DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

19 August 2003

CONTENTS

Tuesday, 19 August 2003

Tuesday, 19 August 2003

MR SPEAKER (Mr Berry) took the chair at 10.30 am, made a formal recognition that the Assembly was meeting on the lands of the traditional owners, and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

Petitions

The following petitions were lodged for presentation.

Hardwick Crescent, Holt

by **Mr Stefaniak**, *from 57 residents:*

> To the Speaker and members of the Legislative Assembly for the Australian Capital Territory
>
> The petition of certain Residents of the AUSTRALIAN CAPITAL TERRITORY draws to the attention of the ASSEMBLY that there is an URGENT NEED to EVALUATE TRAFFIC MOVEMENTS that pass shops at No,116 Hardwick Crescent Holt including Car Parks opposite. This has become EXTREMELY DANGEROUS over recent times, with a number of SERIOUS ACCIDENTS caused by SPEEDING MOTORISTS and other traffic violations in this Area.
>
> Your petitioners therefore request the Assembly to call on the MINISTER FOR URBAN SERVICES to instruct the DEPARTMENT to undertake a full TRAFFIC evaluation of this Area by their Traffic Engineers to solve the current DANGEROUS situation. This should be undertaken as a MATTER OF PRIORITY involving Local Residents and Merchants of this Area, to obtain a positive outcome, benefiting all concerned.

Hughes shopping centre

by **Mr Cornwell**, *from 602 residents:*

> To the Speaker and members of the Legislative Assembly for the Australian Capital Territory
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that the lighting of the PUBLIC CAR PARKING AREAS at the Hughes Shopping Centre needs URGENT evaluation for an upgrade.
>
> Your petitioners therefore request the Assembly to call on the Minister for URBAN SERVICES to include in the Department of Urban Services works program for the next BUDGET 2004-2005, the upgrade of LIGHTING OF THE PUBLIC CAR PARKING AREAS at the HUGHES SHOPPING CENTRE to assist NIGHT SHOPPERS and other USERS of that AREA, in particular for SAFETY and SECURITY REASONS

The acting clerk having announced that the terms of the petition would be recorded in Hansard and a copy referred to the appropriate minister, the petitions were received.

Death of Betty Searle

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

> That this Assembly expresses its deep regret at the death of Betty Searle, a social justice advocate, and tenders its profound sympathy to her family, friends and colleagues in their bereavement.

I would like to express sincere condolences to the family of the late Betty Searle. It is with sadness that I learned of the unexpected death, aged 87 years, of this extraordinary woman on 8 July. Betty worked tirelessly to achieve social justice and world peace. She was very much her own woman and always made her views known. She recently protested against the war in Iraq and for asylum seekers in detention, particularly the children.

Betty was the daughter of an English suffragette who was imprisoned in 1911 for her activities and the struggle to bring equal rights to women. Betty dedicated her first book to her mother. This book *Silk and Calico: Class, Gender and the Vote* is a history of the first wave women's movement in Australia, as well as being a study of gender and class in feminist politics. Among other things, this book analysed the uneasy relationship between first wave feminist unions and the Labor Party.

Betty's groundbreaking analysis looked at the intellectual motivation for the aims of the first wave women's movement, and she concluded that it derived ultimately from the ideology of 18th century European liberalism and the rights of the individual. Yet she concluded that women's main breakthrough in the 19th century sprang from the changing familial role of a woman as wife and mother.

Male structured society and the capitalist division of the labour of men and women into public and private spheres allowed women a role only in the home. However, the rise of the middle class generated benefits that expanded women's power—initially, in the home—and also provided them with the education and leisure to venture outside the domestic milieu. In return, the increased power of the women in the home, and thence society, greatly helped the process of stabilising capitalism.

Betty's work contributed to the growing realisation of the significant contribution of first wave feminists to advancing the rights of women. She reminded the women of her daughters' generation that the women of her mother's generation laid the groundwork for the freedoms that seemed newly minted in the 1970s and 1980s.

While always an ardent feminist, Betty became an activist during the 1960s. In the 1970s she separated from her husband, declaring quite famously that it was so she could do what she damn well liked and to prove that she wasn't a dimwit. Betty worked passionately to improve the status of women and to create a world where social justice was paramount. She proved she was no dimwit through her academic

achievements, her numerous publications and her strength of commitment to improving this world of ours.

Betty established herself as a role model of the highest calibre through her encouragement of others, especially older women in more recent times, to participate in community affairs and to pursue the cause of justice. She continued to mentor and to encourage younger feminists. Long after others would have thought it time to settle into well-earned retirement, Betty continued as a passionate activist for the whole of her long life. Beverly Kingston's words, "The way forward for women and history lies in challenge rather than acceptance," apply to Betty.

It is with the deepest sympathy that I, on behalf of the ACT government, extend condolences to Betty's family, acknowledging Betty's life and contribution to bringing about change for the betterment of us all and, in particular, women.

MR SMYTH (Leader of the Opposition): I rise on behalf of the opposition to extend our condolences to the family and friends of Betty Searle. The Chief Minister mentions her birth date, 8 July, and the fact that she was 87 this year. In fact, 8 July is the birth date of my twin daughters, and they were 17 this year. So, 70 years later it is interesting to reflect on the life of a great woman and how she compared what her mother did to what her daughters may have received as a legacy of the early suffragette movement.

I wonder whether to take it a couple of steps further, to the grand-daughters and the great-grand-daughters of those women—the generation of young Australian women today—and look at what they grow up in and what still challenges us about the relationship between the genders and whether equality does exist.

In that regard, we will always be able to look to Betty Searle as someone who accepted the challenge: a woman who was author, advocate, activist and academic; a woman who saw no limitations because of her gender; and, as the Chief Minister has already said, a woman who did what she damn well wanted to.

Betty Searle campaigned for women's rights throughout her life. She campaigned with Jessie Street for equal pay for women—a very important start to equality. She was a foundation member of the first Women's Liberation Group in Sydney, and in later life she lectured in women's studies at the University of Sydney. It is great to see her coming around full circle in learning and being the educator.

Betty was also involved with several community groups, including the Older Australians Advisory Council, the ACT Women's Consultative Council, the ACT Older Women's Network, of which she was president from 1993 to 1996, and the National Older Women's Network. Here is a woman who changed with her own personal time: as she got older she spoke on behalf of those whom she had the closest affinity with. In that regard she is again a model for us all not to get stuck in a rut but to continually evolve and grow.

In recent years, Betty focused on improving the status and welfare of older women, an area where we still need to do an enormous amount of work. Betty was an ideal model of encouragement, not only for women but for all members of a society that was truly

striving for genuine democracy. Betty was honoured in the year 2003 International Women's Day Awards on 7 March for her activities and all her achievements in furthering the cause of women in Australia and around the world. On behalf of the opposition, I rise to extend my condolences to the family and friends of Betty Searle.

MS DUNDAS: I rise to add the condolences of the ACT Democrats on the passing of Betty. I only briefly knew Betty through her work with the Older Women's Network, but she was actively involved in many other organisations, including Friends of the ACT Library Service, the Older Australians Advisory Council and the ACT Women's Consultative Council.

When Betty came as part of the Older Women's Network to present to the status of women committee, she regaled us with the story of problems she was facing in her aged person's unit, a story that was met with a wry comment from the OWN president, Julia Biles. She said, "I'm sure that this issue will be pursued because, once Betty raises something within our organisation, we get onto it." That quote sums up the determination Betty had and the way that she made other people get involved in her causes and work to make things better.

I was speaking to some of the women who have worked with Betty, and they impressed on me her sharpness of intellect and the example that she set to other women. They told me how Betty did not complete secondary education, having to leave school at 15, but in her sixties she went to university and obtained a BA and a master's degree, as well as lecturing in women's studies in New South Wales. They told me how she got on very well with her classmates, many of whom were 40 years younger. These classmates respected her and liked working with her, and they told me that Betty fitted well into the university lifestyle.

Betty also had a wry sense of humour, which is incredibly important when you spend your lifetime struggling against patriarchal institutions. Betty's mother marched with suffragettes Emily Pankhurst and Jessie Street in London, and Betty kept up this family tradition of campaigning for women's rights and equal pay. She herself worked with Jessie Street.

Some have described Betty as a radical working-class woman, and I think that that is as fitting title as any. She was a tireless campaigner against oppression, and I would like to thank Betty, and the women like her, who started beating down the path that many of us still follow today.

MS TUCKER: On behalf of the Greens, I would also like to express my condolences to Betty Searle's family and friends and to express thanks and admiration for her active life in pursuit of women's liberation and rights and for a more equal and fair society generally. I am happy to be able to note that her contributions were publicly recognised earlier this year with an individual award in the ACT government's International Women's Day Awards.

I first came to know Betty in 1995, when she and other members of the Older Women's Network (Action) came to the social policy committee to argue the importance of recognising older people—women in particular—as whole people and not a health problem. They also argued for specific needs, among which the need for

accommodation for older people and—a need that all members here, and especially all from the previous Assembly, will recognise—a convalescent facility for older people.

And so, through changes of governments, Betty and her comrades continued to do the work, surveying older women's experiences of hospitalisation, proving the need again and again. Last year, 2002, when the first step towards a convalescent facility was opened at Calvary, Betty was a key speaker. I think that was the last time I saw her. It was an example of Betty's persistence—knowing that you must keep going even though it may seem nothing is happening and you are continually saying the same things. She also recognised how important it is to work with others. These are truly valuable skills in social change.

Betty did valuable work in a range of groups. In the Older Women's Network, which I am more familiar with, she was part of the foundation group in the ACT. She edited the newsletter the *New Dawn*, spoke about her life at public rallies and meetings and, as I say, did the rounds of elected representatives.

Earlier in her life, she had lectured at Sydney University. In 1988 her book *Silk and Calico: Class, Gender and the Vote* was published by Hale & Iremonger. As the title suggests, the work is a political history of women's suffrage in Australia, so it does the essential job of remembering where we have come from and giving us a sense of who we are to thank and what we are building on.

In recent years, Betty also supplied profiles of some of those women for the *New Dawn*, among others, a profile of Louisa Lawson, who was, among other things, the editor and the owner of *Dawn*, OWN's original journal. Betty described these profiles as "a salute to all those women who fought for the vote and equal rights to custody, property and jobs at the time of Federation". Betty was a living example of women making great use of that legacy and passing it on for the benefit of us all. Thanks, Betty, and salutes to you. You will be missed.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations): Betty Searle was an incredible woman: mother, partner, feminist, friend, activist, author, academic and a person who, right up to the end of her life, took her citizen's responsibilities very seriously. It is with great sadness that I rise to speak to this today.

Betty Searle was a widely respected woman who was loved by many. I had the privilege of knowing Betty and, earlier this year, presenting her with an ACT International Women's Day Award. She was a woman who touched more women's lives than most can imagine.

She began her secondary education at Hornsby High School during the early 1930s. Sixty years of continuous activities followed, including work, world travel and raising a family. She enrolled as a student at the University of New England and gained a Bachelor of Arts degree, going on to become a Master of Letters in 1985. In 1992, at the age of 75, Betty was invited to tutor at Sydney University in women's studies. She was actively promoting the rights of women before the Second World War and in recent years focused on improving the status and welfare of older women.

In 1936, at the age of 19, Betty joined the Communist Party, which had women's equality as part of its platform, and devoted her life to—in her words—"the class struggle and a style of living certainly not condoned by society at large". When Russia joined the allies in 1942, Betty campaigned with Jessie Street for Russian medical aid and comforts.

After the war, Betty was involved in working for peace and campaigns to ban the bomb. She campaigned again with Jessie Street for equal pay with the United Associations of Women. Later, she was editor at Alpha Books and in the 1960s English editor of *Moscow News* in Moscow. In the 1970s, she worked for New World Books and from 1975 to 1993 was editor and contributor to *WomenSpeak*. At the age of 72 she published her first book *Silk and Calico: Class, Gender and the Vote*.

Betty was a foundation member of the first women's liberation group in Sydney. She was founding president of the ACT Older Women's Network and was president of OWN (Action) from 1993 to 1996. She was appointed by the ACT Chief Minister to the ACT Women's Consultative Council from 1993 to 1995 and in 1994 was appointed to the Older Australian's Advisory Council.

She received a number of ACT and Commonwealth government awards, including the Commonwealth Recognition Award for Senior Australians in 2000 and, in 2003, as I previously mentioned, the ACT International Women's Day Award. On her 85th birthday Betty wrote, "I still believe we can achieve a better life for people around the world if we work for it, which I intend to keep doing until I depart!"

I attended Betty's funeral, where balloons and streamers in white, green and purple abounded. Family and friends gathered to remember the life of a remarkable woman. Betty had left strict instructions about her funeral, and no-one was prepared to stray from those instructions. As a woman she had faced great adversity in her life but continuously rose to fight every challenge.

Speakers at her funeral spoke of a pint-sized woman with a ferocious mind and a fearless spirit, a woman of wit and intelligence, a woman who knew how to stand up for others, a woman whose desire for equality, justice and fairness guided her in life. She was a woman who spoke her mind, usually to a degree which shocked others but for which she was also fondly known.

Because of women like Betty Searle, and the fights and campaigns they were part of, women like me have had opportunities that were denied to women of Betty's era. Younger women should never forget the campaigns undertaken by women like Betty to improve women's rights. We respect their wins, and we accept the challenge to continue their campaigns to assist women in years to come. This is our responsibility, one which women like Betty have handed over to us and one which we cherish.

I was fortunate to know Betty, if only for a short time. My last contact with her was over some correspondence she was writing to me and Minister Wood, lobbying for a pedestrian crossing near her home. She was successful with that lobbying—of course. So, farewell, Betty. I pass on my sympathy to her daughters, Penny, Althea and Andrea, and their 10 children.

Question resolved in the affirmative, members standing in their places.

Legal Affairs—Standing Committee
Scrutiny report No 35

MR STEFANIAK: I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 35, dated 22 July 2003, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny report No 35 contains the committee's comments on six bills, 39 pieces of subordinate legislation and two government responses. The report was circulated to members out of session. I commend the report to the Assembly.

Scrutiny report No 36

MR STEFANIAK: I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 36, dated August 2003, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: This report contains the committee's comments on one bill and one government response. It was circulated to members out of session. I also commend this report to the Assembly.

Planning and Environment—Standing Committee
Report No 20

MRS DUNNE (10.49): I present the following report:

> Planning and Environment—Standing Committee—Report No 20—Draft Variation No 202 to the Territory Plan—Jamison Group Centre Master Plan, dated 10 July 2003, together with a copy of extracts from the relevant minutes of proceedings.

The urban projects area of the Planning and Land Management Group established the Jamison group centre master plan in 2002, following a public consultation process that extended from May 2000 to well into 2001. PALM presented the final master plan report to the Ginninderra local area planning advisory committee on 6 June 2002.

The thrust of the draft variation is consistent with the group centre's draft variation No 158, which was adopted into the Territory Plan on 13 June 2002. The intent of draft variation No 158 was to increase opportunities for all group centres in Canberra to expand or accommodate new retail developments, including supermarkets.

As articulated on page 4 of the July 2002 edition of the Jamison group centre master plan, the land use policy has been framed to:

- make flexible provision for a wide range of shopping, community, recreation and business facilities serving predominantly the surrounding and nearby suburbs;
- provide opportunities for specialist commercial activities and other facilities serving the ACT market more generally, as well as medium and high-density residential development;
- support a competitive and sustainable retail sector within the ACT, which can respond effectively to changing circumstances;
- encourage investment and local employment opportunities;
- ensure convenient access to centres, quality development of an appropriate scale and character and enhanced environmental amenity;
- capitalise on the distinctive qualities of potential individual centres; and
- promote an efficient urban infrastructure.

While the committee has recommended the adoption of draft variation 202, mainly because, after 30 years of establishment, the Jamison Centre will be afforded some rejuvenation and will be able to respond to the changes in retail sectors and residential development needs, the draft variation was not explicit about the extent of, or intended, effects on adjacent and surrounding areas. Nor did it address the transport issues related to traffic and safety for the centre and surrounding areas, in particular the impacts that might flow from the construction of access to Halloran Close and Wiseman Street and access from Belconnen Way.

The committee is hopeful that the adoption of draft variation 202 will lead to improvements in residential amenity for the general catchment areas of suburbs such as Macquarie, Cook, Bruce, Aranda, Weetangera, Emu Ridge and Page; the student population of the nearby University of Canberra; and the people who attend the weekly Sunday morning Rotary trash and treasure market.

The committee is hopeful that the government in its response to the Assembly will make explicit the impacts on immediate and adjacent areas. I move:

> That the report be noted.

Question resolved in the affirmative.

Report No 21

MRS DUNNE (10.53): This is report No 21, and there is more to come, Mr Speaker. I present the following report:

> Planning and Environment—Standing Committee—Report No 21—Draft Variation No 173 to the Territory Plan—Heritage Places Register—Residential Precincts (Alt Crescent, Barton; Blandfordia, Braddon; Corroboree Park, Forrest; Kingston/Griffith, Reid; Wakefield Gardens Housing Precincts), dated 10 July 2003, together with a copy of extracts from the relevant minutes of proceedings.

The report was circulated to members out of session. This report has been a long time in coming. It has taken a long time for the question of how we rejig our heritage areas to make its way through the Heritage Council and Planning and Land Management. The Planning and Environment Committee spent considerable time looking at the issues. The committee, generally speaking, were in agreement with the general thrust of the draft variation as put forward by the Heritage Unit but found considerable problems in the documentation and a lack of clarity in thinking.

While we have generally recommended the adoption of draft variation 173, it will not be without more work on the part of the planners. We have asked that the planners go back and rewrite the documentation—not to change its intent, but to ensure its clarity. There are many occasions throughout the report where there is uncertainty as to whether a provision is mandatory or discretionary. There is interchanging use of "shall", "should" and "may", and we have asked that these matters be clarified.

In the process of the hearings, the quality of PALM's consultation with the community was raised on a number of occasions and took up a considerable amount of the committee's and the community's time in considering this draft variation. The theme of the quality of the former Planning and Land Management's consultation has been persistent through a number of variations in the life of this Assembly. The committee believes that the process deserves some attention, so that the issue does not continue and so that the community is actually and fully consulted.

The committee strongly urges the Assembly to accept the report and its recommendations so that the long-term quality impact flowing from draft variation 173 is the preservation of Canberra's heritage precincts and heritage values. I move:

> That the report be noted.

Question resolved in the affirmative.

Report No 22

MRS DUNNE (10.56): I present the following report:

> Planning and Environment—Standing Committee—Report No 22—Report on 2003 National Conference of Public Works and Environment Committees—*The Sustainability of Regional Development—Addressing the Triple Bottom Line*, dated 8 August 2003, together with a copy of extracts from the relevant minutes of proceedings.

I present a report on the attendance of the committee at the 2003 National Conference of Public Works and Environment Committees between 29 June and 3 July, which was tabled out of session on 8 August. The theme of the conference was "Sustainability of regional development: addressing the triple bottom line." The

conference is an annual meeting of all relevant Australian and New Zealand parliamentary committees, hosted by a different state or territory each year.

This year's conference was hosted by the Economics and Industry Committee of the Parliament of Western Australia, and focused very strongly on the abatement of greenhouse emissions; the protection of the environment; the promotion of regional development and co-operation; sustainable development; and the environment.

This conference was directly relevant to the committee's current inquiry into renewable energy and sustainability, which we have had before us for some time. The conference was afforded a wealth of experience from a wide range of experts, a substantive subject matter and contacts that are proving to be of immense benefit to the committee in formulating its report to the Assembly.

The committee is aiming to table its first report as part of a series of reports as part of the inquiry in the September sittings. The conference covered the path to sustainability for Australia and its regions and regional government, regional sustainability and sustainable resources development.

We looked at the WA sustainability strategy and regional development strategies; sustainability with an industry perspective—with presentations from BP, Gorgon, Rio Tinto, Hamersley Iron, Woodside, BHP Billiton and the Pilbara Development Commission—the sustainable approach to energy enterprises, regional development and indigenous governments; horizontal equalisation; and the sustainability of regional development.

The report gives details of much that we covered and, on behalf of the members of the committee, I would like to express appreciation to the Speaker for affording us the approval to attend this very valuable conference and to provide a valuable return on investment, which will be shown in the committee's forthcoming reports. I urge members to look at the report and come to us with issues they find of value. I move:

> That the report be noted.

Question resolved in the affirmative.

Suspension of standing and temporary orders

MR CORBELL (Minister for Health and Planning) (11.00): I move:

> That so much of the standing and temporary orders be suspended as would prevent notice No 2, Assembly business, relating to the disallowance of Variation No 200 to the Territory Plan being called on forthwith.

The disallowance proposed by Mrs Dunne to variation 200 to the Territory Plan is required to be resolved by the Assembly this sitting week—indeed, by close of business today—if an automatic disallowance is not to take effect. For those purposes, I proposed that, instead of variation 200 being dealt with as a disallowance during its regular time, Assembly business on Thursday, it be dealt with today.

Question resolved in the affirmative, with the concurrence of an absolute majority.

Territory Plan—variation No 200

MRS DUNNE (11.01): I move:

> That Variation No 200 to the Territory Plan, made pursuant to the *Land (Planning and Environment) Act 1991*, be disallowed.

We are here today because, despite a unanimous report of a four-person standing committee of this Assembly, all that was said in extensive consultation and in that committee has been disregarded. All that was said in that time was that draft variation 200 does not meet the needs of the people of the ACT and does not even meet the stated aims of the minister.

This minister and this government fly in the face of the evidence presented through the consultation process and in this report. The minister will stand here today and tell us that he made an election commitment to preserve the garden city. I contend, and the members of my committee contended when they wrote this report, that this is not the way to do it.

Let me preface my remarks with a disclaimer of sorts: I do not disagree with the basic thrust of preserving the garden city. Setting out to preserve the garden city character of Canberra while moving forward with a 21st century notion of planning is important. What this report showed, and what I contend today, is that this is not the way to do it.

Let's look at the elements of a garden city—this is one of the issues that we dwelt on considerably. Paragraph 2.3 on page 9 of the report says:

> The Garden City notion was also proliferated from the late 1950's—

of course, it was before that—

> when Canberra was developing into a series of new towns. The National Capital Development Commission (NCDC) 1970 Report 'Tomorrow's Canberra! Planning for Growth and Change' stated: 'The people of Canberra have continued to demonstrate their desire for low densities and garden shrubs', so the NCDC's policy premise for planning became:
> a) retention of the small town character of the bush capital;
> b) residential areas lying in the valleys and within a framework of hills;
> c) a number of districts linked by a system of arterial roads and lying in the valleys between tree-covered hills and ridges; and
> d) using vegetation and well-planned parks, playing fields, continuous street trees, no front fences to create one enormous garden suburb.

We talked to the planners about this and how with draft variation 200 we were actually creating or enhancing this garden city concept as laid out in the NCDC document. What it boiled down to was that the on-block vegetation that we have seen over the years contributed to the garden city concept. The genesis of this report was

that the on-block vegetation became less and less important while other issues became significantly more important.

None of the principal elements of the garden city notion—the green backdrop to the city, the ridges, hills and buffers, the park concept, the street trees, the layout of the streets, the wide verges—is actually addressed by draft variation 200. The only element of the garden city that is addressed in draft variation 200 is on-block vegetation, and that only fleetingly.

What we found was that this was a too prescriptive, one-size-fits-all approach. In the Planning and Environment Committee, of which I am very proud to be chairman, we take our work very seriously. We came to a unanimous decision that this was not the way to go, and we did not come to it lightly. I pay tribute to the members of the committee for the professional way in which they addressed this issue.

I think I have to pay tribute to Mr Hargreaves, who came to us one day and said, "We have to answer one vital question: will draft variation 200 make it better or make it worse?" This was our starting point. We discussed it, we looked at all the pros and cons and we collectively answered the question that Mr Hargreaves asked. Draft variation 200 will not make it better.

A huge amount of consultation went with draft variation 200. You will no doubt be aware that there were many changes throughout the consultation process and that draft variation 200 had a forerunner in draft variation 192, which limited dual and triple occupancies to 5 per cent and had its interim effect at the beginning of December 2002.

Draft variation 200 itself was released in May 2002 and it went through many changes. It was changed in August 2002 to allow further development applications to be considered. In September 2002, new private open space standards came into effect. In November 2002 and on 17 December 2002, more changes were made, the latter including into draft variation 200 the 5 per cent dual occupancy limits previously in draft variation 192.

There was a final draft variation, which was presented to the executive and then to the Planning and Environment Committee in December 2002. Over that time, what had originally started as draft variation 200 changed beyond recognition. What people first started to comment on in May 2000, by December 2000 was an entirely different beast.

There were 700 submissions at various stages of this process between May and the tabling of the committee's report in April last year. That is a fairly substantial chunk of submissions for any change to the Territory Plan—far more than we had experienced on any other. A substantial number of them were to the green paper version that went to PALM, but the Planning and Environment Committee received in excess of 200 submissions on draft variation 200. We conducted 25-odd hours of hearings.

What did it boil down to? What was the community saying about draft variation 200? I will just pick out a few things. On page 14 of the committee's report, it says:

> Draft Variation 200 ignores the 'big picture' in Canberra. It has no vision and no link to, and some inconsistency with, other current planning layers, namely the Spatial Plan, the Neighbourhood Planning Processes, the Affordable Housing Task Force Recommendations …

It says, "Logic is missing from the document," "It is a complex document, very poorly written," "The current form of the Draft Variation represents a major change from the May 2002 version." It says it is "based on a one-size-fits-all premise". These are not my words, but it is nice when you say things that it actually comes back to you. It resonates with people. The notion that draft variation 200 is a one-size-fits-all solution is resonant throughout everything we have seen.

By contrast, it says:

> 'Fine-grain' solutions must be applied so that there is an 'appropriate fit' for each suburb's circumstances; current Draft contains rigid rules and is too prescriptive;
> …
> Draft Variation 200 will not deliver affordable housing, or a sustainable city; …

These are not my words; these are the words of the Canberra community. And throughout this process, the words of the Canberra community have been ignored. Draft variation 200 makes great changes to the way we manage our city. If we make great changes to the way we design and run our city, we must make sure we get it right. Future generations will judge us severely if we do not.

Through much of what has happened with draft variation 200 and in this committee's final report it has been contended that the sequencing, which is all-important, is wrong. The committee felt the draft variation did not fit in the right sequence. The community felt that in the mosaic of planning documents that were around, the draft variation was out of sync with the strategic direction. We all agree—in this place and, I think, in the community—that there is a need for a strategic plan that has broad agreement. The clear message that came through the consultation on draft variation 200 is that the strategic plan needs to come first.

Since draft variation 200 was reported on by this committee, we have all known—we are not dolts—what path the government are going down when looking at their spatial plan. The work they are doing is good and is commendable, and I do not think anyone in this place has any real problems with the thrust of that and where we think we will be going with the spatial plan.

In discussing this with the minister, and other people, I have said—and it has been borne out by people who are more expert on the subject of planning than I am—that draft variation 200 is the wrong solution at the wrong time. The minister, on his own admission, on a number of occasions has said that this will be a stopgap measure. He says this is something we will do now and, after we do the spatial plan, we will come back and re-do it.

Mr Speaker, this is not how we do territory planning in this place. The Territory Plan needs to be a document of some longevity, and this document, on the admission of its principal architect, is not a document with any longevity. In two or three years time,

we will be in here again, undoing what has been done by this minister in a loose coalition to thrust through something which he says is his own idea. He made a commitment to preserving the garden city but, in his attempt to preserve it, he has blundered along in a way that will mean the downfall of many others.

I refer you to recommendations 4, 6, 8 and 10 of the Planning and Environment Committee—and especially No 2, which says, "Don't proceed with Draft Variation 200" and No 1, which says what you do to preserve the garden city elements of Canberra.

After this what happened? The minister decided that he must have his own way, and he lived up to what he says is a throwaway line about how the Planning and Environment Committee had better get used to being ignored. He ignored everything—with one exception. He basically said it was too difficult and you would have to go back to tors and start again and, if you did not do anything, the whole world would come to an end.

Enter Ms Tucker and the Greens. Ms Tucker and the Greens like to talk about process. They like to give the impression that they place the community's wishes above all else. But what did Ms Tucker and the Greens do? You have to remember that, of all the groups and individuals in this Assembly, Ms Tucker and the Greens were the only ones who were not formally involved in the draft variation 200 process. At the end, I asked the question: did Ms Tucker sit down and read the 700 submissions before she did a deal with the government? I think not.

There was a narrow ideology—there were people who wanted one particular thing to happen—and Ms Tucker thought that she could broker a deal. But she did not think about the long-term impacts, the unintended consequences or the collateral damage. I would like to give a couple of examples of things that will go wrong if we introduce a one-size-fits-all draft variation 200.

A constituent who is building a house in Nicholls approached me because he is building a swimming pool in his backyard. It is not an ordinary swimming pool: he is enclosing that swimming pool. So that swimming pool ceases to be private open space and becomes part of the building. As a result of building a roof over his swimming pool, he exceeds the allowable plot ratio by 1 per cent and cannot build his home. Ms Tucker may not be interested in people in Nicholls with covered swimming pools, but they are still constituents and people with needs. This man may have someone who has chronic asthma in his family, and a swimming pool may be a health issue.

Let's look at some of the other people. Two generations of a family in Chapman who were affected by the fires contacted me. They decided they would consolidate their residences on one block so as to provide appropriate retirement accommodation for ageing parents. They did not plan to build a grand house. The footprint was not much bigger than the previous footprint of the house in Chapman that was there. But it was bigger, and it exceeds the plot ratio.

They cannot build appropriate retirement accommodation for their aged parents on the block, where two generations will be living—so there would be three generations of family living together on one block. We talk about building social capital and

ensuring that elderly people stay in the suburbs as long as possible. But draft variation 200 means that the people in Chapman cannot do it. Before the fires and before draft variation 200 happened, they could. *(Extension of time granted.)*

Another constituent from Duffy who had his house burnt down by the fire went to rebuild his house. His house does not conform exactly with the previous footprint, but the southern wall of the house that he proposes to build is in exactly the same place as the southern wall of the previous property that he had on the block. He cannot build it there, because draft variation 200 says that he will overshadow—not the house next door—the driveway of the house next door, and one day somebody might want to build something in that driveway that will be overshadowed. So, what was possible before the fires is now not possible.

There is another person who rang me. This man is an invalid pensioner, and he lives in Kambah. The very large house that he occupies with his father, who is also an invalid pensioner, burnt down. They thought a big block would too much for them to handle and they would not be able to do the gardens. They applied to have a dual occupancy on the site.

The bank would lend them the money, and PALM would allow them to build it. What happens? Draft variation 200 comes along, and it is in an area where you cannot strata title your dual occupancy. The bank would continue to lend them the money to do it. They could afford to do it but, if they did it and rented out the other dual occupancy, they would lose their invalid pension.

This is what draft variation 200, the one-size-fits-all solution, does to people across Canberra—in Nicholls, Chapman, Duffy and Kambah. They are just a few of the people who have come to me. But do Ms Tucker and Mr Corbell care? I do not think they do. I do not think Ms Tucker cares about invalid pensioners in Kambah because there are not many Green votes in Kambah.

We made suggestions to this minister about how we might pull the fat out of the fire. I came to the minister and said, "Let's look at making draft variation 200 for the designated garden city suburbs and putting a sunset clause in it, so that we have to come back and revise it."

Mr Corbell: Which suburbs are they?

MRS DUNNE: We could have worked that out; I was prepared to negotiate. I do not want to see a draft variation affecting the way people build their houses in Nicholls, where they already have small blocks, or in places like Evatt and Kambah, which are not garden city suburbs. They never have been and never will be. There is no clamouring to stop suitable dual occupancies in Kambah. There might be in Downer; we might have to look at Downer. But you would not come to the party; you wouldn't negotiate.

Mr Corbell talks about planning for people. Before the election he talked about planning for people, but what happened afterwards was that the people were forgotten. That is another example of this minister talking the talk and, when it comes to the crunch, not walking the walk.

I have talked to people in suburbs as far afield as Kaleen, Kambah, Aranda, Evatt, Chapman and Duffy. They do not want the impact of draft variation 200 on their suburbs. My colleague, Mrs Burke, has been talking to housing trust tenants who are concerned about the impact that draft variation 200 will have on them. My constituents in places like Evatt and Latham do not want this.

Mr Corbell has not been listening to these people; I wonder who he has been listening to. I wonder who Ms Tucker has been listening to, because she has not been listening to the community on this. She may have been listening to a narrow group, but she has not read the report and she has not read the 700 submissions and seen the variation of views. But the combining theme of 96 per cent of the people who came to us was: do not make draft variation 200.

We have to get it right, and Mr Corbell and Ms Tucker have got it very wrong. They have rapped around with fuzzy, warm, cosy rhetoric about how important draft variation 200 is, but I suspect it is the death knell of sustainable development in the ACT.

We spend a lot of time talking about how important the spatial plan is and how important it is to be strategic about it. But when this government paid for OECD officials to come here and talk to us about urban renaissance and urban renewal, the expert that they paid to come out here, Dr Joseph Konvitz, said—and it is a very important thing; it has a lot to do with draft variation 200—that we should be helping each urban place to achieve its potential, not according to an abstract model but rather according to an analysis of the specific strengths and weaknesses of the place.

Mr Speaker, draft variation 200 is an abstract model. This committee recommended that we look at each community on a case-by-case basis, look at its topography and orientation and see whether we have the right solution. But this minister and his colleague on the crossbench have failed to do that. In doing so, they propose another planning nightmare in the ACT. I commend the disallowance motion to the house.

MRS CROSS (11.23): It is a great shame that there is a need for this disallowance to be moved. It is also a shame that the minister is not able to work with members of the Assembly Committee on Planning and Environment to reach a compromise. This committee was charged with the responsibility for consulting with the broad community in Canberra on planning issues surrounding draft variation 200.

It is a shame that the work done by that committee in consulting with Canberrans seems to have been summarily dismissed by both the minister and the Greens. I am surprised that the Greens have dismissed the consultation process so willingly in the move to support the government.

Ms Tucker has so often spoken of the need for consultation in this Assembly. In fact, Ms Tucker has often been responsible for ensuring that consultation has taken place, particularly when wide-reaching legislation has been tabled or even hinted at. Ms Tucker, in my memory, is always the first person in this Assembly to promote the importance of the committee system and the need to listen to the community.

Ms Tucker has now dismissed the community and the consultation process that was carried out.

I, for one, am extremely surprised and even a tad disappointed that Ms Tucker would compromise her beliefs and the committee system as a whole—and for what? I would like to add that the consultation process was carried out in the usual way: very thoroughly. Ms Tucker is not known for dismissing committee consultation or committee reports, especially when there is a unanimous report of that committee. So, what has driven Ms Tucker to turn against her principle stand in this way?

As I have said, it is a shame that we are now debating a disallowance motion on DV 200 instead of having a draft variation that has been developed and accepted by the Assembly. The Minister for Planning, Mr Corbell, has done his deal to get his draft variation approved. He has done his deal with the Greens to achieve what he believes is a good political result. Whilst it may be a very good political result for Mr Corbell, it is not a very good planning result for Canberra and its residents.

When examined in closer detail, Mr Corbell's and Ms Tucker's deal to pass DV 200 shows what both think of the community. It shows what both think of their constituents. It shows what both think of the committee system. It shows what both think of Canberra. It is sad that Mr Corbell was happy—and, I might add, quick—to do his deal with the Greens instead of working to reach a compromise with other members of the Assembly, who were very keen to have a DV 200 in place, in a way that worked for Canberrans as a whole.

I have worked hard to broker a compromise with members of the committee and the minister over a number of weeks. I am aware that other members of the planning committee were also working to achieve an acceptable compromise. All committee members were keen to have an appropriate DV 200 accepted. It was a unanimous report from committee members, who attended the meetings and hearings.

These are the members who spoke to the stakeholders and who were involved in the consultation process. Unfortunately, the minister, Mr Corbell, was not willing to work towards a reasonable outcome, so he is now dealing with a half-hearted draft variation, which I predict will be changed and changed again as problems arise and the real political reality can be seen by the government.

Draft variation 200 should not have been dealt with until after the spatial plan was completed. If we had dealt with the spatial plan for Canberra first, then DV 200 would have provided a far more sensible and logical way forward. As I have said before, it is a shame that we are here debating the disallowance of DV 200. It is a shame that this could not have been worked out in the mature, reasonable and apolitical way it should have been.

Draft variation 200 of the Territory Plan is like a burnt stew. No matter how much you try to add things to take away the burnt taste, no matter how much you try to scrape the burnt bits out of the pot, the taste is the same. It is ruined and the taste is burnt stew. Like a burnt stew, DV 200 needs to go back to the beginning and get a clean pot and some fresh ideas and views. It needs to get something that, for once, will last unamended for years and provide positive planning guidelines for Canberra.

In answer to Ms Tucker's comment earlier about whether we read the submissions, yes, we did read the submissions. This committee is a responsible committee. It looked at this process in its entirety, and it burnt the midnight oil on many occasions in order to do its job properly.

MR CORBELL (Minister for Health and Minister for Planning) (11.28): Mr Speaker, the government clearly will not be supporting the motion proposed by Mrs Dunne today. I would like to put on the record the government's position in relation to this variation and put to rest, first and foremost, some of the myths that have emerged about it.

We heard from Mrs Dunne earlier in the debate that there were lots of submissions from the community. Mrs Dunne said that they were all opposed to the variation and she then used that to justify an argument that we needed more flexible and less tough planning rules that facilitated a greater level of development. I do not know whether she actually went and looked at the submissions.

Mrs Dunne: I take a point of order, Mr Speaker. I am not quite sure where the minister was during my speech, but I did not at any stage say that we needed to have more flexibility for more development.

MR SPEAKER: There is no point of order, Mrs Dunne.

MR CORBELL: Mrs Dunne stood up in this place and said that we needed to recognise that dual occupancy should and can occur, that we needed to recognise other things should and can occur. Mr Speaker, if she had actually looked at the submissions, especially the submissions that came from resident organisations and community organisations, it would have been quite clear that what the submissions said was that they did not think variation 200 was tough enough, not that it was too tough and too restrictive on development. They wanted to see tougher controls on development—in particular, tougher controls on dual occupancy development and tougher controls on triple occupancy development—but not the reverse, which is what Mrs Dunne claimed in her speech.

As for my apparent unwillingness to negotiate a compromise on this issue, the situation was, in fact, quite the reverse. I spoke with Mrs Cross, Ms Dundas and Ms Tucker and sought to find a compromise. I offered a compromise to Ms Dundas and Mrs Cross. Ms Dundas said very clearly—

An incident having occurred in the gallery—

MR SPEAKER: Order! Mr Corbell, resume your seat. There is a disturbance in the gallery. A member of the public is in attendance with a sign and making some sort of protest. I order that person to leave the gallery forthwith, otherwise I will suspend the sitting until the person is removed. I call Mr Corbell.

MR CORBELL: Mr Speaker, I did offer a compromise to Ms Dundas and Mrs Cross. What was the response from Ms Dundas? She said, "We are not going to do a deal. No deal; no compromise is possible." That was Ms Dundas' response.

Mrs Cross indicated, basically, that she did not see how she could progress the issue either. I had offered an option, but she was unable to come back to me and say whether she could or could not accept it. What was the government to do? What the government did, Mr Speaker, was that it went and spoke with a member who was prepared to find a compromise and who recognised that this variation was a significant improvement.

Mr Speaker, this variation is the direct result of a mandate that this government sought at the last election to introduce better residential land use policies to protect Canberra's garden city character and the variation delivers on that commitment. The consequence of supporting this disallowance today should be the key issue in the minds of members of this place.

The consequence of supporting this disallowance, of erasing variation 200, would be continued community uncertainty created by the random location of multiunit redevelopment throughout Canberra, essentially the continuation of the regime of the previous government, the continuation of high plot ratios for dual occupancy development in suburban areas, and the continuation of the trend towards overly large houses that dominate the block and the landscape. Those members who vote for Mrs Dunne's motion today will be supporting exactly that outcome. That is the question that members need to ask themselves today before they vote.

Let me outline in some detail what it will mean if this variation is not supported today. Let us look, first of all, at the issue of plot ratio controls for single dwellings. Variation 200 proposes a 0.5 plot ratio control for single dwellings, a control on the size of single dwellings. What is in the Territory Plan currently and what would be in the Territory Plan if this variation were defeated today? There would be no control over the size of single dwellings.

How could any member of this place support that approach, particularly someone who comes from an independent perspective or from the perspective of the Democrats? How could you support no control over single dwelling developments? How could you support an approach which permits triple occupancy development and no control in the Territory Plan, which is what would be the case if this variation were defeated today?

How could you support an approach which permits block consolidation for multiunit development in any residential development area and no other control in the Territory Plan in relation to land use activity? That will be the consequence if this variation is not supported today. How could you support an approach where there was no statutory control over the minimum size of a block for a dual occupancy development? That would be the consequence of not supporting this variation today.

