standard response when they are embarrassed over their record and their credibility. But the $1 million the government is putting into an additional preschool in Amaroo means that that preschool will now open for term 1 next year.

I am pleased to also report to members that the government will be providing the preschool community, the parents body for the new Amaroo preschool, with a $5,000 start-up grant to help them, in the first instance, with equipment, toys and other needed consumables for the new preschool at Amaroo.

This government is investing in childcare and early education in the Gungahlin community—putting the money in to deliver the services the community needs, not putting it off the way the Liberals did.

Mr Stanhope: I ask that all further questions be placed on the notice paper.

Kippax library

MR WOOD: Mr Speaker, for members' benefit and Ms Dundas in particular, $310,000, as she identified, was the amount in question. Of that, $40,000 has been spent, and the amount rolled over is $270,000. These are the figures I have.

Conflict of interest

MR CORBELL: Mr Speaker, on Tuesday Mr Pratt asked me a question relating to arrangements for handling conflicts of interest on the ACTION Authority board. I undertook to get back to Mr Pratt on the process that the ACTION Authority board uses in these circumstances.

Section 15 of the ACTION Authority legislation requires directors of the board to declare any direct or indirect personal or pecuniary interest in any matter being considered by the board. The directors are required to declare this interest at a board meeting, and such declarations are to be recorded in the minutes of the meeting. The director is then prohibited from being present during any deliberation of the matter and from taking part in any decision of the board on the matter.

The legislation also requires the chairman of the board to provide to the minister a statement setting out details of any disclosures made during the financial year. The minister must then pass this statement on to the relevant Assembly committee. Since the authority began on 1 January this year, no disclosures of conflict have needed to be minuted during meetings of directors of the ACTION Authority board.

During last week's threatened industrial action, Mr Andrew Whale, a board member and also secretary of the Transport Workers Union, was absent from the meeting until after the board had discussed the issue. The disclosure of Mr Whale's personal interest in that matter was not required, as he was already absent when the issue was discussed.

The chairman has indicated to the board that any matter of conflict will be declared and the affected directors will be excluded from board meetings while the relevant issue is discussed and decided. I can only reiterate that I have full confidence in the ACTION board chairman and the board itself in the handing of these matters.

Papers

Mr Stanhope presented the following papers:

> Emergency service system—Proposed upgrade—Answer to question on notice asked of Mr Quinlan (Minister for Emergency Services) by Ms Tucker and taken on notice on 25 September 2002.
>
> Aboriginal and Torres Straits Islander Employment in the Public Service—Answer to question without notice asked of Mr Stanhope (Chief Minister).

Annual report—Legislative Assembly

Mr Speaker presented the following paper:

> ACT Legislative Assembly Secretariat—Report and financial statements, including the Auditor-General's report.

Assembly—reflection on vote

MR SPEAKER: Members, during questions without notice on Tuesday, the Chief Minister, in an answer to a question from the Leader of the Opposition on the issue of medical indemnity insurance, queried why the Leader of the Opposition did not wish to debate the Civil Law (Wrongs) Bill earlier that day.

The Leader of the Opposition then stated that he thought the Chief Minister was criticising a decision of the Assembly earlier that day and that this was in breach of standing orders. I undertook to examine the *Hansard* record in relation to the matter.

Standing order 52 provides:

> A Member may not reflect upon any vote of the Assembly, except upon a motion that such vote be rescinded.

This standing order is almost identical to House of Representatives standing order 73.

House of Representatives Practice states:

> The rule is not interpreted in such a way as to prevent reasonable expression of views on matters of public concern.

Having examined the proof *Hansard* record of Tuesday's proceedings, I have concluded that the rhetorical question posed by the Chief Minister could hardly offend the standing order.

Civil law

MR SPEAKER: Further, this morning the Leader of the Opposition raised a point of order concerning the presentation of the Civil Law (Wrongs) Amendment Bill 2002. From memory, the substance of the query raised by the Leader of the Opposition was whether it was in order to introduce an amending bill whilst the bill for the principal act was still before the Assembly.

Whilst it may be unusual for an amending bill to be introduced in the Assembly in this manner, I do not believe it contravenes the standing orders of the Assembly. It is quite common, for example, for bills containing consequential provisions to be introduced, in the expectation that an earlier bill would be passed by the Assembly.

I note the point that it may be possible for the government to move amendments to the Civil Law (Wrongs) Bill. However, nothing in the standing orders or practice of the Assembly precludes the government from taking the course it has.

As with consequential provisions bills, it would be expected that the principal bill would be considered by the Assembly prior to the Assembly considering the amendment bill.

Health and Community Care—Standing Committee
Report No 4—government response

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (3.24): Mr Speaker, for the information of the members I present the following paper:

> Health and Community Care—Standing Committee (Fourth Assembly)—Report No 11—Elder abuse in the ACT (presented 21 August 2001)—Government response.

I move:

> That the Assembly takes note of the paper.

I am pleased to table today the government's response to this report. The response is a wide-ranging one and incorporates the strategies and actions required to address the many issues surrounding elder abuse in the ACT.

I want to take the opportunity to thank members of the former Standing Committee on Health and Community Care for their work on the elder abuse inquiry, namely Mr Bill Wood, Mr Dave Rugendyke, Mrs Jacqui Burke and Mr Harold Hird. I congratulate them on the detailed community consultation they conducted.

The ACT government deplores all forms of violence and exploitation. However, as do most members of society, we especially deplore violence and abuse directed towards the most vulnerable in our society, including our older citizens. We are absolutely committed to working with other governments, community agencies, networks and individuals to develop and implement effective responses to the issues surrounding elder abuse. The government is gravely concerned about the level of elder abuse in our society.

Indeed, a number of studies show that approximately 4.6 per cent of older people in Australia are abused in some way. Up to two-thirds of older people who are abused are women. This concern is compounded by our knowledge that, with the ageing of both the ACT and Australian populations, the problem will grow unless we act soon. Over the next 15 years, the largest growth in the Canberra population will be among people aged in their fifties. The number of people aged 50 and over is forecast to increase from 76,000 today to over 128,000 in the next 15 years. There is expected to be an increase in the people aged 60 and over from 37,600 today to 75,900 by 2016.

We simply must have strategies in place before then to deal with the needs of older members of our society, including the prevention of abuse. The government has recognised the need to plan for an ageing population in our city. We went to the last election with the plan for older Canberrans. The plan outlines our aim to create a community where older people feel safe and valued, and where services are available to meet their needs. Addressing elder abuse was one of the key priorities of the plan. We are committed to ensuring this issue is addressed.

The government is committed to implementing its plan and maintaining dialogue with older Canberrans. It has taken a number of major steps to ensure that the views and needs of the community are taken into account in implementing the plan, and that a whole-of-government approach is adopted in dealing with ageing issues.

In particular, the government has established the Ministerial Advisory Council on Ageing, the first such council in the ACT since the introduction of self-government. The council will have a broad focus and provide advice to the government about the priorities for older Canberrans, and advise on issues such as positive attitudes towards ageing and older people, housing, accommodation, lifelong learning, mature-age employment and providing services for older people.

I attended a meeting of the council recently and was impressed by the wide range of backgrounds, skills and experience that the newly appointed members bring to the council. I understand that, at that meeting, it was agreed that the issue of elder abuse in our community is a concern. The council is currently deciding its priorities and will advise the government on this very important issue.

The government has also established the Office for Ageing in the multicultural and community affairs group, Chief Minister's Department. The Office for Ageing will support the work of the council and work with ACT government agencies, community organisations, other state and territory governments, the Commonwealth government and the broader ACT community to ensure a strategic, coordinated approach to ageing issues in the ACT, including elder abuse.

Elder abuse is one of the issues that must be addressed to ensure that the ACT is an inclusive community where older people will feel safe and valued. Our plan for older Canberrans recognises this and undertakes to implement the key findings of the report.

Developing this response to the standing committee's report, the government has consulted widely. We have begun consultations with New South Wales about using the materials that state developed for a broad education campaign encompassing the professional and community sectors.

The government has recognised that there is an emerging need among older women for safe and affordable accommodation, as only limited options are available for them. To meet this emerging need, a site in Weston Creek has been allocated to the older women's boarding house project. The older women's boarding house will provide eight independent living units for women aged 55 and over who have experienced family breakdown or elder abuse, and who have exited a supported accommodation assistance program service.

We are investigating safeguards for powers of attorney, and we have instituted a requirement for mandatory police checks in all purchase agreements related to services for older people. Consultation was undertaken with the ACT Office for Women and the ACT Office for Aboriginal and Torres Strait Islander Affairs to integrate the work being done by these offices in relation to addressing violence in these sectors of the community. Consultation also took place with a number of government and community agencies, and all indicated a willingness to work cooperatively towards reducing the incidence of elder abuse in our community.

Members should, in fact, note that the government supports all of the report's recommendations. In responding to the report, the government reinforces its commitment to working with service providers to address the many issues raised during the inquiry. We want to make sure that a heightened awareness and a clearer focus can eradicate this menace from the community. We want all our older citizens to enjoy the safe, comfortable and productive lives that they so clearly deserve.

I commend the government's response to the Assembly.

Debate (on motion by **Mr Cornwell**) adjourned to the next sitting.

Legal Affairs—Standing Committee
Report No 4—government response

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (3.30): Mr Speaker, for the information of members I present the following paper:

> Legal Affairs—Standing Committee—Report No 4—The Appropriateness of the Size of the Legislative Assembly for the ACT and Options for Changing the Number of Members, Electorates and any Other Related Matter, dated 26 June 2002 *(presented 27 June 2002)*—Government response.

I ask for leave to make a statement.

Leave granted.

MR STANHOPE: The government has now had the opportunity to consider the report and the recommendations of the Standing Committee on Legal Affairs inquiring into the size of the Assembly. I welcome the standing committee's report and am pleased to be able to table the government's response.

I want to take the opportunity to thank the members of the standing committee who have conducted this inquiry, and make particular note of the extensive level of consultation undertaken through the course of the inquiry, with the community, parliaments and local government bodies.

The report recognises that an increase in the number of members of the Assembly is both appropriate and overdue, and the government concurs with this view. The residents of the ACT are significantly under-represented in the political process, especially when compared with the level of representation in other states and the Northern Territory. For example, as members would be aware, the Northern Territory Assembly, with a much smaller, albeit geographically spread, electorate, has 25 members, and the Tasmanian parliament, with only a slightly larger electorate, has 40 members.

The comparisons are even more stark when it is recognised that local government representation has not been factored in—the current Assembly also performs this role. Additionally, the issues for government are becoming increasingly complex and the population is growing. The government believes that an increase is necessary in order for the Assembly to effectively function in the Westminster tradition.

Mr Speaker, I believe the ACT's experience of self-government since 1988 has demonstrated both its maturity and the public confidence in the ACT executive and Assembly as political bodies. The territory has the capacity and ability to govern itself free from federal government involvement. It is able to responsibly determine issues such as the size of its parliament and executive, and for it to have this responsibility is consistent with the way in which other states and territories are governed.

As members will be aware, I have held initial discussions with the minister for territories, Mr Tuckey, in relation to the issue of increasing the size of the Assembly, including the devolvement of the relevant power to do so from the Commonwealth to the territory. The devolvement of power issue is one that we will work towards in due course.

The more immediate approach is, however, where there is Assembly support to increase the size of the Assembly, to have the Commonwealth give effect to the required change by way of Commonwealth regulation. Mr Tuckey has indicated to me a willingness to consider this and all other issues that are appropriately brought to him. I am confident that the Commonwealth will cooperate in good faith on this.

Provision for an additional eight members is a significant, but I believe an appropriate and cost-effective initiative for addressing those deficiencies in the representation I have mentioned. As to other issues, members should note that the government supports the majority of the committee's recommendations, and has undertaken to further investigate

those that it identified as requiring further consideration, such as the term of the Assembly.

Some of the committee's recommendations, however, are dependent on the outcomes of discussions with the Commonwealth government, and may require further consideration as matters progress. In particular, the government notes that extending the term of the Assembly from its present three years to four years may be effective in reducing electoral costs. It may also have other net advantages.

I will shortly be requesting that this Assembly refer this issue to the Standing Committee on Administration and Procedure for consideration. I thank the standing committee again for its report on this matter. The report provides a comprehensive guide to the likely issues surrounding an increase in the number of members of the Assembly, and I commend the government response to the Assembly.

I move:

> That the Assembly takes note of the report.

Debate (on motion by **Mr Stefaniak**) adjourned to the next sitting.

Sentencing review issues
Paper and statement by minister

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women): Mr Speaker, for the information of members I present the following paper:

> Sentencing Review—Issues Paper—September 2002.

I ask for leave to make a statement.

Leave granted.

MR STANHOPE: Mr Speaker, I am pleased to table today the first issues paper prepared by the sentencing review. When I announced the sentencing review earlier this year, I made it clear that this government believes that sentences should do more than just punish crime: they should also help to prevent crime, including by addressing the causes of offending. Our position is consistent with the purposes of sentencing as set out in the Crimes Act 1900: punishment, deterrence, rehabilitation, protection of the community, and incapacitation.

The first task of the sentencing review has been to consider how the various sentencing options can best be used to achieve these statutory sentencing purposes, with particular emphasis on the use of non-custodial and diversionary sentencing options. An exciting component of this project is the survey of sentencing practices currently being conducted in the ACT Magistrates Court. The survey, designed with assistance from the Australian Institute of Criminology, will ask magistrates to identify which of the statutory sentencing purposes and principles are most determinative in cases where magistrates

must decide between imposing a custodial sentence and imposing a non-custodial sentence.

The responses will then be analysed with a view to identifying those factors or circumstances which can act as a practical limitation on the choice of sentencing options, and determining whether there are gaps in the range of options currently available. I want to take the opportunity to thank the magistrates for their participation in the survey project.

The sentencing review has also been asked to examine whether the range of programs and options currently available to offenders with special needs is appropriate for those offenders. These offenders include the aged, the disabled, women, people with a first language other than English, indigenous people, young people, and people with personality disorders, mental illness, or substance abuse problems.

Finally, the review has been asked to advise on possible legislative reforms, including the possible consolidation of existing provisions across several enactments into a sentencing act. At this point, I want to thank the members of the sentencing review committee for their contribution to the work of the review, which has been invaluable.

Part 1 of the paper explains the review's terms of reference, and part 2 briefly outlines the current legislative framework for sentencing in the ACT, and the way the legislative purposes are given effect in practice.

Part 3 outlines the range of non-custodial sentencing options available, and examines how well adapted these options are to achieving the purposes of sentencing. It discusses ways of measuring the success of non-custodial sentencing options and explains the sentencing survey being conducted in the ACT Magistrates Court. This part of the paper invites comments on whether the range of non-custodial sentencing options can be expanded, and whether existing options could be used more effectively to deal with the causes of offending behaviour.

Part 4 examines victim/offender conferencing models and other restorative justice mechanisms, including reparation orders and victim impact statements. Comments were sought on whether conferencing programs should be given a statutory basis or should be available as a sentencing option, whether reparation orders are used appropriately, and whether the use of victim impact statements should be clarified.

Part 5 briefly examines the programs and sentencing options available for offenders with special needs, with a particular focus on young people and people with a mental illness or substance abuse problem. It seeks community views about improving the way in which the criminal justice system deals with offenders with substance abuse and mental health problems.

Finally, part 6 foreshadows legislative reform and seeks the views of the community on the desirability of an ACT sentencing act, and other possible sentencing reforms. The release of the sentencing review's first issues paper gives all members of the community a real opportunity to provide government with their views on positive ways to make sentencing law and practice in the ACT more relevant to the community, and more effective at dealing with crime and the causes of crime.

Gaming machines
Paper and statement by minister

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (3.38): Mr Speaker, on behalf of Mr Quinlan, for the information of members, I present the following paper:

> Gaming Machine Act, pursuant to section 60F—Community contributions made by gaming machine licensees—Fifth Report by the ACT Gambling and Racing Commission for the period 1 July 2001 to 30 June 2002.

I ask for leave to make a statement.

Leave granted.

MR STANHOPE: I present the fifth report on the community contributions made by gaming machine licensees for the period 1 July 2001 to 30 June 2002. The first two reports were produced by the Commissioner for ACT Revenue. Subsequent reporting became the responsibility of the ACT Gambling and Racing Commission following its establishment in December 1999.

This is the second year in which a minimum contribution was compulsory. Amendments to the Gaming Machine Act 1987, which were effective from 1 June 2001, introduced a requirement that club licensees make a minimum level of contribution of 5 per cent of net gaming machine revenue in the 2000-2001 financial year, 6 per cent for 2001-2002, and that increases to 7 per cent in 2002-2003. In addition, club licensees must contribute an amount equal to the total provided to registered political parties, associated entities, members of the Legislative Assembly and candidates.

The legislation outlines broad purposes of community contributions that are eligible, and identifies some types of contributions that are not eligible. Guidelines have been issued to help licensees comply with the legislation.

A further amendment to the act that commenced on 14 June 2002 introduced an incentive for clubs to consider contributions to women's sport. From the 2001-2002 reporting period, for every $3 contributed, the club's contribution would be calculated as $4.

The commission's report provides information on three main aspects of the contributions: legislative compliance by licensees, the extent of community contributions as a share of gaming machine revenue, and the level of contributions in each reporting category. The report is similar in structure to the four previous reports and includes data on both club and hotel contributions.

The hotel group had a gross gaming machine revenue in 2001-2002 of $316,887, which is a decrease of $49,959 on the previous year. The six hotel licensees contributed 8.5 per cent of their gross gaming machine revenue to community groups. The decrease in the gaming machine profits in 2001-2002 is reflected in the hotel licensees' contributions of $27,023, which is $4,685 lower than in 2000-2001.

In the reporting period 2001-2002, the club industry had a gross gaming machine revenue of $174.1 million, an increase of around 4 per cent on the previous year. After tax, and subtracting 15 per cent of gross gaming machine revenue representing clubs' operating costs, net gaming machine revenue received by all clubs was calculated at $105.3 million. It is on the basis of the net gaming machine revenue figures that clubs are required to pay their mandatory 6 per cent community contributions.

The commission's report indicates that the total value of community contributions from clubs in 2001-2002 was $13.1 million. Of this total, sport and recreation received $9.5 million, which includes $157,981 specifically for women's sport. The remaining $3.6 million was distributed as follows:

- charitable organisations, $320,000;
- welfare safety and social services, $1.4 million;
- non-profit activities, $1.1 million; and
- community infrastructure, $740,000.

It is reported that 12 clubs declared contributions in excess of 20 per cent of net gaming machine revenue, and 39 clubs declared contributions between 6 per cent and 20 per cent of net gaming machine revenue.

The commission's report contains comprehensive data on the activity of the gaming machine industry in the ACT. This information will be useful in any debate on future gaming machine operations.

I move:

> That the Assembly takes note of the report.

Debate (on motion by **Mr Humphries**) adjourned to the next sitting.

