



**DEBATES**

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

21 October 2003

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**Tuesday, 21 October 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.*

### **Platypus (Ngunnawal) shopping centre**

*By Mr Cornwell, from 330 residents:*

To the Speaker and the 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 motor vehicle parking arrangements at the Platypus (Ngunnawal) Shopping Centre is in need of an urgent up grade. This is due to the lack of adequate parking for vehicles that park at this Centre; thereby affecting both Customers and Merchants. There is also a need for installation of a mail (post) box at this Shopping Centre.

Your petitioners therefore request the Assembly to call on the Minister for Urban Services, to take all the necessary steps to have motor vehicle parking arrangement expanded. Also requests the Minister to make representations to Australia Post to have a mail (post) box installed at the Platypus (Ngunnawal) Shopping Centre.

### **ALDI supermarket**

*By Ms Dundas, from 1,661 residents:*

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory.

This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that local people want access to cheaper groceries.

Your petitioners therefore request the Assembly to pass legislation allowing ALDI Supermarket to build a supermarket next to Belconnen Markets.

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

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## **Planning and Environment—Standing Committee Reference**

**MS DUNDAS** (10.32): I move:

That this request for an ALDI supermarket be referred to the Standing Committee on Planning and Environment.

I speak briefly to this motion to inform members that over 3,000 signatures have been tabled in this place requesting that the Assembly pass legislation to allow ALDI Supermarket to build a supermarket at Belconnen Markets. The Standing Committee on Planning and Environment is in the best position to investigate the need for this petition. This matter should be referred to the Standing Committee on Planning and Environment and that committee, in due course, will report back to the Assembly on what is going on at Belconnen Town Centre.

Question resolved in the affirmative.

## **Privileges—Select Committee Alteration of reporting date**

**MS DUNDAS** (10.33): I seek leave to move a motion to alter the reporting date of the report of the Select Committee on Privileges.

Leave granted.

**MS DUNDAS**: I move:

That the resolution of the Assembly of 26 June 2003, as amended on 20 August 2003, concerning the reporting date of the Select Committee on Privileges be amended by omitting “21 October 2003” and substituting “18 November 2003”.

Question resolved in the affirmative.

## **Legal Affairs—Standing Committee Scrutiny report No 38**

**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 38, dated 14 October 2003 together with the relevant minutes of proceedings.

I seek leave to make a brief statement on the report.

Leave granted.

**MR STEFANIAK**: Scrutiny report No 38 contains the committee’s comments on four bills, 135 pieces of subordinate legislation and four government responses. The report was circulated to members out of session. I commend that report to the Assembly.

## Health—Standing Committee Report No 6

**MS TUCKER** (10.35): I present the following report:

Health—Standing Committee—Report No 6—*Report on recent reports concerning the mental health system*, dated 16 October 2003 together with a copy of the relevant extracts of the minutes of proceedings.

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

Leave granted.

**MS TUCKER**: I move:

That the report be authorised for publication.

Question resolved in the affirmative.

**MS TUCKER**: I move:

That the report be noted.

Members are probably aware that the Standing Committee on Health did not give notice of this inquiry as only a short report is being tabled today. The Standing Committee on Health, which is interested in looking at the provision of mental health services in the ACT, produced two major reports—the Patterson report in December 2002, which investigated risk of harm to clients of Mental Health Services, and the Mann-La Roche report in May 2003, which examined issues concerning the psychiatry services unit. In about October 2002 those members of the Standing Committee on Health who toured Mental Health Services expressed concern about the psychiatry services unit.

I have been concerned for a number of years about that unit and about Mental Health Services. In about 1997 the Standing Committee on Health, which was chaired by me, conducted a full inquiry into the provision of mental health services in the ACT. The Standing Committee on Health decided not to commence another inquiry at this point because we already have the Patterson and Mann-La Roche reports. The government has made a commitment to address the serious issues that were highlighted in those reports—something for which it should be commended.

We are hoping that, as a result of the report I have tabled today, the government will make available to us quarterly briefings on the progress of those reports. If we are not satisfied with that progress, or if we have outstanding concerns, we might choose to undertake a more detailed inquiry into mental health issues. I could well announce an inquiry such as that at a later date. At this point in time I ask the government, through this report, to provide us with those quarterly briefings. The Standing Committee on Health, which is interested in the provision of mental health services, will be keeping a close watching brief on this issue.

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

## Financial Management Amendment Bill 2003 (No 2)

Debate resumed from 21 August 2003, on motion by **Mr Quinlan**:

That this bill be agreed to in principle.

**MR STEFANIAK** (10.39): I resume debate on this bill on behalf of my colleague Mr Smyth. The Liberal Party supports the government's proposed amendments to the Financial Management Act. There is no question that the ACT, along with all other jurisdictions in Australia, must have the strongest possible framework of governance of its financial and associated activities. These matters are becoming more and more critical in both the public and the private sectors. Appropriate responses are required from governments and corporations and from non-government organisations.

The organisations that operate in our society include church organisations and clubs such as tennis clubs. That list could be extended. This important bill will take the ACT a number of steps down the path towards a better government structure—a path down which members of the Liberal Party have already been. In December 2002 our then leader Gary Humphries introduced the Financial Legislation (Integrity and Responsibility) Amendment Bill, which dealt with many of the issues that are now set out in the government's bill. I thank the Treasurer for acknowledging that legacy when he introduced the bill.

The government drew on Mr Humphries' bill when preparing this amending legislation. As the Treasurer noted in his second reading speech, one important aspect involved in the preparation of this bill was the need to ensure it was appropriate to the circumstances and to the needs of the territory, which is a small jurisdiction. The opposition has no difficulty with that approach. If, through this approach, we incorporate new provisions in an existing act rather than create a new act, that would be a good outcome providing, of course, the resulting act does not become too complex and unwieldy.

The Treasurer noted in his presentation speech that when the government's proposed amendments were incorporated into the Financial Management Act the territory would have "a single cohesive financial framework". That is a big call, especially when we take into account the comments that were made by the Auditor-General about the need for a fundamental review of that act. There was much strength in what the Treasurer said about the financial framework within which the ACT would operate following the passage of this bill. Members might be aware that in 2000 the Victorian Treasurer introduced a number of amendments to the budgetary and financial management framework in Victoria. Victoria was the first jurisdiction to take this important step. It is apparent that much of what is contained in this bill can be seen in the provisions that were implemented in Victoria.

I note that Mr Humphries' bill also drew heavily on the innovative approach adopted by Victoria in 2000. In 2002 Victoria put in place a framework that essentially comprised six components. Briefly, those components were: sound financial management principles; regular statements of financial policy objectives and strategies; identifying economic and other assumptions and risk assessments implicit in the budget; implementing a consistent reporting regime; the publication of pre-election budget

updates; and professional reviews by the Auditor-General of the integrity of economic assumptions and estimated financial statements incorporated in the budget.

A reading of the government's bill establishes that the first five components appear to have been picked up, at least in part. For reasons that are not apparent, the component that the Victorian Treasurer described as being the most significant component in that package, was ignored by this government, that is, the requirement for a professional and independent review of budget assumptions and methodology. Why is that so? Why did this government and this Treasurer leave out of the package the key element of those proposals for enhancing the financial framework in the ACT? It is disappointing that the Treasurer did not deem it necessary to incorporate in this bill the requirement for an independent review of budgetary matters.

On virtually every other count this bill contains many valuable provisions that will enhance the territory's financial framework. The bill contains a mix of provisions, some of which mandate actions that are currently being undertaken in any event—which is probably a good thing, given that those actions perform a useful function—and some new matters, such as requiring a mid-year budget review with a report to be published by mid-February, and requiring a pre-election budget update.

I note that those amendments appear to parallel amendments that were introduced in Victoria in 2000. As I said earlier, the bill does not include a provision for an independent report on the assumptions and methodology underlying the annual budget.

As a consequence, I foreshadow that I will be moving two amendments that will insert such a provision in the Financial Management Act. The first procedural amendment will require the report that is to be prepared by the Auditor-General to become part of the documents tabled by the Treasurer at the time of the annual budget. The second substantive amendment sets out the parameters under which the Auditor-General will work when preparing independent reports on various aspects of the annual budget. I will refer later to those amendments in the detail stage.

Suffice it for me to say that my proposed amendments are not necessarily intended to increase the workload of any people or organisations involved in the preparation of the budget; rather, they will impose an additional requirement only when the Auditor-General cannot find certain information or he is unable to confirm the basis and use of assumptions when developing budget estimates and forecasts. It is pertinent at this point to consider the public financial management experience of the Victorian government and the innovation in that state.

I am most encouraged to learn that, after some initial scepticism in the bureaucracy about the nature of the additional processes involved, the Victorian experience appears to have been extremely positive. A number of benefits have become apparent, in particular in respect of enhancing the rigour with which assumptions underlying budget estimates have been applied and in evaluating the methodologies being used to determine whether assumptions are appropriate. I think it would be appropriate to characterise this improvement as a process of continuous improvement in the budget preparation processes in Australian jurisdictions.

What started as an experiment in Victoria in 2000—innovation in public financial management processes—appears on evidence available to date to have been most successful. The sky in Victoria certainly has not fallen in as a result of these important changes to public budgetary policy. We can only conclude from it that the changes in Victoria, which have been a success, are now an accepted part of the budgetary processes in that state. Given that outcome, we are proposing a similar approach in the ACT. We are aware that many of the amendments proposed by the government appear to have been based on that Victorian legislation. We find it a little strange, therefore, that our proposed amendments are not incorporated in the government's package. Mr Bracks, the Victorian Premier and a former Treasurer, said in his second reading speech:

The Auditor-General will review the Budget as it is developed and will report to the Parliament on budget day whether it appears that

- the budget financial statements have been prepared in a way that is consistent with stated accounting principles
- the estimated statements are consistent with the targets for the Government's key financial measures
- the statements have been properly prepared on the basis of the assumptions that underlie them
- the methodologies used to determine the assumptions are reasonable.

Mr Bracks emphasised that while the Auditor-General will play a key role in the scrutiny of the budget, the responsibility for delivering budget results remains entirely with the government. Quite properly, the government retains responsibility for setting out the budget, for monitoring the its performance and, where necessary, adjusting budget policies and priorities to take account of inevitable changes in circumstances that occur during the financial year. Mr Bracks, when introducing his amendment along the lines of my proposed amendment, described it as the most significant amendment of the package of amendments proposed by the Victorian government in 2000. If that was the view of the Stanhope government's colleagues in Victoria, we see no reason why the Auditor-General should not have a similar role in the budgetary process in the ACT.

This bill warrants support as it represents a sound development of the financial management framework in the ACT. It is unfortunate that the government, when preparing this bill, did not choose to include in its provisions the necessity for independent reviews of the assumptions and methodologies underlying the annual budget. The inclusion of our amendments will strengthen a bill that will enhance the quality of information available to the Assembly and to the community about the way in which the annual budget is prepared in the ACT.

We support the speedy passage of this bill, given the already short timeframe before the delivery of next year's budget. When I move the important and sensible amendments that I have foreshadowed, I will seek support for them from all Assembly members.

**MS TUCKER (10.49):** Amendments to the Financial Management Act will require additional information to be supplied in the future relating to the budgetary process. Mid-year financial reports and pre-election statements will also be required concerning the



budget estimate procedure. The scrutiny of bills committee made no comment in relation to this bill, which is based on reforms that were introduced in Victoria after Kennett.

booboo

Before I outline the Greens' in principle support to this bill I briefly note that I will not support the amendment to be moved by Mr Stefaniak, which refers to the preparation of an additional report in Victoria.

I foreshadow that I will be moving an amendment to insert in proposed new clause 11 (4) (c) the words "the object of ecologically sustainable development". I have used wording taken from the Auditor-General Act that relates to matters to be taken into account in the preparation of the budget. I apologise to members for the lateness of this amendment.

The focus of this bill is on increasing the amount of information to be made available and setting out some basic principles for the construction of the budget, increased information, including underlying assumptions, financial and other, and a statement of sensitivity of the budget estimates to arrange and identify risks. That information will add to what can be scrutinised by estimates committees and by the Auditor-General. This audit of results—our truth check—will be invaluable in providing an independent view of what has gone on.

The difficulty lies in ensuring that forecast figures are what they appear to be. This bill will address that problem only in part through the introduction of mid-term updates to forecasts and pre-election. A regular budget frustration is the blurring of new initiatives funding into ongoing items. There is no clear breakdown in the budget papers of ongoing programs or initiative funding, so it is not possible on any reading of the budget documents to determine whether new initiatives have been rebadged or whether they are slightly reworked old programs. This area of budget accountability also merits more attention.

Until now the construction of budgets in the ACT has been a purely short-term economic analysis. We have referred in this place for some time to the introduction of triple bottom-line budgeting and reporting, and gender auditing. This government made a commitment to implement both triple bottom-line reporting and gender auditing, but so far we have seen very little action in that area. The Greens' focus is on widening the understanding of the budget as a policy document. That has got to be—it is for the Greens—a major priority. If we shift the thinking on the economic analysis to include social and environmental factors, we will be doing something in the ACT of which we can be proud. If we can achieve that it will have good implications for, and repercussions well into, the future. I will refer to that issue in the detail stage.

I well remember debates in this place when we introduced accrual accounting. We believed it would result in a real understanding of the state of our territory. It resulted in a degree of improvement, but that improvement was limited. We certainly did not take into account our social and environmental liabilities. That, of course, was the aim of introducing into the budget triple bottom-line reporting and gender auditing. The budget documents are the most important policy documents of any government. We have a deficit of understanding of the impact of those policy documents. As I said earlier, I will refer to those issues in the detail stage. The Greens are happy to support this bill with the addition of my foreshadowed amendment. Government budgeting is not the same as business budgeting.

**MS DUNDAS (10.53):** The ACT Democrats support the Financial Management Amendment Bill 2003 (No 2). Financial responsibility to the people is one of the most important aspects of any system of democratic government. The major method that governments use to alter the social, environmental and economic conditions of society is through the expenditure of government funds, which are usually extracted from the public in the form of taxes. It is a pity that the Treasurer has not used this, or any of the previous three Financial Management Amendment Bills that were introduced in this Assembly, to clarify the application of the Treasurer's Advance, which has been the subject of some controversy over the past few years.

Charters of financial integrity, budget honesty or social and fiscal responsibility have become a bit of a political fad in recent years, with both state and Commonwealth governments implementing different versions of the concept, some of which have more substance than the others. I congratulate the Treasurer on introducing this bill in the Assembly, as I believe it has more substance than most of the other bills—in particular, the Commonwealth's charter of budget honesty that expressly provides that it cannot be enforced by any court.

The new requirements introduced by this bill will increase the transparency of the territory budget. It also introduces a number of measures to enhance awareness of the territory's financial position. The additional disclosure of the government's economic assumptions in the budget papers assists in informing the Assembly of the basis on which the budget has been prepared. The statement of financial policy objectives and strategies will increase knowledge about the fiscal intentions of the government. The additional detail will give members of this Assembly and the general public a greater understanding of the risks and potential changes that may occur throughout a financial year, in particular, in relation to revenue which can be affected by changes in economic and other conditions. The additional requirements, which will include a sensitivity analysis and a statement of risks, will give greater detail about the likelihood and extent of possible changes to the territory's financial position.

The Democrats have always been strong supporters of greater transparency at all levels of government. Democratic principles are about the right of people to choose those who will govern on their behalf. They are also able to participate in government decision making with a full knowledge of the public processes, and they have a right to be informed as to how the government will spend the money it has collected from the population. This bill refers also to the release of financial details of the territory's financial position before an election. I hope that that measure will go some way towards reducing the amount of conjecture and accusations during election campaigns about the true state of the territory's financial position. We will be able to spend more time debating policy issues if we are fully informed of the fiscal environment of the territory.

