# DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

## HANSARD

12 December 2002

**Thursday, 12 December 2002**

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The Assembly met at 10.30 am.

*(Quorum formed.)*

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

## Justice and Community Safety Legislation Amendment Bill 2002 (No 2)

**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) (10.34): I move:

> That this bill be agreed to in principle.

Mr Speaker, the Justice and Community Safety Legislation Amendment Bill 2002 (No 2) is the seventh bill in a series of bills dealing with legislation within the justice and community safety portfolio. The bill makes a number of substantive as well as technical amendments to portfolio legislation. The substantive amendments are as follows.

The Administration and Probate Act 1929 presently allows for grants of probate sealed and issued by a court of another state or territory of Australia, or of a Commonwealth country, to be resealed in the ACT. The amendment will overcome the difficulty created when Hong Kong returned to Chinese rule on 1 July 1997, thereby ceasing to be a member of the Commonwealth. Furthermore, the amendments will also allow for other jurisdictions to be added as necessity arises.

The amendment to section 35 of the Consumer Credit (Administration) Act 1996 clarifies that finance brokers can only demand, accept or receive commissions from borrowers after the credit has been provided, and are free to accept commissions from the finance industry. The disciplinary powers contained in the Consumer Credit (Administration) Act have also been amended to ensure that these powers can also be exercised against credit providers that are exempt from registration but who are still required to comply with the code, and providers who are unregistered and trading illegally.

The amendments to the Fair Trading Act 1992 replace the current pyramid selling provisions with the model legislation that was recently developed at a national level, in which the ACT participated.

The amendments to the Fair Trading (Consumer Affairs) Act allow the Commissioner for Fair Trading to adopt, by disallowable instrument, product safety orders made by the Commonwealth minister. There are currently a substantial number of product safety orders made by the Commonwealth minister that cannot be enforced by the territory.

The Building Act 1972 and regulations require the Fire Commissioner to be consulted regarding fire protection for any building works, and for the Fire Commissioner to give written evidence that the building works meets the building code's requirements regarding fire protection. However, the Fire Brigade Act 1958 and regulations did not provide a power for the Fire Commissioner to assess building works for compliance, or require the Fire Commissioner to provide written evidence of the compliance. The Fire Brigade Act 1958 has been amended to correct this inconsistency.

A number of amendments were made to the Juries Act 1967. Currently, only persons who have attained the age of 60 years can claim exemption, whereas all other categories are automatically exempt. The first amendment to the Juries Act 1967 is the alteration of the status for ministers of religion, editors of newspapers, household officers and staff of the Governor-General, and education professionals. Persons in these categories are no longer automatically exempt but may claim exemption from jury service.

The Juries Act has also been amended to allow two new categories of persons to be able to claim exemption. The first category is registered and enrolled nurses, recognising the important work of that profession. The second category is members of religious groups the beliefs of which are inconsistent with jury service, and this acknowledges that it is undesirable to compel people to act contrary to any beliefs they may hold.

The amendments to the Law Officer Act 1992 clarify that the functions of the Attorney-General under the act do not prevent any other person authorised by the territory, or by a law of the territory, from instituting or conducting litigation of a type referred to in section 4 of the Law Officer Act.

The amendments to the Legal Practitioners Act 1970 allow trust moneys to be banked as soon as practicable within five banking days. The amendment overcomes inadvertent breaches of the current rule requiring payment within one day, and will end a heavy burden on suburban practices created by the current time frame. The amendment also provides that money may be paid out of a trust account by electronic funds transfer.

A recent case in the AAT highlighted a deficiency with the definition of "bar-room" in the Liquor Act 1975. The practice was for a bar-room to be identified on an attached plan, due to the difficulty in describing the exact floor area of the bar within the overall plan of the licensed premises. It was held that this did not comply with the act.

Another failing of the act has been that bar-room or rooms of a premises were determined by the applicant for a licence, and the licence holders altering their premises. As the act contains offences to which the bar-room area is pivotal, this has been found to be inappropriate. The amendments change the act so that areas of a premises to be regarded as a bar-room are now determined by a relevant decision-maker, and the definition of "bar-room" no longer needs to be stated within the licence.

The Magistrates Court Act 1930 amendment will allow infringement notices to be issued for all offences, whereas previously offences for which a penalty of imprisonment could be imposed were excluded. It is expected that this amendment will improve the effectiveness of a number of provisions in ACT legislation and will ease the burden on the courts.

The Public Trustee has limited power to handle and apply funds of a person under disability, which includes those under 18 years of age, those who are of unsound mind, and those who are incapable. Unlike the New South Wales Public Trustee, at present the Public Trustee for the territory cannot advance maintenance funds to a parent of a person under a disability unless full receipts and accounts are provided by the parent. The amendment provides the Public Trustee with a more streamlined process for administering funds for people under a disability, permitting payments to persons, such as a parent, "for the maintenance, education, advancement or benefit" of a person under disability.

The Magistrates Court Act 1930 contains a provision which permits the registrar to discover information from government agencies concerning the address of a specified person who is liable to pay a fine. Surprisingly, the Supreme Court Act does not have a similar provision, so the amendment to the Supreme Court Act rectifies this situation.

The Trustee Act 1925 amendments require charitable trustees to consider written advice provided to them by a person who may be beneficially entitled under the trust. This will ensure natural justice is given by trustees when administering such a trust. Also amended are the circumstances in which a person may make an application to the Supreme Court in the event of a breach of a charitable trust, along with the powers of the Supreme Court to appoint a new trustee, and to provide rules for dealing with trusts that refer to unincorporated associations. The final amendment to the Trustee Act 1925 gives the minister the power to require a charitable trust to provide details of the activities of the trust, and a certified audit of the books and accounts of the trust, to enable appropriate public scrutiny.

Mr Speaker, as with previous portfolio bill amendments, the government is confident that these amendments will lead to more accessible and up-to-date legislation.

I commend the bill to the Assembly.

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

## Security Industry Bill 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) (10.41): I move:

> That this bill be agreed to in principle.

Mr Speaker, the Security Industry Bill 2002 (the bill) has been developed to regulate the ACT security industry. The ACT security industry employs approximately 2,000 Canberrans and is estimated to be worth $60 million per annum. Since 1998 it has been unlawful to work within the industry without registration under one of the five codes of practice supported by the Fair Trading Act 1992. The codes are co-administered by the Office of Fair Trading and the Australian Capital Territory Security Protection and Investigation Industry Council Inc (ACTSPIIC).

The five codes regulate the following sectors of the industry:

- access control (installation of physical or electronic devices, electronic alarms, closed circuit TV or other electronic surveillance systems and locksmiths);

- bodyguards (provision of close personal protection);

- cash transit (transportation of cash, precious stones and the like);

- crowd marshals (monitoring and control of people in public places and at major events; and

- guard and patrol (monitoring and safeguarding of property).

ACTSPIIC reviewed the codes in 1999 and highlighted public safety issues associated with the continued participation in the industry of unregistered employees and principals. In response to these concerns, a national competition policy review of the codes was undertaken in 2001. The national competition policy review of the ACT security industry recommended that the ACT consider the adoption of a regulated licensing model for the ACT security industry. The national competition policy review also noted the urgent need for training and development of competencies in the industry.

Another difficulty with the regulation of the security industry is that members of the ACT security industry are eligible for licensing interstate under the Mutual Recognition Act 1992, although the requirements for entry into the industry are significantly lower in the ACT. This has caused significant concern for other jurisdictions and has highlighted the lack of regulation of this industry in the ACT.

Mr Speaker, this bill is based on the New South Wales Security Industry Act of 1997 and it will replace the existing ACT codes of practice. The bill provides a framework for regulation of the ACT security industry, with the specific requirements for the security industry to be included in the regulations.

The objectives of the proposed legislation are:

- to enhance compliance activities, primarily through the introduction of offences, including for unlicensed principals and employees in the industry;

- to bring the ACT into line with other Australian jurisdictions;

- to clearly outline and monitor standards;
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- to impose mandatory training;

- to clarify the provisions for dealing with breaches of standards; and

- to prevent persons from commencing employment prior to the outcome of a criminal record check.

Parts 1 and 2 of the bill deal with preliminary matters and also provide definitions of key terms for the bill. The term "security activity" is defined in clause 7 and it sets out the activities that will be regulated by the bill. The term "security activity" includes: bodyguards, crowd controllers, guards, installers and repairers of security equipment, people who give advice on security or security equipment, people who train in any of these sectors of the industry, or people who employ people to provide these services.

Part 2 of the bill exempts people who sell self-install security systems, people who cut unrestricted keys, and builders who install locks. The bill excludes these people from requiring licensing and regulation as part of the security industry as these people do not have the same free access to enter private premises or to confidential information and do not directly protect people or property.

Part 3 of the bill provides for licensing of employers, employees, trainers and apprentices in the security industry. The Commissioner for Fair Trading will continue licensing this industry. Part 3 of the bill also deals with disciplinary action. The bill gives the power to the consumer and trader tribunal to cancel or suspend licences in certain circumstances, such as where a licensee has committed an offence. A bill to establish the consumer and trader tribunal will be introduced in the Legislative Assembly in early 2003.

Part 4 of the bill sets out offences. There are offences for:

- contravening the conditions of a licence;

- failure to return a suspended or cancelled licence;

- unlicensed people advertising that they can perform a security activity;

- failing to produce a licence when asked by a police officer or an investigator;

- employees failing to wear their licence;

- giving the licence to someone else to use;

- delegating the functions under a licence to someone who is unlicensed; and

- master licensees employing unlicensed people.

Part 5 of the bill deals with a range of miscellaneous matters, including requiring the Commissioner for Fair Trading to keep a register of licences and allowing me to direct security employers as to the taking out of insurance or risk management strategies.

Part 6 deals with transitional matters. The bill will impose a cost on the ACT security industry by permitting the regulations to impose training requirements. The training requirements will be based on new national training standards that have been developed by the Australian National Training Authority in consultation with the industry.

To minimise the costs of the legislation on the industry, existing members of the industry will be given at least a year to comply with the new training requirements. The bill also provides for recognition of prior learning and experience. However, new applicants wishing to enter the industry will be required to complete the new training course prior to the issue of a licence.

Mr Speaker, the department has consulted widely on this bill, including discussions with the regulators in New South Wales, Victoria, Western Australia and the Northern Territory. Consultation has also occurred with a representative group of employers in the industry, including the larger employers such as Chubb and a range of smaller employers. All licensed ACT security employers were invited to a public meeting to discuss the reforms and take part in the process.

My department has consulted with security industry associations, including the Master Locksmiths Association, the Institute of Security Executives and the Australian Security Industry Association Ltd. The Australian Security Industry Association Ltd recently wrote to me regarding this bill and I would like to conclude by reading part of that letter:

> ASIAL congratulates your government upon its initiative to introduce the Security Industry Bill 2002 into the Territory. This Bill will further strengthen and push for uniformity and consistency of security legislation around the country, and is supported by the industry, subject to satisfactory Regulations, yet to be determined ... We have been pleased to be an integral part of the consultative process, and wish a speedy and smooth passage of the Bill through the Assembly. Furthermore, we anticipate working closely with you on the Regulations in support of the Bill.

Mr Speaker, my department will continue to consult with industry and other jurisdictions as the regulations are developed.

I commend this bill to the Assembly.

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

## Legislation (Gay, Lesbian and Transgender) Amendment Bill 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) (10.48): I move:

> That this bill be agreed to in principle.

Mr Speaker, I am introducing today the Legislation (Gay, Lesbian and Transgender) Amendment Bill 2002, and later today I will be tabling the related issues paper *Gay, Lesbian, Bisexual, Transgender and Intersex People in the ACT*.

It is my government's belief that all people are entitled to respect, dignity and the right to participate in society and to receive the protection of the law regardless of their sexual orientation or gender identity. In early 2002 I requested the Department of Justice and Community Safety to develop a comprehensive law reform proposal to give effect to these principles.

The Legislation (Gay, Lesbian and Transgender) Amendment Bill 2002 is the first stage of a law reform process to address discrimination on the basis of sexuality or gender identity in the ACT. The Department of Justice and Community Safety has reviewed all ACT legislation to identify provisions that discriminate against same-sex couples or against transgender people or intersex people. The review identified some 70 acts and regulations containing provisions that potentially discriminate against gay, lesbian, transgender and intersex people, and that may need amending.

Because of the number and range of issues identified in the review, amendments to address discriminatory aspects of ACT legislation will proceed in two stages. This bill forms the first stage of this process. It contains the more straightforward amendments. By inserting into the Legislation Act 2001 definitions of "domestic partner", "domestic partnership" and "transgender person", the bill provides consistent and inclusive terms for use across all ACT legislation and statutory instruments.

The bill amends a number of other acts and regulations that currently are discriminatory, for no real reason of policy, towards people in same-sex relationships or transgender people. In itself this is a step towards achieving equality for all in the ACT community.

In general, the amendment allows people in same-sex partnerships to be treated in the same way as people in opposite sex partnerships. As a marriage creates a special legal relationship, the term "spouse" retains its usual legal meaning of a person who is in a legal marriage with another person. The bill also contains a number of amendments that provide for transgender and intersex people to self-identify their gender where a provision requires that a search of a person be carried out by a person of the same sex.

The second stage amendments will address the more complex issues. Matters that will be dealt with in stage two include:

- issues that are legally complex (including matters relating to parenting and children, such as recognising the same-sex partner of a birth mother as a parent of a child;

- issues that present significant administrative difficulties (such as identifying an alternative process where legislation relies upon discriminatory Commonwealth definitions or where the legislation is part of an agreed national scheme); and

- issues that are likely to be the subject of particular community interest.
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The issues paper that I will be tabling today canvasses questions about the way ACT law deals with gay, lesbian, bisexual, transgender and intersex people. The paper forms part of the second stage of the government's law reform process aimed at addressing discrimination on the basis of sexuality or gender identity. The aim of the issues paper is to ensure that policy development on those issues takes into account community and stakeholder views. The government will consult on these issues before deciding on the most appropriate way to progress these matters, and the issues paper is intended to serve as a focus for that community consultation.

The issues paper contains a brief survey of issues for the purpose of stimulating community debate. It is not a comprehensive statement of the law, nor should it be taken to be a definitive statement of the ACT government's position on any of these matters. In line with the government's law reform objectives, the issues paper examines issues of discrimination on the basis of sexual orientation and issues of discrimination on the basis of gender identity.

A number of questions are posed in the paper, with responses from all members of the community being invited. Consultation on some of the matters in the issues paper, such as the possibility of civil unions for same-sex couples or issues around parenting rights, will almost certainly elicit strongly felt responses from both ends of the spectrum. Some members of the community may view these matters as being highly controversial, whereas others will simply see them as basic and fundamental issues that should have been addressed long ago. The government will not shy from exploring these important issues and seeking the full range of views within the community simply because it might be a difficult process.

The government is not alone in moving towards legislative recognition of same-sex partnerships. Western Australia has recently passed legislation to recognise parentage roles where same-sex couples have a family through artificial fertilisation procedures or adoption. I understand that Tasmania is also considering legislation to give equality of recognition to same-sex couples. Several states of the United States have legislated to allow same-sex civil unions, as has the Netherlands. The Canadian government is considering legislation and several of the Canadian provinces have already passed laws relating to same-sex unions. In the United Kingdom the government is also preparing to consult on recognition of same-sex legal unions. In the ACT we must give mature consideration to these issues of equality if our community is to stay in touch with what is happening in other communities.

The issues paper will be circulated to various stakeholder groups. Other interested members of the community are encouraged to read and comment on the paper, which will be freely available in hard copy and will be on the government website. Pamphlets summarising the issues and drawing attention to the issues paper will be distributed to a range of venues in order to stimulate interest in this consultation.

The issues paper is very readable and I encourage all members of the ACT community to look at it and give their input to this significant consultative process. Further targeted consultations will occur with key stakeholders in early 2003. The results of the public consultation will be fed into the government's report to the Assembly and will also be used in the development of amendments that will be introduced to complete the second stage of this law reform process. The timing of these amendments will depend on

whether the Legislative Assembly refers the government's report to a standing committee for consideration.

This is a very important initiative for the government. I look forward to being able to work with members to finally ensure that the essential basic human beliefs of respect, dignity and the right to participate in society are equally available to all members of our community.

I commend the bill to the Assembly.

Debate (on motion by **Ms Dundas**) adjourned to the next sitting.

## Duties Amendment Bill 2002 (No 2)

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

Title read by Clerk.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming and Minister for Police, Emergency Services and Corrections) (10.56): I move:

> That this bill be agreed to in principle.

Mr Speaker, the Duties Act 1999 was developed under the Stamp Duties Rewrite Project undertaken by New South Wales, Victoria, South Australia, Tasmania and the ACT. The project aimed to produce stamp duty legislation which was contemporary in language and presentation, simple to administer and, where possible, consistent across participating jurisdictions. Since its introduction on 1 March 1999 several amendments have been made to the Duties Act in line with amendments made to the New South Wales Duties Act to maintain these aims.

The Duties Amendment Bill 2002 amends the Duties Act to incorporate four relevant changes already made to the New South Wales act and also other changes specific to the ACT. The first concerns the duty exemption which currently applies to the transfer of interests in shares or units if the share or unit is quoted on the stock exchange. This duty exemption is now extended to cases where the interest (rather than the share or unit), is quoted on the stock exchange.

The second provision clarifies the method of determining the dutiable value of business assets with a connection outside the territory, including those outside Australia. The amendment ensures that duty is now charged on the value of a business asset attributable to the sales made only to territory customers.

Thirdly, the bill limits concessional rates of duty available for certain transactions to superannuation funds or trusts to cases where the transfer is from a trustee or custodian of a relevant fund. This ensures that a transfer from any other person does not qualify for concessional duty.

The fourth amendment relates to the current prohibition on the registration of instruments where duty has not been paid. Provisions in this bill extend that prohibition to also apply to dutiable transactions (where there may not be an instrument) and to cases where the transfer is made by electronic means.

In addition, Mr Speaker, this bill also provides for an amendment that is not in line with the New South Wales Duties Act. This amendment relates to share buybacks by unlisted public companies. It should be noted that the ACT exemption for the buyback of shares is limited to public companies and, in this way, has differed from the New South Wales provision since the commencement of the Duties Act.

The other major difference is that the New South Wales definition of "transfer" does not include a reference to a buyback of shares whereas the ACT definition of "transfer" includes a buyback of shares and, as such, all buybacks are liable to duty.

When the Duties Act was introduced, the buyback of shares in a territory company, which was a listed public company, was intended to be exempt from the duty under certain conditions. However, the word "listed" was not included in the provision and the current exemption is broader than intended and applies to all public companies.

To correct this omission and implement the original intention it is no longer necessary to make the buyback of shares for a "listed" public company exempt from duty. Such an exemption would be ineffective as all duty on the transfer of quoted marketable securities was abolished from 1 July 2001.

This bill, Mr Speaker, removes the exemption for the buyback of shares so that an unlisted public company is no longer exempt from duty. This is in line with the original policy intention and the removal of the exemption has no impact upon the buyback of shares in a private company which was, and continues to be, liable to duty.

There are two other provisions in this bill, Mr Speaker. The Commissioner for ACT Revenue already has the power to have property valued if he/she is not satisfied with the valuation provided, and to pass the cost of obtaining that value on to the lessee. The provisions in this bill extend the commissioner's power, under certain conditions, to include obtaining a valuation as at the time a Crown lease is granted, and to recover the cost of obtaining such a valuation.

Another provision ensures that duty is only charged on the additional land when the previous lessee is regranted all or part of surrendered land along with the additional land.

Mr Speaker, I commend the Duties Amendment Bill to the Assembly, and I am sure everybody is much clearer on its intent after what I have just said.

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

## Taxation (Government Business Enterprises) Bill 2002

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

Title read by Clerk.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming and Minister for Police, Emergency Services and Corrections) (11.01): I move:

> That this bill be agreed to in principle.

Mr Speaker, the Taxation (Government Business Enterprises) Bill 2002 gives effect to the territory's commitment to national competition policy as applied to the territory's business entities. A key aspect of national competition policy is agreement by all state and territory governments to apply the principles of competitive neutrality to their significant business enterprises. In general, the principle of competitive neutrality aims to ensure that government entities should be subject to the same taxes and regulatory regime as their private sector competitors.

The bill will do two things. Firstly, the bill will give legislative effect to a memorandum of understanding which was signed by all states and territories in 2001 for the implementation and administration of the national tax equivalent regime, which deals with liability to pay income tax. Government business enterprises do not pay income tax as such, but the income tax equivalent regime establishes a scheme which requires designated government businesses to pay income tax equivalents as if they were private sector businesses. The scheme is administered by the Australian Taxation Office in cooperation with the ACT Revenue Office. In the ACT, territory-owned corporations will be subject to income tax equivalents.

Secondly, the proposed legislation will provide a simple, transparent and open system to determine and identify those government business entities which will be liable to pay all territory taxes—for example, rates, land tax, payroll tax, and stamp duty. Currently, the framework governing the liability of ACT government business entities to pay territory taxes is inconsistent and somewhat haphazard. The executive will prescribe by regulation those entities which are to be subject to the two tax regimes. A number of enterprises will be subject to both schemes and some will be liable to pay only territory taxes. Also, some entities may be directed by notifiable instrument to pay a limited number of territory taxes.

The bill will not only provide a more robust and transparent framework, but also ensure a degree of flexibility. As government business entities change, the minister can add and delete government businesses from the scheme. The lists of those businesses subject to various tax regimes will be able to be amended by regulation or notifiable instrument.

The bill also includes a number of consequential amendments which remove the liability for a number of ACT government entities to pay Commonwealth income tax equivalents, as currently provided in their enabling legislation; omit the reference to the liability to pay territory taxes in the enabling legislation of various entities as this liability will be specified, where appropriate, in the regulations that will follow this bill; amend the

Payroll Tax Act 1987 to specify how payroll tax is to apply to government business enterprises; and amend part 5 of the Territory Owned Corporations Act 1990, which deals with income tax equivalents and including the requirement of government corporations to pay wholesale tax equivalents which no longer operates.

While the legislation is retrospective, as the commencement date is 1 July 2002, the territory agencies affected by the tax arrangements were notified in May and June of this year of the intended revised tax liability arrangements. This bill will provide a clear and consistent regime to determine and administer the application of tax equivalents to ACT government businesses and ensure our commitment to a fair, equitable and competitively neutral framework for government and private business.

I commend the bill to the Assembly.

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

## Community Based Sentences (Transfer) Bill 2002

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

Title read by Clerk.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming and Minister for Police, Emergency Services and Corrections) (11.06): I move:

> That this bill be agreed to in principle.

Mr Speaker, this bill establishes a scheme that will be trialled with one other jurisdiction for the transfer, registration and enforcement of community-based sentences between jurisdictions. Following the completion of a short trial, evaluation of the scheme and subsequent discussion and agreement by jurisdictions, similar legislation will be enacted in each Australian state and territory. The ACT has carriage of this project and will participate in the trial of the legislation with New South Wales.

The scheme allows for the formal transfer of the supervision and administration of community-based sentences from one jurisdiction to another, with the voluntary consent of the particular offender. The orders that will be affected by the scheme in this jurisdiction are community service orders, recognisances, home detention orders, and periodic detention orders.

The project of developing legislation suitable for the formal reciprocal transfer and enforcement of community-based sentences between jurisdictions has been ongoing since 1996. Since that time, ACT Corrective Services has worked in close consultation with members of a working group comprised of representatives of each Australian state and territory, other relevant agencies and the ACT Parliamentary Counsel's Office on the development of a suitable legislative model.

In 2000, ACT Corrective Services was given the task of drafting legislation suitable for this purpose by corrective services ministers. The ACT has accordingly drafted this bill as model legislation for implementation in all Australian states and territories. The scheme established by the legislation will be trialled initially between the ACT and one other jurisdiction, as I have already said, for a short period to establish suitable administrative processes for the efficient running of the scheme.

The bill formalises a process that already occurs between all Australian jurisdictions whereby offenders with certain non-custodial sentences are able to have their order supervised and administered informally in a new jurisdiction. There are many reasons that offenders may wish to move to a new jurisdiction. Notable reasons may be proximity to improved family and community support or the prospect of increased choice of employment or study opportunities.

In a number of respects, the current scheme is less that ideal. Critically, limited opportunities exist for acting in the case of an offender who does not comply with their sentence. Currently, if an offender breaches a community-based sentence while in a new jurisdiction, they remain accountable to the original sentencing jurisdiction. Extradition procedures are required to return the offender to the original jurisdiction if the offender does not return of their own volition, which can involve the expenditure of significant time, money and effort. To address this shortcoming in the current arrangements, the bill ensures that, while offenders with non-custodial sentences remain able to move to a new jurisdiction, they will be held accountable by the new jurisdiction if they breach their sentence, thereby releasing the original jurisdiction from its obligations.

This bill will achieve two primary goals. Firstly, the scheme will continue to allow offenders to transfer the supervision and administration of a community-based sentence to a new jurisdiction. This will promote freedom of movement and will maximise the access that offenders have to suitable services and support. Secondly, the scheme increases the offender's accountability to the conditions of their sentence. Allowing transfer to a new area in which the offender has good support has been shown to increase the chances of the offender fulfilling the order.

Offenders who successfully complete a community-based sentence are diverted from the prison system and encouraged to participate in treatment programs that may produce positive rehabilitative results and promote a positive reintegration into the community while reducing the chance of the prisoner reoffending.

The transfer scheme will operate through a local authority, which will be a public servant nominated and appointed by the chief executive of each jurisdiction. The authority will be the central contact point for all requests for transfers to and from that particular jurisdiction. A register of transferred orders will be established to record all necessary details of the offender, the offence, and the community-based sentence. The scheme will operate in much the same way as that established by the ACT Parole Orders (Transfer) Act 1983 and related interstate legislation.

This legislation specifies a number of requirements related to form and process. These include the way in which requests for transfer must be made by the designated authority for the original jurisdiction and the information that must accompany a request for it to be considered. The bill also outlines certain criteria that the authority must be satisfied

about before accepting the transfer. These include matters such as whether the offender's sentence can be safely, efficiently and effectively administered and supervised in the new jurisdiction. This consideration will take into account issues of safety of the community and of individuals, including victims, where relevant and known.

The legislation seeks to ensure that the offender is told of the consequences of transferring their order. The primary consequences will be that the offender will be treated by the new jurisdiction in the same way as if they had received the sentence in the new jurisdiction, for purposes of administration of their order. This remains the case if the offender does not comply with the conditions of their order. In this case, the offender will be brought before a court of the new jurisdiction and resentenced.

The court may, however, refer to the penalty range and type that the offender would have been subject to in the original jurisdiction had they not transferred their order. This is to ensure that offenders cannot seek to avoid obligations by transferring to jurisdictions in which the penalties for breach may be more lenient than in the original sentencing jurisdiction.

The exemption to the offender being treated in the new jurisdiction as though the sentence was handed down in the new jurisdiction is with regard to any appeal for review. The rights of offenders who have transferred their order under this legislation to seek an appeal on their conviction or the sentence relating to that conviction will be retained in the bill, such that offenders seeking an appeal or review will do so in the original jurisdiction. In the event that such an appeal is successful, the revised sentence and/or conviction will be communicated to the authority of the new jurisdiction to ensure that all records maintained are correct, and that the offender is supervised and administered accordingly.

The government believes that this bill is pivotal legislation that highlights the ACT's robust contribution to the corrective services framework nationally and assists in framing a cohesive national approach to corrective services provision and enforcement. The government encourages early passage of the bill to ensure prompt and efficient implementation of the scheme.

Mr Speaker, I commend the bill to the Assembly.

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

## Cemeteries and Crematoria Bill 2002 (No 2)

**Mr Quinlan**, on behalf of **Mr Wood**, presented the bill and its explanatory statement.

Title read by Clerk.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, and Minister for Police, Emergency Services and Corrections) (11.16): I move

> That this bill be agreed to in principle.

Mr Speaker, as prophesied by Mr Wood three days ago, this bill has risen again. Today, I have the pleasure to bring to the Assembly the Cemeteries and Crematoria Bill 2002 (No 2). The revisions address concerns raised during previous discussions of the bill in the Assembly, amendments proposed by the Greens, and other concerns raised by Norwood Park, Canberra Cemeteries Trust and the department of anatomical pathology at the Canberra Hospital.

The Assembly has debated the need for perpetual tenure of graves. The bill has been revised to ensure perpetual tenure of graves by giving someone the right of burial or the right of interment of ashes which lasts forever. This is based on an amendment proposed by Ms Tucker that has been revised by the government to allow for withdrawal of perpetual tenure if the right of burial is not used within 60 years.

This revision is to avoid the problem which can occur if people prepurchase a right of burial and then do not use the site. In 2001, New South Wales had up to 30,000 unused grave sites in Sydney crown cemeteries as a result of this problem. The revised bill is proposing the same approach to dealing with perpetual tenure and unused burial rights, as in New South Wales.

The Department of Justice and Community Safety and the department of anatomical pathology at the Canberra Hospital suggested that the previous bill needed to be changed to specifically allow for foetuses to be buried or cremated. Under the previous bill, the definition of human remains included stillborn children but not foetuses.

Mr Speaker, it is appropriate that foetuses be treated separately to stillborn children and other human remains because in some cases, such as abortions, foetuses are disposed of as clinical waste, whereas in other cases, such as miscarriages, parents would prefer to have their foetuses buried or cremated. Therefore, revisions have been made to the bill to allow for the burial or cremation of foetuses without making it compulsory. The regulations will allow for individual cremation and burial of foetuses as well as group cremation of foetuses, as currently practised by the Canberra Hospital.

Norwood Park had concerns about the previous bill because the perpetual care trust did not necessarily meet all the elements of the new definition of a charity that the Commonwealth government will be adopting. Therefore, one of the revisions in the new bill is to clarify the charitable status of the perpetual care trust by adding the term “not for profit”. This will help to ensure that the perpetual care trust will be defined as a charity and will be eligible for taxation concessions.

Ms Tucker drafted two amendments to the bill to deal with the composition of the cemeteries board. The first amendment increased the minimum size of the board to four members. The second amendment required the board to include at least four members who, in the minister’s opinion, represent both the general community and religious denominations. The government accepts these amendments and they have been incorporated into the revised bill.

In previous discussion on the bill, Ms Dundas expressed concern about the practicality of the exhumation decisions of the Chief Health Officer being a disallowable instrument. The bill has been revised to remove the need for a decision of the Chief Health Officer to be a disallowable instrument and allows the Chief Health Officer to give permission,

either conditionally or unconditionally, if he or she is satisfied that it would not be contrary to the interests of public health. Since the permission and conditions would be based on the Chief Health Officer's professional medical judgment, it is not appropriate that these decisions be disallowable instruments.

Mr Speaker, when the scrutiny of bills committee examined the previous bill, it was noticed that the right to apply for a review of a refusal to permit burial other than in a cemetery was given to the operator rather than the person who would normally ask for permission. The revised bill corrects this error.

One of the recent changes to the Land (Planning and Environment) Act 1991 was to move the definitions from section 4 to the dictionary. This has resulted in a minor change to schedule 1 of the Cemeteries and Crematoria Bill 2002 (No 2) so that the definition of cemetery is inserted into the dictionary instead of section 4.

Recent consultation with Norwood Park and Canberra Cemeteries Trust has revealed that Norwood Park is not required to issue cremation permits and Canberra Cemeteries Trust only uses the burial permits as a formality. One of the revisions to the new bill has been to delete references to burial or cremation permits and replace these references with a requirement to comply with the regulations. This will enable the new ACT Public Cemeteries Board to streamline its paperwork and reflect current practice at Norwood Park.

A further change to the bill, initiated by the Greens, is to make the decision of the minister to appoint the board as the operator of a public cemetery or cremation a disallowable instrument. This will mean that any new appointments or changes to the existing appointments will be brought to the Assembly's notice. The only other changes that have been made to the bill have been made to the wording of the offences so that they comply with the criminal code.

Mr Speaker, I commend the bill to the Assembly.

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

## Hawkers Bill 2002

**Mr Quinlan**, on behalf of **Mr Wood**, presented the bill and its explanatory memorandum.

Title read by Clerk.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming and Minister for Police, Emergency Services and Corrections) (11.22): I move:

> That this bill be agreed to in principle.

Mr Speaker, I bring to the Assembly the Hawkers Bill 2002. In October 1999, the Department of Urban Services commissioned the Allen Consulting Group to undertake a national competition policy review of the Hawkers Act 1936. The review made

14 recommendations for legislative reform on hawkers and 12 of the 14 recommendations have been adopted in this bill. The two recommendations that were not adopted were removal of the 180-metre exclusion zone and having a negative licence scheme for mobile hawkers.

The regulation of hawkers through this bill is focused on the appropriate allocation of public space for hawking, taking into account impacts on third parties. The impacts on third parties include public safety, the flow of human and vehicular traffic, access to businesses, access to adequate public amenities, such as toilets and rubbish bins, and the appearance or amenity of community open space.

All hawkers must minimise any impact that they have on third parties. In addition, hawkers that are stationary for longer than half an hour will need a licence. This licence will include permission to stand in a public place and will replace the licence and permit needed under the Hawkers Act 1936. A licence may only be refused if the hawker does not minimise the impact they will have on third parties or they have previously contravened the act or committed offences relating to stolen property under the Crimes Act 1900. This means that under the bill there are no character restrictions, no minimum age requirements, and no limitation to the number of people who may be hired by a hawker, which are restrictions under the current Hawkers Act 1936.

A hawker may not operate within 180 metres of a shop, unless they have a ministerial exemption to this exclusion zone. This exclusion zone is in place under the current Hawkers Act and will continue to ensure that hawkers do not compromise pedestrian safety or parking, particularly near suburban shops which are relatively confined areas and public thoroughfares. The reason for the minister giving an exemption for a hawker to operate within 180 metres of a shop will be determined in a disallowable instrument which must be notified and presented to the Assembly.

The regulation of health, liquor and contraband goods currently undertaken in the Hawkers Act 1936 are not dealt with in this bill and is appropriately left to other legislation, such as the Food Act 2001, the Tobacco Act 1927 and the Liquor Act 1975. The implementation of the recommendations from the national competition policy review has resulted in a bill that provides for greater flexibility, equity and competitiveness for hawkers, but does not disadvantage the public or other shopkeepers.

I commend the bill to the Assembly.

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

## ACTION Authority Amendment 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 Services, Minister for Planning and Minister for Industrial Relations) (11.26): I move:

> That this bill be agreed to in principle.

The ACTION Authority commenced operations on 1 January 2002, providing independent governance and employment arrangements for a business that had previously operated as a fully integrated part of the ACT public service.

The government is committed to a bus service for Canberra that continues to provide high-quality services to the community in an efficient manner and a critical element in providing this level of service is a unified and committed work force. For this reason, the government was keen to ensure when the authority was established that employees transferred over on the same terms and conditions as they enjoyed prior to the new arrangements. There are certain provisions in ACTION's legislation that are designed to ensure just that.

During 2002, a detailed review of the actual wording of the legislation resulted in a number of anomalies being identified which could have meant that some employees did not have all entitlements preserved and that new employees would not be treated equally with existing employees. While the legislation was effective in ensuring the preservation of entitlements when employees transferred to ACTION, it was less effective in three other ways.

Firstly, the legislation as it stands does not ensure that the rights of mobility back to the ACT public service are the same as those for other public servants. Although ACTION employees would be entitled to apply for jobs in the ACT public service and be assessed on their merits, some of the detailed arrangements that apply under the public service legislation would not be available to ACTION employees.

Secondly, if an ACTION employees does at some time return to the public service, there is no guarantee that their service with ACTION will be counted in determining some entitlements, such as redundancy payments. This could leave an employee in this situation out of pocket. Thirdly, it is likely that the superannuation arrangements available to existing employees will not be available to new employees if they are not public servants, because of the rules applying to the Commonwealth superannuation schemes that are currently used.

Mr Speaker, I believe and the government believes that ACTION cannot achieve a committed and unified work force if some employees inadvertently lose some of their terms and conditions in this way and if new employees are treated differently from existing employees. The government had a number of options to deal with this situation, including legislation, changing existing industrial agreements, and altering some of the detailed management standards that apply to public servants.

Mr Speaker, the only solution that covered all the identified issues in a comprehensive and effective yet simple way was to make it absolutely clear, in legislation, that ACTION employees were ACT public servants. In other words, they were employed under the Public Sector Management Act. In this way they would enjoy the mobility entitlements, the recognition of service with ACTION, and access to superannuation arrangements on the same basis as other public servants.

Further, the government wanted to ensure that there would be no unintended consequences, possibly many years into the future, resulting from a time gap between the establishment of the authority and the passing of these amendments. I would consider it unacceptable that an employee might lose all or part of an entitlement as a result of this bill. For this reason, the government proposes that the effect of these amendments applies from the commencement of the legislation in 2001. This will provide all employees with a clear period of continuous service as public servants.

The government is nevertheless aware that circumstances change and at some point in time it may be in the best interest of the ACTION authority and its workers to be employed under different arrangements, more suited to the direct business needs of ACTION at the time. For this reason, the amendments have retained a similar provision to that in the existing legislation, allowing management and staff to opt out of this arrangement by means of an improved industry agreement. Such an agreement would be the trigger for the minister at the time to declare that staff were no longer employed under the Public Sector Management Act. Having the requirement that the minister make such a declaration as a disallowable instrument means that the process will be transparent and accountable.

Finally, to achieve the government's intention, the amendment bill contains a number of provisions that ensure that any actions taken since the commencement of the act do not prejudice the basic intent to have employees covered under the Public Sector Management Act. I welcome the fact that the legislation will ensure that ACTION employees will not be in a position where they might inadvertently lose some of their entitlements. I also welcome the fact that the bill will provide more certainty in employment arrangements at ACTION, which will be to the benefit of both the authority and its employees.

Mr Speaker, I commend the bill to the Assembly.

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

## Crimes (Industrial Manslaughter) 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 Services, Minister for Planning and Minister for Industrial Relations) (11.32): I move:

> That this bill be agreed to in principle.

Mr Speaker, today I am bringing forward a bill which addresses the most serious of issues in the territory's workplaces; that is, the death of a worker caused by employer negligence or recklessness.

The objective of the Crimes (Industrial Manslaughter) Bill is to reinforce the important duties employers have to provide safe and healthy workplaces, and to ensure that employers who fail to meet these duties are held accountable if a worker dies.

These duties of care are well established through occupational health and safety legislation and through the common law. There are, however, significant problems in prosecuting employers under existing manslaughter laws, as many people are employed by corporations. At common law, a corporation is a legal person and may be prosecuted for a criminal offence to the same extent as a natural person. However, because it does not have a physical existence, a corporation can only commit an offence through its directors or employees.

In order to attribute the required state of mind and conduct to a corporation, the common law has fashioned principles of liability. Before a corporation can be found criminally responsible, an individual director or employee must be identified as the directing mind and will of the corporation and have, in effect, committed the offence. This generally requires proof of fault by a top-level manager or director and has been difficult to establish in the case of large corporations, where offences are generally only visible at the middle-management level.

Mr Speaker, the reality is that the handful of common law prosecutions of corporate employers for manslaughter that have been attempted in Australia have failed or have been ineffective. Nor do statutory criminal offences in the ACT assist. Under the Crimes Act at the moment, the only penalty currently for manslaughter is imprisonment. This penalty cannot be applied to many employers because it is not possible to imprison a corporation. It is possible to prosecute corporations for breaches of duties of care under the Occupational Health and Safety Act, but the government does not believe that it is appropriate to rely solely on these offences, which have comparatively low penalties, where an employer has caused the death of a worker.

Mr Speaker, this issue is not unique to the territory. Many other Australian governments are dealing with the issue of how to ensure corporate employers can be held responsible where their actions or conduct resulted in the death of a worker. The Victorian government attempted to legislate in this area in 2001, but the legislation was blocked by a hostile upper house.

Western Australia has conducted a wide-ranging independent review of its occupational health and safety law. The report of this review was handed down at the end of November. It calls attention to the strong community concern over the apparent lack of accountability of directors and senior officers, and recommends higher penalties for bodies corporate and senior officers, including imprisonment where duties of care have been breached through gross negligence resulting in a serious injury or death. Even the federal government has introduced legislation to ensure that senior officers of its departments can be held criminally liable where their conduct causes the death of a Commonwealth employee.

Mr Speaker, the Crimes (Industrial Manslaughter) Bill will address the situation in the ACT by establishing two new industrial manslaughter offences—one for employers and one for senior officers of employers. The employer offence is applicable to all employers, including corporate bodies. An employer will commit an offence where their reckless or negligent conduct causes the death of a worker.

The new offences will apply where a worker is killed in the course of his or her employment by an employer or, in the case of contractors and outworkers, where the worker is killed in the course of their engagement. "Worker" is broadly defined in the bill to include employees engaged under a contract of service, independent contractors, outworkers, apprentices, trainees, and volunteers.

The bill's provisions recognise the changing nature of the employment relationship in Australian society. We have seen the increasing use of contracting arrangements as a means of avoiding the obligations of employers to their employees. We have seen the intensification of competitive pressures on subcontractors, particularly in the construction and transport industries, which has the potential to undermine safety controls at these workplaces. For this reason, it is essential that the new offences can apply to people who engage workers under contracting arrangements. This bill defines workers and employers in such a way as to capture the chain of responsibility where contracting arrangements are used.

A worker may be employed under contracting arrangements where there are several layers of contracting between the head contractor and the worker. If the worker is killed, any number of principals above the worker in the contracting chain could be charged with and found guilty of the offence if it can be proved that their conduct caused the death of the worker.

It is important to understand that the proposed legislation will not impose a new liability on employers, but will enable the proper and effective prosecution of an employer whose reckless or negligent conduct has resulted in the death of a worker. It will introduce financial penalties that can be applied to corporate offenders and that are sufficiently high to have a deterrent effect on larger corporations. The offence will be subject to chapter 2 of the ACT criminal code and, in particular, the new corporate criminal responsibility provisions in the code. Very significantly, these provisions establish the concept of corporate culture.

Mr Speaker, these provisions will extend corporate criminal responsibility to cases where a corporation's unwritten rules, policies, work practices or conduct tacitly authorise non-compliance or fail to create a culture of compliance consistent with its responsibilities and duties of care. This means that corporations will be required to have management arrangements in place that positively promote safe systems of work.

The proposed senior officer offence will apply to senior officers of corporations, to executives and senior decision makers of other types of employers, such as unincorporated associations, and to ministers and senior executives of government bodies. In the case of corporations that are also government entities, such as territory-owned corporations, both senior corporate officers and senior government officers, such as ministers, may be held responsible for an offence.

The Victorian industrial manslaughter legislation contained controversial provisions regarding the vicarious liability of senior officers of corporations for the acts of the corporation as employer. These vicarious liability provisions, which included a reduced standard of proof than normally applies to criminal offences, attracted considerable criticism and opposition.