Failure to support this variation today will mean that there will be no specified size for a block that can be used to control dual occupancy development. There is a guideline, which is all we have been relying on to date, but no statutory control, no control that actually can be part of the Territory Plan and can be unambiguous in saying, "This is the control when it comes to dual occupancy development."

Let's go a bit further. Let's look at height controls. Mr Speaker, under the current Territory Plan and under the planning controls of the previous government, basement car parking was permitted in addition to two-storey development in residential areas. Under the current Territory Plan without variation 200, under the plans and controls of the previous government, loft development was permitted as part of any standard two-storey development in a residential area. The consequence of permitting basement car parking and loft development, in addition to two storeys, would be to create three or four-storey development in a residential area. That is what those members who support Mrs Dunne's motion today will be voting for—de facto three or four-storey development in a two-storey zone.

All of the issues I have outlined are issues that variation 200 seeks to address, and does so in a comprehensive way. Clearly, it is not an acceptable outcome from the government's perspective and, clearly, it is the reason we will not be supporting the proposition from Mrs Dunne this morning.

Mr Speaker, the garden city variation introduces stronger rules for dual and triple occupancy development and reinforces the existing policies of the Territory Plan by retaining opportunities for additional housing development around local and group centres. The government has addressed the range of concerns that have been raised by introducing new planning provisions that prohibit the amalgamation of blocks for multiunit redevelopment in suburban areas, something apparently the Democrats oppose, by restricting the maximum plot ratio of dual occupancy developments in suburban areas, something apparently Mrs Dunne opposes, by introducing a maximum permissible plot ratio for single dwellings, something apparently Mrs Cross opposes.

The garden city variation also increases the required amount of private open space and introduces a requirement that 50 per cent of the private open space be a permeable surface or able to be permeated by water surface. It also provides increased protection from overlooking and overshadowing, something apparently the Democrats and Mrs Cross oppose. All these improvements would be lost if the garden city variation were rejected by the Assembly. That, Mr Speaker, is simply not acceptable.

The government also considered the recommendations of the Standing Committee on Planning and Environment. Some changes have been made, such as to agree with the committee's recommendations that the 800 square metres block limit for dual occupancies be maintained. *(Extension of time granted.)*

A further change has been made to prohibit the separate titling of new dual occupancies in suburban areas. This provision, together with the sliding scale plot ratio, will ensure that dual occupancies in suburban areas are limited in both potential number and size. However, dual occupancies will continue to be permissible in suburban areas, but without unit titling, subject to mandatory high quality and sustainable design processes, to meet demonstrated social needs. The couple that Mrs Dunne referred to in Chapman can build a dual occupancy as long as their block in large enough; they just cannot unit title it.

Many groups have now advised that they support the provisions of this variation, rather than the proposal from Mrs Dunne to revert to the existing policies of the

Territory Plan. These groups include the Downer Community Association, which generated the majority of the submissions to Planning and Land Management, as it was then, and to the Standing Committee on Planning and Environment and the ACT Property Council. Both of these groups initially objected to the garden city variation.

Mr Speaker, planning policies are always controversial, and consensus agreement on the details is very difficult to achieve. Compromises must be made. The Downer Community Association and the ACT Property Council perhaps represent two of the extremes, or different ends of the spectrum, on the planning debate but they have both recognised the reality of having a sensible and appropriate compromise that delivers certainty to our residential land use policies.

Unfortunately, Mrs Dunne and some members of the crossbench have not. That is not acceptable to the government, because the garden city variation supports the strategic objectives of developing a sustainable city with a high quality urban environment. It moves to address the issue of shotgun-style redevelopment occurring in an ad hoc manner across our residential areas and, instead, focuses development activity around centres that actually address community need—higher densities close to the shops, services and facilities that people will need as they age; lower densities further away from those facilities which better suit families and those who are more active. Mr Speaker, it is an appropriate planning policy, one broadly accepted by the community at the last election.

The garden city variation is demonstrably not a one-size-fits-all policy. There have been substantial revisions to the definition of core areas in the residential core areas since the variation was first placed on public exhibition in May 2002. Each individual core area is now defined on the Territory Plan map. The boundaries take into account unique local features, such as roads, parks and walkways. Unlike the original version, not all local centres now have a core area. Again, the variation to the plan has responded to the specifics. In addition, there is further provision to amend and better shape the core areas through the neighbourhood planning process. That has actually occurred in a number of suburbs which have undertaken neighbourhood planning to date.

Mr Speaker, the ultimate test of any planning policy is what happens on the floor of this place. We are elected to represent the community. We are elected to ultimately make the decision on what should be in the Territory Plan and what should not. That is why the land act provides for variations to the Territory Plan to be debated on the floor of this place. We can assert that the community has been listened to or not listened to, but ultimately the test is: is the variation supported on the floor of the Assembly? If it is, then it has the support of a majority of people in the community. That is the basis on which we make planning law in this city.

Mr Speaker, I urge members to support the government's variation and to oppose this motion. Not to oppose this motion is to go back to the past, to the planning policies of Brendan Smyth, to the planning policies of the Liberals, to the planning policies which saw ad hoc redevelopment activity and which saw a significant number of Canberra suburbs placed on the endangered places list by the National Trust. That is the past. Either you support that or you support an approach which moves forward with better protections for Canberra's suburbs.

MR HARGREAVES (11.43): Mr Speaker, people know how I voted on the recommendations in the report on draft variation 200, but I owe the Assembly and the community an explanation as to why I am not going to support the disallowance motion.

Mrs Dunne: We know you were rolled in the party room, John; it's all right.

MR HARGREAVES: Mrs Dunne's insulting comments only make me feel a little bit more like denigrating her in public, but I will resist the temptation, Mr Speaker, because she does so well herself. She needs no help from me in portraying herself as a blind, bitter and twisted woman because she did not get her own way.

MR SPEAKER: Mr Hargreaves, I think that that is unparliamentary. Withdraw it, please.

MR HARGREAVES: I am happy to withdraw that I said that she was bitter and twisted, Mr Speaker, and I do so with absolute and complete contrition.

MR SPEAKER: Thank you, Mr Hargreaves; I appreciate that.

MR HARGREAVES: Mr Speaker, committees are convened by the Assembly to come up with recommendations to the Assembly, not to the government, and it is for the government in its response, as is its wont, to pick up or reject the recommendations, knowing that it will be tested at the next election for doing or failing to do something. If, after the consideration of a committee report, a member wishes to pick up an issue and move a motion for its disallowances, so be it; that is their right. But to use that process as a gigantic dummy spit because you do not get your own way, because you are not able to run the actual argument, is pushing things a little bit too far.

Mr Speaker, I reiterate that the role of a committee is all about recommending to the Assembly and, through it, the government of the day the adoption of a certain course of action and the role of the government of the day is to respond to that report by saying that it accepts or rejects particular recommendations and acting accordingly, knowing that it will be judged on its performance at the next election.

Mr Corbell talked about movement. He also talked about whether the community consultation process was as has been described by Mrs Dunne. Let me talk briefly about the community consultation process. I distinctly remember people, in giving evidence, congratulating PALM and the government on the extent to which they went about community consultation with both versions. I remember people who were not particularly pleased with the product being complimentary to the officers of PALM for the way in which they went through the community consultation process. People who disagreed with the proposal still reckoned the process was a good one, says he to the departing back of Mrs Dunne.

I want to add my feelings yet again in public towards the officers of PALM and the government for the way in which they went about it. I have to make the observation that there were not queues lined up outside the committee room of thousands upon

thousands of Belconnenites and Tuggeranongites who were absolutely aghast at this draft variation. We actually had a few hundred people from Downer and they had a legitimate concern, in my view. We had some people from Dickson and we had some people from Turner and then we had to go begging for submissions from the Weston Creek and Tuggeranong community councils because they had not put theirs in.

Unfortunately, Mrs Dunne is suffering from selective amnesia, because she does not recall the letter she signed to go to the Tuggeranong Community Council saying, "Do you want another bite of the cherry?" They gratefully accepted the invitation. They made the point that there was not much in draft variation 200 that adversely affected the people of Tuggeranong, so their appearance was rather brief.

I remember that quite distinctly. If my memory is a little hazy, it may be that it was said in a conversation I had with the president of that council independently and I have got the two mixed up. Notwithstanding that, there was not a great deal of opposition other than from people in the Dickson/Downer/Turner area. I thought that their concerns, for the most part, were reasonably legitimate.

But the big one for me—and committee members will remember my saying this repeatedly—was about the 800 or 700 square metres block limit. I am absolutely pleased that the government is leaving it at 800 square metres. That will fix itself. There are plenty of blocks around this town of 800 square metres; we don't have to go down to 700 square metres. I am pleased as punch about that.

Mr Speaker, I am not going to go on. I will not be supporting this motion of disallowance. Mrs Dunne's assertion that I got rolled in caucus is quite incorrect. I will just treat that remark with the contempt that it is due.

Mr Corbell did, in fact, concede the point that the committee made about 700 and 800 square metres block limits. The community consultation process, in my view, was brilliant—all credit to the officers concerned. I have to say that, once a committee has made a recommendation to the Assembly and the government has responded, let the community decide. How many times have we heard the bleating sheep opposite say, "Let the community decide. Let's go to the community and get them to decide." No, this time the shadow minister for bleating, leading the charge for the Liberals, has decided that the Liberal Party knows much better than the community at large.

I would argue, Mr Speaker, that the community has spoken in that the concerned citizens of Downer, Dickson and so on had their say, but the rest of the place was deafening in its silence. Quite frankly, the rest did not care less. Take a look at the number of submissions you had from Page. Take a look at the number of submissions you had from Hawker. Take a look at the number of submissions you had from Stirling. Take a look at the number of submission you had from Conder. Take a look at the number of submission you had from Barton.

Mr Smyth: What about the Manuka LAPAC?

MR HARGREAVES: Yes, I agree with time out being signalled. I was just responding to the interjections of the Leader of the Opposition. He is such an

entertaining sort of person that I had to respond to him. Maybe I was a bit weak; sorry about that, troops.

Mr Speaker, I have to say that I will not support a member of a committee saying, "I did not get my own way because the government did not do what my committee said, so I will move a disallowance motion." I just cannot do that. I think that the government has provided a compromise sufficient to warrant its going forward and I agree absolutely with the minister when he says that either we can go back to the past or we can go forward.

One of the things about draft variation 200 that we were all agreed on was that possibly it was a little complex, possibly there was a little bit too much in it for one draft variation. I support that view. Splitting it up might be the go. The minister and the government have compromised enough: let us move forward. It will not be the end of the world. The wheels are not going to fall off the trolley on Thursday. The world is not going to end at half past four on Friday afternoon.

If it does not work, there is an Assembly in place to fix it. An election will be coming up in October of next year. I look forward to that because I just love seeing you blokes being flogged to death and I propose to be around to watch that happen. Mr Speaker, I will be supporting Mr Corbell with every ounce of strength I have.

MS DUNDAS (11.52): Before I move on to the greater discussion of variation 200, I would like to express my disappointment at the tone that this debate has taken. We are discussing planning issues. We are discussing specifically variation 200. I do not think that we need to be discussing the personal work habits of members of this Assembly and questioning the ways that people have reached their decisions. We all have a very important role to play in this Assembly and we all go about the job slightly differently. There is no need to degenerate to personal attacks in the way that we operate. I am, as I say, disappointed that we have gone that way.

That being said, the ACT Democrats will be supporting the motion to disallow variation 200 to the Territory Plan. This variation has been the subject of an exhaustive public consultation process and an extremely long inquiry by the Planning and Environment Committee and that committee concluded that the variation should not proceed.

I believe that, if the Assembly allows this variation, the new planning rules dictated by it will be in force for the foreseeable future. It appears unlikely that the present government will revisit these changes in any meaningful way while it retains office, despite the words of Mr Hargreaves. I believe that we will not get a second chance to get our planning rules right for a very long time. That does not mean that I think that the old planning rules are the best. I think we can safely assume that the majority of this Assembly has problems with the way current planning laws in the ACT operate, but I do not believe that draft variation 200 offered the best solutions.

Mr Corbell spoke about the discussions that were had after the committee report was tabled. I believe that I did offer a solution, which I then put out publicly after I had discussions with Minister Corbell, in requesting that we retain draft variation 200 as an interim measure while we work on a better solution.

As has been said repeatedly today, draft variation 200 pre-empts the spatial planning process, it pre-empts and overlaps a number of the neighbourhood planning processes that the minister is so proud of and, in some ways, it runs counter to the discussions we are having as a result of the inquiries that have come out of the bushfires.

I was not saying, "Throw out draft variation 200 completely." I was saying, "Let's take the time to get the planning regulations right. We know there are problems and would all like them fixed." Unfortunately, I am now in a position where I have to say that variation 200 is not right, that we could have done better and, because of that, I cannot support it.

Variation 200 goes to the core of our ideas of what the planning rules should be in Canberra. It will affect the type of housing that we build, where it is located and, in turn, both the degree of sprawl and the cost of housing in the ACT. This variation overlaps considerably the spatial plan about how we should intensify building throughout our city, the amenities of urban open space and the character of our neighbourhoods. It does appear to pre-empt the outcomes of the discussions about that by preordaining the patterns of development of future housing.

One of the main aspects of the garden city is the gardens and the streetscapes. Unfortunately, variation 200 seems to ignore the streetscapes. It looks at the house, how big it can be, its overhangs, its shadows, how it impacts on its neighbours, but not at how it impacts on the street and how that great strip of land that runs between most of our houses and the road will be impacted upon.

That is what most people know as the garden city. As they drive round our streets and our suburbs, they do not always notice the houses, but they notice the trees that sit between the houses and the road. That is, I believe, a part of planning and the maintenance of that has been ignored by variation 200. I am concerned that it is described as the garden city variation as it does not necessarily recognise what Canberrans think about what makes up the garden city aspects of this town.

I will agree that there is some merit in the planning controls specified for the suburban area. The introduction of controls related to solar access and increased permeable areas in suburban development do need to be applauded. However, there are some planning controls included that are best suited for those areas, particularly in parts of the inner north and inner south, where residents currently feel that the garden city character of their streets is being eroded by overzealous development.

In fact, I am certain that in some specific areas of Canberra, the development controls could be even tighter. Certainly, the needs of particular central Canberra residents appear to have been the genesis of this reorganisation of the territory's planning principles. However, there is little evidence that these restrictions need to be blanketed across the entire territory. It has been said that this is a one-size-fits-all approach. I think that that is unnecessary for planning across the ACT.

There are numerous examples of beautiful garden city streets throughout central Canberra and the fear that the aesthetics and amenity of these areas would be lost under the past planning scheme was entirely justified. However, instead of identifying

these areas in need of protection and producing detailed local planning rules to preserve them, the government has rolled out a new system carte blanche, restricting the scope for redevelopment in other areas that may have benefited from a more flexible approach.

Planning in Canberra needs to return to a local scale. Canberra should not be a cloned city where every suburb looks like every other. Policies like variation 200 which force the same level of restrictions and liberties on every community end up disenfranchising everyone. It is quite possible to conduct planning at a local scale in close interaction with individual communities. Neighbourhood planning has begun to operate at this level, though without the scope, resources and democratic processes to properly address all of the community's concerns. For example, it would be possible to envisage a series of residential zonings with different levels of restrictions and policy objectives which, with careful consideration, could be placed to match the needs of local communities.

One of the major concerns I have about the neighbourhood planning process, however, is the way that it has been focused, and continues to be focused, on the inner north and inner south suburbs. I am concerned that neighbourhood planning is not taking place in areas such as Gungahlin which are still undergoing development. What better way is there to get the community involved than when there are still important planning decisions to be made in their neighbourhood? The concerns of the Belconnen region have been completely left out of the neighbourhood planning process. My understanding is that neighbourhood planning will not reach these areas for at least another six years. They have been disenfranchised and at the same time they have had a new planning regime put down on top of them.

I have heard from many community groups about draft variation 200, some of whom argue that it is too lax and will not adequately protect their suburban environment, while others are worried that it is too restrictive and will prevent the regeneration of their area. I understand that we will never reach consensus on planning. So, again, we cannot make everybody conform to a one-size-fits-all formula.

I have never proposed a return to the Liberal's past open slather approach to planning. I have put a proposal forward that draft variation 200 be maintained while detailed local planning initiatives are carried out. Unfortunately, the Minister for Planning has refused this approach and has instead decided to push through without, I believe, giving the people of Canberra the opportunity and facility to develop local planning arrangements that suit the needs of their local areas. I guess it is a question of whose compromise was better.

I understand that a lot of the debate has been about high quality sustainable development and I do agree that the current process is inadequate and not operating effectively. Essentially, the process has become an optional extra for those developers who are interested. But the vast majority appear to pay lip service to the idea or ignore the outcomes completely.

A recent AAT decision has been brought to my attention about a multiunit development which has been through a vigorous HQSD process, producing a result consistent with community standards. However, the developer ignored the idea

completely and pushed ahead with his original design, which was then approved and upheld by the AAT. Cases such as this demonstrate that the HQSD process is currently unenforceable and needs to be further strengthened, both legislatively and administratively.

I am glad that the government is looking more closely at the current arrangements to do with HQSD. However, I am not prepared to trade one idea for another in this issue and support this variation with some unenforceable conditions to try to improve the planning processes in some other areas. I believe that the proposal I put forward repeatedly would have allowed us to get more things right than we are getting wrong. Variation 200, I believe, will not solve Canberra's planning problems and we may now be stuck with it for years or even decades into the future.

MS TUCKER (12.02): The Greens will not be supporting this disallowance motion. The latest version of DV 200 is, in our view, a reasonable framework for planning our city. It is not perfect, but certainly an improvement on the random planning regime set up by the Liberals. It is consistent with Greens' policy in that it targets consolidation around services and facilities. The principle of core areas is significant and worthy of support. It lends itself to sustainability, efficiency and housing choice. It makes good planning sense.

As members are aware, I was not able to support the December 2002 version of DV 200. After considering the issues for quite a long time and talking to many people, we publicly issued a list of changes and associated initiatives that the Greens required the government to adopt in order to get our support. As a result of those negotiations and the minister's adoption of some of my proposals, I am prepared to support the latest version of DV 200 rather than, as I have said, allowing what would be the inevitable alternative, that is, a return to the largely uncontrolled regime that existed under the previous government, with the resultant further invasion of suburbs of insensitive and inappropriate development.

The Greens tentatively supported the original version of DV 200 because, as I have already explained, it was largely in keeping with the Greens' planning policy. There was considerable community input to the consultation phase, with PALM receiving many differing submissions containing support for some measures, reservations about others and recommendations for how it should be modified. However, the version of DV 200 that the government released in December last year, following this consultation, caused considerable disquiet in the community, particularly as it appeared to radically change direction on some very important issues. As we are well aware, it then became the subject of an inquiry by the Standing Committee on Planning and Environment, which recommended that the government not proceed with it.

It is indeed unusual for me to take a position against the unanimous recommendations of a committee report, but I have in the past not agreed with recommendations of reports, as I am sure members are aware. I can think of several obvious ones, such as the Gungahlin Drive extension proposal. But I do think that it is very important to stress at this point in time that I have the right to do that. It is up to each member of the Assembly to understand the issues before them and make a decision according to their policy position and conscience. That is fundamental to the democratic process.

I totally reject the notion that somehow, because an Assembly committee came out with a unanimous recommendation, I have to blindly support it. It is also quite incorrect to say, as I have noticed a couple of speakers have said, that the work of the committee was totally disregarded. Obviously, it was not. It was through going through the submissions and doing the thinking on this issue that we came up with the claims that we made of the government.

In the view of the Greens, the committee did take the easiest position when faced with an important set of changes about which there was considerable disagreement; that is, it said, in effect, "Most respondents have raised concerns about DV 200, so the government should go back to the drawing board and start again." I believe that this approach fails to address the disparate and often conflicting interests, and it seems that members of the committee were able to agree only on the fact that they did not like significant bits of the draft variation.

Simply opposing it outright would have been the easiest thing for me to do. It certainly would have saved me and a very committed adviser weeks of work reading submissions and consulting broadly. However, my responsibility is not to do what is easy, but what I think is in the interests of Canberra. I took the view after doing this work that there was an opportunity to deliver a far better result for Canberra than would have been delivered without my intervention.

Our primary area of disagreement with the committee report is on its main recommendation, No 2, that the government not proceed with the draft variation. We accept that the process of shaping the Territory Plan is an iterative one; that is, from time to time governments will want to implement a broad set of provisions to provide a framework for general application, and also specific-area variations that modify how the general provisions apply in a particular area.

If catering for the differences in specific areas is not dealt with well through this process, the criticisms along the lines of the overall framework being a one-size-fits-all policy become more valid. I will go into much more detail through this speech about what will ensure that we will see the detail taken into account. As the minister has already pointed out, that has already happened. But that does not negate the need for a general framework and set of principles to guide the ongoing process of considering development approvals across the territory.

It is this dynamic of providing for both the general and the specific that we understand is intended to underpin the framework provided by DV 200, and the specific area draft variations that come through the neighbourhood planning process. We accept that there needs to be a general overlay such as DV 200 for planning guidelines. We do not accept the argument that DV 200 should be scrapped until the spatial plan is completed. The two are quite different in concept, the spatial plan providing broad and strategic directions for Canberra's growth and DV 200 providing a framework for what suburbs will look like at that level.

It is not as if this variation has introduced a radical new concept in planning. To the contrary, it is just establishing principles which have been thoroughly debated in this place and in the community for more than 10 years, which the Labor Party went to the

election with, and which the Greens have gone to elections with each year we have run.

To receive our support for this variation, the government agreed to a number of key claims of the Greens. These included, firstly, that unit titling of new dual occupancies in suburban areas not be permitted. That was agreed to by the government.

On the issue of dual occupancies, the version of the variation that the government released in December last year caused disquiet in the community, even outrage, as people took the view that their submissions had been ignored and the new final went further away from what they had originally been consulted on. That was particularly the case in regard to the unit titling of dual occupancies in suburban areas, which had gone from not being permitted in the May version to being permitted in the December version on the basis of some research commissioned by PALM.

There were, of course, conflicting views on this issue. As an example, the Housing Industry Association said that it believed that unit title dual occupancy "should be readily available for provision in all areas of Canberra." That was most vociferously opposed by residents groups from the inner areas that have had the greatest exposure to dual occupancies in recent years.

On the other hand, Weston Creek Community Council was a residents group that did favour unit titling of dual occupancies in suburban areas and was supportive of the provisions of DV 200 in general, yet other residents from Weston Creek were fiercely opposed. Some argued for unit titling on the basis of individual housing choice, but also on the basis of better utilisation of community infrastructure and the desirability of bringing new people into their community.

The main arguments against, passionately put by many, were the fear of further inappropriate dual occupancy development in their neighbourhood, that the impact on infrastructure had not been factored into the planning, and that the sense of place so highly valued by many was violated by speculative dual occupancy development. Nola Cook, a resident of Braddon and chair of an interim community reference panel, said in a letter to me:

> Thank-you for your willingness to compromise on DV 200. While DV 200 may not be perfect, it is an enormous improvement over the planning legislation passed by the Assembly when Brendan Smyth was Minister…Under the Liberal government, dual and triple occupancy redevelopments in south Braddon occurred seemingly on an anything goes basis, with local people feeling powerless to influence the process, even when it produced concreted-over treeless and barely gardened blocks dominated by huge houses. All totally out of character with the rest of the area.

The second point that the Greens have made is that the effectiveness of variation 200 should be evaluated in two years, which was also agreed to by the government. It is important that there is an opportunity to evaluate this variation. There are some provisions within DV 200 that we have reservations about and it is essential that they can be looked at in terms of what actually happens.

The third point was that there be a timetable for the roll out of neighbourhood plans and that the processes of neighbourhood planning include potential areas of heritage interest. That was also agreed to by the government. A neighbourhood planning program has been released and appears to be targeting the areas most under pressure, as requested by community groups. In particular, it includes seven more southern suburbs—Yarralumla, Garran and Hughes, starting in September, and Red Hill, Griffith, Narrabundah and Forrest, starting in September/October. I am currently getting feedback on that.

One of the things we originally asked for was for the core areas not to take effect until the boundaries were confirmed by agreement through the neighbourhood planning process. *(Extension of time granted.)* We were not able to achieve that, but we had to accept and we did accept that there would have been practical problems with it, not least of which would have been the focusing of development pressure on the areas that had already been subject to the most development pressure and had therefore been first in the queue to have their neighbourhood plans done. The community also was concerned about that.

The fourth point was that there must be further discussion and consultation with the community regarding revised consultation mechanisms. In particular, this included terms of reference and appointment processes for community planning forums. That was agreed to by the government and I have had good feedback from the community on how that is progressing.

We also asked that there be the implementation of a sustainable housing design pilot within a greenfields development, and the government also has agreed to that. I think that that will be very important for future development in Canberra. Unfortunately, we still see very ordinary development in Canberra, with buildings still quite primitive for the physical and social climate we live in.

There is a resistance to change which I hope will dissipate to some degree once people see how we can do things differently. We need to have examples of creative and innovative high quality design, not only for individual dwellings but also for the layout and infrastructure of the whole suburb. I am very pleased that Simon Corbell is quite enthusiastic about that, because I think that it will bring about a change in community awareness about what is possible.

We also asked that there be a Territory Plan variation which implements the government's policy of a minimum five-star energy rating for new dwellings. The government has agreed to investigate that, although it has qualified it with the need to determine the impact on housing affordability. I am interested to see this analysis. However, there are obvious long-term savings in having energy efficient buildings, environmental and economic.

The lack of affordable housing is an important question. I am constantly raising it in this place. It must be addressed as a critical issue. However, I would be concerned if creating energy efficient houses, which in turn results in lower cost to the occupants, was struck out for this reason when so little else is happening.

Our second last point was that there be further review of the high-quality, sustainable design process involving community and industry consultation, including the development and application of sustainability indicators. The government has agreed to this very important issue. At this point, the HQSD process has served as an educative process and has resulted in some improvement in the quality of design.

I would say that on the whole, where developers and architects are committed or even just open-minded, it has been influential. However, there have been problems in terms of process, which we are all aware of, in terms of compliance and in terms of falling short of sustainability outcomes. Our consultations have made us quite well aware of the problems with the workings and resourcing of HQSD. I do not have time now to go into more detail on that, but we have given the government notice that we are watching what happens with great interest.

In keeping with the committee's recommendation, we also asked for the minimum block size for dual occupancy to be kept to 800 square metres, which the government agreed to. I think that the government was thinking about doing so anyway.

We do think that Canberra's character and amenity will be far better protected over the next two years by this imperfect but significantly modified variation than would be the case if Canberra were left to the previously existing regime for the next two years. Having taken a position between all the competing interests and views on DV 200 and having gained the government's commitment to review it in two years, we will be keeping a close watching brief on how it is working in practice and what problems there are and we will continue to work with community groups to identify the problems and work on solutions. That applies not only to DV 200 but also to the neighbourhood planning process, HQSD and the community planning forum processes that also have a significant bearing on the community's confidence and effective participation in Canberra's planning system.

We have received a lot of support for the position we have taken on this variation. I have continually consulted with the community and had a meeting again last week with community planning representatives who, on the whole, agreed that we do need to support the greater protections that this variation introduces, even though it is not a perfect document.

I do want to acknowledge and thank the many people who have talked to us about this issue. I appreciate their patience and willingness to contribute. There were quite a few very long weekend calls and meetings. I also want to acknowledge the good grace shown by the people who do not support our position but who also worked with us. I particularly appreciate their contribution.

I also appreciate Ms Dundas' comments in this debate. I think that it has been unfortunate that Mrs Cross and Mrs Dunne, in particular, have chosen to attack my motivations. I do not think that personal attacks particularly enhance the public debate. I think that this is a very important issue for Canberra and I look forward to continuing the discussion.

MR SMYTH (Leader of the Opposition) (12.17): I have to rise to address DV 200. I will start with the assertion by the planning minister that development in previous

years seemed to go on unchecked and unfettered. If you talk to both sides of the community, those for development and those against development, I think that you will find that they have differing views, but they would agree that there was a process, and that process was governed by the Territory Plan and all the laws and by-laws that fall underneath it.

For instance, if there was such unchecked development in the ACT, why did so many developers and community groups spend so much time in the AAT? It was because there was a process that people were going through. It was a process that we were attempting to make better. That is why we set up the high quality design and sustainability guidelines, so that we could achieve what I think we all want to see happen in the ACT but, of course, we disagree on how that might occur.

Mr Speaker, the high quality design and sustainability process, from the reports I am getting from individuals, has turned into some sort of bureaucratic nightmare. Instead of doing what we wanted, which was to guarantee high quality design, to guarantee sustainability, to guarantee a quicker, cleaner process so that Canberrans could get on with doing appropriate development, it has been turned into something much less than that.

I think that that attitude and the attitude that comes from the minister is evident in variation 200. Let's look at variation 200 in terms of dual occupancies. Mr Corbell picks a couple of small examples, particular fetishes of his—for instance, a triple occupancy. He said that there are no protections against triple occupancies in the Territory Plan. There are protections against bad triple occupancies further on in the laws and by-laws. You go through a process.

Perhaps it is appropriate to have triple occupancy on some of the large blocks that occur in some suburbs of Canberra, perhaps it is not, but you go through the process. To write them off and say that all triple occupancies are bad because somebody just does not happen to like them is not an indication that some thought has been given to what is being attempted to be achieved here today.

Mr Speaker, the one-size-fits-all model is not the model that will lead to a healthy, vibrant city, and it will not for a number of reasons. The first thing you have to ask yourself is whether this is the garden city variation, as promised, or the urban sprawl model of 1950s and 1960s planning that the minister seems to be so keen on. Where is the sustainability in this model?

You need to go to the dimensions that Canberra was, is and will be. I forget the area that it covered, but I was once given a briefing as the planning minister that said that at a particular time in the late 1960s there were something like 82,000 people living in that inner city area of Canberra. By the end of the 1980s it had dipped to 57,000 people as the demographics and the age profile of Canberrans had changed. With some urban renewal, it had come back to about 62,000 or 63,000 people when we left office.

The question is: is what Mr Corbell is planning to put into place today going to address those issues? The infrastructure that was built to accommodate a certain number of people, at great expense to various governments, needs to be maintained at

that level, because you cannot maintain it at 75 per cent efficiency. The infrastructure has to be maintained at the level that is necessary to keep the system working, whether it is being used to its potential or not. Is that sustainable?

DV 200 says, "No, don't do that, just sprawl. Go further out, go all the time, go anywhere, but don't look at situations. We're going to look at one situation and cover it with one blanket." That is not how cities survive.

An interesting point—the minister might like to jump to his feet and tell us why—is that I understand that the committee never heard from the Office of Sustainability. The government put in place this overarching organisation called the Office of Sustainability. Why? To make Canberra sustainable. I do not think any of us disagree with that. But more and more often we are hearing that the office is not getting the resources that it needs and is not being consulted on key issues.

If you thought the garden city draft variation was going to deliver sustainability, would it not be a good idea to run it past the Office of Sustainability to see, with all their experience and all the knowledge and know-how that they have, whether it was actually sustainable? That did not happen. I could be wrong. I am happy to be corrected on that. The minister can jump to his feet and tell me that I am wrong. The whole point of what we are doing here is to make Canberra more sustainable and a better place to live in the future. That cannot happen if the planning regime that this government puts into place causes Canberra to wither on the vine, and that is the risk we run.

Sustainability will dominate more and more of our discussions more and more into the future. If the draft variation the government puts forward that supposedly guarantees a garden city has not had the scrutiny of the Office of Sustainability run over it, you would have to question whether the government's commitment to sustainability is genuine and whether it actually believes in the garden city concept, because sustainability, more than anything else, will, I believe, dominate the future of this city.

Mr Speaker, let's move on to just one small area of what is being proposed, that is, the use of dual occupancies. We contend that dual occupancies should be approved where they are appropriate. The system being put forward by the government says that dual occupancies can occur only within a defined area, which the government has now defined, around suburban centres and get unit titling.

If you want to go further out into the city, if you want to get further out into the suburbs, you can do any dual occupancy development you want, except that the limiting sum on that is that you will not get the finance. The banks will not finance something that cannot be sold independently. From the party that talks all the time about equity, we have suddenly got a model whereby only the rich will be able to afford a dual occupancy development in areas other than those defined by Mr Corbell. They are the only ones that will be able to afford to build them, because nobody else will get the finance.

I would like to raise the case of an older Canberra couple that have approached me. They used to live in Eucumbene Drive, but their house was destroyed by the fires of 18 January. They find themselves in the predicament of being underinsured and

operating in a building market that is quite rampant, so they cannot meet the costs of what is being asked. They cannot afford to rebuild what they would like to build. They are not a couple of people who are going out of their way to build something extravagant and huge. They simply want to replace what they used to have. They cannot; they cannot afford it.

They wanted to look at the option of having a dual occupancy. One of the sons or grandsons was interested in moving onto the block, which is quite a large block, and wished to build a dual occupancy. The older couple saw that as a quite acceptable thing, because they would have younger members of the family close by to look after them in their final years, may those final years be a long, long time, but they cannot do so because they cannot get financing. Why can't they get financing? It is because they cannot unit title.

We have just excluded the vast majority, I suspect, of Canberrans of the opportunity to have dual occupancy where appropriate. We should make it appropriate. Perhaps it should be provided in this variation that dual occupancies can occur only where appropriate, not that dual occupancies will occur only where the minister has determined. Circumstances across all of the suburbs will vary, so you are going to get different proportions of dual occupancies in different suburbs. Is that equitable? No, it is not. It is not sustainable and it is not equitable.

I have to take Mr Hargreaves and Mr Corbell to task on the notion that the community was silent. Mr Hargreaves stood and made the grand statement that, apart from a few little groups, the community was silent. I just wonder whether Mr Hargreaves actually read the message written on the chest of the protester, which went something like "DV 200: a death to community consultation." We do not have too many community protests that actually work their way into the chamber, and we are certainly not encouraging that, but there is a measure, a very large measure, of angst out in the community.

MR SPEAKER: A very disorderly one, too.

MR SMYTH: It was very disorderly, Mr Speaker. We certainly would not be encouraging it. That people who, I am quite sure, are aware of the ways of the Assembly and your presence, Mr Speaker, were willing to do that just shows the strength of the passion and commitment out there to stop draft variation 200.

The Manuka LAPAC was very much against it. The Manuka LAPAC, if I remember correctly some of the reports and things I have read, said that the government should go back to the drawing board. The Manuka LAPAC normally have strong opinions and have a lot of communication and consultation on these issues. They certainly were not part of Mr Hargreaves' silent majority.

Mr Speaker, we have here a recipe that will have to be revisited very soon, because it is a recipe that simply cannot work. One, it is not sustainable. This is the draft variation of urban sprawl. This is the draft variation that says go further and further when we all know that a limiting sum on the ACT is its borders and we all know that the greenfields sites that are available to any government that comes to place in this Assembly are quite clearly defined and land does not exist for continued urban

sprawl. *(Extension of time granted.)* We all know that urban sprawl is bad for the environment and that urban sprawl is not sustainable, yet the draft variation for urban sprawl will be passed shortly in this place.

Mr Speaker, this is an inequitable model in that only the rich will be able to afford dual occupancies outside the zones. We have got inner zones and outer zones. We have division, therefore, that I think will lead to neighbourhood disharmony, simply because people will be saying, "How can they have it across the road and I can't on this side?" We have even got it now inside sections. Some people will be allowed to and others will not, all on the basis of a line drawn by the minister's pen.

Most importantly, Mr Speaker, we have a government that has ignored a very loud cry from the community that it should go back to the drawing board and start again. That cry was echoed by the committee. I believe that we will make a mistake today by going ahead with variation 200, as it is quite clear that so much of the community is against its coming into existence.

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

Sitting suspended from 12.29 to 2.30 pm.

Questions without notice

Bushfires—McLeod inquiry

MR SMYTH: Mr Speaker, my question is to the Chief Minister. Chief Minister, you stated in the Assembly on 18 February 2003 that the terms of reference for the McLeod inquiry "are broad. They are all encompassing. That was the government's intention. There is no aspect that I do not want Mr McLeod to look into."

Chief Minister, there are several key operational issues relating to the bushfires that the McLeod report doesn't address, such as the deployment of units and the declaration of the state of emergency. Given that McLeod has not addressed these issues, are you satisfied that he has looked thoroughly into all aspects of the operational response to the bushfires?

MR STANHOPE: Thank you, Mr Smyth. I think the McLeod report is an excellent report; I think it is thorough; I think it was objective; I think it was very vigorously and rigorously conducted. It was an administrative inquiry; it was an inquiry with a very short time frame attached to it—a time frame that was designed to ensure that the government and the community had available to them in reasonable time, before the commencement of the next bushfire season, a report of an inquiry into the base or fundamental issues around the bushfires of 18 January.

As it is, the next bushfire season is only six weeks away. As it is, there is very little time to respond to the myriad of issues that have been raised by Mr McLeod and are obvious to us and in relation to which we have undertaken to respond. Indeed, this afternoon, the Treasurer will be introducing a second appropriation bill to deal, as a matter of urgency, with many of the issues which have been raised by Mr McLeod and to which the government is determined to respond.

In order to answer every single one of the issues that might be pursued in relation to the fire would, of course, take a time frame of something of the order that the coronial inquest will take. At this stage, with great respect to the Coroner's Court—and I don't know what her final time frame is—I imagine it is probably reasonable to expect that we will have the coroner's report made available to us around about Christmas next year.

I don't know, but I am prepared to suggest that it probably won't be available then, on the basis of the time frame that the Coroner's Court has established for hearings. I believe that they have indicated there will be 80 days of public hearings in relation to that coronial inquest. We will be lucky if we have the coroner's report into the bushfires available to us before the commencement of the bushfire season next year.

I think it was vitally important that the government respond in the way that it did—that we commission the McLeod inquiry, with the terms of reference that we did; that we give it the time frame that we did. It has now reported, and the government has accepted the recommendations. We are introducing a second appropriation bill to deal urgently with the issues that have been raised so that we can learn the lessons that we require to learn.

In relation to the two points that Mr Smyth raised in this question—the deployment of units and the declaration of the state of emergency—Mr McLeod does, in fact, give a day-by-day account or assessment of the advance of the fire for the period from the lightning strike to the 18th. It is totally unreasonable to expect that he do more than that. If one were to take account of the communications travelling in and out of the Emergency Services Bureau, particularly on the day of the fire and in the week of the fire—

Mr Smyth: Haven't you done the work? That's what the volunteers want to know.

MR STANHOPE: If Mr Smyth had any limited, basic, simple understanding of the complexities of those issues, he would understand what could be done.

Mr Smyth: I was there.

MR STANHOPE: Mr Smyth was there; he knows everything. He was there on the day. These are issues that will be dealt with, undoubtedly, in the detailed forensic analysis that the Coroner's Court will undertake.

The other issue that Mr Smyth raises—and he is wrong again—is that Mr McLeod doesn't address the issue of the declaration of the state of emergency. In fact, he does. Mr McLeod goes to the issue of the state of emergency. I have to admit my part in decision making on the day of the fire was in relation to the declaration of the state of emergency.

On one reading of Mr McLeod's analysis around the state of emergency, there is some implied criticism of some of the confusion that the declaration of the state of emergency created. In fact, on one reading of Mr McLeod, there is a suggestion that the declaration of the state of emergency may, in retrospect, have been a mistake. This

is something I have pondered, of course, since the day of the fire—whether or not, in fact, I made a mistake in declaring the state of emergency, that it exacerbated some of the confusion around the issue of evacuation or not.

These are issues, of course, that will be addressed in the detailed review and analysis of the act which we are now committed to undertake as a result—

Mr Smyth: So it wasn't all encompassing?

Mrs Burke: You promised something.

MR STANHOPE: This is just childish. Mr Smyth, it is childish and base politics.

MR SPEAKER: Order! Would you resume your seat, please, Chief Minister. Members of the opposition will remain silent while the Chief Minister answers the question. You asked the question and you should have the good manners to let him answer it. Chief Minister, come to the point.

MR STANHOPE: I will. I will conclude on this point: Mr McLeod has recommended that the government undertake a detailed review of every piece of legislation relating to emergency services and fires in the ACT. We have accepted that recommendation. This is detailed, technical, complex work that needs to be done. It will take us months to undertake this work.

Mr Smyth now criticises Mr McLeod for not having undertaken this thorough analysis of the Emergency Management ACT or the legislation in relation to the declaration of the state of emergency. He wants Mr McLeod to have done all of this work. He actually expects that the McLeod report would have undertaken the full investigation into the Emergency Management Act, would have undertaken a full investigation into the bushfires legislation and would have undertaken a full investigation into all aspects. What a load of nonsense! What a load of crass, shallow, political nonsense!

MR SPEAKER: Supplementary question, Mr Smyth?

MR SMYTH: Yes, Mr Speaker. Chief Minister, when will you tell the people of Canberra the full story of what happened on 18 January?