However, the financial side of things is not the only area of government that requires additional disclosures. I have referred in this place on a number of occasions to triple bottom-line accounting. The ACT government must do more, in measuring and assessing its environmental and social bottom lines, to incorporate greater transparency and better management of the impact of these measures—issues that I am sure will be debated in the future. Governments must continue to make budgets as clear and accountable as they can. I will refer in the detail stage to my foreshadowed amendments.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (10.56), in reply: I thank all members for their support for the bill. I am concerned about the opposition's proposed amendments, which will impose an additional burden on and be a distraction to the Auditor-General. From time to time organisations and the Auditor-General have differing opinions on matters of accounting principle. In the past the Auditor-General has done some backflips in relation to some matters. He was quite adamant in his opinion of the treatment of superannuation adjustments, but he then immediately reversed his opinion and was equally adamant.

Quite obviously, we need an Auditor-General for auditing purposes. However, in a small jurisdiction such as the ACT, the Auditor-General does not necessarily represent the only bank of knowledge and understanding. He might not have all the expertise that is required in economic forecasting. I am not referring to accounting, reporting and accountability; I am talking about projection and estimation. As soon as an ACT Budget is brought down it is examined by financial commentators. Generally, Access Economics immediately expresses an opinion on the budget and those basic assumptions are open to challenge and debate. The first few days of budget debate relate mainly to high-profile initiatives and underlying assumptions.

I do not think that the Assembly or members of the public are deprived of that form of analysis. In Victoria the certificate given in the budget report is very cursory. I do not know whether the examination of the budget similarly is cursory. In this case the Auditor-General's opinion is only one opinion. It behoves us all to express our own opinions and to participate fully in budget debate. Ms Tucker referred earlier to sustainability and to triple bottom-line reporting. In August I wrote to Treasury conveying to it some instructions relating to a reform program that is now under way. I quote from one sentence of that correspondence, which states:

In conjunction with the Office of Sustainability, Treasury will examine the options for incorporating triple bottom-line reporting into the current financial reporting framework.

That work, which is already under way, is an element that was brought up in the past in a number of estimates committee reports. The government has picked up on that message. I have given instructions to Treasury to work towards triple bottom-line reporting. I have spoken to a number of people in this place and I have said to them, "Exactly what does it mean? How do we start implementing measures in this area?" Next year I intend to produce a budget in much the same format as previous budgets. In addition, I will produce a document that will reflect how that budget might be presented under the triple bottom-line reporting regime.

Assembly members and members of the estimates committees who examine the budget will be able to examine these proposed changes. In that way we will achieve a common understanding of triple bottom-line reporting. It must be practicable and automatic and it must be able to be understood by all members in this place and by members of the community. They want to know what is going on. It is my intention to present an alternative to the House so that we can collectively agree on the budget and everyone has an opportunity to make an input. I thank all members for their support for this bill.

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Question resolved in the affirmative.

Bill agreed to in principle.

### **Detail stage**

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

Clause 5.

**MR STEFANIAK** (11.03): I move amendment No 1 circulated in my name [*see schedule 1 at page 3880*].

I refer in this debate not only to my first amendment but also to my more substantive second amendment. As I indicated earlier, the Liberal Party has already indicated its support for the government's proposed amendments to the Financial Management Act. Our position is quite clear. There is more that we, as a discrete jurisdiction in Australia, can do to enhance the territory's framework of financial and management processes and practices to ensure appropriate accountability, openness and responsibility in the implementation of decision-making.

These amendments will ensure that there is a sound government framework in the ACT. However, one additional amendment will considerably strengthen the government's arrangements. Amendment 1, which is in two parts, would place a responsibility on the ACT Auditor-General to perform two important tasks in the lead-up to the annual budget. We do not think that is particularly onerous. As the Treasurer said earlier, they are two very important tasks. The Auditor-General would identify the key assumptions on which the annual budget is based. The Office of the Auditor-General, as an agency that is independent of the government, would then evaluate the use of those assumptions in the preparation of the budget.

At the time of the presentation of the budget the Treasurer will provide to the Assembly, as part of the budgetary documentation, a report prepared by the Auditor-General. The intent of these amendments is to provide the ACT community with an independent review of the basis on which the budget has been formed. I said earlier—and I emphasise this point—that these amendments will not reduce or remove any of the responsibility that the government currently has for the preparation of the budget and for the management of the territory's economic and financial affairs and outcomes. Those matters, which are an integral part of the government's responsibility, will remain its responsibility under these amendments. One change relates to the quality of information that is available to this Assembly and to the community about the way in which the budget has been developed.

It is pertinent to revisit for a moment the experiences in Victoria—another Labor state—and to compare its approach with our approach to the role of the Auditor-General. As I said earlier, in 2000 the Victorian Treasurer introduced a number of amendments to the budgetary and financial management framework in Victoria. The key element of those proposals was to enable the Auditor-General to subject the state budget to professional review and to report to the parliament on the outcome of that review. I summarise the

comments made by the Premier, Mr Bracks, when he was Treasurer—comments to which I referred in full earlier. In Victoria, the Auditor-General now reviews the budget as it is developed and he reports to the parliament on budget day on matters such as consistency with state accounting principles, consistency with targets for the government's key financial measures, the appropriate use of underlying assumptions, and the use of reasonable methodologies to determine assumptions.

I emphasise that the government retains responsibility for setting out the budget, for monitoring the budget performance and, where necessary, adjusting budget policies and priorities to take into account inevitable changes in circumstances that will occur during any financial year. I foreshadow that I will move two amendments. The first small and technical amendment requires the report package prepared by the Auditor-General to become part of the package of papers that comprises the annual budget. The second amendment sets out the parameters within which the Auditor-General would work. Those parameters are: that financial statements are consistent with relevant accounting practice policies; that financial statements are consistent with targets being required by the government's new clause 11 (a); that financial statements are consistent with the assumptions used in the statement required by the government's new clause 11 (1) (b); that the methodology on which economic and other assumptions have been based is reasonable; and that the report on these matters be given to the Treasurer and be included in the budget papers.

All members would recall the ACT Treasurer making the comment that the annual budget comprises estimates that might best be considered as guesstimates. Those are all the reasons why Assembly members should support this important initiative. These amendments will enhance the integrity of the budget preparation process and the Assembly and the community will be better informed about the basis for the annual budget. I commend these amendments to the Assembly and I ask Assembly members to consider seriously supporting these most important amendments—amendments that have already worked very well in Victoria.

**MS TUCKER** (11.08): This amendment addresses the perception that there is no source of authority on the construction of the budget outside Treasury and cabinet. The amendment will introduce a new role for the Auditor-General—a role that was adopted by Victoria but one that I believe has not been adopted by any other jurisdiction. That role would be to make a statement in support of the construction of the budget. The Auditor-General would have to state whether the financial statements included in the proposed budget were consistent with the accounting policies on which they were based and that the statement was consistent with the targets specified in the financial policy objectives and the strategy statement under section 11 (a) for that financial year. This statement is a statement of financial policy objectives.

The Auditor-General would have to express an opinion about whether the statements were properly prepared on the basis of the economic or other assumptions contained in the newly introduced statement for the proposed budget. Finally, the Auditor-General would have to include in the report a statement to the effect that he considered reasonable the methodology that had been used to determine economic or other assumptions. The government objected to that course of action and said that that would enable the Auditor-General to access cabinet papers referring to the construction of the

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budget. The Auditor-General already has access to cabinet papers when he investigates financial decision-making. For example, in the investigation of the redevelopment of Bruce Stadium there are a substantial number of quotes from and references to cabinet submissions. So that access is not new. What is new is the provision relating to the attention to be given to the financial modelling underlying budget forecasts.

This bill already enables the Auditor-General to investigate the reliability of the budget and new and updated budget reports. This provision, which involves additional technical expertise, will require additional staff in the Auditor-General's office. A question of concern to the Greens is whether we will be getting useful new information. On one level it is useful to have an independent check on financial modelling. On another level, though, we have to consider whether putting additional resources and energy into an independent review of financial modelling is the best way to improve our budgetary system.

In the estimates committee process we are able to question ministers about programs that are to be funded and we are able to determine the results of priorities. However, we are also given an opportunity to question ministers about financial assumptions and models. I am aware of the argument that there is no independent source to test assumptions or to establish the truth of the figures up-front. In the end, however, there is still a full audit of what money was spent and how it was spent. It has been argued that that is not necessarily the truth as the money is coming from Treasury, but it is in this area that the Auditor-General's office currently has the expertise. I thought that the point of this exercise was to enable the Auditor-General to check the government's expenditure.

I do not know whether I fully understand this amendment, as it does not appear to propose any new way of ensuring actual expenditure. In addition, no-one seems clear about what work this new power would involve. There is evidence from Victoria, but it is only anecdotal. We have not yet heard from parliamentarians what is their assessment of the value of this work, nor has there been a review of the effects of the Victorian system. I would prefer that investigation to be conducted before the government introduces this new system. I would also prefer to have resources spent on improving the formation of the budget and determining what matters are considered important.

Mr Smyth's amendment focuses only on the fiscal side of the budget. If we introduce something like this in the future it would be better if we included an assessment of triple bottom-line reporting. I would prefer to see an investment in the capacity of a government to deliver a budget that has been constructed on the basis of ecological sustainability—a budget that analysed the gender impacts of these programs. This bill should be analysed by the Standing Committee on Public Accounts before we make any decision about changing the role of the Office of the Auditor-General

The technical expertise involved in examining forecasts and modelling assumptions is different from the expertise that is required for auditing actual expenditure and results. This amendment would require the employment of between four and six additional skilled staff in the Office of the Auditor-General at a cost of about \$200,000. If that were the government's first priority to improve the budgetary system in the ACT, the costs of increasing staff would not be a problem. As the basis for all executive government work the budget is fundamentally important. Adequate scrutiny of its reliability is also

important. The major problem in our budgeting system and in what the government chooses to do is not whether the Treasurer is directing the department to fudge figures to make it look better. Auditing checks on whether the stated assumptions were carried through in the forecasts cannot guarantee that those forecasts will become a reality.

Forecasting is not precise. All members would be familiar with tales from the public service—whether federal or interstate—of end of financial year spend-ups to make use of full budget allocations. There is already a check and eventually there will be a result. The bill will introduce an extra update during the financial year and before an election. As I said earlier, the focus on fiscal responsibility in recent years has the potential of sidelining more fundamental responsibilities, creating and supporting an equitable, just and inclusive society, and ensuring that our ecological impacts are steadily reduced. The most basic reality facing the human species is that, through our pursuit of economic growth as the measure of all that is good, we are destroying the very basis for our existence on this planet. I refer to a common phrase that is to be found on many T-shirts: Good planets are hard to come by. Similarly, the increasing social inequity that we have seen in this country will lead to further damage to our capacity to live in a sustainable way.

Of course the money must be managed prudently, but that aim must not overshadow more fundamental mismanagement. For that reason I would prefer to see an increase in resources related to budgeting to be put into developing the budgetary system to take account of environmental, health and social issues. That might require additional resourcing for the Office of Sustainability. It may also require additional resourcing and skills for the Office of the Auditor-General, which already has the statutory responsibility to consider ecological sustainability in audits. This requirement to audit budgets might lead to an increased role and to additional resources for the Office of the Commissioner for the Environment.

This government has to address the size of the public service as a result of cuts that were imposed by the former Liberal government. Much of its research and policy capabilities has been reduced and it is difficult for it to do important work. A focus on immediate fiscal returns will ignore the longer-term benefits of having a certain amount of fat in the department in the form of capacity or corporate memory. What is required is a strong team that knows what is going on so that if and when someone leaves no holes are left. We have been told by the Treasurer's office that Treasury is already stretched. It needs additional resources if it is to implement changes and include triple bottom-line auditing and gender auditing.

I do not support Mr Smyth's amendment. While I firmly believe that there is merit in the proposal, it does not address the most pressing need in our budgetary system. The Standing Committee on Public Accounts must inquire into this matter. We need a better understanding of it. I was pleased to hear the Treasurer refer today to the measures that he has taken to introduce triple bottom-line reporting. However, I would also like an acknowledgment from him that he recognises the resource implications of this proposal. We require full gender analyses so that we can do the work that we are required to do. Triple bottom-line reporting requires additional resources. Those are the issues on which this government should be focusing.

Assumptions have been made that the budget is gender neutral. It is not gender neutral; it is gender blind. It is blind to the impact that it will have on the environment and on society. We have heard this government's rhetoric and we know that it is committed to implementing these proposals. However, these proposals have resource implications. I would like the Treasurer to acknowledge that today. I would also like him to state that he intends to provide additional resources for this important work. Mr Smyth and Mr Stefaniak alluded to the fact that their cutting-edge amendment represented best practice in the development of budget policy. They said that Victoria is leading the way in this area. I believe that is more important for us to lead the way by including in our budget these broader issues.

**MS DUNDAS (11.18):** We just had an interesting debate about what we want in our budgets, how we think our budgets should be shaped and how they should be measured at the other end. There has been much debate about this amendment since it was foreshadowed about a month ago. After giving the amendment much thought and after weighing up many different issues, I will support the amendment that was foreshadowed earlier. The government has put forward many reasons to establish why it believes that this amendment, which is not useful, was not incorporated in the original bill. I am not convinced that these concerns are insurmountable. Over time the Victorian experience has shown that an examination of budgets by the Auditor-General has led to improvements in their preparation.

The central concept of this amendment is that the Assembly be provided with an alternative source of expertise, rather than simply relying on the expertise of Treasury. Staff members in my office have spoken with staff members in the Office of the Auditor-General. The Acting Auditor-General believes that the audit office is capable, ready and able to implement this amendment if Assembly members choose to support it. Audit office staff believe that they have the skills to participate in these processes and they have the resources to implement this amendment. I am not suggesting that Treasury is providing us with the wrong information; I am suggesting that we should include that audit process in the budget to give us a better picture of what Treasury is saying.

This Assembly must have the benefit of an independent and professional opinion. It is clearly beyond the resources of a member of this Assembly to examine every calculation in the budget and to determine whether they have been prepared correctly. If we work through the problems that might be associated with the implementation of this amendment it will lead to a significant improvement in accountability and the procedures that are used to prepare territory budgets. There are many different ways of advancing this concept. From what has been said today, budget papers and budget accountability can be improved. As ideas are crystallised and as amendments are proposed we will have debates in the future on this issue.

This amendment would be a helpful step in the preparation of audit reports. We must make our budgets more accountable and introduce different ideas and different thought processes about what we want to achieve in the budgetary process. This reporting mechanism will be incredibly helpful in the estimates committee process. Estimates committees will have another set of figures to examine. They will be able to question the Auditor-General about those figures, compare them with earlier figures and ensure the



best outcome for the territory. I understand the concern of the government in relation to these amendments. However, I believe that those issues can be worked through in the interests of best accountability practice for the territory.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (11.21): I thank Ms Tucker for supporting the government by not supporting the opposition's amendment. It has been claimed that this practice works well in Victoria, so it is a case of "so far, so good". I understand the genesis of this proposal, given the treatment of auditors-general under the former Kennett Liberal government. It is possible that Mr Bracks, when in opposition, introduced such a proposal. I have some doubts about this proposal. This year's budget preparation process was not easy. We effected some changes and we had what I would call late-breaking news. Members would be aware that, right up until the time the budget was sent to the printer, and even beyond, we effected changes. We introduced a bushfire levy and then waived that levy. That goes to show that the budgetary process is a dynamic process. In Victoria there is a decent relationship between Treasury and the Auditor-General. They seem to think that this process works well.