The Crimes (Industrial Manslaughter) Bill does not establish vicarious liability for senior officers. Senior officers would only be held responsible for the death of a worker where their reckless or negligent conduct causes the death of a worker. I would be surprised if there was anyone in our community who would not wish to see persons who hold responsibility for ensuring the safety of workplaces prosecuted if it could be proved that they were directly negligent or reckless, with the result that a worker was killed.

The bill being introduced today is part of a broad occupational health and safety compliance and enforcement strategy. Through ACT WorkCover, the government is promoting and improving health and safety in the territory's workplaces. ACT WorkCover is tasked with providing information and advice to support employers and persons in control of workplaces in understanding their duties and meeting their responsibilities.

Promoting compliance through education and information is a major focus for the government, and rightly so. But this must be appropriately balanced with a strong commitment to the enforcement of occupational health and safety laws. Effective enforcement requires significant deterrents and the capacity to properly prosecute where employers do not do the right thing.

It is the government's view that no enforcement strategy will be credible without substantial penalties to act as deterrents. The penalties proposed in the bill are high, but not unreasonable for these very serious criminal offences. The maximum penalty will be 25 years imprisonment or a fine of $250,000 for an individual. For corporations, the maximum fine will be $1.25 million. Courts will also be able to order corporate offenders to take specified actions, such as publicising the offence and any penalties imposed in the media, notifying shareholders, and carrying out projects for the public benefit—similar to community service for individuals.

Mr Speaker, the territory needs a modern and effective system of occupational health and safety regulation. The legislation we are introducing today is an important part of a general program of regulatory reform that this government is committed to pursuing. To this end, I have asked the Chief Minister's Department and the Occupational Health and Safety Council to review the structure and scope of the Occupational Health and Safety Act and the compliance model established under that legislation.

That will include a review of existing penalties under that act, including penalties where employer conduct causes non-fatal injuries to workers. These penalties will be reviewed to ensure consistency and appropriateness in light of the new industrial manslaughter penalties. These reviews will build on the measures established in the industrial manslaughter bill.

The government recognises that there will be a divergence of views in the community about the bill and that it is important for members and the community to have an opportunity to contribute their views about the legislation. For this reason, I will shortly be asking for the Assembly's agreement to the referral of this bill to the Standing Committee on Legal Affairs for inquiry, with a view to providing the Assembly with a report by the beginning of April 2003.

Mr Speaker, I commend the bill to the Assembly.

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

## Legal Affairs—Standing Committee
### Reference

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (11.44): I seek leave to move a motion referring the Crimes (Industrial Manslaughter) Bill 2002 to the Standing Committee on Legal Affairs.

Leave granted.

**MR CORBELL**: I move:

> That, nothwithstanding the provisions of standing order 174,
>
> (1) the Crimes (Industrial Manslaughter) Bill 2002 be referred to the Standing Committee on Legal Affairs for inquiry and report by 1 April 2003; and
>
> (2) on the Committee presenting its report on the Bill to the Assembly the 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.

Mr Speaker, just briefly, I indicated in my presentation speech on the Crimes (Industrial Manslaughter) Bill 2002, that the government believes that a significant opportunity must be provided for community and industry comment on the provisions proposed in the bill. There is no doubt that the government believes that these provisions are important in protecting and holding accountable those people who may deliberately or recklessly cause the death of a worker.

We acknowledge, however, that these provisions are potentially contentious and may be disputed by some parts of our community. For that reason, the government is committed to a process that will allow those views to be aired and for the appropriate Assembly committee to report on those to allow the Assembly to properly consider this legislation.

**MR PRATT** (11.46): Mr Speaker, we support the referral of this bill to the committee, but I take this opportunity to say that we are extremely concerned with the nature of this proposal. We also note that other jurisdictions are moving away from the concept of industrial manslaughter. We believe that this is going to be a very divisive and a very dangerous piece of legislation and we look forward to undertaking a more detailed scrutiny of what the minister is proposing and will have plenty to say about this bill later.

**MR HARGREAVES** (11.47): Mr Speaker, I rise as deputy chair of the committee to welcome the referral by the government. I think that it is particularly important that we engage the community on this matter. We need to take the committee with us in innovative decisions like this one. This bill is about something which possibly affects each and every worker in the territory and I welcome the initiative of the government and look forward to contributing very positively to its outcome.

Question resolved in the affirmative.

## Administration and Procedure—Standing Committee
### Referral of matters

**MS DUNDAS** (11.47): I move the motion standing on the notice paper in my name, which reads:

> That, notwithstanding Standing Order 16, the Standing Committee on Administration and Procedure inquire and report on each of the following:
>
> 1. the role of InTACT as the Legislative Assembly IT service provider;
> 2. the status of volunteers working in members' offices; and
> 3. the appropriateness of a code of conduct for members and their staff.

This motion is a result of the recent report handed down by the Privileges Committee during the November sittings. The Assembly is well aware of that report and the issues raised within it, and I do not wish to re-enter the debate on that matter. Nevertheless, the report did raise some pertinent issues that should be investigated. If we are to have a positive outcome from the whole affair it will be through investigating and adopting the recommendations of the privileges report.

The Administration and Procedure Committee is clearly the committee that should perform such an inquiry. It will bring together representatives of all parties, and I believe will be able to discuss the matters at hand without rehashing any arguments inspired by witch-hunts. Also, it seems quite appropriate that the committee covering admin and procedure for this Assembly will look into the issues raised by the Privileges Committee.

The matters that I wish to refer for inquiry are set out in the motion. They are the role of InTACT as the Legislative Assembly IT service provider, the status of volunteers working in members' offices and, finally, the appropriateness of a code of conduct for members and their staff.

With regard to the role of InTACT as the IT provider for the Assembly, I have stated before that, if a similar situation occurred in the private sector, which led to discussion in a privileges report, the position of IT provider would have been retendered immediately. As InTACT is the IT provider for not only the Assembly, but the whole of the ACT government, we do not have that luxury. However, we do have the opportunity to investigate and reassess InTACT's role here in the Assembly.

The status of volunteers working in members' offices also needs to be clarified. Encouraging a spirit of volunteerism is important, not only in the government sector, but particularly in the community and charity sectors. Many organisations have clear policies on volunteers and seek the help of organisations such as Volunteering ACT in developing appropriate policies, procedures and tasks for volunteers. This has not yet occurred within the Assembly, yet many members, myself included, have volunteers regularly working both in and out of the office, so I look forward to any guidance the inquiry will be able to provide.

*Members interjecting—*

**MR SPEAKER**: Order, members! Ms Dundas has the floor.

**MS DUNDAS**: Thank you, Mr Speaker. Finally, the inquiry will look into the need for a code of conduct for members and their staff. The issue of a code of conduct for parliamentarians has been considered many times by parliaments, including this parliament. It is important that we also look into the role of a code of conduct for staff in light of the discussion in the privileges report. Most inquiries start from the premise that trust of parliamentarians is at an all-time low, yet the community's expectation is extremely high.

One response to this dilemma that has found a measure of support across the community is developing, adopting and, importantly, being able to enforce a code of conduct. Codes of conduct should be credible and aspirational, but should also contain clear guidelines and injunctions. Any proposed code should be communicated to the community, and this Assembly should be seen to be subscribing to it and enforcing it. As I have said, the need for a code of conduct is a contested issue, but it is appropriate that the Administration and Procedure Committee look into it as it applies to members of this Assembly and their staff. I think it is important that we remember to consider staff.

When we look at how the discussion about the privileges report developed, it becomes clear that members do have a high level of responsibility and accountability for what happens in their offices. That is why I think it is appropriate that we discuss volunteers and staff within members' offices.

I also believe it is important that the Assembly directs the Administration and Procedure Committee to take on these inquiries. The Assembly needs to be part of and have ownership of this debate and the recommendations and reports that come out at the end of the inquiry. It is a matter that affects us all as parliamentarians, across party lines. It is very important that we have open discussion. I hope we can achieve positive outcomes as a result of the debates that brought about the privileges inquiry and its report in the Assembly this year.

**MS TUCKER** (11.52): I will just make a couple of comments. As Ms Dundas said, this motion was the result of a recommendation of the Select Committee on Privileges. I would like to respond to a couple of things Ms Dundas said.

I do not agree necessarily with some of her comments about codes of conduct—that they have to be enforced. My reading of the subject is that the questions about how they are enforced, how they are institutionalised, whether you choose to do that, and whether you choose to try to bring in enforcement mechanisms are extremely problematic. Enforcement can bring in all sorts of serious questions about who has that role. However, I will not go into that debate now. That is obviously something that would come up during such an inquiry.

The other comment I would make is that we did have an inquiry in the last Assembly that looked at a code of conduct for members here. That basically focused on pecuniary and financial matters which, from my reading, is what most parliaments have done. They have only looked at codes of conduct in regard to those matters. There are some interesting ideas about extending a notion of an aspirational code of conduct to include broader community values, such as are listed in, for example, the public service act here.

Public servants have a much broader code of conduct or set of ethical standards written out for them. It is quite interesting to me that, as far as I know, there are no parliaments in Australia that have chosen to have a broader code, if they have chosen to have a code of conduct at all. That is a concern. I agree with Ms Dundas' comment that there will be concern in the community if we are not prepared to give ourselves a set of standards as community leaders. Why not? That is something that the committee can look at.

This consideration of the role of volunteers is obviously the result of the privileges report as well. I think this is an inquiry that needs to happen. The privileges report clearly articulates the reasoning for this, so I will not go into any more detail now.

**MR HARGREAVES** (11.55): This side of the house will not oppose the motion. It needs to be said that items 1 and 2 of the motion are rightly within the province of the Standing Committee on Administration and Procedure, and would be adequately covered by its terms of reference. It is this committee that advises the Speaker on matters of housekeeping and administration. The Speaker then, as minister for the department of the Legislative Assembly, advises members accordingly.

The Administration and Procedure Committee is currently reviewing InTACT's role as the IT service provider for the Assembly. Should there be any significant change resulting from such a review, I would expect Mr Speaker would, as a courtesy to the house, advise the Assembly. Because of this, I doubt that clause 1 is really necessary.

The status of volunteers, in particular their access to the information contained in members' offices and in party IT groupings, is something which ought to be reviewed by the committee. However, again, I am certain that the Speaker would advise all members of such a review and its outcome. As this issue was raised in the Privileges Committee report of this year, it is reasonable to assume that the committee would pick the issue up. It should be noted that the committee's attention to both of these issues was recommended by the Privileges Committee, so there would appear to be no real reason to formalise a referral here.

On the other hand, clause 3 of the motion really would be a matter for thought in the context of industrial relations. We are currently examining conditions of employment for LA(MS) Act staff and looking at linking positions with levels in the ACT public service, which has within its employment regimes such a code of conduct. There is a danger that the committee is being asked to reinvent the wheel or anticipate the result of the industrial negotiations with staff employed under the LA(MS) Act.

When Ms Dundas talks about members and their staff, it is not clear whether she is referring to executive members' staff, non-executive members' staff, volunteers, contract employees or all of the above. If she means all of the above, it will be interesting to consider how such a code will be enforced. Ms Tucker alluded to this. Will it be mandatory or voluntary? Will it be a clause in the contract with staff? How will it be policed? What will be the penalties for breaches? The list goes on.

This side of the house does not believe a referral from the Assembly is necessary. Ms Dundas is a member of the Administration and Procedure Committee and could have brought this motion directly to the committee. However, Labor will not oppose the motion, Mr Speaker.

**MR SMYTH** (Leader of the Opposition) (11.58): Mr Speaker, the opposition will be supporting the motion. As other speakers have said, this grows out of the Privileges Committee's report, and particularly out of its consideration of the role of InTACT as the IT provider. I think this does need some scrutiny. It is important to determine the status of volunteers who have been working in offices. Codes of conduct are very serious things to put in place and deserve serious consideration. A committee is the appropriate place to do that.

Question resolved in the affirmative.

## Health—Standing Committee
### Report No 2

**MS TUCKER** (11.59): I present the following report:

> Health—Standing Committee—Report No 2—*Inquiry into the Gene Technology Bill 2002*, dated 12 December 2002, together with a copy of the extracts of the minutes of proceedings.

I ask for leave to move a motion authorising the report for publication.

Leave granted.

**MS TUCKER**: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

**MS TUCKER**: I move:

> That the report be noted.

This unanimous report I table today on behalf of the Standing Committee on Health has made 25 recommendations regarding the regulation of gene technology. The report gives an overall picture of what gene technology is and how it can be used, and then provides a critique of the current regulatory framework.

The committee has, through its recommendations, expressed serious concerns about, particularly, the lack of appeal rights for any other applicants, the lack of protection from crop contamination by genetically modified products for non-GM farmers, and the uncertain situation regarding liability and insurance. Despite these concerns, the committee is recommending the bill be passed with amendments as indicated in the report. If we have our own legislation we will have a greater potential to take into

account the interests of the ACT by regulating matters within our jurisdiction, and also by our membership of the gene technology ministerial council.

The committee has recommended that the ACT assert its right under clause 21 (1) (b) of the bill to declare the territory a GE-free zone, excluding research, for a period of five years. The moratorium includes dealings with transgenic organisms, that is, all new commercial environmental releases of transgenic crops, environmental releases of transgenic animals and transgenic animal feed, trials in the open environment of transgenic food crops, and trials in the open environment of transgenic non-food crops where no test is available to detect the presence of transgenic material.

The committee has concerns about gene flow from GE products, particularly those in field trials. This concern is really for researchers, as well as for some members of the community. The committee supports properly regulated research in confined environments. The ACT could promote itself as a centre of research in biotechnology while also protecting the environment and non-GE producers from the contamination of their produce by GE products.

A major problem within the current regulatory framework is that the gene technology regulator does not have to take into account the social and economic impacts of gene technology before granting licences. The committee has recommended that the government make this point through the ministerial council.

Another important recommendation regards risk assessment. The committee believes that all risk assessments and management plans for environmental release of GMOs should be based on data obtained in Australian conditions. The OGTR frequently bases risk assessments and management plans on experimental data and opinion prepared years ago for approval in overseas jurisdictions.

Connected to this issue is the application of the precautionary principle. The committee has recommended that the precautionary principle as described in the Environment Protection Act 1997, section 3, replaces the current clause 4 (a) in the bill. The current clause states that the regulatory framework provides:

> where there are threats of serious or irreversible damage, a lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

The concern here is that neither the federal Environment Protection and Biodiversity Conservation Act 1999 nor the ACT Environment Protection Act 1997 include “cost effective” in their definition of the precautionary principle.

There has been legal concern raised as to the effectiveness of the OGTR in relation to possible grounds of appeal because the definition of the precautionary principle, as it applies to the object of the act, does not include reference to human health and safety, and it includes the constriction of cost effectiveness in relation to prevention measures. The committee feels the current definition is problematic, leaving too much room for interpretation.

Another issue of concern on which the committee made a recommendation is liability and insurance. There is confusion about liability in regard to the unwanted consequences of environmental release of GMOs. There is no requirement in the current act or the bill for licensees to be insured against damage to human health, the environment and other producers. Licence conditions may require insurance, but it is unclear whether that is the responsibility of the applicant or the grower.

The committee recommends that the government, through the ministerial council, advises a policy which requires everyone undertaking any dealings with GMOs to hold adequate insurance. This is a significant issue, especially as the insurance industry is very cautious about how to deal with it. The insurance council is reported as saying that "it is loathe to insure farmers, biotech and food companies for claims involving GM foods". In fact, the European Commission is currently debating a proposal that would hold the industries and firms dealing with GMOs liable for incidents that pollute water, air or soil, or harm protected natural sites or species.

The issue of liability and adequate insurance cover must be addressed as a matter of urgency and before any environmental release occurs. Obviously, the situation in the ACT has to be examined in the context of our physical proximity to New South Wales as well. The committee has recommended that, as a matter of urgency, the government talks to the New South Wales government about concerns regarding cross-border contamination and potential liability if the New South Wales government should allow the environmental release of GMOs.

In conclusion, I want to say that I think this is a very good report. I am delighted that it is a unanimous report. I know that there is interest around Australia, and in one case international interest, in this report. I am confident the arguments presented are well researched and referenced, and if people look at the report in detail they will see that.

Through the work of this committee we have been able to understand the varying levels of confidence that exist in the gene tech industry, and the fact that, within the scientific community, there are very different views on this subject, as is the case in the community. What I believe we have done in this report by recommending a five-year moratorium is ensure that we can protect members of the community, farmers and researchers from the unwarranted consequences of a premature release of genetically altered organisms into the environment.

What we are saying as a committee is that we support research and we understand the potential benefits. However, we are also saying that we think the regulatory framework needs more work, that risk assessment should be better refined, and that five years is a reasonable period of delay for environmental releases in the ACT. We can then feel more confident about the regulatory system in which we will proceed with this important work.

There is also a very strong economic argument throughout the report, which is that we would love to see the ACT as a centre for research and biotechnology. We are aware that researchers are equally concerned to have a very stringent regulatory framework in place to protect them in their work.

This is really, in my view, a report that takes into account business and the community, as well as the economy. I think it is a very well-rounded report and I commend it to the Assembly.

**MS MacDONALD** (12.08): I rise to give qualified support to this report. The Gene Technology Bill 2002 was introduced to the Assembly on 21 February this year. The Assembly referred the bill to the Standing Committee on Health on 7 March and then advertisements were placed in the *Canberra Times* and the *Chronicle* in May of this year. The committee secretary also asked a number of organisations to advise the inquiry. Unfortunately, many organisations were unwilling to appear because of the work done at the federal level on this issue.

The committee made its first visit in relation to this inquiry on 8 October after the referral of 7 March. We held just two hearings, one on 7 November and the second on 28 November. I have given this time line because I am concerned that there has been a rush to get this report through by the end of the year, after very little activity on this inquiry for several months. While I know that there are many good reasons for that—not the least of which being that the committee has been focusing on the inquiry into the health of school-aged children, which is a very big and important inquiry—I am concerned about having had only the two hearings on the matter.

In spite of the reasons for the delay, I feel that the committee should have had more time to go through the evidence and also to encourage more people to appear. I have said that it is unfortunate that we did not have more people appearing before the committee. It would seem that part of the reason is the extensive federal inquiry. However, we may have been able to get more people to appear and give more diverse evidence than we received if we had given a bit more time for hearings and also persisted with seeking more evidence. I agree that we have drawn on the work which has been done previously at a federal level, as well as international evidence, but I do believe that the committee's deliberations would have been better informed with more witnesses.

My second point is the nature of the report. While I agree that the report was not to be a scientific white paper, and it does look at a number of other issues, including the issues of insurance and other commercial matters, it does also look into a lot of scientific matters. I am concerned about that because I am not a scientist—none of us on the committee and the support staff are scientists. I believe that, in accordance with standing order 238, the report would have benefited from the perusal of a scientist who could indicate any glaring errors. Of course, 238 says:

> The Speaker may appoint persons with specialist knowledge (either to supply information which is not readily available or to elucidate matters of complexity within the committee's inquiry) upon such terms and conditions as the Speaker may determine.

I do believe that the committee would have benefited from that expertise. I am quite sure that Lesley Wheeler, the research person, could have used the assistance with checking the report for errors. I have been trying to get my head around the whole notion of gene technology and I think I have fairly much failed in that regard, because I am not scientifically minded. I do not think I will ever be scientifically minded, even after years

of having several scientists in the family. Take, for example, one of the clauses in the report, which states:

> Genetic engineering bypasses the reproductive barriers that prevent genetic transfers between unrelated species, thus allowing transfer of genes from an organism of one species to another, completely unrelated species. Genetic engineering also includes methods of gene deletion and gene manipulation that are not possible using conventional breeding methods.

That sounds good to me, but I do not know because I am not a scientist. All I was trying to get the committee to do was get a scientist to look over the report and say it is fine. I did not want that person to give us an opinion about the ethical concerns of gene technology and say, "Yes, you should have gene technology because I am a scientist and you should trust me." That is not what I was trying to do.

I wanted that person to assist both Siobhan Leyne, the committee secretary, and Lesley Wheeler, the research person, who both did a lot of work on this area, by saying, "Yes, you can actually refer to those things that way, but you cannot mention these words because they do not actually apply to this area of science." Having a scientist look over the report need not and would not have detracted from the non-scientific evidence and from the evidence about the many valid ethical concerns, which is as valid as the evidence that has been presented by the scientists.

There are a number of scientists out there who have said to us, "Yes, we also have concerns about having this product released in field trials. We also believe that you should wait. We do not know what the effects are going to be." Whereas other scientists have said, "You just go ahead and do it." As I have said, they are equally valid points of view.

My final concern with the report was about the moratorium of five years. I know that Ms Tucker has said that she believes that it is quite acceptable that we take this amount of time before actually having a field release. However, I do note that Tasmania also has a five-year moratorium, but I also note here in the Assembly that New Zealand has a two-year moratorium. My concern is whether or not putting a moratorium of five years on field releases is too restrictive a practice. Yes, of course, we can revisit it, but it may well act as a disincentive. I do not know, but I just raise it as a possible concern.

Finally, I have already mentioned Siobhan Lane and Lesley Wheeler, but I want to say that the work that Siobhan, Lesley and Judy Moutia did on this report was invaluable. I know that Lesley spent a great deal of time researching this, and it is the sort of thing that makes my mind boggle if I look at it. I would not know where to start with the research and I have to say that I believe that Lesley did a superlative job with it. I know that it was a relief to Siobhan that she had Lesley there to assist with it. I know it was also a relief to Ms Tucker that we had Lesley there to assist with the research.

I also want to mention that in the back of this report is a fairly amazing looking map of farming in the ACT, the inclusion of which took a great deal of Lesley's time. I also note that we have managed a first, I believe, by getting some colour pictures into the report. As well as the superlative photograph of the committee hard at work, on page 23 of the report we have a photo that shows the canola seeds scattered through a wheat sample.

Having seen it in black and white, I can say that they certainly show up a lot better in colour.

I do commend the report to the house, although I maintain my concerns.

**MR SMYTH** (Leader of the Opposition) (12.18): Mr Speaker, the traditional method for a member of a committee to disagree with a committee or its outcomes is to either put in a dissenting report or modify the report. I have to say I am disappointed in some of the words that Ms MacDonald has used to suggest that we rushed the report, that there was a period of inactivity and that it could have been delayed.

I was certainly working on the report throughout the whole period. I was talking to the communities, both scientific and farming, to get their opinions, and my office still receives faxes of newspaper clippings from around the country from different groups that have an interest in this. I know that Ms Tucker's office is the same, because we have discussed this. We have discussed things that we have learned and have conveyed those messages to each other to make sure that we were both being kept up to date. I know that Ms Tucker has also worked continuously and quite hard on this.

It is disappointing that Ms MacDonald has not used the acceptable method of dissent, but instead has chosen to stand up here and say that she now qualifies her support for the report. You either support the report or you do not, and then you should dissent. I think it is unfortunate that this has happened. It is a first, in my time here in the Assembly, that somebody would make such a statement. I know that I was busy. I know that Ms Tucker was busy. I know the secretariat was very busy working on this throughout the whole period. If Ms MacDonald was not busy then perhaps she should look at what she was doing, rather than coming here and qualifying her support for a report which she has signed. I think that is extraordinary.

It is a very important report, it is a very important issue and it is a very important issue not just for us in the ACT, but for Australia as a country with its place in the world. It is important because we are at a crossroad: countries will have to decide whether they will have a mass rollout of GM technology, or whether they will abstain. One of the consistent messages that the committee received was that, once you pass down this road, you cannot come back. Once you release GM crops, you cannot take them back. Once they are out there, they will spread, through either natural means—the wind and animals—or through the inadequacies of systems that people set up, simply by accident or through lack of attention.

It is an important issue. The matter of whether or not we have a moratorium is something that should be taken seriously. When the committee agreed to a five-year moratorium, it was done in the knowledge that moratoriums can, of course, be unwound or stopped, but they can also continue and may even be extended. Some of the information that the committee was given was particularly interesting: some Asian countries are now saying they will not accept GM products. At this stage, Australia sends uncontaminated products overseas, which gives us a natural competitive edge in servicing those markets.

Why would you give that away? If you do choose to give it away, you have to be certain that you are giving it away for long-term gain. Again, the evidence given to the committee by bodies such as the productivity commission suggests that there is the

potential for a short-term gain from using GM crops. However, that is lost in the long term if, for instance, you use Roundup-ready canola, because you have to use much more heavy duty and serious chemicals to eradicate the canola volunteers later on.

It is an important report. We did consider it over quite a period of time. It is important legislation and I think the fact that it was referred to the committee in the first place is an indication of the Assembly's interest in the matter and its understanding of how important it is to get it right.

We did not speak to a great number of people in the committee hearings, simply because a large amount of information was available already. If you take the time to read the information and reports that have come from other senate committees, and the submissions that have been made to those committees, you will find that there is a great deal of information available already.

Some people seem to think, "Okay, go for your life," but others have been urging caution. What we got from the evidence that we were given, and from what we have been able to read, is a sense that there is no clear position on this. That tells me that we should be cautious. The committee has made some recommendations, in particular about the use of the precautionary principle and the fact that it should now be written into the legislation to strengthen it. I think it is a very positive step.

I think that the difference between the broad use of GM crops and the research that is being done in the ACT is quite clear. This is not a report that is anti-research. Research in controlled circumstances is absolutely vital to the future of humankind, as well as to the economic future of the ACT if it becomes a centre of excellence for this sort of research. Indeed, that might be the great bonus: if there are no genetically modified crops out there in widespread use, the ACT may become the perfect place for testing in institutions such as the CSIRO.

I think it is a good report. I do not believe that we have rushed it. I do not believe that we were inactive. I do not believe that there was any reason to delay it. I certainly do not believe there is any need to qualify a response to the report, and it has my full support.

Question resolved in the affirmative.

## Public Accounts—Standing Committee
### Report No 2

**MR SMYTH** (Leader of the Opposition) (12.25): I present the following report:

> Public Accounts—Standing Committee—Report No 2—*Auditor-General's Report No 8, 2001—Relocation to Brindabella Business Park*, dated 6 December 2002, together with a copy of the extracts of the minutes of proceedings.

I ask for leave to move a motion authorising the report for publication.

Leave granted.

**MR SMYTH**: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

**MR SMYTH**: I move:

> That the report be noted.

Mr Speaker, this is a report from the Public Accounts Committee into the work of the Auditor-General concerning moving CTEC to the Brindabella Business Park. Two areas of concern were examined: the perception of, or the occurrence of, a conflict of interest, and the use of sustainability in audits by the Auditor-General. The report concludes, as did the Auditor-General, that there was no conflict of interest in the move to the Brindabella Business Park, but it does raise a matter we should always be aware of, the potential for a conflict of interest.

I think it is important, particularly as the perception of the conflict of interest arose out of words that were used in this place, that this be a reminder to all MLAs that we have to be careful of how we raise things and where we raise them. Notwithstanding that, it is of course the right of MLAs to use this place to raise their concerns. The committee believes that all organisations should pay greater heed to making sure that they do follow the procedures, and document those procedures, to avoid any such perception in the future.

The other matter was that the committee noted the government's initiatives in establishing the Office of Sustainability. We do hope that, in the future, sustainability issues will be given a greater priority in policy-making and so, therefore, will also feature far more prominently in the Auditor-General's reports.

Question resolved in the affirmative.

## Statement by chair

**MR SMYTH** (Leader of the Opposition): Mr Speaker, pursuant to standing order 246A, the Standing Committee on Public Accounts has resolved that I make the following statement regarding the Auditor-General's Report No 6 of 2002, entitled *Annual management report for the year ended 20 June 2002*. I ask for leave to table the statement.

Leave granted.

**MR SMYTH**: I present the following paper:

> Public Accounts—Standing Committee—Auditor-General's Report No 6 of 2002—*Annual Management Report for the Year Ended 30 June 2002*—Statement by Chair, dated 6 December 2002.

This report is essential to the annual report of the office of the Auditor-General. The committee wishes to thank the Auditor-General and his staff for their work and wishes to make no further comment.

### Statement by chair

**MR SMYTH** (Leader of the Opposition): Mr Speaker, pursuant to standing order 246A, the Standing Committee on Public Accounts has resolved that I make the following statement regarding the Auditor-General's Report No 9 of 2001, entitled *Financial administration and training grants program*. I ask for leave to table the statement.

Leave granted.

**MR SMYTH**: Mr Speaker, I present the following paper:

> Public Accounts—Standing Committee—Auditor-General's Report No 9 of 2001—*Financial Administration of Training Grant Program*—Statement by Chair, dated 6 December 2002.

The Public Accounts Committee has considered the Auditor-General's Report No 9 of 2001. The committee notes that the Auditor-General found that a significant amount of expenditure relating to the training grant program had been incorrectly charged, and that proper and adequate books of account for expenditure relating to the program had not been kept.

The committee also notes that the Auditor-General found that there were people who were both members of the ACT Agents Board and directors of the Real Estate Institute of the ACT. Those people did not formally disclose their directorship of the Real Estate Institute at a meeting of the ACT Agents Board. This created a possible conflict of interest situation, but the Auditor-General found the Agents Act 1968 inadequate to address such matters. The committee notes the government's advice that conflict of interest provisions in the Agents Act 1968 have been amended to provide for more appropriate methods of addressing conflicts of interest.

### Sitting suspended from 12.30 to 2.30 pm.

## Matter of public importance

**MR SPEAKER**: Before we proceed to questions without notice, members would be aware that there is a matter of public importance listed for today which concerns a matter raised in the Auditor-General's report presented yesterday. That report, upon presentation, was automatically referred to the Standing Committee on Public Accounts.

As the report stands referred to a committee for inquiry and report, it could be argued that there should be no reference in the Assembly to its content until the committee has reported. Should the Assembly follow this practice, especially in relation to reports of this nature from the Auditor-General, comment on matters in the public interest would be unnecessarily stifled. Can I ask members to bear in mind the fact that the committee may be inquiring into the report and not to refer to proceedings of the committee which have not been reported to the Assembly.

It has also been drawn to my attention that the MPI contains words that may be critical of the character and conduct of the Treasurer, and should therefore be contained in a substantive motion. I do not believe this is the case, as the matter proposed merely poses the question of the legality of the use of the Treasurer's Advance. However, I will be monitoring the discussion to ensure that discussion does not transgress matters permitted by the standing orders or practices of the Assembly. I remind members of the practice of the Assembly that a charge against another member, or a reflection on his or her conduct, can only be done by way of a substantive motion which invites a distinct vote of the Assembly. Thank you members.

## Questions without notice

### Qualification of financial statements by Auditor-General

**MR SMYTH**: Mr Speaker, my question is to the Chief Minister. Chief Minister, given the findings of the Auditor-General's Report No 7 of 2002, do you still believe, as you stated in this place on 30 June 1999, that a breach of section 6 of the Financial Management Act "cannot be brushed off lightly as a technicality"?

**MR STANHOPE**: I stand by everything I said, Mr Smyth, in relation to Bruce Stadium and the appalling fiasco that that was. There is nothing that I said in relation to Bruce Stadium and everything that it stands for in terms of the simple incompetence of both you and your government at the time that I would resile from.

**MR SMYTH**: Mr Speaker, I have a supplementary question. Chief Minister, on what date did you become aware of the urgent need for the $10 million for the fire safety maintenance for public housing, and was this unexpected?

**MR STANHOPE**: I don't know the precise date. I presume that if I went through my diary in a detailed way I could probably pinpoint it to a date or a day somewhere in late May, or early June, this year.

**Mr Smyth**: Will you do that?

**MR STANHOPE**: I am most pleased to do that. But in the context of the issue and the urgency surrounding the issue, it essentially came to my attention as a result of the issue having been raised by the then head of the department of housing, Mr Alan Thompson. It was through Mr Thompson's representations that I became aware, as a member of cabinet, of issues in relation to this. It was as a result of a letter having been written by Mr Thompson to the then Under Treasurer, Mr Ronaldson, and I am happy to read from parts of that letter dated 30 May 2002. So that narrows down your substantive question somewhat.

On 30 May Mr Thompson, who was, as I say, the chief executive officer at the time responsible for housing, wrote to the then Under Treasurer, and we need to be mindful that these are two of the three most senior advisers in the government's service. Mr Thompson wrote:

> Dear Mr Ronaldson,
>
> I am writing to seek urgent additional funding to address major fire safety concerns at ACT Housing's multi-unit complexes. Many of the large complexes do not meet current standards under the Building Code of Australia (BCA), particularly in relation to fire safety, with some of the complexes at the end of their economic lives.
>
> During recent negotiations for the up coming 2002-03 ACT Budget this portfolio sought $2 million per annum for minimum fire safety requirements ... In so doing, it was recognised that the problem needed to be addressed partly by moving people out of the complexes, as a result of redevelopment or demolition, and partly by rectification.
>
> In response to our request for additional funding, Treasury requested that Urban Services seek urgent legal advice on the Territory's potential liability in the event of a fire or similar accident. Advice from the Government Solicitor's Office has now been received ...
>
> The Government Solicitor's advice clearly indicates that the Territory could be held liable in negligence in the event of an accident. The Territory has been put on notice through specific audit reports …

Specific audit reports, I have to say, that were made available to your government. I will read this paragraph again:

> The Government Solicitor's advice clearly indicates that the Territory could be held liable in negligence in the event of an accident. The Territory has been put on notice through specific audit reports that the multi-unit sites do not comply with current BCA standards. Accordingly, it must take immediate steps to address the identified problems and implement a management plan identifying how the Territory will address or minimise this potential liability.

In order to avoid any misunderstanding around this issue, let me make it perfectly clear that the audit reports that brought this matter to the urgent attention of government were audit reports prepared under the previous government and provided to the previous government.

**Mr Smyth**: So you knew about it before 30 May then?

**MR STANHOPE**: We didn't. No, I didn't. You all knew before your last budget.

**Mr Wood**: That legal opinion was in May.

**MR STANHOPE**: This legal opinion was May 2002. The question was when did I become aware. This is the sequence by which I became aware. I became aware after being advised that an audit had been undertaken under the previous government, under the Liberal government, which highlighted the need for urgent attention to fire safety issues in multiunit complexes.

There is another significant issue here, of course, about why the previous government simply ignored that urgent advice; why the previous government did nothing about that urgent advice; why the previous government was prepared, content, to sit and see this

urgent issue continue without any redress. But that is another debate, and that is a debate we look forward to having. As I say, the advice was:

> The Government Solicitor's advice clearly indicates that the Territory could be held liable in negligence in the event of an accident.

Mr Speaker, the letter goes on:

> Given the magnitude of the task at hand and the urgent nature of this work, I am seeking your agreement to provide an additional $10 million for fire safety work at the multi-unit complexes.

The letter concludes:

> Accordingly, I seek your agreement to provide an additional $10 million through whatever mechanism you consider appropriate to urgently address fire safety deficiencies at ACT Housing's multi-unit sites.

It was through this correspondence, and this correspondence being made available, that I became aware of issues.

As I said, I am happy to look through my detailed diary to see if I can find the precise date. But it was around about 30 May and it was in the context of an urgent request from the chief executive officer responsible for housing who wanted $10 million to address this matter. In the words of Mr Thompson on 30 May:

> Accordingly, I seek your agreement to provide an additional $10 million through whatever mechanism you consider appropriate to urgently address fire safety deficiencies at ACT Housing's multi-unit sites.

I understand that is a request that was made of the previous government but which fell on deaf ears. Of course, there is an interesting question to be pursued there about on what basis does a responsible government ignore that sort of advice?

**Mr Humphries**: Mr Speaker, on a point of order: will the minister table the advice he referred to in that answer?

**MR SPEAKER**: It is not a point of order.

**Mr Humphries**: Well, it is a request that he table the advice. He has made much of it, so will he table it so we can see what it was that the previous government was told.

**Mr Stanhope**: That is a question, is it, Mr Speaker? I will answer that question. But at this stage, I will take advice on that.

## Fire safety in ACT housing properties

**MS GALLAGHER**: My question is to the minister for housing, Mr Wood. Can the minister tell the Assembly what the government is doing to improve fire safety in ACT Housing properties?

**MR WOOD**: That is a key issue—thank you, Ms Gallagher. The issue of fire safety at the multiunit complexes emerged as a serious issue last financial year as a result of the works done on the previous government's multiunit property plan. At that time, ACT Housing sought necessary funding to address these works progressively over a period.

Legal advice received in May confirmed that the territory had a duty of care to further minimise the risks in case of fires in these complexes, and as a result the government decided that it needed to respond urgently and that the works needed to be brought forward. Apart from the significant legal issues, on coming to office the government believed that it had a moral responsibility to address the fire safety issues that presented themselves. Therefore, and most importantly, the government needed to give a clear signal that these issues had been recognised and that it intended to address them.

An increase of $16 million in capital maintenance expenditure against an annual program of $12 million indicates the importance the government placed on the issue. That funding gave ACT Housing the necessary confidence to initiate and proceed with the work. That step was important.

Because of the serious and extensive nature of this work, the process that ACT Housing is using is thorough and detailed. It involves a detailed fire audit, conducted by a fire engineer, of each of the properties. This audit scopes the works required at each complex, as the appropriate solution is different for each property, depending on its design and age.

Once the audit is complete, the works are documented and then tendered by ACT Housing's total facility managers, as required for works of this magnitude. As indicated at the time, this is a program over two years and already a considerable amount of work has been done.

I repeat: the government needed to give a clear signal that these issues had been recognised and that it intended to address them; and the $10 million and $6 million from ACT Housing was that clear signal. Where possible, the works are combined with other works—for example the planned upgrade of Northbourne flats in Braddon and Turner and at Windeyer Court in Watson—in order to minimise disruption to tenants and secure any economies.

It will be important that the works are approved either by a building certifier or the fire brigade. ACT Housing has been working to address these issues as part of the scoping process. I understand that as well as works at Kanangra Court and Stuart flats, which are in progress, the likely next works will be at Ambarra Court. I reiterate that these works are being undertaken as a necessary precaution. The buildings met the requirements at the time they were constructed and are generally sound. But we are making them safer.

The government is concerned to ensure that its tenants have an enhanced level of security and safety. I want to reassure tenants and the community that, while we have determined that these precautionary works need to be brought forward, there is no evidence that any of the properties is unsafe.

## Gungahlin town centre.

**MRS CROSS**: Mr Speaker, my question to the Minister for Planning, Mr Corbell, relates to the Gungahlin town centre. Minister, a survey published in this month's Gungahlin Community Council newsletter reveals that 91 per cent of those surveyed indicated that they would prefer a town square arrangement for the Gungahlin town centre rather than the present plans and designs. The survey yielded 794 responses. Minister, can you please inform the Assembly whether you believe this overwhelming community concern about the present design of the Gungahlin town centre is cause for concern. In your answer, minister, can you please identify what consultation processes are in place so that the people in Gungahlin eventually end up with a neighbourhood that they want rather than one which is imposed upon them.

**MR CORBELL**: I thank Mrs Cross for the question. I recently received a letter from the Gungahlin Community Council outlining the results of the survey Mrs Cross referred to in her question. I immediately sought advice from Planning and Land Management and the Gungahlin Development Authority on their view on the issues that have been raised in the survey, and possible responses to those issues. It is a matter that I am currently considering because I do take the views of the Gungahlin community very seriously on this, as on all other matters.

That said, it is important to reiterate that the design for the Gungahlin town centre has not simply emerged from off a planner's drawing board without a very significant level of community activity and consultation being sought. Indeed, planning for the Gungahlin town centre has been underway from around the mid-1990s when it was relocated from the grasslands areas where it was originally proposed to be built.

I can recall that there have been repeated sessions of community consultation on the design of the town centre, including the specific issue which is raised in the survey around people's concerns about the on-street nature of some of the retailing and the through traffic that occurs in the Gungahlin town centre.

It is interesting that this issue has come through in the Gungahlin Community Council survey because the Gungahlin town centre is designed the way it is because in the earlier consultation processes people said, "We don't want a mall." That is what people said when the consultation was undertaken in the mid-1990s, and I am sure my colleagues Mr Wood and Mr Smyth, who were previous ministers for planning, and Mr Humphries even, would be aware of that work. People said, "We don't want a mall. We want a more traditional, almost like a country street, shopping precinct with shops along the main street and traffic and activity." That is the reason the Gungahlin town centre is built the way it is.

That said, Mr Speaker, any survey is of interest to the government. I will be looking closely at its results and replying to the Gungahlin Community Council in due course.

**MRS CROSS**: Mr Speaker, I ask a supplementary question. I thank the minister for his answer. I'm puzzled if the people of Gungahlin said in the mid-90s that they did not want it.

**MR SPEAKER**: Preamble, Mrs Cross.

**MRS CROSS**: I know, Mr Speaker, that this is a preamble and that I should get to the question.

**MR SPEAKER**: Thinking out loud is sometimes allowed.

**MRS CROSS**: Thank you, Mr Speaker. Minister, 91 per cent is an overwhelming indication of the numbers against the present design. Given that Gungahlin has poor mobile phone reception and almost non-existent sustainable transport options, isn't the government in danger of perhaps not looking at and listening to what Gungahlin residents really want and letting them turn into second-class citizens?

**MR CORBELL**: Mr Speaker, as I have already indicated to Mrs Cross, the government is paying close attention to the results of that survey. The survey is self-initiated, so those who were interested replied. I would be interested to understand the scientific basis on which the survey was conducted to make sure that it is indeed a representative sample. Of course, you have to remember that there are over 20,000 residents in Gungahlin. Seven hundred respondents is nevertheless a significant number, but I don't think you could in any way claim that it is representative of the overwhelming majority of views of residents in Gungahlin. We just don't know, because we haven't sought to survey all of those people.

Mr Speaker, that said, we have to look at the processes that have been conducted to date to deliver a town centre which met the expectations of the community when the planning was done. People said they didn't want a mall and that is why there is not a mall in Gungahlin. But if Gungahlin residents are saying this is an issue of concern, then the government is very open to responding to those issues. That is why I have sought advise from Planning and Land Management and the Gungahlin Development Authority. I will be responding in due course to the Gungahlin Community Council, outlining the government's response to their survey and identifying if there are issues that need to be further addressed.

## Qualification of financial statements by Auditor-General

**MR PRATT**: Mr Speaker, my question is to Mr Corbell. Minister, given the findings of the Auditor-General's Report No 7 of 2002, do you still believe, as you stated in this place on 30 June 1999, that "the illegal expenditure of $9.7 million" is not, and cannot be, "a technical and minor matter"?

**MR CORBELL**: I think I share the views of the Chief Minister on that matter, Mr Speaker.

**MR PRATT**: Mr Speaker, I ask a supplementary question. Minister, on what date did you become aware of the urgent need for $10 million for fire safety maintenance for public housing? Was this unexpected?

**MR CORBELL**: I think the Chief Minister had already adequately addressed the second part of that question. I think it is very clear in the advice that Mr Thompson provided to the then Under Treasurer that the government was exposed to a potentially very serious

liability because of the failure of the previous government to respond to issues about fire safety.