Territory Plan—variation No 190
Paper and statement by minister

MR CORBELL (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations): Mr Speaker, for the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to section 29—
> Variation No 190 to the Territory Plan—Hannah Park Block 1 Section 332 Fadden and Blocks 16 and 17 Section 226 Gowrie, together with the background papers and copies of the summaries and reports.

I ask for leave to make a brief statement.

Leave granted.

MR CORBELL: Mr Speaker, variation No 190 to the Territory Plan results from a commitment by the ACT Labor government to the residents of Gowrie and Fadden that part of block 1, section 332, Fadden, and blocks 16 and 17, section 226, Gowrie, will become a park. The variation proposes to vary the Territory Plan map from the existing residential land use policy to an urban open space land use policy for part of block 1, section 332, Fadden, and blocks 16 and 17, section 226, Gowrie, to enable the establishment of the park to proceed on these sites.

The park will become public land, and will be managed in accordance with a plan of management administered by the Conservator of Flora and Fauna. The park is to be named Hannah Community Park, after Sir Colin Hannah, who was a RAAF chief of staff in the early 1970s, and governor of Queensland from 1972 to 1977. This park name also fits the themes of the street names of both Gowrie and Fadden. The Standing Committee on Planning and Environment has considered the draft variation and, in its report No 8 of August 2002, endorsed the variation.

MR WOOD (Minister for Urban Services, Minister for the Arts and Minister for Disability, Housing and Community Services): I ask for leave to make a short statement in relation to that matter.

Leave granted.

MR WOOD: I want to thank Mr Corbell for seeing to its end an exercise that began when I was planning minister back in about 1994. I also want to thank Mr Humphries, because at various times I went to him when he was minister. I think this had got lost somewhere and he agreed that it should be a park and allowed this action to proceed. Now, we have the Colin Hannah park, and I am grateful for the work of a number of interested people in this Assembly.

Public Access to Government Contracts Act
Papers and statement by minister

MR WOOD (Minister for Urban Services, Minister for the Arts and Minister for Disability, Housing and Community Services): For the information of members, I present the following reports:

Public Access to Government Contracts Act—

Reports to the ACT Legislative Assembly on administrative processes implemented to comply with the provisions of the *Public Access to Government Contracts Act 2000*, including the Auditor-General's report, dated 10 September 2002 for:

The Department of Disability Housing and Community Services, dated 20 September 2002;

The Canberra Institute of Technology, dated 12 September 2002;

Department of Health and Community Care, the Canberra Hospital and ACT Community Care, dated 17 September 2002;

Department of Education, Youth and Family Services, dated 12 September 2002;

Department of Urban Services—Minister for Urban Services, dated 19 September 2002;

Department of Urban Services—Minister for Planning, dated 20 September 2002;

Department of Justice and Community Safety—Minister for Police, Emergency Services and Corrections, dated 23 July 2002;
Department of Justice and Community Safety—Attorney-General, dated 12 August 2002;
Treasury Portfolio Report, dated 20 September 2002.

I ask for leave to make a brief statement.

Leave granted.

MR WOOD: These ministerial reports are about the administrative processes agencies have implemented to ensure their compliance with the provisions of the Public Access to Government Contracts Act 2000. These reports deliver on the commitment made by this government in response to the Standing Committee on Finance and Public Administration's report No 28 on the Public Access to Government Contracts Act 2000.

Annual reports
Papers

MR WOOD (Minister for Urban Services, Minister for the Arts and Minister for Disability, Housing and Community Services): Mr Speaker, for the information of members, I present the following annual reports and other papers in accordance with the list circulated:

Annual Reports (Government Agencies) Act, pursuant to section 14—
ACT Building and Construction Industry Training Fund Board, dated 29 August 2002.
ACT Cleaning Industry Long Service Leave Board, dated 22 August 2002.
ACT Construction Industry Long Service Leave Board, dated 22 August 2002.
ACT Electoral Commission, dated 6 September 2002.
ACT Gambling and Racing Commission, dated 20 August 2002.
ACT Health and Community Care Service, dated 6 September 2002.
ACT Procurement Board, dated 6 September 2002.
ACT Human Rights Office (formerly Discrimination Commissioner), dated 6 September 2002.
ACT Insurance Authority, dated 6 September 2002.
ACT Ombudsman, dated 6 September 2002.
ACTEW Corporation Limited—
Annual Report, Supplementary Report to Government, ACTEW/AGL Joint Venture—General Purpose Financial Report and Subsidiary Company Annual Report,
ACTION Authority, dated 6 September 2002.
ACTTAB, dated 26 August 2002.
Australian International Hotel School, dated 26 August 2002.
Canberra Cemeteries.
Canberra Tourism and Events Corporation, dated 4 September 2002.
Chief Minister's Department (2 volumes), dated 8 September 2002.
Commissioner for the Environment, dated 8 September 2002.
Community and Health Services Complaints Commissioner, dated 6 September 2002.
Cultural Facilities Corporation, dated 30 August 2002.
Department of Education and Community Services, dated 30 June 2002.

Department of Health and Community Care (2 volumes), dated 20 September 2002.
Department of Justice and Community Safety (2 volumes), dated 5 September 2002.
Department of Treasury (2 volumes), dated 6 September 2002.
Department of Urban Services (2 volumes), dated 6 September 2002.
Director of Public Prosecutions, dated 6 September 2002.
Exhibition Park in Canberra (EPIC), dated 22 August 2002.
Gungahlin Development Authority, dated 5 September 2002.
Healthpact, dated September 2002.
Independent Competition and Regulatory Commission, dated 6 September 2002.
Kingston Foreshore Development Authority, dated 6 September 2002.
Legal Aid Commission, dated 1 August 2002.
Public Trustee for the Australian Capital Territory, dated 5 September 2002.
Office of the Community Advocate, dated 8 September 2002.
Office of the Occupational Health and Safety Commissioner and ACT WorkCover, dated 8 September 2002.
Stadiums Authority.
State of the Service Report (incorporating the Commissioner for Public Administration's Annual Report, dated 6 September 2002.
Totalcare Industries.
Victims of Crime Support Program.

The reports will be delivered to offices during the afternoon for the consideration of all members.

Draft variation 200
Discussion of matter of public importance

MR SPEAKER: I have received a letter from Mrs Dunne proposing that a matter of public importance be submitted to the Assembly, namely:

> That the Government be condemned for failing to heed warnings on the unintended consequences of Draft Variation 200.

MRS DUNNE (3.47): Thank you, Mr Speaker, for the enthusiasm with which you greet this MPI. This is an important MPI, because it is time that we did condemn the government for its failure to heed the warnings about the unintended consequences of draft variation 200. Those unintended consequences are now becoming legion.

Draft variation 200 is a glaring example of policy made on the run. I am deeply concerned at its implications, which contain a multitude of unforeseen consequences. At the big-picture level, I am concerned that it flies in the face of sustainability, a trendy buzz word that this government likes to use, though it has not yet learned to walk the talk. If the processes and prescriptions contained within the draft variation are implemented, we will indeed live to regret it. This government, and Mr Corbell in particular, will be remembered for being able to talk sustainability, but actually being able to walk only sprawl, because sprawl and its ugly downside is precisely what this policy will enshrine.

This draft variation seeks to contain urban development by means of a 200-metre circle around shopping centres. The interim application of this plan, which took effect from 1 September, effectively sinks sustainability as a development option. This proposal means the only option for development is continuing urban sprawl. I am dismayed that the Greens and the Democrats have so far chosen to go along with the government, down this road, given their previous support for the idea of sustainability.

Let me make it quite clear: I am not quibbling about the intent of the draft variation, that is, the aim of protecting the older areas of the city from unrestrained development. However, I do think more careful consideration should be given to a proposal of this magnitude. As I have said in this place many times, there is more than one way to skin a cat. Draft variation 200 is not the way to provide protection for those heritage places.

We have seen that up to 40 per cent of suburbs such as Downer, Red Hill, Stirling and Kaleen will be subject to redevelopment pressures that do not take account of the input of the residents of those suburbs. Draft variation 200 allows, among other things, the development of dual and triple occupancies, and up to four storeys in areas around shopping centres. The general intention was that this should happen in a neat circle around the shops, but sometimes there are unintended consequences.

One unintended consequence, Mr Speaker, means that there will be an octopus in many suburbs, an octopus that cuts a great swathe of redevelopment across suburbs, especially those that have their own shops while being close to group centres. We have not yet determined whether the proposals are suitable on a suburb-by-suburb basis, but the Minister for Planning, in his haste to be seen as a great planning reformer, is just pushing through with what is simply an ill thought out proposal. It is bad planning and it is bad policy.

The minister's proposals set out in draft variation 200 are elitist, counter to the notions of sustainability, and take a one-size-fits-all approach to planning. The planning needs of Turner and Spence, Banks and Red Hill are very different, and we should be approaching them on a case-by-case basis, not using arbitrary formulas, of which this minister is very fond.

In one breath, this minister extols the study done by the OECD into Canberra planning, and then immediately ignores the advice that came from the very same people when they advised us to achieve sustainability by helping "each urban place to achieve its potential, not according to an abstract model, but rather according to analysis of its specific strengths and weaknesses".

It may come as no surprise to the minister when I say that many members of the community have commented unfavourably about the approach taken by draft variation 200. I know that those comments have been communicated to him often, and loudly. One planner who recently wrote to me commented:

> Wouldn't it be better to judge redevelopment proposals on their own merits of aspect, size, scale, view, access, topography, services available and any positive/negative impacts on surrounding residents? Instead of just basically approving everything because it fits within [a particular] zone?

This minister, in his haste to be seen doing something, has not engaged in analysis, but has lumbered us with an abstract model, the handiwork of a schoolboy socialist. I really fear Canberra could be reaping the whirlwind for many years to come.

Let me run through a brief, though by no means complete, checklist of the unintended consequences of this foolhardy approach.

Mr Corbell: On a point of order, Mr Speaker: Mrs Dunne should know the form for the house. Name calling and referring to members other than by their title is quite inappropriate and out of order. I also find her comments personally insulting, and I ask her to withdraw them.

MRS DUNNE: Mr Speaker, I called the minister the Planning Minister.

Ms Tucker: No, you said schoolboy socialist. That is better than Stalinist. I was a Stalinist the other day.

MRS DUNNE: Yes. I said this Planning Minister produced the work of "a schoolboy socialist". I did not call him a schoolboy socialist. I called him the Planning Minister.

MR SPEAKER: Mrs Dunne, please grant us the intelligence to understand that there was a fairly finely honed barb and I think you ought to withdraw it in the interests of the standing of this place.

MRS DUNNE: If you say so, I withdraw.

Let us look at the strategic spatial plan. Draft variation 200 will have a major impact on the strategic spatial plan for Canberra, and this is a compelling reason for deferring and re-releasing it in conjunction with the major exposure draft that we expect to see on the spatial plan.

Draft variation 200 has the widest spatial coverage of any location-specific plan, and important ramifications for the achievement of urban sustainability issues. As in many things, this minister is putting the cart before the horse in wanting to finalise draft variation 200 while still considering the spatial plan.

Those comments could apply equally well to other aspects of the strategic plan, such as the economic white paper and the social plan. I have been quite vocal in my support for a fully integrated strategic plan for Canberra. However, the approach should not be piecemeal, with the partial launch of a new policy here and a draft variation there, which may have major implications for the overall effectiveness of a real strategic plan.

As I have said before, there is a case for allowing the conversion of city suburbs to a much higher density than is at present achieved, with the aim of obtaining urban sustainability. It is a very difficult thing to do, but we have to do it to acquire better public transport and high-quality public transport corridors. However, as a noted transport economist, Peter Moore, said today, to do this we have to exercise the political will to make tough decisions.

If we do so, we will have the opportunity to create models for the future direction of urban infrastructure and living in Australia. However, if we do not exercise that political will correctly, there will be no innovative urban infrastructure and we will not have a model of urban living that people would want to emulate.

This government's approach to urban planning has included many things that go against the concept of sustainability. We have to reverse that process so that we can find ourselves in a situation, a few years down the track, when we can have a viable, appealing and approachable public transport system that people want to use. This will be to the benefit of the whole community.

Draft variation 200 was mostly designed to look after heritage areas. I think that the heritage areas, in many ways, are sacrosanct and those areas should be protected. However, they should be protected in a sensitive way that looks after their needs and, at the same time, the needs of those areas around them, which may be different. Draft variation 200, despite designating areas around commercial centres, does not adequately define the planning agenda for higher density development within, and adjacent to, the commercial centres.

The draft variation tightens planning controls within suburban areas, but does not anticipate higher density development within the commercial circle. Higher density development is required to address housing choice and affordability problems, as well as to achieve more effective use of the existing infrastructure, including, as I have said before, public transport, but also open space, schools, retail outlets and other services. Ideally, commercial centres should be allocated a higher development density to compensate for the loss of development potential in other parts of the suburban area.

The objectives of high-density development around commercial centres should be improving housing choice and affordability, increasing pedestrian access to commercial centres and boosting local trade catchments. The adoption of the 200 and 300-metre radius for general zones around commercial centres is inconsistent with accepted planning guidelines for aged care, for instance, which say that acceptable walking distances to aged care facilities and to public transport are, in both cases, 400 metres. On this basis, there is a strong case for the application of a 400-metre radius for higher density development adjacent to all commercial centres.

I think that the general rule of thumb that we have seen with the 200 and 300-metre radius has created a whole lot of spatial inconsistencies that have to be rationalised in a more careful restatement of the policy. There are a few examples of the inclusion of a whole block—that is, a whole street block, the whole section—where only one part falls within the 300-metre radius. This creates spatial anomalies in some locations that are unacceptable to the members of the community. We have seen that in Downer.

This situation could be excluded by adopting the 400-metre rule of thumb and then adjusting backwards, rather than forwards. This would involve excluding sections, rather than including them if only a small part is within the radius, or adopting natural breaks and natural catchments as barriers.

Higher density development within this 400-metre commercial zone could be graduated to minimise the interface with the adjacent suburban areas, such as by using, say, two storeys on the frontages immediately opposite suburban houses. Residential policies within group centres and local centres should be reviewed to allow for higher densities where acceptable. As I have said before, in doing that, you would have to consider such things as topography, view, aspect and the whole integration of the centres.

At present, despite statements in the Labor Party platform, draft variation 200 appears to be silent on the question of higher density development along public transport corridors. With the exception of those made about the part of Northbourne Avenue affected by B11 and B12 policies, no comments have been made about higher density development along bus routes. Higher density development would be appropriate along major public transport corridors, including Canberra Avenue, Belconnen Way and Adelaide Avenue.

Then we have the exodus of dual occupancy. Dual occupancy has become a boo/hiss term, perhaps the work of the devil. The policy seems to be based on the need to avoid property speculation and criticism from local residents about poor design. However, we can have dual occupancy in many places and overcome the criticisms of poor design. A good case can be made for dual occupancy, and we should be using the principles of high-quality sustainable development to ensure that these developments meet the needs of the community, because there are very many reasons why we should have them.

We should also be looking at being less restrictive and at a policy that creates some certainty. For instance, we should be looking at permitting dual occupancies on appropriate corner blocks, and on wider blocks that allow subdivision from back to front.

Let me say that this matter is too important to be treated with the indecent haste that has characterised this government's approach to draft variation 200 and, unless we heed the warnings of what may come, we will repent at leisure.

MR CORBELL (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (4.02): Mr Speaker, after listening to Mrs Dunne's comments, my first response is that, far from condemning the government, in fact, at least for the second part of her speech, Mrs Dunne actually sought to engage constructively with the issues. I welcome that and I welcome the fact that she has some thoughts on how draft variation 200 could indeed evolve. That is precisely why the government is proceeding to facilitate this sort of debate about this draft variation.

Yes, draft variation 200 seeks to set out the residential land use policies this government believes are appropriate to protect the garden city characteristics that Canberrans value, while encouraging focused and strategic redevelopment that meets the needs of sustainability, better public transport and housing choice for our citizens.

I think Mrs Dunne's comments, in some respects, are actually an argument against her own MPI, because the value of the process the government has embarked upon has been highlighted by the fact that she is at least now acknowledging the need for strategic and focused redevelopment activity, rather than the ad hoc, laissez faire approach adopted by her Liberal predecessors.

Variation 200, the garden city variation, concerns the residential land use policies and related design and siting codes of the Territory Plan. It is the result of a major review of these important policies, and responds to the government's comprehensive policy agenda, planning and people, issued in the run-up to the last election.

The garden city variation essentially aims to do two things: one, preserve the open leafy character of Canberra suburbs, and two, over time, encourage a more sustainable pattern of urban settlement within the city. The first of these objectives will be primarily achieved by limiting the extent of potential redevelopment that can occur in the defined suburban areas, and through the introduction of new building envelope and private open space requirements. The second will be achieved through focusing opportunities for developing more housing in locations close to commercial centres, to improve accessibility, support the economic vitality of those centres, and reduce reliance on the use of private motor vehicles.

The variation is not being rushed. It was released for public comment on 30 May this year and, since that time, the government has gone to extraordinary lengths to publicise, and to engage in a meaningful debate on, the proposed changes. Some 500 submissions have been received on the draft variation, a strong indication of community interest and of the government's preparedness to make the details of the draft variation widely known. These submissions are currently being analysed and carefully considered by PALM. It is also important to note that the government extended the statutory consultation period by a month.

In the August sittings, this Assembly conducted a debate in response to another motion put by Mrs Dunne seeking to have the draft variation withdrawn. I am pleased that the Assembly voted to reject that motion, and to allow the draft variation to continue progressing along its statutory path.

Mrs Dunne is now asking the Assembly to condemn the government for failing to heed warnings on the unintended consequences of draft variation 200. She is effectively asking for us to be condemned because we have failed to heed her warnings. Mr Speaker, a very interesting precedent would be set in this place if that was the approach the Assembly chose to adopt. It is, indeed, a curious notion considering the point we have now reached in the statutory process, and the opportunity that Mrs Dunne, herself, would have as chair of the Standing Committee on Planning and Environment to review the draft variation in the future.

I openly acknowledge that the consultation process on draft variation 200 has raised a number of issues that require further consideration, and which in all likelihood will lead to revision of the draft variation before it is submitted for approval. That is the whole point of a statutory consultation process. Already, I have announced one revision relating to the application of the proposed private open space standards contained in DV 200 on new house and land packages. The revision means that, in these circumstances, the existing private open space standards will continue to apply until a revised position is developed for inclusion in the recommended final draft variation.

This should not be regarded as a response to an unintended consequence. The government has a very clear objective of raising the quality of residential development in the ACT, and we make no excuses for it, Mr Deputy Speaker. However, it is doing this

in a way which is open, consultative and collaborative. The government is listening to the issues raised during consultation and then responding in an appropriate and carefully considered manner. In addition, the ACTCode community advisory panel will provide further advice on any revisions made to draft variation 200. The input of the panel should also ensure that any unintended consequences are removed.