Clearly, the information that the Auditor-General incorporates into the budget is minimal, but it could be more comprehensive if there were a difference of opinion. All businesses and enterprises require audits of the highest of standards. However, we are referring to audits and not necessarily to ideas. I am aware, having been an auditor, that they are not often associated with putting forward ideas. I refer to some of the things referred to earlier by Ms Tucker relating to additional resources. First, I remind the House that we have allocated additional staff to the Office of Sustainability.

**Ms Tucker:** Not enough.

**MR QUINLAN:** Is it likely that there will ever be enough, Ms Tucker?

**Ms Tucker:** More than you have would be helpful.

**MR QUINLAN:** If we provided too many staff it still might not be enough. We have allocated additional resources to the Office of Sustainability. Treasury will be working with the Office of Sustainability. As I am expected to set an example and be abstemious in the budgetary process, I will ensure that I have the resources available to incorporate within the existing budgetary framework—and in the framework that will exist beyond the review I have asked Treasury to undertake—triple bottom-line reporting in the form and presentation of the budget, key performance indicators and the suitability of the reporting method that follows.

Members can therefore anticipate this government's best attempts at bringing forward more usable and informative budgets and reports. After listening to a number of debates I do not know how the words or opinions of the Auditor-General can somehow be set in stone as the absolute truth, unable to be challenged. That will not be the case when we are preparing budgets. If we happen to have an Auditor-General who is somewhat opinionated it could result in a distortion of the public debate that goes with the budgetary process. At present there is plenty of public debate and the budgetary process is scrutinised. Members should be aware that Treasury, the Treasurer and the

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government are most concerned to ensure that the budget is accurate as that is one area that will receive a great deal of scrutiny as soon as it becomes public.

As I said earlier, the government will try to ensure that appropriate resources are put in place. I instruct Treasury on government reforms, so I am also able to advise Treasury on gender impact—an issue to which Ms Tucker referred earlier. Coincidentally, Ms Gallagher referred that same issue to cabinet yesterday. Agreement was reached in relation to the inclusion in the budget, as a matter of course, of a statement on women. That recent government decision was as a result of the initiative of Ms Gallagher.

**Ms Tucker:** Any resourcing with that?

**MR QUINLAN:** We cannot allocate discrete resources to such a proposal; it has to be part of the budgetary process.

**Ms Tucker:** It has implications.

**MR QUINLAN:** Ms Tucker should not be concerned. I will request the maximum amount of resources that are necessary to do the job. The preparation of the budget involves tight deadlines and other commitments that have to be met. Let us wait and see how the job is done. If additional resources are necessary—and I think they will be—I will lodge a claim for them. However, members would be aware that other claims for resources are always lodged when the budget is brought down. This government is committed to ensuring that the current budget papers incorporate triple bottom-line reporting and a statement on women.

**MR STEFANIAK (11.28):** I refer to the statements made earlier by the Treasurer and by Ms Tucker. I was interested to hear the Treasurer say that, in Victoria, it is a case of “so far so good”. I support that statement, so why would he not support such a proposal? I have seen quite a few auditors’ reports. While auditors might not necessarily be noted for their ability to put forward ideas, I think many ideas originate from audit reports and many useful comments are made. I agree that the Auditor-General’s comments should not be set in stone and that they should be able to be challenged, just as the comments that are made by government officials or anyone else are challenged.

What is proposed and what occurs in Victoria are very much in line with what one would expect from an auditor. If this amendment is successful we would like the Auditor-General to be able to identify the key assumptions on which the budget is based and to evaluate those assumptions in the preparation of the budget—things that an auditor would be qualified to do. I will not refer to the other principles that were espoused by Mr Bracks; rather I reiterate that achieving consistency in accounting principles is right up the alley of the Auditor-General. The Treasurer’s reasoning is a little skew-whiff, as he does not support what he concedes. Apparently, everything is going well in another Labor jurisdiction. It was disappointing, though probably quite predictable, to hear Ms Tucker’s views on the opposition’s proposed amendments.

Nevertheless, there was a time when one would have thought Ms Tucker would have supported these amendments without hesitation. There was a time when Ms Tucker was a champion of open government—a proponent of the importance of government

accountability for its decisions and actions. But it seems as though that time has passed. Ms Tucker's hypocrisy is exposed for what it is. It is fascinating to observe that she is strongly in favour of increasing the openness and accountability of government. Equally interesting is the gradual reduction of her interest in these important underpinnings of government. On 23 November 1995, during debate in the Assembly, Ms Tucker made the following comments in relation to Mrs Carnell:

... we heard her rhetoric about open and consultative government and about open budget processes ... Open budget processes do not have to lead to chaos that the older parties keep insisting they will.

On 23 May 1996 she said:

The Greens believe that, in the name of open and accountable government, this amendment should be supported ...

On 8 May 1997 she made a strong statement during debate on the budget. She said:

The overall lack of transparency in the budget documentation is a real problem when trying to determine what money is really going where.

Later in that same debate she said:

... the overall lack of transparency in the budget papers is still very concerning.

On 2 December 1997 she made the following comment:

Accountability and transparency for taxpayers' money is essential and parliamentary scrutiny is fundamental to that.

She went on to say that the FMA promotes:

...the highest standards of financial accountability to the Legislative Assembly and to the community and to enhance the transparency in budget decision making at all levels ...

It appears as though Ms Tucker's position and the position of the Greens on openness, accountability and transparency in the budgetary process were clear in all those statements. Ms Tucker is a strong supporter of accountability and of openness and transparency. What has changed since then? Ms Tucker now does not want to support an amendment that picks up an essential component of a package of amendments that was implemented by the Bracks Labor government in Victoria. I do not really think that Ms Tucker has told us why she does not choose to support this amendment. Why will she not support the opposition's proposed amendments?

I thought initially she was talking about increasing the resources that have been allocated to the Office of the Auditor-General, but in the next breath she said that that was okay and that it was desirable to increase resources for social and environmental issues. Why not do that today? If we need an allocation of additional resources it should be done for good fiscal and economic reasons. There are strong grounds for enhancing the

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transparency of the annual budgetary process, which is what this amendment is seeking to do. In December 1996 Ms Tucker spoke about the importance of the primacy of the Legislative Assembly in the parliamentary and financial accountability process. Where is that same concern today?

I am disappointed that Ms Tucker will not support this amendment. That goes completely against various statements that she has made in the past. Blind Freddy could tell us that it would enhance accountability of the budgetary process. That is a sad step because it means that these amendments will not succeed and we will be out of kilter with Victoria. Amendments that were moved in that state clearly have led to some good results and they continue to do so.

Question put:

That **Mr Stefaniak's** amendment No 1 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   |              | Ms MacDonald | Mr Wood     |

Question so resolved in the negative.

**MS TUCKER** (11.38): I seek leave to move amendments Nos 1 to 3 together.

Leave granted.

**MS TUCKER**: I move amendments Nos 1 to 3 circulated in my name together [*see schedule 2 at page 3880*].

I have already apologised to members for giving late notice of these amendments. I understand that people are concerned about them. These amendments, which are quite simple, will require the government, when preparing a budget, to take into account the issue of ecologically sustainable development. The bill in its current form states:

- (4) The proposed budget must be prepared taking into account—
  - (a) the principles of responsible fiscal management; and
  - (b) the object of providing a basis for sustainable social and economic services and infrastructure fairly to all ACT residents.

We could have a discussion about the meaning of the words “social sustainability”. No doubt members would be aware that the definition of the word “environment” in the Environment Commissioner’s legislation includes the word “social”. It is important to make it clear, as we did in our amendment to the Auditor-General Act, that a responsible

budget also takes into account the object of ecologically sustainable development. My amendments have been taken directly from the Auditor-General Act, so they have already been through the scrutiny process and they are suitable for inclusion in this sort of legislation. I ask members to support my amendments.

It is important to acknowledge that issues relating to fiscal responsibility cannot be separated from issues relating to social and environmental sustainability. Mr Stefaniak expressed concern about the fact that I will not be supporting the amendment moved by the Liberal Party and said that my statement in relation to that amendment is inconsistent with other statements that I have made. To the contrary, I said today—perhaps Mr Stefaniak was not listening—that I was happy to have a closer look at the Liberal proposal in the Standing Committee on Public Accounts. I have not been given enough information at this point in time to know whether this is the best area in which to allocate additional resources. Huge burdens have already been placed on officials who are trying to introduce the concept of triple bottom-line reporting.

The Office of Sustainability is chronically underresourced, as are a number of other public service departments. Thanks for that unfortunately go to former Liberal governments. Realistically, we have to take into account those public service departments. Mr Stefaniak seems to think that because I want this matter referred to the Standing Committee on Public Accounts I have suddenly lost interest in accountability. That is not a particularly strong argument. I ask all members to support my amendments which are consistent with everything that the government has said about triple bottom-line reporting. Those amendments clearly spell out that any responsible budgetary process must take into account ecological sustainability.

**MS DUNDAS (11.41):** The Australian Democrats are happy to support these amendments. As I said earlier, the ACT still has some way to go in developing appropriate social and environmental measures before it moves towards triple bottom-line reporting. We heard in debate today some suggestions about how to move forward. I believe that these amendments simply strengthen existing provisions in the bill, which states:

- (4) The proposed budget must be prepared taking into account—
  - (b) the object of providing a basis for sustainable social and economic services and infrastructure fairly to all ACT residents.

These amendments will extend that concept by inserting the additional object of ecologically sustainable development. I commend Ms Tucker for moving these amendments. There has been a great deal of debate this morning about gender auditing. The Treasurer also said earlier that a statement on women will be included in the budget papers. There is a difference between a statement on women and gender auditing. I hope that the Treasurer does not see them as one and the same. While I welcome the move to establish how women are being impacted on by the budget through the provision in the budget papers of a women's statement, gender auditing must still form part of the budgetary process. That strong recommendation was made in the Status of Women report. The government said that it would work towards implementing that recommendation. The Australian Democrats would like to see that happening in the next budget.

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**MR STEFANIAK** (11.43): The opposition does not support these amendments. I understand that these provisions have already been effectively included in the Auditor-General Act. As Ms Tucker said earlier, her amendments have been lifted directly from six-year-old amendments in the Auditor-General Act. We do not believe that there is a need for changes of that sort. These amendments will not add anything to the provisions in the bill. The Treasurer said earlier what staff in the Office of the Auditor-General would be doing. Accordingly, the opposition opposes these amendments.

Amendments agreed to.

**MR STEFANIAK**: I move amendment No 2 circulated in my name [*see schedule 1 at page 3880*]. I referred earlier in debate on my first amendment to the reasons for moving amendment No 2. I have nothing further to add.

Amendment negatived.

Clause 5, as amended, agreed to.

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

Bill, as amended, agreed to.

## **Justice and Community Safety Legislation Amendment Bill 2003**

Debate resumed from 26 June 2003, on motion by **Mr Stanhope**:

That this bill be agreed to in principle.

**MR STEFANIAK** (11.45): Mr Speaker, this bill is another in the series of consolidation bills dealing with legislation within the justice portfolio. The bill makes substantive and technical amendments to the legislation. In terms of the legislation concerning the Cooperatives Act and the Fair Trading Act, the opposition does not wish to comment further on what was stated initially by the Attorney-General.

The Fair Trading (Consumer Affairs) Act 1973 is being amended to permit the minister and the Commissioner for Fair Trading to make public statements where it is in the public interest to do so to identify, warn or inform the community about consumer protection matters, such as unsatisfactory or dangerous goods and the people who supply them, services supplied in an incompetent manner by traders who continually ignore court orders or the imposition of penalties, and unfair business practices and the people who engage in them.

I understand that New South Wales, Victoria and South Australia already have such a provision and Queensland is moving in this way. It is actually called the naming provision. To digress, it is interesting that this government is prepared to do so in this area, but is reluctant to do so in other areas. It is interesting also to note that this shows consistency with New South Wales, which the government is very happy to do when it suits them, but in other terribly important areas of the law, criminal law especially, it is not prepared to do so. Despite the inconsistency shown by this government in adopting

sensible measures from across the border, this one does seem quite sensible to the opposition and we are supportive of it.

The bill also provides that the Fair Trading (Consumer Affairs) Regulations can adopt consumer product safety standards produced by the organisations setting standards. These regulations can include offences, with penalties which will not exceed 20 penalty units, which is \$2,000. Again, New South Wales already does that, as does the Commonwealth, I understand.

There are also some amendments dealing with certificates. Certificates are often issued saying that an item—for example, a laser toy—is a safe item and can be sold. The manufacturer provides a statement on that to a retailer and the retailer then includes that in the toy sold to the public. These amendments contain a provision to make retailers liable if they do not have a certificate. Initially, I thought that that might be a bit unreasonable, but it is quite obvious that the manufacturer has a duty to provide a statement to the retailer and the retailer is merely providing that with a certificate to the consumer, so we do not have any problem there.

The government has consulted the Law Society and the Public Trustee about the amendment to the Legal Practitioners Act in relation to unclaimed moneys. In December 2000, the Public Trustee assumed responsibility for the functions of the then Registrar of Unclaimed Moneys. A strict reading of section 200 of the act provides no basis for payments to be made to the Public Trustee. The amendment corrects that anomaly by enabling payments to be made to the Public Trustee rather than to the chief executive. As I said, the Law Society and the Public Trustee have been consulted.

The amendments to the Second-hand Dealers Act are quite sensible. At present, if someone wants to hold a garage sale, they need technically to be licensed. The amendments will allow the Commissioner for Fair Trading to exempt people selling second-hand goods from the requirement to be licensed. Exemptions will be given following consultation with the Australian Federal Police and will be for one-off events and fairs where it is impractical to draft regulations exempting the people or event. In fact, having a requirement like that is just legislation gone mad. These amendments are sensible because they do look at fairs, events, car boot sales and things like that. They will make things a lot easier for small traders. The government might need to look at this area further and inject a bit more commonsense into it.

Finally, the Trade Measurement (Administration) Act is being tidied up. The opposition will be supporting this piece of legislation. The Chief Minister has flagged several other amendments in relation to the bill which I will speak to briefly at the time, but we have no particular problems with the foreshadowed government amendments.

**MS DUNDAS (11.51):** The ACT Democrats will be supporting this bill, which fixes up a number of errors, oversights and ambiguities in our statute book and gives the Attorney-General and the Commissioner for Fair Trading power to better inform the public on consumer issues.

It is difficult to see why the amendment to the Second-hand Dealers Act was required, since it only covers people who carry on a business selling second-hand goods, but I have no difficulty with the provision for exemptions in the amendment bill.

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I do commend the substantive amendment to the Fair Trading Act, which gives the Attorney-General and the Commissioner for Fair Trading immunity from court actions for public statements relating to fair trading matters. It is important that the power exists to warn the public about a reasonably held belief that particular goods or services are unsatisfactory or unsafe. It is also important that the public can be warned if the government has a reasonably founded belief that a supplier is negligent or dishonest and to warn the public of unscrupulous business practices that may hurt ACT residents. This power would be questionable if there was no requirement for the assertions made to be reasonably founded and honestly made, but with these safeguards in the legislation I am satisfied that public benefit outweighs the harm that could be done through a mistake in a public statement.

I also support the amendments to the Sale of Motor Vehicles Act to make it simpler to penalise minor breaches of the act by car dealers who park vehicles for sale outside the limit of their premises by introducing a \$500 on-the-spot fine. It does not seem a good use of the time of the Magistrates Court to have hearings on such minor matters.

As for the other amendments, I support the suggested content for draft codes of practices for fair dealing under the Fair Trading Act to clarify which matters such codes may regulate. The promotion of alternative dispute resolution processes is particularly commendable. The amendments to the DPP act appear to be uncontroversial and may in practical terms make no change to existing understanding of the power of the director.