**Mr Humphries**: That is not an excuse for misusing Treasurer's Advance.

**MR CORBELL**: You can't imagine, Mr Speaker—

**Mr Smyth**: When did you find out? You are the one who is the subject of the report.

**Mr Cornwell**: There is more wriggling here than in a reptile zoo.

**MR SPEAKER**: Order! Are there any further questions without notice? I call Ms MacDonald.

## WetPC Pty Ltd

**MS MacDONALD**: My question is to the Minister for Economic Development, Business and Tourism. Can the minister inform the Assembly of a recent success by an ACT company?

**MR QUINLAN**: It is good to be able to bring some good news into this place on a day when we can anticipate some turgid debates, long bows being drawn and some extreme dissembling.

Mr Speaker, on Tuesday I participated in the signing of a sub-licence agreement between the ACT Company WetPC and a US company, OHAI Technologies Corporation, which is likely to see a significant expansion of WetPC in the ACT and internationally. WetPC Pty Ltd is an innovative Canberra-based IT company that has developed, and is now commercialising, a one-handed interface which provides a totally new way of controlling mobile computing devices. We musicians know about chords and it has to do with adopting that technology.

**Mr Hargreaves**: You are a guitarist?

**MR QUINLAN**: I know two guitar chords, actually. The concept, originally prototyped by the Australian Institute of Marine Science, has been fully licensed by WetPC and further developed for commercialisation as the world's first wearable underwater computer—the Wet PC.

WetPC is to sub-license its innovative user interface technology to the US firm OHAI, which will enable OHAI to commercialise the technology, in conjunction with its own patented input system, for use in a range of mobile hand-held devices worldwide.

OHAI Technologies has already established strategic alliances with companies in China, Japan, Taiwan and Korea. It is envisaged that the sub-licence agreement with WetPC will provide a strong footing for the ACT's company's move into a projected multi-billion dollar global market.

I would like to take this opportunity to congratulate WetPC's Managing Director, Peter Moran, and his team on the development of a great opportunity to build business linkages and form collaborative arrangements between ACT knowledge-based small business, the US and Asian markets.

**MS MacDONALD**: Mr Speaker, I wish to ask a supplementary question. Minister, that sounds like great news from this government. Can you inform the Assembly if WetPC satisfies the criteria for support under the government's innovative knowledge fund?

**MR QUINLAN**: Yes, I can. In fact, WetPC is a recent grant recipient of the knowledge fund and I am delighted that the aims and visions of the fund are being demonstrated through the signing of this sub-licence agreement. WetPC received $85,000 in the first round of grant offers from the fund.

The ACT government is committed to providing quality services and programs to assist businesses to reach their potential and to develop and grow through the exploitation of knowledge. The knowledge fund is one such innovative program we have introduced to assist businesses to develop and commercialise products and services in knowledge-based industries.

There is no doubt that the ACT is the birthplace and home of many innovative and smart businesses, and the government is working on building our base in an entrepreneurial and commercial capacity to exploit the significant innovation that occurs in the ACT. The ACT looks forward to WetPC realising the potential that will come from the signing of the sub-licence agreement with OHAI Technologies.

**Mr Stefaniak**: Well done.

**MR SPEAKER**: Mr Stefaniak, will you desist. That is the second time—applause is just not allowed in the Assembly.

**Mr Stefaniak**: Certainly, Mr Speaker. My apologies.

## Qualification of financial statements by Auditor-General

**MR STEFANIAK**: My question is to the minister for housing, Mr Wood. Given the findings of the Auditor-General's Report No 7 of 2002, do you still believe, as you stated in this place on 30 June 1999, that a "failure to seek and secure appropriation" is a "most serious breach" and "a failure to act within the law"?

**MR WOOD**: "A failure to seek and secure appropriation"—I am not sure that is all that immediately relevant to this issue. As I understand it, the appropriation had been made and we were accessing that appropriation.

**MR STEFANIAK**: Mr Speaker, I ask a supplementary question. Minister, on what date did you become aware of the urgent need for $10 million for fire safety maintenance for public housing, and was this unexpected?

**MR WOOD**: I will tell you what was unexpected, but I will go back into the history just a little bit first. Early on in my career as minister for housing, I would think in January and February, I received reports arising from the audits that had been undertaken that there were works that needed to be done in respect of fire safety in our buildings.

**Mr Smyth**: So it wasn't unexpected.

**MR WOOD**: Wait a minute. At that time ACT Housing was seeking a program of something like $2 million a year to improve the fire safety standards. What did happen that very significantly changed the circumstances was that in that process we got a legal report that Mr Stanhope has referred to, and the legal advice made it imperative that we had to act and also that we had to be seen to act—that we had to recognise that there was a problem there and we had to attend to that problem. We had to take immediate steps—and I am sure the lawyers over there understand this—

**Mr Stefaniak**: You should have sought and secured appropriation, shouldn't you?

**Mr Pratt**: Was there a safety management authority—

**MR SPEAKER**: Order, members! Mr Wood has the floor.

**MR WOOD**: We had to take immediate steps to signal that we recognised the problem. That was when it became urgent and that was a result of that legal advice.

## Youth grants

**MS TUCKER**: My question is for the Minister for Education, Youth and Family Services. Minister, in the budget estimates hearing on 24 July you advised the committee that grants to the youth sector were awarded 1 per cent indexation this year, rather than the 2.5 per cent as awarded to the community sector generally, or the 2.9 per cent indexation set for rates. You also advised the committee that this cut was a one-off and that the next budget would return the youth organisations to equity with others in the sector. Minister, you might also recall that your government supported my motion in November acknowledging both the value of the community sector and the chronic under-funding which it endures.

In that context, then, can you assure the Assembly that grants to the youth sector will not be cut across the board and that your department is not looking to save more money from the under-resourced youth services sector in the community or within the department itself?

**MR CORBELL**: Can I seek some clarification from Ms Tucker. Are you referring to the upcoming budget?

**Ms Tucker**: Yes. Indexation.

**MR CORBELL**: In the upcoming budget or in this financial year?

**Ms Tucker**: No, in the coming budget.

**MR CORBELL**: In the coming budget. Mr Speaker, the formulation of next year's budget is still very much in its infancy. The cabinet has only met once to consider the very broad financial parameters that will guide the development of next year's budget. Of course, we do have to wait and see what feedback we receive from the broader community through the budget consultation process, and indeed through committees of this place, before we make final decisions about priorities for next year's budget.

I cannot pre-empt the outcomes of budget cabinets. It would be inappropriate for me to do so. But, Mr Speaker, I did indicate to the Estimates Committee, and indeed I indicated on budget day when I released the statement on the reduction of the indexation grants to providers in the youth services sector, that it was a one-off, and that remains the case—it is a one-off.

**MS TUCKER**: Mr Speaker, I have a supplementary question. Given the established educational benefit of many youth programs that are not based in schools, particularly for young people on the margins, is there any reason why some of the resources garnered from the "free school bus scheme" cannot be used to support innovative programs in the youth sector?

**MR CORBELL**: Mr Speaker, the government made clear that the money set aside from the Liberals' free school bus bribe would be invested in schools in the ACT and in supporting educational provision in the ACT, and they are the parameters we are working within.

I think you would be aware, Ms Tucker, that approximately $20 million of that $27 million has already been committed in this year's budget for a range of activities, including reducing class sizes, additional IT support, additional programs for students at risk, additional support for indigenous students, and a range of other important measures to improve the overall education commitment for students in schools in the ACT.

The government has sought the advice. I, as the responsible minister, sought and recently received advice from both the Government School Education Council and the Ministerial Advisory Committee on Non-Government Schooling on their priorities for the coming financial year. I will be considering that in the context of the upcoming budget, as I will be considering the advice from all other parts of the sector that I am responsible for as minister, including the youth services sector.

## Qualification of financial statements by Auditor-General

**MR CORNWELL**: My question is to the Treasurer. The Auditor-General, in Auditor-General's Report No 7 of 2002 tabled yesterday, notes that he has qualified the territory's financial statements. Treasurer, this is a serious matter, with a significant impact on the territory's annual operating results. What will you do to resolve this fundamental disagreement between the Auditor-General and the Treasury?

**MR QUINLAN**: Mr Cornwell, I am presuming that you are referring to the treatment of superannuation adjustments arising out of actuarial reassessment.

**Mr Cornwell**: He has qualified the territory's financial statements.

**MR QUINLAN**: Okay. I will presume that you do not know what you are talking about and you are asking me the party question. I was cruel enough in the past once or twice to ask members to ask the same question in a different way just to check on whether they actually knew what they were talking about, and I am sorry, Mr Cornwell.

Certainly, there was some time ago in relation to the territory's superannuation liability, as shown in the balance sheet, a very significant adjustment, a very favourable adjustment in the actual level of that liability. Historically, an adjustment like that would just fall to below the operating line and would be an abnormal item which gives the final adjusted operating result. A number of years ago when, I think, Mrs Carnell was the Treasurer—she is no longer here—and Mr Lilley was the Under Treasurer, a scheme was devised or a standard adopted from America, apparently, whereby those changes would be amortised over 12 years, I think.

**Mr Humphries**: It was approved by the Auditor-General, too.

**MR QUINLAN**: It was approved by the Auditor-General; that is right.

**Mrs Dunne**: And he hasn't changed his mind.

**MR QUINLAN**: Funny thing, Mrs Dunne, he has, and that is exactly what we are talking about.

**Mrs Dunne**: Not when he was at estimates, he hadn't.

**MR QUINLAN**: Just in case *Hansard* did not pick it up, Mrs Dunne interjected, "Not when he was in estimates, he hasn't." I am advised that the Auditor-General has changed his mind and now believes that, in fact, all of the adjustment should be written off.

In previous years we have seen a benefit, if you like, included by Liberal governments in their budgets above the line of heading up towards $30 million for the year. We are in debate with the Auditor-General on that. First of all, I rather agree with him that the thing should be changed. We have a bit of a disagreement as to the timing of that change inasmuch as I think it would only be right and proper that, for the information of the people of the ACT, we at least prepare statements on the same basis as the previous year and we do not start comparing apples with pears.

In fact, I was prepared to wear, if you like, an audit qualification in order that we could come to this point, Mr Cornwell, that we could actually discuss this matter in the house, because there has been a 180-degree change in the Auditor's approach. I know that the Auditor's word is generally taken as holy writ, but it does actually show, quite appropriately, and thank you for bringing it up, Mr Cornwell, that auditors can have opinions and can have differing opinions on the same matter from time to time.

**MR CORNWELL**: I have a supplementary question. Treasurer, how will the government respond to the implications flowing from this disagreement for the territory's financial statements, not its superannuation situation, in terms of operating results and the financial position?

**Mr Quinlan**: Sorry, there was one verb I missed in that.

**MR CORNWELL**: How will the government respond to the implications flowing from this disagreement, this qualification of the territory's financial statements? We are talking about the operating results and the financial position, not superannuation.

**MR QUINLAN**: You do not know it, Mr Cornwell, but you are talking about superannuation and the government will respond, I think with great difficulty, by communicating this difference to the general public, because it does make a significant difference to the bottom line and therefore, by implication, makes a material difference to bottom lines past.

We have seen quite erroneous statements made about bottom lines in this place and outside this place over years. My great lament, as we all know, is that very seldom in this place have we gotten any in-depth analysis of the actual reporting of the ACT and its budget. We tend to just take the bottom line. It is quoted and flung around. Unfortunately, Mr Cornwell, I have to say that the way you asked that question probably means that, as a group, we possibly deserve not to have that depth of analysis when we do not even understand it ourselves.

## ACT Housing—fire safety

**MRS DUNNE**: My question is to the Treasurer. Mr Quinlan, on what date did you become aware of the need for additional expenditure in relation to fire safety in ACT Housing's multiunit complexes?

**MR QUINLAN**: The same old question. My answer falls into roughly the same zone as Mr Stanhope's inasmuch as—

**Mr Humphries**: Which was very rough to begin with.

**MR QUINLAN**: His memory was not detailed. He may go through his diary and find it. I will not go through my diary and find it, because I do not keep a diary which says, "Dear diary, on this day I discovered the following." I do not do that. As Mr Stanhope indicated in the questioning of him, there is documentary evidence. One of the underlying problems that are coming up in the line of questions relates to when did we know that this was happening and when was it advised. While I am on my feet—

**Mr Humphries**: The sort of question you asked over Bruce Stadium.

**MR QUINLAN**: Excuse me. While I am on my feet, I do owe Ms Dundas an apology inasmuch as Ms Dundas asked about this matter some months ago and I did answer her question rather flippantly because I did not pick up one date in that. As far as I know now, not back then, in about June 2000—is that right?—some deficiencies were identified in the fire safety of public housing. Since that time, there have been a series of audits occurring.

It is not my portfolio. You were asking me what I knew. This is what I know and I am not guaranteeing it. So far as I know, during the interim from June 2000 until recent times, there has been a series of audits being done and, each time one of those audits is

done, a price tag is put on the problem. So the problem has been known to you guys specifically for a couple of years at least—2½ years or something like that.

**Mr Humphries**: Can you prove that?

**MR QUINLAN**: You asked me what I think I know. I qualified that. This is my—

**Mr Humphries**: Table the document and we will see.

**Mr Wood**: Your ministers didn't pay attention to it.

**Mr Humphries**: We asked what was there. Show us what was tabled for us. You have the documents.

**MR QUINLAN**: What we got this year was not just that there was a problem, because there was a problem known to the portfolio minister at least, not particularly known to me. But then, as sometimes these things do happen while you are doing other things, the meter is on $10 million and there is a letter from the Government Solicitor that says, "If you don't do something about this, you are liable."

**Mr Wood**: May be liable.

**MR QUINLAN**: Yes, we may be liable. So you have now a dual problem. From a practical point of view, you have a dual problem—or a triple problem. You have the problem to fix.

**Mr Humphries**: Why breach the law?

**MR QUINLAN**: That wasn't the question, was it? Do you want to ask that question?

**Mr Humphries**: I will ask it, if you like.

**MR QUINLAN**: You have burned your question, you fool. I withdraw that. You have the tripled-headed problem of the practical problem that needs to be fixed, you have the moral obligation to fix it and you also have to make the commitment and be in a position where you could say in a court of law that you had taken whatever action was necessary and hence there is a rationale to make a full commitment to address that problem based on the opinions received.

When did I know? About the end of May, I think, because, as you know, that was around budget time and there was a lot of work being done, particularly within my portfolio as Treasurer.

**MRS DUNNE**: I have a supplementary question. Does this mean, Minister, that what was happening was that there were budget bids to do and you actually forgot to do it and put it in the budget, so you misused the Treasurer's Advance?

**MR QUINLAN**: That one I can't recall.

**Mr Smyth**: He said earlier that there were budget bids for it.

**MR QUINLAN**: I am just saying it off the top of my head. I do not remember all the budget bids. But we do remember the crystallising moment when we got a legal opinion that said, "If you don't do it, this has serious consequences." So we then had an actual change of circumstance; all of a sudden. Be sure of this: there was an event. Sorry about that, but there was an event.

## ACT Housing—fire safety

**MS DUNDAS**: Mr Speaker, I wish to put a question to the minister for housing, Mr Wood. There has been much discussion about the need for fire safety upgrades being notified as urgent in May 2002. This need for fire safety upgrades was, I understand, raised in an ACT Housing multiunit property plan report which was available in 2000. The ACT ALP election policy—available on the ACT ALP website from, I believe, October 2001—states that Labor will "continue the implementation of the ACT Housing Multi-Unit Property Plan with greater transparency of process and funding allocations".

Minister, considering recent discussion over this matter, can you please explain how the government is planning to meet its election commitment and whether any member of the current government read the ACT Housing multiunit property plan before it was put in as part of ACT Labor Party policy?

**MR WOOD**: I would have to go back to the paperwork and check on whether you are talking about the party platform or election commitments, and I think those of us in political parties know the distinction. But I think that it is clear that from the time of becoming the minister I have moved actively to put housing on a high priority. I have never stopped talking about it. It is not easy to get large sums of money just for building purposes, if that is what we do, because that is a very large undertaking. The success of my activities has been helped by a legal report and, I think, my comments within the government.

**MS DUNDAS**: I have a supplementary question. I thank the minister for his words and I appreciate his commitment to housing, but he did not answer my question, which was: how are you going to implement the ACT Labor Party policy of implementing the MUPP with greater transparency of process and funding allocations, and did members of the government read this report before it was put in as part of ACT ALP policy?

**MR WOOD**: As part of policy, we all have a hand in it. I prepared it in consultation with the usual party structure and I can remember long and hard discussions around a table with my colleagues as we determined our priorities.

**Ms Dundas**: Did you read the report?

**MR WOOD**: The report was a significant one. It wasn't generally in the public domain, I had good information about it. I might say that the main thrust of what I committed to at election time was to try to maintain the number of properties that we had. That throws into contrast some aspects of the MUPP program because, under the former government, much of that program was to demolish properties—cannibalise them, if you like—and I was resisting that activity. I have been endeavouring in the year I have been in this job

to maintain the level of properties that we have. I stress that as one of the most significant aspects of what I am doing.

## Department of Health and Community Care—office accommodation

**MR HARGREAVES**: Mr Speaker, my question, through you, is to the Chief Minister. Can the Chief Minister confirm that the Department of Health and Community Care has been suffering from a chronic lack of suitable office accommodation? Can you give an indication of the cause of that problem?

**MR STANHOPE**: Indeed, it is the case that the department of health is not well served by its current accommodation. At the moment, the administrative centre of the department, which members will recall has been substantially reshaped following the Reid review, is housed in the North Building in offices sadly in need of refurbishment. At the same time, the Community Care elements of the department are located in offices on the corner of Moore and Alinga streets in Civic, and not all of that building is occupied by elements of the health department. That, of course, is one of the difficulties that the department faces.

There is a whole floor—that is, level 4—that is occupied by a private company. Logically, the department has for some time been keen to pursue its option for taking over that private lease and co-locating within the Moore Street building. There has been, however, a stumbling block, and a stumbling block of some proportion. Level 4 is occupied by the company Fujitsu under the terms of a contract signed with the former government. By any measure, it is a good deal for the company. It is not hard to understand why Fujitsu has been reluctant to move out.

This matter has been referred to in the Assembly previously. The former Chief Minister, Mrs Carnell, answered a question on notice from Mr Kaine on the subject on 4 May 1999. Members of the government might recall it. Mr Kaine asked about the total value of the taxpayer-funded incentives that went to Fujitsu, including cash contributions and forgone revenue. Mrs Carnell confirmed that the company had been given, one assumes as part of the previous government's business development incentive scheme arrangements, discounted rental at the Moore Street offices and other office accommodation in the Callam Offices.

Mrs Carnell advised the Assembly that there was a rent-free period that was worth $761,000. The amount of revenue forgone, according to Mrs Carnell at the time, was a payroll tax waiver which in 1999 she estimated as being worth $428,000. It is perhaps a pity that Mrs Carnell did not give the complete answer to Mr Kaine pursuant to his question. Mrs Carnell did not mention the $75,000 cash incentive that Fujitsu achieved for its relocation, the fact that it got a 10-year lease over the Moore Street and Callam Offices accommodation, the first two years rent free, that it had the premises refurbished by the ACT taxpayer at a cost of $1 million, and that it received a 10-year payroll tax waiver that Mrs Carnell said was worth $428,000. The department now advises that the 10-year payroll tax waiver is worth $935,000, so it was potentially another $1 million.

But business incentives are business incentives, so we need to look at what Fujitsu brought to this deal. What did Fujitsu bring? As Mrs Carnell said in response to Mr Kaine, the deal was that the company expected to create more than 900 jobs in

Canberra; in fact, the contract stipulates 934 by this date. But the jobs did not eventuate. When Mrs Carnell responded to Mr Kaine, the company had 140 staff on its books and the number has subsequently fallen. I think that it is now down to somewhere between 85 and 100 working in Moore Street and no-one working at the Callam Offices. In fact, the company has sublet the Callam Offices area.

**Mr Quinlan**: Sublet it?

**MR STANHOPE**: Yes.

**Mr Quinlan**: To whom?

**MR SPEAKER**: Order! Mr Stanhope has the floor.

**MR STANHOPE**: Anyway, the incentive package was entered into on 14 July 1997 on the basis that the two parties would enter into a five-year strategic partnership. Only one of the achievements was employment, but one of the milestones that Fujitsu was to achieve was to have 934 employees. There were some other things that Fujitsu was going to do and they were agreed in a contract signed on 14 July 1997. I have to say that it was a real blast from the past for me. It actually engendered some real nostalgia in me, this little ripper of a contract signed by Kate Carnell and witnessed by Mick Lilley. It took me back.

**Mr Hargreaves**: Was John Walker in it?

**MR STANHOPE**: Actually, you are quite right, it was John Walker who did it. I beg Mick Lilley's pardon. The contract, I believe, was signed by Kate Carnell and witnessed by John Walker, but the amending contract which I am about to come to was signed, I think, by Kate Carnell and witnessed by Mick Lilley.

The original contract was signed on 14 July 1997 on the basis that the two parties would enter into a five-year strategic partnership. That agreement, as I have just indicated, was amended just a couple of months later to reflect that it wasn't a five-year strategic partnership but would be a 12-month strategic partnership. But there was a proviso in this second agreement that replaced the five-year strategic partnership arrangement with a 12-month strategic partnership arrangement that if the parties did not enter into a five-year agreement within a year, that is, by October 1998—I have never seen a clause like this in a contract; it is unique—Fujitsu would be relieved of all of its obligations under the contract, but the territory would remain bound by all of its.

Guess what? There was no contract entered into before October 1998, none, so this clause kicked in. Within a year of signing up to a contract that cost us up front $1 million in refurbishment, $75,000 in relocation, two years rent free and a 10-year payroll tax holiday, we just abandoned it.

**Mr Humphries**: Which they won't get.

**MR STANHOPE**: They have already racked up $1 million in payroll tax holiday. So we are up to $3 million on a contract in which we absolved them of all obligations to deliver a single thing. Guess what? They haven't. This is an amazing contract. I have never seen

anything like it. We are doing everything we said that we would do. We will keep doling it out year after year. Fujitsu has taken over part of the department of health's area. We have kept a whole floor for that. That reminds me of another interesting little clause. There is still a live option for Fujitsu to take over the third and the fifth floors of the Health building and actually take up the third, the fourth and the fifth floors. I do not know where Health would go if Fujitsu exercised that option.

This is an amazingly innovative little package. It is not bad work if you can get it. I will probably have to have this confirmed but, interestingly, I do not think you will find reference in a single Liberal Party annual report to this deal. It doesn't exist. It was never reported on. It was not a business development incentive scheme deal. It was separate, it was special, it was done by direct arrangement with the Chief Minister and Treasury. It does not appear. Because it involves holidays, there is no single line reporting on it. It is about things forgone—forgone rent, forgone payroll tax and, of course, just $1 million worth of refurbishment here or there, but what is that amongst friends? This is an amazing little deal. There are 100,000 files or more within the ACT service and this, of course, is just one file. One wonders how many more of these there are lurking. In summary, that is part of the response as to why the department of health does have some accommodation problems.

**MR HARGREAVES**: I have a supplementary question. Can the minister say whether there is any prospect of the company and the government resolving the question of Fujitsu's occupancy of level 4 of the Moore Street offices?

**MR STANHOPE**: This is a real issue for the department of health and, to the extent that $3 million has, I think, gone down the gurgler, it is a very significant issue for the hard-pressed ACT taxpayer.

**Mr Smyth**: Was it done legally? Was it executed legally?

**MR STANHOPE**: It is interesting to see Mr Smyth standing there defending this sort of arrangement. Mr Smyth is a great defender of this sort of arrangement, which is very interesting.

We are negotiating with Fujitsu about the continued occupation of level 4 and there is, I think, some light at the end of the tunnel. Negotiations are proceeding well on the possible relinquishment of the lease. The ACT government would be happy to relieve any lingering responsibilities or rights that Fujitsu may have under the contract and I am hoping that the issue will be resolved quickly.

Mr Speaker, I ask that further questions be placed on the notice paper.

## Qualification of financial statements by Auditor-General

**MR HUMPHRIES**: Mr Speaker, I believe that I have a right to ask a question before the end of question time.

**MR SPEAKER**: I thought you asked a question earlier.

**MR HUMPHRIES**: No, Mr Speaker. I took a point of order.

**MR SPEAKER**: You raised as a point of order something which was ruled not to be a point of order and you asked a question of the Chief Minister. I think I heard the Deputy Chief Minister interject, "Is that your question?" and you said yes.

**MR HUMPHRIES**: Mr Speaker, it has often been the case in this place that members have asked ministers to table documents that they have either read from or referred to. Members of this place have often asked ministers to table a document that they read from or referred to in the course of their answer. Speakers have never treated such a request as a question which uses up a member's entitlement to ask a question in question time. I would ask, therefore, that you allow me to ask the question which is my entitlement in question time today.

**MR SPEAKER**: I refer you to standing order 113A, which says:

> Questions without notice shall not be concluded until all non-Executive Members rising have asked at least one question.

I have taken it, and my understanding was that you took it, that you were asking a question.

**MR HUMPHRIES**: No, I didn't, Mr Speaker.

**MR SPEAKER**: I have taken it that everybody has asked a question. The Chief Minister has asked that further questions be placed on the notice paper. If you want to ask another question, you will have to obtain leave.

**MR HUMPHRIES**: Mr Speaker, I seek leave to ask a question in this place.

**Mr Stanhope**: On the point of order, Mr Speaker: I think the record needs to show, and it needs to show quite clearly, that Mr Humphries stood and asked a question. I asked Mr Humphries—

**Mrs Dunne**: No, he didn't. He stood to take a point of order.

**Mr Stanhope**: No, and the *Hansard* will have recorded that. Just be careful of what you say. Mr Humphries knows what he said. Mr Humphries knows what I said. Mr Humphries stood and took a point of order. He then asked a question. I asked, "Is that your question?" Mr Humphries, standing on his feet, answered yes.

I then said, and this will be recorded in the *Hansard*, "If that is your question, this is my answer," and the question was answered. I am happy to give Mr Humphries leave to ask a question, but I want the record to be quite clear that Mr Humphries is now asking a second question.

This is a question of crying wolf. You have a smart alec attitude to questions. How many times have you stood after all questions have been asked and tried to ask a second question or a supplementary question? You are doing it now. You are hoist with your own petard and you are still playing these ridiculous, absurd, undergraduate games. I just think that the record needs to show that.

Leave granted.

**MR HUMPHRIES**: Great sensitivity, Mr Speaker. My question is to the Attorney-General. On 30 June 1999 in this place you stated:

> … section 6 of the Financial Management Act provides for an absolute liability. It does not require … intent. It simply says, "No money shall be paid out without proper appropriation." The penalty for the breach is not a criminal penalty; it is not a criminal prosecution. It is a political penalty …

Given the findings of the Auditor-General's Report No 7 of 2002, do you still believe that this formulation of the law is the case?

**MR STANHOPE**: Mr Speaker, I do not resile from anything that I said in relation to the incompetence and the fiasco involved in the redevelopment of Bruce Stadium. The role of Mr Humphries in that cabinet, as he stood side by side with Mrs Carnell as she attempted to reject all responsibility for what occurred in relation to that, and what is detailed in 14 separate reports of the Auditor-General are there for all to know.

The redevelopment of Bruce Stadium was an absolute disgrace; it was a scandal of the first order. I do not resile from anything that I said in relation to Bruce Stadium. I do not resile at all from the fact that Mr Humphries, as a dedicated member of the cabinet that was responsible for that outrageous affair, has never accepted any responsibility for his part in the Bruce Stadium fiasco.

**MR HUMPHRIES**: I have a supplementary question in relation to the role of the Attorney-General in the cabinet which made this decision. As the first law officer of the ACT, what steps will you take to determine the legality of the $10 million Treasurer's Advance paid to ACT Housing in June 2002?

**MR STANHOPE**: I think that we need to go back to the Auditor-General's report in relation to this matter. The Auditor-General's findings were:

> Housing received $10 million from the Treasurer's Advance in June 2002. The Audit view is that this was a misuse of the Treasurer's Advance and its legality could also be questioned.

If the legality can be questioned, I don't accept the Auditor-General's opinion on this. The Auditor-General has a view. It is a view that, I have to say, is not all that apparent to me. I think Mr Quinlan, the Treasurer, has already indicated that. I think it is indicated, indeed, in Mr Tonkin's response that we take this matter extremely seriously. It is quite clear that there are some very real ambiguities in the way that section 18 of the Financial Management Act is expressed; there is no doubt about that. We all accept that.

It is interesting to go through section 18 of the Financial Management Act. Section 18 (1), which is relevant to this discussion, states:

> Expenditure that is—

(a) in excess of the amount specifically appropriated for expenditure of that kind; or

(b) not provided for by any appropriation;

may be authorised by the Treasurer by instrument …

I do not have the full section here.

**Mr Smyth**: So you are not going to do anything?

**MR STANHOPE**: We are. The Treasurer indicated in his statement yesterday when he stood and drew attention to this issue that it is a serious issue; there is no denying that. It is quite a serious issue. There is a clear ambiguity in the wording of section 8 of the Financial Management Act and the government is already committed to addressing that ambiguity so that there is a very clear understanding around the operations of section 18 and the circumstances in which the Treasurer's Advance might be appropriately used.

But I have to say, and I do not resile from it and will not move away from it for one second, that in circumstances where this government was made aware of a serious issue, an urgent issue involving fire safety arrangements for multiunit complexes in the ACT, where it was drawn to our attention within a few months of coming to government and it was clear that the previous government knew about it but had done nothing to address or rectify it, this government took a decision, and took it instantly, that it would not tolerate such a situation, particularly in light of advice received from the ACT Government Solicitor that we would almost certainly be liable were any event to occur.

That is what the ACT Government Solicitor advised us. He gave a detailed opinion on negligence and the circumstances in which duty of care applied, whether there was a duty of care in circumstances in which it could be regarded that the liability of a landlord—in this case, this government—would be generated, and, certainly, this government acted. We did, and I am proud of the fact that we did. I am proud of the fact that we took the steps that we did. I am proud of the fact that we as a government, having been confronted with the fact that public housing tenants in the ACT were potentially at risk and at extra risk as a result of their homes not satisfying Australian building standards, and as a responsible landlord, took the immediate steps that we took. We took urgent and immediate action to begin the process of resolving to render these homes safe for a significant number of Canberrans.

It is interesting to me that the Auditor-General places some objective analysis of his own on what is urgent and the opposition do the same. It is interesting to me that the opposition, having had two years notice in government of this urgent situation, did nothing. They did not see or understand the moral imperative that we are dealing with here. They are not at all concerned with the moral imperative that we are dealing with here, the fact that potentially hundreds of ACT residents were living in accommodation that was not safe, of which they had notice and on which the Australian Government Solicitor subsequently advised that action should be taken or the ACT government would be not only morally responsible, which we always were, but also legally responsible.

What would any good government do? Any good government would do what we did. Any good government would respond in the way that we did. I am proud of the fact that we did. I am proud of the fact that we had the capacity to do that. I am proud of the fact that we showed that level of support for public housing tenants in the ACT so that this problem could be resolved in as timely a way as possible.

It is interesting to me that the Auditor-General put some judgment on what he word "urgent" means. I would not mind betting that the Auditor-General's notion of what was urgent in relation to a unit over in the Bega or Allawah flats is slightly different from what a resident of one of those units would regard as urgent. It is obviously quite different from what a member of the Liberal Party regards as urgent in the context of units that were subject to a detailed audit commissioned by the previous government and provided to the previous government and on which the previous government did not act. There are, obviously, some quite different interpretations round the place around what is urgent, what is required, what is necessary, what is a moral imperative, and what responsibilities we, as a landlord, have to those in our community who live within such apartments.

This government responded. We responded urgently, we responded with alacrity and we responded in accordance with the advice that we were provided by the then head of the department of housing and the then head of Treasury and consistent with advice from the ACT Government Solicitor. I am proud of the fact that we did it. I do not step away from it. We will never step away from it, but I am more than happy to commit this government to ensuring that the ambiguities identified by the Auditor-General are dealt with.

I ask that further questions be placed on the notice paper.

## Chief Minister's Department—annual report
### Paper and statement by minister

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

> Chief Minister's Department Annual Report 2001-2002—Corrigendum.

I ask for leave to make a statement.

Leave granted.

**MR STANHOPE**: The annual report, as published, includes information—on page 16 of volume 1—on the 2001-02 and 2002-03 public sector workers compensation premiums. This information contains an error. While the premium including GST is correctly reported, the premium excluding GST, the base premium, is incorrectly reported. The correct amount for 2001-02 is $23.85 million, not $23.61 million as reported. For 2002-03 it is $23.03 million, not $23.24 million as reported. These errors reflect a calculation error in the department made at the time the information was provided for the annual report.

The annual report should also include the revised budget information, which forms part of the management discussion and analysis, for both the ACT executive and the Chief Minister's Department. This was omitted from the annual report, as published. The information relating to the ACT executive follows page 13 of volume 2 of the annual report, as published. The information relating to the Chief Minister's Department follows page 50 of volume 2 of the annual report, as published.

Although this information does not form part of the audited financial statements, as required under the annual report directions to be included in the annual report, the chair and members of the Standing Committee on Public Accounts have been advised of the error and omission and provided with the corrigendum.

## Public Trustee—trust account financial statements
### Paper and statement by minister

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

> Public Trustee—Trust Account Financial Statements for the year ended 30 June 2002, including the audit report, dated 26 September 2002.

I ask for leave to make a statement.

Leave granted.

**MR STANHOPE**: Mr Speaker, I am tabling today the audited version of the public trustee trust account financial statements for the year ended 30 June 2002, and the Auditor-General's opinion, as an addendum to the *Public Trustee for the Australian Capital Territory Annual Report 2001-2002*.

At the time of tabling of the annual report, the audited version of the trust financial statement had not been completed by the Auditor-General's Office. Therefore, the unaudited version of the trust financial statements was included in the Public Trustee's annual report. The trust financial statements for the year ended 30 June 2002 had two minor changes, which were not material in nature.

The first related to the trustee investments. During the 2001-02 financial year, the Public Trustee, complying with the prudent person rule of trustee investments, introduced a number of common funds, being the Australian equities and the fixed interest common funds. Due to a number of factors, the equities market had a volatile year, resulting in capital losses. The change to the trust financial statements relating to the accounting treatment of that loss was that the equities and fixed interest common funds were amended to include reserves held at 30 June 2002.

The second change related to the management fee. The Public Trustee charges a management fee for the administration and management of the various common funds under its control. The goods and services tax has in the past been shown separately. The appropriate treatment of the GST was to net the amount against the management fees. This resulted in adjustment to investment income and management fees.

I ask that you accept the audited version of the trust financial statements and the Auditor-General's opinion. It is important that the Public Trustee's annual report is recorded as a true and correct record for members of the Assembly.

## Gay, lesbian, transgender and intersex people
### Paper and statement by minister

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

> Gay, Lesbian, Bisexual, Transgender and Intersex People in the ACT: An Issues Paper, dated December 2002.

I ask for leave to make a statement.

Leave granted.

**MR STANHOPE**: This morning I tabled the Legislation (Gay, Lesbian and Transgender) Amendment Bill 2002. I indicated then that I would be tabling an issues paper that canvasses questions about the way ACT laws deal with these issues.

As I said, this paper forms part of the second stage of the government's law reform process, aimed at addressing discrimination on the basis of sexuality and gender identity. The aim of the issues paper is to ensure that policy development on those issues takes into account community and stakeholder views.

## Mental health services—risk of harm to clients
### Papers and statement by minister

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs, and Minister for Women) (3.49): For the information of members, I present the following paper:

> Investigation into Risk of Harm to Clients of Mental Health Services—Report to the Minister for Health prepared by the Community and Health Services Complaints Commissioner, dated November 2002.

I seek leave to move a motion authorising the report's publication.

Leave granted.

**MR STANHOPE**: I move:

> That the paper be authorised for publication.

Question resolved in the affirmative.

**MR STANHOPE**: I seek leave to make a statement.

Leave granted.

**MR STANHOPE**: In May 2002, I announced a three-pronged approach to comprehensively deal with some critical problems affecting mental health services in the ACT and set a path for reform.

First, I asked the ACT Community and Health Services Complaints Commissioner, Mr Ken Patterson, to investigate the accessibility and standard of acute mental health services and the adequacy of follow-up care. Second, I directed ACT Health to conduct a review into the safety and quality of the processes of mental health service delivery. Third, I directed ACT Health to ensure that funds and resources would be set aside for the development of a new strategic plan for mental health in the ACT.

At the same time, my government's reform of governance arrangements in the health portfolio led to the implementation of the new mental health screen service arrangements made possible with the abolition of the purchaser/provider system. I will touch on all aspects of this reform process today, but my main focus is to present to members the ministerially commissioned risk report, prepared by the health complaints commissioner, entitled *Investigation into risk of harm to clients of mental health services*.

In compiling this independent risk report, the complaints commissioner gathered data and contributions from expert clinical advisers, consumers, carers, families and other members of the community. He also consulted with service providers, the coroner's office and the Australian Federal Police.

This is the first time a report of such breadth and candour has been commissioned by an ACT minister into publicly provided mental health services. The commissioning and tabling of this report is a demonstration not only of the government's commitment to openness but also of its responsiveness and pro-active approach to addressing community concerns about mental health services in the ACT.

There is a risk associated with releasing this report, which offers constructive criticism of the current system, that, if the community, consumers and carers are concerned about the quality of mental health services, they will use them only reluctantly. The last thing anybody wishes to do is deter people needing help from seeking it.

It should also be acknowledged that consumers and carers have been very generous in describing their experiences, and it is the responsibility of the community to treat the information contained in this report with respect. The report contains 58 recommendations covering all aspects of treatment and care. The government has developed a preliminary response to the recommendations, which has been tabled with the report. The response outlines the work already put in place to address the recommendations made by the commissioner.

Further work to address all recommendations in the report is under way, with Mental Health ACT actively working with consumers, carers and other stakeholders to address these remaining issues. I now undertake to provide the Assembly with a progress report,

in 12 months, time on the implementation of the recommendations of this report and other improvements in mental health services.

In his risk report the commissioner raises three main concerns about mental health services: resourcing, consistency, and integration. As has already been noted in the Assembly, the per capita resources provided to mental health services are below those provided by other states and the Northern Territory. That means the previous governments have let this community down. People in the ACT have less access to services, and services providers are less able to meet the community's expectations.

**MR SPEAKER**: Order in the press gallery!

**MR STANHOPE**: The complaints commissioner identified resource constraints as a key issue that needs to be addressed in the ACT. Service providers in the public sector, now integrated under Mental Health ACT, have also identified resource issues as limiting their ability to provide comprehensive mental health services to the community.

The government has responded to these concerns by increasing the funding provided to mental health services in the 2002-03 budget by $2 million, an increase of approximately 7 per cent. New areas of funding include promotion, prevention and early intervention, child and adolescent services and older persons mental health. These areas of need are reflected in the recommendations of the report.

The government places a high priority on addressing these and other areas of need in future budgets. Additional funding will help, but it will take time to overcome the many years of neglect by previous Liberal governments and bring the ACT more into line with the level of mental health funding provided in other jurisdictions.

Service improvement, however, is not simply a matter of providing additional financial resources. The development and maintenance of good, quality services rely upon the ongoing commitment of those working in the field to continuous service improvements, rigorous planning and comprehensive, regular service evaluation. The government will work to provide the tools and skills required to deliver quality care.

The commissioner's second key finding is a lack of consistency in services provided. Consumers, carers and families reported inconsistent access to high-quality, evidence-based treatment and care. The report describes the positive and negative experience of consumers and carers when accessing mental health services.

The report notes many examples of excellent work by mental health staff and particularly noted the challenging environment in which they work. This is a fitting tribute to staff who are working in the complex field of mental health care. I would like to put on record my personal thanks to mental health staff and management in the mental health field. It must be acknowledged that the work of staff is very challenging and can be disheartening and even thankless.

The staff of Mental Health ACT continue to demonstrate dedication and an ongoing commitment to quality care. This is a point recognised by the complaints commissioner in the risk report. I do not want this report to be misinterpreted and in any way used to criticise mental health staff. Demoralised staff mean a worse service, not a better one.

I want all mental health staff, in particular Brian Jacobs and Associate Professor Cathy Owen, to accept my personal thanks for the work they do and know that we are here to support them.

My hope in releasing this risk report is that it will be a resource for mental health staff to improve their practices and better describe shortfalls in the system. In this light, the report should be regarded as a lever for mental health staff and services to better argue their case for getting the share of community taxes they need to do their jobs well.

Many consumers and carers expressed gratitude for the treatment and care provided in both ongoing and crisis services. The risk report also identified some real strengths in information systems, including assessment processes. These findings reflect the efforts made by mental health services over the past five years to raise the standard of treatment and care provided, particularly for those with severe mental illness.

However, the report also notes a level of inconsistency in service provision, meaning that consumers and carers may not always receive the high level of care they are entitled to expect. Consumers and carers have expressed concern in particular about collaboration in care planning, delivery and review.

In response to this finding, several steps have already been taken. Mental Health ACT is adapting its clinical database to enable consumers and carers to make contributions to the clinical file. The protocol regarding assessment practices is being more closely monitored. These measures will ensure that inconsistencies in practice will be identified and actions can be taken to overcome them.

In addition to this, information and resources provided to consumers and carers, and processes to include them in service planning and evaluation, will be further enhanced to ensure that their needs and expectations are better met. Mental Health ACT is also further developing staff training and clinical supervision programs to ensure that staff have the skills to better collaborate with consumers and carers.

The risk report suggests that legislative changes may be necessary. These will be considered during the development of amendments to the Mental Health (Treatment and Care) Act. Community consultation regarding these amendments will be undertaken in 2003. Similarly, the provisions of the Health Records (Privacy and Access) Act 1997 will also be subject to review.

The third issue raised in the report is the lack of integration in service delivery. This has a serious impact on the ability of consumers and families to access the services they need when they need them. The lack of integration of service delivery is closely linked with concerns regarding the consistency of services provided. This has been a criticism of mental health services for several years. It was not until my government restructured the health portfolio governance arrangements and established Mental Health ACT that this issue was properly addressed.

The establishment of a single point of accountability for policy, planning, service development and delivery aims to avoid duplication and competition and enhance outcomes for consumers and carers. However, these structural changes will only be part of the solution to the problem of lack of integration. A number of changes have already

been initiated to improve service integration. One of these initiatives is the more consistent approach to referral management across all community adult mental health teams. This has improved the ability of service providers to ensure continuity of care.

A number of other strategies will be adopted to address this problem, which include having regular audits of practice by Mental Health ACT service providers, reviewing and enhancing partnerships with other health and community services in both the government and non-government sectors and improving the protocol for admission to and discharge from in-patient services.

Mental Health ACT has developed memoranda of understanding with related organisations, one mechanism by which to better integrate health services. This is particularly important, given the prevalence of clients suffering dual diagnosis problems. These clients cannot afford to face barriers to access between mental health services and alcohol and drug services.

To ensure complete transparency and promote the active engagement of stakeholders in relation to the risk report, I have taken several measures. A copy of the report has been placed on the ACT Health website. The general manager of Mental Health ACT has contacted stakeholder representatives about the report and will continue to work closely with them on the implementation of the recommendations.