MR STANHOPE: The full story? From whose perspective? Which full story? Each of us has a full story on the day. Which particular part of the full story do you want, Mr Smyth? Just tell me. Which part of the full story?

MR SPEAKER: Order! I have heard enough of the story. If we're going to have any more interjections, we might as well dispense with the right to ask questions. You really have to remain in your seats and listen to the answers to these questions. The interjections so far have been just outrageous.

Children's plan

MR HARGREAVES: My question is to the Minister for Education, Youth and Family Services. It concerns the Stanhope government's commitment to community

participation and social sustainability, most particularly where it affects our most valuable asset, our children, and their futures.

Minister, I understand that, for the first time in the territory's history, a comprehensive children's plan is being developed and that the consultation phase for the development of the plan was launched last week. Minister, you have invited input from children. How is this to occur and is the seeking of the views of children on issues affecting their future and their aspirations also a first?

MS GALLAGHER: I thank Mr Hargreaves for his question. Yes, this certainly is a very exciting piece of work on which the government has taken the lead. It is the first time that Canberra will have a children's plan. I think that it is about time that we had one and about time that we recognised that children in Canberra deserve to be involved in the development of that plan.

Last week, I was joined at the launch by members of the Assembly—certainly Mr Corbell, Mrs Burke and Ms Tucker were there to share the occasion. The function was primarily to launch the children's consultation strategy, which is made up of a few other strategies to make sure that we get as many children as want to participate.

In the first stage, I have sent a letter to all children in the years 3 to 6 across all ACT primary schools asking them for their ideas about how to make Canberra a better place for them, what they like about Canberra, what is good about being a child in Canberra, what is not so good about being a child in Canberra, and what is important to them. Last week, 19,500 letters were distributed amongst government and non-government schools. We have the cooperation of non-government schools and they have agreed to distribute the letter as well.

The children can fill out a response form or they can visit the website which is also identified on the brochure. We have also set up an email address at which children can email me—MinisterKaty@act.gov.au. I will be responding to the emails that children send.

The first stage of the community consultation process will take the form of sending out the draft discussion paper. It is quite a detailed document so we also have a condensed version as a pamphlet. There will be public meetings and focus groups, so there will be various ways in which people can be involved. We are hoping to have all this finished by the end of the year so that we can launch the ACT children's plan early next year.

Bushfires

MR PRATT: Mr Speaker, my question through you is to the Chief Minister, Mr Stanhope. Chief Minister, on several occasions over the past few weeks you have accused the community of being complacent in regards to the bushfire threat. Last year your government ignored Liberal calls on behalf of the community for extra bushfire education and you failed to implement your own recommendations from 2001. Is it not the case that it was your government's culture of complacency and do nothing attitude that let the people of Canberra down?

MR STANHOPE: No.

MR PRATT: Mr Speaker, I ask a supplementary question. Chief Minister, when will you apologise for accusing Canberrans of complacency that is directly attributable to your government?

MR STANHOPE: Mr Speaker, it is simply nonsense for anybody in Canberra to suggest that the Canberra community was not complacent around the threats presented to this city by bushfires. I have lived here since 1969. Mr Speaker, I confess that I have been enormously complacent about the threat that I, as a resident of Canberra, face from bushfires. In the 34 years that I have lived in Canberra it never once crossed my mind that a fire would come out of the Brindabellas, descend like a wolf on the fold and burn down whole suburbs. It never once occurred to me as a resident of Canberra that that would happen. So I have certainly been complacent and I know my fellow Canberrans have been complacent.

I was not accusing people. I was not trying to do this in some subtle way in the terms of the cheap politics being played now by an opposition desperate for some relevance, grasping for tragique, running cheap tawdry politics to actually try to develop some traction on an issue where there is none for you; trying to development some relevance when you have none; trying to disguise the fact that two years after your desperate loss at the last election you have not delivered one single policy idea to the people of Canberra to justify your existence as the alternative government. Just over a year to go to the next election there is not one policy out of this mob, not a single policy idea out of this mob—two years of sitting there as the alternative government and not a single idea.

Mr Smyth: On a point of order, Mr Speaker: the Chief Minister misleads the Assembly. We put public liability reform on the table—

MR SPEAKER: There is no point of order.

Mr Smyth: The Chief Minister's corrections policy—

MR SPEAKER: Order! That is not a point of order. There is no point of order. Resume your seat. Would you like to conclude, please, Chief Minister.

MR STANHOPE: Thank you, Mr Speaker. A policy-free zone, a poor excuse for an alternative government, a year to go, two years sitting there on the opposition benches, two years aspiring to be the alternative government and not a single idea, not an option—empty, vacuous, a vacuum, nothing to contribute except cheap tawdry politics over a major disaster that has afflicted the entire community.

Mr Smyth: Mr Speaker, I take a point of order and I do so on two points. Under standing order 118 (b) the minister is not allowed to debate the subject. He must answer the question and not interpret or debate it. The second point is that what he says is just simply not correct. The policies that we put on—

MR SPEAKER: Well, you don't—

Mr Smyth: There was a package of liability reform and there is the corrections package on the table now.

MR SPEAKER: Order! You do not have a point of order and if you did it would be hard to make out what is going on in here because of all your interjections. Have you completed your answer to the question, Chief Minister?

MR STANHOPE: Yes.

Bushfires—compensation for volunteers

MRS CROSS: My question is directed to the Chief Minister, Mr Stanhope. Chief Minister, in January this year the volunteers of the Canberra bushfire service and emergency services risked their lives for the greater benefit of the Canberra community. Those volunteers have been publicly recognised but I understand that they have not yet been offered any support, in the form of counselling and compensation, by the Emergency Services Bureau or by Justice and Community Safety. The Chief Minister has been happy to support ESB and JCS officers who were managing the bushfires at the time, which is entirely appropriate.

I understand that those officers were involved in issuing orders for the bushfire fighters to stand down at vital times in the lead-up to the 18 January bushfires. Perhaps as a result those actions resulted in the state of emergency situation and the following disaster for Canberra residents. Chief Minister, why do you support your bureaucrats who made decisions regarding the Canberra bushfires but you do not support the hardworking volunteers who put their lives on the line by insisting that those bureaucrats arrange appropriate counselling support?

MR STANHOPE: I am happy to answer the member's question, but Mr Wood is the Minister for Police and Emergency Services. I am not aware of what support the Emergency Services Bureau has provided to its officers or to volunteers. I defer this question to the Minister for Police and Emergency Services.

MR WOOD: I do not know where Mrs Cross got her information from but it is wrong.

Mrs Cross: The volunteers.

MR WOOD: A large amount of activity has occurred and compensation has been paid. A number of firefighters who parked their vehicles in a certain area lost those vehicles. However, no firefighter has suffered as a result of that loss. Any excess that has been incurred as a result of a claim on an insurance premium has been paid. So there has been no financial loss as a result of the loss of those motor vehicles. The issue that has been protracted relates to the contents of those vehicles. Two weeks before I went away there was still some dispute about the value of those contents.

Mr Corbell: It has been fixed.

MR WOOD: Mr Corbell just said that it has been fixed. There was some argument about the extent of those claims and whether replacement value or actual value should

be paid. To the best of my knowledge all compensation cases have been resolved. With regard to the provision of counselling services, extensive de-briefings have been offered, where required. Mr Corbell just informed me that he has been a party to that information.

Mrs Cross: To volunteers? Are you sure? You had better check.

MR WOOD: Those services have been offered to volunteers.

Mrs Cross: That is not the information that I have been given.

MR WOOD: Mrs Cross should refer to me those cases in which people believe they have been neglected. I want to continue providing—as was provided earlier this year—an immediate and full response to every need. If there are any gaps in the provision of those services that I have not heard about I will attempt to resolve them and establish what can be done. Nothing has been spared in accommodating not just the victims of the fires but also those who fought the fires. I took offence at the inference by the member that we are looking after bureaucrats and not bushfire fighters.

At the end of the day bureaucrats willingly, efficiently and effectively took on an enormous additional workload. Those bureaucrats, who are dedicated to their jobs and to the people of Canberra, have not asked for or sought anything different. It was quite unfair of the member to say, on the one hand, that the government was looking after bureaucrats but, on the other hand, it was not looking after those important volunteers.

MRS CROSS: I ask the Chief Minister a supplementary question. Given that it is within the Chief Minister's mandate to call a state of emergency, and given that he has overall responsibility for everyone in the ACT public service, who is ultimately responsible for the inaction of officers leading up to the 18 January bushfires? Where does the buck stop?

Mr Wood: I take a point of order. This is not a supplementary question to the question that was asked earlier about volunteers.

MRS CROSS: My question relates to bushfires.

MR SPEAKER: Order! I call the Chief Minister.

MR STANHOPE: The member asked an interesting question. Members and former members of the Liberal Party want to sheet home the blame. Somebody must be responsible for the lightning strike. Somebody must be responsible for not standing in the path of this act of God. Someone's head must roll and blood must be spilled. The government must sack somebody. Let us stop beating around the bush. Let us stop using euphemisms about bureaucrats and let us be up-front in relation to this issue.

Mrs Cross and members of the Liberal Party want to know why I will not sack Mike Castle—a great Canberran and a great Australian—or Peter Lucas-Smith. I will not sack them because, in my judgment and in the judgment of Ron McLeod, we do not believe there is a need to point a finger at individuals. Ron McLeod's report, which is

a good report, is objective, dispassionate and rigorous. It avoids the need to point the finger and to find people to blame in retrospect after a detailed, calm and calculated analysis has been made of what happened and what might have been done better. Six months later people are saying, "These things could have been done better. You could have made this decision or attempted to do something else."

Mr Smyth: I take a point of order.

MR SPEAKER: Order! The Chief Minister will resume his seat.

Mr Smyth: Under standing order 118 (a) and 118 (b) the minister is not allowed to debate the subject to which the question refers and his answer to the question has to be concise. Mrs Cross did not name any public servants and she did not attempt to apportion blame. She asked who was accepting responsibility for this. If the minister wants to add to his answer he can do that later today.

MR SPEAKER: Order! Clearly, Mrs Cross asked who was responsible for the matter. Her final question was, "Where does the buck stop?" I am sure that the Chief Minister, who is responding to that question, will come to the point.

MR STANHOPE: I will come to the point, Mr Speaker. Ultimately, responsibility rests with the government. I am happy to let members of the Liberal Party and Mrs Cross know here and now that I intend to go to the next election campaigning on this government's response and my personal response to the bushfires and to issues relating to the bushfires. As part of my campaign at the next election I hope to have some graphic footage of my involvement in bushfire-related issues.

I would welcome the next election, which is to be held in 14 short months, being fought solely and exclusively on this government's response to the bushfires. I am happy for the people of Canberra to make the judgment that they feel inclined to make about my response and this government's response to those fires. I am happy for the people of Canberra to judge opposition members on the cheap, nasty, personal and blame-making politics that they are determined to play.

Bushfires—Eucumbene Drive warning

MRS BURKE: My question is to the Chief Minister, Mr Stanhope. Residents of Eucumbene Drive have told the opposition that in December 2001 they were told by the Australian Federal Police to prepare to evacuate. That caused no panic. Why, according to the *Canberra Times* of 6 August 2003, did the Emergency Services Bureau decide not to warn residents because "it did not want to panic people"? Do you back this judgment call by the Emergency Services Bureau?

MR STANHOPE: This is an issue that Mr McLeod went to in detail in his report in that he made some recommendations in relation to some of the confusion that was created relating to the issue of whether to evacuate or stay. Mr McLeod points to the confusion that there was on the day of the bushfire in relation to this issue. Indeed, Mr McLeod reports that it was the issue that caused the greatest frustration and the greatest ongoing concern and anger to residents of bushfire-affected areas.

He made those findings and he made a number of recommendations. I accepted those findings. I accepted the criticisms that Mr McLeod made about the confusion that was generated by apparently conflicting positions from the Emergency Services Bureau, the fire authorities and the ACT police. One of the recommendations that Mr McLeod made goes to the question of the need to ensure that that conflict is overcome in future. We have agreed with that recommendation. We have accepted that recommendation.

Essentially, what has happened is that the ACT police have now entered into a protocol with the Emergency Services Bureau in which the ACT police have accepted that the position to be applied in relation to whether to evacuate should be that put by the Australasian Fire Authorities Council, I think it is called, which has put the position—a position that the Emergency Services Bureau was putting until the disaster struck—that, if you are prepared, if you are fit, if you are competent, if you have confidence in your capacity, you should consider the possibility of staying and protecting your property.

Mr McLeod points to the fact that the Australian Capital Territory police, in some instances, did not follow that same process, and this did lead to confusion. It is confusion which should have been avoided. It is a criticism which the government has accepted. Recommendations have been made and have been acted on and will be acted on.

MRS BURKE: I have a supplementary question, Mr Speaker. Was the decision not to issue warnings made by the ESB or the government, given that page 74 of the McLeod report states that most comments were closely linked to the need for early advice to the community about the threat and general public education about what to do in an emergency?

MR STANHOPE: All operational decisions in relation to the fire were made by the appropriate authorities. I cannot speak for Mr Wood. I can only speak for myself.

Mr Smyth: You were in charge.

MR STANHOPE: I was not the minister, except on the day, and on the day, as the acting minister for emergency services, I made no operational decisions. I made one decision on 18 January, and that was to declare a state of emergency. I made that decision on the basis of advice tendered to me by Mr Robert Tonkin, Mr Tim Keady and Mr Mike Castle in company with Mr John Murray and Mr Peter Lucas-Smith. I sought explicit advice from them.

We discussed the pros and cons, we discussed the reasons a state of emergency might be declared and we discussed why perhaps it was not an appropriate thing to do. McLeod, as I mentioned earlier, goes to this issue. He reports to the effect that, essentially, all the state of emergency achieved was to vest in the Australian Federal Police the capacity to evict—

Mr Smyth: The question was about warnings.

MR STANHOPE: The great interest, of course, is in the state of emergency and some conspiracy around my role and my actions in relation to the declaration of a state of emergency, a conspiracy which just bemuses me.

Mrs Burke: I take a point of order, Mr Speaker. Can the Chief Minister please answer the question before him, which is: was the decision not to issue warnings made by the ESB or the government?

MR SPEAKER: Come to the point, Chief Minister.

MR STANHOPE: The ESB issued warnings, Mr Speaker. It is the view of many, and it is reported on by McLeod, that the warnings were not adequate, that they were not timely enough. Warnings were issued. They were issued by the Emergency Services Bureau. McLeod reports on that in detail. The government has accepted Mr McLeod's criticisms. We have agreed to act on them, and we are, with alacrity.

Children—foster carers

MS TUCKER: My question is to the Minister for Education, Youth and Family Services and is in relation to foster carers. Minister, you may be aware that there have been a number of letters in the *Chronicle* recently from foster carers who are very unhappy with current arrangements. I have also been approached by some other carers who support the general sentiment of the letters. Basic to their complaints is inadequate financial, service and moral support. In the same *Chronicle* I noticed an advertisement inviting people to become foster carers with the invitation to ring and find out about "this possible alternative to work". That is a rather interesting turn of phrase, considering the work that is involved here.

Minister, can you tell the Assembly how the department is working with foster carers to address their concerns? Can you table in this place by the end of this sitting week details of the number of children who are not currently able to be placed in a family, where these children are currently accommodated and how long they have been there?

MS GALLAGHER: I acknowledge that Ms Tucker gave me some notice of this question. In relation to the second part about tabling, I will certainly get back to you. It is very similar to a question on notice that Mrs Burke has put on the notice paper—I just noticed that myself. Mrs Burke's question goes into more detail than what you have asked, so I am happy to provide you a copy of whatever we send to Mrs Burke.

I did not see the ad in the *Chronicle* about possible alternatives to work, and I will have a look at that. In relation to foster carers, I met with them in late May to talk with them about a number of matters, one of which was the feeling that they were not receiving adequate financial support for the work that they do. I certainly felt that they had some strong arguments to support that claim.

In fact, they gave me a report called *Costs of caring*, which you may have seen. It goes into payments for foster carers around Australia, and the study found that no state or territory reimburses foster carers for the full cost of the day-to-day care of children and young people in out-of-home care.

The ACT is the third highest in the provision of financial support to foster carers compared to other areas. I will ask the department to have a look at payments to foster carers. In fact, the department had already set up a review group to look at that in relation to the work that had come out of *Costs of caring*. A range of issues was tied up in that, which would take some time.

What I requested from the department was advice about whether we were able to give extra financial support for foster carers and whether we were able to do that separately from looking at other issues that are more long term. From memory, the advice I got back was that it would have to be considered in the next budget because of the potential money involved. I'll get back to you on where that is at as well because I cannot remember that advice that I got specifically on payments.

In relation to some other things that are happening, the ACT government is leading the agenda for a national plan for foster children. Minister Wood recently attended a meeting in Perth, where a presentation was given to all community and disability services ministers on the work that the ACT has done, looking at it with a national approach. At that time there was agreement from ministers that the plan should be expanded to look not only at the care for children and young people but also at the best ways of supporting relatives and carers, including grandparents. It has been led by the ACT, but a lot of the work coming out of that is looking at research about how best to support all elements of an out-of-home caring relationship.

Tomorrow I am meeting with CREATE, the advocacy organisation, to talk about some of the issues they have. I am sure that this matter will be raised there as well, and I will listen to what they say. I have provided them with some information in terms of the report card they issue about what states are doing to support children and young people in out-of-home care arrangements.

Quite a lot is being done. I will get back to you on the specifics. The work foster carers do is very important. It is by no means an easy job, and it is valued by the government. If the carers feel that it is not being valued, I am happy to meet with them again and progress it.

MS TUCKER: Could you also tell the Assembly why standard CPI increases have not been granted to foster carers?

MS GALLAGHER: My understanding is that they are getting the CPI. They got the 1 per cent when other non-government agencies did not get the full CPI. The budget decision for community organisations funded by Education was that Education funded indexation at 1 per cent. It was for one year only. That was my understanding. At all other times, and certainly this year, they are being funded at CPI.

Bushfires—preparation

MRS DUNNE: My question is to Ms Gallagher, the Minister for Education, Youth and Family Services. Minister, would you outline what actions your department took on Friday 17 January 2003 and on the morning of 18 January 2003 to prepare for the bushfires?

MS GALLAGHER: I was actually on leave on 17 and 18 January. I was in Jervis Bay, and I am not sure who was acting in my position at that time. I can say that, certainly, the Department of Education, Youth and Family Services ran community recovery. I understand that there was a meeting of the committee that the department convenes on the Saturday morning at which they talked through the possibility of having to open up evacuation centres throughout that day.

That is my understanding of the involvement of Education, Youth and Family Services: there was a meeting on the morning of 18 January to talk about the possibility of opening schools for evacuation centres.

MRS DUNNE: Could I ask that the minister actually clarify that and get back to me about what actually happened and when? The main supplementary question is: why did your department act like this when most of the other departments did not seem to be prepared for the onset of the bushfires? Did you or the acting minister pass on some warning to them?

MS GALLAGHER: I am certainly happy to get back to you. I think we were asked this question in estimates and Barbara Baikie answered it. She spoke about the convening of the meeting. We can provide you with the specifics, I guess, which I think will just be what Barbara Baikie said. Anyway, we will get that for you.

The Department of Education, Youth and Family Services has a particular role. There had been meetings throughout the week across government about contingency planning. The department had a specific role, which was recovery, and that covers evacuation. Its staff were carrying out what was required of them under the community recovery subplan, which was to chair the meetings and coordinate community agencies, if needed, to help the work of the evacuation centres.

My understanding is—and I was away that week so I was not involved in any of the meetings—that this was a whole-of-government approach, but that Education had a specific job to do, which it did.

Bushfires—use of airport tankers

MR CORNWELL: My question, through you, Mr Speaker, is to the Chief Minister, Mr Stanhope. Chief Minister, during estimates you clarified with the Estimates Committee that AirServices Australia had written to you on 24 January 2003 stating that tankers based at Canberra airport were offered on 18 January but were not utilised. Your clarification also stated that the letter had been referred by Mr Keady to Mr McLeod "for consideration in the course of his inquiry. Mr McLeod has acknowledged receipt of the AirServices letter."

Chief Minister, I can find no reference to the tankers or the AirServices letter in this report, which I would remind you is entitled *Inquiry into the operational response to the January 2003 bushfires*. Will you explain to the people of Canberra why these tankers were offered and not used?

MR STANHOPE: I referred, as Mr Cornwell has indicated, the letter from AirServices actually to the head of my department, the department of justice. As

Mr Cornwell has just indicated, the head of my department referred it to Mr McLeod for the purposes of his inquiry. Further than that, I have no indication that I can add to issues around the supply of—

Mr Smyth: Aren't you vaguely interested?

MR STANHOPE: There are a whole range of questions that we await the outcome of further inquiries into in relation to some of the details. At this stage, Mr Speaker, I have no further information on that matter.

MR SPEAKER: Supplementary question?

MR CORNWELL: Thank you, Mr Speaker. Surely the question of the tankers being offered and not used is extremely important.

MR SPEAKER: Come to the question, please.

MR CORNWELL; Why did you not ask why this issue was not investigated by the McLeod inquiry before or after you accepted all 61 recommendations in toto?

MR STANHOPE: Mr McLeod, I think, in the way that he conducted this inquiry, acted in an exemplary way. I have enormous faith in Mr McLeod and in his abilities. They were broad terms of reference. Mr McLeod, admittedly, was given a relatively short time frame in which to complete his inquiry. Indeed, in the preface to this report, I think he goes to the fact that, of course, in the context of the time frame and in the context of the overriding need for us to have in place an analysis of our response to the January 18 bushfires, there were issues that he could not fully explore.

That is reasonable. That is why I commissioned the inquiry. I commissioned the inquiry so we would have available to us a detailed, objective, rigorous analysis of the lessons that needed to be learnt in relation to our response to the bushfire on January 18. That is precisely what Mr McLeod has delivered. Mr McLeod has delivered just that sort of report. It contains 61 recommendations. We have accepted the recommendations. We are implementing them.

Mr Smyth: Aren't you vaguely curious?

MR STANHOPE: I'm curious about a lot of things, Mr Smyth. I'm curious about a lot of things in relation to a whole range of issues. I'm curious about what the Liberal Party did in seven years in government in relation to emergency services. I'm curious to know what you did as minister for emergency services. I'm curious to know the extent to which it was your legacy, as minister for emergency services, that led to some of the mess which we're now fixing.

Bushfires—cabinet briefing

MR STEFANIAK: My question is also to the Chief Minister. Chief Minister, the cabinet received a briefing on 16 January about the bushfires. What directions did cabinet give Emergency Services and did Emergency Services follow those directions?

MR STANHOPE: Cabinet did not give any directions, Mr Stefaniak.

MR STEFANIAK: As a result of the cabinet meeting of 16 January this year, Chief Minister—

MR SPEAKER: Come to the question.

MR STEFANIAK: Were any decisions made in relation to the bushfires, given that no directions were given to Emergency Services? Did you make any decisions in relation to the bushfires?

MR STANHOPE: The cabinet did not, Mr Speaker.

Disabled persons

MS DUNDAS: My question is to the minister for disabilities, Mr Wood. I understand that the government is undergoing a consultation process in relation to access by disabled persons to public buildings, but what is the government doing to ensure that our streets and footpaths can be travelled by those with disabilities?

MR WOOD: Constant monitoring would be one thing. As you would expect in the nature of the interested Canberra community, we get constant comment about where there are needs and we respond to those. But that happens with everything; it is not specific to disability issues.

A committee has been established which looks at all aspects of access to buildings and all aspects of linkages within the city. That committee works away and we respond to it. If you want particular details of what is happening, I will get them to you.

MS DUNDAS: I have a supplementary question, Mr Speaker. Minister, I have received correspondence from residents of Narrabundah regarding Nyrang Street, which is quite important as it is close to short and long-term accommodation for those in wheelchairs. When will a new footpath be completed along the length of Nyrang Street?

MR WOOD: I do not know and I do not know exactly what program is in place there, but I will find out for you whether something is to happen; if so, when.

Medical practitioners—services

MS MacDONALD: My question, through you, Mr Speaker, is to the Minister for Health, Mr Corbell. Minister, the ACT has the lowest bulk-billing rate of any state or territory and fewer GPs per capita than many regional and rural centres. In light of the Howard government's refusal to address the difficulties Canberrans face in accessing primary medical care, what steps has the ACT government taken to improve after-hours access to GPs?

MR CORBELL: I thank Ms MacDonald for this question. I am very pleased to confirm to members today that the government has announced funding of close to $700,000 over the next two years to increase the effectiveness of the Canberra After Hours Locum Medical Service.

Mr Speaker, we've seen a significant decline in the number of GPs prepared to participate in this important medical service. That is why the government has worked closely with the Division of General Practice, with the AMA, with local GPs to ensure that we are able to boost the viability and the accessibility of GPs through CAHLMS, the Canberra After Hours Locum Medical Service.

Mr Speaker, the $700,000 approximately the government is investing in this initiative over the next two years will ensure that, first of all, general practitioners get paid an on-call allowance to make their services available after hours, particularly in the crucial time between 11 pm and 6 am. Secondly, the funding will assist in the provision of security services for GPs who feel they need them for the purposes of a home visit. I was talking to one of the GPs involved in CAHLMS at the announcement at lunchtime today, and he made the point that a number of GPs actually get their spouse to go with them when they do make a house call late at night, because they don't feel safe.

Mr Speaker, the government is addressing this issue by making sure that GPs get a better level of support. I just wish that the federal government showed the same level of support to GPs as the ACT is through this initiative.

What have we seen from the federal government when it comes to support for GPs? We've seen an extra dollar as long as they bulk-bill all health care cardholders. Let me tell you, Mr Speaker: Mr Smyth should go out there and talk to the local GP community and he'll soon find out it's gone down like a lead balloon.

An incident having occurred in the gallery—

MR SPEAKER: Order! I order that the person who was just removed from the Assembly not be allowed back in the Assembly's precincts until I advise further.

MR CORBELL: Mr Speaker, the initiatives from the federal government, when it comes to supporting GP services in Canberra, are some of the lowest and, in fact, the measliest that we have ever seen.

This initiative will ensure that GP services are improved after hours. It is not the solution in and of itself, but it is an important step forward, Mr Speaker. What really disappoints me is that, when the Division of General Practice, with the support of the ACT government went to the federal government and said, "Are you prepared to fund this initiative?", they said no, they were not prepared to fund this initiative. But the ACT government is because we understand how important general practice services are in the ACT.

This is an important step forward and a great example of the ACT government collaborating with GPs in our community to improve our community's access to the important primary care services that they need.

MS MacDONALD: Mr Speaker, I ask a supplementary question, and the minister has alluded somewhat to it. As the provision of GPs is a Commonwealth responsibility, was the Commonwealth requested to fund this project and what was their response?

MR CORBELL: Mr Speaker, as I indicated, the Commonwealth was requested to fund this project through the Division of General Practice, with the active support of the ACT government, and the Commonwealth said no. That is extremely disappointing. We have made the commitment instead. I will be lobbying Senator Kay Patterson, the federal minister, further to ensure that we see better GP service support from the Commonwealth. I have already had discussions with Senator Patterson at our most recent meeting of health ministers. I will be following those discussions up further.

But it is disappointing that to date there has been no recognition from the Commonwealth of their preparedness or indeed their understanding of the unique circumstances the ACT community faces and I think it is just typical of the Liberal's approach when it comes to failing to support health care services, particularly primary care services, here in Canberra.

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

Supplementary answers to questions without notice

Chan Street—pedestrian safety

MR WOOD: These are answers to questions from the last sitting. I think I may have written to the members concerned, but this should also appear in the record. Ms Dundas asked me about Chan Street and safety there. I have responded to her, but these are the details.

There are some traffic and pedestrian problems there. The redevelopment of part of Belconnen offices on Chan Street is taking place, and in two stages. The second stage is expected to be completed in November 2004, still some time away. The temporary traffic management in place is considered adequate to assist pedestrians to move around safely in the vicinity of the development site. The facilities currently available are traffic lights at Benjamin Way and a median refuge along Chan Street.

I accept that pedestrian activities across Chan Street may change with the introduction of paid parking. I have asked Roads ACT to monitor the situation and, if necessary, introduce measures to improve pedestrian and traffic safety.

Adopt a Road program—insurance

MR WOOD: Mr Cornwell asked me about the Adopt a Road program and insurance. Yes, those issues continue. The Adopt a Road groups are aware of the situation. Those without public liability insurance have not been active and will only resume activities when insurance is in place. The Department of Urban Services, in conjunction with Treasury, is currently negotiating with the Community Care Underwriting Agency to obtain cost-effective insurance for Adopt a Road groups. When the underwriter is

satisfied with the information provided, a quote will be issued and groups will be provided with a firm proposal for insurance.

Any concern about litter should be reported to the city management hotline.

Personal explanation

MR SMYTH (Leader of the Opposition): Mr Speaker, I seek leave to make a personal explanation.

MR SPEAKER: Please proceed.

MR SMYTH: Persistently, throughout question time, the Chief Minister tried to characterise the opposition as not having any policies—

MR SPEAKER: Is this a personal explanation, Mr Smyth?

MR SMYTH: It is. I refer him to page 1,237 of the notice paper, which clearly has a sentencing reform amendment bill on it, a corrections reform amendment bill on it and, throughout the last two years, we have talked about things like mental health policy for a time-out facility and the public liability package which was tabled in this place. We have raised the issue of the film industry and we have told the government how to address the waiting lists—

MR SPEAKER: I think you had better personalise this quickly, or I am going to sit you down.

MR SMYTH: Therefore we are not a policy free zone, Mr Speaker.

Answers to questions on notice

Question No 784

MR CORNWELL: I thank Mr Wood for his comments about the Adopt a Road program. However, under standing order 118A, the period allowed to answer question No 784 expired on 24 July this year and the question has not been answered.

MR WOOD: I will get that to you. Thank you, Mr Cornwell.

Questions Nos 799 and 809

MRS DUNNE: Under standing order 118A, I have two questions on the notice paper to the Minister for Planning that have not been answered: No 799, which expired on 25 July and which was in relation to the Gungahlin Development Authority; and No 809, which expired on 26 July and which was in relation to the Harrison 1 estate.

MR CORBELL: I have signed answers to those questions today, and they should be available to Mrs Dunne this afternoon.

Removal of person from the public gallery
Statement by Speaker

MR SPEAKER: Members, you may recall that during question time I issued instructions for a person to be removed from the precincts of the legislature. This is pursuant to my powers under section 9 of the Legislative Assembly Precincts Act, which empower me to direct a person to leave the Assembly or not to enter the Assembly precincts.

Subsection (2) of that section states:

> The Speaker may arrange for the removal or exclusion from the Assembly precincts of a person given a direction under subsection (1) using any necessary and reasonable force and assistance.

It is a serious matter, I think, to exclude people from the Assembly and I do not do this lightly. In due course I will consider how access can be restored to this member of the community. However, I will not be allowing access to this Assembly by people who are going to disrupt the proceedings of the Assembly.

Mr Cornwell: Mr Speaker, may I ask whether you will be advising the Assembly of your decision, sir?

MR SPEAKER: It won't be a secret, Mr Cornwell.

Inquiry into the Operational Response to the January 2003 Bushfires
Report and government response

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

> Operational Response to the January 2003 Bushfires in the ACT—Report of Inquiry—dated 1 August 2003.
>
> Operational Response to the January 2003 Bushfires in the ACT—Report of Inquiry—Government Response, dated August 2003.

I move:

> That the Assembly takes note of the government response.

Mr Speaker, this afternoon I table the report *Inquiry into the Operational Response to the January 2003 Bushfires in the ACT*, prepared by Mr Ron McLeod AM, and the government's response to that report.

On 18 January this year, the ACT experienced the worst natural disaster in its history. Bushfires swept through the territory and tragically caused the deaths of four people and injuries to many others, in some cases very serious injuries. It also inflicted a very

heavy loss of private and public property. The event was of a scale ranking as one of Australia's worst single-day natural disasters.

In February 2003, in recognition of the need to quickly understand the lessons of this terrible event, the government commissioned an inquiry into the preparation for, and the operational response to, those bushfires by the ACT's emergency services organisations. The principal aims of the inquiry were to ensure that the lessons of this devastating event were effectively learnt, and to identify improvements that would both minimise the risk of, and enhance the ACT's capacity to respond effectively to, events of this kind in the future.

The inquiry undertaken by the former Commonwealth Ombudsman, Mr Ron McLeod, provided its report to the government on 1 August 2003. I publicly released the report on 4 August 2003. The government has now considered Mr McLeod's report and its recommendations in detail.

The government response, which I also table today, provides details of the measures that have been taken to give effect to each recommendation, as well as a number of additional initiatives that the government is taking to improve operational performance. This government response is supported by a supplementary appropriation bill, which includes the necessary additional funding for the implementation of the inquiry's recommendations and related initiatives.

As I have stated before, the McLeod report is critical of many aspects of the operational response to the January fires. Equally, the report acknowledges the personal commitment of the many people involved in the bushfire crisis and, since then, in the recovery phase. As I said when I released the report on 4 August, my government is committed to implementing the 61 recommendations of the report as quickly as possible.

Both from studying the report and from its own observations, the government has learnt many lessons from the experiences in January and is continuing to take all the actions it can to ensure that these are fully understood and addressed. Mr McLeod's report provides a particularly valuable contribution through its recording and assessment of these lessons, and by articulating specific future directions and actions.

The coronial inquiry into the cause and origin of the January 2003 bushfires and the inquests into the manner and cause of the four associated deaths will produce a separate report. The government looks forward to the receipt of the coroner's report and will then address any additional findings and recommendations at that time.

The actions that the government is taking in response to Mr McLeod's report, and the additional measures that the government is committed to, can be grouped broadly into five key themes of fire mitigation, improved emergency response capability, communications and public information, operational procedures and policy and organisational and legislative change. I will now outline the principal issues and government actions for each of these key themes.

Mr Smyth: On a point of order, Mr Speaker: I am sorry to interrupt the Chief Minister. The report has not been circulated and it is normally the practice in this

place that reports of this kind are circulated at the beginning of the speech, so that members who may wish to respond can read the document and then do so. It is impossible for anybody to comment today on this matter without actually having seen the report.

MR SPEAKER: I have certainly received a copy, but I agree with you, it has not been circulated today. It is open to you, of course, to adjourn proceedings if you are dissatisfied with them as they stand.

Mr Smyth: It is okay, Mr Speaker. It has been fixed; a report has arrived.

MR SPEAKER: I understand something is being circulated as we speak.

MR STANHOPE: It is the response. The report was distributed earlier, Mr Speaker.

A range of fire mitigation activities will be undertaken prior to and during the 2003-04 bushfire season, with an additional $1.684 million being sought for that purpose in the supplementary appropriation, adding to the half million dollars provided in the 2003-04 budget. In particular, an extensive program of accelerated fire reduction work is already under way, including physical fuel removal from certain suburbs and an extensive mowing program. Further extensive fuel reduction and access trail upgrades will be undertaken.

The government will also be reviewing and revising a number of relevant policies and practices to address issues raised in the McLeod report. Work relating to the identification and delineation of the bushfire abatement zone has already commenced, and the recent release of the non-urban lands study *Shaping our territory: options and opportunities for non-urban ACT* together with the urban edge review, will enable specific details about this zone to be considered by the government and incorporated into the draft spatial plan.

Both in response to the McLeod report and through separate initiatives, the government has set a number of programs in place to improve emergency response capabilities. Initiatives to be completed before the start of the bushfire season include the ACT's participation in the national aerial firefighting strategy; the acquisition of equipment, including volunteer brigade command vehicles, fire fighting tools and heavier turnout coats; the implementation of additional training and incident management systems and the community fire units pilot program.

The cost of these measures totals $1.97 million in 2003-04. Initiatives targeted for completion during the bushfire season, at a total cost of some $3.7 million, include engaging additional personnel, including those for command, control and bushfire risk assessment, and additional seasonal staff to increase our ability to respond more quickly and extensively to fire outbreaks, particularly in remote areas; obtaining additional equipment, such as light dozers; and obtaining improved information systems and additional access and familiarisation training for senior fire fighters.

Some major additional equipment items, including four all-terrain tankers, a replacement fire tanker to protect the Googong foreshores, and a forward casualty

unit are expected to take longer to acquire because of their size or complexity, and these major pieces of equipment represent a further investment of some $1.7 million.

Particular attention is being paid to greatly improved community awareness programs, and to emergency services communications equipment in the lead-up to the coming fire season. In particular, bushfire awareness kits will be provided to all households in the ACT before the start of the bushfire season, and a broad range of other information channels and events will be used to ensure that the people of the ACT have a much greater awareness of bushfire season preparedness, and the steps to take in the event of fire. Funding of over half a million dollars is being sought for this purpose.

The proposed improvements to emergency services communication systems include those to radio reception in rough terrain, the implementation of a computer-aided dispatch system and the proposed major upgrade of radio communications infrastructure.

Operational procedures and policies are also being addressed through a clear and agreed approach by ACT Policing and Emergency Services to the key question of fire safety and evacuation. Incident command and control procedures and the rural fire control manual are also being upgraded. A formal memorandum of understanding between the fire authorities of the ACT and those of New South Wales is being developed, as recommended by Mr McLeod. A subplan of the ACT emergency plan will be developed to assist with the design of special arrangements to cater for the needs of ACT residents who live beyond the city bounds.

The government agrees with Mr McLeod that, for a small jurisdiction such as the ACT, it is vital that all relevant emergency services resources are effectively coordinated and deployed, especially when a major risk arises. Accordingly, the government agrees that a new, independent, and better integrated and coordinated emergency services organisation should be created to provide the opportunity for greater and more effective operational capacity and capability.

The government recognises the important and valuable contributions made by each of the existing services, and the detailed structure of the new authority will be developed in close consultation with all the existing professional and volunteer services. However, there are many other interest groups who can claim a legitimate right to be consulted as the detail of the new authority is settled: to name just some, representatives of the volunteers; the industrial representatives of the permanent workforce, such as the United Firefighters Union; and the Bush Fire Council.

There will be other individuals or organisations that may claim to be able to speak on behalf of some of these groups, and the government is determined to be as inclusive as possible in this complex work. Consultative arrangements will have to be established with all the relevant groups.

Of course, members of this place will have an important role in the establishment of the new authority, in whatever form it takes. Ms Tucker has already raised with me the notion of a round table discussion about possible models and ways forward, and the government is not averse to such suggestions.

However, it has to be kept in mind that this is a complex issue. The McLeod report itself intentionally does no more than outline a general concept. It may not be possible to satisfy the desires of everyone who has an interest, simply because of conflicting agendas or opposition to non-negotiable features. That said, the government will make every effort to have its consultation processes accepted as genuine and effective.

A further complexity of developing a suitable model is the need to respond also to Mr McLeod's recommendations about legislative change. Some of the work in developing the model will depend, for example, on the outcomes of reviews of the Bushfire Act and the Emergency Management Act. Some elements will require sensitive negotiation with affected groups, for instance, in deciding an appropriate command structure to sit over the two fire agencies. Inevitably, that will take time to negotiate and develop properly.

However, hasty decision making can lead to flaws that would be difficult to correct later, and the government will proceed with caution so that it gets it right. This important task will be managed by the chief executives' task force, led by the head of the Chief Minister's Department. The task force will be supported by a small full-time secretariat.

The government believes that this process will ensure that the knowledge, skills and abilities of all services are preserved and enhanced to ensure that the objectives that Mr McLeod has set out for the new authority are achieved. The recommendations of the task force and the outcomes of the consultative process will be referred to the government for decision.

The government has determined that a commissioner will head the new authority. As recommended by the inquiry, the government has taken urgent action to scope, advertise and fill the position on a contract basis as soon as possible, so that the new commissioner may assist in the necessary relevant transitional processes and the formulation of required legislation.

The position was advertised on 16 August 2003, with applications to close in two weeks and the position will be filled as soon as possible. I've requested this be done in weeks and not months. The government has set 1 July 2004 as a reasonable target for the completion of all reviews of all relevant legislation and the commencement of the new authority, with its supporting legislation.

A great deal of the required operational and cultural change can occur before this date. Mr Speaker, the tabling of this government response to the McLeod report signals yet another milestone on the road to recovery after the bushfires for the Canberra community, and the continuation of the path to discovering the opportunities that are before us.

Our capacity to withstand serious emergencies in the future has been strengthened, and we are now underpinning this capacity with more resources, training, communications, equipment and systems and with initiatives designed to provide better and more effective services and protection to the community.

Obviously, further consideration on the part of the government is required to develop the details of implementing some of the recommendations, the key one being the establishment of the new emergency services authority. The government recognises that there are key stakeholders that will have legitimate and valuable views about the details and directions needed to establish such an entity. As stated earlier, close consultation with these stakeholders will occur to ensure these views are effectively considered. There is much at stake in ensuring that all affected parties are involved in the processes that move us towards the future of emergency service management in the ACT.