May I remind the Assembly that this variation is still in draft form. While it does have interim effect, it will not become part of the Territory Plan until it has been the subject of the Standing Committee on Planning and Environment's consideration, and then is supported by a majority of members in this place. Mrs Dunne has a key role to play in this process by chairing the committee that is charged with reviewing the proposed variation, and recommending to the Assembly whether it should be adopted, varied or rejected.

There is ample opportunity in this process for any unintended consequences that Mrs Dunne seeks to raise to be addressed. I will certainly undertake to consider very carefully any recommendations that the planning and environment committee makes in this regard. However, I do not accept that there is any basis whatsoever for condemning the government about what it is trying to achieve. On the contrary, I believe the people of the ACT will support the government for actively working to protect Canberra's open, leafy character, and providing for a long-term, sustainable future for our city.

MS TUCKER (4.09): I will speak briefly to this. I have to say that this running commentary from Mrs Dunne in the Assembly on draft variation 200 is getting a bit tedious. There is no doubt that this variation does represent a major change from the previous ad hoc redevelopment allowed by the previous Liberal government, which is probably why she objects to it so vehemently.

The variation's focus is urban consolidation around the local centres and public transport routes. The Greens support the approach, as it will make more efficient use of the urban infrastructure and the public transport network. It will also meet the demand for denser housing, while keeping most of the suburban area in the traditional low-density form that gives our city its bush capital character. However, there is a lot of detail in the variation that should be considered. As I have said before about this issue, Mrs Dunne has not come to grips with the fact that this is a draft variation. The point of putting out a draft is to draw out community opinion before finalising the variation.

This process is already working, as I have already received a number of comments from constituents from both sides that DVP 200 is too restrictive, or that it allows too much redevelopment. There is a particular need to look at the impacts of the proposals on particular suburbs. For example, the suburb of Downer is close to Dickson shops, as well as having its own local centre, so some 40 per cent of the suburb will end up being available for redevelopment under DVP 200.

This is a healthy and necessary debate, as the planning of our city is of great interest to residents and we do not want to get it wrong. I therefore see this draft plan variation as more of an interim step, until the development of the spatial plan and the various neighbourhood plans is much more advanced, and there is a clearer view of what types and locations of residential redevelopment are acceptable.

The correct place for debate on the draft variation at this point in time is, however, in the planning and environment committee, which has the statutory function of reviewing draft variations. Mrs Dunne is chair of this committee, so she would be better served by giving this variation priority in her committee and actually facilitating the further discussion and consultation that she desires. Obviously, as a draft variation, it has interim effect, but the Territory Plan has a greater impact depending on which is the more onerous. We do, indeed, have that check in place.

I look forward to the government's response to the comments that come in on DVP 200, and the planning committee's consideration of this variation, and I look forward to having a further debate on this issue at that time.

MS DUNDAS (4.12): From my account, this is the third time that draft variation 200 has been discussed in this chamber already. We have discussed a closely related matter of public importance moved by Ms Gallagher on the heritage implications of DVP 200. We have also debated the motion moved by Mrs Dunne calling on the government to drop the garden city plan.

These two debates gave everyone in this Assembly an opportunity to put on the public record their views on DVP 200. I wonder if it is therefore a good use of our time to restate our objections or support. However, I will speak briefly against this matter of public importance moved by Mrs Dunne.

I believe that we must grasp the nettle and develop a vision for our city, because Canberra continues to change in the absence of any agreed vision. Urban in-fill, high and medium-density unit developments, and dual occupancies continue to be approved and built. Yet we do not have a clear idea what our city will look like if development continues down its current path.

If the government does not produce draft amendments, I cannot see how the Territory Plan could ever be changed. It would be extraordinary if any first draft of a variation to the plan was judged perfect by the community. If Mrs Dunne believes the garden city plan should be amended, then she is one of the best-placed people in Canberra to actually influence its content.

The Democrats have always supported urban consolidation provided that this development respects our urban open space and heritage, and is socially sustainable. I think it is possible for us to come up with a vision that protects the character of our suburbs, yet accommodates more people in close proximity to services and shops. I think we can also successfully integrate affordable and accessible housing in medium-density areas close to shops, provided the government has the political will to direct revenue from betterment taxes and land tax to achieve this vision.

This garden city plan, draft variation 200, is still in its draft form, and the government has indicated that it is willing to consider revising it to accommodate some of the concerns raised in initial submissions from the community. As has already been discussed today, the variation will then be considered by the planning and environment committee. I am sure we will consider carefully all public submissions that we receive. It is by no means too late to fix the problems with this plan.

As I have indicated previously regarding draft variation 200, I am concerned that there are inadequate linkages between the garden city plan and other plans being developed by the government. There is no clear linkage between the garden city plan and the work of the affordable housing task force, or between this plan and ACT Housing, in relation to dwellings suitable for people with disabilities, an important topic today. I certainly hope that the government has taken these concerns on board.

However, I believe that the garden city plan can be amended to address valid community concerns, and I commend the government for making a first attempt to find a way of developing Canberra that is socially and environmentally sustainable. I hope that we can come together to build a vision for our city that is good enough and acceptable enough to withstand subsequent elections.

MR DEPUTY SPEAKER: Order! The discussion has concluded.

Civil Law (Wrongs) Bill 2002

Debate resumed.

(Quorum formed)

MR SMYTH (4.17): The first thing I would like to say is that it is pleasing that the government has followed the lead of the opposition in attempting to address the public liability crisis legislatively. I think that it is a sign of the strength of policy making in this place that both the Liberal Party and the Labor Party have now come up with reform packages. However, those packages are very different. The Liberal package approaches the problem from a new angle. The wrongs bill looks very much to me like the lawyers' solution. However, the expressions of concern I have received from the Bar Association, the Law Society and the Plaintiff Lawyers Association tell me that even this lowly ambition has failed.

While the Liberal Party will be supporting most of this bill, I do have a number of concerns that relate specifically to the areas that impact on public liability. There is nothing in this bill that addresses the need for a statute of limitations. There is nothing in this bill that forces insurers to assess, accept or reject claims in a timely fashion. There is nothing in this bill that imposes controls on the insurers. There is nothing in this bill that will reduce premiums. There is nothing in this bill that addresses the concept of injury management and rehabilitation. There is nothing in this bill that will help adventure activity industries survive. There is nothing in this bill that looks to the welfare of the injured parties.

There is nothing in this bill that will make the slightest bit of difference to the problem. It is only due to the suggestion from the Chief Minister that it will be fixed later that we are supporting this bill at all, although it is perilous indeed to have faith in Labor promises. Most importantly, I note that there is nothing in this bill that will address the crisis in medical indemnity insurance. Indeed, the AMA have joined the corner marked "very unhappy campers" in which the lawyers sit. They are unhappy because this bill does not address medical indemnity and they are ropable because they have not been consulted. That is right, Mr Deputy Speaker, the AMA were not consulted. Instead, they were

subjected to a tedious and patronising lecture by the officers of Mr Stanhope's department some time after the bill was tabled.

While I have been assured that medical indemnity will be addressed in the second round of government legislation, I fear that that will be too late, as the earliest the second round can be passed will be in late November. Dr Kerryn Phelps, the national president of the AMA, has warned that if there is not a substantial solution by October "we'll all be in big trouble; there will be chaos". We know the insurance coverage of groups such as the equestrian industry will start to run out in October, so anything that happens after that date will be too late for them.

To my mind, to concentrate purely on tort reform is to miss the point. A personal injury litigation system is sustainable only if it is brought within a regulatory framework. The only sustainable personal injury systems in the country are the ACT motor vehicle third party scheme and the workers compensation scheme. The Liberal Party believes that the only real solution is to move to a no-fault scheme similar to the CTP and workers compensation schemes. However, we do not believe that all rights to common law should be extinguished. Tort reform does have its place, in our view. That is another reason that we are supporting this bill.

A few weeks ago, I met with a group of lawyers representing the ACT Bar Association, the ACT Law Society and the Plaintiff Lawyers Association, mainly to discuss my reform package, of which they broadly approved. However, they had concerns with the bill that we are discussing now. The main concern of these law bodies was the perceived restriction of trade imposed by chapter 10, which limits the amount of money a lawyer may be paid in cases worth $100,000 or less. Their concern was that this restriction would inhibit a lawyer's ability to properly prepare for a case. I might add that the Liberal Party does not feel that it is the best role of government to interfere in commercial contractual arrangements in this way.

It is also my reading of this bill that a barrister's fees could be counted as a disbursement rather than a lawyer's fees. In the ACT, despite the ability of a person to be both a barrister and a solicitor, the two are in practice as separate as in other jurisdictions. The engagement of counsel is a contract between the solicitor and the barrister, not the client and the barrister, and is classed as a disbursement. While I have received advice from officers of the Department of Justice and Community Safety that the wording of this chapter allows for that, I remain unconvinced, so we shall have to wait and see. However, given the current situation, I believe that this clause may have a deterrent value for vexatious claimants and legal practitioners.

Another concern I have is with part 2.2, which, while offering some protection to community groups, seems to me to leave the door open to plaintiffs to sue the government. As I have been advised, a litigant will often go after the best area of the loss distribution network in a case involving several defendants. In layman's terms, they go after the one with the deepest pockets. To my mind, this part places the ACT government as the prime point in the loss distribution network and may well place a heavy burden on the ratepayers of the ACT in years to come.

I have to say that the best part of the wrongs bill is part 11.2, concerning the general reporting requirements of insurers. I am glad to see that this vital component of any sort of insurance reform has been so comprehensively addressed. The most vexing problem we have is the lack of data on insurance claims. We do not know how many claims there have been, how many were successful, how much they were worth, and what they were for. It is impossible for a business or a community group with no claims and impeccable risk-management practices to argue with an insurer as to the justification for an increase when faced with increased premiums. It is impossible for us as legislators to know which areas of life are most risky and in need of management and take appropriate action to improve safety. It has been impossible to obtain any useful data in the past, because the insurance companies themselves do not have it.

I am especially pleased that the ignorance of the Treasurer has been surpassed in this part. Mr Quinlan spent a lot of time parading his ignorance of insurance issues, particularly the data collection question, in both the media and the estimates hearings. One hopes that he will no longer have any role in addressing the crisis. I note in passing reports that the ACT will not, as had been asserted many times by the government, be following the national agenda on this issue. I would be interested in knowing the reasons for this particular backflip. As the need to follow the national agenda has been the only substantial criticism that the government has been able to mount against my reforms, I can take this abandonment as tacit approval of my package.

Having read this bill thoroughly, it is clear to me that the Chief Minister has said to his department, "Bring me a bill quickly that looks like it is addressing the insurance crisis. I don't care what it is, but make it look pretty." The department has cast around and found a couple of half-finished reforms here, a pet project there, and bunged them all together in this bill. But I do not believe that it is as comprehensive as the package that I have put forward, nor do I believe that it fully addresses the indemnity issue.

When it comes down to it, Mr Deputy Speaker, this bill, by itself, will not help the situation. However, combined with my bills, we have a truly comprehensive response—a no-fault scheme that allows some access to a tidied up common law system.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (4.26), in reply: Mr Deputy Speaker, the Civil Law (Wrongs) Bill is the first of a three-stage ACT legislative response to the insurance crisis. That is a point I have made before and a point that Mr Smyth continues to ignore. The bill consolidates ACT tort law to provide a satisfactory basis from which to build the types of reforms that are necessary to address the crisis and improve our system of civil justice. The bill adopts a range of desirable technical and procedural changes to ensure that the law reflects current ACT practice.

The bill adopts various measures that will have a positive impact on civil procedure and access to justice, with a view to quicker and cheaper resolution of disputes such as abolishing the common law prohibition of annuities to permit the courts to award damages by periodic payments funded by annuities or other means, which will give a court flexibility in ordering the payment of damages and, in turn, give the parties flexibility in deciding how the funds will be managed; abolishing rules preventing a court from making a determination of liability separate from an order of damages; and

providing protection for good samaritans and volunteers, including bushfire volunteers, from liability.

Other new methods include: establishing new presumptions in regard to contributory negligence; replacing the common law rules regarding the standard of care an occupier of premises must show to people entering the premises in relation to any dangers to them; imposing restrictions on legal costs and small personal injury claims; preventing lawyers from prosecuting a civil claim where there are no reasonable prospects of success; establishing a regime for a neutral evaluation of cases, with a view to quicker and cheaper resolution of disputes; and abolishing civil juries, which have not been used in the ACT for some time.

The government's approach might be contrasted with the scheme proposed by the opposition, which may simply exacerbate the existing insurance problems in the ACT, impose new insurance costs on ACT business and community organisations, and establish a right of action for a whole range of activities that are presently not compensable through the current common law systems.

I foreshadow that the government will present government amendments to the Civil Law (Wrongs) Bill 2002 at the detail stage. The government amendments are the result of consultation with various stakeholders, including the AMA, community associations, the Law Society, the Bar Association, and the Plaintiff Lawyers Association. Lawyers from those organisations represent both plaintiffs and defendants.

The government's measures create a sensible legal framework for the reform effort that now must be considered nationally and in the ACT following the release of the reports of the Ipp and Neave committees. These committees have not spoken with the same voice. While some of their recommendations are similar, others are radically different. Only by taking this first step can the ACT move to a coherent debate about the different paths that are now opening ahead of us.

There has been strong support for the approach the government has taken by a range of disparate groups within the insurance reform debate. However, there has been vigorous debate about some of the measures in the bill. In particular, some legal practitioners have sought a number of amendments to provisions in the bill that are designed to limit costs in small proceedings and impose new requirements concerning cases that have no reasonable prospects of success.

In relation to costs, the government does not propose to allow parties to contract out of the proposed scheme. The legislation already gives the court a discretion to increase the amount of costs because of the complexity of a matter or the behaviour of a party to the claim. We should not amend it to allow costs to routinely exceed a reasonable amount without scrutiny. However, the government is prepared to focus the provisions more precisely on the area where this is perceived to be a problem—claims under $50,000. I foreshadow that I will be moving amendments to this effect.

In relation to the issue of reasonable prospects of success set out in part 10 (2), an ill-considered case serves no special purpose. It is not good enough to come into court and argue nonsensical propositions. The bill penalises lawyers who use a scatter gun or undisciplined approach to a case, often to the ultimate cost of other parties, the court and

the solicitor's own client. It places special emphasis on the need for prudent settlement processes and allows for cost penalties, where appropriate. It ensures that lawyers make relevant applications for relief.

The government recognises that there has been some concern about the introduction of the provisions, but feels that these concerns have been exaggerated. New South Wales has introduced a far wider provision and it is being considered in other jurisdictions. The New South Wales provision applies to all procedural steps. The ACT bill limits it to the concluding phases of an action. This process has been used in most US jurisdictions for many years.

The ACT reform effort does not end with the passage of this bill. This is just the start of what will be an exhaustive process that will take some time to complete. The amendments regarding the liability of volunteers and good samaritans are urgent. Some volunteer and community organisations are still having difficulties in obtaining cover, and some may be uninsured. The passage of the legislation will protect the volunteers that work for those organisations and have an impact on the behaviour of insurers. There is good reason to think that the passage of this first package of reforms will encourage them to re-enter the market and offer reasonably priced insurance.

I have circulated the government's response to the scrutiny of bills committee report on the bill. The letter containing the government's response was provided to Mr Stefaniak, the chair of the committee, on Tuesday. In particular, the letter attaches a replacement explanatory memorandum for the Civil Law (Wrongs) Bill. I table a revised explanatory memorandum to the bill which addresses concerns raised by the scrutiny of bills committee.

The additional explanatory memorandum contains a detailed, clause by clause analysis of all the new reforms contained in the bill. The new explanatory memorandum also explains how the new reforms will operate. The scrutiny of bills committee has commented on whether it is necessary to codify the common law relating to occupiers' liability. The answer is simple: it is desirable to codify the law in this area to provide an accessible, accurate statement of the present law. A clear and concise statement of obligations will assist the parties in resolving disputes.

The scrutiny of bills committee commented that clause 34 of the bill, which excludes civil liability for persons who are injured while committing an indictable offence, could be double punishment for criminals, and that the penalty for crimes should only be dealt with by the criminal law. With respect, there is no issue of double jeopardy here. The law has always acted to preclude a person gaining through civil suit the results of a criminal misadventure.

The committee has questioned the introduction of new neutral evaluation provisions and has commented that they may simply add an additional cost to litigation. Neutral evaluation is a mechanism for having a trusted, objective observer examine the evidence possessed by both parties. The aim of neutral evaluation is to actually lower the cost of litigation by having cases resolved prior to litigation. Where cases continue to litigation, it is anticipated that neutral evaluation will clarify and reduce the issues that are contended.

Procedural change should not be undertaken lightly. These amendments are no exception. As I indicated when I presented the bill, it will be necessary to ensure that properly trained persons are available to undertake the types of evaluations proposed in the scheme. I propose not to commence the provisions until the appropriate arrangements have been made and to this end I will also be proposing further amendments to the provision to enable the appointment of persons outside the court to undertake these evaluations. I understand that this is a relatively common practice in other jurisdictions, including New South Wales, and it will certainly aid the introduction of these provisions in this jurisdiction.

To conclude, I thank members for their contribution to this debate. This is a very important piece of legislation. As I indicated, it is in essence the building block for further reforms that the ACT government will undertake, reforms that will be based on our assessment and our response to the Neave and Ipp reports and our determination to pursue vigorously further reforms to the courts and court processes in the ACT.

I have outlined previously in detail the steps, the plans and the time lines that the government has in place in relation to the further amendments that will be undertaken. I can add for the information of members that, as the ACT Health Minister, I will be meeting tomorrow with all other health ministers in Australia and, as you would expect, the leading item on the agenda is the Neave report.

My colleague Ted Quinlan, the Treasurer, will be meeting, I believe, next Tuesday with all other Australian treasurers to discuss the Ipp report and its recommendations. All jurisdictions round Australia are actively considering appropriate responses to both Neave and Ipp. The Neave report has only been available for a matter of less than two weeks. The Ipp report has been available for a little longer than that. Governments around Australia, all jurisdictions, are working together to develop appropriate responses.

It is a hope that I have—I do not know how forlorn it is; a hope that, in my mind, is perhaps becoming somewhat distant—that the Commonwealth will continue to play its part in relation to leading reform and debate about both public liability insurance reform and medical indemnity insurance reform. It is a leadership that I believe the Commonwealth has abrogated and I fear for the future of cooperative responses to these issues in the face of the attitude that the Commonwealth and Commonwealth officials have consistently taken during all of the debates in relation—

MR DEPUTY SPEAKER: Chief Minister, I think that you are straying a little from the bill before the house.

MR STANHOPE: I am not, Mr Deputy Speaker. I am about to conclude, but I am concerned about our capacity to pursue nationally agreed approaches to both Ipp and Neave which, of course, are the significant next steps in relation to the reform process in the ACT.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 4, by leave, taken together and agreed to.