The ongoing engagement of consumers, carers and other stakeholders will be possible through existing forums, such as the psychiatry service unit consultative forum, the ACT non-government providers network and consumer and carer reference groups. As I noted earlier, the report is one part of a more comprehensive response to concerns about mental health services in the ACT.

I am also tabling today a copy of the review of the quality framework conducted by ACT Health. This paper provides several clear recommendations on the changes needed in mental health services quality frameworks. These include enhancement of clinical governance and other quality improvement processes to ensure that quality and safety are given the highest priority in service delivery. The executive of Mental Health ACT is implementing these recommendations through the development of clinical and corporate governance frameworks.

The third component of reform is the development of a new strategic plan for mental health services. The consultants who will work with ACT stakeholders in developing the ACT mental health strategy and action plan have begun their work and will conduct community consultations in January next year.

The strategy and action plan will be released in May 2003 and will build on the commissioner's report and set the direction for the future of mental health services in the ACT. The strategy and action plan will develop a framework for resource allocation that addresses the full range of mental health needs across all geographical regions of Canberra. The plan will be developed following consultation with consumers, carers, service providers and other key stakeholders in the ACT.

In conclusion, for too long, concerns about mental health services have been met with piecemeal responses. My government's more comprehensive and considered approach, as evidenced by this report and the other measures I have outlined, is enabling the identification of changes that will have a real and positive impact on the experience of consumers and carers who access mental health services. This report provides the ACT community, mental health services and the government with clear directions on how this can be achieved.

Mr Speaker, I present the following paper:

> Preliminary Government Response to Investigation into Risk of Harm to Clients of Mental Health Services, dated December 2002.

I seek leave to move a motion authorising this report for publication.

Leave granted.

**MR STANHOPE**: I move:

> That the paper be authorised for publication.

Question resolved in the affirmative.

**MR STANHOPE**: For the information of members, I present the following paper:

> Departmental Review of the Quality Framework in Mental Health Clinical Treatment and Care Services in the ACT, dated October 2002—Prepared by the Mental Health Policy Unit, Mental Health ACT, ACT Health.

I seek leave to move a motion authorising this report for publication.

Leave granted.

**MR STANHOPE**: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

## Paper

**Mr Stanhope** presented the following paper:

> Bulk Billing Services—General Practitioners—Report to the Legislative Assembly for the ACT, dated December 2002.

## Commission of audit
### Report No 2

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming and Minister for Police, Emergency Services and Corrections) (4.03): For the information of members, I present the following paper:

> Commission of Audit—Report (No 2) on the State of the Territory's Finances—ACT Forests, ACTION and Australian International Hotel School, dated December 2002.

I seek leave to move a motion authorising the report's publication.

Leave granted.

**MR QUINLAN**: I move:

> That the paper be authorised for publication.

Question resolved in the affirmative.

## Affordable housing task force
### Paper and statement by minister

**MR WOOD** (Minister for Urban Services, Minister for the Arts and Minister for Disability, Housing and Community Services (4.04): For the information of members, I present the following papers:

> Affordable Housing Taskforce—
> Consulting the Community on Housing Affordability—Background Paper No 1, dated December 2002.
> Affordable housing: Towards an Appropriate Assistance Strategy—Background Paper No 2, dated December 2002.
> The role of Land and Planning Mechanisms in Providing Affordable Housing—Background Paper No 3, dated December 2002.
> Affordable Housing in the Australian Capital Territory—Strategies for Action—Report of the Ministerial Taskforce on Affordable Housing, dated December 2002.

I ask for leave to make a statement.

Leave granted.

**MR WOOD**: Mr Speaker, I have much pleasure in tabling the report from the ministerial task force on affordable housing, which is entitled, *Affordable housing in the Australian Capital Territory: strategies for action*.

The process to establish a task force to recommend strategies to the government began as both a recommendation of the poverty task group, which published its final report in December 2000, and a pre-election commitment of this government. As minister for housing, I moved quickly to establish the task force early in the life of the government,

with appointments made in February 2002. The chair of the Housing Advisory Committee, Ms Chris Purdon, was appointed chair of the task force. Fourteen other members were appointed from government, business and the community sector.

The terms of reference were deliberately broad. They required the task force to identify levels of housing need and housing stress in the community and to recommend strategies to government to both increase the supply of affordable housing and improve housing affordability levels in the community generally.

The task force was initially required to report by the end of October. However, members felt that important data, only recently available, from the 2001 census should be included to give the most accurate statistical analysis of housing available.

I have just received the report and released it for public information and debate today. I am highly impressed with the level of effort, detail and independent research that the task force has provided as part of this report, to inform both the Assembly and the broader community.

I am also tabling three background papers that the task force has produced to accompany the main report: paper 1, *Consulting the community on housing affordability*; paper 2, *Affordable housing: towards an appropriate assisted strategy*; and paper 3, *The role of land and planning mechanisms in providing affordable housing*. These papers provide details of the research commissioned by the task force.

I acknowledge the substantial efforts of the consultants and organisations that contributed to the task force's deliberations. I thank Ms Purdon, members of the task force and the secretarial staff for their work in the preparation of the report. They worked exceptionally long hours to address a fundamental issue facing many. The report has drawn on the knowledge of many people with diverse interests and points of view. It has not set out to gain unanimity on every issue. It presents, rather, a wide range of options for consideration and action.

The key questions now are how to address the issues raised and how to make a genuine difference to the lives of households facing the burden of stress of living with high housing costs. These are questions for the government, the Assembly, our public institutions, those facing this dilemma and the wider business and community sectors—indeed, all Canberrans. We must see that this report makes a difference.

Although I have just received this report, a number of issues have become immediately apparent. One is the level of housing stress in the community. Over 9,200 households in the ACT are in the bottom 40 per cent of income levels and are paying more than 30 per cent of their income on housing costs—a level universally acknowledged as placing people in stress. This number should be of concern to all members of the Assembly and to the broader community.

The other point is that the report covers a very broad area and scope and contains 46 recommendations affecting public and community housing, the private rental market, home ownership, land and planning systems, financial incentives and government assistance. An approach across government and the community at large will be required in the beginning to address such a wide range of issues.

As minister for housing, I feel it is important that this report and the significant findings and recommendations be immediately put into the public arena. I look forward to debating and discussing the issues with all my Assembly colleagues. There is a lot to digest.

I commend the report to all. I move:

> That the Assembly takes note of the paper.

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

## Legal Affairs—Standing Committee
### Report No 3—government response

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (4.10): For the information of members I present the following paper:

> Legal Affairs—Standing Committee—Report No 3—The Operation of the Dangerous Goods Act 1975 with particular reference to fireworks (presented 27 June 2002)—Government response, dated 12 December 2002.

Mr Speaker, on 13 December 2001 the Legislative Assembly resolved that the Standing Committee on Legal Affairs inquire into and report on the operation of the Dangerous Goods Act 1975 with particular reference to the sale of fireworks. The committee tabled its report on 27 June 2002, making 16 recommendations. The government has accepted the major recommendations of this report. Consistent with the committee's recommendations, the government will continue to allow members of the public to buy fireworks for use over the June long weekend each year.

However, the government will make major changes to the regulatory arrangements for fireworks to address problems caused by the illegal use of fireworks. At the moment, fireworks are commonly used illegally outside the June long weekend and this is causing nuisance to the public, distress and injury to animals and damage to private and public property. The government will substantially increase penalties for the illegal sale and use of fireworks. The types of fireworks that can be sold to the public will also be overhauled.

Noisy, reporting fireworks—that is, fireworks that make a large bang—will be banned. Instead, the public will be able to buy larger, fountain-style fireworks, which create less noise and disturbance to animals but which are more visually appealing. Fireworks will no longer be sold loose and will only be available to the public in pre-packaged bags that have been tested and authorised.

It will be illegal to possess or sell fireworks that have not been authorised by the government or to sell bags of fireworks that have been opened or tampered with after inspection. Retailers and importers of fireworks will be required to include prescribed safety information on the use of fireworks in each bag that is for sale to the public.

New reporting requirements will be introduced to allow the government to effectively audit firework sales. The new reporting requirements will allow the government to track all fireworks that are imported into the territory and check sales receipts to ensure that no fireworks are unaccounted for. Heavy penalties will be introduced for importers and retailers whose records do not account for all fireworks brought into the territory.

The government's model for regulating fireworks differs in some respects from the model recommended by the standing committee. Some of the standing committee's detailed recommendations would be difficult to enforce and expensive to regulate. The government has suggested alternative approaches, which would address the problems highlighted by the committee, but within a regulatory framework that is both sustainable and affordable. Amendments to the dangerous goods legislation to implement these changes will occur as part of a broader review of the regulation of dangerous goods.

The government would like to thank the committee members for their work on this difficult issue.

I move:

> That the Assembly takes note of the paper.

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

## Territory Plan—variation 181

**Mr Corbell** presented the following papers:

> Land (Planning and Environment) Act, pursuant to section 29—Variations to the Territory Plan, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required for:
>
> Variation No 181 to the Territory Plan relating to the Territory Plan Pearce Section 27 Block 3 (former child care centre);
>
> Variation No 174 to the Territory Plan relating to Narrabundah Blocks 2, 3, 14 and 15 Section 124 (Hungarian-Australian Club).

## Planning and Environment—Standing Committee
### Report No 4—government response

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations): I present the following paper:

> Planning and Environment—Standing Committee—Report No 4—Draft variation No 174 relating to Narrabundah Blocks 2, 3, 14 and 15 Section 124—Hungarian-Australian Club and Community Facility Land) *(presented 14 May 2002)*—Government response.

I seek leave to make a statement.

Leave granted.

**MR CORBELL**: Variation 174 to the Territory Plan concerns blocks 2, 3, 14 and 15, section 124 of Narrabundah, part of which is occupied by the Hungarian-Australian Club. The proposal was to change the existing land use policy applying to:

- blocks 2 and 3, section 124, Narrabundah (the Hungarian-Australian Club site) from entertainment, accommodation and leisure land use policy to residential land use policy with a B11 area-specific policy; and
- blocks 14 and 15, section 124, Narrabundah, from community facility to residential land use policy with a B11 area-specific policy.

The B11 area-specific policy would have provided for a residential development up to a maximum of three storeys and necessitated the preparation and approval of a section master plan. A total of 57 submissions were received in response to the exhibited draft variation and, following the public consultation process, the draft variation was revised by removing the B11 area-specific policy.

The implications of this were that residential development would be limited to a maximum height of two storeys and no section master plan would be required. It was proposed that all detailed design and siting matters would be considered at the development application stage and would be subjected to the high-quality sustainable-design process.

These processes required, amongst other things, a detailed site analysis to be undertaken and a comprehensive design response report to be prepared before the development application could be lodged. The Planning and Environment Committee considered the revised draft variation and, in its report No 4 of May 2002, made four recommendations, as follows:

> Recommendation 1
> The committee recommends that blocks 14 and 15 of section 124 be omitted from Draft Variation 174 and be retained as "Community Facility Land".
>
> Recommendation 2
> The committee recommends that PALM consult with the local community concerning the best use of the site (blocks 14 and 15 of section 124) within the current land use policy.
>
> Recommendation 3
> The committee recommends that the Entertainment, Accommodation and Leisure Land Use policy be retained from blocks 2 and 3 of section 124, Narrabundah, and that the Government proceed no further with Draft Variation number 174.
>
> Recommendation 4
> The committee recommends the Government review the operation of all pre self-government leases within the context of the *Land, Planning and Environment Act 1991*.

After careful consideration of recommendations 1 to 3, the government proposes an alternative course of action. It has directed the ACT Planning Authority to revise draft variation 174 by retaining the proposed residential land use policy, but including an area-specific policy to require that a minimum of 50 per cent of the residential units on the

site be used for adaptable housing suitable for people with disabilities and to meet the needs of Canberra's ageing population.

The government has been presented with a situation where the existing club is on the verge of closing and the prospect of an alternative club operating viably on the site is remote. If a club were able to operate successfully on the site, it would be likely to create other issues for the area, such as noise and traffic.

It is clear to the government that there is no appropriate long-term alternative use for the club site within the existing entertainment, accommodation and leisure land use policy, and it does not believe that the long-term operation of a club on the site is likely to be either viable or desirable.

The site is situated in the middle of a residential area. There have been complaints about noise from the club from surrounding residents. The site is located immediately adjacent to a school. The government believes that the land use policy should be changed to one which is more appropriate for the area and which delivers real community benefit in the longer term.

The government considers it is more desirable to see the site used for a worthwhile purpose—for some adaptable housing suitable for people with disabilities and Canberra's ageing population. It is the government's view that, without redevelopment, this suburban site would in all likelihood become derelict, an eyesore and of little benefit to the community. The government believes that is not an outcome that the majority of Narrabundah residents would want. The approach which has been approved by the government will ensure that the site continues to provide a benefit to the community.

In relation to recommendation 4, I have expressed concern in the past about development associated with concessional leases. For this reason I have directed PALM to undertake a review. In July 2002, PALM released documents providing for the tender of a contract for a full review of the concessional leasing system. The review will examine the various aspects of the policy and administration of concessional leases to ensure that they continue to meet the needs of the ACT community. The review is expected to report some time in the first half of the next year.

This is a very detailed and complex issue, and I want to make sure that the government has a good basis for dealing with these types of leases into the future. I believe that this study will provide an appropriate response to the committee's recommendation.

In the meantime, the government has adopted an interim guideline for the administration of these leases. Applications for consent to the transfer of a concessional lease, or for payment of the concession that applies to it, are now being assessed against that guideline. It is unfortunate timing, but the circumstances dictate that it would be unreasonable to hold off on the approval of this draft variation until the concessional leasing review is completed.

I investigated the opportunity of the government resuming the lease, and the advice I got was that, unless the club is prepared to surrender its lease, there is no capacity in the current circumstances for the territory to forcibly resume the lease. Therefore, the government has had to look at other options available. I can, however, assure members

that the club will be required to pay out the concessional element of their lease and pay the change-of-use charge associated with any lease purpose change.

I should also stress to members that the existing lease is still in effect so, if an existing club wants to purchase the Hungarian-Australian Club's lease, there is no impediment under the current lease. This still remains a possibility, albeit remote, even after the variation to the Territory Plan is finalised. However, I would need to closely consider the details of any proposal because the transfer would require ministerial approval.

I strongly believe that the government's response to the issues surrounding this site is the best outcome in the circumstances. I have now tabled variation 174 to the Territory Plan, concerning blocks 2, 3, 14, and 15, section 124, at Narrabundah, part of which is occupied by the Hungarian-Australian Club. I have also tabled the government's response to report No 4 of the Standing Committee on Planning and Environment.

## Papers

**Mr Wood** presented the following papers:

> **Petitions—Out of order**
> Petitions which do not conform with the standing orders—
> Posh Pots retail outlet—Mitchell—Mrs Dunne (2523 citizens).
> Retail trade of fireworks in the ACT—Ms Tucker (9935 citizens).
>
> **Subordinate legislation (including explanatory statements, unless otherwise stated)**
> Land (Planning and Environment) Act—Criteria For The Direct Grant of Crown Leases 2002 (No 1)—Disallowable Instrument DI2002-218 (LR, 12 December 2002).

## Water regulations
### Statement by minister

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming and Minister for Police, Emergency Services and Corrections): I seek leave to make a statement.

Leave granted.

**MR QUINLAN**: On very recent advice, I have signed into law new water regulations that will apply to trigger new stage 1 restrictions coming into force. Whereas the trigger for stage 1—the water restrictions—were set at 55 per cent, the scheme has been adapted for a trigger point to be at any point between 57½ per cent and 52½ per cent of total water storage capacity. In other words, 55 per cent, plus or minus 2½ per cent.

We have amended the scheme because the government was concerned that, if we left the trigger at 55 per cent, given the recent rainfall—which has not filled the dams but has dampened consumption—we might get to the point of reaching stage 1 very close to Christmas Day or over the Christmas break. Communication to the public would therefore be difficult, and people might make reticulation arrangements before going on leave and before restrictions are in place.

This is just a practical measure—taken on very short notice because we are now coming to a particular problem that has just emerged—to allow us the flexibility to introduce the first level of water restrictions at a date when it is appropriate to advise the public.

I do not know whether you have got a problem with that. If I should have given forward notification of such a momentous announcement, I apologise, but I thought I would just pay the Assembly the courtesy of advising them on the last day of sitting.

## Questions without notice
### Land development

**MR CORBELL**: At question time yesterday, Ms Tucker asked me a question about the leasehold by the Hungarian-Australian Club. I answered most of this question yesterday evening but, for completeness of answer, I now advise Ms Tucker and members that the advice I have received on terminating or acquiring a lease is set out in legislation under the land act and the Lands Acquisition Act. The Lands Acquisition Act specifies conditions for acquisition and sets out that in such circumstances the territory has to pay market value for the land and improvements on it.

Given the outline of the requirements under the Lands Acquisition Act, there is no reason to terminate the lease for the Hungarian-Australian Club and therefore no capacity for the government to acquire it.

## ACT Housing—Treasurer's Advance
### Discussion of matter of public importance

**MR SPEAKER**: I have received letters from Mrs Dunne, Mr Humphries, Mr Pratt, Mr Smyth and Mr Stefaniak proposing that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, I have determined that the matter proposed by Mrs Dunne be submitted to the Assembly, namely:

> The legality of the Treasurer's advance of $10 million to ACT Housing in June 2002.

**MRS DUNNE** (4.28): Mr Speaker, each of us here holds in our hands something very fragile and something very precious. It is not lightly bestowed and it can be quickly taken back. Like a butterfly, it is easily damaged in our grasp if we are not careful in our custody and mindful of its fragility.

Mr Speaker, that of which I am speaking is the public trust. We are its custodians, its guardians. When that trust is shaken, we are all diminished, individually and collectively. The institution of which we are a part and whose reputation we are pledged to uphold is damaged if we fall short, even by the slightest bit, of the absolute standards required.

The trust bestowed to our keeping is as inflexible as love was to Shakespeare. Trust is not trust:

> Which alters when it alteration finds,
> Or bends with the remover to remove:
> O no! it is an ever-fixed mark
> That looks on tempests and is never shaken;
> It is the star to every wandering bark,
> Whose worth's unknown, although his height be taken.

Mr Speaker, what we are discussing this afternoon goes to the very heart of public administration and to ministerial responsibility. We know that the Auditor has said that the Treasurer misused the Treasurer's Advance. We know that the legality of the Treasurer's actions are questioned. Even worse, we know that the cabinet sanctioned that misuse.

While every one of us in this place holds the public trust, those opposite on the government benches are invested with it in even greater measure. Their job is to govern wisely, prudently and according to law—according to law, Mr Speaker—and from what we have been able to fathom thus far the Treasurer has failed those criteria quite comprehensively.

**Ms Tucker**: I take a point of order, Mr Speaker. I ask for your clarification. As I understood your ruling, this debate was not to seriously impugn or it became the subject of a substantive motion. Is that correct, because what I am hearing is doing exactly that? Mrs Dunne said that the Treasurer broke the law.

**MR SPEAKER**: No, that is not what she said

**Ms Tucker**: She is implying that.

**MR SPEAKER**: I think that the imputation is pretty clear, Mrs Dunne, so I would ask you to withdraw the imputation.

**MRS DUNNE**: I withdraw any imputation. I was very mindful of your advice at the beginning of question time and I will do my utmost, Mr Speaker, to remain within that advice.

The Treasurer has been unwise, but we cannot punish that lack of wisdom. He has been imprudent, and all we can do is criticise that lapse. But it could be found that he acted outside the law. That law is very specific and very precise and that would be another matter altogether. At one level, it would raise serious questions about the Treasurer's judgment and, at another level, it would raise questions as to whether the Treasurer should remain in the great office he currently holds, an office which is endowed quite munificently with public trust. On what is available at this admittedly early stage, Mr Quinlan is clearly in breach of the Financial Management Act.

**Ms Tucker**: I take a point of order, Mr Speaker. I draw your attention, in particular, to—

**MR SPEAKER**: Resume your seat, Ms Tucker. I think the clear imputation was that Mr Quinlan had breached the Financial Management Act. I warned against that at the outset and I would ask you for the second time to withdraw any imputation and discontinue the practice.

**Mr Quinlan**: On that point of order, Mr Speaker: it might be untoward of me to do so, but, if I am to be accused, I seek your leniency in relation to what the opposition want to say because we may as well hear what they have to say. If, and only if, it is not the intention to follow a matter of public importance with a substantive motion and if the house is satisfied that it is not to be followed by a substantive motion, then, at least for my part, I am happy for the opposition to say what it wants to say, if that be possible.

**MR SPEAKER**: No matter how happy you might be about that, Mr Quinlan, I cannot condone a breach of the standing orders, notwithstanding the giggle you might get out of it.

**MRS DUNNE**: On what is available to us, Mr Speaker, admittedly at this early stage, Mr Quinlan has, in the words of the Auditor-General, misused the Treasurer's Advance and, even worse, the cabinet collectively appears to have endorsed that misuse. This goes to the very basics of the matter. The Financial Management Act is quite explicit, stating as it does in section 6:

> No payment of public money shall be made otherwise than in accordance with an appropriation.

There is, of course, an out. This is to cover unforeseen urgent payments. To quote from yesterday's *Hansard*, Mr Quinlan said:

> Under advice from Treasury to cabinet, the government applied $10 million of unexpended Treasurer's Advance to an urgent maintenance need in relation to fire safety within public housing.

To his credit, Mr Quinlan accepts responsibility for the misuse of the Treasurer's Advance, as he must do, but is he repentant for this misuse of the Treasurer's Advance? No, emphatically no, he is not. He stands in this place accused by the Auditor-General of misusing the Treasurer's Advance and what does he do? He plays the usual political card. The Treasurer is caught with his hand in the piggy bank and who does he blame? The former government, of course: "The Liberals forced me to misuse the Treasurer's Advance." Here are his words—

**MR SPEAKER**: Mrs Dunne, "hand in the piggy bank" imputes stealing. Withdraw that.

**MRS DUNNE**: Okay, I withdraw the words "hand in the piggy bank". Mr Quinlan said:

> The absence of anything like adequate fire safety in public housing could not have been foreseen until a Labor government came to government and had time to receive and assess relevant information.

Pull the other one! The Treasurer can do lots of things and blame the former government for lots of things, but we did not hold the pen while he signed the paper that was signed in misuse of the Treasurer's Advance. What was the time, by the way, that this remarkable epiphany came to this government? It was five minutes to financial midnight. Just as the clock was about to strike on the end of the financial year and write the bottom line indelibly in the ledger of history—and in the offices of Standard and Poor's—the piggy bank was smashed open and $10 million was extracted. More than half of the Treasurer's Advance of $18.6 million went in one grab. That was on 14 June. The department, according to the Auditor, received the money on 25 June, five days from financial midnight.

The process was urgent and unforeseen, Mr Quinlan has stood up and told us, and that was all because of the Liberals, who, incidentally, hadn't been on the Treasury bench for eight months. Come 31 October, four months into the new financial year, and the sum of less than $220,000 of the

$10 million had been spent. How was it urgent? When is an emergency an emergency? Let me quote from the Auditor's report:

> It was known at the time of the Treasurer's authorisation that Housing would not spend any of the $10 million in the 2001-2002 year.

"It was known" were the Auditor's words. Presumably, the Treasurer knew. Of course he knew. Then comes the Watergate question, Mr Speaker: when did he know it? Did the cabinet know? Did any minister ask about it? Did any minister raise a query about bursting into the piggy bank?

Mr Speaker, from what has emerged already, this process was at least shabby and it was at least unorthodox. The Auditor-General says that it may have been illegal. It has more than a touch of the Khemlani about it. With one stroke of the Treasurer's pen and with the blessing of his ministerial colleagues, Mr Quinlan turned honest taxpayers' dollars into funny money. He has been caught out. The credit rating may have been protected, but the government's reputation has been damaged and, even worse, he has sold out public trust.

While not trying to anticipate anything that Mr Quinlan might say in his imminent defence, a defence of the indefensible, I am curious as to whether he will use the L-plate argument: "I'm sorry, Your Honour, for causing the pile up but I'm only a new driver. It's a first offence. Please let me off." That is what this government does. Mr Corbell, just this week, referred to it as a newly-elected government.

Mr Speaker, when do the L-plates come off? When do we get through the provisional period? When does the honeymoon become a marriage? Will they use the excuse that they still have their training wheels on? If they do, it will be laughable in the extreme. How will they attempt to shrug off this technicality, as the Treasurer referred to it yesterday? We are not talking about petty cash, Mr Speaker. We are talking about $10 million—as I have said, more than half of the Treasurer's Advance for the financial year.

For the record, we should look at how Treasurer's Advances have been used in the past. The Treasurer's Advance was used in 14 separate instances in the previous 12 months, each one in accordance with the law. The largest single amount issued under the Treasurer's Advance was $2 million and those 14 payments totalled just over $7 million. This $10 million use of the Treasurer's Advance is, on a number of levels, extraordinary.

We know that in this instance, this $10 million instance, process has not been followed. It is a shame on Mr Quinlan and it is a shame that this cabinet has acquiesced in this misuse of the Treasurer's Advance. It is a collective shame on the Labor cabinet. We have here evidence of utter incompetence, sublime arrogance and a recklessness that would make the late Rex FX Connor look down, or perhaps up, with approval.

But that aside, we have a glimpse of the inner workings of this government that calls into question Labor's fitness to govern. For some outside this place, the workings of cabinet may seem arcane, but cabinets generally, of whatever persuasion, tend to follow the processes that have been established by precedent and convention for centuries. That is particularly so in relation to financial matters. Ivor Jennings, in his standard work *Cabinet Government*, says, and I ask you to substitute "Treasurer" where Jennings uses "Chancellor":

> … no proposal is circulated to Cabinet until the Chancellor's consent has been obtained, and that the Chancellor does not give his consent until the financial implications have been studied and, if necessary, a financial memorandum also circulated.

We do not know how the Stanhope cabinet operates, but let us assume for the moment that it does follow accepted cabinet practice. On this basis, the Treasurer, on advice from his department, gave his consent. In giving consent, did the Treasurer consider the financial implications of his decision? Did he circulate a memorandum? If so, did he touch on the tight restrictions that are spelt out in the FMA in relation to the operation of the Treasurer's Advance? Did cabinet concur?

Mr Quinlan, on the face of it, has acted unwisely. Mr Quinlan, who on many occasions has portrayed himself as a paragon of financial and fiscal rectitude, seems to have acted imprudently. Not a single member of this government, not a single member of this lacklustre cabinet, raised their voice to question, not a single one of them raised their voice in protest. The world's greatest Treasurer and, as we have heard, the most popular government have been shown to be shonky. The government has shown that it can talk the talk of accountability and honesty, but it walks the walk of Khemlani.

**MR SPEAKER**: Order, Mrs Dunne! Withdraw the word "shonky".

**MRS DUNNE**: I withdraw the word "shonky". But it shows that it talks the talk of accountability and honesty, but it walks the walk of Khemlani.

Mr Speaker, on the evidence before us, there has been an abuse of process. On what we know, an act of questionable legality has been committed. The government may survive this abuse; it probably will. But it will, however, drag down the respect shown for this place. It will bear the opprobrium of having abused the most precious, sensitive and fragile gift that this public gives us—their trust. This government has shown itself incapable of accepting the public's trust.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming and Minister for Police, Emergency Services and Corrections) (4.43): Just in case we are building an atmosphere that the action taken was some form of giant conspiracy and hidden, I remind members that it was advised to the Assembly on 28 August, at which time I tabled, under the Financial Management Act, details of the expenditure of $10 million. I quote from *Hansard*, page 2640:

> Significant items … include $10 million to address fire safety issues in ACT Housing's multiunit complexes and to meet current standards under the Building Code of Australia …

So you were advised. To her credit, Ms Dundas picked it up and thought she would ask a question or so about it. You talk about not a single voice being raised. You must have been asleep not to be able to raise your own voice at the time. Where was the query? No, you didn't notice it. It did not mean a thing until we had a florid term in an audit report.

In order to put that audit report in context, let me go back to the 2001 audit report and let me presume , Mrs Dunne, that you would apply the same standards. That audit report says, in a concession made by Treasury on the basis of legal opinion provided by the solicitor, "Legal advice received is that the situation is unclear"—as we have seen this year—"but it is possible that a breach or breaches of section 18 may have occurred."

I haven't got a thesaurus in my office, but I have got "Word for Windows" on my computer, English (Australian). I looked up "breach" and both in synonym and in meaning it says "break." I looked up "act" and both in synonym and meaning it says, "law." So it is possible that last year that law was broken. We have quite a stark parallel here. We also have, in this audit report, the Auditor saying, "Yes, this happened," and then he makes a recommendation, recommendation No 2, as follows:

> amendments be made to the FMA and suitable guidelines and processes be developed to ensure that the Treasurer's Advance provisions in the FMA are clear and fully complied with.

Ergo, they are not clear now. In fact, this year we have a "might have" and last year we had a "might have". As best I recall, Mr Humphries was Treasurer from about August 1999—would that be right?—and in the last audit report for 2001 there was a list of these probable breaches, payments that possibly should have been made under appropriations..

What do they include? They include: Bruce Operations; to fund payments to the hirers of Bruce Stadium; to provide funding for the construction of canteens at Bruce Stadium; to provide funding for the car park licence at Bruce Stadium; and GST component for the car park licence at Bruce Stadium. So, even after Mr Humphries had taken over as Treasurer because Mrs Carnell stood down as a result of the Bruce Stadium redevelopment, we had payments being made out of the Treasurer's Advance for Bruce Stadium. Let me say that I think, by comparison, the payment of money for the protection of life and limb in public housing stands a little bit above payments for Bruce Stadium in that context.

In terms of the spending having to be in the given year, we do not have to agree exactly with the Auditor-General all of the time. I have disagreed with the Auditor-General for three years over a superannuation issue and I thank Mr Cornwell very much for asking the question he asked today to underscore that matter. I now have the Auditor-General agreeing. He has done a 180 on that view. There is no great difference, let me tell you, between the 2001 and the 2002 audit reports.

**Mrs Dunne**: Except the nasty words "misuse of the Treasurer's Advance".

**MR QUINLAN**: It is "misuse" now, but in the context of when this decision was taken, I think we had pretty good advice, a panel of advice, in terms of need—the legal opinion on the need to act now and the need to make a full commitment—and advice from Treasury. I think it was a reasonable decision to take.

I respect the Auditor-General. I think he has been a good Auditor-General. However, at that time we may have had a different interpretation of the act, and I still hold to that marginally different interpretation. If you want to know about funds being allocated in one way or another in a given year and rolled over, we roll over every year millions of dollars for capital works.

**Mrs Dunne**: This is not a roll over.

**MR QUINLAN**: It is a roll over of the Treasurer's Advance. I paid it out in June, with the understanding that it would be rolled over, I am sorry.

**Mrs Dunne**: You cannot roll over the Treasurer's Advance.

**MR QUINLAN**: Sorry. I didn't roll over the Treasurer's Advance. Housing was going to roll over the capital advance, the capital injection, so you can do that. That is why we have in section 34B of the Financial Management Act:

> If at the end of a financial year amounts appropriated for a department for that financial year are held in a departmental banking account, the amounts may be applied at the end of that financial year for the purposes for which they were appropriated.

We may get a refined legal opinion that says payment out of the Treasurer's Advance is not equivalent to appropriation. I will accept that, if I get that opinion. But let me tell you that, firstly, I understood that this was legal—

**Mr Humphries**: So did Mrs Carnell about Bruce Stadium.

**MR QUINLAN**: That the overnight loan was legal! Come on! And the eight or nine cabinet submissions that contained incorrect or misleading information! To repeat the phrase that Mrs Dunne used, pull the other one!

**Mr Humphries**: The Auditor has made a ruling.

**MR QUINLAN**: The Auditor has said very little more this year than he said last year, Mr Humphries, for that series of payments that you made to the Canberra Cosmos and that series of payments you made to the Belconnen stadium. Excuse me! An important point is that this was notified to the Assembly; it was not done secretly. In August, I notified it to you.

**Mr Humphries**: That is not true.

**MR QUINLAN**: In doing your job, Mr Humphries, you looked at it and you also thought it was okay. Should I resign? In that case, should you resign as shadow Treasurer because you also accepted it? Come on!

Recommendation No 2 in that section says, effectively, that the Auditor is unclear. If the matter is unclear, let us make sure that we retain in this debate from this point on that it is unclear.

**Mr Humphries**: Okay.

**MR QUINLAN**: Right. We need to address the point of the foreseeability. We know that there was some identification of a need back as far as June 2000, I think. Do not hold me to that, but certainly well before the build-up. But then we had a series of audits done within multiunit public housing. One minute we had to do something about fire safety and a reasonable person might think that we needed to fit smoke detectors, fire extinguishers, whatever. All of a sudden, we were getting audits coming through for $1.3 million and $1.4 million. Bang, bang! In no time at all, they were in excess of $10 million and we had the then head of Housing saying, "I have a real problem here. With the resources I have now, I cannot really address this problem. I have also got a legal opinion that tells me that you could be held liable for any misadventure if you don't do something about it."

You do not have to agree with it, but I think it is reasonable to accept that someone might have said, "We ought to make sure that we have on record a full commitment to address that problem"—not a dribble, but a full commitment to address that problem. I see the Treasurer's Advance and I talk to the Under Treasurer. There is $14 million or so unexpended and there is a problem. It is a problem that we have inherited. Like lots of other problems, I wish I had more time whereby I might address the deficiencies which border, as far as I am concerned, on misleading in previous budgets, the stuff that was left out. I rather think and rather suspect I have confirmed that in the latter half of the last Assembly, Mr Humphries had given up all hope of re-election and was involved in a scorched earth policy. I did mention that that approach seemed to ooze through his last budget.

**Mr Humphries**: What has it go to do with the MPI, Ted?

**MR QUINLAN**: I cannot recall the *Hansard*, but I am just saying that. Here we have a situation where the problem already exists, there is a liability already incurred, and I take unexpended funds available and apply them to a liability already incurred. If it wasn't actually expenditure—

**Mr Humphries**: You could not possibly spend that money in two weeks.

**MR QUINLAN**: Let me finish on the technical note. If it wasn't, why is it so that at about page 180 of this report the Auditor give an unqualified report to the ACT Housing account? He mentions again the misuse term and the question of legality, but he gives an unqualified certificate. That means that he accepts that this was revenue to Housing. In relation to this event, he gave an unqualified certificate to the central government accounts, which means that he accepted, by certificate, that this was expenditure in that year; so it is expenditure in the year.

**Mr Humphries**: But he found it was a misuse of the Treasurer's Advance.

**MR QUINLAN**: He gave us that opinion. I do not agree particularly with that, but I certainly respect that opinion. Certainly, the fact that it would have been a misuse was not in our minds back then. This seemed to be a logical decision. You have funds left over from a year, you have an urgent need and you address that. You then, according to the act, advise the Assembly. The report has been tabled. I made a tabling speech. I mentioned the element in the tabling speech and you guys were asleep. I am sorry about that.

**Mr Smyth**: But we assumed you did it legally.

**MR QUINLAN**: For you to assume it is okay is all right; for me to assume it is okay is somehow a criminal offence. I think that is about the standard that you are applying at the moment.

**Mr Smyth**: It is a feeble defence, Ted.

**MR QUINLAN**: I don't think so. Mr Speaker, I rather believe that, if this is viewed in the context of the time and not with the hindsight of a particular florid term used by the Auditor, you will find that the MPI does not stand up.

**MS DUNDAS** (4.58): The use of the Treasurer's Advance has become a vexed issue. I think that this debate is showing that perhaps neither the Liberal Party nor the ALP have the capability to manage the Treasurer's Advance. Perhaps we seriously need to reform the processes that govern the expenditure of moneys from the Treasurer's Advance. At the moment, the Financial Management Act states quite clearly that the requirement for expenditure under the Treasurer's Advance is to be unforeseen at the time the budget was handed down. Because there is so little accountability for spending under the Treasurer's Advance, it is vital that the rules are followed.

It was on 28 August that I asked the Treasurer about an apparent misuse of the Treasurer's Advance. My question was:

> Considering that the multiunit property plan released by ACT Housing in June 2000 commented that fire safety upgrades of the Currong apartments are required, why was the expenditure from the Treasurer's Advance of $10 million on fire safety … in the 2001-02 financial year viewed as unforeseen?

At the time, the Treasurer, I guess, fudged his response by claiming that the question should have been put to the previous government. Further, he said that it was a problem that should have been funded in the previous budget. It appears to me that this omission made it quite clear that he was aware that the expenditure was not unforeseen. I have not heard anything today in question time that has cleared that up for me.

The ACT Housing multiunit property plan signed off by Barbara Norman, the executive director of ACT Housing, on 1 June 2000 states on page 66, that, although the Currong apartments are structurally sound, the units are below currently accepted fire standards and do not meet Building Code of Australia requirements in respect of fire escape distance, fire isolation of stairs, fire separation path distances between floors, stretcher lifts and WC suites.

The report goes on to discuss proposals for upgrading the Currong apartments that would meet the BCA fire escape lengths, meet BCA fire isolation requirements for existing enclosed stairs and meet BCA stretcher lift requirements. We have heard from the government today. It is quite clear from the government's October 2001 election policy that they had a copy of this report and had read it and knew that that was in there.

*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 DUNDAS**: There are a number of questions to which I would like answers on whether this expenditure was unforeseen. If the government was aware of the urgent need for this upgrade and if, as their policy states, they will continue the implementation of the ACT Housing MUPP with greater transparency of process and funding allocations, why was the expenditure not provided for in the supplementary appropriation bills that were debated in this Assembly in December 2001 and February 2002? If the expenditure was not unforeseen and was already being considered as part of the budget, why was the entire expenditure not left until then?

I do have a question about the money in the budget. We know that $10 million was transferred to ACT Housing to be used for improving fire safety. The ACT's 2002-03 budget, as reported in the ownership agreement for ACT Housing on page 44, includes an allocation of some $16 million for the period 2002-03 and 2003-04 for improved fire safety at major ACT Housing flat complexes. This is the allocation for 2002-03, as discussed as part of the ongoing budget consultation processes that the Treasurer was so proud of at the time. Does this $16 million include the $10 million that came out of the Treasurer's Advance, or was that a separate expenditure and are we actually now spending $26 million on upgrading fire safety in these flats? It is of great concern that these questions have to be asked.

I think that one point that is without debate is that there is an urgent need to upgrade the fire safety requirements across public housing in the ACT and that this action has been delayed. But we knew about these problems two years ago. The government knew about these problems when they put together their election policy. Why were they not fixed earlier? Apparently, the need was not urgent, or it was urgent but not urgent enough. I would really like some clarification from the government on their decision-making in this process. But it also does lead to further questions about the worrying trend of ACT treasurers to treat the Treasurer's Advance as pocket money they do not have to account for.

We are talking in this financial year's budget of $19.4 million. I am now incredibly concerned about how that $19.4 million is going to be expended, because we will not know about it unless the government tells the media, we have a supplementary appropriation, or we wait till the end of the financial year. Clearly, that is not a very good process. This is about 1 per cent of the ACT budget, which is a significant amount of money for the ACT community. Every dollar that this government spends for and on behalf of the community should be quite clearly accounted for.

I raise these questions, as I raised these questions in August and I raised questions about the Treasurer's Advance in estimates, because I do think that it is important that the government be held to account for every dollar in the ACT's financial coffers. I hope that this debate will be the first step in greater clarification and greater accountability in relation to the Treasurer's Advance. I also hope that we will have some clear answers from the government about this situation. Of course, my main hope is that we have upgraded the fire safety standards for people living in ACT public housing.

This issue was identified in June 2000. According to a *Canberra Times* article I have from 23 June, the new fire safety program was to begin in August. It is now December. I hope that it is on its way and that the people living in ACT public housing units are living safely.

**MR HUMPHRIES** (5.07): In this debate, and before this debate, we have heard some pretty extraordinary comments from the Treasurer. The comments appear to amount to the formulation of a principle in government which, although it is obviously being heavily relied upon by the government, has not actually been spelt out particularly clearly. The formula goes something like this: the government is faced with a matter of some importance and some worthy and important area of public expenditure is required. The government sees that as an urgent need. The government therefore, in moving to address the urgent need, is entitled to breach the law or, to put it more kindly, is excused from obeying the law. It is entitled to breach the law or—

**Mr Quinlan**: I take a point of order.

**MR HUMPHRIES**: I will rephrase that.

**MR DEPUTY SPEAKER**: Please do.

**MR HUMPHRIES**: The government is entitled to misuse the Treasurer's Advance or, at least, is excused from observing the letter of the law when it comes to use of the Treasurer's Advance and may, according to the Auditor-General, be in breach of the law in so doing. Presumably, if it is in breach of the law, that is somehow exonerated because of the worthiness of the rationale for which the use has been made.

**Mr Quinlan**: I take a point of order, Mr Deputy Speaker. I think that the Speaker made quite clear at the beginning of this debate what the ground rules would be.

**MR DEPUTY SPEAKER**: He did.

**MR HUMPHRIES**: And I have observed the ground rules.

**MR DEPUTY SPEAKER**: Members, I remind you that the Speaker has made that perfectly clear. I would like all members to follow the rules. Those of you who have been speaking or are about to speak are well aware of what can be done with MPIs. Please be aware of that.

**MR HUMPHRIES**: I am certainly observing the Speaker's ruling, Mr Deputy Speaker.

There are a number of problems with this proposition in this case. The first problem is that I think that the pretext on which it is based is a flimsy pretext. There isn't the time in the course of this debate to discuss the process that was used by ACT Housing to reach the conclusion and properly alert government to a problem with the fire safety standards in ACT Housing properties.

But I will say this much: even if you accept the proposition that the government has put today in the course of question time that somehow the former Liberal government was clearly on notice that there was a problem in ACT Housing and that it was derelict in its duty in not moving swiftly to deal with that problem, and I do not accept that proposition, the question then is raised as to why, on coming to office in November 2001, the new ACT government, faced with what was apparently an urgent problem, failed not once, not twice, but three times to include in an appropriation bill after it came to government provision for this supposedly urgent problem.

There were two special appropriations in the course of the 2001-02 financial year and then, of course, there was the budget itself at the end of 2001-02, none of which made arrangements for expansion in that financial year for there to be coverage or addressing of this particular problem. Why was that so? It would suggest to a casual observer that the problem did not have the urgency within the ACT administration that the government has now attempted to suggest that it had; that, in fact, this problem was a problem that had been identified as requiring some attention but did not have the burning urgency, if you will excuse the pun, that the minister and his colleagues are attempting to suggest that it did have. If it did have that urgency, why wasn't it addressed in this government's life.

Apparently, what gave it that urgency was advice of some sort, advice which has not been tabled in this place, received about the end of May or beginning of June of this year—we have not seen it, so we do not know exactly when; there has been much vagueness about that—that you must act on this matter now, that you need to act swiftly and decisively on this matter. I have two points to make about that. First of all, clearly the former government did not receive that advice that there was an urgent need—

**Mr Wood**: Your government or ours?

**MR HUMPHRIES**: Our government, the former government, did not receive that advice to indicate that it had a level of urgency that required immediate action.