Finally, again, I wish to thank Mr McLeod and his team for the tremendous effort involved in putting this report together. I would also like to thank the many people who, in an official, volunteer or private capacity, contributed to fighting the fires and dealing with the aftermath. There are many members of the community who have given their time freely, both prior to and during the January bushfires, as well as contributing to the recovery process since the fires. I thank all those people.

I would also like to thank all those people in the ACT public service who have worked hard and professionally to ensure that those services that it has been vital to provide to the people of the ACT in the wake of such a large emergency have been provided in the most sensitive and efficient way.

The recovery process continues to be a massive task, and I am proud of the way the community and the government are working together to move forward.

MR SMYTH (Leader of the Opposition) (3.43): Mr Speaker, I rise to speak to the government's response to the report on the operational response to the January 2003 bushfires with a concern that there does not appear to be any commitment to have debate on that which is included in the McLeod report. I think that if you look at any counselling or any critical stress incident, the advice is that part of the healing process is to actually talk through these issues and to include people. Although, on the one hand, there is a requirement for haste, so that we are prepared for the coming season, there is also a very critical requirement to get it right.

A cursory glance of what the government has said in its response today would indicate to me that it has not considered the need to include the community in this response. You only have to go to recommendation 58, which says,

> The *Bushfire Act 1936* should be reviewed and redesigned to reflect contemporary needs, and the ACT Bush Fire Council's role should be re-expressed in the Act to more accurately describe its current activity.

There is great community concern over that recommendation alone, particularly among volunteer bushfire fighters and particularly those senior—in age—members of the various brigades who have seen the role of the Bush Fire Council change over the years and do not believe that the act should reflect the council's current activity.

With that alone, we see that the government has agreed and that the government accepts the recommendation and will review the act. I do not believe the government should be agreeing to that. I note that it is agreeing to the review, although it does

accept the recommendation, but I think what it should do is consult first to see whether or not there is a better way to use the Bush Fire Council. Is there a path forward down the evolution of delivering emergency services in the ACT that would better include people's experiences? A constant complaint I am getting from the community, particularly the volunteer community, is that they do not feel that they are being used to the best advantage or in the way that they could be.

The point of the McLeod report was that we could be ready for the coming season, yet I note that the government has now established 1 July 2004 as the date of commencement for the new authority with its supporting legislation. I admit it is a difficult task to draft legislation to set up a new authority, but one of the things the opposition will show tomorrow, contrary to the claim that we are free of policy, is that it is possible to do it quickly and do it well.

Therefore, I would question the government's commitment here, because what they have done is said, "We will employ a person to set up something. We do not know what the something is, but we are going to set it up anyway." That, to me, is illogical because, should the ultimate organisation evolve to the extent that we do not have the super emergency service that Mr McLeod has recommended, the set of skills that the person in charge of the new authority or authorities may need will be significantly different. We have the cart before the horse, and I am not sure we are actually in the right race to start with.

The other issue that comes up is recommendation 12, "Responsibility for fire access should lie with land managers: advice and auditing functions should be the province of the fire authorities." Mr Speaker, the responsibility for fire access is already with the land managers, and what we are saying is that we are going to leave it as it is. Again, maybe we need to question whether that is the right way to do it, and maybe we should give the new fire authority the power necessary to actually put in access trails and to overrule some of the land managers.

What you are doing is giving conflicting responsibility to people who may have an environmental or a heritage bent, when in fact we may need, in some cases, to put fire management first. If you quickly, say, accept recommendation 12, that may be fraught with danger.

I note that recommendation 13 talks about aerial bombing. I think aerial bombing is a fine thing, and views over the last 10 years in this country have changed significantly. Ten years ago there were very few advocates of aerial bombing but I think we all now know the images of the Ericsson sky cranes dropping their great loads in the 1994-95 season in Sydney, and certainly over Canberra in the 10 days of January this year.

However, the government's response seems to be that we are going to rely solely on helicopters, when I suspect there is very good case to be put forward for not just helicopters, but fixed-wing aircraft. There are local operators who are willing to operate. They have been excluded from the equation. I would like to know on the basis of what critical evaluation the government has made the decision to simply go with helicopters, when fixed wings are operating currently in the northern hemisphere in the fires in France, Portugal and Spain. They are operating very effectively in

cooperation with the helicopters. I think we need to make sure that we get that answer right as well.

I note that recommendation 16 is agreed to: "the ACT Bushfire Service should seek a joint agreement with the NSW Rural Fire Service". I do not think that is a bad thing, but is that in conflict with recommendation 53, which actually says we should go with the Victorian model. If we are going to work more closely with New South Wales, but we are going to be organised along the lines of Victoria, it strikes me that there is an inherent contradiction. I wonder whether enough questioning has been done of these recommendations.

We have to remember that the Chief Minister said he would accept all of these recommendations before he saw them. Maybe he had seen them, I do not know, but he accepted them, and now he is stuck with the position where, without actually giving due consideration to what is in this document, and some of the inherent contradictions that are in the McLeod report, we may be lumbered with a system that might not best serve the needs of the people of Canberra in coming fire seasons.

If we are going to have the reform—and I do not think any of us disagree that there should be reform—let's make sure we get it right. Let's not be hasty, noting that there is a fire season just around the corner.

Mr Speaker, I then go to recommendation 53, which says that the separate organisations that make up the emergency services group should be replaced by statutory authority. If you go to the model that McLeod puts forward in the report, it seems to say that ambulance will be off on its own and urban fire, rural fire and emergency services will be lumped together, with some small educational support unit. I would question that.

Contrary to the suggestion that we do not have any policies, we have put forward quite a coherent model that I note is very close to what the volunteer brigades association is now calling for. You have to question whether or not "build it bigger, build it better" is the better option. Again, we have said we are going to accept these without consideration, and I think that is incredibly bad process.

Mr Speaker, what Mr McLeod has recommended and what the Chief Minister is implementing today, I think in haste, derives—according to pages 1 and 65 of the McLeod report—from a strategic or systemic overview, not from dredging deeply into details. McLeod says, "Basically, it provides an overview of events: it does not deal in detail with the multitude of matters raised." If it is just a broad overview, and we have not dealt with the matters raised in detail, are we making the right decisions? I would put it to you that we need to consider that. I do not believe that, in many cases, the government response is the right one.

As we all know, Mr McLeod presented his report on Friday 1 August. Mr Stanhope had already foreshadowed acceptance of its recommendations and, accordingly, he announced on Monday 4 August that the recommendations had been accepted and would be implemented at once. You have to ask whether two days over the weekend—we got it on Friday and we have decided by Monday—were enough time to digest this report or whether we are acting in haste.

I think the answer is that you cannot carry out an objective analysis of this report in two days because, as we pointed out through our questions in question time today, there are many things that are unanswered here, simply not answered. To give Mr McLeod credit, this is a huge area to cover in a short period of time with limited resources, but there are still significant questions that need to be answered so you can make an objective assessment as to whether or not these recommendations actually do match what we need.

There is probably not much risk in properly accepting most of these recommendations, but each one, I think, needs to pass the wider scrutiny of professional firefighters and others. There are some—for example, the recommendations touching police and emergency powers, recommendations 51 and 57, and those adopting the Victorian template, I think those are recommendations 2 and 53—for which I think the scrutiny needs to be particularly rigorous, because other jurisdictions are travelling different paths. For instance, New South Wales, about which a recommendation has been made, takes a very different view than does Victoria.

The argument that the recommendations have to be rushed into place to be ready for the 2003-2004 fire season is commendable politics, but you have to qualify that by saying you have to have the operational requirement to get them right. The fact that there is contradictory evidence in the recommendations, let alone the report, means we do need to take this seriously. The fact that, for instance, the government says in its response that it will not have the tankers by the start of the fire season and it does not intend to have the authority set up until 1 July 2004, would indicate that perhaps there is some time to be taken here.

On the housekeeping and operational aspects of the report, I think the important thing is to get the leadership right. Yet we have jumped the gun and advertised to fill a position when we do not actually know the structure into which that position will fit. How can we competently judge that the individual who will run emergency management or the model, in the future, will actually have the qualifications to run the model as it devolves?

I think what Mr McLeod demonstrates in spades is that not much of that thought has happened, and that what we need to do is illustrate with a few examples some of the things that have gone wrong. For instance, forest fuel was allowed to accumulate over a period of time. Certainly, over the 12 or 14 years of self-government we allowed forest fuel to accumulate. Why has that not been brought to the attention of successive governments? What do they do to ameliorate that impact?

The fact that firefighters were sent home on the first day when they should have fought the Bendora fire, at that time only 500 square metres in area, still begs questions as to what happened. Apparently, safety was raised. Mr McLeod contradicts that after viewing the tape. The issue of fire access trails that could not be located and were overgrown anyway was covered in page 17, yet we are saying "Leave the fire access trails to those who have been managing them anyway." The question is: can they do it and will they do it better? I am sure they will, but is it appropriate that they should?

He talks about the fact that one of the contracted graders had been damaged in early January and by default, either on the part of the contractor or ESB, had not at once been replaced. If we are just lifting the existing structure and dropping it outside the public service as a stat authority, will the issues about how you fix these things be addressed?

He goes on to communications, the lack of warnings and the dogged optimism. He talks about the facilities at Curtin being inadequate and not working on the day. He then talks about a central management that you would have to say wobbled early on and was overwhelmed on the day. If ESB failed on the bushfires, on the day, what is the application of that then to other emergencies: if we had a flood, if we had a terrorist incident, for instance. Can we just lift their model and drop it outside? I do not believe so, and I think you have to ask those questions.

However, there is another inherent contradiction in the McLeod report. Mr McLeod says on page 243, "the basic structure of the ACT Public Service, which underpinned the whole operation…is fundamentally…sound". If he means that to apply to emergency services, then that conclusion needs to be reconciled with his findings of fact, some of which were illustrated above. The whole system was not sound and if, as he says, it is fundamentally sound, why are we changing to a Victorian model? These are more questions that I think would indicate that perhaps we need to be a little bit more cautious than the government is.

We need to go back to the fact that Mr McLeod does not deal in detail with the multitude of matters raised—his words, not mine. Perhaps officers of emergency services did at various times bring to the attention of their ministers problems which they were worried about and whose resolutions were being blocked. If they did, they are entitled to fairness, to have that actually brought to light, and it is not in the report.

I refer to 16 January, when the executive director of ESB, the chief fire control officer, accompanied by the chief executive of the Department of Justice and Community Safety, briefed cabinet—it is on page 35. No details of the substance of the briefing are given. Then Mr McLeod goes on to say that there is perhaps more than an inference that it conveyed a best case scenario reflecting, as he goes on to say on page 62, the "dogged optimism that the fires would eventually be brought under control".

What the ministers had to say is a matter of conjecture. Nobody knows, and anyway that was at the eleventh hour. Apart from that, Mr McLeod does not report on any other ministerial briefings or advice given. Surely there was some given following the December 2001 fires. Why were those lessons not learnt and why were plans not implemented? Did officials really think that, during the bushfires or in the months and years preceding them, there were no real problems? Were they victims of an older culture of municipal government—perhaps this is the complacency that Mr Stanhope speaks of so often—that was described by a responsible Commonwealth permanent head as "the idea of telling a minister anything strikes them with all the force of novelty"?

Mr Speaker, the real issues, I think, in the McLeod report are its recommendations 53 to 56. They start on about page 237. Proposed is the new independent emergency services organisation similar to Victoria's. *(Extension of time granted.)* Mr Speaker, to set up such a new body is to adopt a much used public service response when disaster threatens or happens. As Sir Humphrey Appleby used to say, "Wipe out the old, bring in the new: bigger and better."

That is not to say it is wrong and will fail in every case, but I think that, with this issue, we actually need to make sure we get it right. That is why there should be a debate on how the new agency will succeed where the old ACT emergency structure has failed. What ingredients are seen in the new that are not present in the old? Will it simply come down to this phoenix of a leader who is going to rise from the ashes to energise the new ESB? Will he or she have the support of the volunteer brigade association, the emergency services controllers and the UFU if they do not like the model that is imposed upon them.

Mr McLeod calls attention repeatedly to the fact that the ACT is, and must remain, a small player in the ballpark of firefighting. It will always remain quite small. He acknowledges that the area of the ACT embraces difficult firefighting country, which is true. He records the rather obvious fact that the ACT is surrounded by New South Wales, and swathes of kindred terrain and forest like that around McIntyres hut continually point directly at urban Canberra.

It could be added that there are significant urban or urbanising areas in New South Wales, most notably Queanbeyan and the rural estates surrounding the ACT, which in an operational sense are really part of the Canberra scene, and to assist which, in the past, we have responded across the border. Should McLeod's proposed new agency therefore at least have the marks the New South Wales on it, those of the brigades that we operate with most consistently and closely, or should it have those of Victoria? I am not sure the case is made for either.

Mr McLeod almost gets to this approach in the second paragraph on page 162 and then he shies away from it, almost wistfully: "The Inquiry did not pursue the feasibility of this, and the political considerations are such that it may not have great appeal." What are the political considerations and why do they not have greater appeal? Mr Speaker, surely our geography and the existing joint endeavours that we do undertake would dictate that, before the ACT government embarks on the creation of this proposed new agency, and undertakes the significant expenditures which this and the other recommendations of the McLeod report will involve, at least it ought to canvass the alternative of developing a joint structure or a structure like that of New South Wales to enhance operational cooperation over the coming years.

New South Wales has large, long-experienced and well-resourced fire services including its network of fire brigades. Those services know their job and you have to say that over the years they have managed the fire threat fairly well, in some cases. Unfortunately, there have been disasters there as well. However, regarding operational sensibilities, if we end up being more like Victoria than New South Wales, what will the impact be on our operational response?

I am concerned that there is no debate to be allowed on McLeod, that we do rush forward. I think that, before the recommendations were just accepted out of hand, we all should have taken a critical look at the report, an objective look at it, to determine which recommendations would fit the ACT and which would not. Based on that and discussion with the community, we should then move forward as quickly as we can to ensure that the ACT has the emergency services that it deserves and needs, particularly to combat the coming fire season but, indeed, to face all emergencies as they emerge over the years.

MR PRATT (4.02): Mr Speaker, my take on this report and the process is that Mr Ron McLeod carried out his duties quite professionally, but that he carried them out in accordance with the instructions handed down by the government.

I find his report is comprehensive. It is a well-written report. It is quite a useful report but, alas, it is incomplete. We all agree that the January 2003 bushfires were important, they were serious and they were devastating. However, what the government does not agree with is the importance and the seriousness of the role played by the devastating December 2001 bushfires in warning this community. I will return to that matter shortly.

I will just go back and look at the estimates hearings recently and the bearing that this inquiry had on the conduct of those hearings. I refer specifically to Mr Wood's stonewalling in that period. Throughout the 2003 estimates hearings, Mr Wood was asked numerous questions about the January 2003 bushfires. His answer was always the same: "McLeod". Mr Wood would not answer a question unless he could say "McLeod. Wait until the McLeod report. The McLeod report will answer all the questions." However, the fact is that Mr Wood was quite wrong, because the inquiry has not answered all those questions that we put to Mr Wood in the estimates hearings.

I remind the Assembly, I remind my colleagues here, that the estimates hearings were legitimate places in which the opposition could carry out its duty by asking the government questions that the community was asking us in relation to the January 2003 fires. We were continually told that we would have to wait until the McLeod report to have those questions answered, but the McLeod report has not always answered those questions.

It certainly answered some of those questions and it certainly answered some of those questions quite well, but many it has not touched on. All I can say to Mr Wood and the government is this: the long and detailed list of questions that we put to the government about the January 2003 fires will be diligently pursued, because that is what the community wants us to do. They are the questions that the community has been putting to us for quite some time. Ensuring this community's safety in the face of future bushfire threats requires that we get down to the bottom of those questions.

I would have to say that the inquiry did fail to answer a number of the questions that Canberrans were promised would be answered. In defence of the report, however, as I said earlier, I will say that it has proven to be very useful in highlighting the mistakes that were made by various parties involved in the bushfires. Of course, it did not answer all of the questions that Canberrans have. While it is a thorough and

comprehensive report and it did provide good sensible conclusions about and recommendations on many of those questions, it did fail to pin down many of the significant issues raised by the community after January 2003.

The report included many valuable comments and observations on key issues contributing to the January 2003 bushfires, yet some were not followed through and made into recommendations. For example, on page 111, the report states:

> One remaining weakness that the communication projects will not resolve is the difficulty in achieving…interoperability between ACT emergency service agencies and ACT Policing…and the NSW Rural Fire Service.

The report goes on to say, "The benefit of these agencies being able to maintain effective operational communications during emergencies is self-evident." However, on page 112, the report makes no recommendations at all on communication projects, let alone about a weakness that was identified. The government should ask where recommendations like this one are and concentrate on funding those aspects of emergency services requirements where funding can be allocated quickly to sort out those sorts of systemic weaknesses, particularly in the six to eight weeks that we have left before the next fire season. That is where the focus ought to be.

The report also stressed that the lessons of the December 2001 bushfires were not learned by the government. However, I believe that the report did not explore the result of this complacency sufficiently. Again, the inquiry quite thoroughly covers the issues of December 2001, but fails to follow through logically on the conclusions and consequent recommendations.

The government was complacent in its reaction to the December 2001 bushfires and did not learn the necessary lessons. This is borne out in an analysis of the submissions to the McLeod inquiry, which do list the systemic weaknesses identified in December 2001. It is disappointing to me, though, that Mr McLeod did not highlight all of the conclusions coming from that analysis.

Mr Speaker, on 13 November 2002 I moved that the Assembly should note that:

> the fast approaching summer contains bushfire conditions that are anticipated to eclipse those of 2001/2002 with severe weather conditions likely to exacerbate a desperately dry situation.

Those were not necessarily my analytical remarks only: they were based on appeals and concerns that were expressed to me by the rural and bushfire community during 2002. As a result of that, I suggested a number of actions, for example, school bushfire education and general education and learning in the community. I must say that I do recall quite clearly that the government scoffed at those at the time. That was during 2002.

We have publicly stated that we, the opposition, the Liberal Party, do take criticisms on the chin. We have stated our willingness to accept our share of the responsibility in the long seven to eight years leading up to the January 2003 disaster. There are many lessons that we have learnt about strategic planning which was undertaken during our watch and, indeed, during the watch of the Follett government prior to the Liberal

government. These are issues that we are quite happy to talk to the community about, and we have been doing just that.

However, because of the lack of action resulting from the December 2001 bushfires, the buck for this disaster in January 2003 stops with the Labor government. It was the Labor government which was complacent through 2002 about the deterioration of bushfire preparations in 2002, in the wake of the December 2001 wake-up call. The drought year of 2002 strongly indicated that a bad season was coming.

On 13 November 2002, based on appeals put to me by the community, people far more experienced than me who knew that I was then the shadow emergencies minister, I put to this house, "the combination of drought, fuel on the ground and weather spells extreme danger". I was calling for general community and school bushfire education. Yet again the government ignored all the warnings, not only from me, but from the community in general. I was simply representing a community concern. Mr Speaker, rural and experienced bushfire fighters were ignored to the extreme throughout 2002.

Indeed, what we have seen for a number of years is that the experienced bushfire fighters, the families who have lived in this district for decades, have been marginalised and pushed to one side by other people who are simply not experienced and technically qualified enough to be able to undertake the strategic planning that this district needs.

On 4 February 2003, just 16 days after 500 homes and four lives were lost, the Chief Minister said on 2CN about the inquiry that was going to be established, "It'll be open, it'll be public, it'll be conducted freely, and frankly and fearlessly. This Government has no desire to hide anything. I don't want to have anything hidden." *(Extension of time granted.)*

Well, Chief Minister, you must give both the Assembly and the community answers to these questions in your quest for free, frank and fearless discussion, questions such as this: why were the fires of 8, 9 and 10 January 2003 not extinguished or contained before they spread to disastrous extremes? The outcome does not matter but let's talk about it, let's put it on the table and understand exactly why they were not contained.

Second, why did the government not issue any substantial warnings to the public in the three days leading up to 18 January 2003? With respect, why was the worst case scenario planning alerting the vulnerable suburbs not undertaken? Why was the gravity of the fire and weather intelligence on 16 and 17 January 2003, indicating a potential suburban disaster, not utilised to sharpen the warning and alert system of the ACT community?

Mr Speaker, one of the areas of disappointment for me in this inquiry—and I stress again that I find this inquiry generally useful—is that it does not follow through on these vital questions, the questions that I have just listed, and this question as well: why did the government hesitate, on 18 January 2003, to call a state of emergency, resulting in the official warning coming a short time before the first houses in Duffy were destroyed by fire? What were the strategic decisions taken on that day and the three days prior to that? These were issues fundamental to the outcomes of the

disaster. We need to learn from those outcomes, because this community needs to get itself ready for future fire seasons.

There is also ample evidence that the inquiry was indeed far less independent than it could or should have been. First, there are some very strong indications—and this is very disturbing—that this report, in its finality, had significant departmental input. Is that independent? Is that an inquiry standing back from this government's departments? Second, why did this inquiry not undertake public hearings? Public hearings did not occur.

Let me point out one major recommendation in the McLeod report which I find disappointing. In relation to the Emergency Services Bureau, Mr Ron McLeod is quite correct in stating that we need to establish a statutory authority. He is quite correct in saying that we need to pull the Emergency Services Bureau or the family of emergency agencies out from under JACS. He is quite right about that, but he is wrong about the shape of the organisation that he thinks should be established as that statutory authority.

However, this government has blindly accepted that recommendation without any further analysis or consultation with the community. The government has been premature in calling for those recommendations to be accepted because we are going to see a failed bureaucracy replaced by another bureaucracy which will fail. It is very important that our emergency agencies be lean and mean and operationally fit, with direct reporting lines to the minister, without a bureaucracy like the one we currently see choking off those vital operational decisions that have to be made quickly. However, we are not going to get that if we blindly accept this recommendation that we are looking at now.

The government really needs to go out and listen to the community and listen to the firefighters, listen to the—

Mr Stanhope: You do not have a clue, do you, Steve? You do not have a clue, mate.

MR PRATT: I have a better clue than you, mate. Listen to what the community is saying about the way that our emergency agencies need to be organised.

Mr Speaker, the government has taken little notice of the operational audit report of May 2003 which stated that the Emergency Services Bureau was dysfunctional. Exactly the criticisms that the audit report has of that agency are going to be carried across in the current model that the inquiry is recommending.

There are questions that should be answered and addressed. The community should be consulted on all recommendations before any further action is taken or any appropriation occurs and before there is any blind implementation of the recommendations of the McLeod report.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (4.18): I was not going to speak in this particular debate but, after that last speech, I think there are a couple of things I ought to say.

We all observe that hindsight is a precise science and it has become far more precise as time goes by. I have not been involved in the bushfire debate all that much since January but I have observed the opposition skulking around the issue, just nibbling, seeing how far they can go, trying to illicit some political advantage from a disaster that did hit the ACT community.

I am not sure, but I understand that the Liberals had a retreat recently, and from question time today it is quite clear that they have decided that Stanhope, that swine Stanhope, has gained a stature in the community unparalleled in the ACT to date and that must hurt to the point where they have said, "Let's gamble the lot. Let's get down and get dirty. How many different ways can we imply that this disaster was the fault of the government? How many different ways can we beat our breasts and talk about the questions to which the community are clamouring for answers?" Remember, these people on this side of the house do actually talk to the community as well. They said, "How many questions can we invent that the community is clamouring for answers for to imply that this disaster is down to the government?"

In fact, I find the exercise, as I have watched it, quite disgusting. Let me refer to some of the things that Mr Pratt said. Mr Pratt referred to a debate on 13 November last year in which I think he was moving that we have a fire education program in schools. That was the sum total of what Mr Pratt was recommending. However, all of a sudden, that has turned into wondrous foresight that was ignored totally.

Mrs Burke: You did not want any.

MR QUINLAN: Let me read from *Hansard*, quoting Mr Pratt. "I believe that all ACT residents can be satisfied that our emergency services have done all that they can possibly do to prepare for this dangerous season," quoth Mr Pratt. In short, the emergency services have done as much as they can possibly do. That was the foresight on that side of the house. In the space of eight months, slavering for some petty political advantage, you are prepared to come into this place and misrepresent what you said in this place.

You said this, in this place, Mr Pratt. You said that virtually everything that could possibly be done, had been done. You argued one single point: you argued for a program in schools.

Mr Pratt: Put that in context, Ted.

MR SPEAKER: Order! Please direct your comments through the chair. Mr Pratt, stop interjecting.

Mr Stanhope: I think what he is saying, Steve, is that you are lying.

MR SPEAKER: Chief Minister, order!

Mrs Dunne: On a point of order, Mr Speaker: that is entirely unparliamentary and I want it withdrawn.

MR SPEAKER: Withdraw that, Mr Stanhope.

Mr Stanhope: I withdraw that. He was not saying you lied, Mr Pratt. He was saying you are a hypocrite, but he was not saying you lied.

Mrs Dunne: Mr Speaker.

MR SPEAKER: Order! Withdraw that.

Mr Stanhope: I withdraw, Mr Speaker.

Mr Pratt: Sit down, Jon, you are pathetic.

MR SPEAKER: Thank you. Direct your comments through the chair, please, Mr Quinlan. Mr Pratt, cease your interjections.

MR QUINLAN: Thank you, Mr Speaker. It has been necessary to try to put some balance into this process that we see growing over here after the decision was made to "Get down, get dirty, cut the whole bankroll and have a go—we are not doing any good."

In fact, most public reaction has been saying, "Can we get past the blame game?" That is the common theme of public reaction these days, after the McLeod inquiry, but that does not serve the purposes of an opposition that I think the Chief Minister described quite accurately earlier as being devoid of a positive idea. So they have decided to punt on it. It appears—from question time today and from motions on the business paper—that this is going to get worse. I have to say, as I have said before, that I find this disgusting.

I did rise today, in particular, to point out the difference between what Mr Pratt put before this house as his opinion on 13 November, before the fire, and how he would present that same argument again—funnily, changed completely—having total foresight. Mr Pratt, you said, and I repeat, "I believe that all ACT residents can be satisfied that our emergency services have done all that they can possibly do to prepare for this dangerous season."

MS DUNDAS (4.24): Mr Speaker—

Mr Pratt: Read the full context.

Mr Stanhope: You weren't complacent, were you?

MR SPEAKER: Order, please!

Ms Burke: Were you?

MR SPEAKER: That means you, too, Mrs Burke.

MS DUNDAS: This debate into the government's response to the McLeod report has got quite emotional. However, I do not think we can discuss the bushfires in

a dispassionate way. The emotional responses are, of course, a result of what has happened in our town. However, I think we need to find a more constructive way to channel those responses, as opposed to screaming at each other in this chamber.

The government's response to the McLeod report does make interesting reading. As has been said today by both the government and the opposition, the government will accept all 61 recommendations of McLeod. But reading through the government's response, I find that a number of recommendations have been agreed to in principle only. That seems to indicate that these are recommendations that will be further explored.

In fact, in response to recommendation 57, which is agreed to in principle, the government says that the "options outlined in the recommendation will be examined in detail" and "the reviews will occur in parallel with the development of the new authority's legislation", indicating, I believe, that the government thinks this recommendation needs further exploring and it may not be implemented in full or exactly as put forward by Mr McLeod. Unfortunately, this agreed in-principle idea has not been applied to the merger of ESB and associated arrangements into a new statutory authority.

Since the McLeod report was put down I have had many discussions, as I am sure all members of this place have, with different people involved in bushfire management throughout the ACT, and many of them have put forward to me concerns relating specifically to recommendation 53, and what will happen if this recommendation is implemented. I note that the government in its response to recommendation 53 says:

> A final model for the new authority is, therefore, yet to be agreed and the Government is committed to ensuring that this process occurs in close partnership with all the existing professional and volunteer services as well as other stakeholders.

But the question arises: what if, through the consultation and this process with the stakeholders, the overwhelming response is: "We don't want a new statutory authority"? Is the government willing to listen to the outcomes of those discussions and perhaps be led down a different path that says a new statutory authority, in the model proposed by McLeod, is not the way to go; that the stakeholders, that the people on the front lines fighting our bushfires, actually want a different model?

I put that question and I hope the answer is that we are willing to listen and we are willing to move. If we continue to move forward without necessarily listening to the people who will be in the front line, I am very concerned about the impact that would have on our preparedness for not only the 2003-04 bushfire season but for bushfire seasons into the future.

One of the other interesting things I would like to bring forward is that the McLeod report included a discussion on a number of reports of previous ACT inquiries and reviews into emergency services, in particular urban fire services from the Attwood report of 1986 to the much quoted McBeth report of 1994 and the Glenn report of 1995. Many of these reports looked at the way bushfires are dealt with in the ACT and how the different operational services come together.

To me, reports such as the McLeod report and government responses just look like a lot of words. The Bushfire Council has operated in pretty much the same way since 1936. All these words have been thrown at it but it still continues to see itself as having an important role in the management of bushfires in the ACT. I do not think that its concerns about the McLeod report can be ignored, and we cannot continue to just throw pieces of paper and words around in the hope that the situation will get better. Also, we cannot say our words are the best, that they are the only words and that our model will rule regardless of what anybody else thinks, which I believe is unfortunately the path that the government is following.

The McLeod report itself makes it quite clear that the 2003 January bushfires were not the once in a hundred years event that we initially thought they were; and that the ACT is under constant threat of bushfire similar to the ones that we saw in January. The Chief Minister stood up in question time yesterday and said that he was complacent, that he was not as aware of bushfires as he should have been, and that we need to change this attitude throughout the ACT.

But I know of very many people who live in the ACT and its surrounds who have been concerned about bushfires, who watched the bushfires rage through Black Mountain, I think, in 1994, who watched the bushfires in the late 1980s rage across what is now Gungahlin, and who have remained concerned for that entire time. What they have been saying and putting forward through many reports and many other consultations over the last 20 years has to a certain extent been ignored. This is why we cannot, as has been the focus of some of the debate today, point our finger at one person and say, "This was your fault."

Over the last 40 years there have been ongoing changes to the way that we deal with bushfire threats in the ACT, and they all have resulted in the situation we had in January of 2003. I think that means that our ability to deal with such incidences cannot be determined in one day or, in the case of the McLeod report, over the weekend. I am concerned that the government received the McLeod report on 1 August, and by 4 August it had decided that everything McLeod said was gospel. We still await the outcome of the coroner's inquiry into both the 2001 and 2003 bushfires. We await the outcome of any number of other inquiries into different aspects of what happened across Australia in January.

I believe that if we are taking the time to have all these different inquiries look at different aspects, we should wait, get that information and bring it all together. We should talk to the people who fight the bushfires and the people who live in the communities that are continually threatened by bushfires to find out the best way to move forward, as opposed to just picking up one report, the first report we see, and saying it is gospel.

Hindsight is a wonderful thing, and I have often wondered what people will be saying 10 years from now when they look back at how we dealt with the January 2003 bushfires. I do not want them to say we rushed things, we didn't speak to the right people, we jumped the gun and we were afraid. I want them to say that we considered in a clear way what led to the disaster of January 2003 and that we dealt with it in as

much a responsible manner as we could, bearing in mind that we are dealing with nature.

MR CORBELL (Minister for Health and Minister for Planning) (4.33): Mr Speaker, I will only speak briefly in this debate. As someone who has not publicly been too heavily involved in the debate around the fire and the response to the events of 18 January, this debate is an opportunity to put some of my thoughts on the record.

Mr Speaker, the government's response to the McLeod report is one which, first of all, expresses confidence in the process that Mr McLeod has used in undertaking his report. I do not think there can be any question as to the thoroughness or the scope and attention to detail that Mr McLeod has applied in the relatively short period of time he has had available to him to provide advice and recommendations to the government on how to best prepare for the future fire seasons, and in particular the fire season coming towards us this year over the Christmas-New Year period.

What has concerned me greatly over the past three to four weeks in particular has been the focus on "someone must be at fault", and that they are so at fault that they must be removed, they must be taken away from positions of responsibility. Mr Speaker, what occurred on 18 January was an awful and horrible event, and I think we all share that sense when we discuss these matters, although I note that perhaps the immediacy of the awfulness and the horribleness of that event is receding in the minds of at least some members.

Mr Speaker, I think the McLeod inquiry report is very powerful in its emphasis that first of all we must be responsible and we must learn from our mistakes. That is the tenor of Mr McLeod's findings—accept the responsibility where we have failed to learn from past mistakes and accept the responsibility to learn now for the future. That I think is the essence of the government's reply—to say yes, mistakes were made. But you cannot point the finger at any one individual or even at any one particular group of individuals and say because of their failures the events of 18 January occurred.

Mr McLeod acknowledges the complexity and the element of chaos which is implicit in what occurred leading up to and on 18 January and the fact that so many individuals in so many different roles were involved. He makes the point that to address these issues we must learn—we must learn as a community ways to do it better, learn as a community ways to protect ourselves better, learn as a community that we can be much more proactive in addressing the risk of fire on the urban area of Canberra and, indeed, the rural area of the ACT. The government's response is to say we accept that that is the direction we must take—to learn, to accept the responsibility to learn, and to accept the responsibility to ensure that as much can be done to prevent this occurring into the future.

When you look through the government's responses to all the recommendations of Mr McLeod, it is quite clear that the government has acted in a decisive manner. Mr McLeod recommends additional capacity to fight fires and the government is going to resource that. Mr McLeod recommends that additional intelligence gathering and analysis capacity be available to ensure that fires can be fought effectively. The government accepts the recommendation and is funding it so it can be done. Mr McLeod recommends that approaches to fuel management be more rigorously

addressed. The government accepts and is getting on with the job and doing that. Mr McLeod recommends changes in the structure of the emergency services and their organisational relationships and the government accepts that, yes, this is a time to address those issues.

But the government also accepts that we have to go out and talk to the people who are most directly affected—the professional paid urban firefighting personnel, the volunteer firefighting personnel, the emergency services personnel, the police, the people who are in command and control roles right across the emergency services areas. And that is appropriate.

We accept the central tenet of what Mr McLeod says, and that is that organisational responsibility should sit outside the normal departmental arrangements. That is what Mr McLeod says, and we accept that. But we need to have the discussion with the volunteers, with the urban firefighters, with everybody else who has a very important stake in it to make sure that we get the structure right.

I think what Mr McLeod does say very clearly though, which the government believes needs to be resolved here and now, is that in a small place like the ACT we must cooperate and coordinate our services and we should not fragment and disintegrate them. I think Mr McLeod says that very clearly in his report. In a small jurisdiction all of our emergency services must work cooperatively and in an interrelated way and they should have command and control structures that reflect the capacity to work in a coordinated and integrated way.

That may be a sticking point for some people; that may be a sticking point for some services or people within some services; and that may be a sticking point for people outside of those services who feel that one group or another should have control. But I think the bottom line is it must be integrated and coordinated and that organisationally it should not be part of a government department. The government accepts that and, working on those principles, we are going to move forward and talk with everyone involved to get the best possible outcome.

There has been some criticism of this point, in particular from Mr Smyth who said at the commencement of this debate that although we said we would act immediately, the organisational structures will not be in place until June-July next year. Mr Speaker, I think it is unrealistic to assume otherwise because of the legislative and other challenges that need to be worked through.

If members look closely at the government's response they well see that we also make clear that the interim organisational arrangements can be put in place to ensure that we have the appropriate command and control roles in place for this coming fire season, and that the detail of legislative reform can be worked through over that period and into the middle of next year. That is a reasonable approach and one which I think is sensible in the circumstances.

Mr Speaker, this is an emotive issue and it is the right of every member in this place to question the response. But I do not believe it is appropriate for members to say there must be somebody who is to blame, there must be somebody, or a group of people, who are responsible for what happened. Mr Speaker, it is not like that. I am

never going to forget that day, and I know that many people in my suburb and the suburbs around me are not going to forget that day in a hurry either. I think the issue is: how do we respond to the recovery issue, because this is a recovery issue? Do we respond in a positive, thoughtful, forward-looking manner, or do we respond in a manner which is negative, fault seeking and blame laying?

Mr Speaker, the government prefers the positive, proactive, sensible approach, rather than that which seeks to paint labels on people and say "this is why it happened". That actually is a cop-out. It is a cop-out because it refuses to learn the lessons and it refuses to acknowledge the complexity of what occurred. The government will not be doing that, Mr Speaker, but we will be embarking on a course of action as is outlined in this very thoughtful and important government response.

MRS DUNNE (4.43): Mr Speaker, I hope that the people of the ACT will not be like the Bourbons—learn nothing and forget nothing. We have spent a lot of time on this matter and there has been a little more heat and a lot less light than there should have been in this debate today. But what we are doing today is the first step—it should be the first step—and I hope it is not going to be a process of cutting off the steps of inquiry that are necessary for the healing process.

Mr Corbell says that those people who were close to the events will never forget that day, and I think that is true. There has to be a healing process. I was not closely associated with this fire but, like many people in this place and elsewhere, I was not warned. But because of my own experience with fire and the damage that fire can do to your property and your family, I know that you have to have an answer as to why it happened. You have to have an answer to how can you avoid it happening again.

Our small domestic fire has had a huge impact on our family, and I know that part of the answer, part of the process of recovering, is about finding the answers so that you can learn from what has happened. Yes, learn from what has happened but to do so you actually have to find out what happened.

Mr Pratt spoke very eloquently about what is good in the McLeod report. I think the main problem with the McLeod report is that Mr McLeod did not have the flexibility that he needed to cover all the aspects that it was necessary to inquire into. He has touched on this in many places of his report where basically he says that he didn't have time to go into it.

There are problems with the process which this opposition has been critiquing since the outset—not as means of tearing people down or anything like that but as a means of getting the best possible outcome for the people of Canberra. This is why this opposition wanted a more fulsome type of inquiry. I understand the imperative for doing things quickly, but it does not mean you do it dirty. There are still substantial gaps in what has been put forward by Mr McLeod and issues that have yet to be addressed.

In the areas that I am particularly interested in and concerned about, such as fuel management, Mr McLeod makes some fine recommendations, all which I am in agreement with, but there are places where he stops short and says, "I can't comment any further on this. I shouldn't go down this path," and I think that is a failing in the

McLeod report. It might be that it would be better to have had a recommendation that said, "Look, I can't go down this path. We need to convene another group, body or whatever to further explore this rather than leave it up in the air." As I said at the outset, Mr Speaker, we have to learn and not forget.

I was quite heartened by the extent to which Mr McLeod dealt with areas that I am particularly concerned about—the issues of fuel management and land management. In doing so, he highlighted a lot of shortcomings that we have to do something about. All of us here who had anything to do with land management are to some extent culpable. All of us did not heed the warnings that were given.

After the Christmas 2001 bushfires, as a new member and the new shadow minister responsible for emergency services, which was taken over a while later by Mr Pratt, people came to me and spoke of their concerns about bushfire fuel management and how, in the past, we had failed. That struck a chord with me because it is a message that has been coming back and back to me in all the time that I have worked in this building and in areas associated with land management.

The message that came to us, and the message that came fully and glaringly out of the McLeod inquiry, is that over the years we have collectively failed to effectively deal with the issue of bushfire fuel management. The previous government set in place the bushfire fuel management strategy. It is a great document and it is comprehensive in many ways, but I think we possibly failed because we did not go back and sufficiently audit it to see whether it was actually doing what it set out to do. I think that is a failing that we have to own up to.

A failing that I have to own up to is that when I was approached by people who had much more experience in their little finger of the bush and of firefighting than I could ever have and was told by them that there were problems, I pursued these issues but perhaps I did not pursue them rigorously enough; perhaps I was not hungry enough to get the right answers. I think as a result of that, we all did not learn from the messages of the 2001 bushfire. Somebody said to me after the 2001 bushfire that the 2001 bushfire could have been prevented, and "if we are not careful, it will happen again and it will happen here and here and here".

That person also said to me that, bearing in mind the current fuel load, if we ever get a fire on Black Mountain we can kiss goodbye to Aranda, Cook, O'Connor, Turner and a whole lot of other suburbs in the inner north. We came very close to that happening on 18 January. In circumstances of continuing drought and continuing dry weather, I think it behoves us all to take responsibility to ensure that we do everything we can to minimise the possibility of that happening in the next fire season or the fire season after.

Mr McLeod says a lot about fuel. He says, on page 83 of his report that fuel is the only element of fire that we can control and that fuel burning is the only effective measure we have for wide-scale fuel reduction. We can mow, we can pick up things, we can take out dead trees in small areas, but this is not the way to go with large areas of bush.

There are some other messages about how we did not heed the warnings of the previous bushfire and we did not heed the warnings of the winter fire season in New South Wales. The opposition is saying don't be like the Bourbons—learn and do not forget. This is the message that has come loud and clear to me from the community. The community, despite what the Chief Minister might say, really does want to know the answers. They want to know why these things were not done. They want to know whether they have been let down collectively over the years.