Clause 5.

MS DUNDAS (4.36): I seek leave to move together amendments Nos 1, 2 and 3 circulated in my name.

Leave granted.

MS DUNDAS: I move amendments Nos 1, 2, and 3 circulated in my name *[see schedule 1 at page 3369]*.

These amendments are minor amendments. They are to cover the good samaritan who protects a person from injury or at risk of injury. An obvious example is where a good samaritan pulls a person out of the way of a speeding vehicle and in the process causes a minor personal injury. I am sure that we all had this type of good samaritan in mind originally, but perhaps our good intentions were lost in the drafting process.

These amendments, like many other amendments that are made with the support of the Assembly, are an example of the importance of having a collaborative approach in this Assembly and the need to have all bills scrutinised not only by the opposition but also by the crossbench parties. This is not about grandstanding or causing the government grief. It is merely about providing practical solutions within the legislative process.

MS TUCKER (4.37): As I mentioned in the in-principle debate, it is arguable whether people really are at risk of damages claims for leaping in when help is needed. On the other hand, we will wait to see whether there is a greater likelihood of someone enthusiastically and carelessly, although not recklessly or dishonestly, causing damage. At this stage, it is neither six of one nor half a dozen of the other. However, given the common fear that a more litigious society may give rise to instances of people suffering enormously for their generosity, it is probably wise to make this move. The Greens will be supporting Ms Dundas' amendments as they will ensure that people who leap in to assist others who are at risk, say, of being run over will be protected by this legislation.

MR STEFANIAK (4.38): The opposition also will be supporting the three amendments proposed by Ms Dundas. She has made a cogent case in terms of why they are needed. I think that public policy will be well served by having these three amendments, so we will be supporting them.

Amendments agreed to.

Clause 5, as amended, agreed to.

Clause 6.

MS TUCKER (4.39): I move amendment No 1 circulated in my name *[see schedule 2 at page 3371]*.

This amendment changes the definition of "community organisation" from an entity to a corporation. While the notion of responsibility for group or community-based activity devolving from the individual to the group makes sense, particularly when the individual is engaged in group activity, there may well be unreasonable consequences if the members of the group themselves have no protection.

The argument is put that the purpose of this part is that volunteers are protected from personal liability and, if there were universal compensation schemes, that might be the end of the matter. But, given the present structure of public liability in Australia, if the organisation itself does not offer any limitation on the liability of its members, it would seem that, rather than being protected, individual volunteers would still be liable themselves, but, in addition, spread the liability wider. Every member of a fairly loose organisation could find themselves homeless and assetless if one of their members were careless in their acts.

I have it on emphatic advice from parliamentary counsel that, by replacing the term "entity" with "corporation", this amendment will ensure that the liability transfers to organisations such as incorporated associations or cooperatives where the liability is by definition limited, and public liability policies are more likely to be held, and that members of unincorporated associations would remain personally liable for their actions.

Amendment agreed to.

Clause 6, as amended, agreed to.

Clause 7 agreed to.

Clause 8.

MS DUNDAS (4.41): I move amendment No 4 circulated in my name *[see schedule 1 at page 3369]*.

This amendment is also a minor one and, like my previous amendments, is just tinkering to ensure the finalised law does what the bill sets out to do. It is designed to make volunteers responsible for their own actions when acting outside the scope of an organisation. We are all familiar with the concept of a "frolic of one's own". Organisations should not be responsible for volunteers who do embark on such a frolic. This concept, I am told by parliamentary counsel, is best described as "outside the scope of", and that is how this amendment stands. However, I did like the idea of introducing the term "frolic" into the statute book.

An example of where this would be necessary is a peaceful protest rally where a lone participant becomes violent or even verbally abusive. Clearly, that would be outside the scope of an organised peaceful rally. Another example is a Meals on Wheels volunteer being asked by a client to help with a basic medical procedure, such as changing a dressing. Although not strictly contrary to Meals on Wheels instruction, it certainly would be outside the scope of the organisation and we would agree that the skills required to change a dressing are different from those on delivering a meal. My amendment broadens the definition that is there to cover the situations that I have briefly discussed.

Amendment agreed to.

Clause 8, as amended, agreed to.

Clauses 9 to 19, by leave, taken together and agreed to.

Clause 20.

MS DUNDAS (4.44): Mr Deputy Speaker, with apologies to the Assembly, I will not be moving amendments Nos 5, 6, 7 or 8 standing in my name today.

Clause 20 agreed to.

Clauses 21 to 28, by leave, taken together and agreed to.

Clause 29 agreed to.

Clauses 30 to 33, by leave, taken together and agreed to.

Clause 34.

MR STEFANIAK (4.45): Mr Deputy Speaker, I move the amendment to clause 34 standing in my name *[see schedule 3 at page 3371]*.

My amendment takes out the words "beyond reasonable doubt" and replaces them with the civil standard of proof of "on the balance of probabilities". The effect of clause 34 (1) (a) at present is that the injured person has to commit an indictable offence that has to be proved beyond reasonable doubt, which is the criminal standard of proof. That is fine; there is no drama there. Also, it has to be proved that the accident itself occurred whilst the injured person was engaged in conduct that was an indictable offence. The standard of proof here for that is listed as beyond reasonable doubt as well.

That is quite different from similar legislation in New South Wales which, I would submit, we should be following. The standard in the New South Wales act is on the balance of probabilities. I am advised that the situation might be a bit different in South Australia, but in New South Wales the standard is the appropriate standard, the civil standard, that is, on the balance of probabilities.

I would think that in every other instance in this act proof that an accident occurred would be based on the civil standard, would be based on the balance of probabilities. Why does it have to be the case here that not only the offence has to be proven beyond reasonable doubt to be an indictable offence, but also the accident that occurred to the injured person who was engaged in committing that indictable offence has to be proven on the criminal standard?

I think that that is a nonsense and I think that that makes a bit of a mockery of the point made by the Chief Minister in his speech when he stated, "The government supports the proposition that a person who sustains injury whilst committing a serious offence should bear their own losses." That is a sensible principle. It is something that the community

very much expects. The community was outraged by what happened in a case in New South Wales—the situation here might be a bit different from the situation there, but it was in the same ballpark—in which a young man was awarded $50,000 for injuries suffered after being found on hotel premises by the hotel keeper. The hotel keeper may well have overreacted, but would have been in a very difficult situation when confronted with something like that at night. The community outrage in terms of the damages awarded was understandable,.

The Chief Minister's statement that people should not be rewarded for criminal acts is a sensible one. It is in line with community expectations. A person who sustains injury whilst committing a serious offence should bear their own losses. The rest of the clause is quite fair. Firstly, it enables liability for damages to be excluded if paragraphs (1) (a) and (1) (b) are not satisfied. Despite that exclusion, the court can still award damages if the circumstances of the case are exceptional or the exclusion would operate harshly and unjustly. The example has been given of a young person who has been disfigured for life being an instance where the court can say, "Despite what you have done, despite the crime you have committed, we are still going to give you some assistance."

The exemptions are there. It is more than fair, I think, that a person who has been convicted of an indictable offence can still get damages. The Chief Minister has referred to a situation where an incident occurred as a result of something different from the conduct the person was engaged in. He talked about a person in a supermarket who had a shelf fall on them after the person has actually engaged in shoplifting. Of course, that person would get damages.

I just think it is quite wrong to have the criminal standard of proof for actually proving the accident occurred, which is how I read that clause, whereas in New South Wales the civil standard applies. I note that Mr Quinlan, who is not present, was quoted not that long ago as saying the government is trying to run in parallel with New South Wales wherever it can. For something as important as this matter, given that we are surrounded by New South Wales, we should follow the practice in that state. At any rate, this bill for an act is the Civil Law (Wrongs) Bill and the civil standard should apply there. Of course, the criminal standard should apply to the threshold question of whether an indictable offence has been committed. If an indictable offence has not been committed, that would be the end of the story.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (4.49): This is a circumstance, and a very rare circumstance, in which Mr Stefaniak and I disagree on the interpretation of a provision. I guess that the crux of it, Mr Stefaniak, is that we each apply a different interpretation to the meaning, intent and effect of clause 34 (1) (a). You are assuming that there are two elements that need to be proved beyond reasonable doubt—namely, that the offence was committed and that the accident happened—and you are putting an argument that in that circumstance there is no justification for applying the criminal standard and that the lesser standard, the civil standard, should apply.

I take the view—a view supported by the department—that the clause does need to be considered as a whole and that what has to be proved beyond reasonable doubt is that the accident happened during the commission of an indictable offence. It is not the double bunger test that you are applying, Mr Stefaniak. Having said that, we are not going to

agree; we will have to agree to differ. You make the point that you think it appropriate that the civil standard apply in these circumstances. I disagree with you to some extent. We always will disagree, Mr Stefaniak, on some aspects of how we need to respond to certain action and activities within the community.

Mr Stefaniak used the example of the young bloke who engaged in serious criminal and antisocial behaviour by breaking into a hotel through a back window, startling the owner, and was then severely beaten. A young bloke, drunk, who climbs through a back window is obviously engaging in criminal behaviour and antisocial behaviour with no excuse and should not be forgiven for that, but should he be beaten to within an inch of his life? Do we think that that is appropriate? I do not.

I trust the courts in relation to these issues. I trust the court that made a judgment in that case that the response was grossly excessive in the circumstance. It was a result of the decision that the judge made in that case that he awarded damages. Prima facie, I cannot accept the assumption that in every circumstance you have to think the worst, that you have to assume the worst with some blinking, slightly out of control, young bloke. I am concerned about this attitude. One of the concerns I have about the response of some of my colleagues in other jurisdictions is that this insurance crisis is generated to permit open slather. That is not an appropriate response. We need a measured response to these things. We do not need to turn the community on its head to deal with this, albeit major, problem.

I understand what you are saying about clause 34, Mr Stefaniak. I am prepared to concede and accept your amendment. But I do not accept some of your philosophy, some of your arguments or some of your rationale. I do not accept your legal interpretation, either, but I will concede the point on whether, in these particular circumstances, a criminal or civil standard might apply.

MR STEFANIAK (4.53): I thank the Chief Minister for accepting the amendment. Might I say, Chief Minister, that I was referring in that Sydney incident to the public perception. I do, as you obviously do, read lots of reports. We are both lawyers and I can accept the court's decision there because of the peculiar factual situation. Obviously, it was not a case of a person being startled by an intruder and then responding through fear of what might occur to himself and his family. In that instance, it would have become apparent to any reasonable man at an early stage that the intruder was young and drunk and the owner had control of the situation. Obviously, he went too far. I think the factual situation there is fairly clear when one looks at that particular case.

The point I was making was about the reaction of the community. The community often does not delve too much into the whole facts. It just shows the abhorrence of the community at what it perceives to be criminals who break into people's houses or commit serious offences and are injured whilst committing the offences getting large payments. That is something that the vast majority of the community simply cannot understand and do not want to see occur. That is why I think the Chief Minister's statement on page 8 of his introductory speech very much expresses what the community feels. The community might not know the full facts of lots of cases and go off a bit half-cocked, but the point I was making, Chief Minister, was that there is a very strong feeling in the community that criminals should not be rewarded for their misconduct.

I thank you for your concession in relation to this matter. It does make the situation clearer. You are quite right; this situation does not occur very frequently in the ACT. I do not think that it will be something that will trouble the courts very much at all, but it is important to get the law right.

Amendment agreed to.

Clause 34, as amended, agreed to.

Clauses 35 to 45, by leave, taken together and agreed to.

Clause 46.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (4.56): Mr Deputy Speaker I seek leave to move together amendments Nos 1 and 2 circulated in my name.

Leave granted.

MR STANHOPE: I move amendments Nos 1 and 2 circulated in my name *[see schedule 4 at page 3372]*.

Mr Deputy Speaker, these amendments modify the operation of section 46 of the bill that confirms that a court can make an independent finding of liability and award of damages. The need for such a bifurcated order may arise where a court makes a finding of liability on a claim for damages, but does not make a separate award for damages because an injury has not yet stabilised.

The amendments make it clear that, at the time the court makes a finding of liability on a claim for damages, it may also make an interim award of damages. That might, for example, cover medical costs properly incurred to date in relation to the claim. The desirability for the amendments became clear in discussions with legal practitioners and the AMA in relation to the bill. These groups suggested that, in relation to bifurcation orders, there should also be the capacity for a court to make an interim award of damages.

Amendments agreed to.

Clause 46, as amended, agreed to.

Clauses 47 to 100, by leave, taken together and agreed to.

Clause 101.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (4.57): I move amendment No 3 circulated in my name *[see schedule 4 at page 3372]*.

Mr Deputy Speaker, during discussion, it was argued that part 8.1, dealing with occupiers liability, should be removed from the bill because it is already dealt with by the common law. While it is not intended to change the law, the statutory provisions give effect to the law as it presently is and make this area of the law more accessible. If it is desirable to change the law at some time in the future, this can be attended to by the legislature.

In discussions, the concern was raised that, in giving the provision a statutory form, the bill might prove more generous for claimants because of the indirect effect of a relaxation of the rules of contributory negligence in subsection 41 (2) of the bill. Subsection 41 (2) provides that, if a wrong was a breach of a statutory duty, the damages must not be reduced because of a claimant's contributory negligence. It was not intended that subsection 41 (2) of the bill apply to the provision. Accordingly, the amendment disapplies subsection 41 (2) from part 8.1.

Amendment agreed to.

Clause 101, as amended, agreed to.

Clauses 102 to 112, by leave, taken together and agreed to.

Clause 113.

MS TUCKER (4.59): I move amendment No 2 circulated in my name *[see schedule 2 at page 3371]*.

In the absence of any real evidence that lawyer costs are the real problem when it comes to the insurance business, the whole of part 10 appears to be more a sop to the lawyer bashers than a significant real and concrete step towards delivering a more efficient and equitable system. In this case, part 10.1, the government has proposed limiting legal costs to $10,000 or 20 per cent for small claims.

At 5.00 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.

MS TUCKER: As I was saying, the government has proposed limiting legal costs to $10,000 or 20 per cent for small claims—under $50,000. While this restriction is proposed to apply equally to defendants, usually insurance companies, and plaintiffs, it will impact on plaintiffs and their lawyers, not the defendants. When someone who is looking for compensation goes to a lawyer the clock will start ticking and there will be the lodging of papers, the contacting of experts, the commissioning of reports, the contacting of claims managers and so on. Anyone who works in the business will know what this is about.

The defendants, of course, will be using claims managers and other internal professionals. Even their legal expertise will be on retainer. The limited entitlement to legal costs won't even be touched on. Of course, once you get to court the costs move faster. With such an imbalance in what is, in effect, available resources to the adversaries, there will be some perverse encouragement for a defendant to prolong

a case. We should remember that claims of less than $50,000 usually do not even include loss of income. In other words, they are likely to be for children, pensioners and people out of the workforce.

While the notion is to maximise that part of the payout that goes to the plaintiff rather than their lawyer, in fact it will limit their opportunities to argue or establish the case. It is true that you can make an argument that the case is complex when you are in court and maybe have that argument accepted, but you have to do most of the work simply in order to get to court. Furthermore, this provision will not discourage unreasonable claims, as very few cases get to court if they are undeserving. Of course, even most of the deserving ones, say 80 per cent, are settled even prior to the briefing of counsel and the setting of a court date.

For these small-scale cases, the engagement of a barrister at the end of the process, when arguably the defendant may have chosen to settle at any time up until then, is quite a high proportion of this very limited budget. This amendment would allow solicitors to engage a barrister to plead the case outside of this fairly tight cap. In the majority of cases it would be $2,000 or less. In terms of the cost to the system, the total cost of payouts, the cost of running the court, it is not a lot of money. In terms of representing the plaintiff fairly, it would make a significant difference.

Rather than capping costs on the presumption that lawyers simply charge too much, perhaps we should do the research, find the facts, and put together a provable case. Given that we are prepared to ask insurance companies for the details of their business, rather than simply capping their premiums, why don't we ask the Law Society to provide that same information on plaintiff lawyers? In the meantime, given, I stress again, the extreme lack of evidence that problems around insurance and compensation are a result of lawyers charging too much for cases of this ilk, that is, poor people with moderate injuries, a little extra flexibility seems only fair and equitable.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (5.03): Mr Deputy Speaker, this is a difficult and testing issue. I must say that I do not think I have ever been quite as insulted as I was by the suggestion that I was providing a sop to lawyer bashers—a most cutting insult!

I, along with other members of the Assembly, have received some quite vigorous representations in relation to this provision. The government's intention was to seek to keep down costs in such matters, to impose a real cost discipline in relation to small insurance matters and claims. Initially, we identified a small claim as being a claim under $100,000. As members are aware, I have circulated an amendment to reduce that to $50,000, so we are looking at a circumstance in which we are talking about lawyers' fees or solicitors' fees of $10,000 on a $50,000 claim.

The argument propounded in relation to barristers is that their fees be regarded as disbursements and not fall within the $10,000. Indeed, it was not intended that they exceed that. But it was the government's view, and the legislation reflects it, that if a matter were sufficiently complex to require counsel, then the court could make a cost order under the provisions permitting costs in excess of the $10,000 provision.

I understand very much the force of the argument that Ms Tucker makes. Indeed, having regard to the careful way in which Ms Tucker's amendment has been couched, the government will support the amendment. I think she is being unduly generous, but it is well drafted and drafted with some real consideration to meeting the government's determination to restrain costs in relation to small matters.

Ms Tucker is quite right about the evidence. I have pursued this issue to some extent and it is one of those issues. There is a lot of anecdotal evidence around. I am privy to a whole range of anecdotal evidence from a number of sources about outrageous cost claims in relation to some matters and I know that some of these claims are true. I know that there have been instances where lawyers have eventually managed to eke out of the system compensation payments of, say, $50,000 for a client and the bills have come to $40,000. I know of those instances. We all do. Mr Stefaniak knows of them. We know they happen. We know of lawyers pursuing matters through the courts over years and seeking, at the end of the day, a payment for their client of $50,000, say, and then presenting a bill for $40,000 or $45,000. They happen, and we all know they happen.

There are lots of instances where we do not have situations or circumstances such as that, but it would be interesting perhaps to ask the Law Society and the Bar Association about reporting on these sorts of instances, just as we demand these days that sort of reporting from the insurance companies. We need to do more work there about a minority, one would hope, of the profession. But we all know that it happens. Some of us know it through personal circumstances. I, in government as Attorney-General, know it through some of the matters that are settled in which the government is involved. I know of the cost claims that some lawyers around town make and how, at the end of the day, they have left their client with less than 10 per cent or 5 per cent of the final amount claimed.

That is another issue, to some extent, but this is very much a provision designed to impose that real cost discipline on small matters as a response to this major problem which the community is facing. The government will support your amendment, Ms Tucker.

MR STEFANIAK (5.08): The opposition also will be supporting Ms Tucker's amendment. I tend to agree with the remarks made by the Chief Minister. I am well aware of a number of cases where the fees have been quite excessive. I can see exactly what he and the department are trying to do here.