The Attorney-General circulated some amendments quite late in the piece. From a quick reading of them, they clarify the application of the new criminal code to charges laid before the code commences that are subsequently amended or remade. They appear to be non-controversial and we are happy to support them. Even so, a little more notice on them would have been appreciated, especially considering that the original legislation was tabled quite a number of months ago and there was time to try to work out these things before the bill was debated.

The bill does do quite a number of things and, as I have said, we will be supporting them and commend the substantive amendment to the Fair Trading Act to make sure that we do have reasonable ways of knowing what is going on in terms of trading in the ACT.

**MS TUCKER (11.54):** This bill is another tidying up measure to make sure that the legislation operates as intended. If the government had a more coherent process for law reform in consultation with community members and the people who work in the area and was committed to checking bills before going ahead, perhaps we would not have needed to have this bill.

Other members have gone through the provisions, so I will not repeat that process, but I have raised a few concerns which have been answered. I asked about the rights a trader would have if named incorrectly by the Commissioner for Fair Trading or the Attorney-General. The response was that under proposed section 42 (1) the use of the words "made or issued honestly by a person in the exercise of functions under this act" imports into the provision the requirement for the commissioner or the attorney to act in good faith and without negligence. Accordingly, if the commissioner were to name a trader



wrongfully, that trader would have the right to bring a suit of negligence against the commissioner.

In addition, the use of the word “reasonably” in proposed new section 41A also places a constraint on the use of the power, being confined in its use to the notion of reasonableness when the commissioner or minister is exercising the power to name a trader. A court could then decide whether the commissioner exercised her power unreasonably in the particular circumstances and the trader could be awarded damages.

I also had a concern in relation to the Second-hand Dealers Act and understanding the operation of the suitable person provision. I was given an example of how the provision relating to a suitable person for licensing requirements might operate. One act that could be breached by the issuing of a licence is the Migration Act. One recent example was where an overseas visitor applied for, and was granted, a second-hand dealers licence but his visa did not permit him to work in Australia. I am informed that the Australian Federal Police drew that to the attention of the department.

The adjustment to the Magistrates Court’s powers in relation to commercial and retail tenancies is the second round of attempts to clarify the intent of the changes to the commercial and retail tenancies act. The problems were raised at the time by the Commercial and Retail Tenants Association and it has taken several rounds of amendments to get it right. I am still not entirely sure that this amendment today goes far enough.

One of the powers previously available as a remedy in matters of commercial and retail tenancy was the power to reopen a lease to vary it, whether by providing new terms or otherwise, or to set it aside. This amendment today does not spell out in detail the remedies available, but I hope that it will be read in this way; otherwise we will have to come back again.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (11.56), in reply: I thank members for their contribution to the debate and for their support for the Justice and Community Safety Legislation Amendment Bill, which does make a number of minor and technical amendments to a number of laws administered by the Department of Justice and Community Safety.

Bills such as this are part and parcel of law reform and this is a very efficient and effective way of making the sorts of amendments that we are dealing with today. As members have indicated, I did foreshadow that there were a number of additional amendments that we would seek to move today to tidy up a number of other non-controversial issues that have come to the attention of the government, in some instances actually adjusting proposals that had been made when this bill was tabled earlier this year. I do regret any inconvenience that these amendments have caused to members

The first of those amendments is a minor technical amendment to section 8 of the criminal code to overcome an unexpected problem that has arisen concerning the application of the code to offences that existed before the code came into force on

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1 January. This is something that has only recently come to our attention and we are simply moving to overcome that unanticipated problem in relation to the drafting of the criminal code 2002.

The second of the amendments will amend subsection (6) of division 2.2 of the Director of Public Prosecutions Act. The amendment is designed to remove ambiguity with respect to the director's functions by clarifying two aspects of his functions. The first confirms that the director's functions extend to appearing at any board of inquiry established under part 20 of the Crimes Act 1900.

Members would be aware that that amendment has arisen out of proceedings involving the Eastman matter that is currently before the courts, namely, appeals that are in place in relation to the application and effect of section 475 of the Crimes Act. Members may recall that Mr Eastman, in one of his challenges to processes that are currently in place, did suggest that the Director of Public Prosecutions did not have the range of powers that we had always imagined he had. That amendment simply clarifies the law in relation to that.

The second clarification confirms that the director may begin, conduct, irrespective of whether the proceedings were commenced by the director, or respond to civil proceedings which are connected with or arise out of an exercise by the director of any of the functions under the DPP act or any proceedings in relation to which the director has a function.

There is, as has been indicated, an amendment to part 3 of the Fair Trading Act 1992 to enable codes of practice to be established. The codes include provisions that impose licensing and registration requirements and provide for the imposition of fees and educational and competency requirements. There will also be provision for committees to be established to hear and resolve disputes. These amendments are designed, once again, simply to remove ambiguity in relation to the subject matter of the code of practice.

There will also be an amendment to the Sale of Motor Vehicles Act. My intention to move this amendment was previously notified. This is the first opportunity to bring the matter before the Assembly. The act will be amended by adding under section 7 a schedule of offences that are punishable by an infringement notice.

On an additional matter, Mr Speaker, a minor error was identified in the explanatory statement to the bill. The explanatory statement inadvertently stated that the Second-hand Dealers Act was being amended to alter section 11 (3) and it should have said section 3 (1). The explanatory statement has been amended to make that minor correction.

I thank members for their contribution to the debate and their support of the bill.

Question resolved in the affirmative.

Bill agreed to in principle.

**Detail stage**

Clauses 1 to 7, by leave, taken together and agreed to.

Proposed new part 2A.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (12.01): I move amendment No 1 circulated in my name, which inserts a new part 2A [*see schedule 3 at page 3881*].

I table a supplementary explanatory statement to the bill.

Proposed new part 2A agreed to.

Proposed new part 2B.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (12.02): I move amendment No 2 circulated in my name, which inserts a new part 2B [*see schedule 3 at page 3881*].

Mr Speaker, I did indicate in my closing comments in the in-principle stage what each of these amendments proposes to achieve. I have spoken to them all and I will not repeat the points that I made.

Proposed new part 2B agreed to.

Clause 8 agreed to.

Proposed new clauses 8A to 8D.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (12.03): I move amendment No 3 circulated in my name, which relates to proposed new clauses 8A to 8D [*see schedule 3 at page 3881*].

Proposed new clauses 8A to 8D agreed to.

Clauses 9 to 18, by leave, taken together and agreed to.

Proposed new part 6A.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (12.03): I move amendment No 4 circulated in my name, which inserts a new part 6A [*see schedule 4 at page 3884*].

**MR STEFANIAK** (12.03): This amendment is about the Sale of Motor Vehicles Act. I must admit that when I first saw this amendment I thought that it could be a bit of an unreasonable impost on business, although I do note that initially the provision could be enforced by a prosecution in the Magistrates Court. I am well aware that there has been

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quite a problem in this regard for both members of the public and other traders, especially in areas such as Fyshwick and Phillip, in terms of real inconvenience caused by what is becoming a common practice.

Infringement notices are a very effective way of dealing with this problem. The on-the-spot fine is significant but is consistent with penalties elsewhere in the relevant piece of legislation. We are satisfied that this amendment does protect public safety by freeing up the footpaths—we have had a number of complaints in relation to that—but it also assists other traders in the area who are experiencing problems with difficulties for people who want to go into their stores because of what has become a common practice. It is a sensible amendment. It is appropriate to use the infringement notice procedure here. I suspect that it will be very effective in terms of clearing up a particular problem that has developed in recent times.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (12.05): Following on from Mr Stefaniak's comments, I will expand a bit on the explanation that I did give in my previous speech in relation to this amendment. The Office of Fair Trading has been reporting that some ACT motor vehicle dealers are quite deliberately breaching section 7 of the Sale of Motor Vehicles Act by displaying motor vehicles for sale on public footpaths outside the perimeter of their licensed premises.

I think that any of us that visit places in which motor vehicles are being sold would be well aware that footpaths are being obstructed from time to time by dealers in the placement of their vehicles for sale. It was in response to that that this amendment was proposed. Currently under the act, provisions in relation to a breach of section 7 can only be enforced by a criminal prosecution in the Magistrates Court. It is proposed that the aspect of the offence dealing with trading outside the licensed premises, as Mr Stefaniak and others have mentioned, be dealt with by way of an infringement notice, noting that the more serious offence of trading unlicensed would always be enforced by way of criminal prosecution.

There is no doubt that the proposed amendment will ensure better and more effective enforcement of the provision and I think that it will lead to greater compliance with the act. The on-the-spot fine would be set at \$500. Through that and through our capacity to enforce it by way of an on-the-spot fine, we will find that motor traders undoubtedly will now comply with section 7. I think that the penalty of \$500 is consistent with this type of offence.

The amendment will, as Mr Stefaniak indicates, protect public safety by freeing up the footpaths that are blocked by motor vehicles from time to time and it will discourage dealers from misusing short stay public parking areas as well. I think that generally this is a good way of dealing with a particular problem. Whilst it might be seen by some to be diminishing the force and effect of a particular provision, I have no doubt that it will, by moving to the on-the-spot process, significantly enhance compliance with the law in relation to motor vehicles.

Proposed new part 6A agreed to.

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

Bill, as amended, agreed to.

**Sitting suspended from 12.08 to 2.30 pm.**

## **Ministerial arrangements**

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs): Mr Speaker, for the information of members—and I regret—my colleague Bill Wood, Minister for Disability, Housing and Community Services, is not available for question time. I will take any questions that may be directed to him.

## **Questions without notice**

### **Coronial inquest—cabinet briefing**

**MR STEFANIAK:** Mr Speaker, my question, through you, is to the Chief Minister, Mr Stanhope. Chief Minister, counsel assisting the coroner, Lex Lasry, has stated that cabinet was briefed on the fires of 18 January and that he hoped the briefing would be provided. Is the government prepared to cooperate fully with the coronial inquest so that the people of Canberra can find out the details and ensure the events of January 18 are never repeated; or do you intend to hide behind the smokescreen of cabinet confidentiality in this particular matter?

**MR STANHOPE:** Thank you, Mr Stefaniak, for the question. Yes, the government intends to fully cooperate with the inquiry and we will, of course, respond to all requests made of us by the inquiry.

### **SmartStart for kids program**

**MRS CROSS:** Mr Speaker, my question is to the Minister for Education, Ms Gallagher. Minister, the recent and growing interest shown both by the Commonwealth and this government in the area of child obesity is encouraging. This issue is extremely important for the future health of our community.

In the ACT, we are lucky to have a program which is in its fourth year of operation in some of our schools, and run by one of our famous Canberrans, Robert de Castella. This program is SmartStart for kids and it has now collected information on over 21,000 children in the ACT. This information, collected by Rob and his team, provides an extensive longitudinal database which could be very useful to our educators and health providers. This program has been very well received by the participating kids, parents, teachers, Diabetes Australia, the National Heart Foundation, and all the usual interested bodies.

This issue is one which is on everybody's lips. Everyone is talking about the problem but we seem to have difficulty doing something about it. This particular program has been presented to three ministers in this government and has received a favourable response from all. Minister, this is a not-for-profit organisation aimed at improving the health and welfare of our kids. Is this government going to introduce this program into ACT schools?

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**MS GALLAGHER:** I thank Mrs Cross for the question. In relation to SmartStart, I am aware that previous ministers have met with Mr de Castella, and I certainly have recently. The program has a lot of merit. I cannot answer the question today because there are some outstanding issues, primarily relating to the funding that is required to introduce that program. That would certainly have to be part of budget considerations.

We have to look at a range of issues in terms of the health and wellbeing of our student population, not just childhood obesity. We are looking at many of those issues as well. We already have programs such as health promoting schools, nutrition advice in schools and all the other health and physical education programs that are already offered in schools.

I have said to Mr de Castella and Mr Dozpot that I would look at it. However, because of the funding that would be required and the number of children that they would be targeting, it would have to be considered through the budget process.

**MRS CROSS:** I thank the minister for her answer. Pending the assessment of this program, and if the assessment was favourable, would you consider implementing it in the 2004 school year?

**MS GALLAGHER:** I think I have answered that as I have said that it would have to be considered through the budget process. I have to look at it in terms of the competing priorities for budget initiatives next year, but it is certainly in the pot at the moment.

### **Elective surgery**

**MS MACDONALD:** Mr Speaker, my question, through you, is to the Minister for Health, Mr Corbell. Can the minister inform the Assembly about the status of access to elective surgery in the territory's public hospitals?

**MR CORBELL:** I thank Ms MacDonald for the question. Mr Speaker, yesterday I released the September *Access to Elective Surgery Report*, which showed a month of very important records: first of all, the highest number of monthly admissions for elective surgery since November 2002—the highest number of elective surgery effectively in just over a year; the highest number of people referred to the elective surgery waiting list by their surgeons since July 2000; and the highest number of people admitted for elective surgery for any quarter in over three years.

Mr Speaker, more people are getting their elective surgery as a result of Labor's \$2 million per annum initiative. For the first time we have seen a very significant increase in elective surgery and we have seen one of the busiest quarters—in fact, the busiest quarter—of activity for the last three years. That includes the last year that that mob opposite were in government.

**Mrs Burke:** What percentage of those are still waiting for surgery?

**MR CORBELL:** Mr Speaker, in the first quarter of this financial year over 2,260 people were admitted for elective surgery in our public hospitals—

**Mrs Dunne:** What is the target for overdue surgery?

**MR CORBELL:** the highest number for any quarter in over three years.

**Mrs Dunne:** What's the target?

**MR SPEAKER:** Order!

**MR CORBELL:** Eight hundred and five people—

**Ms MacDonald:** Mr Speaker, I take a point of order. I must protest at the constant interruptions from the opposite side. I can't hear the minister's response.

**MR SPEAKER:** Thank you, Ms MacDonald. I have called members of the opposition to order once and I will issue warnings if there are any future outbreaks of interjections.

**MR CORBELL:** Thank you, Mr Speaker. In addition to the 2,260-odd people admitted for surgery in the past three months, the most of any quarter for over three years, 805 people were admitted for elective surgery alone during September this year. That is the highest number of admissions since November last year. So we are seeing an increase in the amount of elective surgery, both in the last month as well as in relation to the most recent quarter. The government has kept its promise to give more people access to elective surgery.

I remember Mr Smyth and others from the other side of the chamber in this place saying, "Oh, throwing money at the problem won't fix it." Well, tell that to the 2,260 people who have received access to elective surgery in the past quarter, the most of any quarter for the past three years.

**Mrs Dunne:** What about the 2,000 who are overdue?

**MR CORBELL:** Tell it to them, because quite frankly, the Liberal Party—

**MR SPEAKER:** Order! The minister will resume his seat. Mrs Dunne, I warn you.

**MR CORBELL:** Thank you, Mr Speaker. That is the approach of this government and clearly it is one that is working. But it is worth noting that at the same time more people are getting access to elective surgery, more people are going through the operating theatres, more people are seeing their surgeon and getting the service they need. We are still seeing people being added to the waiting list. In fact, the addition to the waiting list of 1,050 people by their surgeons during September 2003 is the highest since July 2000. So we are not only seeing increased levels of activity—some of the highest in over three years. We are also seeing increased levels of people being placed on the waiting list.

Mr Speaker, this government is addressing the issue and it is doing so by increasing throughput—increasing the amount of surgery that is undertaken. We cannot determine who needs elective surgery but we can determine that more people get it sooner, and that is what the government is doing.

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Of course, it is interesting to contrast this with the approach of the Liberal Party. The acting shadow minister in her comments yesterday suggested that the best way to fix this problem was to close the waiting list. In fact, in her media statement issued yesterday she said that there was no point admitting more people for surgery when those already on the list could not be catered for. What a callous and penny-pinching move that would be. What she is saying is that regardless of their medical urgency, regardless of the urgency for treatment, you are not allowed on the waiting list until everyone else on the waiting list has been dealt with. Not only is that callous, it also highlights a completely—

**Mr Cornwell:** A point of order, Mr Speaker. I don't recall that Ms MacDonald's question asked for the views of the opposition on this matter. The answer has been very long-winded, sir. But, as I recall, it simply asked for figures in relation to the hospitals.