Questions keep coming up—members here have raised many of them—from people who are volunteers. They have asked me why weren't the messages about fuel management heeded after the Christmas 2001 fires; and was there enough preparation for the 2002-2003 fire season? People say to me, "We weren't prepared," and they want to know why as a community they were not prepared. The Chief Minister said, "Look, I've never thought about it—never really thought about it." This is someone who is the Chief Minister for the ACT. He has had briefings on this; I have had briefings on this. At the time he was the Minister for Environment. He was one of the ministers with carriage of the bushfire fuel management program and he should have known what was happening. I cannot really believe that he is serious when he said it had never crossed his mind that fire would come to the suburbs of the ACT.

Minister Gallagher said today that there were meetings going on during the week about contingency planning. Why was the community not given the opportunity to undertake that contingency planning? These are the questions that people have to answer. There were farmers and rural lessees who had the opportunity to undertake contingency planning because they knew; they could read the signs. They went out and they spent thousands of dollars of their own money on tankers, firefighting equipment, walkie-talkies and two-way radios. They were prepared and they knew whether they could stay or whether they had to flee.

But the people in the ACT, the townies who do not know very much about fire, were never given the opportunity to make those decisions and to prepare themselves one way or another. I think this is the biggest question crying out for an answer; it is the biggest issue that we have to answer so that in future we don't just learn but we do not forget.

MS TUCKER (4.53): I will not speak for too long on this matter. I think the fact that we have suddenly rushed into this debate this afternoon is, in lots of ways, a good indication of the general response to the fires. I would like to have had time to read the documentation more thoroughly. I was going to adjourn the debate, but clearly everyone wants to have a go today, so I will respond, to a degree.

I would like to respond first to something Mrs Dunne said. I found it quite intriguing that she should have said that she is not going to be critiquing people for the sake of it, or trying to pull people down, and she understands that we need to work together. But Mrs Dunne quite happily put an opinion piece into the *Canberra Times,* which was basically quite false. There were untrue statements about the Greens' position and Senator Bob Brown's position on hazard reduction burning. Mrs Dunne would not be allowed to do that in here because you are not allowed to lie in the parliament. But she has happily done that in the newspaper and, of course, I now have to deal with that.

I must say I find that extremely disappointing from a member of the Legislative Assembly.

Mrs Dunne: On a point of order, Mr Speaker: I think that Ms Tucker said that I had lied, not in here but in the public arena. She did imply that I had lied. I think it is unparliamentary and it should be withdrawn.

MR SPEAKER: I didn't catch that. Ms Tucker, if you think that you have used unparliamentary language, would you withdraw it? Otherwise I will refer to the—

MS TUCKER: Yes, okay, I am happy to withdraw the fact that Mrs Dunne made untrue statements in the *Canberra Times*. I withdraw that if that is unparliamentary. It is a pity it is also not appropriate for such statements to appear in the newspaper.

MR SPEAKER: Thanks, Ms Tucker.

MS TUCKER: I would like to make some other general comments on the misinformation that we have seen about the Greens' position on hazard reduction burning—misinformation that has come not only from Mrs Dunne but also from some other people who seem to think it is in the interests of the community to create great division and polarise the debate. I know some people do that because they are angry and upset. Maybe that is why Mrs Dunne has acted in this way, so I will give her the benefit of the doubt. I realize that we can do things in anger that we should not do.

As people in this Assembly know, the Greens and conservationists have always been involved in discussion about hazard reduction burns, they have been part of the committee that has looked at fuel reduction burning in the ACT, and they have supported it. The Greens, including me, and conservationists that I know in the ACT and in fact in New South Wales have never said that hazard reduction burning is evil and unnatural, as I think Mrs Dunne claimed in her article in the *Canberra Times*.

It is really important to understand that hazard reduction burning is about asset protection. I am quite sure that even if it were possible to remove every potential ignition point—which it would not be, because that would require burning basically all of our wild areas, and we basically would not have the resources to do that—such a measure would not be supported by the general community. So the focus of hazard reduction burning is always on asset protection.

There are some very interesting arguments about widespread pre-emptive burning, and whether that is a useful thing to do. Certainly, scientists have concluded that in fact it can worsen the situation because you destroy the ecology and the balance within a forest in terms of humidity. It can actually make it worse. Logging, of course, can contribute to that as well. It is interesting that in 1994 the coroner in New South Wales also identified climate—namely, low humidity and wind temperature—as critical, and this has been identified again in this fire.

The question of climate and greenhouse warming has not come up very much in the debate. McLeod did not deal with it, although there was a brief comment at the beginning of the McLeod report on the weather conditions at the time. But I do think

it is very important that we include that in any discussion about fire in this country, because we know that it is having an impact.

A report entitled *Global warming contributes to Australia's worst drought* warns that high temperature and dry conditions have created greater bushfire danger than previous droughts. Drought severity also has increased in the Murray Darling Basin. The report states that in 2002 Australia recorded its highest ever average March to November daytime maximum temperature, with the temperature across Australia 1.6 degrees centigrade higher than the long-term average and 0.8 degrees centigrade higher than the previous record.

The higher temperatures experienced throughout Australia last year were part of a national warming trend over the past 50 years which cannot be explained by natural climate variability alone. Professor David Karoly, formerly Professor of Meteorology at Monash University, co-authored that report with Dr James Risbey from Monash University's School of Mathematical Sciences. Professor Karoly also said that this is the first drought in Australia where the impact of human-induced global warming can be clearly observed. Dr James Risbey said that although the 2002 drought was related to natural climate variations associated with El Nino, the higher temperatures could not be attributed solely to this factor. So that macro debate also has to occur when we talk about fires.

I notice that federal politicians, and in particular Liberal politicians, focus on the questions of hazard reduction burning that suit their constituency. But they have a responsibility as federal parliamentarians to also address the question of global warming and the impact that has on our climate, and therefore the likelihood of us having to deal with a lot more fires, which is a very sad fact that we are going to have to deal with.

I will talk a bit more about the question of logging, which is also interesting. One scientific paper points out that the high humidity complex in forests is destroyed by high intensity logging, and that mean a mass of tinder-dry fuel results as the forest dries out.

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

MS TUCKER: The various aspects of how we are managing land also have to be brought into the discussion.

I think Mrs Dunne just said that Mr McLeod was recommending widespread pre-emptive burning. I don't see that in here, but he certainly does recommend that there be more hazard reduction burns. Of course, that will be looked at by conservationists in the same reasonable way they have looked at hazard reduction burns in the development of the fuel management plans which are agreed to by all stakeholders in the committee that looks at that particular issue.

So I hope once and for all we are not going to hear from the Liberals any more that the Greens and conservationists are against hazard reduction burns. The question is, of

course, about the detail of how wide you go. As I have said before in this place, there is certainly not scientific agreement on that, and that is a discussion that has to be had. It is a good discussion and it is about balancing tensions between the environmental integrity of areas, the effectiveness of widespread burning and the cost of doing it. I note that the Dwellingup royal commission in Western Australia in, I think, 1961 was told that although there had been widespread pre-emptive burning for about 40 years, the fire still ripped through the town and caused incredible damage. So by no means can it be claimed that this is the only aspect we should focus on. We have to focus on all aspects, and I think members have said that.

I have not heard what all the Liberals said, but I notice that Mrs Dunne was doing a mea culpa about what the Liberals had not done, and I am glad to hear that. I think it is important that, instead of looking to accuse each other, we look at how we can progress the policy and the practice of protecting Canberra from another fire event like this. *(Extension of time granted.)*

One other important point that I would like to raise is the question of fire trails. Of course, that is something that can be looked at but it is very critical that we have a consciousness in that discussion about water catchment. I know that already there are real issues there, and if there is one thing the Canberra community is sensitive to it is the need to have a good water supply. Obviously, this has been brought to our notice in a rather dramatic way. Water catchment is absolutely critical and we cannot have a situation where fire tracks are just ripped through water catchment areas, because we do need to understand the implications of that for water catchments.

MR CORNWELL (5.04): I rise to make a few comments in relation to the McLeod report but I think I should begin by commenting on Ms Tucker's remarks. First of all, I suggest to you that if we do not have this debate today we will not have a chance to debate it again. These things have a habit of being placed on the notice paper and disappearing into the ether.

I might also say that we had the usual apologia from Ms Tucker. She was very erudite. Indeed, she quoted scientific evidence et cetera to suggest—

Mr Quinlan: We don't want any of that stuff.

MR CORNWELL: No, indeed. Of course, Mr Quinlan, the evidence that was quoted here by Ms Tucker is unproven in this place, but it fits into the usual Liberal-bashing homily that she is used to delivering. Irrespective of what she may say in defence of the Greens—she alleges that they are always concerned about hazard reduction, et cetera—the simple fact is that the majority of people out there have suspicions; and I don't say they are correct. May I say that the majority of people out there faced with burning off or burning will accept the former any day of the week, irrespective of what you may think of the environment.

I have no real problem with the McLeod report. In fact, I think it is very well written. I have no problems even with the government's response, although I must admit I have had to read it fairly quickly. But I am a little disappointed that numbers of things were not addressed. Earlier today in question time I raised the question of air

tankers. I did not get a response from the Chief Minister, but that did not come as a surprise.

If you look at the McLeod report appendices you will see that some interesting questions arise from examining some of the information. For example, appendix D relates to Australian Defence Force assistance provided to the ACT for the January 2003 bushfires. May I commend the defence forces for the work that they have done, but what puzzles me is that the bulk of the assistance was provided after 18 January. If you look at this you will see that at least 50 per cent of the items listed were after 18 January and, indeed, seven water tankers appeared only on 16 January, two days before the real firestorm. I would have liked to have known whether they were requested beforehand and, if not, obviously why not.

I was interested to look at Appendix E, "Areas burnt in the ACT in the last 80 years". There are eight maps here and yet we are told that this fire was a once in a hundred year conflagration. I must have gone to the wrong school because it seems to me that eight into 80 gives you an average of about 10. Again, I have not had a real explanation as to why we are making one claim when in fact the evidence from these appendices suggests another.

I am also concerned about the information listed in appendix F that the ACT manages in the ESB headquarters 55 administrative staff and 78 operational staff. I would like a breakdown of that information. What do these people do at headquarters?

Finally I would like to have had information as to whether the adequate fire protection measures referred to in appendix H, the Australasian Fire Authorities Council position paper on community safety and evacuation during bushfires, in fact were put into operation, particularly those relating to evacuation considerations and information and warnings, which is shown at page 272.

I think these matters should be addressed. They have not been. I find that disappointing because I believe this would be in the interests of the people of the ACT—the people who were so complacent, I would remind my colleagues, according to the Chief Minister. I think they deserve answers to this so that, if for nothing else, their complacency can either be justified or not justified. Chief Minister, I look forward to my questions being addressed.

MR STEFANIAK (5.10): Mr Speaker, I think on the whole there is a lot of good things in this report, but it simply cannot say everything. It was done in too short a period of time and there are some gaps which obviously we still need to be answered. Indeed, we need some further explanations in the minutiae and the detail which Mr Cornwell has gone through.

I suppose, Mr Speaker, having been born here and having grown up here, I was probably not quite as complacent as the Chief Minister in thinking something like this would never happen. But I was still probably reasonably complacent. It is difficult to imagine a fire sweeping through an urban area of Canberra, taking out 500 houses and killing four people. I think for that very reason, and especially because it did take the lives of four people, we need to do all we can to make sure it never happens again. If, indeed, people, parts of organisations or organisations did not do as well as they could

have, that is something that needs to be found out as well and obviously appropriate steps taken. Mr McLeod makes a number of recommendations in respect of taking some appropriate steps at this stage.

I said earlier that perhaps I was not quite as complacent as the Chief Minister. I say that because on 17 January I was at a land development, probably a kilometre from the main Gungahlin shopping centre, which was being opened by Mr Corbell. It was a horrible day. It was hot, approaching the high 30s, and at that stage a strong wind was blowing from the south-west. All of us remember the pall that was hanging over Canberra.

I must admit as I prepared to go to Wollongong that night by bus to pick up my wife and the rest of the family who were on holiday, I had a slight trepidation about whether I should leave. But I dismissed that. Who would have thought that an event like this would happen? It did and because it did I think it is essential that we do everything we can.

A few people have wondered why the government has accepted all of the recommendations and has done so quickly. I think Ms Dundas made some excellent points in that, yes, it is sensible to accept a number of good, sensible, basic recommendations but we may well be rushing in in terms of accepting everything. Given that this report cannot possibly be expected to cover everything—and it is obvious that it certainly has not—I think the government might rue the day that it accepted all of the recommendations.

There are other reports to come. There is, of course, a coronial inquest. Having said that, I think it is absolutely essential that the recommendations that need to be put in place before the next fire season be actioned. Also, there are a few recommendations in the report which might in fact verge on being a little bit too cautious and there might not be the urgency that is needed to ensure that we are as prepared as we can be for the next fire season.

Someone said hindsight is a wonderful thing. Yes it is, and it is also something we do need to learn from. That is what we do all the time. Since self-government, numerous items that have come before this Assembly—things where systems have not worked or even individuals have not worked. People have been blamed, systems have been blamed and, as a result, there has been change. Our ability to look at things with hindsight and see if we cannot make things that little bit better so they do not happen again is a very healthy part of a democratic system. So we actually can learn from our mistakes.

I think it is important that we carry out what needs to be done now. As I said, I think Mr McLeod was somewhat too guarded perhaps in his language in some of those areas. We do need to back-burn. Have we back-burned as much as we could, and indeed perhaps should? I think we have had some good conditions to carry out such work.

I have a place on 25 acres near Pambula, and half of that is bushland. Unfortunately, I get down there on only rare occasions but I noticed that, at a time when we were not doing any back-burning, what looked like some fairly extensive and very positive

back-burning was being carried out in the south-eastern forests of New South Wales, which were spared the fires on that occasion. But I know that people were terrified that if the fire simply went a certain way, those forests would have caught alight and the fires would have gone all the way to the coast, as they did in 1939. But there, at least, some good back-burning was undertaken in what seemed to be a controlled, sensible way, taking advantage of whatever breaks there were in the weather.

Black Mountain certainly worries me. Being away on the day of the fires, I was absolutely aghast at what could have occurred if the fires, as a result of a slight wind change, had got into Aranda and Black Mountain. Indeed, had we not had the firebreak which resulted from the forced back-burn that I think was set off by arsonists in December 2001, we can only wonder what would have happened to Curtin, Deakin, Yarralumla and other parts of Canberra.

What potentially could happen if there is a fire on Black Mountain? Have we done enough there? Sadly, most areas to the west have certainly had a very effective back-burn as a result of these dreadful fires. But I am not sure whether there is more we can do there.

I heard Ms Tucker talk about fire trails and the effect they have on the catchment areas. I think we do need fire trails and I am glad to see some recognition of that made in this report. It is quite clear to me that we need proper and full fire trails throughout this territory. They need to be regularly maintained so that our firefighters, people such as Mr Corbell and Mr Smyth, are able to get in quickly and put out fires.

It is interesting to note some of the comments that were made by Mr McLeod in relation to what occurred on 8 and 9 January, and the likelihood that quite probably those fires, at least in the ACT, may well have been able to be put out; and the fact that in some instances it was rather difficult for crews to get to them because of the undergrowth, because of the fact that we did not have fire trails.

I have lived here all my life, Ms Tucker. I know we have had a wonderful water supply and I know we had a pretty good arrangement of fire trails in the 1960s and 1970s. My father regularly went out there. When Corin Dam was being built he used to ride shotgun on the pay truck that carried the money to pay the workers from the Department of Works. Old Frosty Kennett, a bookmaker who was an absolute classic, used to drive the truck. I remember going out there to look at the area. I seem to recall some very good fire trails, which sadly, it seemed, went into a state of disrepair in the 1980s and 1990s.

And yes, if we are laying blame, I think blame can probably attach itself in varying degrees to every single government this territory has had since self-government and, of course, Commonwealth governments before that. That is something that my party does not resile from at all because we were, on occasions, the government. And yes, we might have done a few things, but certainly, in retrospect, like other people we probably could have done a hell of a lot more.

I think it is salient to note the effective firefighting actions taken by veterans. The actions taken by Val Jeffery on his own initiative certainly greatly assisted in saving

the village of Tharwa. Yes, we certainly have to be very well prepared for the next fire season.

It is absolutely essential that we do that. I think, if anything, some of these recommendations may not go far enough. I did not see—I could be corrected if I am wrong—some recommendations in relation to better training, not only for the firefighters and crews themselves but perhaps for any headquarters that is associated with the Emergency Services Bureau or anything that comes out of that.

I can recall that certainly in the military you regularly exercise a headquarters. You have what is called tactical exercises without troops and then you have actual exercises where you go through a certain scenario. We have done that in the past in Australia. In fact, we have gone through some pretty horrendous scenarios such as Cold War civil defence. We would go through worse case scenarios in terms of if Australia was nuked. Thank God that has never happened and we hope it never will. But it is important for organisations at all levels and headquarters to train and prepare for worst case scenarios. Perhaps there could have been a bit more in this report in relation to that.

This is not a case of the debate being polarised. I heard the Greens say they do not mind hazard reduction. They do not mind urban infill but I do not know whether in practice they actually support something like that. I understand that a fire like the one in Canberra has the same effect on the environment as 12 months of greenhouse gases. It was catastrophic. There are certain specimens which will probably never recover in our life time.

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

MR STEFANIAK: Thank you very much, Mr Deputy Chair. I will finish on that point.

MRS DUNNE: Under standing order 47 I seek leave to speak again.

Leave granted.

MRS DUNNE: I speak again in debate today because of the somewhat uncharacteristic outburst by Ms Tucker. I gained the impression that Ms Tucker was stunned by an article I wrote that was published last week in the *Canberra Times*. I think I need to set the record straight. At no stage did I state in that article that the Greens were opposed to hazard reduction burning because it was unnatural—and those were the words that were used by Ms Tucker. I did state, however, that the line Senator Brown took was a traditional Green approach to such issues—it was absolutist, lacking in nuances and it made no concessions to practicalities.

That is what happened. As I said in the article, Ms Tucker drew back from the position that was espoused in the Senate by Greens leader, Senator Brown, and she said that she was in favour of possible hazard reduction burning. Hazard reduction burning is theoretically possible. Ms Tucker's speech today was akin to the Greens approach to in-fill. They are always in favour of in-fill but when we come up with examples of where we should have in-fill, they always say no. That is what was

evident today in Ms Tucker's speech. She said, "We are in favour of hazard reduction burning—

Mr Corbell: That is not true. She supports variation 200.

MRS DUNNE: Yes, but only in theory. Ms Tucker would say no to any suggestion by this government that there should be in-fill.

Mr Corbell: No, in practice.

MRS DUNNE: Even though Ms Tucker acknowledged the theoretical possibility of hazard reduction burning she kept stating, "But it will not solve the problem." No-one has said that it will solve the problem. Mr McLeod does not say that it will solve the problem and I did not state in my article in the *Canberra Times* that it would solve the problem.

However, Mr McLeod did state that if fuel is the only thing over which we have control we must exercise that control. There are a number of ways of doing that. We are again seeing a backing away from that approach by the Greens. If pressure is placed on them they state, "We will do this in theory", but when it comes to the crunch they think that trees are more important than people.

MR PRATT: Under standing order 47 I seek leave to speak again.

Leave granted.

MR PRATT: Under standing order 47 I sought leave to inform members that some sections of my speech were misquoted and taken out of context. I refer in particular to Mr Quinlan's earlier operatic outburst. Initially, Mr Quinlan correctly quoted the speech that I made in November 2002. I was impressed that emergency agencies did everything they could in December 2001 to avoid a disastrous loss of infrastructure. However, Mr Quinlan, in his attack on me, failed to quote my speech in context. In order to back up my argument I will quote three paragraphs from *Hansard*. I stated:

> I do not need to table the reports that spelt out how severely pushed our firefighting resources were over the critical Christmas Eve-Christmas Day period.

I was referring to the bushfires that occurred in 2001. I then stated:

> Indeed, on Christmas Eve on a number of fronts fire teams were successful only when the swirling and gusting north-westerlies abated right on sunset. Severe loss of property at the zoo, for example, was only just avoided.

I referred also to the preventive work that was done by our fire units in 2002. Mr Quinlan, in his operatic outburst, failed to refer to this statement:

> Where vulnerable neighbourhoods, particularly those fronting on to bushland on their western fringes and perhaps with western gradients falling away, have cooperated with fire units in preventive preparations and education, the fire units have been most willing and they have been proactive.

When the whole of my speech is read it reveals that I said if the government had backed up our fire units and encouraged preventive programs—

Mr Corbell: On a point of order: I understand what Mr Pratt is trying to do but he is stretching the use of this standing order by debating the question. The standing order refers specifically to words being taken out of context. Mr Pratt said he believed that the words he had spoken had been taken out of context. However, he is now debating the question by referring to a number of other things he said in order to substantiate his position. Those statements are not relevant to the speech that was quoted from by Mr Quinlan. Mr Pratt is now debating the question.

MR PRATT: On the point of order: under standing order 47 I am allowed to quote from a speech that I made and to which Mr Quinlan referred. Standing order 47 states that I cannot introduce any new material.

MR DEPUTY SPEAKER: That is correct.

Mr Corbell: You are.

MR PRATT: I have not introduced any new information; I am merely quoting from those sections of my speech that Mr Quinlan chose not to quote from in order to advance his spurious argument.

Mr Stanhope: On the point of order: it is absurd that Mr Pratt is again taking up the time of the Assembly. Standing order 47 is invoked only when a member's speech has been misquoted or misunderstood. Mr Quinlan was not referring to a speech that was made today by Mr Pratt. That speech was not misquoted and it certainly was not misunderstood. Mr Pratt should be ruled out of order as he is abusing the standing orders of this place.

Mr Smyth: On the point of order, Mr Speaker: the Chief Minister has clearly misunderstood. Mr Quinlan quoted from a speech that was made by Mr Pratt. Mr Pratt is simply referring to other sections of that speech in order to put his speech into context. It is quite appropriate for him to do so.

Mr Corbell: On the point of order, Mr Speaker: a member who has already spoken in debate may be heard again in order to explain any material part of his or her speech that has been misquoted or misunderstood. Standing order 47 clearly refers to current debate; it makes no reference to speeches that were made on another occasion. So a member who has already spoken in debate may be heard again in order to explain any material part of his or her speech that has been misquoted or misunderstood. That is not what Mr Pratt is doing. He is debating the motion. Other avenues are available to him if he wants to do that. He should not do that under this standing order.

MR DEPUTY SPEAKER: Do you wish to speak to the point of order, Mr Pratt?

MR PRATT: On the point of order, Mr Speaker: I was quoting from those sections of my speech in an attempt to refute Mr Quinlan's earlier comments.

Mr Stanhope: You made that speech a year ago. It is no longer relevant.

MR DEPUTY SPEAKER: A member who has spoken to a question may again be heard to explain where some material part of his or her speech has been misquoted or misunderstood. No time limits are imposed.

Mr Quinlan: Read the rules.

MR DEPUTY SPEAKER: No time limit is imposed if a member is referring to a speech that was made some time ago. The standing order does not state that reference can be made only to speeches that were made in the same debate. However, it does state that a member "shall not introduce any new matter, nor interrupt a member speaking, and no debatable matter may be brought forward nor may any debate arise upon such explanation". I caution Mr Pratt not to introduce any new matters into this debate, as it will simply result in another discussion.

MR PRATT: Mr Speaker, I abide by your ruling and the framework of standing order 47. The third paragraph of my speech to which I wish to refer gives this issue some balance. I stated:

> But, Mr Speaker, have we as a community done all that we can possibly do in terms of both pulling our own weight and backing up our fire services and emergency services in general?

When I made that reference to "backing up our fire services and emergency services" I was talking about community and government leadership. That statement follows the statement that was quoted earlier by Mr Quinlan. The point that I was making—and this is something to which Mr Quinlan failed to refer when he was quoting from my speech—was that our fire units did as much as they possibly could in 2001. Mr Quinlan failed to point out to members that I urged the government to do more by introducing education, information and awareness programs. I repeat what I said earlier, Mr Speaker: the sections of my speech from which Mr Quinlan quoted did not reflect the fact that I had said our fire units worked well in December 2001.

Mr Corbell: On a point of order, Mr Speaker: Mr Pratt is now debating the question.

MR DEPUTY SPEAKER: Indeed you are, Mr Pratt. You have made your point.

Mr Corbell: He has gone beyond making a personal explanation. He is now debating the question.

MR DEPUTY SPEAKER: You have explained that part of your speech in which you claim to have been misquoted by Mr Quinlan. Your explanation is now on the record.

MR PRATT: I accept your ruling, Mr Speaker. Perhaps I strayed a little from the question. I conclude simply by stating that that erroneous misrepresentation reflects a certain frustration on the part of Mr Quinlan.

MR TUCKER : Under standing order 47 I seek leave to speak again.

Leave granted.

MS TUCKER: Mrs Dunne claimed earlier that I had misrepresented her. I need to set the record straight. Mrs Dunne wrote in her article:

> First, for Greens (and many mere greenies), human beings are not part of "the environment". It's not just a case of preferring trees to people; human considerations just don't go in the same ledger as "environmental" issues. Deliberate burning, like logging, is "just wrong", and that's all there is to it.

I was surprised when I read that statement. I was also surprised when I read her statement that Senator Bob Brown had gone public with a flat rejection of hazard reduction burning in any form. That is untrue.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (5.34), in reply: I thank members for their contribution to debate on the McLeod report—an extremely important and good report which provides a framework for the community to respond to many issues. The government is to be commended for being open and amenable to learning the lessons that are there to be learnt. We commissioned a report and said, "Look hard at how we responded to the fires on 18 January. Point out to us where we failed and where we might have done better and advise us on how to improve our response and better protect this community." It is a good, rigorous and tough report that contains a number of painful lessons for us all.

We are determined to ensure that we do not again face a disaster or catastrophe of that order. As I have said before, we are responding to these issues. The Treasurer is waiting anxiously to introduce an appropriation bill that will provide significant additional funds—millions of additional dollars—to ensure that we are better prepared, better educated and better trained. The recurring theme that was evident in the contributions of all members throughout this debate was the need for us to consult around a new structure and to make new organisational arrangements for the Emergency Services Bureau.

I explained in detail today that this government has every intention of doing that. It is committed to consulting fully with all stakeholders. This has been a good debate on a good report that I am sure we will hear more about. Finally, I defer to the views expressed by members of the Liberal Party about our preparations for last season and I share the sentiments expressed by Mr Pratt on behalf of the Liberal Party opposition. As Mr Quinlan said earlier, Mr Pratt, as Liberal Party spokesperson, made this statement seven weeks before the 18 January disaster. It is interesting to see how those views changed after the fires. I am happy to conclude this debate with the words uttered by Mr Pratt seven weeks before the bushfire disaster. He said:

> I believe that all ACT residents can be satisfied that our emergency services have done all that they can possibly do to prepare for this dangerous season.
>
> Our bushfire and urban brigades have been out and about for months backburning and preparing the field. The fire units have been most willing and

> they have been proactive. Contingency planning by the emergency services has been extensive and we on this side of politics salute their diligence and professionalism, as I am sure does everybody else in this chamber.

That was the view of the Liberal Party seven weeks before the fires. I end the debate on this note:

> In short, the emergency services have done about as much as they can possibly do.

Question resolved in the affirmative.

Appropriation Bill 2003-2004 (No 2)

Mr Quinlan, pursuant to notice, presented the bill, its explanatory statement and supplementary budget papers.

Title read by acting clerk.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (5.38): I move:

> That this bill be agreed to in principle.

Mr Speaker, I present the Appropriation Bill 2003-2004 (No 2). The bill provides for an increase in appropriation of $28.046 million. This Appropriation Bill is necessary for a number of reasons. Firstly, it provides the financial resources to support the government's immediate response to the McLeod inquiry. Secondly, this bill provides additional capacity in relation to other bushfire requirements not directly related to McLeod. Thirdly, the bill provides funding for a number of recently agreed enterprise bargaining agreements.

The government made provision for these at the time of the 2003-04 budget. It now needs to appropriate funding, given that negotiations have concluded. So it is an appropriation bill, not a budgeting bill, for the benefit of members. Finally, this bill is necessary to ensure transparency in government decision-making in relation to the allocation of financial resources. It is important that the Assembly has an opportunity to scrutinise decisions involving major resource allocations. I turn, first, to the response to the McLeod inquiry. Members would be aware of the inquiry conducted by the former Commonwealth Ombudsman, Mr Ron McLeod. Mr McLeod provided his report to the government on Friday 1 August 2003.

In releasing the report on Monday 4 August, the government indicated its intention and commitment to implement all 61 recommendations in the report as quickly as possible. As part of that commitment a formal government response to the McLeod report has also been tabled today. The report's recommendations range from some immediate measures to be better prepared for the next bushfire season to longer term structural issues. This supplementary appropriation bill provides for increased capacity, both in personnel and in equipment on the ground, and a comprehensive community information and education campaign.

The bill also provides resources to progress the program of organisational and legislative review and change as recommended by McLeod. Members would recognise that the government's response and the associated measures included in the supplementary Appropriation Bill have been developed over a short timeframe. The government considered this necessary in order to ensure that we, as a community, are as ready as possible before the next bushfire season.

Obviously, some further measures and initiatives may be developed over time. In response to the recommendations of the McLeod report, this bill includes appropriations of $8.4 million for 2003-04 for McLeod-related initiatives. Examples of this are $1.3 million for the purchase of four all-terrain water tankers to improve operational responses to the urban-rural interface; $1.1 million to provide all ACT Bushfire Service tankers with compressed air foam systems, increasing the capacity of a bushfire tanker fivefold; $0.5 million to broaden the bushfire fighting skills training provided to firefighters; $0.168 million to provide increased bushfire control capability to support bushfire, emergency service and volunteer management; and $0.235 million to increase the capability of the Emergency Services Bureau to analyse risks and effectively plan and support operational decision making through the use of geographical information.

This bill includes an allocation of $1.7 million to reduce fuel loads in fire risk areas. This is one of the many measures taken by the government to address potential bushfire risk. In addition, $1.4 million has been allocated to provide for additional fire protection crews for the summer period, including plant and equipment to improve the territory's firefighting capability, particularly for rapid deployment to remote area fires. Furthermore, the government will embark on a public awareness campaign to educate the community on how to respond in the case of bushfire emergencies. This initiative will require funding of $0.5 million. An amount of $0.5 million has been allocated to provide additional resources within Justice and Community Safety to implement the McLeod report recommendations.

In addition to addressing the recommendations of the McLeod report, this Appropriation Bill provides $7.9 million for a number of additional bushfire-related initiatives: $0.9 million to the Department of Justice and Community Services to fund the recent commitment to the aerial firefighting strategy. This will allow the ACT to access additional firefighting aircraft, and it represents the ACT's commitment to a national aerial firefighting capability. An amount of $0.4 million has been allocated for the continued bushfire recovery effort into early 2004, including the weekly community update newsletter and regular substantial newspaper advertising. An amount of $1.250 million has also been allocated to address tree clearage and landslip rectification on rural roads over and above funding already provided in 2002-03 and the budget.

The Stanhope government remains committed to providing ongoing support to those citizens affected by the January 2003 bushfires. This statement is supported by the provision of $1.2 million to the Chief Minister's Department for the bushfire rebuilding grant, which was announced by the Chief Minister in July. The staff members of the ACT government represent its greatest asset. The government recognises their value and has included funding of $6.5 million with this

appropriation. Provision for these costs was made during the budget. This funding is for: $2.4 million per annum to meet the cost of the EBA for ACT Fire Brigade personnel; $1.5 million in 2003-04 to the Department of Justice and Community Safety for the ambulance enterprise bargaining agreement; and $2.6 million per annum to the Department of Urban Services for the ACTION enterprise bargaining agreement.

The Department of Disability, Housing and Community Services is provided with $1.1 million to address the capital requirements of the Griffin Centre. With improved facilities the government will be able to provide better migration resource services to the Canberra community. This funding is in addition to funding provided in previous years. In addition, ongoing funding of $0.65 million is allocated to the Department of Disability, Housing and Community Services for providing secure accommodation and appropriate programs that will contribute to an existing client and community safety program—a recently emerging and urgent problem.

In summary, this Appropriation Bill will provide funding for various bushfire initiatives and reaffirm the government's commitment to adequately preparing the ACT for future bushfire seasons, including the coming season. It continues to provide for fair and equitable remuneration for our staff and it provides for additional services for our community. The impact of the bill on the operating result is $13.365 million. This result is net of the provision for enterprise bargaining agreements included in the 2003-04 budget. For the information of members, I also table supplementary budget papers in accordance with section 13 of the Financial Management Act and commend this bill to the Assembly.

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

Reference to committee

MR SMYTH (Leader of the Opposition) (5.46), by leave: I move:

> That:
>
> 1. a Select Committee on Estimates be appointed to examine the expenditure proposals contained in Appropriation Bill 2003-2004 (No. 2);
>
> 2. the Committee be composed of:
>
> (a) one member nominated by the Government;
>
> (b) one member nominated by the Opposition;
>
> (c) one member nominated by the Crossbench to be notified in writing to the Speaker within 30 minutes after the passing of this motion;
>
> 3. the Committee report by 23 September 2003;
>
> 4. if the Assembly is not sitting when the committee has completed its inquiry, the Committee may send its report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, publishing and circulation;

5. the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders;

6. on the Committee presenting its report to the Assembly, resumption of debate on the question "That this Bill be agreed to in principle" be set down as an order of the day for the next sitting.

This straightforward motion will establish an estimates committee to look at this Appropriation Bill. I do not believe that the motion needs further debate.

Question resolved in the affirmative.

Executive contracts
Papers and statement by Minister

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs): For the information of members, I present the following papers:

Long term contracts:

Dr Tony Sherbon, dated 26 June 2003.

Sandra Lambert, dated 30 July 2003.

Maxwell Alexander, dated 17 February 2003.

Lucy Bitmead, dated 17 June 2003.

John Robertson, dated 24 June 2003.

Jennifer Ruth Brogan, dated 26 June 2003.

Robyn Calder, dated 3 July 2003.

Anne Houghton, dated 17 July 2003.

Short term contracts:

Max Alexander, dated 26 June 2003.

Philip Mitchell, dated 26 June 2003.

Colin Adrian, dated 25 July 2003.

Peter Harris, dated 17 June 2003.

Dr Wayne Paul Ramsey, dated 8 July 2003.

Dr William Adam, dated 30 June 2003.

Dr Mark Bassett, dated 4 August 2003.

Peter Gordon, dated 25 June 2003.

Paul Taylor, dated 23 July 2003.

Peter Garrisson, dated 5 June 2003.

Craig Curry, dated 28 July 2003.

Lucy Bitmead, dated 17 June 2003.

Graeme Dowell, dated 3 October 2002.

John Thwaite, dated 8 July 2003.

John Robertson, dated 24 June 2003.

Chris Cameron, dated 28 July 2003.

Diane Kargas, dated 27 June 2003.

Ademola Bojuwoye, dated 8 July 2003.

Schedule D variations:

Colin Adrian, dated 14 July 2003.

Peter Gordon, dated 28 July 2003.

Hamish McNulty, dated 14 July 2003.

Hamish McNulty, dated 17 June 2003.

Sue Birtles, dated 1 June 2003.

Andrew Rice, dated 25 July 2003 and 24 July 2003.

Geoff Keogh, dated 28 July 2003.

Mark Kwiatkowski, dated 7 July 2003 and 27 June 2003.

Clare Wall, dated 27 June 2003.

Ken Douglas, dated 26 June 2003.

John Robertson, dated 24 June 2003 and 19 March 2003.

Ken Douglas, dated 28 July 2003.

Ron Shaw, dated 11 June 2003.

David Butt, dated 28 July 2003.

Mark Mullins, dated 10 June 2003.

Mark Mullins, dated 30 July 2003.

Graeme Dowell, dated 18 March 2003 and 14 March 2003.

Tony Gill, dated 19 June 2003 and 17 June 2003.

Tony Gill, dated 23 July 2003 and 16 July 2003.

Peter Gwilt, dated 7 July 2003.

Diana Dalley, dated 21 July 2003 and 17 July 2003.

Adrian Robertson, dated 19 June 2003 and 24 June 2003.

Phillipa De Veau, dated 19 June 2003 and 23 June 2003.

I ask for leave to make a statement in relation to the contracts.

Leave granted.

MR STANHOPE: I have presented another set of executive contracts. These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. Contracts were previously tabled on 20 June 2003. Today I present eight long-term contracts, 18 short-term contracts and 23 contract variations. The details of the contracts were circulated to members.

Papers

Mr Stanhope presented the following papers:

Remuneration Tribunal Act, pursuant to section 12—Determinations, together with statements for:

Part-time Holders of Public Office—Chairman of ACT Forests' Board of Advisers—Determination No 124, dated 2 May 2003.

Full-time Holders of Public Office—Chief Executive Officer and Deputy Executive
Officer, Legal Aid Commission—Determination No 130, dated 30 June 2003.

Full-time Holders of Public Office—Fire Commissioner and Deputy Fire Commissioner, Emergency Services Bureau—Determination No 132, dated 30 June 2003.

Administrative arrangements
Paper and statement by minister

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

Public Sector Management Act—Administrative Arrangements 2003 (No 2)—Notifiable instrument NI2003-233, dated 28 June 2003.

I ask for leave to make a statement.

Leave granted.

MR STANHOPE: These administrative arrangements orders were notified and gazetted on 30 June 2003 and came into effect the following day. The arrangements have been re-made to reflect new and changed legislative and administrative responsibilities that flowed from the establishment of the Planning and Land Authority and the Land Development Agency on 1 July 2003, and for the retitling of the Health Department as ACT Health.

The new Planning and Land Authority and Land Development Agency were created in response to the government's commitment regarding planning and land management reforms. As a result, a major step has been taken in making the planning and development process more responsive to the needs of our community. It will also ensure that Canberra has sustainable future development and that it remains an efficient, healthy and prosperous city with good economic vitality, community wellbeing and environmental quality.

Retitling of the Health Department was made to better recognise the broader health services responsibilities now coming under ACT Health. As well as the different departmental and administrative units, the new corporate identity also includes integration of Community Care and the Canberra Hospital. This followed passage of the Health and Community Care Services (Repeal and Consequential Amendment) Act 2002 at the end of last year when ACT Health moved away from the purchaser-provider model to be more strategic in the management and delivery of health services in the ACT.

Other changes have updated references to legislation in the arrangements. Eight new laws have been added and one retitled to the Australian Capital Tourism Corporation Act 1997 in keeping with the changed name of the Tourism Corporation. Five laws have also been repealed, namely, the Kingston Foreshore Development Authority Act, the Gungahlin Development Authority Act, the Government Contractual Debts (Interest) Act, the Public Access to Government Contracts Act and the Plant Diseases Act 1934.

Annual and financial reports

Standing committee reports—government responses

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs): For the information of members, I present the following papers:

Public Accounts – Standing Committee—Report No 3—*Report on Annual & Financial Reports 2001-2002*—Government Response, dated July 2003.

Health—Standing Committee—Report No 3—*Inquiry into 2001-2002 Annual & Financial Reports*—Government Response, dated July 2003.

Planning and Environment—Standing Committee—Report No 12— *Inquiry into the Urban Services Portfolio 2001-2002 Annual and Financial Reports*—Government Response, dated July 2003.

Education—Standing Committee—Report No 2—*Inquiry into 2001-2002 Annual & Financial Reports*—Government Response, dated July 2003.

Legal Affairs—Standing Committee—Report No 5—*Report on Annual and Financial Reports 2001-2002*—Government Response, dated July 2003.

I ask for leave to make a statement.

Leave granted.

MR STANHOPE: I am pleased to present the government's responses to five standing committee reports on the annual and financial reports for 2001-02. The government has taken the slightly unusual step of having one minister—in this case me—table responses to a number of standing committee reports covering all portfolios. The government has done this for two reasons. Firstly because, with only one exception, the standing committee reports cover more than one minister and more than one portfolio and, secondly, and perhaps more importantly, four committees made recommendations that apply to all departments and agencies.

For those reasons the government believes that the Assembly and the respective standing committees will be better informed by this whole-of-government response. As members will be aware, annual and financial reports are prepared by agencies in accordance with the Chief Minister's annual report directions and in accordance with the Financial Management Act 1996. The government seeks to ensure that the directions in the act are continually updated to reflect best practice and full accountability in accordance with government policy.

In this respect this government welcomes the recommendations of the standing committees and thanks the committees for the effort that they have made in preparing their reports. I would also like to acknowledge the difficulties faced by the standing committees in reviewing the 2001-02 annual and financial reports. Firstly, as members will be aware, the annual and financial reports were, because of the intervening election, prepared by a Labor government against directions and priorities set by a Liberal government.

For this reason many of the comments from the committees have necessarily focused on the structure of reports rather than on an analysis of the effectiveness of policies or programs. This is not a criticism; indeed it is an observation by several of the committees. I commend the committees for their efforts in the face of this difficulty. A second difficulty faced by the standing committees is the fact, as noted earlier, that the standing committees no longer mirror portfolio and ministerial responsibilities.