The amendment has been carefully drafted. I do not think that in recent times I have been complimentary towards Ms Tucker quite so often, she being a screaming leftie on everything and disagreeing with me on lots of things, but this amendment is well drafted, as the Chief Minister said. What it does in terms of counsel's brief to appear is it applies at the end of a process.

The Chief Minister's bill will cover a lot of the work—indeed, most of the work—that would be done in a claim that might go on for a number of years, that is, from taking instructions through to briefing counsel to settle pleadings, and those costs are all tied up in the 20 per cent or the $10,000 which is referred to in the other clauses. Ms Tucker's amendment merely kicks in at the end when there is a brief to appear in court on behalf of a client. That is often the least of a lot of the expenses, especially of a claim that might take several years before going to finalisation in court.

The amendment is well drafted and I think that it is reasonable that those fees be included as disbursements. I think that applies in some places interstate which have been trying to come to grips with this problem as well. We are very happy to support the amendment.

MS DUNDAS (5.10): I, too, have been lobbied long and hard on this issue. After discussion and much consideration, I do not think that it is inappropriate to cap legal fees in the manner of the original bill. The bill, as it stands, sets the legal fees for small claims of no less than $50,000 at $10,000. To add barristers' costs on top of that, with absolutely no cap on their fees, could mean that some small claims could be taken up entirely by legal fees. If the award were for the small amount of $15,000 in damages, the legal fees could take all of it. I believe that, even though this amendment is carefully worded, it sets up a situation for a false cap of $10,000 to solicitors, plus unspecified barristers' fees. The argument put forward is that some of these cases are quite complex. Yes, some of them are, but that is why I will be supporting later the government's proposal on the ability of the court to award extra costs and fees, if required.

Amendment agreed to.

Clause 113, as amended, agreed to.

Clause 114.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (5.11): Mr Speaker, I seek leave to move together amendments Nos 4 and 5 circulated in my name.

Leave granted.

MR STANHOPE: I move amendments Nos 4 and 5 circulated in my name *[see schedule 4 at page 3372]*.

The bill provides that if the amount recovered on a claim for personal injury damages does not exceed $100,000, the maximum costs recoverable for legal services provided to the plaintiff or defendant would be 20 per cent of the amount recovered or claimed, or $10,000. As we have just discussed in relation to the previous amendment, the government received a number of representations in relation to these provisions around legal fees. It was argued that the government should amend the provision to allow contracting out, but if this was done, the benefit of the provision would be lost as contracting out would become the norm; that the definition of "costs" should not include barristers' fees, an issue we have just debated and voted on; and that the trigger should be reduced from $100,000 to $50,000.

Having regard to those submissions, the government has agreed to reduce the trigger from $100,000 to $50,000 in these amendments. The reason for the reduction is that the intention of the government in presenting the bill was to impose a cost discipline in relation to small claims. The bill does not prevent a solicitor from claiming a reasonable return from acting for a client. It requires them to justify the costs when they reach

a particular threshold. The amendment better focuses the operation of these provisions on small claims.

The reduction to $50,000 better aligns the bill with the jurisdictional split between the Magistrates Court and the Supreme Court. The jurisdiction limit at the Magistrates Court is $50,000 and the same amount is proposed for that in the amendment. Better focusing of the provision on small claims will tend to reduce the number of matters that require counsel attention or the type of process in the Supreme Court that might otherwise reasonably increase legal costs.

MS DUNDAS (5.14): The Democrats will be supporting these amendments. We are aware that they bring the situation into line with the claims limit for the Magistrates Court and support them on that basis. If there were a lifting of the claims limit in the Magistrates Court, we would be proposing that the current limit in the Civil Law (Wrongs) Bill be lifted with it, that is, that this capping of legal fees apply to cases before the Magistrates Court.

I am yet to be convinced that there is any need to pay lawyers over 20 per cent of claims for damages, although there is anecdotal evidence that many claims are about 35 per cent. I believe that to be far too high for many cases. In today's *Sydney Morning Herald* there is a report regarding a Queensland law firm, Baker Johnson, operating on a no-win, no-fee basis and claiming $5,000 to compensate for a plaintiff's back injury. The law firm kept the $5,000 and then issued a bill for a further $7,000. In fact, the legal fees ended up being 245 per cent of the total claim. I reluctantly support this concession to the legal fraternity in their ongoing quest to ensure that they are well remunerated for the important work that they do.

Amendments agreed to.

Clause 114, as amended, agreed to.

Clause 115.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (5.15): Mr Speaker, I move amendment No 6 circulated in my name *[see schedule 3 at page 3371]*.

Amendment agreed to.

Clause 115, as amended, agreed to.

Clause 116.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (5.16): I seek leave to move together amendments Nos 7 and 8 circulated in my name, Mr Speaker.

Leave granted.

MR STANHOPE: I move amendments Nos 7 and 8 circulated in my name *[see schedule 4 at page 3372]*.

Amendments agreed to.

Clause 116, as amended, agreed to.

Clause 117.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (5.17): I seek leave to move together amendments Nos 1 to 4 circulated in my name on the green sheet.

Leave granted.

MR STANHOPE: Mr Speaker, I move amendments Nos 1 to 4 circulated in my name on the green sheet *[see schedule 5 at page 3374]*.

Amendments agreed to.

Clause 117, as amended, agreed to.

Clause 118 agreed to.

Clause 119.

MS TUCKER (5.18): I am opposing this clause and, by implication, this whole part, clauses 119 to 124, so I will address subsequent clauses in this part now.

Part 10.2, costs in damages claims if no reasonable prospects of success, is designed to ensure that parties to an action have reasonable prospects of success. The presumption underlying this provision is that it is lawyers who choose to proceed with court action when they do not have such prospects, so they must be dissuaded by the threat that they may have to pay the costs of the case.

The subtext is that lawyers in the ACT run their cases in a fairly slack way, and waste the courts' and other people's time through lack of discipline and rigour. The Greens are of the view that this is misguided in two fundamental ways. In the first instance, there is again no evidence that this provision is required, that the courts are in fact cluttered by worthless cases, or that, if effected, this part will have any significant consequence in facilitating the legal process.

Second, we hold the view that access to justice is a fundamental building block of our society. Tort law has evolved as a forum at which citizens can pursue matters of justice, and introducing this test will merely militate against public interest actions. As with the bulk of this bill, we are dealing in most instances here with individual plaintiffs and large institutional defendants, such as insurance companies. While this part technically applies to both parties, there is little doubt that the defendants would almost never be found to have no reasonable chance of success. If they chose to go to court, rather than simply settle, they could and would argue about the level of the award, if not the liability.

The requirement in this bill to certify that the case has a reasonable prospect of success is really directed at the plaintiff lawyers in the 10 to 15 per cent of insurance compensation cases that go to court. As it happens, something like 90 per cent of these cases are successful once they get to court anyway, so clearly they had a reasonable prospect of success.

Issuing a reasonable chance of success certificate would simply end up as an additional cost to the plaintiff. Furthermore, of course, a large percentage of these cases are run on a no-win, no-fee basis. This is an arrangement where, if the lawyers lose the case, they do not get paid. Perhaps the government was not aware of this? I am sure they were.

In the case of pre-emptive defamation actions, where the balance of power is reversed, the ACT's new Defamation Act shifts the focus away from possible punitive damages and towards redress in any event. Furthermore, the power is available to the judges to make orders in regard to costs if it is clear that one party is pursuing an unwinnable case for no good purpose. Perhaps we should expand that power, and allow the courts to charge large corporations and their legal teams the whole cost of running the courts over unnecessary days if they were pursuing a case beyond reason, or simply trying to outwait the poorer party. I notice that this bill does not do that.

I understand that this proposal requires lawyers to issue the certificate later in the process than the New South Wales proposition. However, if we are talking about a fair operation of the law, and the rights of the individuals before it, there is no comparison worth making with New South Wales. Bob Carr has rather enthusiastically embraced "a blame the victim and blame the lawyer" mentality—let's not go there.

Until now, no jurisdiction in Australia has found it necessary to introduce such a provision. If the government wanted to make the case that we do need to go this way, it ought to hold off until its third stage of reform, later this year, which is specifically about making the processes of court more efficient, and actually incorporate the judges and the lawyers in a negotiated solution.

However, the point about using the certificate, even late in the process, is that the law is not just about winning. Many important cases would not have proceeded if the lawyer was potentially liable to pay all court costs merely because the court may find there was no reasonable chance of success. The issue here is those first steps in initiating actions that may have long-term implications, such as the snail in the bottle case, arguably such as the Mabo or Wik cases, such as defending the McDonald's libel suit, and so on.

While it would be open to court to find that there are overriding interests of justice, the Greens do not accept that community access to the law should be limited so tightly by the judiciary. You would be hard put to find a legal firm prepared to bet on the outcome of cases such as the ones I have mentioned. I asked Tamar Hopkins from Welfare Rights to provide me with a community legal centre perspective on this provision in the act. After consulting with others in her field, she offered these comments:

> We believe that this development will have a major impact on the capacity of individuals to bring negligence actions. There are few lawyers who will take the personal risk that a decision maker will determine a case with small chances of

> success is a public interest case. Public interest cases are often test cases, which by their very nature intend to push the law in directions not fully explored. They are thus inherently risky.
>
> Cases such as these include: stolen generations cases, asbestos, silicon breast implants, tobacco companies, McDonalds, Bropho etc. The risk in all of these cases and others is that the decision maker might not recognise their public interest value. The case may be ahead of its time. Would for example the snail and the ginger beer bottle case that is widely credited for creating the duty of care doctrine have in its time, passed the "reasonable prospects of success"?
>
> We do not believe that leaving the risk of personal loss to the solicitor open until the Court decides the case is a public interest case will allow public interest cases to be brought. The risks are too great that the court will not recognise the value of the case.
>
> Given the limited legal avenues available to the public, the legislature must be very careful not to block the creative expansion of the common law.
>
> The other concern to us is that before a person can put in a communication (complaint) to the International Human Rights Committee, under the optional protocol of the International Covenant of Civil and Political Rights, they must exhaust all domestic remedies. In some cases this may require appealing a matter all the way to the High Court. Government breach of its duty of care is an obvious avenue to begin these appeals. The possibility of success in these cases is by their very nature, risky. We doubt lawyers, risking personal loss, could take the chance, despite the importance and compelling nature of the case they are advising on.

I would also like to refer members to an analysis by Peter Gordon of Slater and Gordon of the current push towards tort law reform driven by the insurance industry. It appeared in a paper he delivered to the conference on community legal centres on 2 September this year. He makes this point about the insurance industry perspective:

> So while Raymond Jones, the President of the Insurance Council of Australia and head of QBE insurance, the insurer of asbestos manufacturing giant James Hardie, tells the media that the insurance industry will withdraw cover from the local pony club unless tort law reform is introduced, he is also telling shareholders, and I quote: "It is a fantastic environment. We are exceeding our budget in every region of the world in terms of rate increases on all classes of insurance."

That is from the *Financial Review* of August 2002.

It is a warning that the idea of limiting the capacity of citizens and their legal counsel to access the courts may be driven more by shareholder agendas than it is by principles of justice. In regard to the basic principles of access to the law that this provision will compromise, Peter Gordon had this to say:

> More importantly though the common law is a legal avenue for the citizen to challenge the exercise of power. For all its limitations, the common law is one of the few remaining legal methods by which a citizen can challenge the power, and decision making of an increasingly powerful State, itself increasingly beholden to corporate power.

> The private right of access to the courts by ordinary people, has fettered abuse of power by the government in fundamentally important ways. The conspiracy proceedings against Corrigan and Reith; the challenge over Tampa; the actions over police bashings at Richmond secondary college; the police strip search cases, are all examples.
>
> And that check on the abusive exercise of power by the State is not just the result of successful cases . . .
> - it extends to the state and big corporates knowing that the law is there;
> - and that there are lawyers out there . . . union lawyers, refugee lawyers, legal centre lawyers, civil liberties lawyers, who are prepared to use it.

Finally, I will quote Professor Desmond Manderson, until recently director of the Julius Stone Institute for Jurisprudence at Sydney University, and now occupant of the Canada research chair in law and discourse at McGill University in Montreal:

MR SPEAKER: The member's time has expired.

MS TUCKER: I ask for a short extension.

MR SPEAKER: You are entitled to use the second period.

MS TUCKER: Okay, I will use the second period. I will begin with that quote:

> So to limit court cases to success, and to define success as a judgment in damages, is to miss the point. One brings (some) cases
> (a) to change the law; or
> (b) to publicise the injustice of the present law; or
> (c) to publicise a corrupt or bad behaviour by the powerful.
>
> All of this might be stopped by this law.
>
> True, the court itself can waive this provision, but then it's up to the court to decide what they think is socially important.
>
> Hardly very helpful (and actually it might invite, if you look at the provisions, more litigation not less).
>
> Ask yourself this: if this provision had been in force, would that famous case against McDonalds ever have been allowed to have their day in court?

I urge the Assembly to reject this provision or, at the very least, put it off until the government engages with the courts in stage three of its reforms.

MS DUNDAS (5.29): As does Ms Tucker, the ACT Democrats oppose this clause and the entire section of 10.2 in this bill. We have had strong representation from the ACT Law Society and the Welfare Legal Rights Centre and are not convinced that this measure in this bill should be introduced immediately.

The landmark cases in Australian law, such as Mabo, the stolen generation cases, and those concerning asbestos, silicone breast implants or tobacco companies, all have risky origins. Few lawyers would take these cases on if they had to issue certificates saying they had reasonable prospects of success.

We only need to look at the cases running at the moment regarding refugees to see why we need to maintain the status quo in this instance. In fact, the great leaps of common law have always been based on only a small chance of success. Common law has evolved over the years, and some of these tests cases have pushed this evolution forward. In fact, where would our law text books be without these cases that did not necessarily have a reasonable prospect of success?

We would be throwing out the baby with the bathwater if, in trying to cut down on frivolous or vexatious cases, we also stopped some of the great landmark cases of common law, which allow the common law to evolve and reflect the view of the judiciary and the community.

MR STEFANIAK (5.31): The opposition certainly has some sympathy with what the government is trying to do in part 10.2, and I will address my remarks to that, as I understand Ms Tucker's aim is to defeat not just 119, but all of 10.2.

There is certainly considerable strength in Ms Tucker's arguments. I would be interested in empirical evidence about spurious cases that are brought with no real prospects of success. Ms Tucker quoted a statistic that 90 per cent of cases that actually go to court end up with a verdict for the plaintiff. Of course, you also hear of certain courts being more plaintiff oriented or defendant oriented, and there might be something in that as well.

Regarding absolutely spurious claims that actually get to court, I would like to see some evidence of those. If this is defeated now, I note that the government intends to bring it again. I do not know if it is in part three, but certainly I think some evidence would be of great assistance to the Assembly.

There are some fundamental problems in relation to this matter. I think this is a big step. I also note that, in the government's favour, New South Wales has actually introduced this. I for one am very keen to see the ACT, wherever practical, follow New South Wales. Indeed, they follow us if we come up with some good ideas. I was delighted to see that they amended their Bail Act to reflect some of the excellent provisions that were put into ours last year. New South Wales certainly have provisions such as this, in fact that state has what is probably a more draconian piece of legislation than 10.2 in place already.

Reform of the law is terribly important. While there is provision here for a Donoghue v Stevenson-type situation, which a deputy registrar would assess, Ms Tucker and her assistants argue that, if the deputy registrar did not give such a case a run, why should that person not be entitled to have their day in court? It is very much a fundamental right that people have had for decades, if not centuries, in our legal system. Whichever way you look at it, 10.2 does restrict the ability of a citizen to go to court. I think Ms Tucker does raise a very valid point there.

The opposition will be supporting Ms Tucker's attempts to remove 10.2 today. We would certainly like to see some further evidence before the government tries to bring it back at some later stage, which it probably intends to do. I think that would be of great assistance to us all, but today I am unaware of that evidence. However, there are some fundamental issues here and, at this point in time, we are probably better served by supporting the position Ms Tucker is taking.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (5.34): This is the first of many occasions on which I will look forward to Mrs Cross' participation on the crossbench.

Part 10.2 provides that lawyers must not prosecute a claim or defence of a claim once a matter is to be set down for a hearing, unless they believe that the claim or defence has reasonable prospects of success. Breaching this prohibition can result in action for professional misconduct, or unsatisfactory professional conduct under the Legal Practitioners Act 1970. In addition, the court can order the lawyer to pay the client all costs that the client has had to pay to another party.

This part is modelled on provisions introduced in New South Wales, and provisions that have been in place for some time in a number of overseas jurisdictions. A couple of concerns have been aired about the provisions. We have just heard those, in particular from Ms Tucker. I did have some government amendments that were meant to deal with a couple of those concerns. However, the government is not persuaded of the need to deal with the other changes suggested, and does not accept the arguments that have been put.

First, it has been suggested that a lawyer should be able to argue a client's case even in the face of the provable facts. This is not the case. Part 10.2 proceeds on the basis that a lawyer should exercise his or her own forensic judgment on the strength of any argument that he or she is called on to advance on behalf of the client. That is not a novel proposition. In this respect, I draw members' attention to the relevant law.

The ACT Law Society professional conduct rules govern the ethical responsibilities of lawyers. They provide that a practitioner must not act as the mere mouthpiece of the client, or of the instructing solicitor, and must independently exercise the forensic judgments called for during the case, after appropriate consideration of the client's and the instructing practitioner's desires, where practicable. That is what the Law Society's rules say.

The seriousness of this requirement to exercise professional judgment before coming before a court was illustrated in the recent Federal Court case of Wakim v McNally, in which the court stated that a solicitor who neglects to raise concerns over the possible shortcomings of advice obtained from senior counsel will be held liable for negligence.

In that case, the full Federal Court held that the standard of care expected of lawyers was especially high owing to the particular and high level of expertise they possess. It restated the view previously stated in Yates v Boland that, even when solicitors receive specialist advice, they are well placed to consider and form their own views on its correctness, and not taking that step constitutes negligence. Part 10.2 restates the

obligations under which lawyers are meant to proceed, and attaches appropriate financial disincentives to failing to carry them out.

Second, there has been concern that part 10.2 may in some way diminish the capacity of individuals to bring negligence actions, particularly in public interest cases. Ms Tucker went to some length on this. It has been suggested that part 10.2 might have precluded, for instance, the following public interest cases: those about the stolen generation, asbestos, silicone breast implants and tobacco.

I agree that there may be a real concern with regard to the similar and broader provisions recently passed in New South Wales dealing with reasonable prospects of success. However, the proposed ACT provisions do contain an exemption, clause 120, that is not in the New South Wales provisions, for any claims about which the courts consider it is in the interests of justice for the claim to be continued. I know Ms Tucker expressed some cynicism about the courts' interests in such an exemption or exception, or their capacity to read what was in the public interest, but I do not share Ms Tucker's cynicism about our judiciary.