**MR SPEAKER:** Yes, confine yourself to the subject matter of the question, Minister.

**MR CORBELL:** On the point of order, Mr Speaker, the question was: can I inform the Assembly about the status of access to elective surgery in the territory's public hospitals? It did not ask for specific figures. Mr Speaker, I think the answer is consistent but I will certainly abide by your ruling.

Mr Speaker, the reality is that the Liberal Party, in response to the most recent figures announced yesterday, suggested closing the waiting list as a way to fix the problem. So it does not matter whether you are category 1 or category 2 or category 3; you are not allowed on the waiting list.

**Mr Stefaniak:** A point of order, Mr Speaker.

**MR SPEAKER:** Order! Resume your seat for a moment, Mr Stefaniak. Minister, would you please confine yourself to the subject matter of the question. Mr Stefaniak, what is your point of order?

**Mr Stefaniak:** That was my point of order, Mr Speaker—118 (a).

**MR CORBELL:** Mr Speaker, access to the territory's public hospitals is about making sure that people are treated in priority of their medical need. What is being suggested by those opposite is not endorsed by the government. It is not endorsed by the government because we know that it is naive to suggest that people who are category 1 should not be allowed onto the waiting list. But that is exactly the suggestion being made by those opposite. The suggestion being made by those opposite is naive and is not consistent with the government's approach.

Mr Speaker, in addition, it is worth highlighting the contradictory approach that we have seen from the Liberal Party.

**Mr Stefaniak:** On a point of order, Mr Speaker. He is still breaching 118 (a).

**MR SPEAKER:** Mr Corbell, I refer you to standing order 118 (a) and ask you to confine yourself to the subject matter of the question or resume your seat.



**MR CORBELL:** Well, it is important, I think, Mr Speaker, to put the issue in some context and contrast the government's policy with that being proposed by the alternative government. But, Mr Speaker, I will abide by your ruling.

Mr Speaker, in closing, can I indicate that the government has ensured that there is more elective surgery taking place because we are spending more money and providing more surgery. We think that spending more money to provide more surgery to treat more people is a pretty commonsense thing to do. But it is important to contrast that with the approach proposed by the shadow minister for health in her statement yesterday, where she said—

**MR SPEAKER:** Order, Mr Corbell!

**MR CORBELL:** Are you saying, Mr Speaker, that I cannot contrast this with the approach of the Liberal Party?

**MR SPEAKER:** I don't mind you contrasting it at all, Mr Corbell but, with respect, this is about the fourth time.

**MR CORBELL:** Mr Speaker, the point I was about to make before you interrupted me is that Mrs Burke firstly said yesterday—

**Mr Stefaniak:** On a point of order. That is the fifth time now, Mr Speaker. I would ask you to sit him down.

**MR CORBELL:** that simply throwing money at a problem is not going to give us the outcomes we need.

**MR SPEAKER:** Order!

**MR CORBELL:** She then said the money needs to be actually spent on the service given—

**Mr Cornwell:** Point of order, Mr Speaker.

**MR SPEAKER:** Order! Mr Cornwell, resume your seat.

**MR CORBELL:** contradicting herself, and then she admitted that she did not know what she was talking about.

**MR SPEAKER:** I take it that the minister has concluded his response.

### **Bushfires—hazard reduction**

**MRS DUNNE:** My question is directed to the Minister for Environment. On 1 October the Minister for Police and Emergency Services participated in an attempted hazard-reduction exercise on Black Mountain in front of television cameras, despite a weather forecast that there was a high probability of rain that day. Not surprisingly, it rained and

the exercise was a washout. On 5 October the Minister for the Environment appeared on the *Today* show and claimed that it was not possible to conduct hazard reduction burning because of the “cold, wet winter that had been experienced”, despite below-average rainfalls and above-average winter temperatures. Should ACT residents have confidence in statements to the effect that hazard-reduction burning this fire season is up to the mark when the Chief Minister and other ministers engage in silly publicity seeking media stunts rather than ensuring proper burn-offs?

**MR STANHOPE:** I do not know all the details of the hazard-reduction exercise that occurred on Black Mountain. I understand that, prior to the onset of the rain, 14 hectares of identified area were appropriately burned. It was anticipated that the area to be burned would be slightly larger than that, but 14 hectares is better than nothing. A 14-hectare hazard-reduction burn was achieved on that day. Mrs Dunne, who referred in this chamber to grandstanding and to stunts, does not appear to understand the purpose of hazard-reduction burning. In this pre-fire season period it is fair to say that no-one in this chamber has contradicted the fact that ACT authorities and land managers have been engaged in the most active hazard-reduction program that has ever been conducted, at significant additional expense.

I do not have details of all the hazard-reduction burning that has been undertaken by land management authorities in the ACT. Canberra Urban Parks and Places, ACT Forests, Environment ACT and other land management personnel have undertaken a vast and extensive back-burning exercise in this state, which involved significant additional mowing and slashing and the removal of trees and dead vegetation. Last Friday a significant hazard-reduction exercise of windrow pine logs was undertaken on Gossan Hill, in addition to the three or four hazard-reduction exercises that were undertaken on Black Mountain. Between now and Christmas the Department of Urban Services intends to continue its hazard-reduction exercises whenever conditions allow, before the ground dries out significantly and before it is too dangerous to contemplate such an exercise.

Those hazard-reduction exercises, which have not been completed at this stage, will be completed in autumn. That follows the usual pattern of hazard-reduction burning. In spring and in the run-up to summer we seek to reduce as much of that material as we can. Hazard reduction then recommences in autumn after the abatement of the hot summer period. The government takes seriously its responsibility to ensure that Canberra is as safe as it can be this fire season. We acknowledge the nature of Australia and Canberra and we now have an enhanced sensitivity to our fragile and exposed environment, so we will do everything we can to reduce the incidence of bushfires in this region. We cannot promise that there will be no fires, but we must be well prepared to protect ourselves from them.

**MRS DUNNE:** I ask a supplementary question. Why was the government so lax in the last autumn and winter period that it conducted almost no hazard-reduction burning—an issue admitted by the Chief Minister on the *Today* show?

**MR STANHOPE:** Mrs Dunne might like to tell us what her attitude was to hazard reduction burning on Oakey Hill and other Canberra urban parks. What utter hypocrisy!

**Mrs Dunne:** On a point of order. I asked the Chief Minister a specific question: why was the government so lax in the last autumn and winter period that it conducted almost no

hazard-reduction burning? I, and the people of the ACT, do not want a homily from the minister.

**MR SPEAKER:** Order! I understand the point of order taken by the member. The member should resume her seat. The Chief Minister will address the issues that were referred to in the supplementary question.

**MR STANHOPE:** The member's question, which was based on a false premise, does not deserve a response. Throughout the winter period and all through spring an enormous amount of hazard-reduction burning and bushfire work has been carried out. I refer to the removal of hazardous material in areas adjacent to and around the Weston Creek area. We cleared 500 hectares of burned forest that still presented a hazard. It involved a great deal of effort and it cost millions of dollars to clear, remove and dispose of hazardous material in that area.

Over the past six months this government willingly undertook, at great cost to it, the largest amount of hazard-reduction burning that has ever been undertaken in the ACT. With the cooperation of dedicated workers we caught up on seven years of Liberal Party neglect. Opposition members should not forget that for seven of the eight years prior to the fires on 18 January the Liberal Party was in government. For most of those eight years Mrs Dunne was senior adviser to the minister who was responsible for conducting hazard reduction exercises. Mrs Dunne is somewhat bashful about her responsibility in that area and about that lack of action by her minister.

**Mr Stefaniak:** On a point of order: I refer to standing orders. The minister, who is rambling, is hardly confining himself to answering the supplementary question.

**MR SPEAKER:** Order! The minister must confine himself to answering the supplementary question.

**MR STANHOPE:** I have concluded, Mr Speaker.

### **Bushfires—briefing for government**

**MRS BURKE:** My question is to the Chief Minister. Did the Emergency Services Bureau prepare a brief to the government early in the week beginning 13 January 2003, warning them that the fires were likely to reach Canberra and that people should be warned? Did any member of the government receive that briefing?

**MR STANHOPE:** I will have to take that question on notice. The minister who would have received that briefing during that week is Mr Wood. Mr Wood is not present today, and I cannot speak for him. I certainly did not receive any such briefing early in that week. I will arrange for the minister for emergency services to respond.

### **Coleman Ridge—grazing**

**MS TUCKER:** My question, which is to Mr Stanhope as Minister for Environment, is in regard to the decision of Environment ACT to put cattle on Coleman Ridge. This decision has caused great concern in the Coleman Ridge park care group as well as in the broader community. The Coleman Ridge park care group have been working to

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improve the conservation and recreation values of the ridge since 1991 and, in fact, received an award recently for their work. They are, naturally, concerned that cattle will destroy much of this work and that there has been no consultation with them or scientific evidence given to them which shows that grazing will have an impact on fire danger.

In fact, a senior CSIRO researcher, Dr Joe Walker, who is not a member of this group, has added his voice, saying that in his professional view the grazing option will not reduce the fire risk to most houses at the urban fringe under any fire conditions and, indeed, can be described as environmental vandalism. He has pointed out that the fuel load reduction by cattle grazing on the grassy slopes is likely to have an impact on fire behaviour only if the paddocks are flogged to zero grass, that fencing will be very expensive, and that the area between the houses and the reserve will have grass as a fire break and dry grass in this interface is more likely to create a problem than the grass in the paddocks.

He has pointed out that the fuel load on the hill behind his house was close to zero at the time of the January 18 fires and had no impact on the firestorm that hit his house and that the fire did not enter his property from the hills that carried the grass fire. He has pointed out that grass fires have occurred on the hills several times over the past 30 years and caused few problems regarding fire control. He has also pointed out at length—I will not read out all of it now, but I am happy to give the minister this document—that it is very important for environmental reasons to allow soils to recover after fire.

My question is: can the minister explain exactly why this decision was taken and can he table the analysis that was used to inform the decision to put cattle on Cooleman Ridge?

**MR STANHOPE:** Mr Speaker, I take the opportunity to clarify a previous answer in response to Mrs Burke's question, if I may. As members know, the cabinet did receive a briefing during the week prior to the fire. I excluded that from the answer I gave, assuming that it was not what Mrs Burke was referring to. The cabinet did receive a briefing during the week and I responded to Mr Stefaniak in relation to that. I did not wish to mislead members about that. I assumed that Mrs Burke was asking for any document over and above the briefing which cabinet received. I can only answer for myself. I did not receive any such written brief. I repeat that I was concerned that I may have misled you.

I am sorry, Ms Tucker, I do not know the technical detail and I am not sure of the analyses that may have been undertaken in relation to the role which cattle or any other grazing animal has in bushfire behaviour. I understand the concerns of residents of the Cooleman Ridge area in relation to the significant work that has been undertaken historically to restore Cooleman Ridge. Over the years, I have been a regular visitor to Cooleman Ridge and I was well aware of the significant work that the Cooleman Ridge park care group had done there.

I have had discussions with members of the Emergency Services Bureau around the role or capacity of cattle or other grazing animals—included in that, of course, are sheep and kangaroos—to keep grass levels low, with an assumption or belief that the reduction of grass loads in that way will inhibit fire. I am no great expert in bushfires or fire behaviour and cannot pretend to be, so I will take aspects of your question on notice,

Ms Tucker, and get back to you. I am more than happy to provide to you and to the Assembly details of any analyses that were undertaken in relation to Cooleman Ridge or the impact that cattle may have.

In relation to the behaviour of the fire on January 18 vis-a-vis Chapman, it was not an ordinary fire. I do recall reading in the *Canberra Times* over the last couple of weeks evidence tendered to the coronial inquest that the firestorm that came across the essentially open grassed hill of Chapman and struck Chapman and the winds associated with it reached speeds of between 150 and 200 kilometres per hour. In the context of that and in the context of the nature of the firestorm that struck particularly in that area, one cannot draw any conclusions, I would have thought. The grass was short on January 18; nevertheless, the fire was devastating. We cannot assume that the grazing of Cooleman Ridge and the reduction of the length of the grass will have a similar impact.

The events of January 18 were extraordinary. The fire created a climate of its own, a microclimate that generated a tornado, with the fire front and the fireballs associated with it travelling at speeds of between 150 and 200 kilometres per hour. It was a completely different scenario and a very rare and unique one, which some of us tend to forget from time to time. It was a unique event—a firestorm with winds of up to 200 kilometres per hour associated with it. One is not talking here about an average or common bushfire.

We do now have in a range of areas around Canberra a real issue in relation to grass and the potential for the grass that will grow over this spring to dry out during summer and present a very real fire hazard. To that extent, I think that the major hazard facing Weston Creek and the southern areas of Canberra is, indeed, the long, dry grass that will be a product of the balmy and moist spring that we are currently experiencing. There are real issues around grass and the potential for grass to be a real bushfire hazard over the coming summer. I would imagine that it was in the context of that that the decisions were made, but I will take specific advice and provide a written brief to Ms Tucker.

**MS TUCKER:** I have a supplementary question. Will you ask Environment ACT to delay construction of the fence tomorrow and, instead, consult with the park care group and other interested members of the community and, as well, allow the Assembly time to see the advice that you will be tabling?

**MR STANHOPE:** I would be happy to do that, Ms Tucker. I will need to take some advice on contractual provisions and whether contracts have been let and work commenced and those sorts of things. To the extent that there is no real impediment or reason for us not to delay until perhaps the consultation you seek and until I am at least briefed on the issues—I have not been briefed on this matter—I am happy to seek to delay the work. If you will just give me that latitude of checking whether we are under some contractual obligations, having signed contracts, or there are issues such as that. I do not know any of the facts around this matter. I am happy to get to them.

This is a very real and live issue for our community, Ms Tucker. I accept and understand that; but, in the context of the experience of January 18, we are determined to ensure that we protect the community to the extent that we can and must. As a result of that, I have no doubt that there will be decisions of government, as there have been at Oakey Hill, which will be distressing to some residents. I am sorry about that, but I do not apologise

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for it. I am sorry about the distress caused to residents by, for instance, the removal of valued trees and the significant change that has been made to some local, neighbourhood or community amenity as a result of actions which we are taking on the basis of advice to protect our community. I am sorry about it, but I do not and will not apologise for the hard decisions that we are taking on the basis of the best advice available to us. We will do what we feel we must.

In relation to the concerns about the environmental damage that cows may do, I know that mother nature is a wonderful thing but I travel every two or three weeks to Tidbinbilla, Namadgi and other pristine iconic parts of our environment and that fire did more damage in one day than 10 years of cattle grazing would do. I do not ever want to see that repeated and I am determined to protect the environment as well as the community. That fire has devastated the environment of the territory. I will die—it will be 50 years or thereabouts, I hope—before seeing Namadgi National Park as it was on 17 January. That is something that causes me enormous pain. I am determined to protect the environment as well as the people of Canberra. Yes, grazing of Cooleman Ridge will do some damage to work that has been done, but I will tell you now that the damage that those cattle may do would be nowhere near as great as the next fire.

### **Bushfires—proposed interview of fire expert**

**MR CORNWELL:** My question is also to the Chief Minister, Mr Stanhope. The CSIRO fire expert, Phil Cheney, is reported as saying he told the Emergency Services Bureau he was about to give an interview and he would say, if asked, that the fires were likely to reach Canberra. That interview, which was scheduled for Monday, 13 January, five days before the firestorm you spoke of earlier, never went ahead. Did anybody from the government influence that interview not proceeding?