Standing committees, therefore, may have no particular or specialised knowledge of a single portfolio. I believe that it is partly for that reason that the committees did not feel restrained in making recommendations that would have application across all portfolios. The issue of the expertise of standing committees is a matter that received consideration in this place in September 2002. Members may recall that a government motion to have a single committee review annual and financial reports was defeated by the Assembly.

The government argued at the time that, because we no longer have a standing committee structure that mirrors the portfolio responsibilities, a single committee would be a more effective way of scrutinising annual and financial reports. The government therefore agrees with recommendation 2 of the report of the Standing Committee on Planning and Environment that the examination of annual and financial reports should in future be streamlined to provide a continuum with annual budget estimates processes by a select or standing committee whose terms of reference incorporate examination of estimates, budget and annual and financial reports.

In accordance with that recommendation the government will refer the matter to the Standing Committee on Administration and Procedure and support a debate in the Assembly for the sustained examination of policies, programs and projects over the full life of the standing or select committee. The government has maintained for some time that the committee that examines the prospective expenditure through the estimates process should be the committee that examines what has occurred over the past year. It is a logical extension of the estimates committee process and we will be supporting the standing committee's recommendations in that respect.

In the government's view, while recognising the efforts of the standing committees to come to terms with the 2002 reports, the frequent cross-agency nature of their comments also points to the need for a single committee. A standing committee is more appropriate than a select committee because it recognises the reality that the committee would function throughout the year. The proposed committee should be an existing committee because it is difficult, if not impossible, for the two government backbenchers to serve on additional committees and it is also difficult for minor parties to service additional committees.

The terms of reference of the Standing Committee on Public Accounts specifies that it is to examine the territory's public accounts and enhancement of the committee's role in line with the government's pre-election undertaking to restore the key role of the Public Accounts Committee in the code of good government. Further to the recommendation of the Standing Committee on Planning and Environment on the issue of a single committee I observe that the Standing Committee on Public Accounts has noted that it is considering possible approaches to the examination of annual reports by Assembly committees, which will provide for more systematic and uniform scrutiny.

I welcome this development and observe that it would be consistent both with the overview of reports by a single committee and with the continuous improvement of annual report directions issued by me as Chief Minister. I look forward to hearing more of what the Standing Committee on Public Accounts has in mind. The five reports of the standing committees made a total of 39 recommendations, although

several of those recommendations are multiple recommendations or contain a raft of other comments and suggestions.

In broad terms, the government supports 30 major recommendations and it disagrees with seven. The principal matters disagreed to relate to revenue and expenditure reporting or to other non-standard practices in presentation and format of annual reports. Overall, I am sure the Assembly will agree that the government has responded in a way that entrenches and enhances its record of openness and accountability. I welcome the committees' recommendations and again thank members of those committees for their hard work and thoughtfulness. I commend the government's response to the Assembly.

Law Reform Commission
Paper and statement by minister

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

> ACT Law Reform Commission Report on the Laws Relating to Sexual Assault and the Model Criminal Code Report on Sexual Offences against the Person—Government Response, dated August 2003.

I ask for leave to make a statement.

Leave granted.

MR STANHOPE: I am pleased today to table the government's response to the report prepared by the ACT Law Reform Commission entitled *Laws Relating to Sexual Assault*, which incorporates the government's response to the Model Criminal Code Officers Committee report entitled *Sexual Offences Against The Person*. The Law Reform Commission and the Model Criminal Code Officers Committee reported on a difficult area of law that, from time to time, is subject to debate and controversy. The last major review of the sexual offence laws of the territory to date was in 1985 and the provisions have remained largely unchanged since that time.

The terms of reference to the commission asked for a review and recommendations for changes that needed to be made to these laws as well as practices and procedures in the territory in relation to sexual assault. The commission made 21 recommendations. At the same time as the commission was reviewing the ACT sexual offence laws, the Model Criminal Code Officers Committee, which was established by the Standing Committee of Attorneys-General to develop a model criminal code, was examining the sexual offence provisions of all Australian jurisdictions for the purpose of developing model sexual offence laws.

The government has previously indicated its general support for the implementation of the model criminal code in the ACT. The model laws have, therefore, been taken as a starting point for reform of territory sexual offences, with the commission's report and recommendations providing a valuable local perspective on the areas of the law in need of change. As part of the process of developing this response, the government

sought the views of key stakeholders such as criminal justice agencies and sexual assault victim advocates about the recommendations of the commission and the model code sexual offence provisions.

The format of the response is to set out, briefly, the relevant existing law, the commission's recommendations, the relevant code provisions, some of the views expressed by stakeholders and, finally, the government's view. The government agrees with most of the commission's recommendations and, for the most part, the commission's recommendations coincide with the approach to sexual offences law taken in the model criminal code. The government intends, therefore, to implement the sexual offence provisions of the code, subject to a few minor variations that reflect issues raised by the commission.

In tabling this response I should like to draw the Assembly's attention to some aspects of the government's response. The basic sexual offence, which is presently described as "sexual intercourse without consent" will become unlawful sexual penetration, consistent with the case terminology. The government has rejected the commission's recommendation to revert to the term "rape" to describe this offence. The debate about the appropriate terminology to describe sexual offences has endured for many years and the government is aware of the competing arguments. However, in deciding against reverting to the term "rape", the government was cognisant of the fact that most other jurisdictions no longer use this term because it is one with the potential to encourage restricted notions of the acts that constitute sexual intercourse.

There is also very little available data upon which it is possible to assess the relative merits of the different terms used to describe sexual offences. The offences relating to child pornography are to be updated and drafted to accord with the structure and language of the code. The new provisions will address the use of modern technology such as the Internet, SMS and email to obtain and/or produce or supply child pornography. In accordance with the code provisions specific offences will be enacted to protect mentally impaired persons from sexual exploitation by any person responsible for the care of such persons. The government agrees that such measures are important to signal to those responsible for caring for the mentally impaired that sexual exploitation of those in their charge is a particularly serious criminal matter.

The new provisions will also provide additional protection to young people between the ages of 16 and 18 years from sexually predatory behaviour by persons in positions of authority such as parents, teachers, doctors and religious instructors. The government will be retaining an offence of persistent sexual abuse of a child, notwithstanding the commission's recommendation for its repeal. The government is persuaded that there is a need to recognise the special difficulties that can arise in relation to child victims of sexual offences, provided the relevant provisions are able to strike the appropriate balance with the need for the accused to be treated fairly. The government is satisfied that the proposed code offence meets that requirement.

The structure of incest offences will be changed so that instances of child incest are dealt with under the general unlawful sexual penetration offence provisions relating to children. The ACT will retain an offence for adult consensual incest and will maintain a maximum penalty of 10 years in jail. This penalty is higher than the code proposes for a seven-year penalty, but the government feels that it is important to maintain

a higher maximum penalty for this offence. There remains a real issue as to whether so-called consensual adult incest can truly be regarded as consensual when, in many instances, it will have started when one of the parties was a child who was powerless to prevent this form of abuse.

New provisions will be developed to enable police to ask the identity of persons loitering around schools, child-care centres and the like. Such powers will be able to be used only when there are reasonable grounds for police to believe that a person is a threat to the safety of children. There will also be provisions to enable restraining orders to be taken out to keep such persons away from schools and child-care centres. The government has agreed with the commission and the Model Criminal Code Officers Committee that there should be legislative protection afforded to sexual offence counselling notes. A bill to amend the Evidence (Miscellaneous Provisions) Act 1991 was introduced in the Assembly on 26 June 2003.

The bill's passage will be an important step in protecting the confidentiality of such material where there is no legitimate forensic purpose for their disclosure or their disclosure is not otherwise justified to ensure a fair trial to an accused person. Many of the other changes to the law will involve restructuring and streamlining of provisions, improvements to definitions, repealing obsolete provisions and, importantly, updating penalties for these offences. For many of the new provisions there will be an increase in the maximum penalties applicable.

I would like to express the government's appreciation to the Law Reform Commission for the extensive effort involved in its review of the sexual offence laws. It produced two discussion papers prior to its final report in a process that considered a wide range of views on this difficult and sensitive area of the criminal law. Sexual violence is an insidious and unfortunate feature of our society. Sexual offences are perpetrated against women, children and men every day. Many go unreported.

This government is committed to ensuring that our sexual offence legislation is as effective and responsive as possible, to maximise the prospects of bringing sex offenders to account and to avoid further unnecessary stress to complainants. The course that the government proposes in responding to the Law Reform Commission and Model Criminal Code Officers Committee reports will assist us in achieving these objectives. I commend the response to the Assembly.

Papers

Mr Stanhope presented the following paper:

> Legal Aid Act, pursuant to section 8—Legal Aid (Funding Agreement, National Security matters Guideline)—Direction 2003, dated 28 July 2003, together with an explanatory statement and an agreement between Commonwealth of Australia and Australian Capital Territory in relation to Provision of Legal Assistance.

Mr Quinlan presented the following papers:

> Territory Owned Corporations Act, pursuant to section 16 (3)—Consent of Voting Shareholders regarding disposal of main undertakings of Totalcare, dated 19 August 2003.

Financial Management Act—

Pursuant to section 14—Instrument directing a transfer of appropriation from Department of Urban Services, Department of Education, Youth and Family Services, and ACT Health to ACT Housing and a statement of reasons, dated 26 February 2003 and 27 June 2003.

Pursuant to section 14—Instrument directing a transfer of appropriation from Department of Treasury to Department of Urban Services and a statement of reasons.

Pursuant to section 15—Instrument directing a transfer of appropriation between output classes within Department of Education, Youth and Family Services and a statement of reasons, dated 27 June 2003.

Pursuant to section 17—Instrument varying appropriation related to Commonwealth grants for Department of Disability, Housing and Community Services and a statement of reasons.

Pursuant to section 17—Instrument varying appropriation related to Commonwealth grants for Department of Health and Community Care and a statement of reasons, dated 27 June 2003.

Pursuant to section 17—Instrument varying appropriation related to Commonwealth grants for Department of Disability, Housing and Community Services and a statement of reasons, dated 26 June 2003.

Pursuant to section 17—Instrument varying appropriation related to Commonwealth grants for Department of Education, Youth and Family Services and a statement of reasons, dated 26 June 2003.

Pursuant to section 17A—Instrument directing a transfer of funds to Commonwealth from Department of Justice and Community Safety and a statement of reasons.

Pursuant to section 19B—Instrument varying appropriation related to Commonwealth specific purpose payments to Department of Education, Youth and Family Services for National Youth Week 2003.

Pursuant to section 26 (3)—Consolidated Financial Management Report for the financial quarter and year-to-date ending 30 June 2003.

Independent Competition and Regulatory Commission—Investigation into Retail Prices for Non-Contestable Electricity Customers in the ACT—Final Determination, Report 5 of 2003, dated May 2003.

Territory Plan
Variation No 210

MR CORBELL (Minister for Health and Minister for Planning): For the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to section 29, Variation No 210 to the Territory Plan—Deakin Section 35 Blocks 2 and 28—Commercial E Policy and Residential Use, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

I ask for leave to make a statement in relation to the papers.

Leave granted.

MR CORBELL: In October 2002 draft variation 210 to the Territory Plan, concerning blocks 2 and 28, section 35 Deakin, was released for public comment. These two blocks are currently the sites of the former Deakin Motor Inn, block 2, and the Canberra West Bowling Club, now known as the West Deakin Hellenic Bowling Club, block 28. The draft variation proposed to change the land-use policy of the subject sites from entertainment, accommodation and leisure to commercial e-corridors and office sites, and to amend the existing area specific policy to allow residential use, health facilities and other associated minor activities on section 35, blocks 2 and 28.

A total of four submissions were received in response to the exhibited draft variation. All four submissions expressed in-principle support for the draft variation, although all submissions raised concerns about traffic management on Kent Street and two raised additional concerns about access to the development from Kent Street. Following consideration of the submissions received and further review, the draft variation has been revised. The recommended final variation of March 2003 differs from the draft, in that an additional control has been added which requires residential development to comply with noise attenuation standards.

This is aimed at achieving an acceptable noise environment for people living in commercial activity areas. The Standing Committee on Planning and Environment has considered the revised draft variation and, in its report No 19 of June this year, recommended that the draft variation be adopted, subject to eight conditions or qualifications. The government is happy to accept the recommendation of the committee, but I should make the following comments about two of the conditions or qualifications. These relate to traffic and building storey height.

In relation to traffic, the committee recommended that a single access point from Kent Street be used by the developments on both blocks 2 and 28. In principle, this view is supported. However, Roads ACT has advised that a traffic assessment study needs to be undertaken at the development application stage, at which time Roads ACT will be able to fully assess and resolve the required works and services. ACTPLA will ensure that a site access arrangement is agreed between all parties, that is, the lessees of blocks 2 and 28 and Roads ACT, prior to the granting of the development approval. In saying that, it is recognised that a traffic study based on actual development proposals may result in an arrangement that cannot be predicted at this time. The government is, therefore, of the view that the ultimate decision about access must be the one that Roads ACT supports as the best outcome for residents and users of Kent Street.

The committee further recommended that all development in west Deakin be limited to four storeys. Currently, however, the Territory Plan permits only two-storey height

in west Deakin, except for blocks 2 and 28, section 35 and at this stage there is no proposal to increase the height for the rest of west Deakin. In raising this issue I should add that one outcome of the Deakin neighbourhood plan is the preparation of a master plan for west Deakin. The government, therefore, is of the view that it is during that process that the committee's recommendations about four-storey height can be taken into account. I commend the variation to the Assembly.

Variation No 150

MR CORBELL (Minister for Health and Minister for Planning): For the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to section 29—Variation No 150 to the Territory Plan—Blocks 14 and 15 Section 36 Deakin (former Deakin Oval Sports Ground)—Residential and Urban Open Space Land Use Policies and Changes to the Public Land Overlay, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

I ask for leave to make a statement in relation to the paper.

Leave granted.

MR CORBELL: Variation 150 to the Territory Plan concerns blocks 14 and 15 section 36 in Deakin, the former Deakin oval sportsground. The variation proposes to vary the Territory Plan to change the existing land-use policy applied to block 15, section 36, Deakin from the existing restricted access recreation land-use policy with public land 'Ph' overlay to a residential land-use policy. It is also proposed to change the existing land-use policy on block 14, section 36, Deakin from a restricted access recreation land-use policy to urban open space with a public land 'Pe' overlay. The 'Pe' overlay means that it is public land reserved for the purposes of urban open space. Block 16, section 36 Deakin would retain its existing policy status, that is, restricted access recreation land-use policy with a public land 'Ph' overlay, and it is proposed to provide for a new upgraded soccer facility.

Eleven written submissions were received as a result of public consultation on the draft variation when it was released for public comment in June 2001. Of these, nine submissions raised objections concerning matters such as lease issues, urban open space, residential density, traffic and the consultation process. No changes were made to the variation as a result of the public consultation. The Standing Committee on Planning and Environment considered the variation and, in its report No 17 of June 2003, recommends that draft variation No 150 be approved by the Assembly subject to sufficient attention being given to the safety aspects of adjacent and adjoining blocks in Deakin, as suggested by the AAT.

The AAT decision concerns a related development application for the proposed works to the urban open space and the oval upgrade at Deakin. This development application is not dependent on the finalisation of the variation. The AAT decision requires that the development of block 14, section 36 Deakin as parkland be undertaken in accordance with a comprehensive plan prepared by a suitably qualified person or persons with experience in the application of crime prevention through environmental

design principles, or CPTED, and approved by the manager, Canberra Urban Parks and Places, Department of Urban Services.

It requires the plan to include the design and location of the proposed footpath, to be adjacent to the southern and western boundaries of block 16 where practicable, lighting, playground equipment, seating, other facilities and landscaping, including the location and species of proposed plants particularly adjacent to block 16. The plan shall take into account a crime prevention through environmental design analysis prepared by Sarkissian and Siviaciyan, the ACT crime prevention and urban design resource manual 2000, the Canberra landscape guidelines and current relevant Australian standards including a standard for playgrounds.

It states that the Deakin Residents Association shall be invited to comment on the plan. The AAT decision also recommends the desirability of ensuring that oversight of the park is considered by planning authorities if and when approval is sought for residential development on block 15. The issue of safety is an important one. This government, which has given attention to the AAT's decision, agrees that the development of the parkland should be undertaken in accordance with the committee's recommendations. I commend the variation to the Assembly.

Leases
Paper and statement by minister

MR CORBELL (Minister for Health and Minister for Planning): For the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to section 216A—Schedules—Leases granted, together with lease variations and change of use charges for the period 1 April 2003 to 30 June 2003.

I ask for leave to make a brief statement.

Leave granted.

MR CORBELL: Each quarter I table in the Assembly the schedule of leases granted for the period 1 April to 30 June 2003. Section 216A of the Land (Planning and Environment) Act 1991 specifies that a statement be tabled in the Legislative Assembly outlining details of leases granted by direct grant, leases granted to community organisations, leases granted for less than market value and leases granted over public land. However, during this period no leases have been granted. I have also tabled two other schedules relating to variations approved and change of use charge collected for the same period.

ACTION pricing
Paper and statement by minister

MR CORBELL (Minister for Health and Minister for Planning): For the information of members, I present the following paper:

Independent Competition and Regulatory Commission—ACTION Pricing for the period 1 July 2003 to 30 June 2006—Final Determination—Report 4 of 2003, dated May 2003.

I ask for leave to make a statement.

Leave granted.

MR CORBELL: I have presented the report of the Independent Competition and Regulatory Commission entitled *ACTION pricing for the Period 1 July 2003 to 30 June 2006, Final Determination*, pursuant to the Independent Competition and Regulatory Commission Act 1997. This report is the fourth review of ACTION's fares by the commission. I thank the senior commissioner, Mr Paul Baxter, for his report. The government welcomes the commissioner's direction on ACTION fares for the next three years. The determination provides that the price cap not be increased over the next two years and then increased by CPI from 1 July 2005.

This determination is consistent with the government's objective of increasing patronage on ACTION services. In summary, the commission directed that the fare level as at 24 March 2003 should remain unchanged during the period 1 July 2003 until 30 June 2005; that average fare increases in 2005-06 be in line with CPI amendments between the two periods, the 12-month period from 1 April 2004 to 31 March 2005 and the preceding 12-month period from 1 April 2003 to 31 March 2004; and ACTION is to provide to the commission its calculation of proposed fares for the period 1 July 2005 to 30 June 2006 so the commission can confirm that ACTION's proposed fares meet the determination requirements.

The government is committed to providing effective, efficient and improved public transport for Canberrans. In recognition of the important role of public transport in the community the government has announced proposals for significant improvements to the fleet, better interchanging facilities and more frequent and direct services. The government considers that it is appropriate during this upgrading process for fares as a whole to be held constant. The commission's consultation and review period of several months ensured that a large cross-section of the community could express their views about ACTION's services. The government welcomes the commission's price direction. I commend to the Assembly the price direction for ACTION bus fares.

Papers

Mr Wood presented the following papers:

Performance reports

Financial Management Act, pursuant to section 30A—Quarterly departmental performance reports for the June quarter 2002-2003 for the following departments or agencies:

ACT Health, dated August 2003.

Attorney-General's Portfolio within Department of Justice and Community Safety.

Chief Minister's, dated July 2003.

Disability, Housing and Community Services, dated July 2003.

Economic Development, Business, Tourism and Sport Portfolios within the Chief Minister's Department, dated July 2003.

Education, Youth and Family Services, dated July 2003.

Environment Portfolio within Urban Services.

Industrial Relations Portfolio, ACT WorkCover, dated July 2003.

Planning Portfolio within Urban Services.

Police and Emergency Services' Portfolio within Department of Justice and Community Safety.

Treasury.

Urban Services Portfolio.

Subordinate legislation

Mr Wood presented the following papers:

Subordinate Legislation (including explanatory statements unless otherwise stated)

Adoption Act—Adoption (Fees) Determination 2003—Disallowable instrument DI2003-179 (LR, 30 June 2003).

Architects Act—Architects (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-163 (without explanatory statement) (LR, 26 June 2003).

Betting (ACTTAB Limited) Act—ACTTAB Rules of Betting 2003 (No 1)—Disallowable instrument DI2003-165 (LR, 27 June 2003).

Building Act—Building (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-162 (LR, 26 June 2003).

Building and Construction Industry Training Levy Act—Building and Construction Industry Training Fund Board Appointments 2003—Disallowable instrument DI2003-190 (LR, 18 July 2003).

Civil Law (Wrongs) Act—Civil Law (Wrongs) Regulations 2003—Subordinate Law SL2003-20 (LR, 30 June 2003).

Community Title Act—Community Title (Fees) Determination and Revocation 2003—Disallowable instrument DI2003-161 (without explanatory statement) (LR, 26 June 2003).

Construction Practitioners Registration Act—Construction Practitioners Registration (Fees) Determination and Revocation 2003—Disallowable instrument DI2003-177 (without explanatory statement) (LR, 30 June 2003).

Cooperatives Act—Cooperatives Regulations 2003—Subordinate Law SL2003-22 (LR, 3 July 2003).

Dangerous Goods Act—Dangerous Goods (Fees) Revocation and Determination 2003 (No 2)—Disallowable instrument DI2003-172 (LR, 27 June 2003).

Duties Act—Duties Act (Corporate Reconstruction) Determination 2003 (No 1)—Disallowable instrument DI2003-178 (LR, 30 June 2003).

Electoral Act—Determination of Fees 2003-2004—Disallowable instrument DI2003-120 (LR, 19 June 2003).

Electricity Safety Act—Electricity Safety (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-160 (without explanatory statement) (LR, 26 June 2003).

Food Act—Food Amendment Regulations 2003 (No 1)—Subordinate Law SL2003-19 (LR, 1 July 2003).

Health Act—Health—Determination of Fees 2003-04 (No 1)—Disallowable instrument DI2003-150 (LR, 30 June 2003).

Health Professions Boards (Procedures) Act —

Health Professions Boards (Procedures)—Psychologists Board of the ACT 2003 (No 2)—Disallowable instrument DI2003-80 (LR, 23 June 2003).

Health Professions Boards (Procedures)—Chiropractors and Osteopaths Board of the ACT 2003 (No 1)—Disallowable instrument DI2003-166 (LR, 30 June 2003).

Health Professions Boards (Procedures)—Medical Board Appointments 2003 (No 1)—Disallowable instrument DI2003-187 (LR, 7 July 2003).

Health Professions Boards (Procedures)—Pharmacy Board of the ACT 2003 (No 1)—Disallowable instrument DI2003-188 (LR, 7 July 2003).

Housing Assistance Act—Rental Bonds Housing Assistance Program 2003 (No 1)—Disallowable instrument DI2003-153 (LR, 25 June 2003).

Independent Competition and Regulatory Commission Act—Independent Competition and Regulatory Commission (Reference for Investigation) Determination 2003 (No 2)—Disallowable instrument DI2003-182 (LR, 3 July 2003).

Lakes Act—Lakes (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-103 (without explanatory statement) (LR, 19 June 2003).

Land (Planning and Environment) Act—

Land (Planning and Environment) (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-159 (LR, 26 June 2003).

Land (Planning and Environment) (Fees) Determination 2003 (No 1)—Disallowable instrument DI2003-185 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Authorisation of Refund Determination 2003—Disallowable instrument DI2003-192 (LR, 18 July 2003).

Land (Planning and Environment) Section 167 Leases Determination 2003—Disallowable instrument DI2003-193 (LR, 18 July 2003).

Land (Planning and Environment) Criteria for Direct Special Lease Determination 2003—Disallowable instrument DI2003-194 (LR, 18 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Diplomatic and Consular) Determination 2003—Disallowable instrument DI2003-195 (LR, 18 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Territory Budget-Funded Authorities) Determination 2003—Disallowable instrument DI2003-196 (LR, 18 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Commissioner for Housing) Determination 2003—Disallowable instrument DI2003-197 (LR, 18 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Private Enterprise Land Developments) Determination 2003—Disallowable instrument DI2003-198 (LR, 18 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Holding Leases) Determination 2003—Disallowable instrument DI2003-199 (LR, 18 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Minor Industrial) Determination 2003—Disallowable instrument DI2003-200 (LR, 18 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (National and Local Associations) Determination 2003—Disallowable instrument DI2003-201 (LR, 18 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Commercial, Industrial or Tourism) Determination 2003—Disallowable instrument DI2003-202 (LR, 18 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Commercial) Determination 2003—Disallowable instrument DI2003-203 (LR, 18 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Residential) Determination 2003—Disallowable instrument DI2003-204 (LR, 21 July 2003).

Land (Planning and Environment) Section 167 Leases Determination 2003 (No 2)—Disallowable instrument DI2003-205 (LR, 21 July 2003).

Land (Planning and Environment) Section 167 Leases Determination 2003 (No 3)—Disallowable instrument DI2003-206 (LR, 21 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (National Land that has become Territory Land) Determination 2003—Disallowable instrument DI2003-207 (LR, 21 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Licensed Club) Determination 2003—Disallowable instrument DI2003-208 (LR, 21 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Takeaway Food Shop Purposes) Determination 2003—Disallowable instrument DI2003-209 (LR, 22 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Land with Government Improvements) Determination 2003—Disallowable instrument DI2003-210 (LR, 22 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Commercial Purposes - Griffith) Determination 2003—Disallowable instrument DI2003-211 (LR, 22 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Holding Leases) Determination 2003 (No 2)—Disallowable instrument DI2003-212 (LR, 22 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Public Pedestrian Access) Determination 2003—Disallowable instrument DI2003-213 (LR, 22 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grant (Eligible Independent for Use as Service Station) Determination 2003—Disallowable instrument DI2003-214 (LR, 22 July 2003).

Land (Planning and Environment) Criteria for Direct Grant Leases (Yarralumla) Determination 2003—Disallowable instrument DI2003-215 (LR, 22 July 2003).

Land (Planning and Environment) Section 167 Leases Determination 2003 (No 4)—Disallowable instrument DI2003-216 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Symonston) Determination 2003—Disallowable instrument DI2003-217 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Commonwealth Departments or Agencies) Determination 2003—Disallowable instrument DI2003-18 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Commercial D –Local Centres Land Use Policies) Determination 2003—Disallowable instrument DI2003-219 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Commercial, Industrial, Residential and Tourism) Determination 2003—Disallowable instrument DI2003-220 (LR, 24 July 2003).

Land (Planning and Environment) Land Rent Policy Direction 2003—Disallowable instrument DI2003-221 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Educational Institution) Determination 2003—Disallowable instrument DI2003-222 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Paddys River) Determination 2003—Disallowable instrument DI2003-223 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Canberra District Rugby League Football Club) Determination 2003—Disallowable instrument DI2003-224 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (ACT Leagues Club) Determination 2003—Disallowable instrument DI2003-225 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Aged Persons Accommodation) Determination 2003—Disallowable instrument DI2003-226 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Educational Establishment Gungahlin) Determination 2003—Disallowable instrument DI2003-27 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Further Rural Lease Grant (Majura and Gungahlin) Determination 2003—Disallowable instrument DI2003-228 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Statutory Authorities and Territory Owned Corporations) Determination 2003—Disallowable instrument DI2003 - 229 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Authorisation of Refund (Termination or Surrender of Lease) Determination 2003—Disallowable instrument DI2003-230 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Community Organisations) Determination 2003—Disallowable instrument DI2003-231 (LR, 24 July 2003).

Land (Planning and Environment) Section 167 Leases Determination 2003 (No 5)—Disallowable instrument DI2003-232 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Community Organisations) Determination 2003 (No 2)—Disallowable instrument DI2003-233 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Aged Persons Accommodation) Determination 2003 (No 2)—Disallowable instrument DI2003-234 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants (Community Organisations) Determination 2003 (No 3)—Disallowable instrument DI2003-235 (LR, 24 July 2003).

Land (Planning and Environment) Criteria for Direct Lease Grants After a Ballot Determination 2003—Disallowable instrument DI2003-236 (LR, 24 July 2003).

Land (Planning and Environment) Section 167 Leases Determination 2003 (No 6)—Disallowable instrument DI2003-237 (LR, 24 July 2003).

Legislation Act—Legislation Regulations 2003—Subordinate Law SL2003-17 (LR, 30 June 2003).

Legislative Assembly (Members' Staff) Act—

> Arrangements for the Employment of Staff and the Engagement of Consultants and Contractors by Members 2003—Disallowable instrument DI2003-183 (LR, 3 July 2003).
>
> Arrangements for the Employment of Staff and the Engagement of Consultants and Contractors by the Speaker 2003—Disallowable instrument DI2003-186 (LR, 3 July 2003).

Machinery Act—Machinery (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-173 (LR, 27 June 2003).

Major Events Security Act—Major Events Declaration 2003—Disallowable instrument DI2003-154 (LR, 26 June 2003).

National Exhibition Centre Trust Act—National Exhibition Centre Trust Appointment 2003 (No 1)—Disallowable instrument DI2003-191 (LR, 17 July 2003).

Nature Conservation Act—Action Plans for endangered species—Disallowable instrument DI2003-149 (LR, 30 June 2003).

Occupational Health and Safety Act—

Occupational Health and Safety (Fees) Revocation and Determination 2003 (No 3)—Disallowable instrument DI2003-174 (LR, 27 June 2003).

Occupational Health and Safety Council Appointment 2003 (No 3)—Disallowable instrument DI2003-238 (LR, 24 July 2003).

Planning and Land Act—

Planning and Land Regulations 2003—Subordinate Law SL2003-16 (LR, 24 June 2003).

Planning and Land Amendment Regulations 2003 (No 1)—Subordinate Law SL2003-21 (LR, 30 June 2003).

Plumbers, Drainers and Gasfitters Board Act—Plumbers, Drainers and Gasfitters Board (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-158 (without explanatory statement) (LR, 26 June 2003).

Psychologists Act—Psychologists—Determination of Fees 2003 (No 1)—Disallowable instrument DI2003-94 (LR, 23 June 2003).

Public Place Names Act—Public Place Names 2003, No 8 (Street Nomenclature—Banks)—Disallowable instrument DI2003-134 (LR, 19 June 2003).

Public Sector Management Act—

Public Sector Management Amendment Standard 2003 (No 5)—Disallowable instrument DI2003-167 (LR, 27 June 2003).

Public Sector Management Amendment Standard 2003 (No 6)—Disallowable instrument DI2003-180 (LR, 30 June 2003).

Public Trustee Act—Public Trustee (Investment Board Appointments) 2003 (No 2)—Disallowable instrument DI2003-189 (LR, 10 July 2003).

Radiation Act—Radiation Council Appointments 2003, (No 1)—Disallowable instrument DI2003-184 (LR, 21 July 2003).

Roads and Public Places Act—Roads and Public Places (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-171 (without explanatory statement) (LR, 30 June 2003).

Road Transport (General) Act—

Road Transport (Offences) Amendment Regulations 2003 (No 1)—Subordinate Law SL2003-18 (LR, 30 June 2003).

Road Transport (General) Declaration that the road transport legislation does not apply to certain roads and road related areas 2003 (No 5)—Disallowable instrument DI2003-148 (LR, 25 June 2003).

Road Transport (General) Declaration that the road transport legislation does not apply to certain roads and road related areas 2003 (No 4)—Disallowable instrument DI2003-151 (LR, 25 June 2003).

Road Transport (Public Passenger Services) Act—Road Transport (Public Passenger Services) Maximum Fares for Taxi Services Determination 2003—Disallowable instrument DI2003-152 (LR, 27 June 2003).

Scaffolding and Lifts Act—Scaffolding and Lifts (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-175 (LR, 27 June 2003).

Spent Convictions Act—Spent Convictions Regulations 2003—Subordinate Law SL2003-15 (LR, 19 June 2003).

Stadiums Authority Act—Stadiums Authority Board—Appointment 2003 (No 4)—Disallowable instrument DI2003-168 (LR, 27 June 2003).

Surveyors Act—Surveyors (Fees) Determination 2003—Disallowable instrument DI2003-157 (without explanatory statement) (LR, 26 June 2003).

Taxation Administration Act—

Taxation Administration (Amounts payable—Home Buyer Concession Scheme) Determination 2003 (No 1)—Disallowable instrument DI2003-169 (LR, 27 June 2003).

Taxation Administration (Amounts payable—Duty) Determination 2003 (No 1)—Disallowable instrument DI2003-170 (LR, 27 June 2003).

Unit Titles Act—Unit titles (Fees) Determination 2003—Disallowable instrument DI2003-156 (without explanatory statement) (LR, 26 June 2003).

Utilities Act—Utilities (Consumer Protection Code) Determination 2003 (No 1)—Disallowable instrument DI2003-147 (LR, 23 June 2003).

Vocational Education and Training Act—Vocational Education and Training (Fees) Determination 2003—Disallowable instrument DI2003-181 (LR, 30 June 2003).

Water and Sewerage Act—Water and Sewerage (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-155 (without explanatory statement) (LR, 26 June 2003).

Water Resources Act—Water Resources (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-164 (without explanatory statement) (LR, 26 June 2003).

Workers Compensation Act—Workers Compensation (Fees) Revocation and Determination 2003—Disallowable instrument DI2003-176 (LR, 27 June 2003).

Teachers' salaries
Discussion of matter of public importance

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

The state of teachers' salaries in the ACT.

MR PRATT (6.19): The matter of public importance that I bring to the attention of members concerns the state of teachers' salaries in the ACT. Teachers are reluctant to take strike action, but that is what they are being forced to do. Teachers are unhappy and there is a great deal of uncertainty in the community about what will happen to education in the coming months and years. This government, which is awash with new revenue, has failed to negotiate a meaningful EBA on time. It is treating teachers with disrespect. I am deeply concerned about the fact that the ACT Labor Government stalled on negotiating an enterprise bargaining agreement for government schoolteachers, which has brought this situation to a head.

I have been contacted by a number of teachers throughout the ACT who are disgusted that no offer was made to them, as promised by the government, despite much publicity that an EBA would be put on the table on time. On 31 July union delegates were told that an offer would be made on Tuesday 5 August—six calendar days later—which would have left three working days before the end of the existing EBA. At the time I felt compelled to write to the Minister for Education, Youth and Family Services, Katy Gallagher, to express concerns that had been put to me by the teachers union. I called on the government to make an offer by close of business on 1 August.

Regrettably, Ms Gallagher made it clear on Wednesday that she would not be involved in negotiations with the unions and teachers. The fact that she did not intervene to resolve this issue has heightened the likelihood of strike action by ACT teachers. Ms Gallagher, who has not taken control of or become involved in such an important issue, is not showing her department any leadership—the sort of leadership that was required at the eleventh hour. Teachers do not really like to strike as it impacts on their students. However, ACT teachers have been left with little or no choice due to the actions of the Labor Party—the so-called workers' party.

The previous Liberal government had no difficulty negotiating the last EBA. The last EBA that was negotiated allowed for a 12.5 per cent increase in teachers' salaries over a period of three years. That EBA also included an incentive program. Under a Liberal government that whole exercise was resolved with the support of 91 per cent of teachers and with no strike action. This Labor government is pushing union delegates and teachers as far as it can. I do not think that the government's late response is a deliberate ploy; I think I know Ms Gallagher better than that. One would have to assume, though, that Ms Gallagher and her colleagues wanted to ensure that teachers did not have much time within which to complain about any offer.

I, and members of the community, believe that the Labor government has kicked teachers in the teeth. Union delegates, who put their claims on the table in February, deserve to have an offer put to them well before 31 July to allow sufficient time for proper and democratic negotiations. Instead, they were kicked in the teeth by a Labor government that prides itself on promoting public education and its teachers. I cannot come to grips with that. On 14 August teachers rejected the second pay offer of 4.5 per cent that was made to them. They continue to feel abandoned. Government schoolteachers have a right to feel let down by this Labor government. This government's second pay offer still did not meet the needs of our teachers.

After voting down the ACT government's second pay offer teachers have been forced to call a strike either this month or next month. Clearly, teachers are disappointed and frustrated with the government. I have been inundated with emails and phone calls from teachers and parents who are concerned about their future and the future of their children and the education system in Canberra. I wish to point out a cruel contrast. A headline on the front page of the *Canberra Times* on 15 August states that teachers are going to strike as a result of an unsatisfactory pay offer. I recall seeing another article on the same page in the *Canberra Times* about the property boom that resulted in a $115 million surplus last financial year.

Does this government expect teachers to believe that it cannot afford to pay them more when the territory is in a sound financial position? Let me compare the recent pay offer for teachers with the 10.5 per cent pay increase received by public servants over a 12-month period.

Ms Gallagher: Eighteen months.

MR PRATT: I stand corrected. Public servants received a 10.5 per cent pay increase over an 18-month period, which resulted in a lot of despondent teachers. Teachers, who are important public servants, have been offered less than half the pay increase that has been given to other public servants. I refer to managing departments and running operations—the principle of resources being allocated to the coalface versus the administrative tail. The government announced an allocation of about $130 million for enterprise bargaining agreements in its total departmental budget.

Members questioned the minister about that allocation at the estimates committee hearings in July. It seems to me that the lion's share of that budgetary allocation has gone to departmental public servants, not to teachers and immediate support staff, which is where I believe it should have gone. I refer also to the question of parity and the need to avoid the loss of teachers to other jurisdictions. The education union has long been arguing for parity with teachers across the border.

Ms Gallagher: Borders.

MR PRATT: The minister is quite right in her reference to borders. This pay offer has failed to give teachers that parity. It potentially means that the ACT risks losing teachers across the borders and overseas. This government could do more. I, members of the community and members of the teacher's union who have made representations to me, cannot understand why Labor constantly spruiks the importance of public education when it does not intend to deliver to some of the most important people in the system. It is about time that this government acknowledged the value of our teachers—those at the forefront of public education in this territory.

Sitting suspended from 6.29 to 8.00 pm.

MR PRATT: Mr Speaker, I continue with the principle that the government has announced in its total departmental budget an EBA resource of about $130 million. It would seem that the lion's share of that has gone to departmental public servants and not to teachers and their immediate support staff, which is where it should have gone. Mr Speaker, that is outrageous. The territory's scarce resources need to be focused where they matter—in the classroom, not in the bureaucracy.

Mr Speaker, the education unit has long been arguing for parity with teachers across the border. This offer fails to give them that parity and potentially means the ACT risks losing teachers across the border or, even worse, overseas.

Mr Speaker, the government can do more. I can't understand, nor can the community understand, why it hasn't, when Labor constantly talks about the importance of public education. Well, it's about time this government showed that it values those at the forefront of public education and its implementation—our teachers.

Mr Speaker, I have publicly stated that unions representing teachers were right to target state and territory treasuries regarding a wage increase. The ACT is in a strong financial position, with continuing windfall gains, particularly through charges like stamp duty. It is unfair for the ACT government to expect teachers to roll over and accept a 3.5 per cent increase or at least now a 4.5 per cent increase adjusted, over one year, in these strong economic times when public servants will receive the equivalent of a 10.5 per cent pay increase over 18 months.

Mr Speaker, teachers are public servants as well. But of course they don't see the benefits of items like flex time and overtime. Why then does education minister, Katy Gallagher, think teachers will be happy with 4½ per cent? This offer has come too late, it is not enough and it could see the ACT losing good teachers across our border for better wages.

The Stanhope Labor government emphasises how much it values ACT public servants by giving them a 10.5 per cent wage increase over 18 months. In the paltry offer that this government has made to teachers, it creates the impression that ACT Labor does not value teachers in the same way as it regards other workers.

It is time for this government to put the full three-year agreement on the table so that teachers can decide for themselves if this government values their work. A one-year agreement is an insult. It does not help teachers and their families to plan with any certainty. It is very poor management and, indeed, pathetic leadership on the part of the government.

Mr Speaker, the ACT education system has been one of the best in the country and has traditionally sat high on the OECD countries list. But since this government has come to power, no value has been added to the education system. The government has shown little appetite for firewalling the ACT system from the problems widespread elsewhere which have begun to impact now in our own territory.

Our children in that system deserve the best attention. They need dedicated teachers who feel secure. They are not getting it. The treatment by the Labor government of the teachers is symptomatic of that.

It is not easy for government to find the funding to pay out important professionals; that's granted. Everyone knows we need more funding for teachers, police and nurses. But when government has the means by which to make substantial and justified improvements, such as in the case with the teachers EBA, then it must do that. This government is failing dismally to do that.

Mr Speaker, an increase of at least 1.5 per cent is probably now required. And the government may even have to look at further increases. The government will need to be alert to perhaps another 1 per cent increase, depending on New South Wales negotiations. Given the revenue windfall, the government could afford to action this. If the government doesn't action this, then the government needs to explain to the teachers and the community.

Mr Corbell: It's recurrent expenditure.

MR PRATT: Just explain it to the teachers and explain it to the community. Don't waste my time, Mr Corbell. Where else are they going to spend their increased revenues? Are they going to waste additional revenues on unnecessary, new, knee-jerk, reactive expenditures relevant to the McLeod inquiry, for example? It is time for a cool head on the part of this government and fiscal discipline focused on core programs, and education is a core activity currently neglected.