The ACT bill specifically deals with the issue. It also provides a process through which a plaintiff may seek an early resolution of precisely that issue, of what is in the public interest. This section of the bill is, or was meant to be, the start of a concerted effort by the government in relation to the civil system.

As has been acknowledged by Mr Stefaniak and Ms Tucker, these issues might be dealt with in the third phase of the government's reforms in relation to wrongs, and our response to the insurance issues. We will continue the process in the third stage. I will take it up again. I will return to the Assembly with the issues that are currently included in part 10.2. I am hoping that, at that stage, the members of the Assembly will see the wisdom of the government's position, and I will not be relying on Mrs Cross.

Question put:

> That clause 119 be agreed to.

Ayes 7		Noes 7	
Mr Berry	Mr Stanhope	Mr Cornwell	Mr Stefaniak
Mr Corbell	Mr Wood	Ms Dundas	Ms Tucker
Ms Gallagher		Mrs Dunne	
Mr Hargreaves		Mr Pratt	
Ms MacDonald		Mr Smyth	

Question so resolved in the negative, in accordance with standing order 162.

Clause 119 negatived.

Clause 120.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (5.43): I am not quite sure how we handle this, Mr Speaker; I am happy to continue to argue, but there is no sense in me arguing about anything up to 125.

MR SPEAKER: It seems that the clauses up to 124 are all dependent on 119.

MR STANHOPE: They are all dependent on 119. I find it difficult to concede, but I will do whatever I have to do to move this through.

Mr Smyth: I think the appropriate thing, Mr Speaker, would be to move that clauses 120 to 124 be considered together.

MR SPEAKER: You could seek leave, but it is as easy for me to go straight through them.

Clause 120 negatived.

Clause 121 negatived.

Clause 122 negatived.

Clause 123 negatived.

Clause 124 negatived.

Clauses 125 and 126, by leave, taken together and agreed to.

Clause 127.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (5.46): I move amendment No 13 circulated in my name *[see schedule 4 at page 3372]*. This is just a minor technical amendment, Mr Speaker.

MS TUCKER (5.47): Is this clause 127 about neutral evaluation?

Mr Stanhope: Yes.

MS TUCKER: That is not just technical is it?

MR SPEAKER: It is about who can be an evaluator.

MS TUCKER: I will just make a couple of comments on it. Neutral evaluation is only going to work if the evaluators have the necessary skills and experience. It also requires a staffing level sufficient to ensure that the neutral evaluation process complements rather than impedes the other procedures of the court.

The government has advised us that this bill is stage one of a three-stage process, and stage three is actually about the procedures, rules and scope of the courts. I would have expected neutral evaluation, and for that matter the reasonable prospect of success provision, to have been part of that stage-three process. I am not quite sure why the government wanted these provisions in now. Perhaps it gives it the impression of prompt action, but I am not sure that that is always the best way to make changes.

Amendment agreed to.

Clause 127, as amended, agreed to.

Clauses 128 to 136, by leave, taken together and agreed to.

Proposed new clause 136A.

MS DUNDAS (5.48): I move amendment No 9 circulated in my name which inserts a new clause, 136A *[see schedule 1 at page 3369]*.

On first reading of section 136, I must say I was a little amused. It was clearly an attempt to access information to show that business decisions of insurance companies were the main drivers of premium increases, rather than claims for damages. Insurance companies are definitely not going to like having their books scrutinised by the minister, but their business decisions became public policy issues on the day that the market was driving community groups out of insurance.

This has led to the cancellation of numerous community events Australia-wide, and I for one am not going to let the insurance companies hold the community to ransom. I was therefore happy to support section 136, which makes it compulsory for insurance companies to provide to the minister confidential and sensitive information, but I will not allow the minister total discretion on what is to be done with this information.

My amendment ensures that the minister reports to the Assembly the key findings made on the basis of this information, so that the Assembly and the Canberra public are able to assess the government's response to the insurance crisis, holding the government accountable as the government tries to hold insurance companies accountable. In the longer term we will be able to call for improvements if required.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (5.50): The government is happy to support Ms Dundas' amendment.

Proposed new clause 136A agreed to.

Clauses 137 to 154, by leave, taken together and agreed to.

Clause 155.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (5.51): Mr Speaker, I move amendment No 14 circulated in my name *[see schedule 4 at page 3372]*.

Mr Speaker, this is a minor amendment in relation to costs and damages claims. These amendments were consequent on the passing of part 10.2, Mr Speaker, and I am not quite sure—

MR SPEAKER: It seems to me that you do not want to proceed with them at this stage. Why not then seek leave to withdraw it?

MR STANHOPE: I seek leave to withdraw amendment No 14.

Amendment, by leave, withdrawn.

Debate (on motion by **Mr Hargreaves**) adjourned to a later hour.

Financial Management Amendment Bill 2002

Debate resumed from 22 August 2002, on motion by **Mr Quinlan**:

> That this bill be agreed to in principle.

MR SMYTH (5.53): Mr Speaker, the opposition will be supporting this bill, but I do have a few comments to make on the nature of the bill and what it seeks to achieve. This bill makes a number of amendments to the Financial Management Act 1996, particularly in relation to financial targets, performance criteria, warrants, departmental bank accounts, and surplus cash accounts.

The Treasurer, in his presentation speech, acknowledged that the FMA is the cornerstone of the territory's financial reporting and accountability framework. In this context, it is quite reasonable to ensure that the FMA provides the optimum framework within which to manage the financial affairs of the ACT. However, at this time, it is also important to scrutinise the amendments to ensure that this fundamental objective is being achieved. I note an interesting error in the Treasurer's speech. He noted that the first ALP budget was brought down on 25 May 2002. In fact, it was 25 June 2002.

It is probably best to consider the proposed amendments in segments, as there are different intentions behind the various amendments. The first is clause 15, relating to the responsibility of chief executives. The bill provides that CEOs will be responsible for achieving financial targets and for ensuring that carryover funds are spent in accordance with the appropriation. Budget Paper No 4 of this year's budget sets out a number of key financial targets for each department. These are specific, public and identifiable and any amendments to these targets will be clearly identified.

Performance criteria are covered by clause 8. A significant issue in the Estimates Committee report on the 2002-03 budget was performance criteria or performance indicators. There were issues relating to the effective use of the performance indicators, the way the performance indicators could be changed or deleted and whether particular performance indicators were appropriate indicators. This bill provides for amendments to be made to the performance indicators and for these amendments to be notifiable instruments. Therefore, the public will be better informed. Importantly, where any performance indicators are changed, sufficient information must be supplied to provide

continuity of relevant information and so enable an assessment to be made of performance within and between budgets. That proposal seems to be a satisfactory way to go about it.

Clauses 18 and 19 relate to payments from territory bank accounts. A significant proposal is to remove the requirements for payments to be made only after a warrant has been prepared. It is essential to ensure compliance with appropriations and other measures of financial and related accountability to achieve appropriate controls over financial management activities dealing with public funds.

It is interesting to note the comment in the explanatory memorandum that warrants are largely a ceremonial process and that the use of warrants has led to inconsistencies. According to the Treasurer, a number of states and the Northern Territory have already removed the need for warrants and this bill provides for payments to be made only under appropriation. We are prepared to support this amendment, although we will monitor its application carefully to ensure that the public funds and the processes associated with applying the public funds are utilised appropriately at all times.

Clause 17 deals with departmental cash surpluses. The bill proposes that the executive be given the authority to determine that funds in departmental bank accounts are surplus and that such funds can be transferred to the relevant territory bank account. In principle, it seems to be an appropriate measure, as it should enhance the overall management of the ACT's finances. At the same time, however, we do note that some decisions to identify and transfer surplus funds may not be reasonable, at least from the point of view of the agency that is losing the funds. We will monitor the application of this provision and, in the event that any problems arise with the executive's use of the provision, we will consider moving an amendment to the act making these decisions a notifiable instrument, thus enabling such decisions to be scrutinised more closely by the Assembly.

Clause 6 relates to Commonwealth grants. The Estimates Committee report of 2002—note that this is contrary to the Treasurer's inaccurate correction in his tabling speech that this date should be 2001 as it was a report on Appropriation Bill (No 3)—recommended action in relation to the use of the phrase "special purpose grants". This bill makes an appropriate amendment to the act to replace this phrase with the words "for a nominated purpose". We will support the amendment.

Payments in anticipation are covered by clause 7. This bill will remove the ability for payment to be made in anticipation of appropriation. We cautiously welcome this proposal, as there are other options for handling issues related to contractual commitments and similar matters that may arise, particularly in June each year, at the end of the budget cycle—for instance the Treasurer's Advance or supplementary appropriation. We support the measure and, again, we will monitor it to ensure that it is not abused.

Clauses 9, 14 and 25 deal with the annual financial statements. The bill proposes to reduce from four months to three months the period within which the territory's annual financial statements are to be audited and presented to the Assembly. This seems to be a reasonable proposal, as it is balanced by removing the requirement for the Auditor-General to audit annual reports from agencies within a very tight time frame.

The proposal means that the territory's annual financial statements will be available for public scrutiny at an earlier point and they will also be more relevant to the period to which they relate. If there are concerns that this measure may have an adverse impact on the Auditor-General's workload, one approach would be for the Auditor to implement a program of continuous auditing during each financial year, thus facilitating the end of a year audit of the territory's financial statements.

Overall, the proposals in the bill do appear to be reasonable, as far as can be determined at this point, and will be supported. We do note again, however, a potential concern about the way in which surplus funds are managed across the ACT government agencies and we will be monitoring the use of this provision by the executive.

MS TUCKER (6.00): This bill contains a number of amendments to different parts of the Financial Management Act that have resulted from a review of the act by Treasury. The amendments remove some redundant requirements in the act and improve financial accountability by agencies. I will just mention a few of them that took my interest.

One aspect of the bill is to clarify the responsibilities of chief executives in relation to the financial targets they are expected to achieve and where changes are made to the performance criteria for the delivery of outputs. This is particularly relevant where there are transfers in functions or appropriations between departments or output classes over the financial year that are not part of the original budget.

A major change to the authorisation of expenditure of territory money is the removal of the warrant system. The use of warrants within the Westminster system goes back centuries. I believe that originally these were letters signed by the king or queen to allow the bearer of the letter to undertake some action on their behalf. However, with the introduction of computerised financial management and other administrative systems, the warrant system has become largely ceremonial, adding little to the process of financial control.

The bill also allows for Commonwealth payments for specific purposes to be more efficiently passed on to the relevant department. This is in response to a recommendation of the Estimates Committee. The bill provides for better management of surplus cash by allowing the executive to direct the transfer of surplus cash out of departmental banking accounts, where the money is not required for its original purpose, into a territory bank account for use or investment in other ways.

On the reporting side, the bill changes the time frame in which annual consolidated financial statements are prepared. At present, these are usually tabled in the Assembly in the December sitting, which is some five months after the end of the financial year. The amendments will bring this forward by at least a month.

Overall, these are good reforms to our financial system that, hopefully, will bring more transparency and accountability to the way that territory funds are spent. I will therefore be supporting the bill.

MS DUNDAS (6.03): Mr Speaker, this bill, on the whole, is a good attempt to refine some of the ambiguities inherent in the Financial Management Act and better define the roles and responsibilities of government departments. I applaud the moves to streamline

the audit processes for government departments and the clarification of their fiscal management responsibilities. However, I invite the Assembly to examine more closely the proposed changes to section 2 of the Financial Management Act, particularly the ability of the government to alter the details of budget papers after their respective appropriation bills have been passed by this Assembly.

This bill sets out procedures whereby the executive can alter financial targets, amend performance criteria and change the conditions of budgeted capital injections by notifiable instrument. These changes raise a number of pertinent questions in relation to the Assembly's role in keeping the government accountable in the preparation and implementation of budgets of the territory government.

Obviously, the primary decision-making responsibility for budget preparation does lie with the government of the day, as fiscal decisions need to be made in the overarching context of total government fiscal activity, as well as the clear fact that a meaningful budget can only be constructed with the long-suffering efforts of the ACT public service. However, it is less certain that decisions on the physical presentation and reporting of the budget should be the sole province of a government in power. The temptation is at hand for governments to present information in forms that make it difficult to discover inconsistencies or to put the best positive spin on the financial outcomes.

Mr Speaker, in the estimates hearings this year, we had a number of problems with the presentation of the 2002-03 budget—not only the wholesale rewriting of large sections which were unavailable until after the estimates hearings had commenced, but also repeated concerns that many performance criteria were unexplained, of little value or, indeed, completely meaningless.

I also note that, despite the requirement of the Financial Management Act to provide budget papers that facilitate comparison with the previous financial year, that did not actually occur in many cases, and that the government has already unilaterally decided to discontinue some performance indicators which seemed to be quite useful.

By the same token, I acknowledge that the motive for these changes is to enable financial targets and performance outcomes to be updated throughout the year in response to a changing fiscal environment, which, in itself, is not necessarily a bad idea. Certainly, the proposed legislation is in line with current practice, in that the legislature is not directly involved in determining reporting practices for the budget, and remains consistent with these traditions in formalising the ability of the government to pursue an alternative fiscal program in response to emerging events.

However, the effect of the legislation actually strengthens government control over the framing and presentation of the budget papers. The required justification for a change in these measures is extremely weak and there is potential for these laws to be used for the advantage of the government. I also note that, while this legislation requires the disclosure of any alterations to the information presented in the budget papers, there remains no mechanism for overturning an unwarranted change.

I believe that this Assembly needs to place closer scrutiny on the development and continuity of performance criteria used in the budget. Perhaps this Assembly needs to look more closely at its expectations of the form in which budgets should be presented.

This is an issue that goes to the separation of power between the legislature and the executive. An essential element of that separation is the ability of the Assembly to directly scrutinise the budget process.

I believe that the Financial Amendment Bill 2002 will be accepted by the Assembly. I will be monitoring the government closely in an attempt to keep them accountable, as they should be, under the laws of this territory. While I have raised significant concerns with regard to this bill, there are other things within it that clarify the respective roles of government departments, chief executives and the Treasurer in terms of financial management. I am happy to endorse those, but just repeat that we will be watching the government closely in terms of the fiscal responsibility they have to the territory and this Assembly.

MR WOOD (Minister for Urban Services, Minister for the Arts and Minister for Disability, Housing and Community Services) (6.08): Mr Speaker, on behalf of Mr Quinlan, I thank members for their considered and constructive comments. As they commented, a review is ongoing of how these structures work and the amendments today are a part of that. We can expect further amendments to be presented later in the year.

These amendments are designed to ensure that the obligations imposed by the FMA are quite clear and unambiguous. I can advise Mr Smyth and Ms Dundas that, as part of this continuing review, their comments will be taken carefully into account and will receive every consideration. This bill is a useful bill to pass and I thank members again for their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Civil Law (Wrongs) Bill 2002
Detail stage

Clause 155.

Debate resumed.

Clause 155 agreed to.

Remainder of bill, by leave, taken as a whole and agreed to.

Bill, as amended, agreed to.

Plant Diseases Bill 2002

Ordered that order of the day No 4, executive business, relating to the Plant Diseases Bill 2002, be postponed until the next day of sitting.

Districts Bill 2002

Debate resumed from 9 May 2002, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MRS DUNNE (6.11): Mr Speaker, the opposition will be supporting this bill because it is a straightforward and sensible application of new technology to an old problem of mapping. This bill allows for new technology to be used to describe boundaries within the ACT more accurately and to more flexibly adjust boundaries. It allows for more use of technology by the Registrar-General, for better control over street numbering and street allocation and for the Commissioner of Surveys to establish and maintain the digital cadastral database.

All of these innovations will improve the way that the boundaries of districts, divisions, sections and blocks are described in the ACT and will make life better for surveyors, the Registrar-General, planners, builders, property owners and emergency services. It is a shame, though, that in doing so we will be doing away with some of the quaint language of the previous Districts Act, which had a large schedule of rather poetic language that described the districts. Those poetic descriptions will now be replaced by numbers on a map. I think that we should note in passing that no longer will we be able to describe the Cotter River district as follows:

> All that part of the Australian Capital Territory commencing at Coree Trigonometrical Station and bounded thence by a line northeasterly to the northwestern corner of Commonwealth land formerly Portions 12, 14 and 15, Parish of Tidbinbilla, County of Cowley, in the State of New South Wales; thence by the northern boundary of that Commonwealth land and its easterly prolongation easterly to the middle thread of Coree Creek …

I love the reference to the middle thread and I will miss the passing of the middle thread of creeks, rivers and roads. Having said that, this is a sensible piece of legislation that brings the way we manage things up to date. That is why the government will have the support of the opposition in this bill.

MR CORBELL (Minister for Education, Youth and Family Affairs, Minister for Planning and Minister for Industrial Relations) (6.14), in reply: I thank members for their support of this important modernisation of the Districts Act.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Adjournment

Motion (by **Mr Wood**) proposed:

> That the Assembly do now adjourn.

Unborn children

MR PRATT (6.15): Mr Speaker, I rise to announce my intention to introduce in the next sitting legislation to protect the unborn child. Whilst scrutinising the Crimes Act in recent months I have identified the fact that the Crimes Act, regrettably, omits such protective legislation. The Crimes Act does not protect the unborn child. That is why I rose yesterday in question time to double-check on this matter by asking the Attorney-General whether he was aware of any such legislative provision. He was unable to answer that question. However, I am clear that such a weakness does exist in the ACT legislation and I will seek to rectify that.

It is very important for the house to note that the draft legislation that I have been working on for some months does recognise lawful abortion and does not seek to challenge that. It is with great regret that I point the house's attention to a terrible incident reported in yesterday's media, a matter of much sadness, which highlights the need for such legislation right across the nation. Mr Speaker, I seek leave to table a story illustrating that matter that was in the press yesterday.

Leave granted.

MR PRATT: I present the following paper:

> "Road rage"—Copy of newspaper article from "The Daily Telegraph", dated September 25, 2002.

Mr Speaker, the legislation, an amendment to the Crimes Act, will ensure that those who assault a pregnant woman will be charged not only with offences against the woman but also for the outcome of such assault on the unborn child, ranging from assault on the unborn through to manslaughter and murder. I have full party room support for this legislation. I have spent a great deal of time working on the bill to get it right and I look forward to having the opportunity between now and the next sitting to discuss this bill with all MLAs with a view to having the bill passed unanimously by the Assembly.

Question resolved in the affirmative.

The Assembly adjourned at 6.17 pm until Tuesday, 12 November 2002, at 10.30 am.

Schedules of amendments

Schedule 1

Civil Law (Wrongs) Bill 2002

Amendments circulated by Ms Dundas

1
Clause 5 (1)
Page 4, line 7—
omit
a person in apparent need of emergency medical assistance.
substitute
a person who is apparently—
(a)injured or at risk of being injured; or
(b)in need of emergency medical assistance.