**MR STANHOPE:** Once again, Mr Cornwell, not as far as I know. As I say, I wasn't the minister for emergency services and perhaps I wasn't as intimately involved with issues such as this. I have to say to you, Mr Cornwell: I didn't know that Phil Cheney existed until a few weeks ago; I didn't know there was any such individual. I didn't even know there was such a person.

The short answer to your question is no. I have to say, in relation to the advice and that particular evidence, I guess—and I think Mr Cheney indicated this in the context of the report I read in the *Canberra Times*—in hindsight, of course, he has some regrets about the fact that these concerns that he allegedly had five days before the fire when he predicted the outcomes weren't actually provided to anybody else. He had an interview; the interview was cancelled; so he thought, "Oh, well, too bad; I won't tell anybody that I think Canberra is about to burn down."

He didn't tell me. I don't believe he told the Minister for Urban Services. I don't believe he told the Emergency Services Bureau; he didn't tell any media; he didn't put out a press release. I'm not sure that he wrote to anybody. I think it is information that he kept to himself. I hope—and I think this will probably be pursued through the inquiry—he did advise those people—

**Mrs Dunne:** On a point of order, Mr Speaker, I would seek your guidance because I think what the Chief Minister said just then was that he believed that Mr Cheney lied to the coroner. The Chief Minister said that Mr Cheney didn't tell ESB.

**MR SPEAKER:** That couldn't be.

**Mrs Dunne:** The inference is there.

**MR SPEAKER:** Even if it was, the Chief Minister is entitled to answer the question and respond to the issues in the way that he wishes.

**MR STANHOPE:** I won't go on much further, Mr Speaker. I think these issues are rather delicate. It is rather difficult. I have to say that, at one level, I am surprised that the opposition are asking me questions about evidence that is being delivered to the coronial inquest. I am not quite sure about the sub judice rule and all that.

I have some issue around the fact that the opposition are asking me questions on evidence that is being delivered to the inquest. I don't know what the sub judice rule says about that. I feel some difficulty about it. Of course that has got nothing to do with the difficulty or the awkwardness I feel about what grubby politics this is. But I guess that is par for the course, and we expect it. It is grubby politics.

I am aware, just through the *Canberra Times*—I haven't read the transcript—of the evidence that Mr Cheney gave. I must say it was evidence that I think came as a surprise to the ACT government. Mr Cheney, these days described as an acknowledged Australian expert on bushfire behaviour, has apparently advised the coroner that he knew, five days before the fire, that it would behave in precisely the way that it did, but he never told anybody. I guess Mr Cheney has to live with that.

As I say, I'm not aware that he told anybody within this government of his concerns or his fears. I'm not aware of what discussions he had with the Emergency Services Bureau, but he had no discussions with me; he didn't write to me; I'm not aware that he wrote to any member of the government. We now know he didn't actually brief the media on the position.

I assume, as a resident of CSIRO on Black Mountain, that he would have at least doorknocked the CSIRO. I think perhaps the most exposed Commonwealth instrumentality, building or workplace in the ACT is the Black Mountain CSIRO facility. I'm sure Mr Cheney would have posted notices all over the CSIRO saying, "The fire is coming on January 18. This is the most exposed workplace in Canberra; pack up your valuables, move your files out, because I can tell you now this place is going to burn down on January 18." So one assumes he told his workmates, his colleagues and his neighbours—and I guess that is on the public record somewhere.

I'm assuming the ACT government's counsel at the inquiry will get to this issue in cross-examination; I don't know. But I just assumed those things.

**MR SPEAKER:** Order, Chief Minister! I quote from *Odgers' Australian Senate Practice*, page 229:

An inquest by a coroner, although an administrative inquiry and not a judicial proceeding, is not in the same category as executive-government appointed inquiries, and may be prejudiced by parliamentary debate, particularly where a jury is involved. Although the sub judice principle as such does not apply ...

I would, as did President Sibraa, discourage the canvassing of matters which are before the coroner. I would apply the same advice to members of the opposition in the comments they might make during question time.

**MR STANHOPE:** On the basis of that, Mr Speaker, I will conclude my answer. I must say, as I indicated, I am uncomfortable with questions that go directly to evidence given at the coronial inquest and I think the ruling that you have just given should be taken to heart by all of us in this place.

I, of course, won't walk away from questions that are asked, if they are asked, Mr Speaker, but I believe that there is real wisdom in the position you put.

**MR CORNWELL:** A supplementary question, Mr Speaker. I will naturally, of course, sir, rely upon your good judgment on this. Chief Minister, will you endeavour to find out why the interview didn't go ahead?

**MR STANHOPE:** I don't think it's for me to do that, Mr Speaker. Here we are, having questions asked in this place now. I am happy to instruct the ACT government counsel at the coronial inquest to ask that question and other questions of Mr Cheney in cross-examination; I'm happy to have the ACT government counsel ask Mr Cheney which of his neighbours and which of his friends he personally warned and what action they took. I am happy to ask him did he help them pack their homes; I am happy to have the ACT government counsel ask him a range of questions about the steps that he took at his workplace on Black Mountain; I am happy to have him asked what steps the authority at the Black Mountain CSIRO facility have taken to protect their workplace—whether they have done the level of hazard reduction that the ACT government has done on our side of the fence.

**Mrs Dunne:** Mr Speaker, on a point of order: I'm concerned that the level of outburst from the Chief Minister goes a long way to defaming someone—

**MR SPEAKER:** What is the point of order?

**Mrs Dunne:** Under standing order 118 (a). Mr Cornwell asked a question: would the Chief Minister do a particular thing—yes or no. He gave an answer, but he went on to elaborate at quite a deal of length about how he thought a member of the public who was giving the evidence at the inquest was, in fact, socially irresponsible. I think that is inappropriate in this place.

**MR SPEAKER:** Whether it is inappropriate or not has got little to do with the matter of whether it is a point of order. The member, Mr Cornwell, asked whether the government would find out. The Chief Minister was responding to that question. I would ask members again not to stray onto areas which might discredit witnesses or influence proceedings before the coroner.



**MR STANHOPE:** Thank you, Mr Speaker. I will conclude on this. I need to respond to the point of order as it goes to the question asked by Mr Cornwell.

**Mrs Dunne:** On a point of order: does he need to respond?

**MR SPEAKER:** He is completing his answer, and people are entitled to respond to points of order.

**MR STANHOPE:** I am completing my answer. Mr Cornwell asked me would I arrange to have the ACT government counsel ask a witness before the inquiry certain questions—the question being: why did he not relay to the people of the ACT the certain knowledge he had that the fire would strike Canberra? I'm happy to have the ACT government counsel ask Mr Cheney why he did not yell this from the rooftops.

### **Tourism**

**MR HARGREAVES:** My question is to the minister for tourism. Minister, the ACT has staged two of its four Rugby World Cup matches. The third, between Canada and Wales, is tonight—for those people who want to go and watch it. Can the minister inform the Assembly of the success of the Rugby World Cup and the overall success the Spring into Canberra campaign has brought to the ACT's tourist industry?

**MR QUINLAN:** What an excellent question! Good news, Mr Speaker. Australian Capital Tourism is running the campaign Spring into Canberra. It runs seasonal campaigns. Spring includes Floriade, the World Cup and the Healthpact Australian Masters Games. The government is very proud of the success that these structured programs are having. That is overlain with the rugby celebration activities we have undertaken.

Several weeks ago I met with leaders of the tourism industry—the tourism taskforce decision makers, as they style themselves. At that stage a number of the leading hoteliers in Canberra informed me that their hotels were full, well before the World Cup started. There were full houses across Canberra.

The government conducts research. Colmar Brunton was commissioned to undertake visitor satisfaction surveys on a quarterly basis, and we are now receiving key findings. Three-quarters of visitors stated that their recent visit to Canberra exceeded their expectations. One-third of those went as far as to say that it “completely” exceeded their expectations. The high overall satisfaction rate carries through to the “intention of respondents” to visit Canberra again. Over 70 per cent indicated that they will “probably” or “definitely” visit Canberra again in the future, and 90 per cent would recommend it to their friends and acquaintances.

A lot of this has to do with the particular events we have on at the moment, but it also has to do with the campaigns that have been run: Spring into Canberra; the Hands on Canberra campaign, where we work with the industry to package what we are doing; repeat business promotions, which we are operating through AHA and the Canberra Accommodation Association; and through the Experience Canberra and Region website, which provides information for agents and tourism operators across Australia.

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I can advise this house that Virgin Blue has now commenced operation of a new route directly between Canberra and Adelaide. We will broaden the intensified campaign we conduct around New South Wales and Victoria to Adelaide and anticipate considerable success. While this is in the early stages, so far the response has been encouraging.

I cannot give hotel figures at the moment, but I can tell you that the proprietor of King O'Malley's was on television last night saying that last weekend was the equivalent of three St Patrick's Days. He was driving around town in his ute borrowing kegs of beer because he would run out otherwise. Other operators report the same success.

The point of this is that the World Cup, like Floriade and the Healthpact games, is spread over a period of time. They are not just for one or two days, where you get a splurge and that is all. They are events of genuine value to the ACT. They demonstrate what can be done with intelligent analysis and a constructive approach to promoting the ACT and the region.

**MR HARGREAVES:** I have a supplementary question. Minister, did the government feel the need to paint the grass green in order to attract world-class games to Canberra Stadium?

**MR QUINLAN:** We did hand a bare stadium to the ARU, so grass painting and signage was down to the ARU.

### **Australian capital region industry plans**

**MS DUNDAS:** My question is to the minister for economic development and business. Minister, tenderers for major ACT government contracts are required to develop an Australian capital region industry plan. Can you tell me what processes are in place to ensure that a winning tenderer meets the undertakings made in the CRIP?

**MR QUINLAN:** I will take that on notice because, if we have processes in place, I would like to be able to articulate them in the order that they are embodied in the regulations, rather than trying to expound on them off the top of my head.

**MS DUNDAS:** Minister, can you then inform us what penalties exist when a successful tenderer fails to keep promises made in a CRIP, and have these penalties ever been imposed?

**MR QUINLAN:** Again, I will take that on notice. How far back do you want me to go—just the course of this government or do you want more?

**Ms Dundas:** I am sure you will find some from the last government as well that you would want to share.

**MR QUINLAN:** Okay.

## Bushfires

**MR PRATT:** My question is to the Chief Minister, Mr Stanhope. Mr Stanhope, on 13 January you appeared on WIN TV speaking about the threat from the bushfires. You stated that, at that moment, there was no need to be alarmed about the bushfires. However, CSIRO bushfire expert, Phil Cheney, whom you do not know, had previously discussed the fire threat with the director of bushfire emergency services and they had both agreed that the fires were likely to reach Canberra.

Minister, did the director advise you about his conversation with Phil Cheney before you made this statement when, for example, you were both doing your helicopter reconnaissance?

**MR STANHOPE:** As I indicated, I have no recollection of ever having met or heard of Mr Cheney until some months ago. I certainly have no recollection of anybody from the Emergency Services Bureau, in the week before the fire, mentioning the existence of Phil Cheney to me. That was a very busy, highly tense and difficult period. I do not remember the details of lots of conversations, but I have no memory of ever having heard the name Phil Cheney, ever having met him, or ever hearing of any conversations that he may or may not have had.

As to whether or not, as Mr Pratt has just stated, Mr Cheney advised the Emergency Services Bureau that the fire was likely to reach Canberra, and the Emergency Services Bureau concurred in that, those things are news to me. Certainly, the view had been expressed then that, under certain conditions and in certain scenarios, the fire would break containment lines and, if it did so, of course it would move towards Canberra.

I do not know exactly what time it was, but within that particular timeframe—and I do not know whether it was before 18 January or in the weeks after 18 January, as we continued to face significant threats from fires in the ACT—I do recall a particular conversation in which somebody advised me, for instance, that either the 1939 or the 1952 fire, after passing through the ACT, reached the coast. It burnt all the way to Eden.

I remember a conversation in which somebody said to me that there is a precedent for a fire that breaks out in the Brindabellas burning to Eden, that it has happened in the past. I did not check it, but I was informed by somebody who had some experience of fires and fire behaviour that one of the previous major fires in this region, as I say, burnt through here, down over the Great Dividing Range, down Brown Mountain, and all the way to Eden and the Imlay.

In relation to the fire behaviour on that day, and the intensity of the fire and the storm that struck Canberra, I think one of the interesting things is that nobody predicted the firestorm. This is, of course, a significant part of the debate. Yes, there was a serious fire; yes, we were very aware of it; yes, we devoted considerable resources to it; and yes, we hoped that it would be kept behind containment lines.

There was a fall-back position of an additional containment line, if it did break the first line. At that stage, of course, the strategy was to hold the fire behind containment lines and back-burn. We devoted considerable resources to that. In the event that the fire broke

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through the first containment line, the strategy was that it would be contained at a further line, which was partly established and was being further established during that week. The great hope, which, in retrospect, we know was not realised, was that the fire would be held and contained.

However, in that theorising about fire behaviour, I am not aware that anybody, at any stage up until 18 January, predicted that a firestorm involving winds of up to 200 kilometres per hour would evolve out of the fires burning in the Brindabellas at that time. Absolutely nobody, as I understand it, predicted that. I do not believe that even the CSIRO scientist of recent fame predicted the fire behaviour.

**Mr Hargreaves:** He said he did not.

**MR STANHOPE:** Mr Hargreaves advises me that, in fact, Mr Cheney did not predict the firestorm or that winds of up to 200 kilometres per hour would be generated. These are the questions that the inquest will now look at: the extent to which it was a firestorm, and that the microclimate was generated by the particular nature of the fires that ultimately led to the advance of the fire and the destruction which ensued, a factor totally unpredicted and unexpected.

No, I was certainly not advised by anybody, Mr Pratt, of any conversation in which the position was put that these fires are likely, in your words—not “maybe”, “could”, “perhaps”, “there is precedent” or “in a worst case scenario”—to burn into Canberra. No, I was never told that at any stage.

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

### **Personal explanation**

**MRS DUNNE:** Mr Speaker, I would like to make a personal explanation under standing order 46.

**MR SPEAKER:** Yes, Mrs Dunne.

**MRS DUNNE:** Thank you, Mr Speaker. During question time the Chief Minister accused me of blatant hypocrisy in respect of hazard reduction burning on Oakey Hill. He also referred to the period when I was an adviser, not a senior adviser, to the previous minister for the environment, Mr Humphries.

Mr Speaker, I resent the accusation of hypocrisy. My personal position is quite simple: hazard reduction burning should be undertaken when required, in good time, based on climate, not politics.

**Mr Quinlan:** Point of order, Mr Speaker. I think Mrs Dunne has the right to rebut anything that Mr Stanhope has said, but not to parade her credentials during an explanation such as this.

**MR SPEAKER:** Well, having gained leave from me to make a personal explanation in relation to a matter where she has claimed to have been misrepresented, she is entitled to

explain the personal side of it. But if you stray into the debate, Mrs Dunne, I will ask you to resume your seat. Do you wish to continue?

**MRS DUNNE:** I wish to continue, Mr Speaker, because I was accused of hypocrisy on a particular policy matter—

**MR SPEAKER:** Well, if you had been—

**MRS DUNNE:** and I am stating my personal views.

**MR SPEAKER:** Order! Had you been accused of hypocrisy, I would have ruled it out.

**MRS DUNNE:** Okay. Rightio.

## **Estimates 2003-2004 and Estimates 2003-2004 (No 2)—Select Committees**

### **Answers to questions on notice**

**Mr Speaker** presented the following papers:

Estimates 2003-2004 and Estimates 2003-2003 (No. 2)—Select Committees—Answers to Questions taken on notice:

Question directed to the Minister for Industrial Relations by Ms Tucker, dated 4 June 2003, in relation to expenditure from the Workers Compensation Supplementation Fund.