**Mr Wood**: I think that's right.

**MR HUMPHRIES**: I am grateful to the minister for housing for clearing that up.

**Mr Wood**: You had the audit reports.

**MR HUMPHRIES**: We had a report indicating that there was a problem in Housing—at least, I accept your advice that that was the case. I cannot recall such an audit, but I accept your advice that there was. The point is that what triggered urgent action was a piece of advice that the present government received in May or June of this year—

**Mr Wood**: In May.

**MR HUMPHRIES**: In May, which transformed into an urgent problem. But you have to say that, that being the case, it is hardly surprising that neither you, between November 2001 and May 2002, acted on the previous audits on the subject—

**Mr Wood**: No, we were.

**MR HUMPHRIES**: To the extent that nothing was done urgently before that point in time and, similarly, the previous government had not done anything urgently about this problem between apparently June 2000 and November 2001 when it left office. So, attempting to pretend that this is all the previous government's fault, that that government should have done something about it, lacks—

**Mr Stanhope**: You should have.

**MR HUMPHRIES**: You just have not followed the argument, Mr Stanhope. It lacks credibility because you did not act on it for nine months after coming to office.

**Mr Stanhope**: We acted on it, with alacrity.

**MR HUMPHRIES**: We were acting on it as well, in that case, in the same kind of way. But the second, and more telling, concern about this proposition from the government is that they are saying that somehow the importance of the issue confronting the government entitled them to dishonour the mechanisms built around the Treasurer's Advance. There was a misuse of the Treasurer's Advance; that is what the Auditor says. If we quote that in this debate, we are within our rights. He found that there was a misuse of the Treasurer's Advance. You say that somehow this is exonerated by virtue of the importance of the issue that generated the action. I say that that is nonsense; there can be no relationship between those things. The end does not justify the means in this respect.

But there is another problem with the proposition that the government puts forward, Mr Deputy Speaker. We have been told by Ms Dundas in this debate that there was an appropriation in the 2002-03 Appropriation Bill, presented at the beginning of June 2002, for fire rectification work in the 2002-03 financial year. It was $16 million over two financial years, beginning in 2002-03. So you had appropriated money from the beginning of that financial year, 2002-03.

**Mr Wood**: It came out of your budget, the $10 million.

**MR HUMPHRIES**: No, I am referring to the $16 million in your budget papers. The ownership agreement for ACT Housing, page 44, refers to an allocation of some $16 million for the period 2002-03 and 2003-04 for improved fire safety. So you were appropriating that money from the beginning of the 2002-03 financial year. As you know, under the Supply Act arrangements, you can spend that money from 1 July of that financial year. You do not need to wait until the Appropriation bill is passed; you can start to spend it from the very beginning of the financial year.

We are talking about the need to spend money in the space of, let's say, 16 days—between 14 June when this instrument was signed by the Treasurer and 30 June. You were already appropriating, let's say, $8 million from 1 July to start spending on housing

trust properties. How could you possibly have imagined that you could spend $10 million in the space of 16 days? How could you have possibly imagined that?

The world's greatest Treasurer would know that he did not need any money from 1 July because it was already in his budget from 1 July. How is it that we are expected to believe that he would need to spend $10 million in the space of just 16 days? Moreover, he isn't allowed to roll it over, as he suggested earlier in this debate. You cannot roll it over. There are many unanswered questions about this matter and the public accounts committee needs to look at those issues with some urgency.

**MR DEPUTY SPEAKER**: Order! The member's time has expired.

**MR WOOD** (Minister for Urban Services, Minister for the Arts and Minister for Disability, Housing and Community Services) (5.17): Firstly, let me comment on some of the remarks of Mr Humphries and Mrs Dunne, who took something of the same view. Mrs Dunne said that we could not spend that amount of money in that time and Mr Humphries has just said that. I won't argue the point; we could not spend that amount of money in that time.

But there were two things that needed to be done: firstly, that we take action and, secondly, that we be seen to take action, that it become absolutely apparent that we were doing something and we were fully committed to what we were doing. We judged that we needed to do it immediately, to be seen to act and to be seen to be making that commitment. I would have thought some of the lawyers round the place might have understood that.

Mr Humphries also made the point that we had three appropriation bills and we did not raise it in any of those. That is the case, but we didn't in those appropriation bills have the shock of receiving information. I am sure that you well remember, as I did then and do now, the comments that Mr Stanhope read out about the imperatives. You should ponder on that.

Ms Dundas talked about the MUPP. The MUPP was written in 1999. She has been wanting us to address it. We have been addressing it. She did not make any comments about the previous government and the two years or so that they had to address it. We have been doing that. Again, it does come back to that important change that occurred when we received that legal advice. I might add, for Ms Dundas, that work has begun. Quite a substantial amount of money has been spent on those items that are more quickly and more immediately able to be put into action. For example, I was at Stuart Flats and saw the new fire doors going in. That is something that can be done more quickly than some of the access issues that were also mentioned in the succession of audit reports.

I recall, as does Mr Quinlan, my comments at the time. I made perfectly clear—in fact, I shouted long and loud about it—that we were attending to the fire issues. There is no suggestion of trying to keep things quiet. I was very proud to make that claim, being in contrast, as it was, with previous administrations that were very mean about expending money in Housing.

Indeed, you gave a considerable amount of Housing money to Mr Howard for his budget; that is what you did. You took it out of Housing. We were very proud to be able to point to the—

**Mrs Dunne**: "It wasn't me, guv'nor; it was three other people and John Howard made me do it."

**MR WOOD**: They made you do it! Well, you certainly did it; there is no doubt about that. I was very careful at all times to shout out about this. I wanted it well known. I also wanted it well known, as I did do, that $10 million of this money was not part of the 2002-03 budget; it was part of that earlier budget.

I think I have responded to Ms Dundas. Yes, we did raise MUPP in our election policy and we have been taking it through. It was taken on further when we got that legal report. I think it was an entirely reasonable action. I think it was an important and sensible precaution—indeed, an obligation—to bring ACT Housing's large flat complexes, in some cases built more than 40 years ago, closer to modern fire standards. Your answer to that problem would be to knock them down. There are some issues I have to solve yet about some of those complexes, including Currong, but I am not automatically deciding that they are going to be knocked down.

**Mr Smyth**: We didn't, either. That is why we did the audits.

**MR WOOD**: You seemed very happy to do that.

*Members interjecting—*

**MR DEPUTY SPEAKER**: Order! Mr Wood has the floor. Mr Smyth and Mr Stanhope, you can go outside and talk. Mr Wood has the floor here.

**MR WOOD**: I do emphasise that the flats meet the standards that applied when they were built. They are safe, but we are making them safer. We took the view that ACT Housing should exceed its statutory obligations and progressively upgrade fire safety at those complexes. The legal decision in late May emphasised that point. That was when we knew that we had to give a clear signal that these issues had been recognised and that we were addressing them.

In response to that problem, the government provided that injection of $10 million to allow ACT Housing immediately to progress its fire safety program over this and the next financial year. We believed also, as I said at question time, that we had a moral responsibility in this regard. In addition to that $10 million, ACT Housing contributed $6 million from within its own resources to that program. To repeat the point, it was all very open, very public. Indeed, it was very loud—I don't have a soft voice—and it was proudly loud, so it was a known fact.

Based on the confidence that the funding provided, and this remains a key issue, work commenced immediately on upgrading fire safety. That was an important point for the officers involved who recognised the messages in that legal advice. Work commenced and continues, the audit continues. There has already been a great deal work over the period. A total of $500,000 of the amount allocated has been expended so far on fire

safety work at Stuart and Kanangra courts. In question time, I detailed the careful processes needed to attend to the major aspects of that upgrade. It is the case that we were not able to spend that money in a short period, but we could commence the planning and we could send out the message that we were switched on to this matter.

We are continuing, as of this time, with the works at Stuart and Kanangra courts. Fire safety audit reports on the recommended scope of works at the following complexes will be completed, including anticipated costs: Allawah and Bega courts, Strathgordon Court, Malahide Gardens, Dryaaba Court, Boollimbah and Ambara courts, Jerilderie, Illawarra and Condamine courts, Ainslie, Braddon and Reid flats, Corryton Gardens and Griffith Flats. You can see the extent of the work that we have to attend to.

For properties such as Stuart and Kanangra courts, a certifier or the fire brigade will be engaged to review and confirm the full scope of the work to be done, leading to the issuing of a certificate of regularisation. That certificate will demonstrate to the Assembly, the community and, importantly, to the tenants that the works are adequate to provide the improved protection sought.

In January of next year we will obtain the services of a certifier or the fire brigade to review and confirm the full proposed scope of the works at the properties where the December audits have been received, as I have mentioned. The works to be implemented will then be agreed and total facility managers instructed accordingly. In February of next year—all of this has been planned over a long period—the total facility managers will need to engage consultants to fully document the more complex works to enable them to go to tender.

The simpler works, such as at Ambara Court, will proceed straight to tender, if required, or simply undertaken. By March 2003, the implementation of simpler works will continue, as well as the documentation of more complex works. Further audits of the smaller multiunit sites will commence. In April, documentation of the more complex works will continue and the simpler works will be completed. You can see in all this that there is a very careful program. You can see from this list of activity which I do not have the time to complete that the government is responding as necessary to the issue of fire safety.

**MR DEPUTY SPEAKER**: Order! The minister's time has expired. The time for the discussion has also expired.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women): I table a letter from Mr Thompson to Mr Ronaldson outlining exactly how urgent this matter was and some of the circumstances, and a legal opinion. I present the following papers:

> ACT Housing—Compliance with BCA Fire Standards—
> Copies of correspondence from:
> Chief Executive, Urban Services to Under Treasurer, Department of Treasury, dated 30 May 2002.
> Under Treasurer, Department of Treasury to Chief Executive, Department of Urban Services, dated 4 June 2002.
> Copy of legal opinion from ACT Government Solicitor, to Mr Alan Franklin, Housing, Policy and Planning, Department of Urban Services, dated 23 May 2002.

It is important to recognise some of the dates in relation to that. The legal opinion was sought in mid-April, I believe, as a result of a request from Treasury to the department of housing which was lodged in March, I understand. Some of these time lines are very interesting.

**MR DEPUTY SPEAKER**: I will take it that you sought and obtained leave to make a statement.

## Council of Australian Governments meeting—6 December 2002
### Ministerial statement

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women): I ask for leave of the Assembly to make a ministerial statement concerning the Council of Australian Governments meeting of 6 December 2002.

Leave granted.

**MR STANHOPE**: I seek leave to have the statement incorporated in *Hansard*.

Leave granted.

*The statement read as follows:*

**CHIEF MINISTER'S STATEMENT TO THE LEGISLATIVE ASSEMBLY**

**OUTCOME OF COUNCIL OF AUSTRALIAN GOVERNMENTS' MEETING, 6 DECEMBER 2002**

Mr Speaker, I would like to take this opportunity to provide feedback to Members on the outcome of the Council of Australian Governments' COAG meeting, which was held last Friday in Canberra.

The COAG meeting was attended by the Prime Minister, all Premiers and Chief Ministers and the President of the Local Government Association.

Agreement was reached between participants at the meeting on a number of key issues. These included counter-terrorism initiatives, handgun controls, insurance issues, water property rights, child protection, mutual recognition arrangements and formal intergovernmental agreements in a number of areas.

Mr Speaker, in relation to counter terrorism, COAG considered a report from the National Counter-Terrorism Committee (NCTC) that provided an overview of the current security environment and canvassed a number of measures to enhance national counter-terrorism arrangements.

I was pleased to be able to join with the other leaders to support a nationally coordinated approach to counter-terrorism. It was agreed that Australia could not afford to be complacent in relation to terrorist precautions.

The NCTC's efforts in developing a national framework for the protection of critical infrastructure were welcomed.

COAG endorsed the NCTC's development of guidelines for the protection of critical infrastructure, including establishing criteria to identify critical infrastructure and outline security measures at each level of alert. COAG reinforced the need for a cooperative approach between governments and industry in relation to this task.

Deficiencies in the protection of some hazardous materials were also noted and COAG agreed to a national review of the regulation, reporting and security around the storage, sale and handling of hazardous materials. The review will include relevant Commonwealth, State and Territory agencies in consultation with the NCTC, and will report to COAG.

COAG also agreed to provide additional funding to enhance national counterterrorism capability. This money will be used to upgrade communication systems, supply counter-terrorism equipment to State and Territory police and to provide opportunities for agencies involved in the prevention of terrorism and those involved in crisis and consequence management arrangements and capabilities, to work more closely together.

States and Territories agreed to provide funding of $4.3 million up front and $0.8 million on an ongoing basis for equipment purchases and maintenance. The Commonwealth agreed to provide funding of $10.4 million initially and $7.6 million on an ongoing basis for communications upgrade and an exercise regime. COAG also noted that security at regional and metropolitan general aviation airports will be subject to ongoing review by relevant Commonwealth, State and Territory authorities.

In relation to handguns, COAG agreed to a national approach. Handgun availability and use will be restricted, particularly in relation to concealable weapons. There will be will be a major reduction in the number of handguns in the community and significantly strengthened controls over access to handguns.

COAG endorsed the 28 resolutions made by the Australasian Police Ministers' Council and agreed that legislative and administrative measures to implement the resolutions should be in place by 30 June 2003.

The resolutions which were endorsed covered a system of graduated access to handguns for legitimate sporting shooters, based on training, experience and event participation.

It is proposed that shooting clubs will have greater access to information on prospective members, with prospective members being required to produce a police clearance prior to acceptance as a member. Information on other shooting clubs a prospective member belongs to, and current ownership of firearms will also be available.

The Commissioner of Police in each jurisdiction will, subject to appropriate safeguards, be able to refuse and revoke firearms licences and applications on the basis of criminal intelligence and other relevant information.

COAG agreed to restrict the classes of legal handguns that can be imported or possessed for sporting purposes to those meeting recognised sporting shooter classifications in the Olympic and Commonwealth Games and other accredited events.

COAG also agreed that handguns will be limited to a maximum of .38" calibre, except for specially accredited sporting events where handguns up to .45" calibre will be permitted. Details of handgun controls will be considered by Commonwealth, State and Territory authorities as a matter of urgency, with final arrangements to be agreed by COAG.

Acknowledging the importance of removing easily concealable handguns from the community, COAG agreed that semi-automatic handguns with a barrel length of less than 120mm and revolvers and single shot handguns with a barrel length of less than Comm will be prohibited. Highly specialised target pistols, some of which will have a barrel length of less than 120mm will be allowed. These types of pistols are large, visually distinctive and not readily concealable due to their overall size.

COAG also agreed that reducing the number of handguns held legally in the community should be accompanied by a compensation scheme for licensees who are compelled to hand in handguns. This compensation scheme will operate from 1 July 2003 until 1 January 2004. The cost of funding the compensation scheme will be funded firstly from the $15 million remaining from the 1996 firearms buy-back and then shared on a two-thirds: one-third basis between the Commonwealth and the States and Territories, on the basis of handguns prohibited and returned in each jurisdiction.

COAG agreed that an amnesty will be in force from 1 July 2003 until 1 January 2004 during which time owners of illegally held handguns can surrender those weapons to authorities without incurring a criminal penalty.

COAG also agreed that the States and Territories would introduce necessary legislation as a priority and there will be ongoing consultation between Police Ministers on arrangements for the buy-back and amnesty. Progress on both legislation and arrangements will be followed up at the next meeting of COAG.

The ACT Government will be amending the *Firearms Act* 1996 to give effect to the proposals agreed by COAG.

COAG also noted the key recommendations of the Law of Negligence Review by Justice Top, and endorsed a forward work program developed by Commonwealth, State and Territory Ministers. This program will include continuing work on pursuing effective damages regimes, and examining the economic impacts of mechanisms for addressing professional liability, including proportionate liability, caps on liability and professional standards legislation. National consistency will be sought where possible, in relation to tort reform initiatives surrounding liability for personal injury or death resulting from negligence.

Professional indemnity reforms will be further considered by Commonwealth, State and Territory Treasurers at their April 2003 meeting, with a subsequent report on outcomes to the next COAG meeting.

COAG agreed to establish a Taskforce, comprising officials from Treasuries and Health portfolios, to undertake a comprehensive review of current and possible alternative arrangements in relation to long-term care for catastrophically injured

people. The Taskforce's work will commence with the collection of relevant data and analysis of the nature of the problem, and a report will be prepared for the Public Liability Insurance Ministerial Group by March 2003.

Mr Speaker, COAG noted that Commonwealth, State and Territory Treasurers would continue to monitor the effectiveness of reform measures in expanding access to, and improving the affordability of, public liability and professional indemnity insurance. State and Territory governments have agreed to continue tort law reforms and to maintain indemnities for doctors working in public hospitals and existing support measures for doctors in rural areas.

In the ACT, we are addressing medical malpractice issues through Stage 2 of the Civil Law (Wrongs) Act 2002.

COAG noted the Commonwealth's proposed scheme to provide reinsurance cover for terrorism risk on commercial property and infrastructure facilities, including local government-owned assets. States and Territories agreed to consider the Commonwealth's proposal to participate in the terrorism insurance scheme, subject to further discussions on the details of this participation including financial contributions sought.

COAG also noted progress on water reform in all jurisdictions, and reaffirmed commitment to those reforms as set out in the 1995 National Competition Policy Agreement. The national principles on water allocation and entitlements developed by the Chief Executive Officers' Group on Water were seen as broadly consistent with the 1995 Agreement. COAG agreed to the Release of the Chief Executive Officers' Group proposals for consultation with key stakeholders. The report is to be finalised by April 2003.

Mr Speaker, the ACT Government has a strong commitment to water resource policies that minimise the impact on the Murrumbidgee River system. We will work with other jurisdictions to that end.

COAG members continue to be concerned about the incidence and impacts of child abuse in the Australian community, despite the on-going efforts of governments. Victims of child abuse experience poorer mental and physical health, poorer educational and employment outcomes, and higher levels of contact with the criminal justice system over their lifetime. Indigenous children are significantly overrepresented in the child protection system. Ultimately, the whole community bears the consequences.

COAG noted the shared responsibility between the Commonwealth, States and Territories for indigenous issues and agreed that there should be an increased national focus on indigenous child protection issues to complement the COAG reconciliation framework. COAG requested a report from Senior Officials on the issue by April 2003. The report will consider ways to enhance responsiveness to indigenous families at risk and in crisis, improve outcomes for indigenous children, and address causal factors behind abuse.

COAG members also agreed to discuss the findings of the Reassessment of Indigenous Participation in the Development of Commonwealth Policies and Programmes (ATSIC review), at the next COAG meeting.

In line with the agreement reached at the COAG meeting in April 2002 that the Council would have a broad strategic discussion of a national public policy issue at each meeting, the Council spent some time last Friday looking at the economic and social implications arising from the projected ageing of Australia's population.

COAG members acknowledge the enormous contribution older people make to Australian society, and the experience and skills they bring to our community. COAG also recognised the natural and appropriate desire of all Australians to maintain, and where possible improve, the quality of their lives as they age.

There will be significant growth in the population over 65 years old, which is projected to increase almost three-fold over the next four decades. Within the overall ageing of the Australian population, important differences are likely to occur in the ageing profiles of States and Territories, and in specific regions and localities.

COAG acknowledged that a range of areas required further consideration by individual jurisdictions including: the productivity and labour supply implications of an ageing Australia; infrastructure and community support; the impact of ageing in regional areas; and accessible, appropriate health and aged care services.

To further improve understanding of the challenges and opportunities arising from the projected ageing of the population, COAG agreed to ask the Productivity Commission to undertake a research study into the future impact of ageing, with a particular focus on labour market issues and implications for government budgets.

Mr Speaker, the ACT is already taking action in relation to service delivery and planning issues to address the ageing of our community. We have established an Office for Ageing and are considering the long term opportunities and challenges posed by our ageing population in the Canberra Plan.

At the COAG meeting, agreement was also reached on arrangements with New Zealand for reviewing the Mutual Recognition Agreement (MRA) and the Trans Tasman Mutual Recognition Arrangement (TTMRA).

The review will be conducted in two stages, with the Productivity Commission providing a commissioned research paper assessing the benefits of the agreements and scope for improvements. This will then be considered by an officers group of the COAG Committee for Regulatory Reform, including New Zealand representatives, that will report to COAG and the New Zealand government before the end of 2003.

Mr Speaker, the ACT Government welcomes this review and will fully participate in the review process. The review will provide the opportunity to examine the effectiveness of current legislation, including issues in relation to the banning of dangerous goods.

In relation to the Corporations Agreement, COAG agreed to sign a new Corporations Agreement to support the constitutional and legislative framework of the corporations regime. Two further issues - relating to foregone revenue payments and the inclusion of the Australian Capital Territory as a party to the scheme - will be addressed by the Ministerial Council for Corporations.

The new Corporations Agreement does not currently include the ACT as a voting member, as a number of jurisdictions still require their Cabinets' final approval before the ACT can become a party to the agreement. Progress towards acceptance

of the ACT as a member of the Ministerial Council for Corporations, however, is well advanced and anticipated in 2003. The inclusion of the ACT as a signatory will be addressed by the Ministerial Council for Corporations as an amendment to the current agreement.

Heads of Government also agreed to sign a revised Food Regulation Agreement. The original Food Regulation Agreement was signed by COAG on 3 November 2000, with the objective of providing a more coordinated and effective approach to food safety in Australia and New Zealand. The revised Agreement ensures consistency with the *Food Standards Australia New Zealand Act 1991* and the Joint Food Standards Treaty with New Zealand.

Agreement to sign a Memorandum of Understanding to underpin the national coordination framework for addressing an outbreak of Foot and Mouth Disease (FMD) in Australia, was also reached at the COAG meeting. This followed the FMD simulation, Exercise Minotaur, which was held from 8-13 September 2002. Exercise Minotaur successfully tested peak-level arrangements across and within jurisdictions, as well as emergency roles and linkages across Commonwealth and State/Territory agencies.

Mr Speaker, discussions at last Friday's COAG meeting covered a range of issues, and significant progress was achieved in a number of areas important to the ACT.

I would like to table a copy of my speech 'Outcome of Council of Australian Governments' Meeting, 6 December 2002.

## Sitting pattern

**MR WOOD** (Minister for Urban Services, Minister for the Arts and Minister for Disability, Housing and Community Services) (5.29): Mr Deputy Speaker, I am about to give you your work program for next year, as set out in the motion on the notice paper in my name relating to the sitting pattern for this Assembly for 2003. I move:

That, unless

(1) the Speaker, or in the absence of the Speaker the Deputy Speaker, fixes an alternative day or hour of meeting:

on receipt of a request in writing from an absolute majority of Members, or the Assembly otherwise orders, or

having consulted with Members following the receipt of advice from the Chief Minister that a place of a Senator for the Australian Capital Territory had become vacant before the expiration of his or her term of service; or

(2) the Assembly otherwise orders.

The Assembly shall meet as follows for 2003:

| | | | |
|---|---|---|---|
| **February** | 18 | 19 | 20 |
| **March** | 4 | 5 | 6 |
| | 11 | 12 | 13 |
| **April** | 1 | 2 | 3 |
| **May** | 6 | 7 | 8 |
| **June** | 17 | 18 | 19 |
| | 24 | 25 | 26 |
| **August** | 19 | 20 | 21 |
| | 26 | 27 | 28 |
| **September** | 23 | 24 | 25 |

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| **October** | 21 | 22 | 23 |
| **November** | 18 | 19 | 20 |
| | 25 | 26 | 27 |
| **December** | 9 | 10 | 11 |

**MR STEFANIAK** (5.29): Mr Deputy Speaker, again there has been quite a lot of consultation in relation to this motion and I think the views of the various parties have been taken into account. I thank the minister for that. I do, however, make one observation. I am not going to seek to amend the motion to change the sitting pattern but I think for the twelfth time in the 14 years this Assembly has sat it looks like we have again managed to clash with the Prime Minister's XI game. Rather than jiggle this program—and the tendency is for the exact date of the game not to be set until about a month or two beforehand—I would suggest that we not sit on the Tuesday but on the Friday of the December sittings so we can go to that game. Might I flag that for the 2004 sitting program we have the sitting in December in the third week so we do not clash with the Prime Minister's XI cricket game.

But apart from that perennial problem we seem to have with the sitting program, the rest of it is fine. I think the 42 days programmed for sittings is fairly similar to the normal business program we and other previous governments had. Accordingly, the opposition will be supporting the sitting program.

Question resolved in the affirmative.

## Leave of absence

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

> That leave of absence from 13 December 2002 to 17 February 2003 inclusive be given to all Members.

## Water scheme

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming and Minister for Police, Emergency Services and Corrections): Mr Deputy Speaker, with your indulgence I would like to read into *Hansard* a slight alteration to a statement I made in relation to water regulations. In case I have misled the house, I would like to point out that I have actually signed into law today a new water scheme as opposed to new water regulations.

## Planning and Land Bill 2002
### Detail stage

Clauses 24 to 36, as amended.

Debate resumed from 10 December 2002.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (5.32): I move amendment No 16 circulated in my name, which amends clause 28 *[see schedule 1 at page 4499]*.

Mr Deputy Speaker, this is essentially a typographical amendment.

Amendment agreed to.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (5.33): I move amendment No 17 circulated in my name, which amends clause 34 *[see schedule 1 at page 4499]*.

Mr Deputy Speaker, this amendment inserts a new clause 34 (3) to require minutes of proceedings of the Planning and Land Council to be published within seven days after they are confirmed.

**MS TUCKER** (5.33): This is something that came out of the roundtable discussion and it is something we requested. The ACT Democrats were interested in having the authority's advice published. However, a compromise was reached that the minutes rather than advice would be published because there was a concern expressed—certainly, I expressed it—that publishing the advice could result in the authority becoming quite guarded in terms of what it had to say and this would remove any chance of honest and open discussion. The authority would be conscious of not casting any negative light on the minister and may therefore water down its advice or only provide advice that fits with what the minister wants. So I think having the minutes published is a good compromise that came out of the discussion.

**MS DUNDAS** (5.34): So many amendments and so much to say. This amendment arises from the concerns of a number of members here in the Assembly and people from the community that the Planning and Land Council would not be transparent enough to the public. As Ms Tucker has mentioned, during the roundtable process a number of changes were proposed to increase the transparency of the Planning and Land Council. It was generally agreed that this amendment would provide sufficient transparency to allow any member of the public access to the proceedings of the council. They would then be able to follow up on any documents that were mentioned in the proceedings, if these were relevant, and, of course, raise questions based on those minutes.

The transparency of the Planning and Land Council and all parts of this new planning regime is something that is incredibly important, and having the minutes available will be a first step in making sure there is that transparency. Of course, we will be monitoring to ensure that there is sufficient enough transparency and, if we need to, we will come up with and look at other ideas.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (5.35): Mr Deputy Speaker, I would like to clarify further the government's intention in relation to this amendment. As Ms Tucker has indicated, there is a concern that if there were a requirement to provide absolutely everything the council was doing and within a specified period, the formal records and advice of the council could become quite guarded and people would not be encouraged to make decisions or give advice.

So the intention really is to allow the minutes of the issues that have been addressed to be publicly available. Then if any member of the community, or indeed member of this Assembly, has a particular interest in a particular matter, it can be pursued further. It is really an indicator of the issues the council has considered. Members of the community or this Assembly can then pursue an issue in more detail.

Amendment agreed to.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (5.37): I move amendment No 18 circulated in my name, which amends clause 36 *[see schedule 1 at page 4499]*.

This amendment provides for a uniform time period in which the chairperson of the Planning and Land Council must report to the minister about a disclosure of interest by a council member. This is part of the raft of amendments that standardise the usual periods of time for notification or reporting by the council and authority.

Amendment agreed to.

Question put:

> That clauses 24 to 36, as amended, be agreed to.

The Assembly voted—

| Ayes, 11 | | Noes, 6 |
|---|---|---|
| Mr Berry | Ms MacDonald | Mr Cornwell |
| Mr Corbell | Mr Quinlan | Mrs Dunne |
| Mrs Cross | Mr Stanhope | Mr Humphries |
| Ms Dundas | Ms Tucker | Mr Pratt |
| Ms Gallagher | Mr Wood | Mr Smyth |
| Mr Hargreaves | | Mr Stefaniak |

Question so resolved in the affirmative.

Clauses 24 to 36, as amended, agreed to.

Clauses 37 to 72, by leave, taken together.

**MRS DUNNE** (5.42): Mr Deputy Speaker, the opposition will be opposing chapter 4 of the Planning and Land Bill. Chapter 4 encompasses the establishment and functions of the Land Development Agency, and that agency goes to the heart of everything that is wrong with this bill.

The opposition is upholding Liberal philosophy in opposing chapter 4. Liberal philosophy is opposed to state control, Liberal philosophy is opposed to state-run businesses, and it is the view of the Liberal Party that the state-run business which will

be established under this part of the bill would not be in the best interests of the community. Monopoly is never good and this is what the bill would create.

By establishing the Land Development Agency the minister would impose a government-run monopoly on land servicing. The agency would also become an arbiter of taste, as we have seen in the Gungahlin experiment of Yerrabi stage 2. By creating a monopoly, this government would run land development into the ground. We know that this will happen because it has happened in the past.

The model that this minister proposes—and which he says will do everything from bringing prosperity to the workers' paradise he is trying to create, to, along the way, curing warts—is a very high-minded model that we know from experience has feet of clay. We have seen in the past that the administration of land development in the ACT by governments has been a dismal failure. In the 1970s this was so expensive that it was abandoned by the federal government.

The forays of the previous Labor government into land development by the mechanism of joint ventures was a dismal failure. The most dismal failure was the Harcourt Hill development, which was pulled out of the mire by the Liberal government. When the Liberal government came to office we found an organisation that was deeply in debt to the government and that could not meet its commitments. There were almost open riots by the leaseholders who had been made promises by the joint venture partners which could not be met. Those promises had to be picked up and met by ACT taxpayers. The promises included a country club, which was built at taxpayers' expense because the joint venture could not fulfil this role. Because of those promises, ACT taxpayers are today encumbered with running a health club and a country club.

Do we seriously consider that the workers' paradise that Mr Corbell is trying to create in this place will be running country clubs and golf courses? This is not the way that government should be doing their business but this is what has happened in the past and this is what will happen in the future.

In this place on a number of occasions this minister has held up and extolled the benefits and the value of Landcom in New South Wales as the model for land development. The single biggest difference between Landcom and what this minister proposes to do is that Landcom does not have a monopoly on land in New South Wales. What he proposes to do here with son of Landcom—the ACT version of Landcom—is create a monopoly.

The opposition will oppose any proposal by this minister to create a monopoly. We will do so because it is not in the best interests of the community to create a monopoly. We will warn and we will scrutinise. I know that we have no chance of voting down this ill-conceived proposal but I put this government on notice, and I put this minister on notice, that from now on and into the future we will monitor closely what is happening. Such a proposal would wreak disaster and would cost the ACT community dearly. The pilot that is being run at Yerrabi stage 2 is already costing the ACT community dearly—a monopoly that is currently delivering land at a cost which is entirely unaffordable for the average person in the ACT. Yet this is the sort of workers' paradise that this minister proposes to introduce. On top of that they are—

**Mr Corbell**: Call it Whitlamesque.

**MRS DUNNE**: No, I don't think I will today—I couldn't be bothered. On top of the fact that the land price being reaped at Yerrabi is so expensive that the average person cannot possibly hope to live there, the costs associated with the design caveats in the lease and development conditions make it too expensive for the average person to build a house. They cannot afford to buy a block. A couple of years ago a first home buyer would have been able to afford a house and land package for the price of blocks of land that are currently on sale out at Yerrabi. Suddenly that amount of money will only buy a block of land. And this is what this minister hopes to deliver in a workers' paradise—land which is unobtainable for the average tradesman and his wife and family.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (5.48): Mr Speaker I think it is important at this point in the debate that I set very clearly on the record the government's position in relation to the establishment of the Land Development Agency. I want to start by referring to some principles. Who owns the land asset in the ACT? The community does. We have a leasehold system and all undeveloped land, land retained for residential development purposes, is owned by this community. In fact, it is owned by all of the Australian people and it is given to this community and this Assembly to manage responsibly on behalf of the community as a whole. That is the whole purpose of a leasehold system.

It follows from that that any benefit that is obtained from the improvement in value of that land is returned to the community. That is the whole purpose behind the establishment of the Land Development Agency—to return to the community the benefit of the improved value of developed land. As the government outlined in its election commitments, it is also about delivering better quality in residential subdivision design and more liveable neighbourhoods for people.

Mrs Dunne sings the praises of the private sector. Indeed, the private sector delivers, in some instances, high-quality residential estates. That us why the government has indicated in its establishment of the Land Development Agency that it is the very clear intention of the agency and of this government to work in partnership with private sector land development organisations to deliver high-quality residential estates.

But Mrs Dunne's rhetoric is so full blown, so overblown, that I think it is worth putting a couple of points on the record. First of all, she says the Liberal Party is opposed to state-run businesses—state-run businesses, I assume, like the Kingston Foreshore Development Authority, established under the Liberal government; state-run businesses like the Gungahlin Development Authority, established under the Liberal government; state-run businesses like Totalcare Industries, established under the Liberal government; state-run businesses like ACTTAB, ActewAGL and a range of other organisations established under the Liberal government. Mr Speaker, if that is the argument that Mrs Dunne is putting about as her in-principle opposition, then it is her argument, not mine, that has feet of clay.

Mr Speaker, she goes on to make the point that this is about the government seeking to be the arbiter of good taste. Let me point her again to the Kingston Foreshore Development Authority. At Kingston you probably have the most highly regulated design outcome of any development in this city—a regulatory framework which this

government supports but which was put in place under her colleague the now Leader of the Opposition and aspiring Chief Minister of this territory, Mr Smyth.

Mr Speaker, she then went on to talk about how government land development, which is really community land development, has delivered unaffordable housing for the Canberra community. She said that this is a result of land management. Let us take the territory out of the equation for the moment and go just over the border to Queanbeyan. Let us go and have a look at Jerrabomberra, which is the key greenfields development estate in New South Wales. I challenge Mrs Dunne to find me a land parcel, a house and land package, in Jerrabomberra that delivers to potential purchasers a house and land for under a quarter of a million dollars. The reality is that you cannot find one. Indeed, there are only a handful of blocks under $300,000 in Jerrabomberra.

So I think Mrs Dunne needs to go and have a look at the broader conditions that exist in the land market in the region before she starts to seek to blame this government and our land release program for price escalation. Quite frankly, she is wrong. The reality is that land prices are high across the region, and indeed right around the country. It has nothing to do with the government's land release program: it has everything to do with Mrs Dunne's rabid ideological attempt to undermine this very important initiative which is in the interests of the broader Canberra community.

Mrs Dunne talked about Harcourt Hill as an example of government land development gone wrong. If she is going to apportion blame then she has to appreciate that the private sector is a 50 per cent partner in Harcourt Hill and therefore, according to her argument, the private sector demonstrated market failure, too.

So, Mr Speaker, let us make it clear: unlike the Liberal Party, the government is not about engaging in some rabid ideological debate when it comes to community land development. The government is about delivering good returns for the people of Canberra and better-quality estates for the people of Canberra to live in, and that is what community land development will deliver.

The budget figures identify an additional $17 million per annum to be returned to the community because of the government's involvement in community land development. These figures are rigorous and have been tested extensively. Of course, if Mrs Dunne were ever to be appointed Minister for Planning and she opposed or abolished community land development, she would face a challenge. How would she plug the $17 million per annum hole in the territory's revenues that she would create? How would she find the additional $17 million per annum already factored into the budget as government revenues? We are talking about $17 million per annum or over $50 million over a three-year period. How would she plug that fall? Quite frankly, it would be the first of Vicki Dunne's planning budget blow-outs.

The government's key fundamental objective is about making sure that the asset our community owns delivers value to our community, so that money can be spent on services in our community and so that the suburbs people live in are high-quality, liveable neighbourhoods.

Mr Speaker, I note in closing that in a commentary in the paper this morning, Mr Mike Taylor, who disclosed his extensive business links with the building and construction industry, criticised this government for not achieving a high yield in the Yerrabi 2 estate. Of course, that is very technical language, but when you strip it all away, what does "high yield" mean? "High yield" means "we didn't cram enough blocks into the estate". That is what it means and that is what this community is sick of. This community is sick of developers, whether they are from the public or private sectors, trying to squeeze too many blocks into a land development parcel.

One of the objectives of this land development agency will be to deliver more liveable neighbourhoods, less crowded neighbourhoods, better streetscapes, better urban design outcomes, places that people would want to live in in 20 or 30 years time. If Mrs Dunne is so enamoured of the success of complete free market private planned development in the ACT, I challenge her to visit a few pockets in Ngunnawal, or even Amaroo or Palmerston. The tension between the government planning agency and the private land developer at these locations has resulted in very poor outcomes.

We believe that the Land Development Agency as proposed in this legislation, along with the Planning and Land Authority and the other government structures that are proposed in this bill, are indeed a way towards addressing challenges that our community wants to see addressed.

Mr Speaker, I would now like to seek leave to move my amendments 19 and 20 together.

Leave granted.

**MR CORBELL**: I move amendments 19 and 20 circulated in my name together, which amend clause 38 *[see schedule 1 at page 4499]*.

Mr Speaker, these two amendments deal with, first of all, a clause to refer to the objectives of the Territory Plan rather than urban management objectives in the functions of the land agency. This matter was raised in discussions during the roundtable with members. It was felt better to clarify that the objectives of the Territory Plan are the elements that the land agency must exercise its functions in accordance with rather than urban management objectives, because urban management objectives are not spelt out as such in the Territory Plan whereas the objectives of the Territory Plan itself are quite clear.

Secondly, Mr Speaker, my amendment No 20 amends clause 38 (4) (b) by removing the requirement that the land agency perform its functions in accordance with sound business practice. Again, this is a result of discussion. In fact, this amendment was first flagged by Mrs Dunne. It was felt more appropriate to simply assert that the land agency must exercise its functions in accordance with the overall objectives as set out at the beginning of the bill.

Amendments agreed to.

**Sitting suspended from 6.00 to 7.30 pm**

**MRS DUNNE** (7.30): Mr Speaker, I move amendment No 10 circulated in my name *[see schedule 2 at page 4506]*.

This is a fairly simply amendment aimed at ensuring that the Land Development Agency operates with a business plan. It is designed to remove any doubt that this is optional and makes it compulsory. The Liberal Party thinks that if the Land Development Agency must operate it should do so with an obvious business plan.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (7.31): It is fairly clear in the bill that there is a requirement for a business plan. The government will not be accepting Mrs Dunne's amendment, because it is superfluous. Clause 38 (4) of the bill indicates that there is a requirement for a business plan and that the agency has to act in accordance with the latest business plan accepted by the minister. Given that, I fail to see the purpose of Mrs Dunne's amendment, and the government will not be supporting it.

**MS TUCKER** (7.32): I will support Mrs Dunne's amendment. I think her words read better than those in the bill. What is in the bill is slightly clumsy.

**MRS DUNNE** (7.33): I thank Ms Tucker for her support. I reinforce that this amendment is not superfluous. The current wording leaves open the possibility that the Land Development Agency could operate without a business plan. I want to take out the "if" to ensure that it can operate only with a business plan.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (7.34): Although Ms Tucker is prepared to support this amendment, I still feel it is six of one and half a dozen of the other. The government will not be supporting the amendment, but I do not think it is worth pushing the issue too far.

Amendment agreed to.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (7.35): Mr Speaker, I seek leave to move amendments 21 and 22 circulated in my name together.

Leave granted.

**MR CORBELL**: I move amendments 21 and 22 *[see schedule 1 at page 4499]*.

These amendments amend clause 40. Amendment 21 removes the word "promptly" and requires the Land Development Agency to provide information to the minister under this clause within 14 days. This is part of the standardisation of periods of time.

Amendment 22 adds to a requirement that the agency present to the Legislative Assembly within six sitting days a statement providing details of its actions under clause 41 of the bill. If the sitting days for the Assembly are such that the statement would not be presented within six days after the minister is told of the action, the minister must give the statement to members of the Assembly within those 14 days. Again, this is a new standard of timing which is being addressed in a series of amendments to the bill in the

detail stage tonight. The amendment ensures that if the Assembly is not sitting within six sitting days the minister must provide the information to members of the Assembly within 14 days.

**MRS DUNNE** (7.38): I congratulate the minister on adopting this amendment, along many of the others this blind wart-hog suggested at the round table. This is not the only win tonight, but most of the wins appear as the minister's wins. One of the issues I raised was the problem with "promptly" because it has no meaning. I am grateful for the sensible and statesman-like way out that was suggested by the Clerk's office in this and in other areas. It is good to see the minister take on amendments that bring consistency and reliability throughout the bill.

Amendments agreed to.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (7.38): Mr Speaker, I seek leave to move amendments 23 and 24 circulated in my name together.

Leave granted.

**MR CORBELL**: I move amendments 23 and 24 *[see schedule 1 at page 4499]*.

These amendments amend clause 41. As with the previous two amendments, they standardise periods of time.

**MRS DUNNE** (7.39): The Liberal opposition supports these amendments because they were originally our amendments.

Amendments agreed to.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (7.39): Mr Speaker, I move amendment No 25 circulated in my name *[see schedule 1 at page 4499]*.

Amendment 25 proposes a new clause 44 (1A), requiring that the land agency prepare a business plan for each financial year. As we have just discussed, I believe it is clear that there is a requirement to prepare a business plan. This amendment clearly states that.

**MS TUCKER** (7.40): We will be supporting this amendment for reasons similar to those for supporting Mrs Dunne's amendment to clause 38. Mrs Dunne's amendment is good because it ensures that the agency's business plan will guide the agency's operations. This is a similarly good amendment.

**MRS DUNNE** (7.40): Mr Speaker, the Liberal opposition will be supporting this amendment, because it goes to part of the issues that we have with this part of the bill. If we cannot vote down this agency, we want to ensure that it operates by sound practices. An important element of that is a business plan. As Ms Tucker said, this is an important element. It takes away the optional status in the bill and makes a business plan mandatory. It is unreasonable that an agency that supposedly will bring in $17 million of

profit every year just beyond the outyears not have a business plan. The importance of having a business plan cannot be underestimated.

Amendment agreed to.

**MRS DUNNE** (7.42): I move amendment No 11 circulated in my name *[see schedule 2 at page 4506]*.

This amendment again goes to the Liberal Party's concern that the Land Development Agency operate with a functional business plan at all times. The aim is to ensure that at the beginning of each financial year there is a business plan. I have discussed this with officers from PALM, who raised some concerns that it may be difficult to have this in operation at the beginning of each financial year. But other agencies have budgets in place, and for the most part the government has its budget in place by the beginning of the financial year. It is imperative that an agency which has so much revenue potentially at stake have a business plan in place.