2
Clause 5 (3), definition of good samaritan, paragraph (a)
Page 4, line 23—
omit
a person who is in apparent need of emergency medical assistance; or
substitute
a person who is apparently—
(i) injured or at risk of being injured; or
(ii) in need of emergency medical assistance; or

3
Clause 5 (3), definition of good samaritan, paragraph (b)
Page 5, line 1—
omit
a person who is in apparent need of emergency medical assistance.
substitute
a person who is apparently—
(i) injured or at risk of being injured; or
(ii) in need of emergency medical assistance.

4
Clause 8 (2) (d)
Page 7, line 23—
omit clause 8 (2) (d), substitute
(d) the volunteer was acting, and knew or ought to have known that he or she was acting—
(i) outside the scope of the activities authorised by the community organisation; or
(ii) contrary to instructions given by the community organisation.

5
Clause 20, new definition of domestic relationship
Page 15, line 8—
insert
domestic relationship means a personal relationship (other than a legal or de facto marriage) between 2 adults who are members of the same household in which one provides personal or financial commitment and support of a domestic nature for the material benefit of the other.

6
Clause 20, definition of member, paragraph (h)
Page 15, line 22—
omit paragraph (h), insert
(h) a former spouse of the person;
(i) a person who, immediately before the death, was in a domestic relationship with the person.

7
Clause 29, new definition of domestic relationship
Page 21, line 9—
insert
domestic relationship means a personal relationship (other than a legal or de facto marriage) between 2 adults who are members of the same household in which one provides personal or financial commitment and support of a domestic nature for the material benefit of the other.

8
Clause 29, definition of family member, paragraph (d)
Page 21, line 14—
omit paragraph (d), insert
(d) a brother, sister, half-brother or half-sister of the person; or
(e) a person who is in a domestic relationship with the person.

9
New clause 136A
Page 89, line 26—
insert
136A Report to Legislative Assembly
On or before 31 October in each year, the Minister must present to the Legislative Assembly a report about the key findings arising from the reports given to the Minister under section 135 in the financial year ending on the previous 30 June.

Schedule 2

Civil Law (Wrongs) Bill 2002

Amendments circulated by Ms Tucker

1
Clause 6, definition of community organisation
Page 6, line 4—
omit
an entity
insert
a corporation

2
Clause 113, definition of costs, paragraph (b)
Page 75, line 10—
omit paragraph (b), substitute
(b) disbursements that are counsel's fees on a brief to appear in an action; or
(c) any other disbursements.

Schedule 3

Civil Law (Wrongs) Bill 2002

Amendment circulated by Mr Stefaniak

Clause 34 (1) (a)
Page 24, line 12

omit
beyond reasonable doubt
substitute
on the balance of probabilities

Schedule 4

Civil Law (Wrongs) Bill 2002

Amendments circulated by the Attorney-General

1
Clause 46 (a)
Page 32, line 19—
after
award
insert
or interim award

2
Clause 46 (b)
Page 32, line 21—
after
award
insert
or interim award

3
Clause 101 (3)Page 67, line 2—
after
(Contributory negligence)
insert
, other than section 41 (2),

4
Clause 114, heading
Page 75, line 15—
omit
$100 000
insert
$50 000

5
Clause 114 (1)
Page 75, line 17—
omit
$100 000
insert
$50 000

6
Clause 115 (2)
Page 77, line 21—
omit
$100 000
insert
$50 000

7
Clause 116 (1) (b)
Page 78, line 27—
omit
and
substitute
or

8
Clause 116 (2)
Page 79, line 5—
omit
$100 000
insert
$50 000

9
Clause 117 (1)
Page 79, line 7—
omit
a court considers
substitute
a court decides (on its own initiative or on the application of a party to the claim)

10
Clause 117 (3)
Page 79, line 15—
omit
must
substitute
may

11
Clause 120 (2)
Page 80, line 23—
omit
section 121
substitute
section 122

12
Clause 120, new note
Page 80, line 26—
insert
Note See also s 155 (3A) for a transitional application provision for this part.

13
Clause 127 (b)
Page 84, line 24—
omit clause 127 (b), substitute
(b) a deputy registrar of a court or tribunal;
(c) someone else that a court or tribunal considers has the skills and qualifications to be an evaluator and appoints as an evaluator.

14
Proposed new clause 155 (3A) and (3B)
Page 97, line 17—
insert
(3A) Also, part 10.1 does not apply to a claim based on a cause of action that arose before the commencement of the part.
(3B) Part 10.2 (Costs in damages claims if no reasonable prospects of success) does not apply to a claim based on a cause of action that arose before the commencement of the part.

Schedule 5

Civil Law (Wrongs) Bill 2002

Amendments circulated by the Attorney-General

1
Clause 117 (1)
Page 79, line 7—
omit
a court considers
substitute
a court, or a taxing officer, decides (on the court's or taxing officer's own initiative or on the application of a party to the claim)

2
Clause 117 (2)
Page 79, line 12—
omit
(or a taxing officer)
substitute
or taxing officer

3
Clause 117 (3)
Page 79, line 14—
omit
(or a taxing officer)
substitute
or taxing officer

4
Clause 117 (3)
Page 79, line 15—
omit
(or a taxing officer) must
substitute
or taxing officer may

5
Clause 121 (1)
Page 81, line 4—
after
unless
insert
, at the time of certification that the claim is ready for hearing,

This page is intentionally blank.

Answers to questions

Canberra Hospital—doctors on duty (Question No 274)

Mr Cornwell asked the Minister for Health, upon notice, on 24 September 2002:

How many doctors are on duty in Casualty each hour of the day at The Canberra Hospital.

Mr Stanhope: The answer to the member's question is:

• The following medical staff provide the majority of the medical cover in the Emergency Department at TCH, for 3 shifts daily, 7 days per week:

Specialists/Senior Specialists	7 Full Time Equivalent (FTE) positions
Registrars	7 FTE positions
Residents and Interns	17 FTE positions
Total medical staff complement	31 FTE positions

• Other Resident Medical Officers and Community Medical Officers work some overtime in the Emergency Department to cover additional demands on the roster.

• It is difficult to specify how many doctors are on duty in the Emergency Department each hour of the day as the number of doctors does vary by shift. The average number of doctors on for each eight hour shift is nine. On day shifts and evening shifts there are more doctors on duty than during the night shift, to meet the higher patient presentations which occur between Sam and midnight. Most training of junior doctors also occurs during the day.

• The number of Medical FTE in The Canberra Hospital Emergency Department is comparable to that of similar sized NSW Hospital's Emergency Departments. In addition some of these staff also participate in the roster for the Aeromedical Retrieval Service which is generally not the case in otherwise similar emergency departments. The involvement in this roster also places additional work pressures on these staff.

Poverty task group—report (Question No 277)

Mr Cornwell asked the Chief Minister, upon notice, on 24 September 2002:

Further to your reply (via Mr Quinlan) to Question on notice No 224, where is the Report of the ACT Poverty Task Group "Sharing the Benefits" Options Paper due for release to the community for comment in August 2002.

Mr Stanhope: The answer to the member's question is as follows:

In reply to Mr Cornwell's question, I have made no comment about an Options Paper to arise from the report of the ACT Poverty Task Group "Sharing the Benefits".

I presume that Mr Cornwell is referring to the review of ACT concessions, which was one of the recommendations (recommendation No 12), made by the ACT Poverty Task Group.

The review is at an advanced stage, as the mapping exercise to identify all concessions has already been completed, and an extensive round of community consultations has occurred resulting in the production of an Issues Paper.

The Government is currently in the process of developing a Policy Options Paper in consultation with stakeholders including: the ACT Council of Social Services, the ACT Council on the Ageing, the ACT Youth Coalition, CARE Financial Services, Volunteering ACT, the ACT Youth Coalition, ACT Shelter, the Australian Council for Rehabilitation of Disabled, and the Association of Independent Retirees.

The Policy Options Paper is programmed for consideration by the Government in November 2002.

Originally, it was anticipated that this work would be completed by August 2002. However, following debate in the ACT Legislative Assembly about extending pension benefits to holders of Commonwealth Seniors Health Cards, and reciprocal transport concessions for holders of a State/Territory Seniors Card, the Government has given an undertaking that it would broaden the scope of the review to include these matters. Accordingly, it has been necessary to extend the timeframe for the development of the Policy Options Paper to November 2002 in order to accommodate this additional work.

The Government is committed to a cohesive and integrated community where fairness and equality are the ground rules for our social programs, and will ensure that the review of concessions directs the greatest assistance to those with the greatest needs, and develops options for older people that encourage healthy ageing.

Vehicle immobilisers (Question No 278)

Mr Cornwell asked the Minister for Police, Emergency Services and Corrections, upon notice, on 24 September 2002:

(1) How many motor vehicles were (a) stolen (b) recovered undamaged in the ACT in years 2000 and 2001.
(2) Has the Minister seen the recent reports (Bulletin September 11) upon the success in Western Australia of a vehicle immobiliser that costs $150 and is claimed to have halved car stealing in that state.
(3) Is the ACT Government considering making the fitting of such an immobiliser law for all vehicles registered in the ACT.
(4) If so, when will the legislation be enacted and if not, why not.

Mr Wood: As Acting Minister for Police, Emergency Services and Corrections, the answer to the member's question is as follows:

(1)(a) There were 3019 vehicles stolen (including trailers and caravans) in the ACT during the year 2000.

There were 2520 vehicles stolen (including trailers and caravans) in the ACT during the year 2001.

(b) Of the 3019 vehicles stolen during 2000, 2677 have since been recovered.

Of the 2520 vehicles stolen during 2001, 2200 have since been recovered.

It would be a labour intensive search to identify the actual number of the vehicles that were recovered undamaged. I am not prepared to authorise the use of the very considerable resources that would be involved in providing the detailed information required to answer the Member's question.

(2) Yes.

(3) No.

The ACT is currently participating in a National Motor Vehicle Theft Reduction Council initiative "Immobilise Now". The ACT has contributed $24,000 to a radio advertising campaign to encourage owners of older vehicles to voluntarily install engine immobilisers. The cost of an immobiliser is approximately $180 which is a considerable impost on owners of older vehicles. Currently there are approximately 50 000 vehicles registered in the ACT which are over ten years old and of these approximately 20% have immobilisers installed. As a 1 July 2001 all new vehicles are required to be fitted with immobilisers.

Aboriginal tent embassy
(Question No 279)

Mr Cornwell asked the Chief Minister, upon notice, on 24 September 2002:

> How do you equate your recent comments on the so called "Aboriginal tent Embassy" in front of Old Parliament House with the equally recent views of the local Ngunnawal people, who have expressed reservations about the tent "embassy" and its negative influence on aboriginal advancement.

Mr Stanhope: The answer to the member's question is as follows:

> I am on the public record as strongly supporting the Aboriginal Tent Embassy as a symbol of the struggle by Australia's Indigenous community. I am aware that while the symbolic nature of the Embassy has broad community support, there are differing views in the community about its physical appearance and operations.
>
> Various issues relating to the Embassy were raised at the meeting of Ngunnawal Elders in May 2002, particularly the need for agreed protocols for ceremonies conducted at the site. The meeting supported the symbolic nature of the Embassy. The Ngunnawal Elders will meet again in November 2002 to discuss, among other things, progress on operational issues relating to the Embassy. The views of all Ngunnawal family groups will contribute to the development of protocols for the Tent Embassy.
>
> The Aboriginal and Torres Strait Islander Commission Regional Office in Queanbeyan is facilitating the development of protocols relating to the operations of the Embassy. These are to provide an agreed process for organisations that want to consult with the Embassy, and to determine who is a representative of the Embassy and what kind of ceremonial events and activities the Embassy will undertake.
>
> I commend the Regional Office of ATSIC for facilitating this process.
>
> I believe that as the Embassy is on Ngunnawal land it is vital that all family groups of the Ngunnawal community have the opportunity to contribute to the development of the protocols for the future operation of the Embassy.

Aboriginal tent embassy
(Question No 280)

Mr Cornwell asked the Minister for Police, Emergency Services and Corrections, upon notice, on 24 September 2002:

> In relation to your reply of 4 April 2002 to Question on notice N. 65, that despite a total fire ban in force in the ACT in the fortnight following Christmas Eve 2001, the small ceremonial fire maintained by the Aboriginal Tent "Embassy" occupiers was allowed to remain lit having "been assessed by the Fire Commissioner... that it does not present a danger to life or property".
>
> (1) What guidelines apply to a total fire ban in the ACT.
>
> (2) What discretion does the Fire Commissioner enjoy to override a total fire ban and what are the factors taken into exercising this discretion.
>
> (3) How was the embassy fire assessed as not presenting a danger to life or property compared with say, an open backyard barbeque.
>
> (4) What other culturally significant issues could be used by people maintaining fires in defiance of a total fire ban in order to escape prosecution.
>
> (5) Will these culturally significant factors at (4) together with the discretionary points the Fire Commissioner may use to override a total fire ban (2) above be advertised publicly so that all ACT residents can decide whether or not they are required to comply with a total fire ban.
>
> (6) If the points at (5) are not publicly advertised is this not racial discrimination or at best discriminatory.

Mr Wood: As Acting Minister for Police, Emergency Services and Corrections, the answer to the member's question is as follows:

> (1) The guidelines that apply to total fire bans in the ACT are as prescribed in the Bushfire Act 1936 - Sect 7A, (as amended), whereby;
>
> (1) a person shall not light, use or maintain a fire in the open air on a day or during a period in respect of which the Chief Fire Control Officer has caused-
> (a) to be published in a newspaper circulating in the Territory;
> (b) to be broadcast from a broadcasting station in the Territory; or
> (c) to be televised from a television station in the Territory; a warning of the likelihood of the occurrence of weather conditions conducive to the spread of fires.
>
> This Section of the Bushfire Act then goes on to describe the instances when (1) above does not apply, as follows;

(2) Subsection (1) does not apply to-

(a) a fire lit in pursuant to section 5N;
(b) the lighting, maintenance or use of a fire in accordance with the manual;
(c) the lighting, maintenance or use of a prescribed class of fire;
(d) the lighting, maintenance or use of a fire in accordance with an exemption permit granted under 7B; or
(e) the maintenance of afire declared by the Minister under subsection (5) to be an exempt fire.

(2) The Fire Commissioner does not have the discretionary powers to override a total fire ban.

(3) The Fire Brigade would, in line with the Fire Brigade Act, extinguish or control any fire that is deemed to present a risk to life or property, however there is no requirement under the Bushfire Act compelling the Fire Brigade to extinguish a fire during a period of total fire ban. The lighting, maintenance or use of a non-exempt fire is an offence that may attract prosecution and is not a matter for the Fire Brigade.

The embassy fire was assessed at the time as not presenting a danger to life or property due to the following reasons:

The location of the Aboriginal Tent Embassy is on a cleared grassy site with an inground sprinkler system. The site is bordered by trees on two sides, a water fountain on one side and a road on the remaining side. The lawns are green and waterlogged. The risk of fire spread is minimal and the fires are less than 50cm. across, fuelled by twigs and leaves barely smouldering. Green leaves are used to create smoke making the fires appear worse than they are. No sparks are being produced by the fires and water for firefighting is readily available.

A backyard barbeque is not classed as a ceremonial fire under the Bushfire Act 1936, however it must be remembered that a gas or electric barbeque is permitted on days of total fire ban, with conditions. An open fired barbeque would not offer the same conditions or type of fire as the ceremonial fires present at the embassy.

(4) No cultural issues can be used to defy a total fire ban. Fires for ceremonial or commemorative purposes that comply with the requirements of the Bushfire Act 1936 however would not attract prosecution. An example of this is the Flame of Remembrance at the Australian War Memorial.

(5) The Bushfire Act 1936 is a public document.

(6) The Bushfire Act 1936, along with all other Acts and Regulations, are public documents and available to all members of the community.

Walking and cycling path, Yarralumla (Question No 281)

Mr Cornwell asked the Minister for Urban Services, upon notice, on 24 September 2002:

In relation to the walking and cycle path between Nursery Bay and Warrina Inlet, Yarralumla.

(1) Was the spraying of blackberries undertaken in this area.

(2) If so, did the spray also effect other vegetation.

(3) If spraying had no effect upon other vegetation, why is the undergrowth and trees dying along this route

Mr Wood: The answer to the member's questions is as follows:

(1) Yes, Canberra Urban Parks and Places sprayed the blackberries in the area during May 2001.

(2) No, the spraying did not effect any of the vegetation in the area which it is desirable to keep. However, spraying was also undertaken of other pest plants, which heavily infest this area, including broom, gorse, pyracantha, hawthorn, pine wildings and serrated tussock.

(3) The undergrowth and trees in the area are dead or in decline through a combination of the targeted weed control program, clearing of powerlines and the natural aging of wattle trees.

The area in question comprises part of Westbourne Woods. The original design intent for this area was for selected plantings of pines and eucalypts, and did not involve understorey plantings or plantings of other tree species. Over time the lake foreshore area has become heavily infested with garden escapees and selfsown wattle trees, which have formed a dense understorey that prevents access, provides a seed source for pest plants and are a fire hazard.

Recently work was undertaken in the area to clear vegetation from high-voltage powerlines that run adjacent to the Royal Canberra Golf Course, between Banks Street and Dunrossil Drive. This resulted in further clearing of the weedy understorey and self-sown wattles and pine wildings to enable access.

The magnitude of the weed infestation in the area requires that control and retreatment of pest plants will be undertaken over a number of years.

Homeless families
(Question No 282)

Mr Cornwell asked the Minister for Education, Youth and Family Services, upon notice, on 24 September 2002:

(1) How do you reconcile your reply to Question on notice No. 45(3) that "... Couples with children who are homeless or at risk of homelessness are also eligible to receive accommodation and support in the event that there are no sole fathers requiring at that time" and, in response to Question on notice No. 47(7) that "CANFACS will not provide accommodation to single mothers with children".

(2) Is CANFACS now providing accommodation for both groups and if not, why not. Which group has priority.

Mr Wood: The answer to the member's question is as follows:

- I am responding to this Question as the matter falls within my portfolio responsibility as Minister for Disability, Housing and Community Services.

- The Purchase Agreement outlining the services to be provided by the Canberra Fathers and Children Service specifically outlines which target groups are eligible for assistance from this service. The priority target group is "men with accompanying children who are homeless or at risk of homelessness."

- The secondary target group is "fathers whose access to their children is contingent on their obtaining and maintaining safe and secure housing".

- The Purchase Agreement (Schedule 2 Item 5.5) also allows accommodation to be provided to homeless couples with accompanying children "in the event that accommodation is available and the needs of the primary target group have been addressed."

- The Purchase Agreement also states (Schedule 2 Item 5.3) "the accommodation service will not be provided to single men (men without children or without regular contact with their children); single females or sole supporting mothers."

- Since its establishment in February 2002, the service has been operating at full capacity. Canberra Fathers and Children Service has assisted twenty (20) fathers with children and one (1) couple with children.