Question directed to the Minister for Industrial Relations by Mr Smyth (Chair), dated 3 September 2003, in relation to a proposed grant to UnionsACT to fund an OH&S Officer.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (3.30): In Mr Wood's absence, Mr Speaker I ask for leave to move a motion to authorise publication of responses to questions taken on notice during the proceedings of the Select Committee on Estimates 2003-2004 and the Select Committee on Estimates 2003-2004 (No 2).

Leave granted.

**MR STANHOPE:** I move:

That the papers be authorised for publication.

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): Mr Speaker, for the information of members, I present the following papers:

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Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—

Long term contracts:

Jennifer Beutel, dated 26 September 2003.

Hamish McNulty, dated 25 September 2003.

Tony Bartlett, dated 16 September 2003.

Short term contracts:

Colin Adrian, dated 1 October 2003.

Michael Zissler, dated 25 September 2003.

Paul Lewis, dated 8 October 2003.

Michael Bradley, dated 12 September 2003.

Roderick Nicholas, dated 15 August 2003.

Schedule D variations:

Andrew Rice, dated 22 September 2003.

Clare Wall, dated 22 and 30 September 2003.

I seek to make a statement in relation to the contracts.

Leave granted.

**MR STANHOPE:** Mr Speaker, 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 23 September 2003.

Today I have presented three long-term contracts, five short-term contracts and two contract variations. The details of the contracts will be circulated to members.

## **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:

Administrative Arrangements 2003 (No. 3)—Notifiable Instrument NI2003-239, dated 30 September 2003.

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

Leave granted.

**MR STANHOPE:** Mr Speaker, the administrative arrangements orders have been prepared for the purpose of declaring the ACT Planning and Land Authority to be an administrative unit, and came into effect on 1 October 2003.

The declaration of the ACT Planning and Land Authority as an administrative unit allows for direct appropriations to the authority, commencing with the supplementary appropriation bill passed by the Assembly last month. It also provides for the transfer of planning and land management laws that were previously identified in the arrangements as the administrative responsibility of the Department of Urban Services to the Planning and Land Authority. This is another step in the government's commitment to the reform of planning and land management arrangements and for being responsive to the needs of the community.

Other changes have clarified the Chief Minister's portfolio water responsibility arrangements regarding sustainability. Three new laws have been added, namely the Civil Law (Sale of Residential Property) Act, the Tertiary Accreditation and Registration Act and the Vocational Education and Training Act. Two laws have been repealed: the Proceeds of Crime Act and the Land Acquisition (Northbourne Oval) Act 1996.

## **Paper**

**Mr Stanhope** presented the following paper:

Electoral Act, pursuant to section 53—ACT Legislative Assembly Electoral Boundaries—Redistribution 2003, prepared by the Augmented ACT Electoral Commission, dated 15 October 2003.

## **Subordinate legislation Papers**

**Mr Stanhope** presented the following papers:

Legislation Act, pursuant to section 64—

Bushfire Inquiry (Protection of Statements) Act—Bushfire Inquiry (Protection of Statements)—Determination of expiry of Act 2003 No 1—Disallowable Instrument DI2003-274 (LR, 29 September 2003).

Cemeteries and Crematoria Act—

Cemeteries and Crematoria Regulations 2003—Subordinate Law SL2003-31 (LR, 17 September 2003).

Cemeteries and Crematoria Code of Practice in the ACT 2003 (No. 1)—Disallowable Instrument DI2003-268 (LR, 22 September 2003).

Hawkers Act—

Hawkers Circumstances for Exemption 2003—Disallowable Instrument DI2003-272 (LR, 25 September 2003).

Hawkers (Fees) Revocation and Determination 2003—Disallowable Instrument DI2003-273 (without explanatory statement) (LR, 25 September 2003).

Liquor Act—Liquor Licensing Standards Manual 2003 (No 1)—Disallowable Instrument DI2003-269 (LR, 25 September 2003).

Magistrates Court Act—Magistrates Court (Security Industry Infringement Notices) Regulations 2003—Subordinate Law SL2003-29 (LR, 2 September 2003).

Nature Conservation Act—Nature Conservation (Species and Ecological Communities) Declaration 2003—Disallowable Instrument DI2003-265 (LR, 4 September 2003).

Race and Sports Bookmaking Act—Bookmaking Tax Rates Determination 2003 (No. 3)—Disallowable Instrument DI2003-275 (LR, 29 September 2003).

Road Transport (Driver Licensing) Act—  
Road Transport (General) Act—  
Road Transport (Public Passenger Services) Act—  
Road Transport (Vehicle Registration) Act—

Road Transport Legislation (Taxi Services) Amendment Regulations 2003 (No 1)—  
Subordinate Law SL2003-32 (LR, 22 September 2003).

Road Transport (General) Act—Road Transport (General) Declaration that the road transport legislation does not apply to certain roads and road related areas 2003 (No 7)—  
Disallowable Instrument DI2003-267 (LR, 18 September 2003).

Road Transport (Public Passenger Services) Act—Road Transport (Public Passenger Services) Exemption 2003—Disallowable Instrument DI2003-270 (LR, 25 September 2003).

Security Industry Act—Security Industry Regulations 2003—Subordinate Law SL2003-30 (LR, 2 September 2003).

Utilities Act—Utilities (Water Restriction Scheme) Approval 2003 (No 3)—Disallowable Instrument DI2003-266 (LR, 17 September 2003).

## **Papers—out-of-order petitions**

**Mr Stanhope**, pursuant to standing order 83A, presented the following papers:

Petitions which do not conform with the standing orders –

Removal of the blue gums on Oakey Hill reserve—Mr Stanhope (260 citizens).

Removal of the blue gums on Oakey Hill reserve—Mr Stanhope (164 citizens).

Recommendations of the Parliamentary Health Committee Report on genetically engineered organisms—Mr Stanhope (34 citizens).

## **Financial Management Act—transfer of appropriations Paper and statement by minister**

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming): Mr Speaker, for the information of members, I present the following paper:

Financial Management Act, pursuant to section 16—Instrument directing a transfer of appropriations from the Department of Urban Services to the ACT Planning and Land Authority, including a statement of reasons, dated 29 September 2003.



I ask for leave to make a brief statement.

Leave granted.

**MR QUINLAN:** Mr Speaker, as required by the Financial Management Act, I have tabled an instrument issued under section 16 of the act. A detailed statement of reasons for the transfer of responsibility for a function between departments is also tabled.

Transfers under the Financial Management Act 1996 allow for changes to appropriations throughout the year within the appropriation limit passed by the Assembly. This instrument relates to 2003-2004 and provides for the administrative arrangement variations which occurred due to the creation of the ACT Planning and Land Authority as an administrative unit. I commend the paper to the Assembly.

### **Patient activity data Papers**

**MR CORBELL** (Minister for Health and Minister for Planning): Mr Speaker, for the information of members, I present the following papers:

Calvary Public Hospital—Information Bulletin—Patient Activity Data—External Distribution—August 2003.

The Canberra Hospital—Information Bulletin—Patient Activity Data—August 2003.

These bulletins were circulated to members when the Assembly was not sitting.

### **Occupational Health and Safety Act Paper**

**MS GALLAGHER** (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations): For the information of members, I present the following paper:

Occupational Health and Safety Act, pursuant to section 96D—Operation of the *Occupational Health and Safety Act 1989* and its associated law—Third Quarterly Report for the period 1 January 2003 to 31 March 2003.

These papers were circulated to members when the Assembly was not sitting.

### **Water Discussion of matter of public importance**

**MR SPEAKER:** I have received letters from Ms Tucker and Ms Dundas proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, I have determined that the matter proposed by Ms Tucker be submitted to the Assembly, namely:

The importance of responsible management and use of water in the ACT.

**MS TUCKER (3.36):** Water issues are unavoidable at the moment. I have proposed this matter of public importance today to give us all another opportunity in the Assembly to talk about the way we manage and use precious water resources in our environment. There are several reasons for considering this issue today: it is Water Week; the ACT water resources strategy has gone to cabinet this week, so the government will be making announcements, or certainly thinking, about water; with the stage 3 water restrictions, everyone in Canberra has, hopefully, considered their own water use, heading into summer; and Canberra's lakes have been closed this week, with an algal bloom outbreak.

According to the Australian Conservation Foundation, Australia is the highest user of water per capita in the world, despite being the driest inhabited continent. One toilet flush in Australia uses as much water as a whole day's cleaning, cooking and drinking for an average person in the developing world. Forty per cent of the world's people struggle to obtain enough fresh water.

That highlights how lucky we are, and it highlights our responsibility to reduce water consumption and our need to become aware of how wasteful we are with water. Our high level of water consumption impacts on the health of our river systems. Over a quarter of Australian river systems are close to, or have exceeded, sustainable extraction limits, and two-thirds of water extracted is from these stressed systems.

I want to consider a few things: cutting water use; water supply issues, such as building another dam; and water management by commercial interests. I am not shy in stating that the Greens have never supported building another dam for water supply in the ACT, and we have also made it clear that we think that the management of Canberra's water supply and sewerage services should not be in the hands of commercial interests. In fact, we believe they should be handed back to Actew, as a government managed body. I will go into this in more detail later.

The population growth of the ACT requires secure water. There is vigorous debate about what the projected population of Canberra will be in 20, 50 or 100 years. Current government median population projections are close to 400,000 by 2050. I understand that the existing water supply dams can support this population growth with the same security of supply—on a few conditions, such as a 10 per cent likelihood of restrictions, no climate change influence, no supply reduction due to natural disasters and no increase in the proportion of cross-border supply and existing per capita water consumption.

Obviously, there are a number of variables here that have to be taken into account in any planning for water, but I believe the emphasis must be on reducing per capita consumption of water. We can decrease the amount of clean drinking water we use by enormous amounts. This should be our absolute priority in managing our water supply.

However, those with a growth and development fetish would have us believe that we need engineering answers to increase our water supply to match the demand that will increase as the population grows. A number of engineering solutions have been suggested, including building large pipes for existing dams, piping water from rivers such as the Naas or Gudgenby, reclaiming water from the lower Molonglo water quality

control centre, raising the wall of the Cotter Dam and building a new dam—options include another dam on the Cotter River or a dam on the Naas River or the Gudgenby River.

Dams have long been marvelled at as a symbol of the human mastery of nature and as a way for us to meet the growing needs and demands of our consumer lifestyle. They have also been responsible for widespread degradation, loss of fish and plant species, erosion of riverbanks and the salinity problems of Australia's river systems. Dams exert enormous control over river flow, and they interfere with natural flooding patterns, thus contributing to the loss of beneficial flooding.

All this has a serious effect on the regeneration of native ecosystems, such as the red river gums on the Murray River in Victoria and fish populations. Also, the costs of a new dam and other engineering solutions are extremely high. A new dam would cost many millions of dollars. A lot can be done to reduce consumption of water resources before we consider investing that money in engineering solutions. Many measures can be taken to address both supply side and demand side issues before we even think about a new dam.

If we invest this large amount of money in a dam, the amount of money available for other programs to reduce water demand would be severely limited. If we are serious about planning for the long term—the real long term—we cannot just build another dam every time our population and water use patterns threaten to stretch capacity.

At some point, albeit a distant point, we will run out of rivers to dam. We will have breached our water security by destroying the ecosystems. Then we will be asking many of the questions we are asking now; we will just have further damaged the rivers and ecosystems in coming full circle. Considering a dam as an option now is a knee-jerk, short-sighted and irresponsible answer to the water issue.

There are many ways we can reduce demand for water. They include:

- increasing the number of rainwater tanks in existing houses;
- having a water pricing structure that incorporates the full cost of provision, with appropriate discounts for low-income consumers;
- extending Actew's Southwell Park grey water recycling system to new sites;
- controlling irrigation systems to reduce unnecessary watering;
- installing in new houses grey water reusing and rainwater retention systems;
- making mandatory the installation of water efficient appliances in new houses, a good initiative being Queanbeyan's Waterwise program, where the council has covered the costs of new toilets and water efficient showerheads, reducing the amount of water going through sewerage treatment by 8 million litres a week—a simple but effective example of how to reduce use of water;
- investigating all the environmental costs of water catchment management and factoring these into water charges;
- allowing safe and reliable composting toilets in urban areas;
- establishing a financial incentive scheme for the purchase by consumers of water efficient products, such as rainwater tanks and composting toilets; and
- running effective education and regulation programs.

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Stormwater reuse offers significant opportunities for reducing the use of water from dams. As the infrastructure ages in the older suburbs, we have an opportunity to develop uses for stormwater before it goes down the drains. We can use it for watering parks or ovals. We can also expand treatment for sewerage so that it can be reused on sports grounds and agriculture.

Reducing demand can be cost-effective and have a significant impact on conserving our water supplies. We need to get serious about how much water is wasted in the urban and rural environment. We do live on the driest continent in the world and our behaviour pattern should reflect that.

Linked to issues of demand and supply is the issue of who manages our water supplies. Water is a basic right and a public resource. As I have outlined in the Assembly in the past, I want the government to investigate options for returning the ACT's water supply and sewerage services to full government control so that these services can be managed purely for the public benefit and not commercial return.

A major point that came up in the debate over the commercialisation of Actew in the last Assembly was that water and sewerage services are fundamentally different to electricity supply. Actew's electricity business was working within a national electricity market, whereas with water and sewerage it had a natural monopoly. Electricity can be substituted with other energy sources and provided from other sources in many cases, but water has no substitute. It is an essential resource that has its natural limits.

Mr Quinlan has said that it would be difficult to unscramble ActewAGL, but this does not apply to the water side of the business. While the electricity side of Actew was totally merged with AGL, the water and sewerage infrastructure was kept under the ownership of Actew and only its management contracted out to ActewAGL. A review mechanism was also built into the water management contract to take into account the fact that AGL had never run a water business before.

The first phase of the contract was meant to be more of an alliance between Actew and AGL to work out the costs and risks involved in managing the water and sewerage business. The second phase of the contract was to be negotiated by 30 September 2004. This would set up an ongoing, arms-length commercial contract between Actew and ActewAGL. The government thus has a window of opportunity, before the second phase contract is finalised, to review whether the half-privatisation of our water and sewerage services is really in the public interest.

The Greens have always said that water supply and sewerage should be under public control so that our limited water resources are managed in the public interest rather than treated as a commodity to be sold to whoever wants to buy it and our waste water treated as something we need to get rid of. We need to think about the best ways of conserving this resource for the sake of the environment and future generations.

Now there is public discussion again on building a dam, and the Greens are naturally concerned that building another dam is the way to ensure that water supply grows and therefore guarantees growing profit for ActewAGL in the future. I am wary about calls for another dam. We need rather to recognise water as a precious resource.

I have heard anecdotally about Actew responding to suggestions for water saving initiatives with comments such as, “We’re in the business of selling water.” That is the fundamental problem you have—also with commercialising electricity sales. There is obviously a conflict of interest within the mission statement of any corporation—to maximise profit against the need to sell as little of the product as possible, which is the aim of an energy service with the goal of conservation.

Actew, as government has done, researched initiatives that studied, for instance, actual water use—contingent values of water, or what people are willing to do to conserve water in Canberra and the xeriscape garden. Commercialising operations often means—in this case, meant—destroying that capacity to engage in such research.

Another important aspect of considering water is water quality and health. At the moment, as we are all aware, the lakes have been closed due to an algal bloom breakout. This is caused by excess nutrients from sources such as sewerage, stormwater, fertilisers, and from soil erosion. There were also nutrients going into our water catchment area after the fires there.