Now that the whole of this legislation will not commence until the beginning of the next financial year, there are plenty of opportunities for a business plan to be devised. If it is too difficult for the agency to have a business plan when it starts operating on 1 July 2003, I would be willing to countenance some transitional arrangement. But it is imperative that from financial year to financial year there be an operating business plan.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (7.44): Mr Speaker, the government will not be supporting this amendment, with good reason. Whilst Mrs Dunne's amendment would seem innocuous, the government has two concerns with it. Firstly, as Mrs Dunne herself has pointed out, it is proposed that the Land Development Agency not commence operation until the beginning of the financial year. Therefore, under the amendment proposed by Mrs Dunne, it would not be possible for the agency to start, because it could not start without a business plan, which is prepared before the beginning of the financial year. If Mrs Dunne had been serious about it, she would have proposed a transition amendment, but she has not done that.

The more important issue is that it is not always the case that a government's budget is passed before the beginning of the financial year. I am sure many of us in this place would be conscious of many occasions when the budget has not passed until after the beginning of the financial year.

Given that a business cannot be formally approved until the budget has been passed and the full financial context is known, I would prefer that the clause remain as is, simply requiring that a business plan be prepared as soon as possible. Preferably that would be before the beginning of the financial year, but the clause allows some flexibility if it is necessary that the business plan be finalised shortly after the commencement of the financial year.

Mrs Dunne's amendment is unnecessarily restrictive. It does not reflect the reality of when budgets are passed. It would be of concern to the government if this amendment were put in place.

**MS TUCKER** (7.46): I share Mr Corbell's concerns about this amendment. If the land agency is required to prepare a business plan each financial year, it is too restrictive to say that this plan must be prepared before the beginning of the financial year. It may not be feasible, as the agency may need to wait for its budget to be finalised, which may not occur until just after the start of the financial year. I can see that that could create quite serious difficulties.

Amendment negatived.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (7.47): I move amendment 26 circulated in my name *[see schedule 1 at page 4499]*.

Again, this clarifies periods of time for provision of information to the Assembly.

Amendment agreed to.

**MRS DUNNE** (7.48): I move amendment No 12 circulated in my name *[see schedule 2 at page 4506]*.

This is another attempt by the opposition to insert some transparency into the process. This has been characterised around discussion tables as the "we are telling the public that the Treasurer has his hand in the piggy bank" amendment. We do not object to the fact that at appropriate times the Treasurer may want to withdraw funds from the Land Development Agency. After all, that is what this government says it is about. It is about raising revenue, amongst other things. Therefore, that revenue should reasonably be drawn down.

This amendment would make that transparent. If at abnormal times the Treasurer decides to take funds out of the Land Development Agency, he will have to notify the public by making available a copy of the direction in six sitting days or, under the formula that came from the Clerk's office, within 14 days if we are not in session.

It is simply a matter of transparency. It should not be a problem for a government that talks about transparency and openness to tell members of the Assembly and, through members of the Assembly, the public when they are drawing down funds from an agency which is about creating revenue. For that reason I commend this amendment to members. It is aimed at transparency.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (7.50): The government is prepared to support this amendment. I think there is an argument to say that these directions have the potential to involve substantial payments to the territory, and therefore it is in the interests of accountability and transparency that this sort of process be in place.

**MS TUCKER** (7.50): I also agree with this amendment. I think it important to have the Treasurer's direction to the agency tabled in the Assembly. This will keep the Assembly up to date with the financial operations in the agency. As Mrs Dunne has said and the Planning Minister has accepted, it is in the interests of transparency and accountability.

Amendment agreed to.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (7.50): Mr Speaker, I seek leave to move amendments 27 and 28 circulated in my name together.

Leave granted.

**MR CORBELL**: I move amendments 27 and 28 *[see schedule 1 at page 4499]*.

Amendment 27 omits the word "promptly" from clause 50 (2). Amendment 28 provides for a new clause 50 (2A) which requires the land agency to tell the minister about any development that may affect an objective in the agency's business plan or the financial viability of the agency. The agency must tell the minister within 14 days after the agency becomes aware of such a development.

Amendments agreed to.

**MRS DUNNE** (7.52): I move amendment No 13 circulated in my name *[see schedule 2 at page 4506]*.

This amendment inserts a new clause 50A. I rise in eager anticipation of being voted down on this one as well. This amendment mirrors the earlier amendment that, if successful, would have required the Land and Planning Authority to report on a six monthly basis to the relevant committee, the Planning and Environment Committee. If successful, this amendment will require the Land Development Agency to do the same thing.

It is more important that this amendment succeed than it was that the previous one succeed, because this is where the revenue lies. This is where all the social engineering lies. The Land Development Agency is the minister's vehicle for delivering not only largesse to the ACT coffers but a greater social outcome. Better social outcomes and better planning outcomes are going to be delivered by the Land Development Agency. It is almost imperative that this process, especially in the initial years, be closely monitored by this Assembly. The most appropriate vehicle for doing that is the committee.

The minister will argue that this is unprecedented and that the agency should not have to do it, because no other statutory authority in the ACT has to do it. Quite frankly, these arguments do not wash. This is an important departure, because the minister proposes to set up a true monopoly, with a whole lot of corporate structure and governance around it. It is a corporate monopoly with governance structures which is less accountable that it could be.

In the interests of being open and accountable, especially in the early years when this agency is going to be turning around the coffers of the ACT—remember that in the first couple of years the ACT will go into deficit because of the existence of this organisation—we as an Assembly should closely monitor its progress and ensure that it is meeting its goals. This is why the Liberal opposition proposes that there should be close scrutiny of the operations of this agency. A six monthly scrutiny answers the case with organisations such as the National Crime Authority in its previous form, ASIC and

APRA. It would be appropriate for a committee to oversee and review the agency every six months so that it can report not to the minister but to the Assembly, the place where this legislation has its genesis and where everyone is ultimately responsible, so that in the long run we can see on a fairly timely basis whether this organisation is meeting its goals.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (7.55): We had this debate on Mrs Dunne's failed amendment to require the Planning and Land Authority to report to the relevant committee of the Assembly. Mrs Dunne's argument seems to be that without this amendment there will be no accountability provisions in relation to the Land Development Agency. That is false.

Mrs Dunne would seem to think that other large government land development bodies such as the Kingston Foreshore Development Authority deserve less scrutiny than she is proposing. If she were consistent in her argument, she would accept that the Kingston Foreshore Development Authority is a government land developer and insist on the KFDA reporting to the relevant standing committee of this Assembly. The previous Liberal government, when it established the KFDA, did not require that, for the same reasons the government is arguing here.

The new Land Development Agency will have a very effective and rigorous series of reporting requirements. The legislation outlines that the business plan must be given to the minister to be tabled in the Assembly, and there is the usual range of formal reporting requirements—through annual reports and the scrutiny of the Estimates Committee both in the appropriation bill stage and in the annual report stage.

We believe those mechanisms have proved sufficiently rigorous for KFDA, the Gungahlin Development Authority, Totalcare, Actew and a whole range of other government business enterprises that deal with very large budgets. I do not think Mrs Dunne has made the argument in relation to this government business enterprise.

Mrs Dunne asserts that this is different because we are making the territory a monopoly provider of land. We already are. The leasehold system means that we already are the monopoly provider of raw land. The government is the only agency that delivers raw land to the territory. It is the agency that determines how much land is released. We are already a monopoly provider as a result of the leasehold system. Mrs Dunne's arguments do not stack up.

**MS TUCKER** (7.58): The Greens do not think there is valid justification for requiring the land agency to report twice a year. I have already explained my position on this. I think an annual report is sufficient. Through the Planning and Environment Committee and in any other way we choose, there will be opportunities for members of the Assembly to scrutinise the activities of the land agency. I support the desire for scrutiny, but I do not think this amendment is the way to do it. It is not a very efficient or effective response to the desire for scrutiny.

I wish to respond to some of the comments Mrs Dunne made before dinner. Mrs Dunne and the Liberals generally cite Harcourt Hill as the most dramatic failure of this sort of activity. Mrs Dunne mentioned that there was a country club aspect to that development.

I do not think that was appropriate. I agree that government should not be getting into the entrepreneurial side of development and commercial activities such as a country club. I would be concerned if the government did that. I do not think Mr Corbell intends to do that. But I think that distinction needs to be made. It is not just a residential development.

Mrs Dunne says that, from her experience, this sort of government activity is a dismal failure. Having been in the Assembly since 1995, I have watched two Liberal governments handle planning. I feel that what they did was a dismal failure. That is why I think a lot of people changed their vote in the last election. Planning was a significant issue.

Mrs Dunne also said that taxpayers will be carrying the burden of what she predicts will be a failure. My point is that the ACT community will be carrying for a long time to come the burden of poor planning decisions over the last seven years. In the last seven years, the period I have been closely involved with planning, developments have resulted in dwellings which are primitive for the climate in which we live. They have not addressed affordability issues. Mrs Dunne said that with what the Labor government is doing houses would be out of the reach of workers. I cannot believe Mrs Dunne said that. We know that the affordability of housing in the ACT is a serious problem. For seven years the Liberals had responsibility for ensuring affordability. Claims that this is going to be the end of the world as we know it are not convincing, because I am so unimpressed with what Liberal governments did in this area over seven years.

**MS DUNDAS** (8.02): The Democrats will not be supporting this amendment either. While I did not support Mrs Dunne's similar amendment in respect of the Planning and Land Authority, I could see the arguments for it. But I cannot see how that same reasoning applies to the land agency. The land agency will function in a similar way to a territory-owned corporation. The provision Mrs Dunne is suggesting is unlike any arrangement for any other revenue-raising arm of government.

The land agency does not require the same level of independence from government as the Planning and Land Authority does. I believe it will be closely tied to budgetary decisions of the government and hence open to the same scrutiny process as the budget. Therefore, this extra level of scrutiny is not appropriate for the land agency.

**MRS DUNNE** (8.03): I hear what members are saying, but the fundamental notion we fail to grasp is that because you drive the bulldozers, determine where the roads are and lay out the kerbing and guttering you are the people who provide the great planning outcomes.

I hear everything Ms Tucker says about the failures of planning in the past. I wholeheartedly agree with her. Canberra has a proud history of planning. Since self-government, planning has become run down. We do not have housing appropriate to our climate or housing choices that mean that honest everyday working men and women—people with a trade, people who work in shops—can afford to buy a house that is inexpensive to run and gives them a good quality of life. This is a failure of the planning system. It is sheeted home to all of us here and our predecessors in this place.

Mr Corbell cited some of the things that went wrong in Ngunnawal and Amaroo. They went wrong not because the ACT government failed to drive the bulldozers but because the ACT government, through its regulatory authorities, failed to exercise appropriate power. Being able to drive the bulldozers or pay the people who drive the bulldozers will not deliver us any more power over planning decisions. Those decisions rest with the planning authority. If they have failed, it is because they are under-resourced or under-legislated.

If my colleagues have anything to answer for, I will own up to it There have been failures. We have failed in the past. It is time we owned up to it. Let us stop the blame shifting. Let us try get it right in the future.

**Ms Tucker**: You are blaming them.

**MRS DUNNE**: I am accepting the blame. We were in government for seven years. If things went wrong, it was because of a lack of power this place as a collective gave to the planning and land authority. If things are wrong in Amaroo, Ngunnawal, Palmerston or anywhere else, it is because the planners did not have the power to exercise.

The minister says that the Land Development Agency will be delivering not only buckets of money but high-quality social outcomes. I will not resile from the fact that there have been failures in the past and that perhaps past Liberal governments have contributed to those failures. We should be trying to make it better in the future by keeping very close tabs on the great social engineering program that this government proposes to embark upon.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (8.07): Mrs Dunne's proposal is for the Land Development Agency to report to the relevant standing committee of the Assembly. The reason for this proposal is the magnitude of the outcomes that she asserts are so dangerous for the territory.

In rebuttal, the only point I would make is that it is not just a regulatory failure. The government accepts that there has been regulatory failure. The issue is also about the euphemistic term "yield". We saw it again this morning in the *Canberra Times*. Mr Mike Taylor asserted that one of the reasons the government was failing in its government land development activity was insufficient yield in Yerrabi 2. I can only make the point again: what does that mean? It means that the government is being criticised because we have too few blocks in the estate.

Go to parts of Ngunnawal, parts of Nicholls, parts of Amaroo or parts of Palmerston and you will see too much yield. There might have been a good financial return, but it is a pretty poor living outcome for the people who live there. This is not just about regulatory activity. It is also about the attitude of the development agency to the outcomes for the next 30 to 40 years. The government's view is that the Land Development Agency certainly brings financial focus but has to bring a prudent and responsible financial focus. The fact that it is a public sector agency also means that there will be a broader range of considerations along with the financial consideration. That is the marked difference between the approach of this government and that suggested by Mrs Dunne.

Amendment negatived.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (8.10): I move amendment 29 circulated in my name *[see schedule 1 at page 4499]*.

This amendment adds the field of engineering to clause 58 (2). Clause 58 (2) lists the range of fields of expertise that should be sought to be included on the board of the land agency. This flows from the report of the Standing Committee on Planning and Environment, which outlines that it is the view of a number of professions in the city that construction expertise needs to be included in the skills available on the board of the land agency.

The government is proposing to add the broad term "engineering", which allows for a range of disciplines, including construction, to be acknowledged and hopefully accommodated in appointments to the land agency board.

**MS TUCKER** (8.11): We support this amendment. It was a suggestion we put at the round table.

Amendment agreed to.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (8.12): I move amendment 30 circulated in my name *[see schedule 1 at page 4499]*.

This is a minor correction to clause 60.

Amendment agreed to.

**MR CORBELL (**Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (8.12): I move amendment 31 circulated in my name *[see schedule 1 at page 4499]*.

Again, this amendment makes uniform the period of time within which the chairperson of the land agency must report to the minister about a disclosure of interest.

**MRS DUNNE** (8.13): The Liberal opposition will be supporting this amendment, because we are all in favour of uniformity when it comes to reporting dates so that people have predictability. We do not favour uniformity in everything, but here we want predictability.

Amendment agreed to.

**MS DUNDAS** (8.13): I rise to speak about this whole chapter as now amended and the idea of the land agency. The ACT Democrats support the land agency. The ACT Democrats support the introduction of public land development. A public land developer has the ability to take greater account of the social and environmental benefits of development and not just flog off land to the highest bidder.

Public land development corresponds with the Democrats' position of focusing on the triple bottom line. Land development must look at the social needs, such as affordable housing and access, and environmental concerns, such as water usage, over and above the need to make big profits. We also recognise that good land development often needs a high initial capital investment in order to reduce the ongoing maintenance cost to the territory in the future. This is another good reason for public land development, as a public developer should not only be looking at the private profits from the initial development, but also at the ongoing cost to the public purse in the future.

When we were discussing this chapter in the round-table meetings that have been discussed, I put forward a number of amendments that were not necessarily taken up by the government. However, the land agency continues to be bound by the objectives of this act, which is to:

> provide a planning and land system that contributes to the orderly and sustainable development of the ACT—
>
> (a) consistently with the social, environmental and economic aspirations of the people of the ACT; and
> (b) in accordance with sound financial principles.

I was happy to take that on board and not necessarily engage in protracted debate about whether this land agency will achieve the aims of social, economic and environmental outcomes. At this stage, I am willing to accept that the objectives give enough direction to the land agency so that it can provide and achieve quality outcomes for the ACT community in planning and land development in the ACT.

Question put:

> That clauses 37 to 72, as amended, be agreed to.

The Assembly voted—

| Ayes, 11 | | Noes, 6 |
|---|---|---|
| Mr Berry | Ms MacDonald | Mr Cornwell |
| Mr Corbell | Mr Quinlan | Mrs Dunne |
| Mrs Cross | Mr Stanhope | Mr Humphries |
| Ms Dundas | Ms Tucker | Mr Pratt |
| Ms Gallagher | Mr Wood | Mr Smyth |
| Mr Hargreaves | | Mr Stefaniak |

Question so resolved in the affirmative.

Clauses 37 to 72, as amended, agreed to.

Clause 73 agreed to.

Clause 74.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (8.21): Mr Speaker, I move amendment No 32 circulated in my name *[see schedule 1 at page 4499]*.

Mr Speaker, this amendment substitutes a new clause 74, setting out the circumstances in which an official or another person commits an offence. The expressions "dishonestly", "official" and "position" are defined. This amendment brings the bill into line with current drafting practices in respect of the application of the criminal code.

Amendment agreed to.

Clause 74, as amended, agreed to.

Clause 75.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (8.22): Mr Speaker, I move amendment No 33 circulated in my name *[see schedule 1 at page 4499]*.

Mr Speaker, this amendment alters the date by which the review of the act must begin. Originally, the review was to commence as soon as practicable after 31 December 2007. My amendment proposes that the review commence not later than 31 December 2006. The government sees this as a compromise date for the review, but one that allows for the operations of the new agencies, authorities and other bodies to be established for a reasonable period of time before review, so that the review is an effective one.

**MRS DUNNE** (8.23): Before I speak, Mr Speaker, I seek your guidance because I have an amendment to the same clause. Mr Corbell's amendment changes the date by one year and mine changes it by a further year. Can I seek your guidance? If this one succeeds, does mine lapse or do we debate mine as well?

**MR SPEAKER**: You could move to amend Mr Corbell's amendment.

**MRS DUNNE**: I will adjust my amendment.

**MS TUCKER** (8.24): I am happy to support Mr Corbell's amendment here. I think that having the reporting date of 31 December 2006 is quite appropriate. I understand that Mrs Dunne wants to change that to 2005. However, if the act comes into force in July 2003, it would take at least six months after that for everything to settle down and start functioning properly. This amendment then gives three years after the settling in period, which provides a decent time for operations to become established before an evaluation of what has occurred. I am going to be supporting Mr Corbell's amendment, but not Mrs Dunne's.

**MRS DUNNE** (8.25): I move the amendment which is about to be circulated in my name *[see schedule 3 at page 4508]*.

What the minister has done is ratchet back the reporting date by one year. The advice of the Planning and Environment Committee was that this bill should be reviewed in 2005. This is a substantial piece of legislation and a three-year period is usual for reviews of this kind. Seeing that this will have quite an impact on many aspects of life in the ACT, it is important that, as always, we keep a close eye of what is happening. The legislation will have been bedded down and there will be many opportunities, dare I say it, for things to go wrong with this. We should have the earliest possible opportunity to set things right if things do go wrong. That is why the Planning and Environment Committee recommended, in the first instance, that this legislation be reviewed by December 2005.

**MS DUNDAS** (8.27): While this is, some might say, a small debate, it is still an important one. We are completely changing the way planning operates in the ACT. As I have consistently said throughout this debate, we will need to watch this new program closely to see how it is operating and whether its outcomes are going to be effective.

The original bill said that the operation and effectiveness of this act must be reviewed as soon as practical after 31 December 2007. Minister Corbell, in his amendment, has brought the review's commencement date back to not later than 31 December 2006. We now have the photocopied and circulated amendment from Mrs Dunne that brings that back to commencing not later than 2005.

I will be supporting Mrs Dunne's amendment to bring this back to 2005, with the minister's amendment that the review must begin no later than 31 December, at the end of the year. It is quite likely that we will not be seeing the report for six months after the review, which will be, with the minister's amendment, July 2007, which is still a substantial four years after commencement. I would like to bring that back to 2005, so that we would be getting the report around mid-2006, and hence will be supporting Mrs Dunne's amendment.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (8.29): Mr Speaker, the government will not be supporting Mrs Dunne's amendment. Obviously, we have a preferred date. However, I think the point needs to be made that Mrs Dunne's amendment is effectively only allowing for 2½ years of full operation of the Planning and Land Authority and the Land Development Agency before the whole act is reviewed. I do not think that is a reasonable period of time.

Ms Tucker made the appropriate point that it really will take the second half of next year for the agencies to become well established and to be operating at full tilt. If the Assembly accepts Mrs Dunne's amendment, that means there will be only 2½ years before we review the whole lot. I do not think that is a reasonable period of time. The government's amendment allows for a full three years of operation before review.

It is also important to take into account that the government is already proposing a review of the land act to commence next year. That is going to take a whole year effectively, with an exposure draft expected sometime in 2004. Given that, I think it is important that the Assembly appreciates that the new organisations should operate for a reasonable period before there is a review.

**Mrs Dunne's** amendment negatived.

**Mr Corbell's** amendment agreed to.

Clause 75, as amended, agreed to.

Clause 76 agreed to.

Dictionary agreed to.

Title.

**MRS DUNNE** (8.31): We have come to a portentous time, Mr Speaker, when the majority of this place has agreed to pass the Planning and Land Bill. At this time, I want to place on record one last time the concerns of the opposition about some of the aspects of the Planning and Land Bill, and about its implications for land and land development.

I think it is sad that, after the excesses of the 1980s and 1990s, when we had WA Inc, Pyramid, the State Bank in South Australia and all of the Kirner, Cain, Bannon and Burke fiascos that we saw in the last wave of Labor governance, this Labor government should be creating the possibility of its own ACT Inc and all that could go wrong with it. We should be warned but, at the same time, I wish the government well in its enterprise.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (8.32): I thank Mrs Dunne for her graciousness. I am sure that we will see her continued support for these important reforms.

This is an important moment. We are about to pass this legislation. This is legislation that I have now advocated and on which I have worked for over three years. This is perhaps the most significant piece of legislation that I, as a member of this place, have sought to introduce and to have passed. It is obviously an important moment for me as a member of this place. More importantly, Mr Speaker, it is an important moment in the development of the governance structures of planning, land administration and land development activity in the territory.

It was always envisaged, at the time that self-government was granted to the ACT, that the territory would have a planning authority—not just a person performing the role of the planning authority, but an authority itself, an institution responsible for the good planning and land administration of the territory. It has always been of great concern to me that successive governments, both Labor and Liberal, have failed to deliver on that most important of structures envisaged at the time that self-government was granted to the territory. Tonight, I am very pleased to say that this Assembly is going to establish just such an institution.

We have heard much about the debate. I and other members have contributed to this debate tonight, and the many preceding it as well. However, the one point I want to make in closing this debate this evening is this: these are institutions that I hope will weather and thrive into the future. We all have our own points of agreement and disagreement about planning in this city. We have a community and we have citizens who feel strongly

about planning in the city, and that is the way it should be in a city with such a planning heritage.

However, while we may disagree on fundamental issues of planning and the outcomes that we see, we should always, as a community and an Assembly, strive to have the best possible structures and institutions to deliver the advice, guidance and regulation we need to see that our city thrives and grows into the future. I believe that the legislation we are about to vote on tonight can do that. I believe that the legislation that we are about to pass delivers a very robust structure of planning, which can outlast any particular government or, indeed, any particular political party.

That will be the real test of this legislation: when this government is no longer in office, when there is another minister for planning from some other political party, that these institutions are valued by the community, and that the community says it wants to see them retained. Fundamentally, the community will say that it wants to see them retained because it understands that the greatest quality Canberra has, which makes it attractive as a place to live, as a place to do business and as a place to visit, is the fact that it is a planned city with an exceptional built environment. That is what will continue to set this city apart and give it its competitive edge into the future.

We are not large. We cannot compete with the large cities of Melbourne, Sydney, Brisbane and so on. We are not by the coast, so we do not have some of the advantages that come from living on the coastal fringe. We are inland. We are in a very dry and cold place, and it is our built environment which will set us apart. I hope that these institutions will serve our city well into the future in ensuring that it is our built environment that continues to set us apart.

In closing, I want to offer just a couple of quick words of thanks. I have done this before, but I think at this time it is important to do so again. The process for establishing this legislation commenced just over 12 months ago with the establishment of a task force headed by Ms Dorte Ekelund from PALM. She and a range of officers from PALM, and particularly the land group in the Department of Urban Services, have worked extremely hard on putting this legislation together.

Ms Ekelund, along with Mr Vic Smorhun, Mr David Snell, Mr Martin Hehir, Ms Tania Carter and Dr Brendan Gleeson from the University of Western Sydney—now I think at Griffith University in Queensland—worked extremely hard on developing this package of legislation. They have been ably assisted by a range of officers from across the ACT government. Of particular note are Ms Julie Field and Mr Ivo Astolfi of the Parliamentary Counsel's Office, who were principally involved in the drafting of this legislative package, and many other officers from right across the ACT government service.

Combined, they have produced an exceptional piece of legislation, one which is rigorous, well thought through, logical and delivers the objectives the government said it wanted to achieve if elected to government in November last year. I thank them for their professionalism and hard work and I am pleased to say that, at the end of a very long period of time, the government is implementing its commitment to a statutory independent planning and land authority, a planning and land council and a land development agency here in the ACT.

**MRS DUNNE**: Mr Speaker, I ask for leave to speak briefly again.

Leave granted.

**MRS DUNNE**: I thank the house. I wish to make a point that I should have made before—and the minister shames me on this matter—to put on record my thanks to the officers who have worked so hard, so diligently and so professionally on this matter for me, as both a private member and as the chairman of the Planning and Environment Committee. Headed by Ms Ekelund and officers of the Parliamentary Counsel's Office, Ms Field and Mr Ivo Astolfi, these officers have been excellent and of great assistance to me. I wish to place on record the thanks of the opposition for their professionalism.

Title agreed to.

Question put:

> That this bill, as amended, be agreed to.

The Assembly voted—

| Ayes, 11 | | Noes, 6 |
|---|---|---|
| Mr Berry | Ms MacDonald | Mr Cornwell |
| Mr Corbell | Mr Quinlan | Mrs Dunne |
| Mrs Cross | Mr Stanhope | Mr Humphries |
| Ms Dundas | Ms Tucker | Mr Pratt |
| Ms Gallagher | Mr Wood | Mr Smyth |
| Mr Hargreaves | | Mr Stefaniak |

Question so resolved in the affirmative.

Bill, as amended, agreed to.

## Sub judice convention

**MR SPEAKER**: This morning I made a statement in relation to the sub judice convention and a matter of public importance that was submitted yesterday. I table the advice I received on that matter in the form of the following paper:

> Sub judice convention—Matter of Public Importance raised by Mrs Cross—Advice from the Clerk, dated 12 December 2002.

## Planning and Land (Consequential Amendments) Bill 2002
### Detail Stage

Clause 1.

Debate resumed from 21 November 2002.

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

Amendments 1.1 to 1.4, by leave, taken together and agreed to.

Amendment 1.5.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (8.47): I move amendment No 1 circulated in my name *[see schedule 4 at page 4509]*.

Amendment agreed to.

Amendment 1.5, as amended, agreed to.

Amendment 1.6.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (8.47): Mr Speaker, I move amendment No 2 circulated in my name *[see schedule 4 at page 4509]*.

Amendment agreed to.

Amendment 1.6, as amended, agreed to.

Amendments 1.7 to 1.89, by leave, taken together and agreed to.

Amendment 1.90.

**MS DUNDAS** (8.49): I move amendment No 1 circulated in my name *[see schedule 5 at page 4511]*.

This amendment removes the so called "call-in" powers of the Planning Minister that are contained in the land act, and is more than just an opposing clause; it is an omitting of the section to remove this also from the original act.

The ACT Democrats went to the last election with a clear commitment opposing the continued operation of call-in powers in our planning system. Planning call-in powers undermine our system of planning and reduce the certainty of the rights and responsibilities that residents and developers expect to have. Planning call-in powers subvert the role of the Administrative Appeals Tribunal, which has been installed as an independent arbiter of the relative merits of a case.

We have created an appeal system to ensure that the outcomes of our planning system are implemented fairly and justly. The role of the AAT—and especially the new division of the tribunal proposed by the Administrative Appeals Tribunal Amendment Bill 2002—demonstrates that specialist knowledge is required to judge these issues on a case-by-case basis. This check and balance on planning approvals in Canberra is subverted by the use of planning call-in powers, and it demonstrates that legislators do not show the officers of the AAT the same respect that they expect other members of our community to have.

The Labor Party went to the last election campaigning against the former Liberal government's use of these call-in powers. Yet it now becomes clear that it is not prepared to stop the same problems occurring in the future. The minister seems to be of the opinion that he is qualified to decide when the AAT should be blocked from exercising its proper functions, and he has already invoked the call-in powers a number of times in his first year in office in somewhat controversial circumstances.

The presence of planning call-in powers remains unpopular in the community, and degrades our public offices. Even if they are used with the best of intentions, members of the public invariably see them as examples of political expediency, and this leads to suspicions of less than transparent deals with developers. It has the unfortunate effect of making our political institutions look grubby and unnecessarily blocks well-meaning objectors from having their day in court.

I find it paradoxical that while the government has aimed to create a planning system that operates at arm's length from government, and has gone to great lengths to reduce political influence on the new planning authority, it retains the most obvious and controversial instrument of political interference in the planning process. This should be seen by our planners, our judges and the members of our community as the act of political opportunism that it is. If the government genuinely believes that our planning review processes are not functioning correctly, then let us sit down and look more closely at fixing that system. It should not be the role of government to prevent members of the community from having their concerns examined impartially by officers of our courts.

A number of reforms are before the Assembly that will hopefully improve the operation of the tribunal. We should allow that court to implement these proposals and place some trust in the strength of our institutions and our decision makers. Interfering call-in powers, I believe, have no place in a modern planning system.

**MS TUCKER** (8.52): I will speak to this amendment. It is something that we tried to do before in the last Assembly and Mr Corbell in opposition did not support it, so I am not expecting him to support it as a minister. But there really is, in my view, no justification for keeping the call-in powers in place. They contribute little in relation to sound planning and they instead make a mockery of proper planning processes.

Maintaining the call-in powers could pose a major inconsistency in Labor's approach to planning, and it will be very interesting to see whether the statement of planning intent, when developed, will expose inconsistencies in this approach.

There may well be situations when the minister uses the call-in power—perhaps not this minister but future ministers—to make a decision on an application that is in conflict with the principles of a prior statement of planning intent. It could be this minister as well. It can also be a classic case where these powers are used for political expediency. Although the statement of planning intent itself has no powers, the government has argued adamantly that it is important and should remain. In the end, it could be useful to compare that with, for example, use of call-in powers, because I think there is an inconsistency in Labor's approach here. I understand that Mr Corbell is doing his own

amendment on this, which I will speak to then. I certainly am happy to support Ms Dundas' amendment but, as I said, I am not expecting it to get up.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (8.54): Mr Speaker, as members would have anticipated, the government will not be supporting this amendment. I want to first address this amendment by highlighting to members the Labor Party's policy position, as announced before the last election, in relation to the exercise of the ministerial call-in power. Ms Dundas has asserted that we have somehow changed our mind—that we were critical of the use of the call-in in opposition to the extent that we perhaps said we would not do it, and then the government is doing it.

I would like to just read out for the benefit of members an extract from the ALP's planning policy from the last election, Planning for People. In the section headed "Accountability for the ministerial call-in power", it reads:

> The Liberals' abuse of the call in power has caused widespread concern in the Canberra community. The current Minister for Urban Services has argued that the use of a call in power should be viewed as a normal part of the development approval process. Labor disagrees. Labor will retain the call in power but believes it should only be considered for use in exceptional circumstances for issues of Territory-wide significance.
>
> Labor will be guided by the following principles in determining the exercise of the power.
>
> - Is the development application of Territory-wide significance in social, planning, environmental or economic terms?
>
> - Is there sufficient evidence to substantiate this significance?
>
> - Are there significant objections to the proposal which warrant the application being addressed through the normal development application process?
>
> - What are the costs and benefits to the Canberra community of exercising the call in power for the development application?
>
> - Labor also commits to making all documentation relating to the exercise of the call in power publicly available if the power is exercised.

So, contrary to the assertion by Ms Dundas, Labor always indicated—in fact, indicated in writing before the last election—that we would retain the power and we would set out the principles we would be guided by in determining whether or not the power should be exercised.

That is what this government has done. As minister, I have exercised the call-in power on two occasions—once in relation to the Kingston Foreshore Development and once in relation to the development of an apartment building on Northbourne Avenue called The Space. Both of those decisions were made entirely consistently with the principles set out in the Labor Party's policy document.

That aside, there is an argument, I believe, and the government believes, for the retention of the call-in power. It is there to be exercised, firstly, for development applications of territory-wide significance which run the risk of not happening because of a range of either vexatious or deliberate attempts to stymie it through the appeals process, as opposed to legitimate objections, and, secondly, where there is a proposal which is clearly not in the interests of the people of Canberra but which may be approved. It is important to remember that the call-in power is not just about approving applications; technically, it is about determining applications. The minister can just as easily determine not to approve an application as the minister can to approve the application.

That is the rationale behind Labor's retention of the call-in power. We see that as an essential democratic safeguard, to be used in exceptional circumstances. Indeed, the government has worked, both in government and in opposition, to make the exercise of the power far more transparent.

I, as an opposition member, amended the land act, approximately two years ago now, to provide clear criteria for the exercise of the call-in power, and these are outlined in section 229A of the land act. The land act provides these criteria, and I will just read them out. The criteria for the use of this power are if the application:

> (a) raises a major issue of policy; or
> (b) seeks approval for a development that may have a substantial effect on the achievement or development of objectives of the Territory plan; or
> (c) allows a decision that would give rise to a substantial public benefit;

So the government's record is clear on this. We have already successfully amended the land act from opposition to impose criteria which must be used in determining the exercise of the power.

The government has since outlined, in its approaches in the consequential legislation and in the Planning and Land Act, that it will be increasing the accountability and transparency of the call-in power. Firstly, the minister must now obtain advice from both the authority and the Planning and Land Council prior to making a decision. The council's advice relating to the exercise of the power is to be publicly available. I think this is a very important check on blatant abuse of the power. It means that the minister must seek the advice of the council before determining the application him or herself. That advice must be made publicly available. So, if the minister decides that the Planning and Land Council has got it wrong, that is fine; the minister can do that. At the end of the day, the exercise of the call-in power is an exercise of political power and the minister must be held, and is held, solely accountable for that.

But the advice from the Planning and Land Council will do two things. First of all, it will inform the decision of the minister, and, secondly, it will be made public, therefore allowing the community and the Assembly to judge the decision of the minister against the advice received from the authority and the council.

We, as a government, believe that this is a very important improvement and one which increases the transparency and accountability of the exercise of this important power. I think that we have outlined the amendments that we will be dealing with shortly, but I think that indicates the government's approach to the exercise of this power, how

seriously we treat it and the sorts of requirements we believe need to be in place to make sure that any future Minister for Planning, and indeed the current Minister for Planning, will have to act responsibly in determining any application themselves.

**MRS DUNNE** (9.02): Mr Speaker, the Liberal opposition will not be supporting the Democrats' amendment. Ms Dundas has referred to the exercise of the call-in power as political interference in the planning process. This is where I am afraid the Liberals have to differ with the Democrats. As the minister said, it is not political interference; it is the exercise of political power. Whether you like it or not, this piece of legislation has been put together so that in the end there is political oversight, by this place and by the minister, and it is most appropriate on occasions that political power is exercised in this way.

This is really a matter of "The buck stops here". This is a power that ensures the orderly development of the territory, when things can go very wrong. As we have seen in the two instances when this minister has exercised his call-in power this year, it has been done for all the right reasons. I am pleased to see that the minister has found that the exercise of the call-in powers is not nearly as painful for him now as it was when he was in opposition, because this opposition realises that from time to time there needs to be the call-in power. I was happy to call for the exercise of the call-in power on these occasions, and I was happy to support the minister when he did the right thing and exercised the just and reasonable political power that is in this legislation.

Yes, it is controversial, but it is about breaking logjams, and we saw in the instances earlier this year that we were confronted with logjams. If the KFDA project had not been called in, it would have sent a clear message that the 800-odd development applications that we will be seeing in the next 10 years in the KFDA area could be up for vexatious litigation every time someone wanted to do something. Somebody who had a problem with it, no matter how small, no matter how insignificant, would hold it up in the courts for months and years at a time. This is inappropriate, and I think that the minister sent a very clear and sound message. It was about breaking the logjam, as was the case with the other development, which really ended up in that situation because of vexatious objections.

It is an opportunity to break those logjams. Yes, it is controversial, and I have to say that in the past it is politicians more than anyone else who have made it controversial. I hope that this opposition can work with this government to ensure that the exercise of call-in powers, when done sensibly, will not be controversial.

Amendment negatived.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (9.05): Mr Speaker, I move amendment No 3 circulated in my name *[see schedule 4 at page 4509]*.

This amendment ensures that, when the minister decides to exercise the call-in power, comments received from the Planning and Land Authority and the Planning and Land Council on the development application must be provided.

I think this is a very important check on ensuring that the advice that the authority and the council give on these types of applications is publicly available so that effective scrutiny can be applied to the minister's decision.

**MS TUCKER** (9.07): I will be supporting this reluctantly. It is appropriate in that it provides the Assembly with the relevant information on which the minister's decision to call in was based. This will make it clear when the minister's decision is contrary to the position of the Planning and Land Council.

I support the amendment because it improves slightly upon the current situation with the call-in powers. However, as I said, I do so reluctantly. Ideally, as I said, I would still prefer that the call-in powers did not exist, as they have the potential to be used for political rather than good planning reasons.

In fact, it is more likely than not that the call-in powers are used only when there is some political advantage to using them. Even when that is not the case, the public perception will remain that the minister is circumventing proper process.

The logjams that Mrs Dunne talked about need to be understood, and they can be avoided. With regard to The Space, I would be delighted if someone wanted to sit down and explain what that logjam was. My understanding of it is that it could have been avoided.

**MS DUNDAS** (9.08): While I have already put on the record my opposition to the call-in powers, I do support this amendment, because, if we are to have call-in powers, then it is important that they are as open and as accountable as they can be, and this amendment goes some way towards that.

But, of course, the opposition to the call-in powers remains, and we will monitor closely how they are used and whether or not they are being used for the exercise of political power or political interference.

Amendment agreed to.

Amendment 1.90, as amended, agreed to.

Amendment 1.91 agreed to.

Amendment 1.92.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (9.09): Mr Speaker, I move amendment No 4 circulated in my name *[see schedule 4 at page 4509]*.

Amendment agreed to.

Amendment 1.92, as amended, agreed to.

Amendments 1.93 to 1.108, by leave, taken together and agreed to.

Amendment 1.109.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (9.10): Mr Speaker, I move amendment No 5 circulated in my name *[see schedule 4 at page 4509]*.

Amendment agreed to.

Amendment 1.109, as amended, agreed to.

Amendment 1.110.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (9.11): Mr Speaker, I move amendment No 6 circulated in my name *[see schedule 4 at page 4509]*.

Amendment agreed to.

Amendment 1.110, as amended, agreed to.

Amendments 1.111 to 1.145, by leave, taken together and agreed to.

Schedule 1, as amended, agreed to.

Schedule 2 agreed to.

Schedule 3.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (9.12): Mr Speaker, I move amendment No 7 circulated in my name *[see schedule 4 at page 4509]*.

Amendment agreed to.

Schedule 3, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

## Administrative Appeals Tribunal Amendment Bill 2002
### Detail stage

Clause 1.

Debate resumed from 21 November 2002.

Clauses 1 to 14, by leave, taken together and agreed to.

Clause 15.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (9.14): I seek leave to move the amendments circulated in the name of the Attorney-General.

Leave granted.

**MR CORBELL**: Mr Speaker, I move amendment No 1 circulated in the name of the Attorney-General *[see schedule 6 at page 4511]*.

**MRS DUNNE** (9.14): Mr Speaker, may I seek your guidance here? I am a bit confused. I have an amendment which extends the Attorney's amendment. Should I actually amend his amendment or can I move my amendment?

**MR SPEAKER**: You have to move to amend his amendment.

**MRS DUNNE** (9.15): I move amendment No 1 circulated in my name, which amends Mr Stanhope's amendment *[see schedule 7 at page 4512]*.

This amendment goes further than the Attorney's amendment, but follows the same theme. What the attorney proposes to do here in the AAT Bill is a bit of a departure, but I think that it is an appropriate departure. This is the first time we have really seen the tribunal given the capacity to award costs. The circumstances in which the Attorney would see those costs awarded are very narrow indeed. The opposition wants to see the tribunal allowed more flexibility to award costs in a larger, but still fairly limited, number of cases.

When it is clear that the tribunal is confronted with vexatious litigation, we want to see it able to award costs. We have had the discussion in this place a number of times. There are many occasions when one or two people who have only a marginal attachment to a development can, with very little effort, stymie it for a very long time and at great cost to people in government, to the developers themselves and to people in the courts and the tribunals. It simply involves turning up to the tribunal, paying your money and lodging an objection. In many cases, a development can be held up with not very much hope of success when it actually reaches the tribunal. People do know that they can stymie developments for quite some time.

There are some good innovations in the proposals brought forward by the Attorney to cut down potential time wasting in the tribunal by ensuring that most cases are dealt with in 120 days, and this is laudable. However, my amendment goes a bit further towards discouraging people from trying to slow down a development because they do not really like it, but they do not have any serious or substantive objection. There would be a limited number of cases when you could say that an appeal was vexatious. In those very limited circumstances, the deterrent available to the tribunal would be awarding costs, which can be quite substantial in many cases.

In some of the instances I know of, a case has spent eight days in the tribunal. In such a case, opponents can say, "I do not like that," which means they have to wheel out their QCs and their expert witnesses, not because they are bigger and smarter, but because

they have invested so much already and they have to protect their investment. This is not about protecting the big guy, it is actually about saving the community from vexation.

I commend the amendment to the house.

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (9.19): The government will not be supporting Mrs Dunne's amendment. The reason for that is that Mrs Dunne seeks to significantly expand the range of circumstances in which the Administrative Appeals Tribunal may decide that it is appropriate to award costs against a particular party. Essentially, Mrs Dunne proposes that costs could be awarded against the applicant if the tribunal is satisfied that the application or part of the application is frivolous or vexatious.

The reality is that, if Mrs Dunne's amendment was successful, it would never be used because it is too difficult to determine when an application is vexatious or frivolous. Having been a minister now for just over a year, my experience is that, when someone lodges an application, it is sometimes the case that they do so in a way that would appear to be vexatious or frivolous. However, in some cases, when you look at the substance of the objection, it is quite clearly a case well made.

People who make an objection, who may intend to make a frivolous or vexatious objection, always make an argument. It is always incumbent upon the tribunal to determine the outcome of the objection on the basis of its merits, not on the basis of the intention of the person making the objection. I think it is extremely difficult to say that an objection is frivolous or vexatious, if the appellant is making an argument on, say, tree protection or set backs. The tribunal must be obliged, at the end of the day, to make a judgment about the objection on the basis of its merits, not on whether or not the intent of the objector is to be frivolous or vexatious.

I do not believe that Mrs Dunne's amendment is either workable or appropriate. The government's amendment, which Mrs Dunne is seeking to amend, simply clarifies the circumstances in which the tribunal has the capacity to award costs. The government's approach to this issue is this: in circumstances where a party to a hearing does something to deliberately obstruct or hinder the processes of the tribunal, it is open to the tribunal to award costs. This was discussed at the round-table meeting. It was a matter about which a number of members—if I recall correctly, Ms Tucker and perhaps Ms Dundas—raised a concern.