Mr Speaker, our teachers are well underpaid, and the government must do the best possible to rectify that. Other jurisdictions are paying much more for teachers, and we are losing good teachers. The bleeding continues. The government has dragged the chain on negotiations for months. This has only exacerbated the problem and increased the risk of the loss of good teachers and now, quite likely, strike action. The government, by its failure to act and its failure to be fair, has now put education into jeopardy.

If we now go into a season of strikes, disruption and unhappiness within the ranks of our teachers and our children, be it on the head of the Labor government. I call upon the Labor government to match the New South Wales benchmark for teacher payments, now and in the foreseeable future.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.06): Well, I don't know where to begin with this because I don't think Mr Pratt has made one correct statement in this whole speech. I feel I have to take on a bit of a story, Steve, about why we're at the situation we're at now.

Mr Pratt: Just explain why you're letting down the teachers.

MS GALLAGHER: I will, Steve. I didn't interject on you, so let's just move on. Let's have a look at this. This is industrial relations AO1. The current agreement says that the parties must agree on first instalment offer prior to negotiating the rest of the agreement. You said, "What is the government hiding? Why don't you put the whole offer on the table?" It's probably because we'd be in breach of the agreement, Steve, and we'd be in the commission.

Let's look at the other reason why we're negotiating a first instalment agreement, and my understanding is—and this is how history's been relayed to me—

Mr Pratt: Why is it so low?

MS GALLAGHER: The history that is being relayed to me is that, at the last minute, because of the atrocious wage outcomes that your party in government was delivering to public sector workers, Kate Carnell agreed to a clause in the agreement which—

Mr Pratt: That's your story, Ms Gallagher.

MS GALLAGHER: No, it's not only my story, Steve. I wasn't here at the time. Mrs Carnell agreed to a clause in the agreement, directly in negotiations with the union, that said, "We will agree on a first instalment pay offer prior to this agreement

expiring." And that was for the AEU to agree to a 12 per cent outcome over three years—and I don't know where you've got your 12½ per cent outcome over three years—as long as they had this clause in the agreement. In all my years of union organising, I have never seen a clause like this, that would send the parties into dispute at the first stage of negotiation. There has never, in my knowledge, been a clause like this.

Mr Pratt says that the ACT government has stalled; it requires leadership at the eleventh hour. Well, it's more like in the first five minutes, Steve, because we haven't even got to the negotiations yet, because of the clause that your party in government agreed to. What a hopeless clause to agree to. To send parties into dispute in the first five minutes of negotiations is the most outrageous situation to put both the government and the teachers in.

Mr Pratt: That's your fantasy.

MS GALLAGHER: It's not a fantasy, Steve; it's there; it's certified in the Industrial Relations Commission. That is the agreement.

Let's just trawl through some of the incorrect things that you've said. You said that no offer had been made on time. An offer was made on time, in line with the agreement, both parties working with the agreement.

Let's look also at the public sector wage increases and the reason why—and to quote your own words—"teachers are well underpaid" At the end of the agreement that your party, when in government, negotiated, it delivered a situation where ACT teachers at one point in the pay scale are 6.87 per cent behind. That's what you have delivered ACT teachers and left this government to fix. You've delivered 3 per cent per annum to teachers, which has resulted in this situation. And now you're saying, "Let's have parity. Let's have New South Wales parity." What a joke! You've negotiated an agreement that has put these teachers behind, and now it's okay—

Mr Pratt: I don't think you're being accurate.

MS GALLAGHER: Right, well it's a very convenient strategy.

Mr Pratt: I don't think you're being accurate.

MS GALLAGHER: I must say, Mr Pratt, I am keeping your media releases. I feel that we should almost invite you to join our left caucus next month when it meets, because the conversion to the workers friend has been quite astounding; the conversion to the workers friend is absolutely astounding. You've just flicked over and decided this is a convenient campaign to jump on because your party has put this situation firmly at the feet of this government and it's convenient to jump on it—that's what it is, Steve; it's convenient to jump on it.

Mr Pratt: You're dragging the chain there.

MS GALLAGHER: All right. Let's also look at the public sector wage increases that your government was delivering back then. I think over a three-year period—

Mr Stefaniak: That's how much money we had.

MS GALLAGHER: Right, yes. I think that's a very convenient argument, Mr Stefaniak, very convenient.

Mr Stefaniak: It's a good one.

MS GALLAGHER: Yes, that's right. It's probably more about priorities than money available. The Liberals were delivering to public sector workers around a 1.6 per cent increase per annum. How disgraceful is that! With CPI running around 3 per cent you were delivering about 1.6. When you double that for the teachers and they get a miserly 3 per cent—

Mr Stefaniak: 11.5 divided by 3. Double it for the teachers. Keep going, keep going. No, that's good.

MS GALLAGHER: Well, you did; you doubled it for the teachers.

Mr Stefaniak: Your maths might almost be right. Keep going.

MS GALLAGHER: You doubled it for the teachers. Other public sector workers were getting about 5 per cent over three years, and you were giving teachers about 12 per cent.

Mr Stefaniak: Because we realised how valuable they were, didn't we?

MS GALLAGHER: How outrageous. By suppressing wages, by suppressing real wage outcomes, you were recognising the value of teachers!

Mr Stefaniak: We think they are valuable.

MS GALLAGHER: Well, I think the AEU and some of the teachers have a bit of a different slant on that history. But, anyway, there we go.

Let's talk about where we're up to now. We're in the situation, with this ridiculous clause, that we're in a dispute with the AEU. We have offered 4½ per cent average across the classification scale, which is more than any state or territory government has offered up front to teachers, which is 1½ per cent more than you guys were delivering over an annual period. We have not said that that wage increase is over a year; nor is it over the three years. That is the initial offer once we negotiate this agreement. We have a further three years of this agreement to negotiate after that, so that's the initial offer.

It delivers wage outcomes of 3½ per cent up to 8.7 per cent across the classification scale. This is in conjunction with the 3 per cent that was received in July. So it's not 3½ per cent over a year, nor is it 4½ per cent over a year; it weights the wage increases at the upper end of the teacher level 1 category; it raises the casual rates—another tremendous legacy of your government was that you made casual teachers at least that proportion behind New South Wales rates.

So we've got a situation where an offer is on the table. We've given that offer in good faith; we want to get over this hurdle; we want to negotiate the rest of the agreement. But thanks to the bargaining tactics, if you can call it that, of the previous government, we're in a situation where we're at a stalemate. We have done everything—

Mr Pratt: We certainly had industrial parity then.

MS GALLAGHER: We have offered 50 per cent more than you did over a year as an initial offer, so don't sit here and lecture us about wage outcomes.

Mr Pratt: And they're going to strike now. They didn't strike when we were in government.

MS GALLAGHER: We can't take it. The reason we are this far behind with teachers salaries is you guys.

Mr Pratt: It's so wonderful they're going to strike now.

MS GALLAGHER: Because you did nothing.

Mr Stefaniak: A very successful EBA for three years.

MS GALLAGHER: Yes, so successful that most teachers are behind New South Wales; good on you, Bill; well done. Don't come and negotiate my pay rates for me; you just stay away, you and your bargaining tactics.

I think, on the whole, Steve Pratt, your speech was about 99 per cent incorrect. I think you were incorrect on almost every aspect of your speech.

Mr Pratt: You're entitled to say that, Minister.

MS GALLAGHER: I am entitled, but it's the truth as well. How about you go and read the EBA; how about you go and have a look at what you've done.

Mr Pratt: At least when we were in government there was parity between the ACT and New South Wales.

MS GALLAGHER: Parity! All right, let's talk about parity. Have you actually matched the classification structures up, Steve? Have you had a look at them?

Mr Pratt: Well, they weren't striking.

MS GALLAGHER: Because if you had a look at them, you'd realise that, on average—

MR SPEAKER: Order, Mr Pratt! People sat in silence while you spoke.

MS GALLAGHER: On average, they are 3.3 per cent behind New South Wales. There is an offer on the table that meets parity—in fact, it exceeds parity for every point of the classification scale, except the teacher level 1. Don't scoff; it's true. You haven't read it, have you? You haven't got the New South Wales classification structure and the ACT classification structure and matched them up with the offer—have you?—because if you had you'd realise that parity is probably a little more than wages anyway. But there we go.

Mr Pratt: What's happening with New South Wales negotiations now?

MS GALLAGHER: Let's just look at it; let's just look at it on the basic facts; let's just look at it on the classification scale. You would see that, at every point other than the teacher level 1.9, this offer addresses parity.

We've also created an extra classification, an extra increment point, so that teachers aren't constrained at the 1.9 level and could move to the 1.10—a new class, a new increment point so that teachers could be rewarded for their length of service. Again, that is something that you and your party, with all its tremendous knowledge about fair industrial relations practices and wage outcomes for people, weren't able to deliver.

This party is about supporting workers, and we do this through various mechanisms. We have legislation, and we negotiate appropriate wage outcomes through agreements. And as part of determining what are appropriate wage outcomes, we have to consider it in conjunction with other wage priorities, and we have to consider it in terms of recurrent expenditure.

Steve said, "Oh, tremendous, you've got all this money coming in this year." Every 1 per cent for teachers is $2 million, and it's recurrent expenditure. So we have to have the capacity; we have to be responsible; we have to have the capacity to pay the offer that's on the table now and anything that comes in the next three years of the agreement, which we can't even get to because of Mrs Carnell's stupid clause in that agreement, which she agreed to without advice. She agreed to it because she wanted to get out of the situation where she was suppressing wages to the point that people were getting half of the CPI.

Mr Stefaniak: They've actually got some good, sensible people in that union, Katy; they're not too bad.

MS GALLAGHER: They are good people in the union. I have no doubt about it. And they are laughing all over their faces about that clause being agreed to, because they've never seen it agreed to in any other agreement either. They couldn't believe that she said, "Yes, I'll agree to that. That'd be great. Let's tie the next negotiations up at the first instance, at the first five seconds of negotiations, and enter into a dispute." We can't even get to discuss 90 per cent of the log of claims, because we can't get over this clause. And we are negotiating. We are negotiating in good faith.

Mr Stefaniak: When did it come in?

MS GALLAGHER: The clause came in when the agreement was certified. It was in the agreement. And we're negotiating in good faith. We don't want to be in breach of the agreement, but the actual agreement says that we cannot negotiate the whole agreement till we get over the initial offer.

I hope that I've given you industrial relations AO1 of the teachers agreement. I hope that you understand now that the government is not hiding anything; that we can't negotiate the three-year agreement, Steve, because your party has given us a situation where we can't do that.

We don't want to see strike action. We will do everything we can to avoid it. We recognise the role that teachers play in our schools. At least, if not more than, 80 per cent of the education budget goes into teachers wages.

We understand their role. They deliver education to our kids. We want to do the right thing, but at the same time we have to be looking at a bigger picture, which is a three-year agreement; and it's very difficult to look at that big picture when you're stuck at the first hurdle. And that hurdle wasn't put there by anyone other than your party when you were busy suppressing wage outcomes in the public sector. Go and have a read of it, Steve. Have a look a what's on the table. I don't think it's as simple as you think.

But keep in mind that we're keeping a file on you now. We'll be welcoming you in the left caucus in the next month if you choose to, because I'm really pleased with the very, very progressive IR agenda that you are running.

MS TUCKER (8.20): I won't go into the details of the nature of the agreement. I think Ms Gallagher has done that extremely well. I just want to talk a little bit more broadly about the question. I do think it is clear that salaries for senior teachers in the ACT teaching service are behind those of their New South Wales counterparts, and the recent pay offer would have seen those teachers remain behind their New South Wales and many other state counterparts.

I absolutely agree with the analysis from Ms Gallagher in terms of what the Liberal position was on teachers over the years. If you have a look at the figures for the comparative salaries, it's quite clear.

Mr Stefaniak: How surprising!

MS TUCKER: And Mr Pratt's chatting away there to himself, as he always does, saying, "How surprising!"

Mr Stefaniak: No, it's actually been me.

MS TUCKER: No, it was Mr Pratt and Mr Stefaniak that I heard. Fine. I don't know why I reacted to it. However, I won't do it again, promise. It is quite obvious, though, that the difference between the ACT and other states has become quite marked over the last number of years.

But one of the things I want to comment on is this: I don't think a $1,000 difference in salary will in itself make the huge difference that we need to make if we want to see more people becoming teachers and see teachers stay and be teachers. It is, of course, an indicator, though, of how we value teachers in our society—and I'm not undermining the importance of it—but I do think the picture needs to be broadened somewhat.

There is just one other comment I'd make about salaries and what professions are rewarded in this community. It's unfortunately still the case that the employment market is focused on short-term profits, and accountants, business managers and corporate lawyers are unreasonably rewarded ahead of important professions such as teaching and nursing.

The ACT teaching service is not alone in Australia in having an ageing workforce, and Australia is not alone in the developed world in struggling to fill the ranks with new teachers. And in that context it is interesting to see actually in developing countries how intelligent young people do want to become a teacher and see it often as one of the best contributions they can make to their society. So salaries are not the be-all and end-all when it comes to job attractiveness and satisfaction, but the relativities of pay does speak volumes.

Indeed, while we're on the topic of salaries, I would like to remind the Assembly that the people who work in the community sector are miles behind nurses and teachers when it comes to salaries and working conditions. The fact that the community sector plays a vital role in creating a responsive and innovative society is ironic when you look at the continual loss of expertise in that sector because of the salaries that are offered in that sector. They move on to private and public.

The problem of the status of teachers, which we are addressing in this discussion as well, is just the tip of the iceberg. I do want to put on the record that the work of teachers is critical to our society. We simply cannot afford to undervalue the importance of educational experiences of our kids.

It is well recognised, too, that the work in schools has become increasingly challenging, due to the complexity and seriousness of social issues students bring with them. And there have been too many inquiries in this place, a number of which I have chaired, which have highlighted that; and I'm sorry to see that we're still in a situation where I don't think we've really addressed the issues.

If we are to address teacher shortage, we have to value this work more; we have to give young people reasons to become teachers and give good teachers the reasons to stay. The issue is also, though, that good teachers need to be supported in every way possible, including encouraging their creativity and allowing others to learn from them.

The next stage of negotiations might need to take these factors into account if they are to deliver the goods on attracting and retaining teachers. And I can give some examples of this. It's interesting. I recently heard speaking a gentleman who is the key adviser to the British government on education. He was a particularly inspiring person. He was saying the absolute key issue that you have to address if you want to

have a good education system is: help the good teachers to stay; you actually support them, because good teachers are what will bring value to our education system. I think most people will recognise the significance that a good teacher can have in anyone's life.

Some of the issues in particular that we need to be looking at in the ACT include easier access to professional development, resources for school and community partnerships, increased therapy support for students with a disability—that's a crying need. I think it's an absolute scandal the number of therapists we still have operating in this territory. I think there are two occupational therapists across the whole of the ACT; the physiotherapists and speech therapists working in schools are so overworked.

If you look at the turnover in staff, you will understand that their morale collapses when they have to make absolutely horrendous decisions about whom they are capable of supporting. They have to make choices between children that they will help. And I'm not talking about the luxury of "we'll give them a little extra lesson"; it's about "will I help this child learn to walk or that child learn to walk?" These are the sorts of challenges that are confronting therapists who are actually staying in the system and trying to work. We need to have that in mainstream schools, of course, as well, because that's an extra load on the teachers who are trying to deal with these issues.

We also have to see a boost in equity funds that will take off some of the pressure on teachers and allow them to feel more in control of their work and deliver a better service to students and the community, as they would dearly like to do, on the whole.

Perhaps then the best teachers will want to stay in the ACT system and new teachers will have an opportunity to develop their skills and be keen to progress. It can't be done without putting more resources into the system and into teachers salaries.

It's also important that we get a handle on the broader questions of balance in our community. Not only must we resource the school system generally at a sufficient level, we need to provide the support to families and communities that is needed; we have to shift away from the high-energy, profit-centred economic and social system that is growing unhealthy people on an unhealthy planet; and we have to build in the environmental social benefits we want.

MS DUNDAS (8.27): Mr Speaker, the marketplace economy in which we live assigns dollar values to work that individuals do. We reward people who have special skills, have received special training or have to undertake risks in the course of their work. Thus highly gifted athletes are allowed to command large salaries, likewise doctors and miners. However, as I am sure we are all aware, the market economy doesn't always work. Female footballers, for example, who are equally skilled if not more than their male counterparts, are massively underpaid by the standing on which we pay our male footballers.

The failures of the market economy are particularly exemplified when governments sometimes interfere. There are particular sets of workers employed by governments whom we know are not adequately remunerated. Nurses are one; teachers are

another—teachers who are the guardians and caretakers of our future; teachers who have critical roles in shaping the views and opinions of our young people; teachers who receive at least four years tertiary education; teachers who have to face the threat of physical violence that occasionally comes with dealing with children with behavioural problems; and teachers who hear the confides of students facing abuse, suicide and other dire situations.

Instead of supporting and respecting this profession, governments around the country allow the professional teachers to be smeared, for their wages to be held low and to allow quite severe teacher shortages. The low graduate demand and the comparatively higher wages overseas, particularly in the United Kingdom and Canada, have led to graduates with teaching degrees not entering the profession and leaving only after a few years if they do.

This has also had the flow-on effect of a loss of experienced teachers who are retiring early to enjoy their super and not put up with the stresses of being a modern-day teacher. The normal theory of labour economics is that, in the event of a shortage in the supply of labour, wages are increased to a level which fills the shortfall. But we have seen governments around the country refusing to do this, and over the past number of years the ACT has been no exception.

Many will have to wonder what possesses people to become a teacher, because it is certainly not the rates of pay and conditions. And currently in the ACT teachers are paid less than teachers in every other state, except Queensland and Western Australia. The recent pay offer put forward offers little more than a catch-up on these other states, but it is to be reasonably expected that the salaries of teachers in other states will be further increased following the rounds of negotiations currently under way across the country. And we cannot leave our teachers to continually be at the bottom of our pay scales.

We need a complete re-assessment of how we value different professions in our community. This is not something that the government can do alone when we are looking at the entire market, but they do have a responsibility to lead. And if we start valuing our teachers and start valuing some other professions like nurses, respecting the work they do and recognising just how hard is the job they have to do, then we should make sure that they are being paid at the right levels.

I would just like to correct something that Mr Pratt was yelling out whilst the minister was speaking. He said that there were no strikes in the years of the Carnell government. One of the great things about being a young member of this place is that I was at school when the Carnell government was in power. I had to work in my school when the teachers didn't stop teaching but stopped participating in extracurricular activities. Our sporting team stopped functioning; school theatre stopped functioning; the Rock Eisteddfod nearly shut down altogether; and the whole community of what it means to be in the ACT educational system was cut off at the knees.

Our extracurricular activities were not allowed to be conducted because the teachers were making the right choice in saying they deserved to be paid not only for the work they do but the extracurricular work they do. I supported my teachers when they did

that. I just want to put on the record that that was happening under the Carnell government, and it did have an impact on the people I was at school with, on my educational outcomes and on the work of the teachers, because it cut them to the core that they had to stop doing the extracurricular activities that they loved as much as we did. And it did have an impact on the learning that we were getting.

Every community and every parent want the best outcomes for our children and they expect the taxes that they pay to go towards providing the best possible education for their children. However, the best possible outcomes come with the best possible schools and the best possible educators. It is unreasonable and unfair to expect people to do the best possible job unless we pay them the best possible wage.

MRS CROSS (8.32): Mr Speaker, for a very long time professions such as ministries of the church, nursing, and teaching were considered vocations; that is, they were callings, and those who responded to the call did so or were considered to have done so out of a form of altruism. No doubt this was true in many instances, and I myself have known teachers and nurses whose dedication to serving their fellow man was and is exemplary.

What is most important to the true teacher is the contribution he or she can make to the positive and balanced development of children. These are the people whose main roles in life and contributions to society lie ahead of them. These children are our future.

Over the years teachers have often had to carry out their tasks amid the apathy, antipathy, even hostility of some sections of society. They frequently cop criticism and are often made scapegoats for society's failures in addressing problems that are not within the power of a teacher to resolve. No doubt some criticism is deserved, but I am not going to go into that at the moment.

What I want to highlight is the way in which society in general takes for granted the vocational dedication of teachers; how it expects the teacher to be all things, do all things, even to the point where absolutely stupid suggestions are being made in some quarters. There is a suggestion that teachers ought to remain working at school until 5 o'clock or some such time so that they can look after children until it is convenient for their working parents to resume responsibility for them. What utter arrogance! For God's sake, don't people who make suggestions like this realise that some teachers are also working parents, that some of them too have children in child care waiting to be picked up.

It is amazing just how society, or parts of it at least, so sanctimoniously take teachers for granted. Teachers are so often taken for granted that it has become part of the general expectation of the community. This feeling is well known by all who have ever been part of the teaching profession.

There is a strong feeling amongst some teaching friends of mine that they are embarrassed to say they are teachers. At dinner parties they feel bad if they are in a situation where they've got to speak about their occupation. This is a dreadful indictment of our society.

Teachers are often treated as servants; they are treated as babysitters. With few exceptions, they do serve their society well and they do deserve recognition. I am concerned that the attitude of taking teachers for granted persists in undervaluing that service.

There is also an attitude that teachers get good holidays and therefore should be happy with their lot. Governments know that teachers cost a great deal and they look at the wages bill and are horrified that so much of their budget goes in one lump. Governments steadfastly underpay teachers for their service. It has gone on for many years now.

The recompense for teachers roles in the development of the future adults of our society has always been well below their worth. The acknowledgment of the serious responsibility towards society that teachers have has been undervalued, and again the recompense has always been below their worth.

There was a brief time in the mid 1970s when in some states of Australia teachers were valued and they were paid reasonably. Then, unfortunately, the bean counters got to work; budgets moved away from looking at education as an important issue and teachers were put into a mediocre pay area, where they still are.

Teachers are not paid for their worth. They are not paid at a level that is appropriate to their training; they are not paid according to the responsibility associated with their worth. Teachers are handy butts for criticism, easy targets for the disgruntled, and they have borne this unwelcome aspect of their central role in the life and development of our society.

Why don't we for a change get out of this rut, lift up our eyes a little, think back to the contribution our own teachers made to our lives. We should express our confidence in their greatly undervalued role in preparing future generations. We should acknowledge their enduring contribution and not take them for granted. And the simplest, clearest way to do that is by paying them fairly. They deserve better consideration than they generally receive. And in the case of our local scene, for a start, their remuneration should be at least on a par with their fellow professionals across the border. Let's take that step.

MR STEFANIAK (8.37): I've listened with great interest to this particular debate. It's interesting to hear what Ms Gallagher has got to say in trying to criticise the previous government, and I'll make the point I think I've made in a few similar speeches on this. Ms Gallagher, we actually didn't have much money to operate with. In fact, even in 2000, if I recall, we were still in the red; a situation we inherited from the previous Labor administration. And quite seriously I just wonder what, when there is a change of government here, the situation will be like again. We'll probably do exactly the same and have to inherit a shocking situation in the red.

Ms Gallagher, I must say I listened with some interest and not so much amusement but just sort of irony as to the predicament you find yourself in, especially as an ex-union rep, now representing the government in terms of this particular EBA you're going to negotiate with the teachers. Ms Gallagher, you're quite right in saying that a 1 percent increase is $2 million. I've been there. I can sympathise actually with the

predicament you find yourself in, but my colleague Mr Pratt is actually correct when he says that the situation your government is in, in terms of money, is far better than what we had in 2000 and eminently better than in 1996 when we did have those very depressing industrial actions, which depressed me as minister, the government, the teachers and indeed the students.

Mr Stanhope: We can manage, mate. We can manage, Bill.

MR STEFANIAK: No, you can't manage, Chief Minister. That's the real problem. You're living off the benefits of a very successful government which did a lot of hard work to get there. Give you a few more years and God knows what situation we'll be in. I hate to think, as a citizen of this territory, what situation we'll be in. You are in a much better situation.

Yes, I can appreciate the fact you do need to be careful, and you must find that rather difficult. When you were in your previous role, of course you were after the pay increases. I actually indicated in an interjection that I always found the AEU to be very reasonable.

One of the big problems I suppose you do have in this—and Mrs Cross is right—is that we do undervalue teachers. But the fact is there are lots of them—about 3,500 in the ACT and about a quarter of a million, I think, in the government sector Australia wide, which is probably about five times the number there are of regular defence personnel, for example. It's a big swag. And they're all professionals. That makes it, I think, very, very hard for anyone doing this.

But Ms Gallagher, you can do it. I think you yourself supplied the figures that proved how you do prioritise, and that was in relation to the various EBAs in 2000. That was when, sadly, all that could be offered public servants—and yes, they took it—was, I think you said, 5 per cent over three years. I thought it was a bit more.

Let's just say your figures are right then—5 per cent over three years. We were still picking up the mess that your previous Labor administration left us. The teachers we prioritised, and we were actually able to offer, at the end of the day, in difficult times, when the territory's budget, unlike now, was not in a healthy position, 11½ per cent over three years. My colleague Mr Pratt reminds me—I had forgotten this particular figure–91 per cent of the teachers actually supported that particular EBA.

Ms Gallagher: Yes, because you were a mean, mean, mean government.

MR STEFANIAK: No, far from it. In fact, I'll give you another hint, Ms Gallagher. I don't like giving the opposition hints. Talk to the AEU. Talk to them. They're quite reasonable. You'll find actually they're quite reasonable people. Also, in that particular EBA, which you are now denigrating, a lot of work had been done before we even got to consider money. A lot of other conditions and give-and-takes had been worked out.

At the end of the day it was a fairly simple process of them wanting a reasonable pay offer, realising the predicament we were in, but actually suggesting something along the lines of what ultimately we could afford, and once that occurred it was done fairly

quickly indeed. And it was probably one of the better sorts of situations I ever faced as minister in terms of industrial relations.

I am interested in the New South Wales figures because I seem to think that EBA put us either right up the top or at least second compared with other states and territories. So I'd be interested to see where you get your figures from there. You might be gilding the lily a bit there, but at any rate that has worked well. You're in that situation now, but I think the points raised by Mr Pratt are very, very pertinent. You could well have done more than leave it to this late stage.

I get very worried when I actually hear the AEU say that they're going to go back to the sort of situation we saw in 1996, which Western Australia had a few years before, where they're considering strike action. Even in 1996 it was a series of "Let's not do certain jobs." And, yes, as Ms Dundas said, that really affected the system. It disappointed students; it disappointed, I think, all of us here; it disappointed the teachers themselves. And that is not a situation I think anyone wanted to find themselves in. That's why the 2000 situation was just so much better, because I think everyone probably had learnt their lesson there.

Here we go, history is repeating itself. You're finding yourself in that sort of situation again, and I really wonder how on earth you could have left it to the last minute to get to the situation where that's actually occurring again. It doesn't sound like you've got very much time.

I appreciate, having been there, the situation you find yourself in, but I think the points made by all the speakers tonight are very, very pertinent. It is a question of balance, but it is a question too of ensuring that fairness is actually done. I think it is a highly pertinent matter of public importance by Mr Pratt, and I think he should be commended for bringing something as important as this to the notice of the Assembly.

Mr QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (8.44): I just want to talk on a couple of tangential issues because I have to say that I really enjoyed Katy Gallagher's lesson in industrial relations 101 delivered to Mr Pratt. Mr Pratt, you haven't had a very good day.

Then you were joined, I think, Mr Pratt, recently by Mr Stefaniak in saying, "These are good times and therefore we should be far more generous than you were." Well, I'll just say this much: if you guys are professing the philosophy that we should set our recurrent budgets on the basis of a boom time and have no thought for year 2 or year 3 down the track, let's hope that the people of the ACT have the good sense to leave you exactly where you are, in la-la land.

On Sunday night, on one of the TV programs, there was some fellow called Peter Costello flying around in a helicopter saying, "Booms do not last forever." He was giving a warning. I'm sure that even Peter Costello would blanch a little if he heard that you want to spend up in the good years and forget what would follow in the bad years.

But let me just add to that, Mr Speaker: the troubled times that Mr Stefaniak went through trying to find money for teachers gave rise to such expenditures as Fujitsu contracts. Couldn't afford the teachers, but FAI wasn't a bad deal. That was a good deal! Impulse Airlines in the latter days, that was another good deal. Couldn't afford the teachers, but, yes, the odd V8 car race. Stick a few million into that, but keep the teachers down to 1 per cent. "You've got to keep a balance," that's what he said. "Keep a perspective." Of course. Bruce Stadium, $80 million. But these are troubled times, these are hard times, teachers. One per cent for you. Candeliver came and went. Cost us three or four mill. That could've kept a few teachers going for a while.

I think really we've started to lose a little perspective here, have we not? They were tough times, Bill. They were tough times if you had the education portfolio, Bill. They were tough times if you didn't really have a cabinet. They were the tough times if the cabinet was made up of Carnell, Walker and Lilley. Yes, Bill, we do accept your thesis that you had a hard time. But that's where it stops.

Mr Stefaniak: Caused by you.

MR QUINLAN: Well, keep claiming that, Bill. But those were desperate days. It gets desperate when you get to that stage.

I will conclude by repeating that I really, really enjoyed Ms Gallagher's lesson industrial relations 101, and I do think that one of the first principles of financial management 101 is: make sure that you can live through next year and the year after, before you ramp up recurrent spending as you would do.

MRS DUNNE (8.47): Mr Speaker, it's really entertaining to see the thespians Gallagher and Quinlan. It was Gallagher and Lyell, wasn't it, in the good old days? But I have to say: if you ever have to give up your day job, don't do that one because, really, you are doing your turn about: "We're better financial managers than you; look, we're the workers friends more than you are the workers friends; we've always been the worker's friends, so you can't be." The idea sucks. Oh, come on, let's get down to it; let's talk about the teachers.

Let's look at the point that Ms Dundas raised here. Teaching, like nursing, is a feminised industry and, in a country like Australia, people think that women's wages aren't as important because they're second-string wages; they've always got husbands to supplement their income; they only want to work part time; they want to go off and have children. So they're feminised. As a result, you don't pay people what they're worth.

Do you read your emails, Katy? Do you see the number of teachers who write and say the things that they do?

Mr Stanhope: She probably doesn't read them before you do.

MRS DUNNE: Oh, we're so witty tonight. Oh, go to the top of the class. But I particularly like this one who writes to Ms Gallagher:

> How can you write to teachers and tell us that your government "recognises the valuable role of teachers and the importance of appropriate remuneration" when you stand by as your department puts forwards an offer that offends teachers and incites prolonged industrial action, which will disrupt schools and the lives of families with young children across the Territory.

This is a teacher from Narrabundah College. I'm getting countless emails. I hope you're getting the emails, and I hope that you're actually taking notice of the teachers. I was at a function last night where I met two or three teachers—interestingly enough, young, male teachers. I'm constantly getting things from young, male teachers, like this one:

> It's time to pay teachers what they deserve. I'm 25 years old and a teacher who's been working in the system for three years. With the higher pay rates interstate and plenty of job opportunities overseas it has become increasingly difficult to justify staying in the system. Staff do not feel valued by this government. They do not feel valued by the department. Do they feel valued by the community?

MR SPEAKER: Order! The time for this debate has expired.

Mr Quinlan: Saved.

MRS DUNNE: I thought it was a good time to end.

Estimates 2003-2004 (No 2)–Select Committee
Membership

MR SPEAKER: I've been notified in writing of the following nominations for the membership of the Select Committee on Estimates 2003-2004 (No 2): Ms Dundas, Mr Hargreaves, Mr Smyth.

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

> That the members so nominated be appointed as members of the Select Committee on Estimates 2003-2004 (No 2).

Suspension of standing orders

Motion (by **Mr Wood**) agreed to, with the concurrence of an absolute majority:

> That so much of the standing and temporary orders be suspended as would prevent Assembly business order of the day, relating to the disallowance of Variation No 200 to the Territory Plan, being called on forthwith.

Territory Plan–variation No 200

Debate resumed.

MRS DUNNE (8.51), in reply: Actually, Mr Speaker, it's a day for being verballed. I was verballed by Ms Tucker about what I said—

MR SPEAKER: Come back to the point at issue, Mrs Dunne.

MRS DUNNE: I am, but before that I was verballed by the Minister for Planning. Yes, verballed by you as well.

Mr Quinlan: You've been Gary-ed.

MRS DUNNE: No, this was pure verballing, in the Bill sense: "Right, we've got you, sunshine." The minister came in here today and started his speech by saying, "Mrs Dunne has just come in here and said we need to have more developments, that we should have more dual occupancies and that they should occur wherever we want to." He went on and on like this, and I thought, "Hang on, that's not the speech I gave. Which planet, which alternative universe, was this minister in when I made my speech?" I realised that he wasn't. He came in here today and he had a set-piece speech and he didn't even bother to listen to what people said. He didn't even bother to listen to what people said before he came along to make his argument.

Mr Speaker, he went on to verbal the Property Council. I sat here and listened to him. He said, "The Downer Residents Association think we should pass draft variation 200." Then he said, "And the Property Council agree with me." I actually thought, "Perhaps I'm in an alternative universe. Or do my ears deceive me?" I went outside and rang Norm. I said, "Did you hear that?" He said, "Yes, I did." I said, "Can you talk to the Property Council?"

Anyhow, the message came back from the Property Council that they have never said that they would support the draft variation; that they had consistently said that draft variation 200 should not be implemented; that they are implacably opposed to draft variation 200. I would call on this minister to stand up and withdraw the statement that the Property Council has supported draft variation 200.

Mr Corbell: On a point of order, Mr Speaker: yes, I'm quite happy to apologise and announce it wasn't the Property Council. That was an error. It was the MBA.

MR SPEAKER: Order, that's not a point of order.

MRS DUNNE: Well, in that case, he's verballed the MBA now. Well, again he's in an alternative universe, because the MBA that I was talking to today do not back the introduction of draft variation 200.

This is what we have: we have a minister out of control. He is entirely out of control. He has no control over his department or the people who write his speeches. He seems to have no control over implementing a satisfactory planning process. He came in here, as I predicted he would, and said, "We have a direct mandate from the people"—not from some watery tart or anything like that; a direct mandate from the people—"to protect the garden city suburbs."

We agree that this is the case, that something should be done to protect the garden city suburbs, but the members of the Planning and Environment Committee suggest that this is not the way to do it. Members of the community, by and large, said this is not the way to do it. Mr Corbell comes in here and says, "Well, you can't possibly marry

up all the views of the community because they're so diverse." Yes, they are diverse. People from residents associations say we shouldn't make draft variation 200. The Property Council says we shouldn't make draft variation 200. The Housing Industry Association says we shouldn't make draft variation 200. The Planning Institute says we shouldn't make draft variation 200 and, even if Mr Corbell says otherwise, so does the MBA. Individual organisations, for a whole range of different reasons—this is out of the *Chronicle*—say that it shouldn't be made.

What we did was sort of divine a middle path, unlike what Ms Tucker said. Ms Tucker said we just took the easy path and said, "Don't do it." In fact, Ms Tucker, it seems that you haven't actually read the report. She said, "I really object to recommendation No 2." Let me read recommendation No 3, Ms Tucker:

> Should the Government choose to ignore Recommendation 2, the Committee recommends that specific changes be made in accordance with recommendations in the following chapters to meet the community's basic demands.

Then there are nine recommendations to address the needs of the community.

We didn't take the easy way out, Ms Tucker. We took a very difficult path, and we took a path of advising this Assembly what they might do. We're not advising the government; Mr Hargreaves is entirely right. What we're doing here today is not having a dummy spit, Mr Hargreaves; we are allowing this Assembly to exercise its right to follow or not to follow the advice of the committee it installed to advise it.

If this Assembly chooses not to follow that advice, that's well and good. But they do it on their own heads and they do it with the full knowledge that 96 per cent of the people who came before us said, in one way or another, "This system is bad and it shouldn't be implemented." Even people who wanted protection for the garden city said, "This is not the way to do it." We've come through this. We've had this minister here, out of control, verballing everybody today.

But what has actually happened is that they're failing to listen to the committee and failing to listen to the committee as a conduit of the community. These are not the views of individual members of the committee; these are the views of the public. Let's just look at some of them.

Mr Hargreaves said we had a dummy spit and our job was to just sort of accept what the government says. It's perhaps the job of an individual member to accept what the government says. But this committee made recommendations for this Assembly, and this is what you're here doing today.

We talked about defined areas. Mr Hargreaves and Ms Tucker made a really big play about how important it was that we had defined areas, defined core areas, and how that was sort of consistent with everybody's policy. Well, it isn't really, when you look at what's happened.

Let's look at what the Institute of Architects say. These are not filthy developers or ratty members of community groups; this is the Institute of Architects. We always like to sort of say good things about the architects, and this is what they had to say about

draft variation 200. Mr Robert Thorn represented the Royal Australian Institute of Architects before the Planning and Environment Committee, when he gave evidence on 28 February. He said that Canberra needs a much more sophisticated and fine-grained planning tool than was provided by draft variation 200. He went on to say:

> There are a number of criteria such as topography, orientation, and relationship to open spaces which would make certain areas … better suited for medium-density development than others.

What the Royal Australian Institute of Architects is saying is: "Just because it's near a shop doesn't mean it's the best place in architectural terms, in layout terms, to build multi-unit developments." He said:

> This is especially from a sustainability point of view, but also from an amenity point of view and minimising the impact on adjacent sites, et cetera.

What we're suggesting, what the Institute of Architects was suggesting, is that there should be a fine-grained selection of sites throughout suburbs that are suitable to medium density. Just because it's beside a shop, Ms Tucker, doesn't mean it's the right place to put medium density.

The Planning and Environment Committee brings to this place well-thought-out, well-researched and well-consulted-upon recommendations. The first principal recommendation was: don't do it because it's not good enough. If you really feel that you have to do it, we made a multitude of suggestions about how you could make it better. All of those, Mr Speaker, except one, were disregarded by this minister and this member who disregarded everything that was said by the committee.

This is why, Mr Speaker, draft variation 200 should be disallowed. It is the wrong solution for a pressing problem. This minister is so single-minded that he cannot see his way through to fairly represent and fairly act to save the garden city suburb. His one-size-fits-all solution will be the death of planning in the ACT.

Question put:

> That **Mrs Dunne's** motion be agreed to.

The Assembly voted—

Ayes 7		Noes 8	
Mrs Burke	Mrs Dunne	Mr Berry	Mr Quinlan
Mr Cornwell	Mr Pratt	Mr Corbell	Mr Stanhope
Mrs Cross	Mr Stefaniak	Ms Gallagher	Ms Tucker
Ms Dundas		Mr Hargreaves	Mr Wood

Question so resolved in the negative.

MR SPEAKER: Ms MacDonald and Mr Smyth are paired.

Personal explanation

MS TUCKER: I would like to make an explanation under standing order 46 or 47; I'm not sure which. I just do need to respond to and put on the public record a couple of things that were said during this debate. I wasn't going to respond, but I really do think I have to rebut it.

Mrs Dunne and Mrs Cross—and I can't remember exactly who said which; I think both of them did—said I hadn't read the submissions. Mrs Dunne definitely said I hadn't read the committee report. That's quite incorrect. That was Mrs Dunne.

I think both of them said I didn't care. Of course I have to put on the public record, although I think it is pretty obvious from the extensive work I've done in planning since I've been here since 1995, that I do care about Canberra, and I do care about it having a good planning system.

Mrs Dunne also just said that she thought I'd said in my speech that I hadn't taken any notice of the committee; she's claiming I didn't. What I said in my speech was that our primary area of disagreement with the committee report is on its main recommendation, which is No 2. Of course we looked at the rest of the report. Some of those concerns and submissions are indeed what I've picked up and what I've agreed to do with Mr Corbell in terms of unit titling.

Civil Law (Wrongs) Amendment Bill 2003

Debate resumed from 24 June 2003, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR STEFANIAK (9.06): Mr Speaker, we are probably up to draft 14 or 15 with the announcement of the Chief Minister at about 6.50 pm tonight in relation to further amendments. Hopefully, we will deal with those on Thursday.

Mr Speaker, tort law reform along the lines of this bill probably has been coming for some time, regardless of the insurance crisis or anything else in relation to that. I can recall as a young law student, probably along with the Chief Minister, doing tort law at the ANU in the early 1970s and learning about landmark cases in tort law, such as Donoghue v Stevenson, and some of the remarkable judgments of Lord Denning in relation to actions by government authorities and others in terms of significant tort law reform in the 1940s and 1950s in the United Kingdom.

I can also recall being earbashed by Professor Patrick Atiyah in terms of no fault liability, an interesting concept then in its infancy in New Zealand. Indeed, my colleague Mr Smyth introduced some bills which were defeated here in relation to some of that. It is a very interesting area, a crucial area. I was impressed with the fairness of a lot of those early decisions; but over the last couple of decades the United States, the most litigious of all societies, has gone to some rather ridiculous extremes, with persons suing others for any manner of supposed wrongdoing, and we have heard of persons getting payouts which generally people would not necessarily think were deserved.