Australian International Hotel School (Question No 283)

Mr Cornwell asked the Treasurer, upon notice, on 24 September 2002:

(1) What marketing strategies have been activated by the Australia[n] International Hotel School to draw on the population of Sydney for prospective students?

(2) How many students have been recruited and what has been the cost of this marketing strategy for the years 2000 and 2001 respectively?

Mr Stanhope: As Acting Treasurer, the answer to the member's question is as follows:

(1) The Australian International Hotel School's (AIHS) marketing activities for Sydney are part of its overall marketing strategy for NSW and include the following:

• A program of visits to selected schools that have been identified as offering the most opportunities for feeding students through to the AIRS. Secondary schools with a strong socio-economic profile, high levels of academic achievement and a strong emphasis on preparing students for a diverse range of further study are the primary focus of the program.

• The AIHS has established relationships with the following influential schools in Sydney through the offering of Memorandums of Understanding designed to build preferential relationships between the AIHS and each school:

Cranbrook School
Ascham School
Sydney Church of England Grammar School
Knox Grammar
Loreto Normanhurst
Abbotsleigh
Barker College
Kambala

• In addition, the AIHS was invited to attend career evenings at the following Sydney schools:

Cranbrook School
St. Ignatius College Riverview
Pymble Ladies College
St. Ignatius College Riverview
Pymble Ladies College
Smiths Hill
Newington College

• In 2001-02, the AIHS conducted four information sessions in Sydney.

The sessions offered prospective students, their families and other interested parties the opportunity to meet with representatives of the AIHS and establish a better understanding of career development opportunities offered by the AIHS.

- Promotion of the AIHS's Career Week Programs -
"Introduction to Hospitality Management". During 2000 and 2001, the AIHS held nine Career Week Programs attracting a total of thirty-three students from NSW, five from the Sydney metropolitan area.

- The AIHS has maintained an ongoing presence at key tertiary education expositions across NSW.

These events draw large numbers of prospective students who are encouraged to register interest with the AIHS. Information regarding those students that do register their interest is recorded on a database that allows for direct mail and telephone based marketing activities.

- In addition to marketing directly to prospective students, the AIHS also undertakes ongoing liaison with careers advisers throughout NSW to ensure that the program of study offered by the AIHS is well understood and is presented to prospective students as a clear option when assessing their tertiary education options.

(2) The numbers of students from Sydney enrolled at the AIHS were three in 1999-00, two in 2000-01 and one in 2001-02.

It is not possible for the AIHS to separate its expenditure on Sydney-specific marketing activities from its expenditure on its NSW marketing strategy. The total cost of the AIHS's NSW marketing strategy was $48,518 in 1999-00, $72,508 in 2000-01 and $72,718 in 2001-02.

Department of Urban Services
(Question No 287)

Mr Humphries asked the Minister for Urban Services, upon notice:

In relation to the 2002-03 Budget Paper No. 4, provision has been made for funds as an 'Injection for operation' for each of 2002-03 and the three out years within the estimates for the Department of Urban Services:

(1) On what activities is it anticipated that these funds will be expended in each of these years.

(2) Why have funds been identified as an 'Injection for operation' when elsewhere in the same table, funds previously identified for 'Injection for operations' have been reallocated from the category: Capital Injection to the category: Government Payment for Outputs.

Mr Wood: The answer to the member's questions is as follows:

(1) & (2) The funds identified as an 'Injection for Operation' in the Capital Injection table on page 187 of Budget Paper No.4 represent an adjustment to the Comparative Pricing Framework adopted by the previous Government. The adjustment to the framework was based on a benchmarking process undertaken by DUS.

As a result of these adjustments the total 'Injection for Operation' funding is shown against the line item "Reallocation of injection for operations".

During the development of the 2002-03 and forward years budgets, it was considered appropriate to show this funding as a Government Payment for Outputs - to reflect the true cost of providing outputs to the community. The total 'Injection for Operations' funds are therefore backed out of the Capital Injection table and added into the Government Payment for Outputs table at page 186 of Budget Paper No.4.

The funding will be expended on the full range of outputs provided to the community.

Department of Urban Services (Question No 288)

Mr Humphries asked the Minister for Urban Services, upon notice:

In relation to 2002-03 Budget Paper No. 4, estimates are provided for the impact of indexation for 2002-03 and future years within the Department of Urban Services:

1. On what basis have the estimates for revised indexation parameters for the Department been prepared.

2. What is the reason for the indexation parameter for the Department increasing by around 430 per cent to $4.0 million between 2004-OS and 2005-06.

Mr Wood: The answer to the member's questions is as follows:

1. The indexation built into the budget for salaries is 1.3% and has not changed. Non-salary operating costs have been adjusted by the change in the estimated CPI rate for the period 2002-03 to 2004-OS (CPI in the previous budget and forward estimates was 2.25%. This has been revised to 2.5%).

2. The large increase in the final outwear (2005-06) represents the full take-up of the operating cost indexation adjustment of 2.5% and the 1.3% salaries indexation. These indexation amounts are added to the final year estimates on an annual basis.

Department of Education, Youth and Family Services (Question No 289)

Mr Humphries asked the Minister for Education, Youth and Family Services, upon notice, on 25 September 2002:

> In 2002-03 Budget Paper No 4, estimates are provided for the impact of indexation for 2002-03 and future years for Governments payments for outputs within the Department of Education, Youth and Family Services:
>
> 1. On what basis have the estimates for revised indexation parameters for this category of expenditure for the department been prepared.
>
> 2. What is the reason for the indexation parameter for this category of expenditure for the department increasing by around 260 percent to $13.7 million between 2004-05 and 2005-06.

Mr Corbell: The answer to Mr Humphries' question is:

> 1. Agency forward estimates appropriations generally include indexation at estimated CPI (2.5%) for non-salary operating costs and salary costs for Government schooling and preschools to maintain the funding in real terms. The indexation built into the budget for salaries for other outputs is 1.3%.
>
> 2. The large increase in the final and new outyear in the 2002-2003 Budget (2005-06) represents a full indexation adjustment of 2.5% from 2004-05. Previous outyears already contain an indexation estimate.

Central Financing Unit (Question No 292)

Mr Humphries asked the Treasurer, upon notice, on 25 September 2002:

> In 2002-03 Budget Paper No. 4, it is estimated that borrowing costs incurred by the Central Financing Unit during 2001-02 increased from a budgeted $51.021 million to an estimated outcome of $61.814 million:
>
> (1) What is the reason for the increase of around 21 per cent in borrowing costs during the last financial year.
>
> (2) What is the reason for borrowing costs being estimated to fall by nearly 3 per cent during 2002-03.

Mr Quinlan: The answer to the member's question is as follows:

> **(1) What is the reason for the increase of around 21 per cent in borrowing costs during the last financial year.**

Borrowing costs comprise both the interest paid on borrowings to external financial institutions and investment interest paid to internal ACT Government entities earned on the balance of funds invested through the Central Financing Unit (CFU).

The following table summarises the borrowing cost estimates for 2001-02.

	Note	2001-02 Budget $'000	2001-02 Est Outcome Published 25 June 02 $'000	Variation %
Borrowing Cost				
Payments to Financial Institutions	**a**	39,173	34,915	-11%
Payments to other ACT Government Entities				
Agencies	**b(i)**	11,848	18,340	55%
Territory Banking Account	**b(ii)**	0	8,559	100%
		11,848	26,899	127%
Total Borrowing Cost		**51,021**	**61,814**	**21%**

Notes to table

a) Payments to Financial Institutions For Borrowings Administered On Behalf Of the territory

CFU administers various combinations of fixed and floating interest rate borrowings on behalf of the Territory. The decrease between the original 2001-2002 budget and the estimated 2001-2002 outcome as published in the 2002-2003 Budget papers is attributed to the lower than anticipated interest rates on the Territory borrowings that are financed on a floating interest rate basis. These include the $250m Indexed Annuity Bonds and the $140m of Commercial Paper on issue.

b) Investment Interest Payments To ACT Government Agencies

ACT Government Agencies invest temporary surplus funds through the CFU. Investment interest earned on these funds is received as revenue by the CFU and is then onpassed back to Agencies as an interest payment. The increase of 127% between the original 2001-2002 budget and the estimated 2001-2002 outcome as published in the 2001-02 Budget papers is due to the combination of:

i. a higher than anticipated level of average funds held on investment. The original 2001-2002 budget assumed an average investment balance of $242m returning an estimated 4.9% back to the agencies. The estimated 2001-2002 outcome was revised to an average investment balance of $399m returning an estimated 4.6% back to the agencies.

ii. the increase in investment interest paid out to the Territory Banking Account is as a result of reclassifying these payments as interest payments as opposed to including the interest payment as part of the annual dividend payment to the Territory Banking Account as was the case in the original 2001-2002 budget. The amount of Territory Banking Account related investment interest estimated to be earned and included as part

of the dividend payment in the original 2001-2002 budget was $8.3m (average investment balance of $169m returning an estimated 4.9%). The revised amount of Territory Banking Account related investment interest estimated to be earned and paid to the CFU Territorial account as an interest payment in the estimated 2001-2002 outcome was $8.6m (average investment balance of $186m returning an estimated 4.6%).

(2) What is the reason for borrowing costs being estimated to fall by nearly 3 per cent during 2002-03.

	Note	2001-02 Est Outcome $'000	2002-03 Budget $'000	Variation of %
Borrowing cost				
Payments to Financial Institutions	c	34,915	32,686	-6%
Payments to other ACT Government Entities	d	26,899	27,348	2%
Total Borrowing Cost		**61,814**	**60,034**	**-3%**

Notes to Table

	Note	2001-02 Est Outcome $'000	2002-03 Budget $'000	Variation of %
Borrowing Cost				
Payments to Financial Institutions	**c**	34,915	32,686	-6%
Payments to other ACT Government Entities	**d**	26,899	27,348	2%
Total Borrowing Cost		**61,814**	**60,034**	**-3%**

c) Payments to Financial Institutions for debt administered on behalf of the Territory

The decrease between the 2001-2002 estimated outcome and the 2002-2003 Budget is mainly due to a change to the Territory's debt structure. At the end of 2001, fixed rate Inscribed Stock Bonds ($67m at 12%) matured and were refinanced by way of floating rate commercial paper. The effect of this is a lower annual interest cost on these borrowings in 2002-2003.

d) Investment Interest Payments To ACT Government Agencies

The increase of 2% between the 2001-2002 estimated outcome and the 2002-2003 Budget is due to a changed set of assumptions for the funds held on investment. The 2001-2002 estimated outcome assumed an average investment balance of $585m returning an estimated 4.6% to agencies and the Territory Banking Account. The 2002-2003 Budget estimates assume an average investment balance of $506m returning an estimated 5.4% to agencies and the Territory Banking Account.

Department of Treasury
(Question No 293)

Mr Humphries asked the Treasurer, upon notice, on 25 September 2002:

In 2002-03 Budget Paper No. 4, it is estimated that expenditure on Grants and Purchased Services for the Department of the Treasury will increase from $33.862 million in 2002-03 to $41.732 million in 2003-04:

1. What is the reason for the increase of around 23 per cent in this item of expenditure.

2. Why will this increase not be continued into the 2004-05 and later years.

Mr Quinlan: The answer to the member's question is as follows:

(1) There has been a significant pull forward of revenue from 2002-03 into 2001-02, resulting in a large variation between 2002-03 and 2003-04. The table below illustrates that the 2001-02 outcome is significantly higher than the forward years. This is due to the Commonwealth offering an additional grant in the First Home Owners Scheme, above the original scheme, in 2001-02. This resulted in applications being pulled forward from 2002-03 to 2001-02, taking advantage of the additional grant.

Due to this pull forward effect, and the removal of the additional First Home Owners Grant, the Commonwealth has estimated a decrease in 2002-03 applications.

The 2003-04 estimates largely reflects the Commonwealth indicating that First Home Owner Grants will stabilise in 2003-04.

	2001-02 Est. Outcome $'000	**2002-03 Budget $'000**	**2003-04 Estimate $'000**	**2004-05 Estimate $'000**	**2005-06 Estimate $'000**
Grants and Purchased Services					
First Home Owners Grant	29,949	15,700	23,200	23,800	24,200
Other	19,060	18,162	18,532	18,912	19,123
Total	**49,009**	**33,862**	**41,732**	**42,712**	**43,323**

(2) The increase is not continued across the forward years as the Commonwealth is not indicating any significant change in the First Home Owners Grant program.

Chief Minister's Department
(Question No 294)

Mr Humphries asked the Chief Minister, upon notice, on 25 September 2002:

In the 2002 - 03 Budget Paper No. 4, total funding of $7.8 million is shown for a Management Infrastructure Review Project under the estimates for the Chief Minister's Department:

(1) What is the objective and scope of this Project.

(2) On what Project activities will $6.893 million be spent during 2002 -03.

(3) What resources from within the ACT Public Service will be utilised in this Project.

(4) Will any external consultants be engaged to perform any of the work involved in the Project.

(5) If external consultants are to be involved in this Project, what funds will be paid to these consultants.

Mr Stanhope: The answer to the member's question is as follows:

(1) The Project objective is to provide an appropriate corporate services information technology infrastructure for the ACT Public Service, thereby ensuring effective support for requirements such as payroll calculation, pay disbursement and basic human resource management. These changes will underpin future effective delivery of services to the ACT community.

This Project entails the specification development, procurement and early implementation stages of a human resource management system solution that replaces of the existing legacy system currently supporting the majority of agencies across the ACT Public Service.

(2) Proposed 2002 - 03 activities utilising the $6.893 million capital funding comprise acquisition costs, implementation costs to "go live" stage and direct project management costs, including salaries for the project management team of public servants.

(3) The Project is being managed from within the Public Service, with a structure including:

- a Project Board to set and monitor the Project's strategic direction;
- a Project Management team made up of four officers to undertake and manage the project; and
- Working Groups of representatives from all departments.

(4) Yes, there will be limited use of consultants to ensure an efficient project implementation, given the specialised requirements of this procurement and available IT solutions.

(5) The current budget projection for expenditure on consultants over the two years of the Project is $0.325 million.

ICT Centre of Excellence (Question No 295)

Mr Humphries asked the Chief Minister, upon notice, on 25 September 2002:

In 2002-03 Budget Paper No. 4, an amount of $10 million is identified as the apparent value of a land grant provided as part of an assistance package to establish the ACT node of the ICY Centre of Excellence under estimates for the Chief Minister's department:

(1) What was the final value of the land grant provided under this assistance package.

(2) If the value of the land grant was less than $10 million, what will the balance of the funds be used for.

(3) If the value of the land grant ultimately was greater than $10 million, from where will the balance of funds be sourced.

(4) What other measures have been included as part of the assistance package for the ACT node.

Mr Stanhope: The answer to the member's question is as follows:

(1) A number of sites located near to the Australian National University have been identified as possibilities, however discussions are still underway with all parties to assess the optimal site.

(2) The Government agreed to grant land valued up to a maximum of $10 million. The land grant is a non cash transaction, therefore no funds will be available for other use.

(3) See answer to question two.

(4) The Government agreed to a $20 million assistance package consisting of the land grant, forgone revenue to a maximum of $5 million in payroll tax waivers and $5 million in cash. The cash component will be used for industry development activities, scholarships and Small to Medium Enterprise (SME) grants.

Firewood sellers
(Question No 297)

Ms Tucker asked the Minister for Urban Services, upon notice:

In relation to the licensing of firewood sellers:

(1) Could you provide a list of the names, business addresses, and date of registration of all firewood sellers that are currently licensed.

(2) What checks have been made of the compliance of individual firewood sellers with the conditions of their licence as set out in Regulation 39A of the Environment Protection Regulations since the beginning of the licensing scheme.

(3) What inspections have been carried out of any premises of licensed firewood sellers since the beginning of the licensing scheme.

(4) What actions have been taken against any licensed firewood sellers that have not complied with the conditions of their licence.

(5) What actions have been taken against any person found to be selling firewood in the ACT without a licence.

(6) What data is kept of the species, source and type of firewood sold by licensed firewood sellers that is required to be disclosed to customers under Subregulation 39A(l)(g).

(7) What staff and financial resources have been used to administer the licensing of firewood sellers over the 2001-02 financial year.

Mr Wood: The answer to the member's questions is as follows:

(1) Attached is a list outlining the details you requested for firewood merchants currently authorised to operate in the ACT. The contact details for these merchants is also available from the Environment ACT website and helpdesk.

(2) In accordance with Section 57 of the Environment Protection Act 1997 all standard environmental authorisations, which includes firewood authorisations, are reviewed annually.

As part of their annual review firewood merchants must complete a Review Questionnaire. The questionnaire has been designed to determine if a merchant is complying with their authorisation conditions.

Where a merchant is not complying with their authorisation they are sent a warning letter from Environment ACT indicating that they must comply with the conditions of their authorisation. Any complaints received from the public or issues identified by Environment ACT are also considered in the annual review.

(3) As a significant component of the AM firewood sales do not occur at a fixed business location no inspections have been carried out since the introduction of the licensing scheme. However Environment ACT staff will be undertaking an audit program of ACT based wood yards over the coming months.

(4) As outlined in (2) above information collected from a merchant as part of their annual review is considered in the decision about continuation of their authorisation. Environment ACT investigates any complaints it receives and takes action in line with its enforcement policy. The policy is based around an education philosophy, that is first offence - education, second offence - education and a warning of legal action and third offence - a brief of evidence is prepared and the matter is referred to the ACT Government Solicitor for possible legal action. This process is varied if the particular circumstances warrant. In response to the only formal complaint Environment ACT has received an investigation was undertaken and the merchant informed of the need to comply with the conditions of their authorisation.

(5) Once Environment ACT becomes aware of a person selling firewood without an authorisation they are contacted immediately and directed to cease operating until they are authorised by the EPA. This applies equally to commercial operators as well as individual householders who are attempting to sell timber that has resulted from tree pruning or removal operations.

Action in line with the enforcement policy outlined in (4) would be taken if a merchant continued to sell wood without an authorisation.

In terms of advertising Environment ACT has contacted the Canberra Times who have agreed not to take any advertisements from unauthorised merchants. Prior to this Environment ACT used to audit the For Sale section of the Canberra Times to ensure that there were no unauthorised merchants advertising firewood for sale.

(6) In addition to the authorisation conditions set by Subregulation 39A(l)(g) Environment ACT has included an annual report requirement in each authorisation. Under Condition 4 of their authorisation each merchant must provide an annual report to Environment ACT by 31 January following each reporting year using a fixed reporting template. The reporting year covers the period 1 January to 31 December.

The merchant is required to report the amount of wood they sold for all transaction during the year by set geographic regions and whether the source of the timber was plantation or non-plantation. This information is required for retail and wholesale transactions. This information is available from Environment ACT.

(7) No addition resources have been allocated for the authorisation of firewood merchants. Environment ACT currently administers 317 authorisations of which 27 are for the sale and supply of firewood.

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