What the government has therefore sought to do is refine and clarify the intention of the bill. The government's amendment replaces the cost provision in the bill with a similar provision that makes clear the very limited circumstances in which costs can be awarded. The provision inserted in the bill by this amendment is an improvement because it clarifies what is meant by contravention of a tribunal direction.

It also defines what the tribunal must consider when deciding whether it would be in the interests of justice to award costs. The tribunal will only be able to award costs in situations where a party has contravened a tribunal direction, and it is in the interests of justice that the party should be made to bear the associated costs. Again, the power to award costs is to be used at the discretion of the tribunal in the specified circumstances.

The government believes that this amendment successfully addresses the concerns of those who were worried that the introduction of a power to award costs might lead to people feeling unable to bring legitimate applications for a review of planning decisions. It makes it clear that those who are genuine users of the planning appeal system do not have to be concerned about costs being awarded against them. The power to award costs is unlikely to be used often, but it does provide support for the idea that the tribunal must complete planning appeals within 120 days, and discourages misuse of the review process.

In contrast to the proposal from the Liberal Party, the government's proposal is that, only in those circumstances where it is clear that a party to a hearing has sought to obstruct the hearings of the tribunal, can the tribunal decide that this is a matter that warrants awarding costs against that party. The government believes it is only in those circumstances that it can become clear to the tribunal that someone is simply seeking to delay a hearing, and therefore is not a genuine user of the planning appeals process.

**MS DUNDAS** (9.24): Yes, a number of concerns have been raised in regard to the government's proposal that allows the land and planning division of the tribunal to award costs against a party to an application. In particular, some residents have raised the concern that this would have the practical effect of reducing access to the tribunal because it introduces the threat of financial penalties. It should be remembered that individuals who do not have the resources to hire expensive lawyers, or pay huge legal costs, often bring appeals to the tribunal. This new proposed power to award costs should not be used by unscrupulous developers to intimidate appellants into dropping their appeals.

The right of any person to pursue a legitimate action in a tribunal should not be restricted. Justice should be about making fair and sensible decisions. It should not be about awards to the highest bidder, and so I am glad to see that the Attorney-General has taken these comments on board and proposed the substantive amendment. The amendment clarifies the use of the power to award costs, and includes a clause requiring the tribunal to consider the effects of any payments on the public's right to access the tribunal. I believe that these are fair and reasonable considerations.

However, I will not be supporting Mrs Dunne's amendment to the Attorney's amendment. I believe Mrs Dunne's amendment goes considerably further than the original intention of the bill by including the power to award costs if an application is frivolous or vexatious. Given that many of the appellants who appear before the tribunal do not have legal training or the ability to hire expensive lawyers, as I have said, this could potentially trap unsuspecting appellants. It could also be used to intimidate appellants if developers or lawyers continually try to label objections as frivolous or vexatious.

I do agree with the government's position because it stipulates that parties must directly contravene clear orders of the tribunal before they can be found liable. They cannot be caught unawares by a misunderstanding of the law. I believe Mrs Dunne's amendment is not in the interests of fair and equal access to the tribunal, and so I cannot support it.

**MS TUCKER** (9.27): I will speak to Mr Corbell's and Mrs Dunne's amendments. The discussion of this matter in the round-table meeting has resulted in the government's amendment, which is a huge improvement on what was in the bill. This amendment ensures that costs can only be awarded if a party actually contravenes the tribunal's direction by failing to provide information, and so on. It also ensures that, when the tribunal is deciding on whether to award costs, it must take into account whether and to what extent the contravention has affected its ability to hear the proceedings expeditiously. This requirement, in conjunction with the others, a and c, provides a relatively good safeguard against the tribunal unfairly awarding costs.

Mrs Dunne's amendment, in my view, is more problematic. I think the government's amendment provides a better system for determining the awarding of costs than is achieved through Mrs Dunne's. Mrs Dunne's amendment fails to provide sufficient safeguards to ensure that people do not have costs unfairly awarded against them, and fails to take into account community interests in relation to the affordability of bringing actions before the tribunal.

**Mrs Dunne's** amendment negatived.

**Mr Stanhope's** amendment agreed to.

Clause 15, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

## Mrs Shirley Platt—retirement
## Mr Keith Ryder—retirement
## Ms Celeste Italiano
## Valedictory

**MR SPEAKER**: I wish to make a few comments on the retirement of two long-serving secretariat staff. Mrs Shirley Platt, who has worked in the corporate services area of the secretariat since it was established upon the commencement of self-government in May 1989, has her last day with us tomorrow. Prior to the almost 14 years that she has had with us, Mrs Platt worked with the previous House of Assembly and the ACT Legislative Assembly when Mr Cornwell, Mr Kaine and Mr Hird were members of that body.

Mrs Platt's sterling support for members and professional service in all circumstances will always be remembered. It has been Mrs Platt who has ensured we have been paid over all of these years and it was she, for many of those years, who was responsible for negotiating with Treasury on the Assembly budget.

On behalf of all members, I thank Mrs Platt for her loyal and very valuable service to the Assembly.

Mr Keith Ryder, the Manager of the Hansard and Communications Office, retires in February next year. Mr Ryder has been with us since September 1994, having previously worked with the federal parliament's Hansard office for 27 years. Mr Ryder has had the dubious honour of reading and editing all of our speeches, both in the Assembly and on committees. I bet he has heard some gems. He will be telling stories about them for a while.

On behalf of all members, I thank Mr Ryder for his contribution, and wish both Shirley and Keith the very best for the future.

Last, I thank Ms Celeste Italiano, who has been with the secretariat on secondment from the House of Representatives this year. Ms Italiano has brought a number of innovations from the House of Representatives. A hint of those innovations will be found in the Christmas bells to be found below the heading for the daily program for today. On behalf of all members, I wish Ms Italiano the very best in her future parliamentary career.

On my own behalf, members, I wish a happy and safe summer holiday, if that is how you see it, a Christmas, if you see it as that, or a respite, if you see it that way, over the festive season to you, your family and, of course, your staff. I also extend those wishes to my staff for the sterling and loyal support that they have given me throughout this year.

May I say that this year has been a new and different year for me. I have had a very different role in this place, which I have found very interesting and challenging. I owe something to all of you for providing that interest and challenge throughout this year. I trust that next year will be as interesting and challenging, and I expect that it will be, as we be coming closer to an election, when people start to think about the future a little more. May I once again wish you all the very best over the festive season, and I trust that I will find you all in good health at our first sitting next year.

## Questions without notice

### Convention on the Rights of the Child

**MR STANHOPE**: Mr Speaker, I wish to table answers to two questions that were taken on notice. One is the answer to a question taken on notice from Ms Dundas in relation to the second and third report under the UN Convention on the Rights of the Child. I will also provide a copy of that directly to Ms Dundas.

### Public servants and statutory office holders

**MR STANHOPE**: I also took a question yesterday from Mrs Cross, who asked whether I could inform the Assembly of the policies that govern whether public servants and statutory office holders are indemnified by the government when the government is named as a defendant in civil actions. She further asked whether I could indicate whether a policy exists or whether indemnification is at my discretion, as Attorney-General, or at the discretion of some other minister.

She also asked me to inform the Assembly about whether there is a list of conduct—such as violent behaviour or drunkenness—that could be the basis for removing public servants' or statutory office holders' indemnity if their conduct exposes the territory to civil liability. I will also provide a copy of that answer directly to Mrs Cross.

## Papers

**Mr Stanhope** presented the following papers:

> Indemnification of public services and statutory office holders—Answer to question without notice asked by Mrs Cross.
>
> UN Convention on the Rights of the Child—Answer to question without notice asked of Mr Corbell (Minister for Education, Youth and Family Services) by Ms Dundas and taken on notice on 21 November 2002.

## Adjournment

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

> That the Assembly do now adjourn.

### Valedictory

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming and Minister for Police, Emergency Services and Corrections) (9.35): On this last day of sitting I would like to register my best wishes to all members and good luck to all would-be senators.

**Mr Humphries**: We cannot all share that luck equally.

**MR QUINLAN**: No. I leave you with appropriate mottos for 2003. For Mr Jon Stanhope I believe the motto would be: "Brevity is the soul of wit, except at question time."

With Mr Smyth, I would like to be deeper and use an unfractured proverb, which goes: "There is no good accord where every man would be a lord.

For Ms Cross, it would be a rather brief motto: "If you can't join 'em, beat 'em."

For Ms Tucker, I would suggest for 2003: "It is actually quite easy being green. You don't have to find the money."

For Ms Dundas: "A woman's advice is no great thing, but he who would not take it is a fool."

For Mr Humphries: "Don't count your chickens until the exhaustive ballot is completed."

For Mr Corbell: "The best laid plans of mice and men still need an independent planning authority."

For Mr Wood: "Art has no enemy but ignorance or"—hold it—"no enemy but lack of funding."

For Mrs Dunne: "Do unto others as you know they will bloody well do unto you."

For Mr Hargreaves, the Tsar of Tuggeranong: "Charity begins in my bleeding electorate."

For Ms MacDonald: "Politics takes its toll. Please carry the correct change."

For Ms Gallagher, a young women from the Left: "Sacred cows make great hamburgers."

For Mr Stefaniak: "Spare the rod. It's the end of civilisation, as it damn well should be. And stand up straight. I'm talking."

For Mr Cornwell: "Like death and taxes, the poor will always be with us. Well, they'll be with you, because I've seen enough of them already."

For Mr Pratt: "Jack, or Steve, is as good as his master, so my hat is in the ring too."

Finally, for Mr Berry: "You can't make an omelette without breaking eggs or heads, and you can't make an omelette without exploiting the chook and probably the egg gatherer as well."

Merry Christmas.

## Valedictory

**MR SMYTH** (Leader of the Opposition) (9.39): Mr Speaker, to you and to all members, a merry Christmas and seasons greetings. Christmas is a fabulous time of the year when we put away some of the trappings of the place and enjoy each other's company and relax. I am not sure people understand how stressful our job can be. I think each of us appreciates how others work hard in what they do. I wish you all well for the season.

Mr Speaker, I would like to thank you, Sue and Daniel for the way you have run the Assembly for the last year. It is running very well. You seem to have grown into the position. We have dilemmas some days with some of your decisions, but your wry grin and sly glance to the roof on occasions indicate that you are enjoying yourself more than you would let on.

To the various arms of the Assembly—corporate services, the Clerks and their staff, and the attendants—I offer the thanks of the opposition for all the assistance you have given us. The last 12 months have been quite interesting. I feel like the Bedouin of the Assembly, having shifted four times in 12 months. Tim and I then James and I have had a great time. We have learnt how to pack boxes. We are going to moonlight over the Christmas period, helping people move house.

The stand-out member of Assembly staff for the year is Barry. Barry, I am sure you are not listening. I hope you are at home watching Collingwood replays, as you should be. I give special thanks to you, Barry, for all the assistance you have given my office over the year and for the patient, graciousness and charitable way in which you have looked after us.

Members of the committees are forgotten about. I would particularly thank the new manager of committees, Mr Derek Abbott. He has done a spectacular job following in some big footsteps. Derek, for your work on the Privileges Committee and all the other assistance you have given me, thank you very much.

I thank Siobhan of the Health Committee and Patrick McCormack of the Public Accounts Committee—Patrick has now left the Assembly—for all their assistance and support over the last year.

I wish the government guys the best of luck. You have had a good year. The honeymoon is over. Go out and relax, because next year will be a very different year. That I can guarantee you. I look forward to working with the crossbenchers over the coming two years.

Once my own team have sorted out a few seating arrangements, we are going to settle down and have a good two years proving to the people of Canberra that we are ready to take the government benches back.

I would like to thank you all for your friendship and your support over the years. It is great that behind the scenes we have put so much behind us and treat each other as human beings. It is a wonderful thing. It is not a side of us people see a great deal of. I would like to thank you all for the support you have given me personally as an MLA this year.

## Valedictory

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (9.42): I would like to join with the Leader of the Opposition and wish everybody involved in the running of this extremely good parliament the best for Christmas, the holiday season and next year. I join with Mr Smyth in all of the sentiments he expressed. I will not repeat them. I will repeat the thanks to all of those members of this parliament who make it run seamlessly and smoothly. All the staff in all the various aspects of the building are vital to the Assembly's performance and running, as is each member of the office of each of us in this place. I thank each and every one of them. I wish them all the best for the season.

I hope that everybody has a good rest. I hope that each and every member in this place has a good and restful holiday. I echo the sentiments that Mr Smyth expressed about the stress and the pressure on all politicians. It extends to politicians in this place. It is a hard and stressful job. I think we underestimate the impact on each of us and the state of our individual health and souls and those of our families and our staff. It is good that Mr Smyth acknowledged that. It is something I have always acknowledged. We need to acknowledge how tough the job is, and we need to be a little bit gentle on ourselves and give ourselves a break and not be defensive about the fact that politicians do have a right to a holiday, a break, time with families and time to regather and build up their strength for the full year ahead and the future. That goes for all the staff in this place as well.

In the last three days each of us in the Assembly has worked the equivalent of six days. We should acknowledge that and how tough it is on each of us. I do not want to be maudlin about that. We all fought to the death for the job. But a touch of reality from

time to time does not hurt. Politicians, particularly here in the ACT, having regard to the rocky road we travelled to get to where we are, should stop being defensive about this parliament and about our performance in it. This is a great parliament. It is a credit to the ACT. People of the ACT are not quite sure about that, but it is a good parliament that does very good work.

Once again I thank the Clerk and all the staff—I will not go through them individually—for their tremendous support. I thank each staff member in our respective offices. Have a great Christmas; have a great break; have a great holiday season. I look forward to working with each and every one of you again next year.

## Valedictory

**MR CORBELL** (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (9.45): I want to thank a number of people who have assisted me throughout the year. As Mr Stanhope rightly said, it is the people who work in our offices who often see most closely the dilemmas, panics, crises, good things and bad things that occur day to day in this place.

I certainly could not have survived this year without the support and hard work of the people in my office. I would like to thank them and to acknowledge them—my chief of staff, Rohan Goyne, with his unflappable Mount Rushmore-like appearance; Gina Pinkas, my planning adviser, who has seen the tonnes of papers on planning issues that go through my office; my media adviser, Kym Connolly, who has kept up a steady stream of excellent and thought-provoking stories; my office manager, Joy Nicholls, who has the most amazing job of trying to manage my diary; and my receptionist, Marilyn Cordner, who is ever cheerful and polite in welcoming guests to my office and assisting in the overall tasks of the office.

I acknowledge also the DLOs who have worked in my office—Sean Moysey, from the Chief Minister's Department; Megan Hansford, Anne Moroney, Helen McKeown and Valerie Spencer from PALM; and Matthew Clissold from the Department of Education, Youth and Family Services. Thank you for your ongoing support and assistance throughout the year.

My Assembly colleagues, I thank you for your comradeship and companionship over the past year. It has been an amazing year for the Labor Party, one that I will certainly always remember. I look forward to many more to come.

Mr Speaker, thank you for your ongoing support and principled stand on a range of issues that many within and outside the Labor Party admire you for. Thank you for your role in your new position this year.

Members of the Assembly, thank you for the opportunity to work with you throughout the year. It has been an interesting time. May everyone have a peaceful and safe holiday season.

## Miles Franklin Primary School
## Valedictory

**MRS DUNNE** (9.48): Last night, as we were adjourning, I heard the minister for education wax lyrical about Miles Franklin Primary School. As a parent of a Miles Franklin Primary School pupil, I would like to echo his comments. As a consumer of primary school education for 21 years, I have known no better school.

But to the season, Mr Speaker. There has been a lot of brouhaha in recent weeks about Santa and Christmas in preschools and child-care centres across the country. It is good to see that in ACT preschools we have not shirked Santa or shied away from the message of Christmas. This was brought home to me at carols I went to last week, when I discovered that my four-year-old, Conor, knew "O Little Town of Bethlehem" and "Away in a Manger". I said, "Where did you learn those?" He said, "Preschool." So I am pleased.

This is Christmas. Recently we have acknowledged the major feasts of other faiths: Hanukkah, which I would have attended, except I was too sick to do so and did not want impose myself on the public, and Ramadan. Although the fastest growing religion in Australia is now Wicca, we are still a predominantly Christian nation. Christmas is a Christian feast and we should not shirk away from it. Whether or not we believe in the commemoration of the birth of the Messiah, the sentiments and the spirit of Christmas—peace on earth and goodwill to men—are sentiments we can all embrace. This year, through uncertainty and tragedy, the message is more poignant and more apposite than usual.

In that spirit, I thank all members of this house and their staff, members of the secretariat—the Clerk and all his staff and the committee staff—and all the people who make this place run. I thank my colleagues in the opposition. I thank my staff: Kate, Olivia, and especially Norm, who writes all the speeches. To my family—Lyle, Olivia, Tom, Julia, Isabella and Conor—who put up with me I say thank you very much.

## Valedictory

**MR HARGREAVES** (9.50): I want to express my appreciation to a number of people who have supported the Assembly in the past year. The *Hansard* people have done an exemplary job. How they are able to translate our mumblings and grumblings I do not know.

**Mr Smyth**: Speak up, John.

**MR HARGREAVES**: For the deaf, the blind and the illiterate on the other side, *Hansard* have done a great job. Keith and the troops have been fantastic.

To the library staff I express my appreciation. I think they do a great job. They are unsung heroines. They are always there to support us, and we need to say so whenever we can. I am happy to put it on the record.

Other people have expressed their appreciation to corporate services. The corporate services people put our pay in the bank so we can pay our bills. They also take care of our travel arrangement. Ian Duckworth and his team do a great job. I really appreciate the work they do.

I come to the committee office. The thing we do not understand about the committee office is that they do the hard work and we look good. Without Judith Henderson, Jane Carmody, Derek Abbott and all of the guys in the committee office we would look pretty mediocre. I appreciate you very much.

The Clerk's office are fantastic, from Stephanie to my second greatest Collingwood mate, Mr Duncan, to the greatest Collingwood supporter of all time, Mr McRae, whom I owe nothing at the moment in the way of Mars bars. I appreciate the Clerk's support.

I wish you and your families a very peaceful and a very safe Christmas. I hope Santa brings you lots of lollies. If it had not been for my wife Jan's family and my family, I would have had a bit of trouble struggling through the last year. I owe my wife a great debt.

In my office Maria and Andrew have been my saviours. They are the people who say, "No, you are not on a pillar. Your ego is not up there; it is down here, thank you very much." They bring me back to earth, and I am grateful for that.

I am grateful for the support and the humour from across the chamber. I love the crossbench to death. They are always good fodder if I want to crack a joke. Thank you very much, Kerrie, Ros and Helen.

I thank Bill Stefaniak for being the opposition whip. We have had a great time. I thank the opposition. If you want to take the mickey out of someone, they are always there in a moment of crisis. I appreciate that very much. I wish all of the senators-to-be the very best of luck in their bid for glory. I wish whoever is elected Deputy Leader of the Opposition all the best of luck. It is a tough job, a tough ask. Only one of you can get the job, but I wish the lot of you the best of luck over Christmas. I hope Santa brings you a Senate job in your Christmas bag.

Mr Speaker, I said in a previous speech that you terrified the life out of me when I first came into this place. I was worried about that rampant lefty. Mr Speaker, you have lived up to all of my expectations, and I still regard you as one of my heroes.

I wish you all the very best for the Christmas and the New Year. I hope we have a barrel of laughs next year as we have had this year, and let us do the best we can for the people of Canberra next year.

## Valedictory

**MR STEFANIAK** (9.54): I was going to put you all in positions in a rugby team, but I have not had time to do that, so I will leave it for another occasion.

**Mr Quinlan**: It is called a scrum, Bill.

**MR STEFANIAK**: It is more than a scrum. There are quite a few backs here as well, Ted. I will do that at some stage.

I thank my personal staff, my colleagues—those in my own party and everyone else in the Assembly—and their staff. To you, Mr Speaker, go congratulations on your new role. It might have been difficult for you and you might have been a bit wary of it, but you have handled it very well. I have appreciated working with you.

To Mark, Tom and all the staff of the Assembly I say thank you for your continued assistance. I have been here longer than most, and it never fails to amaze me just how competent and efficient the Assembly staff are. My thanks to you all.

To my own staff I give my special thanks. Having been a minister for 6½ years, this year I have appreciated getting back into committee work, especially on the legal committee with Kerrie Tucker and John Hargreaves. It has been a lot of fun. We do not always agree, but I thank you for the year.

Everyone have a safe and merry Christmas. Come back next year. We look forward to getting back to business then. In the meantime everyone should have a good break. You deserve it. It has been a great pleasure to work with you this year.

## Christmas card competition
## Valedictory

**MS MacDONALD** (9.56): Those of you who have wandered past my office in the last couple of weeks may have noticed that I have had a Christmas card design competition. The entries are in my window. I am happy to say that the winners have been picked. I would like to congratulate Adrian Sissian from St Thomas the Apostle, Rachel Youakim from the Trinity Christian School and Rachel Cartwright from St Anthonys Primary for their winning entries. You will all see the beautiful designs when you get a Christmas card under the door. I was particularly pleased to run this competition this year based on the theme of peace. I think there is a need for us all to be focusing on that theme, with all the events of the last 12 months or so.

Mrs Dunne alluded to the fact that Australia is still mostly a Christian nation. I do not fit into the category of Christian, so I wish the entire Assembly happy Hanukkah for the week before last. I went to the Hanukkah festivities the Saturday before last. I managed to avoid eating the latkes, which is just as well, because they are deep-fried. Brendan, my husband, enjoyed them greatly, but he likes all things deep-fried.

In response to Mr Humphries' effort last year in finding us all a patron saint, I was considering finding us all a Jewish rabbi, but I did not think I would be able to pronounce some of the names or find suitable attributes. It might have become a bit heavy after a while.

I thank all MLAs, especially my party colleagues, for their support in their own inimitable style. I appreciate that. I also thank the secretariat staff, *Hansard*, the library and many others who have been mentioned.

I thank Kel Watt in my office for his incredible brilliance. Because of his absolutely frustrating habits, there are times I could kill him, but his brilliance always makes up for it. Those who are involved know that he is the captain of the Tawny Frogmouths. I understand that our defeat this week was by only one point. That is pretty amazing. I also thank Helen Cooney, who was working for me and unfortunately departed to greener pastures, as she would probably describe it. I miss her organisational abilities to make up for Kel's lack of them and mine.

It has been a very big year for me. It feels not that long ago that I was elected, got married, went away and came back, having managed to avoid being blown up or killed in LA airport. My husband, Brendan, has helped me through the entire year. I am grateful to God for him and grateful that he was able to get through a major operation in September.

Happy Christmas, happy Hanukkah, happy Ramadan. Whatever your faith, may you have a peaceful time.

## Suspension of standing and temporary orders

Motion (by **Mr Stefaniak**) agreed to, with the concurrence of an absolute majority:

> That so much of the standing and temporary orders be suspended as would prevent members who have not yet spoken from addressing the Assembly.

## Valedictory

**MR HUMPHRIES** (10.01): I regret to say that this year I am not able to grace the Assembly with a traditional Christmas speech. I doubt that that regret extends to anybody else in the chamber, but I regret it. Mr Quinlan's Christmas speech was more than adequate. It was more than up to my own standards. I feel sure that he has the capacity to do well in that regard in future years as well.

In the course of this year, by virtue of having thrown myself on the funeral pyre of leadership, I have lost a number of very valued staff. I want to take this opportunity to thank them for what they have done for me and in some cases my predecessors going back quite a few years. Some members of the Liberal staff have been here for a very long time. I want to thank them for the contribution they have made to me and to others in the Liberal team. I am very pleased that my successor has chosen to take up their employment, apart from the ones I have taken myself. They will give very good service to him, as they have given to me.

Mr Speaker, I thank members for the interesting and stimulating year and wish them a very pleasant Christmas and a successful 2003.

## ACT Writers Centre
## Valedictory

**MS DUNDAS** (10.03): I rise to add to this adjournment debate. It has been an amazing year, as we have discussed. I appreciate that it has provided me with the opportunity to discover the talent, the passion and the determination that are part of this city. I have

lived here my entire life, and I never imagined that I would be able to see and experience so much that goes on across this town. It has been truly inspiring.

I would like to mention a group of young people at the ACT Writers Centre who have done some amazing things. They launched the *Write at the Edge* on-line magazine and the *Lip* magazine a couple of weeks ago. This group of young people have turned a brilliant idea into reality. I expect every member of this Assembly to buy a copy of *Lip* magazine to see what young people in the ACT, young girls in particular, can achieve with a little bit of passion and determination. My congratulations go to the editor of *Lip* magazine, Rachel Funari, who has done an amazing job with the magazine, and to all the writers from the *Write at the Edge* ezine project, whose work is also quite brilliant. It can be seen on line at www.actwriters.org.au/youth/WordCandy/. I encourage all members to look at this amazing work.

But now on to the season's greetings. I too add my humble thanks to the workers in the Assembly. Over the year the Secretariat, the committee staff, corporate services and the attendants have kept this building standing and maintained its operational status, providing boundless support to all of us.

In this chamber we have been able to share legislation and laughs. I think that is incredibly important. As you may have guessed, I value sense of humour as a cornerstone to the human condition. Colleagues, you have provided me with much amusement, but I also admire you all. You are an amazing group of politicians. I have thoroughly enjoyed working with you throughout this year and look forward to this continuing in 2003.

I thank my amazing staff—Jocelyn Bell, Geoffrey Rutledge and Llewellyn Reynders. As they have not written this speech, I cannot find the right words to truly express how much they mean to me. I would also like to express my undying gratitude to all those who hold votes a the Henry Street workers paradise, my urban family. Their support, advice and love have enabled me to maintain some semblance of my sanity over this year. I could not do this job without them.

I hope we enjoy our time away from this chamber, but I hope that we come back with passion and energy to continue our role as legislators and leaders in the ACT.

## Valedictory

**MR PRATT** (10.07): As a new chum in this place, I have had a challenging and enjoyable year. I have enjoyed learning from the experience of people on both sides of the house and the crossbenchers. I would like to thank my staff first and foremost. I also thank those in the Leader of the Opposition's office, who have also provided me with great support. I would like to express my delight at the comradeship shared by all of my MLA colleagues, in particular my new chums on the Education Committee, the class of 2001.

I wish all of our staffs a merry Christmas. I wish Mark and the crew that keep this building ticking a joyous occasion. To the ACT community, I say, "Happy Christmas, Eid Mubarak, happy Hanukkah and gung hai fat choi. Deepavali is just down the track

too. It will be great to see everybody back here refreshed and ticking away in the new year.

I also thank my family.

## Valedictory

**MRS CROSS** (10.08): A few months ago the Chief Minister and I had a conversation in which he said to me that when we come into this place we forget our humanity. He was right. I thank him for his compassion and his kindness. I also extend my thanks to other people in this Assembly, in particular Katy Gallagher, Sue Robinson, Kerrie Tucker, Roslyn Dundas and Karin MacDonald, who have been extremely supportive of me in the last few months—in fact, since the election.

I thank all my staff, from the very beginning—Anne, Marie, David, John Davey, Nick Tedeschi and Richard Perno. I thank the Speaker for his guidance. As a new member in this place, I occupied your chair for a while and I think some of you must have rubbed off. I thank your staff, who have been extremely professional and helpful to me.

I thank Mr McRae and his staff for setting a fine example of professionalism in this Assembly. I thank the attendants for their kindness to me, particularly during the most difficult times. I thank the people in the *Hansard* office. Last but not least, I thank members of this Assembly, who have taught me some very interesting lessons.

Merry Christmas, everyone.

**Mr Smyth**: Mr Speaker, perhaps we should start a new tradition and allow the Clerk the final speech for the year. It would be a fine tradition in the Westminster system.

**MR SPEAKER**: I am sure the Clerk has warm thoughts about you all, but I know that he has the greatest respect for the traditions of this parliament, and I rather suspect that he will not offer to speak in it.

## Valedictory

**MS TUCKER** (10.11): I just want to say happy Christmas to everyone on behalf of myself and Katy Gallagher. We are too tired to do anything else.

**MR SPEAKER**: Once again, best wishes to you all and best wishes to all of the staff who support us. I give a special thanks to the staff who have watered me after my runs. They seem to get some exercise out of bringing me lots of water each time. I thank them for the help they have given in bringing me probably hundreds of litres of water over the last year.

Question resolved in the affirmative.

**The Assembly adjourned at 10.12 pm until Tuesday, 18 February 2002, at 10.30 am.**

# Schedules of amendments

Schedule 1

**Planning and Land Bill 2002**

Amendments circulated by the Minister for Planning

**1**
**Clause 2**
**Page 2, line 4—**
*omit clause 2, substitute*
**2 Commencement**
This Act commences on 1 July 2003.
*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

**2**
**Proposed new clause 4A**
**Page 3, line 4—**
*insert*
**4A Offences against Act—application of Criminal Code etc**
Other legislation applies in relation to offences against this Act.
*Note 1 Criminal Code*
The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).
The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***recklessness*** and ***strict liability***).
*Note 2 Penalty units*
The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

**3**
**Clause 8 (1) (g), proposed new note**
**Page 5, line 13—**
*insert*
*Note* Under the *Land (Planning and Environment) Act 1991*, s 160B, the planning and land authority is authorised to grant, on behalf of the Executive, leases the Executive may grant on behalf of the Commonwealth.

**4**
**Clause 8 (1) (n)**
**Page 5, line 25—**
*omit clause 8 (1) (n), substitute*

(n) to provide administrative support and facilities for the council;

(o) to ensure community consultation and participation in planning decisions;

(p) to promote public education and understanding of the planning process, including by providing easily accessible public information and documentation on planning and land use.

**5**
**Clause 8 (3)**
**Page 6, line 6—**
*omit clause 8 (3), substitute*

(3) The authority must exercise its functions—

(a) in a way that has regard to sustainable development; and

(b) taking into consideration the statement of planning intent.

*Note* For the meaning of ***sustainable development***, see s 73. The statement of planning intent is dealt with in s 13.

**6**
**Clause 9**
**Page 6, line 11—**
*omit clause 9, substitute*

**9 Authority to comply with directions**

The authority must comply with any directions given to the authority under this Act or another Territory law.

*Note* The authority may be given directions by the Minister under s 11.

**7**
**Clause 11 (3) and (4)**
**Page 7, line 12—**
*omit clause 11 (3) and (4), substitute*

(3) The Minister must—

(a) present a copy of a direction to the Legislative Assembly within 6 sitting days after the day it is given to the authority; and

(b) if the copy would not be presented to the Legislative Assembly under paragraph (a) within 14 days after the day it is given to the authority—give a copy of the direction to the members of the Legislative Assembly within the 14 days.

(4) If subsection (3) is not complied with, the direction is taken to have been revoked at the end of the period within which the copy of the direction should have been presented or given to members.

(5) A direction is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**8**
**Clause 13 (2)**
**Page 8, line 8—**
*omit clause 13 (2), substitute*

(2) The Minister must—

(a) present a copy of the statement of planning intent to the Legislative Assembly within 6 sitting days after the day it is given to the authority; and

(b) if the copy would not be presented to the Legislative Assembly under paragraph (a) within 14 days after the day it is given to the authority—give a copy of the statement to members of the Legislative Assembly within the 14 days.

**9**
**Proposed new clause 13 (3)**
**Page 8, line 10—**
*insert*

(3) To remove any doubt, the statement of planning intent does not authorise a person to whom the *Land (Planning and Environment Act 1991*, section 8 (Effect of plan) applies to do anything inconsistent with the plan.

**Example**

The statement of planning intent may include policy material inconsistent with the Territory plan, but the plan would have to be amended before the policy could be implemented.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**10**
**Clause 16 (a)**
**Page 8, line 27—**
*omit clause 16 (a), substitute*

(a) a copy of any direction given to the authority under this Act or another Territory law; and

**11**
**Proposed new clause 18 (1A)**
**Page 10, line 9—**
*insert*

(1A) However, the Executive must not appoint a person under subsection (1) unless satisfied that the person has the management and planning experience or expertise to exercise the functions of the chief planning executive.

**12**
**Clause 21 (3)**
**Page 11, line 14—**
*omit*
7 sitting days
*substitute*
6 sitting days

**13**
**Clause 21 (4) (b)**
**Page 11, line 22—**
*omit clause 21 (4) (b), substitute*
(b) if the Assembly does not pass a resolution mentioned in subsection (3) within the 6 sitting days—at the end of the 6th sitting day.

**14**
**Clause 27 (1), note 2**
**Page 15, line 6—**
*omit note 2, substitute*
*Note 2* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3). The appointment of someone other than a public servant for more than 6 months under this section would require consultation and be disallowable (see Legislation Act, s 227).

**15**
**Clause 27 (2) (i)**
**Page 15, line 21—**
*omit clause 27 (2) (i), substitute*
(i) public administration;
(j) engineering.

**16**
**Clause 28 (b)**
**Page 16, line 4—**
*before*
physical
*insert*
for

**17**
**Proposed new clause 34 (3)**
**Page 18, line 4—**
*insert*
(3) The council must publish the minutes of its proceedings within 7 days after the day the minutes are confirmed by the council.
**Example**
the council may put the minutes of its proceedings on a website
*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**18**
**Clause 36 (1)**
**Page 19, line 2—**
*omit*
10 days
*substitute*
14 days

**19**
**Clause 38 (4) (a)**
**Page 21, line 2—**
*omit clause 38 (4) (a), substitute*
(a) in accordance with the objectives of the Territory plan; and

**20**
**Clause 38 (4) (b)**
**Page 21, line 4—**
*omit*

**21**
**Clause 40 (3)**
***Page 22, line 1—***
*omit clause 40 (3), substitute*
(3) If the land agency does something mentioned in subsection (1), the land agency must tell the Minister about doing the thing within 14 days after the day the agency does it.

**22**
**Clause 40 (4) (b)**
**Page 22, line 6—**
*omit clause 40 (4) (b), substitute*
(b) present the statement to the Legislative Assembly within 6 sitting days after the day the Minister is told about the act; and
(c) if the statement would not be presented to the Legislative Assembly under paragraph (b) within 14 days after the day the Minister is told about the act—give the statement to members of the Legislative Assembly within the 14 days.

**23**
**Clause 41 (3)**
**Page 22, line 24—**
*omit clause 41 (3), substitute*
(3) If the land agency enters into an agreement for a joint venture or trust, the land agency must tell the Minister about the agreement within 14 days after entering into the agreement.

**24**
**Clause 41 (4) (b)**
**Page 23, line 4—**
*omit clause 41 (4) (b), substitute*
(b) present the statement to the Legislative Assembly within 6 sitting days after the day the Minister is told about the agreement; and
(c) if the statement would not be presented to the Legislative Assembly under paragraph (b) within 14 days after the day the Minister is told about the agreement—give the statement to members of the Legislative Assembly within the 14 days.

**25**
**Proposed new clause 44 (1A)**
**Page 25, line 8—**
*insert*
(1A) The land agency must prepare a business plan for each financial year.

**26**
**Clause 45 (2)**
**Page 26, line 6—**
*omit clause 45 (2), substitute*
(2) If the Minister accepts a business plan, the Minister must—
(a) present a copy of the business plan to the Legislative Assembly within 6 sitting days after the day of acceptance; and
(b) if the copy would not be presented to the Legislative Assembly under paragraph (a) within 14 days after the day of acceptance—give a copy of the business plan to members of the Legislative Assembly within the 14 days.

**27**
**Clause 50 (2)**
**Page 27, line 19—**
*omit*
promptly

**28**
**Proposed new clause 50 (2A)**
**Page 28, line 3—**
*insert*
(2A) The land agency must tell the Minister under subsection (2) about a development within 14 days after the day the agency becomes aware of the existence of the development.

**29**
**Clause 58 (2) (e)**
**Page 32, line 19—**
*omit clause 58 (2) (e), substitute*
(e) public administration;
(f) engineering.

**30**
**Clause 60 (b)**
**Page 33, line 5—**
*before*
physical
*insert*
for

**31**
**Clause 68 (1)**
**Page 36, line 14—**
*omit*
10 days
*substitute*
14 days

**32**
**Clause 74**
**Page 40, line 22—**
*omit clause 74, substitute*

**74 Abuse of position**

(1) An official commits an offence if—

(a) the official—

(i) exercises an influence that the official has because of the official's position; or

(ii) engages in conduct in the exercise of a function that the official has because of the official's position; or

(iii) uses information gained because of the official's position; and

(b) the official does so with the intention of—

(i) dishonestly obtaining a benefit for the official or someone else; or

(ii) dishonestly causing a detriment to someone else.

Maximum penalty: imprisonment for 5 years.

(2) A person commits an offence if—

(a) the person has stopped being an official; and

(b) the person uses information that the person obtained because of the person's position as an official; and

(c) the person does so with the intention of—

(i) dishonestly obtaining a benefit for the person or someone else; or

(ii) dishonestly causing a detriment to someone else.

Maximum penalty: imprisonment for 5 years.

(3) In this section:

***dishonestly***—a person acts dishonestly if—

(a) the person's conduct is dishonest according to the standards of ordinary people; and

(b) the person knows that the conduct is dishonest according to those standards.

***official*** means—

(a) the chief planning executive; or

(b) a council member; or

(c) a land agency board member.

***position***, in relation to an official, means the position held by the official under this Act.

**33**
**Clause 75 (1)**
**Page 41, line 15—**
*omit clause 75 (1), substitute*

(1) The Minister must begin a review of the operation and effectiveness of this Act not later than 31 December 2006.

Schedule 2

**Planning and Land Bill 2002**

Amendments circulated by Mrs Dunne

**1**
**Clause 8 (1) (e)**
**Page 5, line 10—**
*omit*

**2**
**Clause 8 (1) (f)**
**Page 5, line 11—**
*omit*

**3**
**Clause 8 (1) (j)**
**Page 5, line 16—**
*omit*

**4**
**Clause 8 (1) (n)**
**Page 5, line 25—**
*omit*

**5**
**Clause 11 (3) and (4)**
**Page 7, line 12—**
*omit clause 11 (3) and (4), substitute*

(3) The Minister must—

(a) present a copy of a direction, the proposed direction given to the authority under subsection (2) (a), and any comment on the proposed direction, (the ***relevant material***) to the Legislative Assembly within 6 sitting days after the day the direction is given to the authority; and

(b) if the relevant material would not be presented to the Legislative Assembly under paragraph (a) within 14 days after the day the direction is given to the authority—give the relevant material to the members of the Legislative Assembly within the 14 days.

(4) If subsection (3) is not complied with, the direction is taken to have been revoked at the end of the period within which the relevant material should have been presented or given to members.

(5) A direction is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**6**
**Clause 13**
**Page 8, line 4—**
*[oppose the clause]*

**7**
**Proposed new clause 15A**
**Page 8, line 21—**
*insert*
**15A Authority to report to relevant committee**
(1) The authority must give the relevant committee of the Legislative Assembly a report on the activities of the authority at least once in every 6-month period.
(2) In this section:
***relevant committee***—see section 36 (4).

**8**
**Chapter 3**
**Page 13, line 1—**
*omit*

**9**
**Chapter 4**
**Page 20, line 1—**
*omit*

**10**
**Clause 38 (4) (c)**
**Page 21, line 5—**
*omit clause 38 (4) (c), substitute*
(c) in accordance with the latest business plan accepted by the Minister.

**11**
**Proposed new clause 44 (1A)**
**Page 25, line 8—**
*insert*
(1A) Before the beginning of each financial year, the land agency must prepare a business plan for the year and give it to the Minister.

**12**
**Proposed new clause 47 (4) and (5)**
**Page 27, line 4—**
*insert*
(4) The Treasurer must—
(a) present a copy of a direction under subsection (1) to the Legislative Assembly within 6 sitting days after the day it is given to the authority; and
(b) if the copy would not be presented to the Legislative Assembly under paragraph (a) within 14 days after the day it is given to the authority—give a copy of the direction to the members of the Legislative Assembly within the 14 days.
(4) If subsection (3) is not complied with, the direction is taken to have been revoked at the end of the period within which the copy of the direction should have been presented or given to members.

**13**
**Proposed new clause 50A**
**Page 28, line 6—**
*insert*
**50A Land agency to report to relevant committee**
(1) The land agency must give the relevant committee of the Legislative Assembly a report on the activities of the agency at least once in every 6-month period.
(2) In this section:
***relevant committee***—see section 36 (4).

**14**
**Clause 75 (1)**
**Page 41, line 16—**
*omit*
2007
*substitute*
2005

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Schedule 3

**Planning and Land Bill 2002**

Amendment circulated by Mrs Dunne to Mr Corbell's amendment No 33.

*Omit*

2006

*substitute*

2005

Schedule 4

**Planning and Land (Consequential Amendments) Bill 2002**

Amendments circulated by the Minister for Planning

**1**
**Schedule 1**
**Amendment 1.5**
**Page 4, line 16—**
*omit amendment 1.5, substitute*
**[1.5] Section 9 (5), definition of *defined period*, paragraph (d)**
*omit*
29 (10) (b)
*substitute*
30A (3) (b)

**2**
**Schedule 1**
**Amendment 1.6**
**Page 4, line 21—**
*omit amendment 1.6, substitute*
**[1.6] Section 9 (5), new definition of *draft plan variation***
*insert*
***draft plan variation*** includes a provision of a draft plan variation.

**3**
**Schedule 1**
**Amendment 1.90**
**Proposed new section 229B (7A)**
**Page 35, line 26—**
*insert*
(7A) The statement under subsection (7) must be accompanied by a copy of the comments of the planning and land council on the application to which the statement relates.

**4**
**Schedule 1**
**Amendment 1.92**
**Page 36, line 17—**
*omit*
subsection (1A)
*substitute*
subsection (1)

**5**
**Schedule 1**
**Amendment 1.109**
**Page 43, line 15—**
*omit*

**6**
**Schedule 1**
**Amendment 1.110**
**Page 43, line 20—**
*omit amendment 1.110, substitute*
**[1.110] Section 248**
*omit*
If the relevant authority who gave an approval is satisfied that the approval contains a formal error, the authority shall—
substitute
If the planning and land authority is satisfied that an approval contains a formal error, the authority must—

**7**
**Schedule 3**
**Part 3.1**
**Amendment 3.8**
**Page 69, line 14—**
*omit amendment 3.8, substitute*
**[3.8] Section 74 (2)**
*omit*
the Minister's
**[3.8A] Section 78 (2), (3) and (4)**
*substitute*
(2) If the planning and land authority proposes to suspend or cancel the approval of the scheme, the authority must give the trustees of the scheme a written notice—
(a) stating the grounds on which the authority proposes to suspend or cancel the approval; and
(b) stating the facts that, in the authority's opinion, establish the grounds; and
(c) telling the trustees that the trustees may, within a stated reasonable time, give a written response to the authority about the matters in the notice.
(3) If, after considering any response given under subsection (2) (c), the planning and land authority is satisfied that the grounds for suspending or cancelling the approval have been established, the authority may, in writing, suspend or cancel the approval.
(4) If the planning and land authority suspends or cancels an approval, the authority must give written notice of the suspension or cancellation to the trustees.