In more recent times, even in Australia, we have had examples of the ease with which people have been able to sue organisations and others for negligence over what lots of people would just consider to be mishaps, part of the tapestry of life, the risks one takes. We were very much in danger—and, to an extent, probably still are—of becoming an overly litigious society. There is a real need for people to realise that accidents do happen, things do go wrong, and it is somewhat unrealistic to expect to be able always to sue somebody or some thing to compensate for the mishaps of life.

In recent times, Australia has experienced some ridiculous instances of people being compensated and one has wondered why. For instance, a fellow who was dead drunk when he fell off the Muswellbrook bridge sued to local council over the fall. Having lived in Muswellbrook for three years as a young solicitor, I am sure that it would be very difficult to fall off that bridge in crossing it. I cannot quite imagine how that could possibly happen and how it could possibly be the council's fault, yet this person succeeded there.

We had the interesting case of someone diving into the ocean and hitting their head on a sandbank and, tragically, being badly injured as a result. That one was overturned on appeal. It seems now that there have been a number of cases in which the courts have been starting to wind back the clock, to realise that some activities are inherently dangerous and people have a responsibility to themselves not to do stupid things, to take care, and they cannot necessarily accept that there will always be someone there to pick up the pieces and someone to sue.

The Chief Minister has made much of why we are at this stage. Other states largely have legislated already and we are very much following suit. In fact, we probably will be one of the last jurisdictions to get a lot of this legislation in place. A lot of the legislation is based on the Ipp review, the review of the law of negligence, and the Chief Minister has introduced a bill—the bill itself is about cut No 12—in terms of tort law reform. He certainly has come a long way in terms of introducing this particular bill and this particular lot of reforms.

I must say that I was a little concerned by a recent press release in which the Chief Minister grudgingly and rather petulantly said, "But the combined forces of the medical profession and the insurance industry require that we ensure that the community's access to doctors and health care is protected," and therefore he is going to go down the path—we are yet to see the details—of thresholds and caps which have been introduced in about five states and territories to date.

The Chief Minister stated that this reform gives him no pleasure. Maybe some of this reform does go back to the collapse of HIH, FAI and UMP and maybe that collapse was largely caused by some unrealistic policies being adopted by those companies—unrealistic insurance premiums and the charging of fees which were far too low and were not particularly representative of what the charge should have been. By the same token, I think a lot of this reform probably was coming, that a lot of it was due to people just sitting up and saying, "Maybe we have gone too far and we do need to refine our tort law."

There are a number of factors here, some of them well and truly beyond the control of a little jurisdiction like that of the ACT. The fact is that we do have to follow suit with other jurisdictions. To some extent, I have some sympathy for the Chief Minister. I know that he very much believes in protecting the rights of people to sue. It might be a bit coloured, but I respect his opinion there, even though I would not totally share it. I can see where he is coming from, too, in relation to the insurance companies. But it is important that we have this reform and this is a very important reform package, apart from just the necessity caused by the medical indemnity insurance situation.

One further point I will make in relation to his press release is that I have not appreciated the doctor bashing statements coming out of the government, the comments about Rolls-Royces, as though somehow doctors are the enemy. Doctors are an essential part of our community. I recall an ABC interview with, I think, a Dr England of Lyneham who indicated basically that it was just all too much for him, a suburban practitioner. The cost of medical indemnity insurance was killing him, as was the worry that under the law as it was he could have hanging over his head a 24-year period in which he might be sued and that might be 22 or 23 years after he had retired.

That is a real problem, probably not just for doctors. There are similar problems in other professions. I do not think that that is something that any of us would particularly want to see happen. I think it is wrong to portray doctors as some sort of incredibly rich elite. I have known plenty of doctors who have given up practising because they simply were not making any money from it. It is a bit like being a rather poor suburban solicitor, and there are some of those. These professions are not the milch cows they were in the 1970s. The real problem with a lot of this was that it was causing members of the medical profession to consider whether they wanted to continue practising.

Mr Stanhope: What do they do instead? Have they retired or gone to other jobs?

MR STEFANIAK: I just wanted to make those points, Chief Minister. I think you have been somewhat unfair in your criticism of doctors here. They are perhaps very much the meat in the sandwich.

Going to some of the points in this reform package, I think the bill does go quite a long way to addressing a lot of the issues that have been raised. Chief Minister, the points you make in regard to it, including that you are including amendments not essential for implementation in the territory but as a basis of ensuring national consistency, are important.

The opposition will be supporting this bill. I have circulated three amendments to this bill, one in relation to a cap. This bill certainly is far better than the previous possible examples. It is the result of a lot of consultation—grudgingly given in some instances, but nevertheless consultation.

Chief Minister, I understand your remark that members of this house would appreciate that it would be counterproductive for us in the territory to retain a common law approach to the determination of liability in the face of widespread adoption of a new statutory framework by other states. That is important.

You made quite clear in your tabling speech that there are two points of the Ipp report that you do not like, thresholds and caps. You have now indicated that that situation will be changing. I understand that five or so states now do have thresholds and caps and there is some difference there. I would be interested to see, particularly, what sort of threshold you are coming at because, like many others, I have had the benefit of briefings from the Law Society and I do wonder just how much of a problem that is. But the ACT, being a small jurisdiction, certainly cannot be an island within New South Wales. I do see the importance, even if it is a psychological importance, of having a cap on damages payouts for non-economic loss.

There are some good points in this bill which I think will advance tort law reform, and I commend the government officials and the people involved in dealing with them for that. I doubt that we will reach the figures for the UK with the without prejudice sorry provision. I was quite amazed to see that 40 to 50 per cent of the cases just wanted someone to say sorry. I hope that that is right, because I think that it is taking a very positive step to have that type of provision in this type of law.

The provisions regarding early notification and open disclosure are also sensible improvements to the law. If this insurance crisis has done anything, it is that it has been a precursor to some good and overdue tort law reform. Again, I think that there are some very good provisions there.

The provisions in relation to expert witnesses are causing some problems. I appreciate the views of the Law Society in saying that if a court has to make a pick at the end of the day and there will be only one witness, a plaintiff judge will go for a plaintiff witness and a defendant judge might go for a defendant witness. Okay, you could understand that; people are only human.

I think that the amendments in proposed new subsection (4) go to improving the bill to some extent in terms of ensuring that the witness, whomever that may be, has to have regard to what a college of their peers regard as common practice, as proper practice, at the time. That is especially important in terms of medical insurance and the medical profession, because doctors often have to make life or death decisions and have to go on what is accepted as best practice at the time.

Accidents, as opposed to negligence, can happen. Operations are not always going to be successful, with the best will in the world and with doctors being as competent as possible. If a tragedy does happen, a patient or the patient's family might well look for someone to sue, although all the doctor was doing was the best one could possibly expect at the time, given current practice. I think the government amendments there are fine. Whilst I appreciate what the Law Society is saying there, I think that, on balance, what the government has with that amendment is an advance and is quite fine.

The statute of limitations has caused all sorts of problems. As I said earlier, I have spoken to a number of doctors who were just so worried about the ability to be sued after 24 years for what they regarded as something which just went wrong, which was an accident, when they did their best and there was no way that one could say that they were negligent. As a result of what has happened interstate, the period has come

down to three years for adults, down from six. In the case of children, with the amendments, it will be a maximum of 12 years.

I like the way in which you can get around the incompetent parent syndrome. It does happen that some parents, for whatever reason, are not necessarily going to do the right thing by their children and lodge a claim when they should; but, if the potential defendant knows that there is a problem, they can actually force the issue. I think that is quite a good way of going about it.

The reasonable chance of success provision was a very contentious issue when the Assembly looked at it probably over 12 months ago now. At the time, the majority of the Assembly, my party included, thought that it might have some real problems, that it might be a little bit too onerous, and we decided as an Assembly to reject the government's suggestion then. They government went away and reconsidered the problem. I do not think the problem is quite the same now as it seemed to be with the profession. I think that its members are still concerned. They have probably spoken to my colleagues as well in relation to their concerns. But I do note that the government is putting it forward again and we are quite prepared to accept it and see how it actually goes.

I note from the attorney's speech that part 10.2 of the 2002 bill has been reintroduced. The idea behind that is to ensure that parties do not incur costs for claims or defences that do not have reasonable prospects of success and that the bill provides that the court can allow claims to continue where the interests of justice so dictate. That type of claim will lead to a desirable advance within the common law. If you do not do that, you will probably never have Donoghue v Stephenson cases. It is important, I think, that there is the ability there for a court to say, "On balance, this should go ahead." Apart from that, I think that the reasonable chance of success provision, where it appears in the actual litigation process, is, on balance, quite reasonable. We are certainly prepared to back the government on that and see how it actually pans out.

Mediation is an area where lots of advances have been made, probably only in the last 10 years. It is not suitable all the time. I have seen in practice that sometime you simply cannot get both parties to sit down to mediation because both parties are completely intransigent or one party is and the other one is a bit easier to get to sit down at a table and try to sort things out. But mediation is something which often can be very successful and save people a lot of angst and save lots of costs at the end of the day. Whilst mediation does not assist in all cases, it is something that is desirable for a court to order and I am pleased to see that it is part and parcel of effective case management.

I turn to partial codification of the law of negligence. We are codifying the criminal law and, because of a series of crises, this is probably a desirable step as well. At least one of the amendments I will move in the detail stage goes to an improvement to the codification and greater consistency with other parts of the codification than we have at present. That is a minor point. But, on balance, I think that the codification there is a sensible point, as is the one on contributory negligence.

Contributory negligence is something which was very important 20 or 30 years ago in lots of judgments as courts became more and more inclined to think, "Some insurance policy is going to cover this tort. We will give the plaintiff a good go here. We will give them a lot in damages and not worry too much about contributory negligence." It is good to see a restatement of the common law regarding that in this bill, to the extent that a court may reduce a plaintiff's damages by 100 per cent.

An underlying principle of the Ipp report is that people should take responsibility for their own lives and their own safety and there are, indeed, situations in which a plaintiff's irresponsibility is primarily or largely the reason why an accident occurred in the first place. I think that that is important and that that is something we need to recognise, and it is covered in the bill.

There are points in the bill in relation to mental harm. I have an amendment in relation to that. It is a new field. It is something which the courts are coming to grips with and it is something on which we need to tread cautiously.

As I indicated initially, the Chief Minister and Attorney-General was not going to go down the path of caps or thresholds for damages. He is now. I made a note on hearing his speech that he does need to go further. He appears to be doing so now. We have no problems with the point he has made in relation to public authorities. I think that it is sensible.

The provisions regarding equine activities will go a long way to assist that industry, but I wonder why the government is dealing only with the equine industry and equine sports and not with other high-risk sports which people go into with their eyes open, knowing that there is a real risk to them there, and which could have similar problems to those faced by the equine industry.

I will be interested in whether there are any proposals to extend that to some other high-risk sports, because over the last couple of years—I am sure that the sports minister would be very appreciative of this—we have had lots of worrying situations in which insurance premiums for high-risk sports were doubling, trebling or whatever from the previous year. That is a real problem not just in relation to equine sports. It may be that further extensions can be made there. It is possible that the insurance situation is balanced out there, but there are probably a few other sports to which similar provisions to what has been put in the equine part of this bill could be applied as well. On the whole, Mr Speaker, the opposition does not mind the bill and will be supporting it.

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

MRS CROSS (9.27): Mr Speaker, I have a few comments to make on this amendment bill which has been presented for debate. There are some clauses which I find are very reasonable and appropriate for dealing with some of the issues. However, there are other clauses which cause concern and I will not support them as they stand.

I have circulated amendments to alleviate some of these concerns and I am aware that other members have done so as well. This Assembly will have a raft of amendments

to debate in the detail stage. There are very important points which have not as yet been dealt with the by the government and which I feel are vital to the successful carriage of this bill.

The single expert section is an interesting addition by the government, especially as the Chief Minister has a legal background. I am surprised that he has included this section in the bill as it seems to have the effect of making the expert the judge. I would have thought that this was an anathema for lawyers. It is definitely inappropriate for the community, which is looking for a reasonable and just outcome for its case.

Mr Speaker, there are other major sticking points, including the statute of limitations, particularly for children, and the problems of discretionary powers of the court—another area in which I would have thought that the Chief Minister would have had more empathy with the legal fraternity.

Having a short window of opportunity for the parents of a child who has, unfortunately, been disabled or injured in some way is ridiculous. Those parents can spend years trying to come to grips with life with that child and possibly not even come up for air for many, many years.

I am aware that the issues of litigation, especially in regard to medical adverse incidents, are very contentious and urgent. The government has had plenty of time to address these issues. I am pleased that we finally have a bill to debate. I hope that with some reasonable agreement on the amendments offered the issues will be finalised.

MS DUNDAS (9.29): Mr Speaker, the Democrats have grave reservations about the direction of tort law reform, both in the ACT and across Australia. The recent insurance crisis, which is largely attributable to poor prudential management by insurers, has led to scapegoating of lawyers and of plaintiffs.

I am not convinced that there has been any blow-out in either the number of tort cases being litigated or the amount of damages being paid out through negligence cases. An atmosphere of panic has been manufactured in which the rights of injured people, rights which have existed for over 70 years, are now being severely curtailed.

The main public justification seems to be based on scaremongering by insurers and professionals who claim that, without the right of professionals to practice with little or no risk of being sued for negligence, the professionals will simply shut up shop. Medical specialists operating in the private sector have been particularly vocal.

Obviously, I accept that we need specialists in all fields, particularly medical specialists. However, I cannot accept that anyone should be allowed to operate outside the basic laws of negligence. It is hard to judge the veracity of claims made by some specialists that they cannot afford to continue in private practice if they are required to pay the premiums demanded by insurers. Apparently, insurers are trying to rapidly accumulate cash reserves to prevent insolvencies such as those that affected HIH and UMP. Yes, premiums have risen, but that is not justification to erode plaintiffs' rights.

The Democrats at essence oppose the private practise of medicine, believing that an essential service like health care should be delivered by the public sector. Medical services in the public sector are not threatened by this insurance crisis. This is largely about protecting the private practise of medicine.

Coming from this position, we are only willing to support a curtailment of the rights of plaintiffs if there is a compelling public interest. In my view, no such compelling interests have been advanced by the government that are sufficient to justify the draconian provisions of the bill before us today. There are some provisions of the bill that I do support, such as the new power for a court to order mediation between the parties. But, on balance, I will oppose most of the clauses of this bill.

I will be moving amendments to the bill in an attempt to reduce the impact it will have on plaintiffs. I will speak in greater detail about those amendments when I get to them, but I would like to point out that lots of amendments are floating around to the Civil Law (Wrongs) Bill and I think that that indicates that there are lots of concerns in the Assembly and throughout the community about how tort law reform is being dealt with in this Assembly. I hope we will find a reasonable solution for dealing with the extensive number of amendments that we have before us so that we do not end up with hodgepodge law that does not make sense in certain respects.

One part of the bill that I am particularly unhappy with is the provision being added relating to the reasonable prospect of success of cases. I understand that it is being added to avoid tying up court resources and the times and resources of defendants where there is not necessarily a strong case. I do understand that argument. But the Democrats believe that the right of access to justice should be put before this question of cost. A number of cases that are fundamental to the development of Australian law did not have a reasonable prospect of success at the time they were taken through the courts. I will go into more detail on those when we get to the amendment stage.

The common law is never fully comprehensive and test cases give judges the opportunity to fill existing gaps in the law, so that responsibility for injury is laid to rest on the right shoulders. As I said, the right of access to justice is fundamental. Justice is expensive, as is democracy, but neither should be abolished on the grounds of cost. If we ask people to have faith in the law, they should be able to question and test the law. I will be moving amendments so that residents of the ACT retain this fundamental right.

One of the other major problems I have with the legislation before us relates to limitation periods. The AMA has pushed quite hard for making it so that a child who is injured because of negligence cannot put forward a case after six or 12 years, depending on the instance. I find it quite abhorrent that we are limiting a child's rights to access legal recourse for an injury that they received due to negligence.

If this part of the bill goes through, it will mean that when those children become adults they will not have the same rights as other adults to take a case through the courts about what has had an incredibly determining factor on their life. I do not think that it is right to limit children's rights in this way, so I will be opposing those clauses of the legislation when we get to them.

In essence, I have a number of problems with the Civil Law (Wrongs) Amendment Bill as presented by the Attorney-General. I believe that it goes quite a long way towards working for insurance companies at the expense of looking after the community, those whom we are trying to serve here. If we continue the push down this route of tort law reform, I think that the impact it will have on the community in the curtailing of individual rights will be quite damaging in the longer term. I hope that the Assembly, as we consider the amendments over the next couple of days, will keeps that in mind, so that we will not end up with tort law that works against the community of the ACT.

MS TUCKER (9.35): There have been and there continue to be conflicting views on tort law reform in light of ongoing public liability and professional indemnity insurance difficulties. Across Australia we are seeing a mix of two strategies to deal with the issues. One approach is to limit the rights and entitlements of individuals to claim compensation for injury and suffering caused through fault or negligence and the other is to contain costs through establishing systems—medical, legal and social—that address concerns and provide treatment and appropriate recompense as promptly and expeditiously as possible.

The ACT has, over the past few years, focused more and more on the second strategy than the first. That is as true of the previous government's reform of defamation law and workers compensation in the territory as it is of the current government's approach to the particular issues in this bill.

There are underlying factors which have not been much discussed in this context, but which are key cost drivers, such as: how we as a society deal with catastrophically injured or disabled people; the increasing capacity, complexity and cost of medicine and the expectations we have of medical and personal care; and a legal system which is often overloaded and slow to reach resolution. No matter which line we choose to take in terms of tort law reform, we are going to be right up against it until we address some of these bigger issues.

One of the propositions before the Commonwealth and state governments at present is to explore a scheme to cover the underlying costs facing everyone seriously or catastrophically disabled, whether a result of negligence or not. It would provide universal coverage for the most expensive cases, and so put a cap on the theoretical risk faced by insurance business, in all likelihood reversing the trend of the past few years of rapidly increasing premiums, and in most cases give those people a better quality of life.

We would be unlikely to bring it about, however, without revisiting the question of the balance between the public and private sectors. The recent shift to private health care has been driven by the conservative ideology of Australia's coalition government. It has seen a boom in elective surgery through the private system, but no reduction in the pressure on the public system for more urgent cases and for long-term care.

The scale of financial payouts that need to be covered by insurance business is, in fact, a reflection of the kinds of health and social welfare systems we have, but the coalition government looks well entrenched and intransigent on the issue. We need to

harness a broader coalition, including the social justice sector and the medical and legal professions, to push for the broader changes necessary. In other words, the split we have chosen between public and private is not geared best to look after people in our society, and we need increased commitment to the social wage rather than depending solely on a business formula to deliver the care we need.

A number of factors have affected those business formulae in recent years. We need to remember that there is no doubt that greed, stupidity, and mismanagement of the corporate leaders of HIH and FAI have certainly put a big dent in the overall insurance pool available in Australia. We need to remember that massive financial deceptions and incompetencies, such as Worldcom and Enron in the US, have assisted in dragging down equity investments and so further eroded insurance business profit. We need to remember also that terrorist attacks such as the one in September 2001 have had and continue to have a mammoth impact on the world reinsurance market.

Nonetheless, profits are looking good, despite the disasters and incompetencies. With a number of governments looking to wind back on entitlements at law in the interests of greater certainty for insurance companies, the insurance industry is very optimistic. In that context, the fact that voices in the media, business advocates and some political leaders have chosen to argue that people seeking compensation are on the lookout for an easy ride, that our litigious society rewards too many of them with massive payouts, and that there are too many lawyers with their hands in the bucket is an oversimplification which, although on individual occasions might be a fair call, completely avoids the real issues.

The front page of yesterday's *Canberra Times* ran an article reminding us of the number of adverse events that occur in hospitals in Australia—4,500 preventable deaths annually—and the need to create learning institutions that respond positively and openly when errors are made. I accept the argument that the ACT is a fairly small player in the Australian and world insurance market and, without taking big risks or having a very clear vision of how to do things differently, there are limits to what we can do on our own. I also understand that the insurance businesses are flexing their muscles on the issue. It seems that they are threatening to set premiums at a higher level here than in the states because the ACT government is not proposing to change the law in precisely the manner which those companies prefer. It is a sad day for Australia when things get to that situation. So much for democracy!

There is no question that some insurance products, such as medical indemnity and public liability, are essential. It seems fairly clear that the ACT has to make changes to the existing law in the context of substantial pressure and has to make them now. The Greens do not accept all these changes. While, as I said, I am generally in support of the bill, I will be moving several amendments in the detail stage.

Finally, I would like to make a few brief comments on law. At an international level, we have seen that the rule of law has been much eroded—through the acts of terrorism we are all so well aware of and also, very clearly, in the response of Western democracies such as the US and Australia.

At a national and an international level, it is becoming more and more obvious that the notion of ministerial responsibility and, indeed, accountability is being rapidly

eroded by the actions and the comments of the Prime Minister and his government, and that misleading the people and the parliament of this country is now expected and accepted. In other words, there is no real ethical leadership coming from business or from government.

Given all that, the role of the law in civil matters takes on extra significance as a forum in which an issue can be measured up; where the merits of a case can be argued, analysed and rebutted; where people can be held accountable for their actions; and as a vehicle through which we can edge our way closer to a common understanding of ethical behaviour and, indeed, of social responsibility.

There may be cheaper or more profitable ways of managing risk and deciding on compensation than the courts, but access to justice, to a forum in which some real evaluation of the rights and wrongs can occur, ought to be inviolate. What we are facing through the combined actions of business and government is a slip back towards a regime that has the viability of business, rather than the rights of citizens, at heart.

MR SMYTH (Leader of the Opposition) (9.43): Mr Speaker, although the opposition will be supporting this bill as it is better than nothing, we still believe that tinkering with tort law reform is the wrong approach. I am also pleased to note that the Chief Minister has overcome his petulant temper tantrums and come to a compromise with the Australian Medical Association on a number of key points after all the accusations about Rolls-Royce-driving doctors.

I speak tonight in the light of the revelation by the Chief Minister at about a quarter to seven tonight that he is now going to introduce threshold limits, something against which he has been fighting a rearguard action and which he claims to have strenuously sought to avoid. He says that it is law reform that gives him no pleasure, but it is something that he has been forced to do because his government ignored the obvious, Mr Speaker, in that the real way to achieve reform in medical indemnity and, indeed, in public liability is to move to a no-fault system, as we currently have in both the compulsory third party law and the workers compensation law in this territory.

Mr Speaker, we have a medical profession in deep crisis. You have to remember that you cannot force doctors to practise medicine. You have to establish conditions conducive to people staying in the profession. The person in the ACT to whom the community has entrusted resolution of the crisis has been behaving more like a two-year-old in a supermarket being refused a lollypop. But that said, it is pleasing that he has eventually pulled his head in and has come up with a package that doctors and others in the community can live with for now. Unfortunately, hubris has gotten in the way of any real reform.

Mr Speaker, a personal injury system that relies on individuals going to battle in an adversarial court for what I believe are quite reasonable requirements for care and compensation cannot be anything but a travesty. As I have said before, Mr Speaker, you cannot achieve reform in personal injury law unless you recognise the role of early reporting, early intervention and rehabilitation. To do anything less is to fail to deal with the problem. What amazes me is that we as a society recognise that fact in

our workers compensation scheme and our third party scheme, yet we refuse to acknowledge it in public liability.

Let me put it in simple terms, Mr Speaker. If I break a leg in a car accident, it gets dealt with in one way. If I break a leg at work, it gets dealt with in a similar way. But if I break a leg tripping over in a shopping centre or through a medical incident, all I can look forward to is a long, bitter and expensive struggle to get compensation. I ask you, Mr Speaker: where is the logic in that?

Third party and workers compensation insurance in this territory are under control. Public liability insurance is a disaster under this government. It is a disaster because people like the Chief Minister seem to believe that a broken leg is something other than a broken leg. As long as the government pursues this ludicrous distinction, we will never deal with public liability. Premiums will continue to go up and doctors will continue to leave the profession but, most importantly, injured people will suffer bad outcomes.

To control public liability, Mr Speaker, it is the opposition's belief that there should be some sort of no-fault scheme in place. Clear examples, examples that work, are the workers compensation system of the territory and the compulsory third party system of the territory. I believe, and the opposition believes, that it is becoming more popular in public discourse and that in a few years we will all be involved in no-fault public liability and medical indemnity schemes. That is the only way that is sustainable into the future.

I would also like to refer to the second last paragraph of the Chief Minister's press release of this evening. In it the Chief Minister seems to be foreshadowing that he will now set up his own medical indemnity scheme, which is curious, Mr Speaker, because when we had the debate about the other form of medical indemnity and public liability cover that was defeated by the Assembly last year, part of the case was that the ACT is too small, that we cannot afford to go it alone, therefore the scheme that the opposition had proposed could not be voted for.

It now appears that we are actually okay, we can set up our own medical indemnity scheme, simply because the Chief Minister has said so. I would like to know what happened between the end of last year and now, Mr Speaker, that we can suddenly afford our own medical indemnity scheme, something that apparently was beyond us early this year and, indeed, last year.

Mr Speaker, we accept the reforms that have been put on the table. We do have some amendments. We note the concerns raised by others in this place. As long as we tinker with tort law, we are not addressing the needs of care and we are not showing compassion for those people injured in the ACT. Shouldn't that be our first consideration? It should not be about the doctors or the lawyers, about which group will be disadvantaged and which group will be better off, or about who drives a Rolls-Royce and who does not. The duty of care that we have is to show compassion and make good law for those injured in the ACT.

We did so two years ago with workers compensation. Initially, people thought that we could not come up with a scheme in the ACT that would show compassion and be

viable. I think the proof of the pudding is in the eating. We are seeing it now with people injured at work getting rehabilitation and the care and the compassion they deserve when they need it, not at the end of a process which is bitter, painful and excludes people from society, not at the end of a process where you have to fight every step of the way for a less than acceptable outcome that may include a lump sum.

What we need is a system, just like with the CTP and just like with workers compensation, that actually looks after people when they need it, when they are first injured, because all of the studies show that early intervention and immediate care get better results and those better results will lessen the need for compensation, because people actually get well. Shouldn't that be what it is about? It should not be about the lawyers, the doctors or whatever other argument you want to throw into the mix.

The duty of care we have is to look after Canberrans, particularly those who are the least well off, and that includes those who are injured, whether it be through a medical incident or whether it be from tripping over a loose paver in a public place, until we come to a conclusion. I do acknowledge tonight the Chief Minister's comments in his press release, which indicate that it is okay now for the ACT to go it on its own. With great joy, I might bring back my bills early in February, Mr Speaker, because what we got from the Chief Minister tonight was confirmation that it is acceptable to go it alone and it will work or could work if we get it right. The challenge I would put to the Assembly is: how do we get it right?

The answer is not to fob doctors off against lawyers or vice versa. The answer is to try to work out what is the solution for injured individuals, injured Canberrans, that best suits their needs and does not place an additional burden on their families. The way to do that is through early intervention, to accept a system like we have for compulsory third party and workers compensation, and stop tinkering at the edges with tort law reform because ultimately nothing in these bills will have a dramatic effect to take the volatility out of the market, to reduce premiums, to reduce payouts, to reduce the times in which court cases take.

There is not a great deal in it. Yes, there are some time limits, some statute limits. Yes, we now see that there are going to be caps. But until we get to the root of the problem, until we get to the early intervention, until we work together to make injured Canberrans better, faster, quicker, with all the care and attention they deserve, and if necessary, at the end of the process, compensate them if they have not been able to regain the fullness of life that they had before the accident, the incident or whatever, we will be coming back to tinker with tort law reform year after year after year.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.52), in reply: I do wonder whether having to sit here and listen to that tripe is actionable, whether having to listen to rubbish like that constitutes an actionable case for the damage that we suffer. Perhaps we are restricted to 10 minutes to protect us.

I should just correct a couple of points—the falsehoods, the mistakes, the rambling, the holding up of a press release from me and saying that I have now confirmed that it is okay for the ACT to go it alone. The press release says that I have asked officials to give the advice. There is a significant difference between that and standing in this

place and saying that the Chief Minister has now confirmed it. The Chief Minister said in his press release that he had asked for advice on an issue.

There is a significant difference between saying someone has confirmed something and the reality, the truth of the matter, which is that I had sought advice. These are only little issues, I guess, but they are big lies—a little issue but a big lie.

Mrs Dunne: Mr Speaker, haven't we already agreed that saying that people tell lies is unparliamentary? I think we have already had this one at least once today.

MR SPEAKER: Withdraw that, Chief Minister.

MR STANHOPE: I will withdraw that. I look to Mr Smyth, after I conclude this debate, correcting the record and actually removing the misleading that he was just guilty of in relation to that.

MR SPEAKER: Chief Minister, you cannot accuse him of misleading.

MR STANHOPE: I withdraw the suggestion that Mr Smyth has misled, but a person of some integrity would stand and correct the record.

Mrs Dunne: Mr Speaker, this is absolutely and utterly out of order. First of all, he said that—

MR SPEAKER: Mrs Dunne, members stand and question every member's integrity in this place and I think it is open for the Chief Minister to question people in this place, surely.

Mrs Dunne: Could I finish the point of order, Mr Speaker?

MR SPEAKER: Okay, sure.

Mrs Dunne: Mr Stanhope stood here and said that Mr Smyth had uttered a lie. We decided that that was unparliamentary and he should be asked to withdraw. In withdrawing that, he said that Mr Smyth had misled and he was asked to withdraw that. When you are asked to withdraw, you should do it unreservedly, without qualification. There is a form and I would like to see it applied by the Chief Minister.

MR SPEAKER: The Chief Minister has withdrawn the matters which were drawn to my attention and that is the end of the matter.

MR STANHOPE: Mr Speaker, the Civil Law (Wrongs) Amendment Bill addresses legal issues arising from the recent so-called insurance crisis and aims to improve the ACT civil justice system. I might just read from a note today so that when we talk about issues around the so-called crisis we can put it in context. It is a note in relation to the level at which QBE Insurance shares closed this week. It was written on Tuesday of this week and reads:

> Shares in QBE Insurance closed near two-year highs…after it announced a doubling in first-half net profit, increased its interim dividend and made a bullish

> earnings forecast for the rest of 2003. QBE said it had increased its net profit growth target to more than 75 per cent for the year ending December 31, up from the 50 per cent rise it had forecast…The insurer reported a net profit of $241 million for the six months…compared with $115 million last year. QBE attributed the result to increases in premium rates across the world and customer retention. "These factors, together with further premium rate increases, albeit at a much lower rate, and acquisition initiatives, give us confidence that we will achieve around 10 per cent growth in…2004."

When we talk about insurance, insurance reform and tort law reform, we do need to understand the nature of the industry we are dealing with—incompetent, greedy, grasping and without compunction. We do need to know when we are talking around tort law reform and reforms to these markets that that is the industry we are dealing with. Of course, many of the companies are completely incompetent—HIH, FAI, UMP—and greedy, a dangerous combination.

That dangerous combination, incompetence and greed, is what we are dealing with and what we are faced with. Everybody in this place needs to understand that. We have here a mob of companies that have gone broke through incompetence and thrown the market into disarray. The greed of those that have survived is, in some senses, bringing the country to its knees. I often sit back and reflect on what has become of us, what we have allowed this industry to do to us, what we have descended to as a result of the actions of this industry and the implications of their incompetence and their grasping greed.

We are seeking to deal with that. We are dealing with it at this stage through the Civil Law (Wrongs) Amendment Bill 2003, which addresses legal issues arising, as I say, from this crisis and which does aim to improve the ACT civil justice system by reforming tort law. The bill contains a number of reforms from the Ipp and Neave reviews and some new reforms developed by the territory. As members would be aware, the bill also contains measures relating to medical negligence as a result of the recent medical insurance crisis. We are beset by crises.

The government's position in developing the bill was that the reforms should not exclude genuine plaintiffs from exercising their rights. Rather, the bill includes reforms to promote efficiency in case processing and management and in pretrial procedures to assist in the settlement of cases before they get to court. The bill adopts various measures—I will go through those for members–that will have a positive impact on civil procedures and access to justice, with a view to quicker and cheaper resolution of disputes.

That is the philosophy that has underpinned this government's response to these issues. It is one that is aimed genuinely at seeking to address issues around the cost of action, the cost of pursuing negligence claims, with a view to ensuring that there is absolutely no capacity for the insurance companies to claim that they need to continually jack up their premiums to stay in business.

I have to say that that this bill is an excellent bill. I commend the work of officers of JACS and Treasury for the innovative reform contained within this package. I think it is at the cutting edge of tort law reform in Australia. It is a credit, essentially, to Mr Quinton and Mr McDonald. It is cutting edge legislation and I commend them for

the work, the thought and the intelligence that have gone into developing this array of provisions in which we have looked to best practice round the nation and we have looked to take from experience elsewhere those things that we know that work and those things that we know will deliver a result.

Included in this bill is the without prejudice sorry provision, which provides that an apology does not constitute an admission of liability. This provision should reduce the number of claims that are pursued and has the full support of the AMA and the Law Society.

The early notification and open disclosure provision will put an obligation on legal practitioners to notify doctors or other defendants within 90 days of a client's instruction to proceed. The procedures in the bill provide for full disclosure of all relevant material and facilities cooperation at an early stage between the parties. These elements assist both parties by enabling management of cases outside the court system and early settlement of cases at a lower cost. These provisions are modelled on successfully implemented procedures in Queensland.

The reasonable prospects of success provisions require legal practitioners to certify that the cases have a reasonable chance of success. These provisions will ensure that parties do not incur costs for claims or defences that have no reasonable prospects of success. These provisions have been carefully drafted to ensure that the court can allow meritorious claims.

Turning to partial codification of the law of negligence, I believe that it is desirable to codify the law in this area in order to provide an accessible, accurate statement of the present law. These provisions are based on those in New South Wales and those proposed in South Australia. The ACT Law Society has indicated these provisions are a reasonable effort to reflect the current state of the law.

The bill provides that the court may reduce a plaintiff's damages by 100 per cent for contributory negligence. The bill recognises that there will be rare cases where the plaintiff's responsibility for their injuries are so great that it is fair to deny the plaintiff any damages at all.

The bill confirms that an award of damages for mental harm does not include mere sadness. This is to prevent what appears to be early signs of the courts developing a new head of damages for mere sadness.

The new provisions on expert witnesses in chapter 3C of the bill have been devised as a cost efficient alternative to the burgeoning practice of hiring competing expert medical witnesses, who now constitute an emerging industry on the respective plaintiff and defendant sides in litigation. This reform should remove some of the adversarial process from personal injury cases as it will provide for medical experts to assist the court rather than their respective parties. This regime will also reduce costs in litigation as parties share the cost of one medical expert rather than having at least one medical expert for each party. As I said, Mr Speaker, the bill has been carefully drafted to ensure that the courts can appoint additional experts if evidence is required on two or more matters, and they may appoint additional experts if that is considered to be in the interests of justice.

On clarifying the liability of public authorities, these reforms will clarify the duties of public authorities following the High Court's decision in Brodie. The ACT reforms are based on those in New South Wales and proposed for South Australia. Providing that the courts can refer to earlier decisions in assessing general damages will ensure greater consistency of decisions and will also assist in the collection of data on personal injuries damages, something that is very important.

I turn to changes to the statute of limitations. The bill makes a number of changes to the Limitation Act 1958, which we have discussed. The changes are based on the Victorian provisions and ensure that matters are settled quickly, are heard before evidence is lost and will allow the parties to move on.

I note that the scrutiny of bills committee, chaired by Mr Stefaniak, highlighted concerns that the amendments may amount to an acquisition of property other than on just terms. In the High Court case of Georgiadis, Mason, Deane and Gaudron noted that certain laws concerned with, broadly, the administration of justice could not be fairly characterised as laws for the acquisition of property. Inevitably, laws concerned with dispute resolution may result in persons' rights being modified or extinguished. An outcome of extinguishment alone does not render the law outside power. Limitation laws are an essential element of laws dealing with dispute resolution and the legislation, I believe, is not fairly characterised as an acquisition of property. Rather, the provision deals with the process by which courts may exercise their jurisdiction under the general law.

In concluding, Mr Speaker, I will refer briefly to the announcement that I did make today, which members have referred to, and that was a decision that the government would move to negotiate after considering the options that have been pursued around Australia for the introduction of a threshold or a cap in the ACT. I think everybody in this place is aware of what I would regard as the significant resistance that I have shown over the last 18 months to the prospect of thresholds or caps.

I have opposed much of the force that has been applied to jurisdictions in relation to this tort law reform exercise. I have said in all councils that I have attended and in all forums that I have attended that much of what is being forced on governments and communities round Australia by the circumstances in which we find ourselves in relation to public liability and medical indemnity insurance has led us down paths where we are legislating away existing rights.

We are doing it for a greater good and the only solace that those of us that are committed to protecting the rights of individuals can find from this process is that there is a greater public interest or a greater public good that we seek to serve and that in seeking to serve that public interest, essentially, in relation to thresholds and caps, that public interest is the need to guarantee a top quality, high class, first class, seamless health care system for the people of Canberra.

It is at threat. It has been put at threat by the insurers, by their brutal incompetence, greed and grasping attitude to their profit margin, to their bottom line. I admit that they have bludgeoned the ACT into a position where, having been abandoned by

every other jurisdiction in Australia, I have taken the decision that we have no option but to proceed down this path.

As I say, it is quite obvious that it gives me no pleasure. I think that it is a bad result for those individuals that will lose out. It is perhaps a good result for the community in that we can be assured of a supply of medical practitioners and specialists, that GPs will continue to practise here and will want to come to the ACT to practise into the future.

We have guaranteed that result, but a price has been paid and some individuals—our neighbours, our families— will pay that price in not being able to pursue an action for every instance of negligence which they suffer at the hands of a medical practitioner in this town. We will legislate for a circumstance where individuals injured by the negligence or incompetence of doctors will not be able to claim compensation for that injury. That is the price we are now asking some Canberrans to pay in order to ensure that we maintain the health system that we need.

MR SPEAKER: Order! The Chief Minister's time has expired.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1.

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

Adjournment

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

> That the Assembly do now adjourn.

Countrylink rail services

MRS DUNNE (10.08): Mr Speaker, I rise in the adjournment debate to draw the attention of this house to the announcement on Saturday by the New South Wales State Rail Authority of the curtailment of the rail service between Sydney and Canberra. On the surface, it seems to be unfortunate and a mere glitch that we will get over. The New South Wales State Rail Authority tells us that the services have been suspended because of a lack of staff and sickness and it cannot fill the rosters. If that is the real reason, Mr Speaker, this is a management failure of monumental proportions.

I have been inundated with calls over the last couple of days from people in the region who use the service and who have been left in the lurch. The New South Wales State Rail Authority says that it is going to put on a bus, but think of the disabled people who cannot drive a car and for whom a train is a much more convenient and much

more appropriate means of travel to Sydney, as they might have to do to seek medical attention. Remember, this train services not only Canberra but also the region, including the Southern Highlands and Braidwood.

I was particularly taken by one constituent who rang me today. She said that she could not use the bus that was substituted for this service as she could not negotiate the toilets on a bus because of her disability. This has brought me to be particularly concerned about the future of the rail service, which is a commitment that has been undertaken by the New South Wales government as part of its responsibilities in taking over the Commonwealth rail service. When it took over the Commonwealth rail service it undertook to maintain rail services to the ACT.

The thing that concerns me is that the stated reason—the lack of staff and the problems with rostering—may not be the case. Anyone who has used the service, as I have in recent times, would have been highly aware on a number of parts of the journey to Sydney that the track and the line are very much at risk. My state colleague Peta Seaton has raised the issue of the problems on the Menangle Bridge. You know, because of the way the train slows down, that there are serious problems with track failure along the way.

What we have here, Mr Speaker, is a track record of failure on the part of the New South Wales State Rail Authority. It has not looked after its customers here. It has taken off all the rail services here, rather than spreading the burden across the myriad of CountryLink services. The three services to the ACT daily have now been completely obliterated, rather than sharing that load with other services.

In addition, we have the failure of the New South Wales Labor government to look after people in rural and regional south-eastern New South Wales and a spectacular failure on behalf of the new, "I'll look after you", Labor member for Monaro, Steve Whan, who campaigned on bringing a voice for the people of Monaro into the Labor government. In the first decision to really impact upon the people of Monaro since Steve Whan has come along he has failed. He has failed his constituents and he has failed the people of the Southern Highlands.

I am concerned that the minister for transport here has shown no interest in this issue. Considerable concerns have been raised by constituents, but this Labor government has not gone to the New South Wales Labor government and sought assurances that the train service will be reinstated as soon as possible. I place on the record my concern that it will not be and I will be making my own representations to the New South Wales minister to ensure that it is restored as soon as possible.

Question resolved in the affirmative.

The Assembly adjourned at 10.13 pm.