Schedule 5

**Planning and Land (Consequential Amendments) Bill 2002**

Amendments circulated by Ms Dundas

**1**
**Schedule 1**
**Amendment 1.90**
**Page 34, line 1—**
*omit amendment 1.90, substitute*
**[1.90] Section 229A**
*omit*

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Schedule 6

**Administrative Appeals Tribunal Amendment Bill 2002**

Amendments circulated by the Attorney-General

**1**
**Clause 15**
**Proposed new section 49E**
**Page 7, line 6—**
*omit proposed new section 49E, substitute*
**49E Costs in land, planning and environment proceedings**

(1) The tribunal may award costs of an application or part of an application against a party to the application if the party contravenes a tribunal direction.

**Examples of contravention of tribunal direction**

1. failing to provide further information in relation to the proceeding on the application
2. failing to provide a list of contentions on which reliance is to be placed at the hearing of the application

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) However, the tribunal may award costs under subsection (1) only if satisfied that it is in the interests of justice to do so.

(3) In deciding whether it is in the interests of justice to award costs, the tribunal must consider the following:

(a) whether the contravention was deliberate or could easily have been avoided;

(b) whether (and if so, the extent to which) the contravention has affected the tribunal's ability to hear the proceeding expeditiously;

(c) the importance to the community of people being able to afford to bring applications to the tribunal.

(4) The tribunal may consider any other relevant matter.

(5) Costs are payable at the prescribed scale of costs set out in the *Supreme Court Rules*, schedule 3 (Costs).

Schedule 7

**Administrative Appeals Tribunal Amendment Bill 2002**

Amendment circulated by Mrs Dunne to the amendments moved by the Attorney-General

**1**
**Amendment 1**
**Proposed new section 49E—**
*omit*
against a party to the application if the party contravenes a tribunal direction.
*substitute*
against—

(a) the applicant if the tribunal is satisfied that the application, or part of the application, is frivolous or vexatious; or

(b) a party to the application if the party contravenes a tribunal direction.

## Answers to questions

### Fireworks industry
### (Question No 300)

**Ms Dundas** asked the Attorney-General, upon notice, on 12 November 2002:

> In relation to the regulation of the fireworks industry and the statement by the Minister for Industrial Relations in his answer to Question on Notice No. 107 (14) regarding the amounts of compensation and/or damages of these claims stated that "One matter has been finalised. The finalised matter was found in favour of the Government".
>
> (1) Does this answer the original question as to the amounts of compensation and/or damages of these claims.
>
> (2) Could you please provide information on what are the total amount of compensation and/or damages of these claims or the estimated amounts.
>
> (3) Are there any contingency plans in the Government's budgetary process to cover the costs of this litigation and any resultant damages ordered by the courts.

**Mr Corbell**: As this question relates specifically to an answer to a question on notice that I tabled, the Attorney-General has referred the question to me. The answer to the member's question is as follows:

> (1) Does this answer the original question as to the amounts of compensation and/or damages of these claims.
>
> You asked in Question on Notice No. 107 (14), referring to civil actions commenced by the ACT fireworks industry, "What are the amounts of compensation and/or damages of these claims?"
>
> The question was worded ambiguously. I understood the question to refer to amounts of compensation or damages that had been awarded by the courts. In my answer, I replied that only one matter had been finalised before the courts. As the matter was resolved in favour of the Government, obviously no compensation or damages were awarded to the claimant.
>
> (2) Could you please provide information on what are the total amount of compensation and/or damages of these claims or the estimated amounts.
>
> The Government believes that it has a good defence to each of the outstanding civil claims lodged by members of the fireworks industry. If the matters are resolved in favour of the Government, it will not be required to pay any compensation or damages.
>
> Although your question is ambiguous, it has been assumed that you are seeking information about damages sought by members of the fireworks industry under civil claims against the Government. I am advised by the relevant officers within the Government Solicitor's Office handling the claims that the following amounts of compensation or damages have been sought:

SC 275 of 2001- ADJR proceedings; no damages sought.

SC 323 of 2001 – Civil claim; damages sought $5,183.

SC 377 of 2002 – ADJR proceedings; no damages sought.

SC 705 of 2001 – Civil claim; damages particularised at $40 million.

SC 882 of 2000 – Defamation claim; damages sought approximately $50,000.

SC 604 of 2001 – Defamation claim; damages sought approximately $50,000.

SC 306 of 2001 – Civil claim; damages sought approximately $30,000.

SC 824 of 2001 – ADJR proceedings; no damages sought.

SC 224 of 2001 – Civil claim; damages sought approximately $100,000.

These are simply legal claims. There is certainly no guarantee that the claims will be resolved in favour of the claimants, let alone that the courts will award the amounts of damages sought. In particular, the claim for $40 million sought under SC 705 of 2001 is an ambit claim.

(3) Are there any contingency plans in the Government's budgetary process to cover the costs of this litigation and any resultant damages ordered by the courts?

Yes. Page 74 of the revised 2002-03 Budget Papers includes an additional Government payment to WorkCover of $400,000 in the 2002-03 financial year for regulation of the *Dangerous Goods Act 1975.* This amount is intended to cover additional security and legal costs associated with the regulation of fireworks.

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## Red Hill—property damage (Question No 303)

**Mrs Dunne** asked the Minister for Planning, upon notice:

In relation to problems affecting properties in Golden Grove, Red Hill and the surrounding area:

(1) What action does Planning and Land Management (PALM) propose in regard to problems arising in relation to complaints about structural damage to the property at Block 17 Section 14 Red Hill.

(2) Are you satisfied that PALM exercised its responsibilities in regard to (a) the initial construction on this site and (b) subsequent complaints lodged.

(3) Was proper procedure followed in ensuring appropriate certification of the building.

(4) Was the builder involved a properly licensed and accredited builder under the ACT regulations.

(5) Is any action being taken against the builder by PALM.

(6) What action has been taken by PALM to mediate in this matter.

(7) What action was recommended by PALM after meeting with complainants.

(8) How many other properties are similarly affected by (a) watercourse and (b) landfill in this immediate vicinity.

(9) What action has been taken to ensure that no further new buildings will be constructed over the creek and landfill.

(10) Is the Territory exposed to compensation claims over this issue.

**Mr Corbell**: The answers to the member's questions are as follows:

(1) The building approval and inspection process followed the procedures set out in the Building Act and the necessary certifications were given by an accredited structural engineer. Accordingly, on the basis of information presented, PALM has no grounds for further investigation on this matter. PALM officers met with the current owners on a number of occasions and advised that they should seek their own legal advice on this matter.

New developments on all building sites require compulsory technical investigation and design by a professional engineer. This requirement is now strictly enforced by the private building certifier PALM's audit of certifies work give special attention to this aspect of their work.

(2) (a) In 1993 a development approval was given to a lessee (Mr Albert Bonanza) by the then ACT Planning Authority. The Planning Authority drew the lessee's attention to a fill plan for the site and the need for engineering design and certification prior to the issue of a Certificate of Occupancy by the Building Controller. As noted in 1 above the foundation soil testing was undertaken by a practising structural engineer and a certification was given to the Building Controller prior to the issue of a Certificate of Occupancy.

(b) The current owners purchased the house in November 2000 and noticed settlement of the footings in January 2001. The three previous owners did not make any complaints to PALM regarding this matter. PALM examined the complaints by the current owners and provided to them various documents on file to show that all the standard procedures were followed in issuing the Certificate of Occupancy.

(3) Yes. The Building Code of Australia requires footings to be constructed in accordance with Australian Standard AS 2870. The Standard requires the foundation condition to be classified in accordance with the classification system within the Standard. On that basis a footing system from the Standard is to be used to address the site classification. Qualified engineers can change the requirement of the Standard and

specify alternate footing systems as they deem fit. In this case the procedures were followed correctly but it appears the engineer failed to provide the correct classification.

(4) No. The lessee was granted an owner builder's permit in accordance with the Building Act. The owner sat for a basic examination to assess his suitability to construct this specific type of house. An owner builder's permit was given with the following endorsement: "Practising structural engineer to certify wall and roof frames on completion of stage". This was in addition to the compulsory requirement for a footing classification certification.

(5) This question was examined by the Government Solicitor and the advice was that the owner builder has complied with the permit conditions and neither the Territory nor the Building Controller has any right of action against the owner builder. However, under current arrangements Building Certifies and the Certifying Engineers hold a level of responsibility and are required to carry appropriate insurance.

(6) The current owners are the fourth owners and the first owner was an owner builder. Even if the first owner was a licensed builder, the discovery of the footing problems appeared some 7 years after the construction. As such, it would not have been covered by the compulsory home owners warranty insurance as the warranty is only valid for 5 years from the date on which the Certificate of Occupancy was issued.

The owner/builder, Mr Bonansca, was not prepared to enter into discussions on this matter and indicated that he had relied on the advice of the structural engineer.

(7) PALM recommended that the owners should approach the engineer who certified the foundation material and the footing system seeking a remedy.

(8) (a) & (b) 12 blocks in Section 14 Red Hill are known to have fill material.

(9) With appropriate technical designs, preventing construction on these sites is considered unnecessary. In the PALM database this special situation has been recorded for these blocks. This will be brought to the attention of the owners when they apply for a development approval. The same information has also been provided to the building certifiers.

With special attention to footing design and with substantial additional cost to footing construction these sites can be developed. Currently two owners have constructed dual occupancies in this area with properly constructed footing systems that took into account the technical conditions of the site. Some owners are prepared to pay the additional cost for the footings as the land value in Red Hill more than offsets it.

(10) The Government Solicitor's Office has considered this matter and advised that the Territory relied on professional certifications provided by a qualified engineer as required under the legislation and acted in accordance with the regulatory requirements. The Government Solicitor's Office concluded that the Territory is not liable.

## Construction sites (Question No 306)

**Mr Cornwell** asked the Minister for Planning, upon notice:

(1) What controls exist to prevent construction sites damaging the surrounding environment by:

(a) scattering litter;
(b) breaking limbs from trees; and
(c) dumping bricks, sand etc, on areas outside of the construction site.

(2) What penalties apply for such offences.

(3) How are these penalties enforced.

**Mr Corbell**: The answers to the member's questions are as follows:

(1) (a) Under Part 2 Division 4 of the *Building Act 1972* builders are required to comply with the *Building Code of Australia* (BCA). Because of this requirement builders have an obligation under Appendix A ACT 3 of the BCA *(Control of litter on building sites)* to prevent building litter from spreading around the site and beyond the site boundary. Builders are required to provide sufficient containers on site to store building waste that is likely to become windblown.

(b) Under Section 7 and 8 of the *Trespass on Territory Land Act 1932* and Section 43 *Nature Conservation Act 1980*, a person shall not without reasonable excuse damage or destroy trees, plants or garden on unleaded Territory land.

(c) Section 3 of the Litter Act allows Litter Infringements to be issued to persons found dumping commercial and or general litter on unleaded Territory land.

A licence can be granted to occupy or use an area of unleaded territory land under the *Land (Planning and Environment) Act 1991* for the storage of bricks and sand etc. Conditions of use are applied to the approval for suitable restoration of any damage to the land.

Contractors storing items on unleaded land without approval will be requested to remove them under the *Roads and Public Places Act 1936.* The owner can be requested to remove prescribed objects within specific time frames. When items are not removed, they can be impounded and stored in the retention area for a specific period.

(2) Penalties are
- $500.00 litter fine for deposit commercial waste in or on a public place.
- $150.00 litter fine for Deposit litter in or on a public place.

(3) Officers from Planning and Land Management may use enforcement provisions under the *Building Act 1972* and the *Land (Planning and Environment) Act 1991* to ensure compliance with the litter control provision of the BCA.

Officers from the City Rangers Office may use provisions under the *literacy 1977, Land (Planning and Environment) Act 1991* and *Roads and Public Places Act 1936* to deal with of littering or materials placed on unleased Territory land.

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## Turner—redevelopment (Question No 308)

**Mr Cornwell** asked the Minister for Urban Services, upon notice:

In relation to construction between Gould and Masson Streets in Moore Street, Turner:

(1) Has a Temporary Traffic Management Plan (TTMP) been issued and if not, why not.

(2) If a TTMP has been issued why are no lollypop men on duty and why are cement trucks blocking the street.

**Mr Wood**: The answer to the member's questions is as follows:

(1) There are a number of developments occurring simultaneously in Moore Street. TTMP were approved for the Koundouris Development at Blocks 17 & 18 Section 43. No plans have been received from the other two developers ie Tokic and Milin Bros. Officers from Roads ACT inspected the sites recently and spoke with the developers to reinforce the Department's requirements particularly in relation to public safety. The developers are currently in the process of lodging the appropriate TTMP.

(2) The use of traffic marshalls (lollypop men) will be a requirement of the approval of the TTMP.

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## Roads—black spots (Question No 315)

**Mr Cornwell** asked the Minister for Urban Services, upon notice:

In relation to the recent fatality at the Fairbairn Avenue / Anzac Parade "black spot" and the decision to construct a roundabout at the site:

(1) What steps are being taken to address other ACT road "black spots".

(2) Where are these black spots in order of priority (1-10).

(3) What is the timeframe to address the problem areas.

**Mr Wood**: The answer to the member's questions is as follows:

(1) The Department of Urban Services identifies "black spots" as part of its on going role of managing the road network. Proposed improvements are put forward for inclusion in the ACT Government's Capital Works program or the Federal Government's Road Safety Black Spot program.

(2) The following is a listing of the worst crash sites in the ACT over the last seven years:

1 Barton Highway/ Gundaroo Drive
2 Kings Avenue/ Parkes Way
3 Anzac Parade/Limestone Avenue
4 Captain Cook Crescent/Stuart Street
5 Cotter Road/McCulloch Street
6 Callam Street/Corinna Street
7 Melrose Drive/Yamba Drive
8 Northbourne Avenue/Elouera Street
9 Carruthers Street/Yarra Glen

(3) The first five sites meet the Federal Government's definition of a "black spot" which is a site where there have been three crashes involving personal injuries over the last five years.

Safety improvements have been or are in the process of being implemented at the first four sites. A proposal to improve the safety at the intersection of Cotter Road and McCulloch Street in Curtin will be submitted for funding consideration as part of the Federal Government's 2002/3 Black Spot program and the ACT Government's Capital Works program in 2003/4. The cost of this improvement would be shared 50150 by the Federal and ACT Governments.

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## Respite, convalescent and psycho-geriatric care (Question No 325)

**Mr Cornwell** asked the Minister for Health, upon notice, on 12 November 2002:

What is the current situation with the Budget promises for the establishment of facilities for (a) respite care (b) convalescent care and (c) psycho-geriatric care:

(1) In the event facilities have been provided, how many beds are available in each of (a) to (c) above.

(2) If nothing has been done in either (a), (b) or (c) above, why not.

**Mr Stanhope**: The answer to the member's question is:

**(1a) Respite Care**

The 2002 – 03 Budget provided $1 million for additional respite services across all areas of respite. This Budget initiative highlighted the need to undertake the *Review of Respite Care Empirical Needs Study* prior to allocating recurrent funding to meet gaps in service provision. This study is in the process of being undertaken by Enduring Solutions under contract to ACT Health. This study will cover both Territory and Commonwealth funded programs. The aim is to identify met and unmet need and to better coordinate existing respite care models. A respite care reference group was convened by ACT Health to ensure that all stakeholders were consulted in the development of the study terms of reference. This group included both ACT and Commonwealth officers, community service providers, and carer groups. The final report is due in the first week of February 2003.

Early feedback from the respite needs study has identified access problems related to emergency respite care, respite for carers of people with mental health issues, people with challenging behaviours, and young adults and babies with high (non-hospital) medical needs. This is in part due to fragmentation within the sector and difficulties in locating available places. Another service gap appears to be in the area of education and training for care providers.

Non-recurrent funding to address these gaps will be released in the near future with recurrent funding to be considered following the final report of the *Review of Respite Care Empirical Needs Study.*

**(1b) Convalescent Care**

The 2002 – 03 Budget provided $600,000 for a step down facility and services to assist the return home of patients with special needs following an acute hospital episode. These funds together with ongoing funding from the 2001 – 02 Budget, have provided the following post hospital services:

• **The Morling Lodge Transitional Care Centre** project will be refunded for another 12 months with matched funding from the Commonwealth Department of Health and Ageing. This project is part of a nation-wide initiative looking at innovative ways to improve the interface between hospital and home for older people. Morling Lodge opened 11 beds in early November 2001 as part of the program. The program targets older people from Calvary and The Canberra Hospital who would benefit from up to six weeks restorative care before returning to their homes. Clients may extend their stay to 12 weeks if necessary. Overall there has been a steady flow of older patients from both public hospitals to the Centre thus reducing their length of hospital stay and increasing their potential to return to their own homes.

• **Transitional Support Packages** – Community Options (COPS) has been funded to provide integrated support services to people in need of assistance following discharge from hospital. These packages will provide care for up to 100 clients. Where relevant to the care needs of each individual, services are provided in a home setting and have included overnight care where necessary. The outcome of the program will be to assist

individuals to regain skills to undertake daily living activities. A communication strategy has been developed with hospitals, discharge planners and other stakeholders. COPS began taking referrals for the packages in September 2002. To date the packages have been successful in assisting people to return home following lengthy stays in hospital.

• **Convalescent Care Unit** – A 9 bed convalescent care service has been established at Calvary Public Hospital. The Service began taking clients in September 2002. Patients requiring convalescent care are discharged from hospitals prior to admission to the unit. The unit provides the opportunity and resources for people discharged from an acute episode to regain daily living skills and through improved physical functioning, be able to return home. A flexible program has been designed to enable people transferring to convalescent care from a hospital setting to participate in a program that addresses their individual needs and assists them to improve, maintain and restore function. Clients spend up to two weeks in the unit before returning to their home.

These programs provide a range of post hospital services to improve the transition process from hospital to home and improve linkages between the acute and community sectors.

**(lc) psycho-geriatric Care**

The budget promise to improve the accessibility and quality of psychogeriatric care is being met in two ways:

• Mental Health ACT has recruited an Associate Professor of Aged Psychiatry, and he will commence work with the Older Persons Mental Health Service by 9 December 2002. He will provide specialist advice, treatment and care for people with dementia-related challenging behaviours. As well, he will provide specific specialist training to increase the skills of staff in the Older Persons Mental Health Service, and other relevant services, in working with the elderly clients with challenging behaviours.

• In addition to this, Mental Health ACT are negotiating with ACT aged care residential and acute services, and the Commonwealth Department of Health and Ageing, to colocate specialist psychogeriatric treatment and care services in mainstream facilities. This initiative would increase the bed capacity in the ACT for psychogeriatric services, and reduce the need for interstate transfers.

This collaborative approach has successfully achieved high quality, cost-effective psycho-geriatric care in the Moorshead Home, and provides an excellent model for further development of these services. These negotiations should be completed early in the new year.

## Philip trades area
## (Question No 328)

**Mr Cornwell** asked the Minister for Planning, upon notice:

In relation to Phillip Mixed Services Area:

(1) Where is the report into the Phillip trades area carried out by Australian Marketing and Research Services.

(2) What was the cost of the report.

(3) Can a copy of the report be made available to interested parties, including myself and if not, why not.

**Mr Corbell**: The answer to the member's questions is as follows:

(1) Full copies of the report were distributed to the three members of the Phillip Traders Association working group in August 2002. A summary document was available to all interested people at a public presentation held at the Canberra Southern Cross Club on Monday 14 October 2002.

(2) Australian Marketing and Research Services was paid $19,200 plus GST to undertake various surveys, prepare a report on the findings and make recommendations about marketing opportunities for small business in the Phillip Mixed Services Area.

(3) Copies of the report can be obtained from Rod Baxter, the project officer at Planning and Land Management. Mr Baxter can be contacted on 6207 1751.

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## Registered charities
## (Question No 329)

**Mr Cornwell** asked the Minister for Urban Services, upon notice:

(1) How much money was raised by ACT-based registered charities in the ACT in (a) 1999-2000 (b) 2000-2001 (c) 2001-2002.

(2) What was the total number of charities engaged in this enterprise in each of these years.

(3) What was the figure and number at (1) and (2) above for non-charitable groups, eg Service Clubs, in such fundraising.

(4) If the information sought at (1) and (3) above is not available, why not.

**Mr Wood**: The answer to the member's questions is as follows:

(1) The ACT does not maintain a register of Charities. Only charities who collect on public streets and thoroughfares or who go door to door at places of residence require a collections licence under the Collections Act. All other forms of fundraising are not regulated in the ACT.

(2) The ACT does not maintain a register of Charities.

(3) As for (2)

(4) Neither this Government, nor previous governments, have collected this information.

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## Canberra Tourism and Events Corporation (Question No 330)

**Mr Humphries** asked the Chief Minister, upon notice, on 12 November 2002:

Given that the objective of the *Public Access to Government Contracts Act* 2000 is to make public, as far as possible, the terms of Government contracts:

1. Why does the Canberra Tourism and Events Corporation include a confidentiality clause as a standard provision in all contracts over $50,000.

2. Does this Corporation give any consideration to the need to include such a clause in every contract over $50,000.

3. Have any contracts over $50,000 been made by the Corporation since 21 December 2000 that have not contained a confidentiality clause.

**Mr Stanhope**: The answer to the member's question is as follows:

**1. Why does the Canberra Tourism and Events Corporation include a confidentiality clause as a standard provision in all contracts over $50,000?**

Prior to March 2002, Canberra Tourism and Events Corporation (CTEC) had acted on the advice of their legal advisors and incorporated a standard confidentiality clause in all contracts. However, this clause did not comply with the provisions of the *Public Access to Government Contracts* Act 2002 (PAGCA Act). Despite the inclusion of the clause, all new contracts were made publicly available on the BASIS web site since the introduction of the PAGCA Act in December 2000.

In March 2002, the Auditor General's Office undertook a Performance Audit that highlighted a number of agencies, including CTEC had contracts with a confidentiality clause that did not comply with the legislation. Acting on this advice, CTEC engaged the Government Solicitors Office (GSO) to review all contract documentation to ensure compliance with the Act.

On the advice of the GSO, current tender and contract documentation prepared by CTEC contains standard confidentiality and disclosure option clauses in line with the Act.

**2. Does this Corporation give any consideration to the need to include such a clause in every contract over $50,000?**

Since March 2002, tender and contract documentation prepared by CTEC contains the confidentiality and disclosure option clauses advised by the GSO. In instances where a supplier or contractor requests part of the contract be kept confidential, CTEC consults the GSO in respect to the justification.

**3. Have any contracts over $50,000 been made by the Corporation since 21 December 2000 that have not contained a confidentiality clause.**

No. All contracts administered since December 2000 contain a confidentiality clause. However, since implementing the changes in March 2002, no new contracts over $50,000 have been made. Contracts being negotiated have been prepared by CTEC and reviewed by the GSO to ensure compliance with the Act.

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## Turner—redevelopment (Question No 331)

**Mr Cornwell** asked the Minister for Planning, upon notice:

In relation to the approval of a ten storey building at Northbourne Avenue Turner:

(1) Why has a ten-storey building been approved at Block 1 Section 43 Turner when the remainder of the block on Northbourne Avenue are three to five storeys?

**Mr Corbell**: The answer to the member's question is as follows:

(1) Block 1 Section 43 Turner is located within the Commercial (A) Land Use Policy, (b2) precinct of the Territory Plan which flanks Northbourne Avenue, close to the City Centre. The Territory Plan provides for new buildings in Section 43 to be a minimum height of 3 storeys and a maximum height of 25 metres (to the top of a parapet).

In particular, new buildings over 3 storeys facing Northbourne Avenue are to have a mandatory parapet height facing the Avenue as close as practicable to, but not exceeding, 25 metres. Existing buildings flanking Northbourne Avenue in Section 43 were built prior to the introduction of the present controls. A range of heights will therefore be evident in this Section.

Approval of the building on Block 1 Section 43 is consistent with the application of the present Territory Plan height controls for new buildings facing Northbourne Avenue.

## St Andrews retirement village (Question No 332)

**Mr Cornwell** asked the Minister for Planning, upon notice:

In relation to St Andrew's Retirement Village:

(1) What is the current status of the request by St Andrew's Retirement Village for an extension of the village onto Block 12 Section 28 Hughes.

**Mr Corbell**: The answer to the member's questions is as follows:

(1) St Andrew's Village has asked the Department to consider the possibility of St Andrews extending their current facility in Groom Street Hughes onto the adjoining part Block 12 Section 28 Hughes. A formal application has not yet been received.

Block 12 has an Urban Open Space land use policy and a Territory Plan Variation would be required to permit aged persons' accommodation on Block 12.

St Andrew's has advised that they have undertaken consultation with local residents and the Burley Griffin Local Area Planning and Advisory Committee.

Block 12 has been included in the interim Open Space Audit. While this Audit has provided some initial information about the importance of this block as part of the open space network, formal consultation is required to further inform the direct sale process as well as the Open Space Audit.

Officers of my Department met with St Andrew's on 4 December 2002 to discuss their design concept and the process ahead. At that meeting it was agreed that the Department would undertake a Site Investigation and Tree Study for part Block 12. This information could then be used by St Andrew's to develop a design for the site which could be used for a formal consultation process.

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## Lump sum payouts (Question No 333)

**Mr Cornwell** asked the Chief Minister, upon notice, on 12 November 2002:

Further to your reply on Question on notice No 151 that regarding lump sum compensation payments "the ACT is presently considering an innovative scheme whereby long-term care costs would be removed from common law damaged awards in favour of ...long term care ... have there been further developments on this proposal".

**Mr Stanhope**: The answer to the member's question is as follows:

(1) The ACT has received actuarial advice indicating that the Territory is likely to lack the critical mass necessary to support an affordable and viable long term care scheme.

(2) The ACT however remains a proponent of such a scheme and has been actively seeking to gain support for the examination of the potential costs, benefits and social implications of a nationally pooled mechanism to manage the funding and service delivery of along term care scheme.

(3) The Prime Minister, in announcing the Commonwealth's Medical Indemnity Insurance Framework on 23 October 2002 indicated support for further inter governmental examination of arrangements to provide long term care to persons with catastrophic injury.

(4) The Heads of Treasuries Insurance Issues Working Group (IIWG) has been tasked, in relation to long term care, with undertaking a comprehensive review of current arrangements and possible alternatives.

(5) The Chief Executive of ACT Health has been nominated to represent Australian health departments on the IIWG Long Term Care Group.

(6) The IIWG is to report in April 2003.

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## Poisonous mushrooms (Question No 336)

**Mr Cornwell** asked the Minister for Health, upon notice, on 12 November 2002:

Following the death of a local woman from eating poisonous mushrooms and the Coroner's recommendation that the public be regularly warned about the hazards of eating such mushrooms, what steps will the Government take to issue regular warnings.

**Mr Stanhope**: The answer to the member's question is:

• The season for death cap mushrooms is late summer to early winter after good rain or heavy irrigation. The ACT Health Protection Service (HPS) has, and will continue to, issue warnings in the media about the dangers associated with consuming death cap mushrooms. These warnings are issued prior to the season commencing and also during the season.

• The HPS also works with key land managers, such as the National Capital Authority and Canberra Urban Parks and Places, to ensure that warning signs are placed in all areas where the death cap mushrooms are known to grow.

• For the coming season, the HPS has prepared a new fact sheet that will be made available to the public to further raise awareness about these deadly mushrooms. The fact sheet will be distributed through ACT libraries and government shopfronts.

**Background**

The death cap mushroom is responsible for 90% of all deaths related to mushroom consumption. In the ACT, there have been two fatalities associated with Death Cap mushrooms in the last 10 years, one in 1995 the other in 2002. During this period there have been around a dozen reported cases of poisoning.

Finding by the coroner into the 2002 mushroom related death revealed that the deceased was well aware of the dangers of death cap mushrooms however it was likely that she had failed to identify them due to the poor evening light.

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## Totalcare Industries Ltd (Question No 338)

**Ms Dundas** asked the Treasurer, upon notice, on 13 November 2002:

For each of the three segments of Totalcare Industries Ltd:

(1) What was the total revenue received from ACT Government clients?

(2) What was the total revenue received from clients other than the ACT Government?

(3) What was the total cost of providing services to ACT Government clients?

(4) What was the cost of providing services to clients other than the ACT Government?

(5) What was the total value of services performed by Totalcare for the ACT Government for which Totalcare was not required to compete with other companies?

**Mr Quinlan**: The answers to the member's questions are as follows:

Overview

Some of the information sought by the member on the business segments is commercially sensitive and not appropriate for public disclosure as it contains detail of Totalcare's margins for each of its composite businesses. Totalcare would be disadvantaged if competitors had access to this cost profiling. However, under current accounting standards the financial statements for 30 June 2002 detail some information on the business segments. These are at Note 32 of the financial statements included in the Totalcare Industries Ltd Annual Report 2002.

Response to Specific Questions

(1) On a whole of company basis, $39.2 million was received from ACT Government clients in 2001-02.

(2) On a whole of company basis, $28.9 million was received from non ACT Government clients in 2001-02.

(3) As indicated above, this is considered commercial-in-confidence information.

(4) As indicated above, this is considered commercial-in-confidence information.

(5) From a policy perspective Totalcare competes for all of its work. Totalcare was set up in two principle stages. These stages were the transfer of functions from the former Health Services Supply Centre on 1 January 1992; and the transfer of functions from the former Works and Commercial Services Group of the Department of Urban Services on 1 January 1997.

A prime objective of the transfers was to establish the business units in a corporate setting on a fully commercial basis and to develop the businesses to commercial viability in the period January 1997 to June 2000. Under the terms of the (then) Government's decisions, trading arrangements with existing clients remained tied until 30 June 1998, after that date departments and agencies were free to choose service providers other than Totalcare.

Departments and agencies are also required to adhere to Government procurement policies, which require, among other things, that purchasing decisions be based on value for money. This includes purchases from Totalcare.

In practice Totalcare's activities are divided into two types of work. Some work is ad hoc (ie not related to a specific contract), as noted above departments and agencies are free to source this work from any service provider. Other work is based on contracts. Totalcare advises that for those contracts that have expired since 30 June 1998, some form of competitive process has been undertaken. These processes have either resulted in Totalcare winning the work or the work being awarded to another tenderer. Not all contracts have gone to the market. For example, Totalcare advises that the contracts for the services that it provides to Canberra and Calvary Hospitals was awarded on a single select basis, following a benchmarking process.

Totalcare advises that it does not classify services in terms of which elements are the subject of competitive processes and which are not. Therefore quantifying a response in dollar terms to the Member's question is not possible.

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## Commission of audit (Question No 340)

**Mr Cornwell** asked the Treasurer, upon notice, on 19 November 2002:

(1) When will the Commission of Audit report on Term of Reference No. 2, relating to the review of significant financial risks arising from the operations of certain business entities.

(2) Will this report incorporate a report on Term of Reference No. 3, relating to the review of the financial performance of the Territory in relation to its exposure to investments.

(3) If not, when will the Commission of Audit report on Term of Reference No. 3.

**Mr Quinlan**: The answer to the member's question is as follows:

(1) The Commission of Audit Report (No. 2) on the State of the Territory's Finances addressing the Term of Reference No. 2 was completed at the end of October 2002, and was tabled in the Assembly on 12 December 2002.

(2) No.

(3) The Term of Reference 3 (to be addressed in Stage 3) required the Commission to provide advice on the reporting of superannuation investments, and their performance separate from the Territory's operations, and a review of, and comparison with the arrangements relating to superannuation investment management in other jurisdictions.

The imperatives for this task have changed since the time of change of government. The impact of return on the superannuation assets on the Territory's operating performance is now somewhat better recognised. Treasury is exploring options on the disclosure of superannuation investments and Treasury has already undertaken a comparative analysis of arrangements relating to investment management and governance in other jurisdictions.

Therefore, the Government does not consider it necessary to direct further resources to the Commission of Audit in this task. Accordingly, the Commission's work has concluded.

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## Accommodation for men (Question No 342)

**Mr Cornwell** asked the Minister for Disability, Housing and Community Services, upon notice, on 12 November 2002:

Concerning Canberra Men's and Children's Services (CANFACS) and the Men's Accommodation and Crisis Service (MAACS):

(1) What is the annual government funding of CANFACS and what was the annual government funding for MAACS.

(2) Has CANFACS sought additional funding and if so, why.

(3) Did MAACS provide service over weekends and does CANFACS now provide weekend service.

(4) If service is not provided at weekends, why is this so.

**Mr Wood**: The answer to the member's question is as follows:

1. The purchase price paid to Marymead Child and Family Centre for the accommodation and support service to homeless fathers and their accompanying children (provided by the Canberra Fathers and Children Service – CANFACS), for the 2002-03 financial year is $184, 269 (EST inclusive).

As you were advised in response to part five of Question on Notice Number 45 (March 2002), the purchase price payable to the Lone Fathers Association for the provision of the Men's Crisis Accommodation Service (MAACS) for the 2001-02 financial year was $116,470 (EST inclusive).

2. Additional non-recurrent funding of $25, 000 has been allocated to CANFACS since the service was established in February 2002. This funding has enabled the service to buy furnishings, toys, kitchenware, computer and office ware and a range of other items required to establish a service of this nature.

3. The supported accommodation service purchased from the Lone Fathers Association for the provision of the Men's Crisis Accommodation Service was available on weekends.
The Department's Purchase Agreement with Marymead includes a supported accommodation service that is available on weekends.

4. N/A.

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## Remuneration Tribunal—determination No 108 (Question No 343)

**Mr Cornwell** asked the Chief Minister, upon notice, on 10 December 2002:

In relation to the ACT Remuneration Tribunal – determination No. 108:

(1) In respect of a similar level of vehicle entitlement to a Holden Berlina and its entitlement for "a Zone 2 Executive in the ACTPS":
(a) What is the cost of a Holden Berlina; and
(b) What is the entitlement and the salary of a Zone 2 Executive in the ACTPS.

(2) In relation to air travel – what is the class of travel for senior ACTPS officers:
(a) Overseas;
(b) For domestic flights over three hours;
(c) For domestic flights under three hours.

(3) Is it permitted for members to upgrade at their own expense for domestic flights under three hours.

(4) How does one demonstrate medical or work related circumstances to warrant an upgrade.

**Mr Stanhope**: The answer to the member's question is as follows:

(1) (a) Zone 2 Executives are entitled to a vehicle up to a Holden Berlina 3.8 litre automatic wagon. Totalcare have advised that the recommended retail price is $43,731 including GST but excluding delivery charges, stamp duty and registration.
(b) There are three salary levels for Zone two Executives, these are:
(i) Level 2.4 – $125,633;
(ii) Level 2.5 – $135,173; and
(iii) Level 2.6 – $157,780.

(2) (a) Executives are entitled to travel Business Class on overseas flights.
(b) & (c) Executives must travel Economy Class for all domestic trips or parts of trips under 4 hours in the air. Business Class is allowed for domestic trips or parts of trips exceeding 4 hours in the air.

(3) While there is no express restriction on Members upgrading their class of travel at their own expense, they would need to avoid purchasing or discounting arrangements that might be interpreted, under section 14(c) of the Australian *Capital Territory (Self – Government) Act* 1988, as taking or agreeing to take, directly or indirectly, any remuneration, allowance, honorarium, reward for services rendered in the Assembly, other than that agreed under section 73. A breach of section 14(c) would result in the Member having to vacate their office.

(4) Clause 2.2 of ACT Remuneration Determination 108 requires a non-Executive Member to establish, to the satisfaction of the Speaker, that business class travel is required on medical grounds, or that business class travel is required because of a need to confer with persons travelling business class during the flight.

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## Respite care
## (Question No 345)

**Mr Cornwell** asked the Minister for Health, upon notice, on 10 December 2002:

(1) Has the Government's study into respite care, as advised to me by letter of 11 June 2002, and expected to take 4 to 6 months to complete, been completed.

(2) If not, when is it expected to be publicly available.

**Mr Stanhope**: The answer to the member's question is:

(1) The *Review of Respite Care Empirical Needs Study is* in the process of being undertaken. This study will cover both Territory and Commonwealth funded programs. The aim of the study is to identify met and unmet need and to better coordinate existing respite care models.

My letter to you dated 11 June 2002 stated that the study would take 4 to 6 months to complete. This timeline started from the completion of the tender process for the appointment of a consultant to undertake the study. A respite care reference group was convened by ACT Health to ensure that all stakeholders were consulted in the development of the study terms of reference. A tender process followed and Enduring Solutions has been appointed to undertake the study. The reference group included both ACT and Commonwealth officers, community service providers, and carer groups. Enduring Solutions commenced work on the study in October 2002. The final report is due to be completed in February 2003.

(2) The final report is expected to be publicly available in March 2003.

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## Commission of audit (Question No 346)

**Mr Cornwell** asked the Treasurer, upon notice, on 10 December 2002:

(1) When is the Commission of Audit to Report into the Australian International Hotel School to be tabled.

(2) Will the Report be tabled in the Assembly and if not, why not.

**Mr Quinlan**: The answer to the member's question is as follows:

(1) and (2) The Commission of Audit review of the Australian International Hotel School, as set out in Term of Reference No. 2, was included in Report No. 2. The report was tabled in the Assembly on the 12 December 2002.

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## Woden master plan (Question No 347)

**Mr Cornwell** asked the Minister for Planning, upon notice:

In relation to the Woden Town Centre Master Plan:

(1) Where is the Woden Master Plan promised twelve months on from 2 November 2001.

**Mr Corbell**: The answer to the member's questions is as follows:

(1) A comprehensive process of public consultation, feedback and revision of proposals occurred throughout 2002 and involved the following steps:

First newsletter to residents, business operators and commercial property owners;
First community and stakeholder design workshop;
First exhibition period of design ideas for discussion and refinement;
Second Newsletter;
Second community and stakeholder design workshop;
Issue specific meetings to advance key areas of concern;
Second public exhibition period for *Design Options Report;*
Various stakeholder workshops and discussion sessions; and
Draft Master Plan prepared.

The draft Master Plan is currently being circulated within Government and I will release the draft Plan early in the new year.

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## Nicholls—roundabouts (Question No 348)

**Mr Cornwell** asked the Minister for Urban Services, upon notice:

In relation to the roundabouts on Curran Drive, Nicholls.

1. Are the plants overgrown to an extent visibility for traffic is threatened.

2. Will the foliage be cut down and how often will this work be undertaken as part of a regular maintenance schedule.

3. If not part of a regular maintenance schedule, why not.

**Mr Wood**: The answer to the member's questions is as follows:

1. My advice from Traffic Engineers in Roads ACT is that the line of sight distances in these medians are adequate for drivers approaching the roundabouts to see other entering vehicles (on the right) well before they reach the "Give Way" line. There is some slight restriction of visibility for circulating traffic, although not considered critical in this type of collector road.

2. The shrubs in the medians will be pruned to enhance the visibility for circulating traffic and pruning will be carried out approximately once per year.

3. The maintenance of these medians is currently still under the control of the developer of the estate. He advises that his horticultural contractor carries out routine maintenance of the landscaped areas mentioned. It is anticipated that the areas will be handed over to Urban Services for ongoing maintenance around mid 2003.

## Water restrictions (Question No 349)

**Mr Cornwell** asked the Treasurer, upon notice, on 10 December 2002:

Concerning current water restrictions:

(1) What arrangements, if any, have been reached with:
(a) National Capital Authority;
(b) The Canberra Racecourse;
(c) Private golf courses;
to abide by restrictions.

(2) What are the penalties for breaches for those at (1) (a) to (c) above.

**Mr Quinlan**: The answer to the member's question is as follows:

(1) The following arrangements have been reached with the following organisations and businesses:

(a) National Capital Authority (NCA): ACTEW has held discussions with the National Capital Authority and the NCA has agreed to reduce water by the target specified in the water restrictions scheme.
(b) The Canberra Racecourse: ACTEW has held discussions with the Canberra Racecourse and the Canberra Racecourse has agreed to reduce water by the target specified in the water restrictions scheme.
(c) Golf courses: ACTEW has held discussions with all golf courses that use potable water. All have agreed to reduce water by the specified target. The Royal Canberra Golf Club has a separate licensing arrangement with the National Capital Authority to draw water from Lake Burley Griffin.

(2) The penalties for breaches are as follows

(a) The National Capital Authority is not subject to ACT Legislation.
(b) Under the Magistrates Court (Utilities Infringement Notices) Regulations 2002, the maximum penalty for a corporation is up to $5,000. This includes the Canberra Racecourse and golf courses that use potable water.

## Kippax—vandalism (Question No 356)

**Mr Stefaniak** asked the Minister for Police, Emergency Services and Corrections, upon notice, on 10 December 2002:

Would the Minister advise if there have been any acts of vandalism committed against the former Kippax Fitness and Leisure Centre and if so:

(1) How many.

(2) When did those acts occur.

(3) What damage was actually done to the centre as a result of those acts of vandalism.

(4) Were any other premises in the area affected by those acts of vandalism.

**Mr Quinlan**: The answer to the member's question is as follows:

(1) Between 1 December 1998 and 9 December 2002, there were 6.

(2) and (3) Please see attached table.

(4) Information recorded on the Police Realtime Online Management System does not state if other premises were affected in the area.

**Total Number of Reported Property Damage Offences For Kippax Pool and Fitness Centre**
**Period 1 December 1998 – 9 December 2002**

| Date | Promis No. | Incident Type | Offence | Other Buildings Affected in Area |
|---|---|---|---|---|
| 7/05/2000 | 642656 | Breakage of pool filter causing burn out of motor | Property Damage | not stated |
| 19/07/2000 | 660889 | Breakage of glass door | Property Damage | not stated |
| 24/11/2000 | 692465 | Damage to windows | Property Damage | not stated |
| 28/12/2001 | 803060 | Broken windows | Property Damage | not stated |
| 17/02/2002 | 819787 | Damage to squash court glass, gym equipt't etc | Property Damage | not stated |
| 24/04/2002 | 841254 | Fire started in aerobics room of Gym | Arson | not stated |

*Source: PROMIS database 9 December 2002*

## Macgregor—redevelopment (Question No 357)

**Mr Stefaniak** asked the Minister for Planning, upon notice:

(1) What was the cost of the access road that was recently installed off Osburn Drive?

(2) What is the purpose of that access road?

(3) What has occurred in relation to the proposed re-development of the Macgregor Shopping Centre and when will an announcement be made as to what is to occur to those shops?

(4) What is the current status of the building formerly occupied by Dr Henry Berrington, Medical Practitioner?

**Mr Corbell**: The answer to the member's questions is as follows:

(1) Total cost of the access road was $177,032.

(2) The purpose of the access road, as identified in the Macgregor Local Centre Master Plan, September 2001, is to improve access and visibility to:
- the shopping centre, particularly the area nominated for commercial/nonresidential activity (Area 'B'); and
- the open space adjacent to the centre.

(3) The ACT Government has been negotiating with the current lessee of the Macgregor Shopping Centre and at this stage there is no outcome from these negotiations. The Territory has limited capacity to implement the Master Plan without the agreement of the lessee.

(4) The current status of the building and land on the former medical centre site is unleased Territory land. A draft Amendment to the Macgregor Local Centre Master Plan has been prepared and incorporates this site into the area identified for residential development.