The health of our lakes relates to how water moves through the urban environment. At the moment, stormwater run-off goes straight into the drainage system, having collected oils, animal waste and other pollutants from the roads and paved surfaces. If we were able to reuse it on parks, gardens, sports facilities and agricultural areas, the process of moving it through more soft ground would assist in filtering the water of pollutants. This issue is highlighted because we use our lakes for recreation purposes.

Of course, there are some very good projects at the moment: catchment projects, such as at Sullivans Creek, and reintroducing the more natural wetland environment around the stormwater drains, which acts as a good filter as well. Those initiatives are also to be commended.

I have again been looking at the strategy that was carried out in the ACT in 1994. A very good consultation process with the people of Canberra occurred. Surveys showed that Canberrans feel very strongly that wilderness should exist, even if they are not likely to see or use protected areas, and that they are also willing to maintain, at some possible cost to themselves, the flow of water in rivers. That was in 1994, and people are much more aware of these issues now.

It is our responsibility as community leaders to do everything we can to promote water conservation, to promote the aesthetic and to promote sustainability and bring about cultural change so that we live in harmony with the environment in which we find ourselves.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (3.49): This is a very important motion and, of course, very timely. I was very pleased to launch Water Week at the xeriscape garden in Weston yesterday, which is a significant initiative backed by the CIT and Actew.

As members will know, the xeriscape garden suffered enormous damage during the recent bushfire. In fact, it was burnt out, although, quite amazingly, some of the

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infrastructure of the garden survived the fire. The xeriscape garden—an underutilised resource in the ACT—was a more than appropriate place from which to launch this year’s Water Week because it is all about more sustainable water use within our gardens and our community.

There are displays, examples, advice and information in the xeriscape garden on drought-resistant planting—plants that thrive on limited water—the treatment of waste and the importance of mulch. There is a very interesting toilet arrangement powered by solar power and a self-reducing effluent arrangement.

Ms Tucker has referred to the importance of the strategies that we developed for the ACT in relation to our use of water across the board—in the broader community, in our homes, in industry and in our activities. Associated with that are the decisions that we take in relation to urban design and the extent to which we can work more sustainably with water, particularly in relation to run-off and water catchment within the urban areas and in relation to our homes.

These issues will be addressed in the water strategy, which I am hopeful of releasing within the next 10 days or so. The draft water strategy has been finalised and will be considered by cabinet next Monday. Subject to the outcomes of that, I anticipate releasing it very shortly thereafter—indeed, as soon as we can arrange to have it printed.

It will go to all of the issues of how we can make water use around our homes far more constructive and far more sustainable. This is a response to the draft water policy I released some months ago, which set out a basic framework for water usage that would underpin the strategy we have now developed with some very significant community contribution. I thank everybody who has been part and parcel of that.

In relation to targets, we are looking to determine whether we can achieve a 12 per cent reduction in the per capita use of total water over the next 10 years and perhaps 20 to 25 per cent by 2023, or in the next 20 years. That is a significant target but, in regard to the reduction in water usage that has been achieved over the last 10 years, more than achievable.

The community has shown a real willingness to participate, in a community minded way and as partners in this effort, in achieving a reduction of that order. Associated with that is our determination to utilise what we once called “waste water”, which we are now euphemistically seeking to retitle “reclaimed water”, increasing our use of it from the current 6 per cent to about 20 per cent by 2013. That is a significant target in itself and presages significant investment of money in infrastructure to be able to attain an increase of that order in the reuse of water that we reclaim.

We have some issues to address in relation to the quality of that water. The quality of our reclaimed water, through the lower Molonglo water treatment plant, is equal to the highest in the nation. Nevertheless, there remain health issues for us to focus on in relation to some incidents of reusing water—for instance, on ovals where people play sport and may be injured or suffer cuts.

In the context of the strategy and things that we can, will and must do to reach those two targets of reducing the use of potable water and increasing the use of reclaimed water,

we need to be mindful of the implications for the catchment, for the future and for the water infrastructure that we have within the ACT. Water catchment is an expensive business.

Actew are currently engaged—and my colleague the Treasurer will go into this in more detail in the debate—in upgrading the infrastructure at both the Googong and the Cotter in relation to the separate catchments. It is expensive work. It is being undertaken in relation to the level of water within our catchment. Mr Quinlan will go to those issues, and also the water restrictions, in his presentation during this debate.

I will touch on future policies that we need to be mindful of. Ms Tucker talked about seeking to avoid the construction of an additional dam within the ACT, or within our catchment, and that is our hope in relation to the policy we have delivered and the strategy we are currently developing. It is designed around the hope that we might, if at all possible, through a concerted community effort, avoid major additional investment in infrastructure—in other words, in the dam or some alternative.

That is a hope. Of course, it depends to some extent on the rate and level of growth and on global warming, climate change and the effect the bushfires—the destruction of so much of the vegetation within the catchment—will have on the water yield within the catchment over the next 10 to 20 years.

At this stage, our policy and strategy are designed around looking at the extent to which we can avoid the construction of a dam. Any prudent administration—and this is a prudent administration, as is Actew—would plan for the eventual need for major infrastructure investment. Indeed, this government is mindful of that, and Actew is engaged in work around it, as is the broader public service, which is looking at some of the options and some of the issues.

A non-urban study has addressed issues of the future development within the Cotter precinct and, in its consultations and discussion, has looked at the possibility of changing that precinct through the construction of a new or enhanced dam at the Cotter. The Cotter Dam is very small; it currently contains only about four gigalitres, enough for a couple of weeks. Someone suggests two days; I thought it was a bit more.

Those who plan for the longer term and consider the future needs of the territory suggest that, if you built a new dam at the Cotter, it would be possible to increase the catchment within the valley where the Cotter Dam is located. Hence there is the horrifying thought of increasing that catchment from four gigalitres to 90 gigalitres through the construction of a new dam, with a wall approximately 70 metres high. It is possible to convert the Cotter Dam from a four to a 90 gigalitre water catchment, but significant costs are associated with that, as well as significant environmental costs.

We have retained land at Mount Tennent, and we have retained land at Coree with an eye to the future needs of an expanded ACT and region. Land reserved for the potential construction of dams within those areas has always been in the Territory Plan.

In 2003, with the change in the nature of the debate on sustainable water use within Australia, there has never been a greater concentration of minds or greater willingness to

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connect on the issues of sustainable water use and the future of water—indeed, the future of Australia. There is significant movement.

The Murray-Darling Basin Commission, through the last COAG meeting, made the first major commitment of funds to the Murray with the injection of \$500 million into the national water initiative by the Commonwealth, New South Wales, Victoria, South Australia and the ACT—doing our part—in a determination to return environmental flows to the Murray system.

That is a great advance. We all know it is not enough, and we all know it was a long time coming, but it will make a significant impact over time. It is \$100 million over five years, with an acknowledgment by each of those jurisdictions that it will have to be repeated at the end of that first five-year term, since \$500 million over five years will not buy back enough of the water currently being taken out of the Murray to return the flows to a viable level. And there are other things that run off those increasing flows.

I go to the Murray in the context of the mood amongst governments, and within the community, of taking water seriously. It is serious. The time is up, and we cannot dither on these issues any longer. Big decisions need to be made, and they need to be made now. The future of our communities and of the environment of most of Australia depends on wise and good decisions being made now—and some courageous decisions. By courageous I mean in regard to resources that will be required to turn back some of the decisions, practices and habits that are part and parcel of the way we have all lived.

We have not respected water. We have not respected the fact that it is a finite resource and that it is our most valuable resource. As individuals in this community, we have not done that. We are now beginning to realise that our behaviours are not sustainable in terms of the health of communities, the capacity to grow and, indeed, the health of Australia. A visit to most of our river systems will tell you that.

I got onto that in the context of the importance of the Murray-Darling and the work that is being done there. The ACT is a sort of partner within the Murray-Darling Commission. We do not have legislative voting rights, but I am seeking to adjust that. I regard the ACT as a vital partner within the Murray-Darling Basin Commission. In the last two or three months I have written to each of my colleagues on the commission and asked them if they would support an amendment to the Murray-Darling Basin legislation to incorporate the ACT as a full member.

There are some implications for us in relation to that; perhaps it will cost us a few more bob. But it is only through our willingness to engage as full members of the commission, with legislative rights, that we can move with confidence for the establishment of a cap. Through that we can engage our neighbours, particularly New South Wales in this region, in serious negotiations about regional catchment management, cross-border management and, in the greater context of water, the trading and buying of water.

For the future, if our population is to grow, say, to half a million, we can look at whether we can avoid a dam, perhaps by replacing it with the trading of water with New South Wales. We could buy in water, say, from Tantangara, although it would require a dirty great pipeline, and perhaps through Namadgi. But that is a story for another day.



**MRS DUNNE (4.04):** This is a very important issue at any time, but it is particularly appropriate in Water Week that we discuss this matter of public importance on the responsible management and use of water in the ACT.

About 11 months ago, when I introduced the Building (Water Efficiency) Amendment Bill and talked about how important water was, I felt like a voice crying in the wilderness. Eleven short months ago, people did not want to talk about water, and now everyone wants to talk about it. Dinner party conversation has moved away from real estate prices and on to the future of water in the ACT.

In November last year I said that the European peoples who settled this arid continent, for all their resourcefulness, had not been particularly mindful of water conservation. Since then we have moved on significantly. As a community, as a group of legislators, as the government across here, all of us need to take on that increased awareness and capitalise on it. We will never again have the opportunity we currently have to address water conservation and make sure that we have water for posterity.

Those of you who have read this morning's *Canberra Times* will be aware of my views on water. I won't read them out here, but I will cover some of those things. I am concerned that we have a water restrictions regime that is a short-term solution to what looks more like a long-term problem. On a number of occasions I have expressed my reservations about some of the water restrictions and my concern that they will at best be counterproductive.

I believe that the odds and evens system, rain, hail or shine, encourages rather than discourages water use. We should be sending a message that watering once a week is probably enough. You may not have bowling-green lush lawns, but your garden will survive and we may find a better way of organising our lives.

I have also encouraged the concept of total water bans—not unlike total fire bans. If it has rained a certain amount within a particular time, there should not be watering for a period of time following that. That should be mandated, it should be announced as weather is announced every night. "Tomorrow in Belconnen is a total water ban because we've had 20 millimetres of rain in the last two days." You don't need to water if you've had 20 millimetres of rain.

We need also to address the long-term issues, and I thank Ms Tucker for the MPI. There are issues of cutting water use, water supply and water management, which we need to address in a proactive way for the long-term security of our families and our community. I disagree with Ms Tucker on the no dams, no growth policy that she seems to be encouraging. I am not surprised; it seems to be part of being a Green.

But in this environment, given the current state of public debate, we should put aside our ideology and have a discussion about all the issues and then decide whether we need a dam. We cannot come to this debate with the view that no dam is the desired outcome. I was disappointed to see on Friday and over the weekend the comments by ACTCOSS and the Conservation Council along those lines—at all costs no dam.

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I am sorry but if some of the statistics that I have looked at are correct and we have no dam, we will run out of water, even if we do not grow, in the next 15 years. In 15 years time we will possibly not have enough water, and we need to have the debate and the discussion and share the information with the community so that the people have a clear understanding of why policy direction is moving in a particular way.

Much has been achieved. There is the glossy draft water resources policy, and there have been workbooks and the public consultation Mr Stanhope spoke of. However, I am concerned about some of that public consultation because of the reports that have come back to me saying, for example, "You can only talk about things that are on the agenda and managed by the bureaucrats. If you want to raise any of the other issues, heaven help you because you won't even get an opportunity to raise them in general business." That is not community consultation, and it is what I want to see an end to.

Much of the water resources strategy and much of what we read about water restrictions is about outside. I refer members to page 9 of the draft water policy, which has a lovely pie graph that shows where those living in detached housing—the biggest users of water—use most of their water. Then there is the fact that the percentages in the pie graph only add up to 93 per cent, so there is an area of 7 per cent somewhere that is not in there. It has evaporated.

More than 50 per cent of water is used indoors, but none of the measures to save water address indoors. We need to encourage water efficient appliances and approaches more sophisticated than, as I have called it, the brick in the loo approach. That is what my Buildings (Water Efficiency) Amendment Bill, which I introduced last November, is about beginning. It is a beginning process.

I am grateful to the Minister for Planning for his support—limited support at this stage—and his undertaking to address some of the issues raised in that bill through the emerging plumbing code, rather than through the cumbersome method of a Building Code Amendment Bill. I am hoping that by the end of October we will have negotiated an appropriate outcome that might make that piece of legislation unnecessary. However, if we do not negotiate an outcome, we will be in here in November debating that bill.

One of the things that I have noticed of late is that there is no encouragement by the ACT government to deal with waterless loos. I had asked a question on this, and they cannot tell me how many waterless loos there are in the ACT. They do not do anything about encouraging their use; they manage to discourage it because of the permissions that you need to have. If this is something that is an Australian Standard, if you install it according to the manufacturer's specifications, you surely do not need permission to do it.

One of the biggest issues we need to talk about is where we go to with the dam. As I have said before, we cannot come to this debate already having made up our minds. That is not a debate. I admit that a few years ago—even six months ago—I was of the view that we should avoid building a dam at all costs. But I am no longer absolutely entrenched in that view. I am moving away from that view. I may move back to it, but we need to have the conversation.

We need to ask the community what they want to do and give them enough information so that, if we built a dam, they know why we are doing it and they are confident that we have the money to do it. Mr Costello, the head of Actew, says that we have the money to do these things, so we should at least have a proper discussion.

Many of the issues of better management and the use of water are about our water restrictions regime and our water conservation regime. As I said in today's *Canberra Times*, we should be looking at long-term solutions, not just short-term solutions. Some of the solutions I commend to the house today we will be taking on seriously when we have our water resources strategy, which will appear within 10 days.

Those are things like abandoning the odds and evens idea, which actually encourages people to water their garden too frequently, and replacing it with "once a week is enough"; having total water bans; allocating watering at night; allowing people who have proper low-use sprinkler systems to use them; ensuring that they are meeting their requirements for a 40 per cent reduction; and ensuring that in future sprinkler systems have moisture sensors in the ground.

While doing this and looking after our water resources, we need to make sure—as you, Mr Deputy Speaker, have said on a number of times—that we do not end up as the bushless capital at the end of this drought. We need to protect our heritage trees and heritage gardens and plantings of large and significant trees to ensure that they live through this drought.

We must do much more about the inside, and Mr Stanhope is always saying we need to get a 12 per cent cut and, eventually, a 20 per cent cut. If the studies undertaken by the housing department a few years ago are correct, we could achieve a 24 per cent cut overnight with the simple application of a simple washer that costs less than a dollar per installation. But this government will not look at this proposal. We need to make serious inroads to ensure better water conservation.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (4.15): Much of what has been said thus far in the debate is unarguable. We might quibble somewhat over the particular measures that might be taken and might want to own some of them for ourselves. Nevertheless, it is clear that we need to reduce water use in the psyche—to change our life habits in the use of water in order to conserve the very precious resource.

I am afraid we also need to manage demand through either restriction or the price mechanism. I can advise the house today that I have already taken steps to introduce some legislation that will allow the pricing of water to go beyond cost recovery and in effect allow the government—therefore, the Assembly—input into the pricing structure of water, rather than having it set by the ICRC on a pure price recovery basis.

This debate is about whether we ought to expand our water capacity or no and how we would handle growth—or whether the availability of water itself might inhibit growth. Opinions will vary, and I do not want to debate the actual size of Canberra or what it ought to be and what we might do in terms of containment of growth. But let me say this much: Canberra's economy depends on physical growth.

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We all know the impact of land based taxes on government revenues, and we are relatively aware that the health of that economy, and the level of government revenue, will then have an impact upon overall community health—that is, what the government, no matter what colour it is, can do within the economy to assist those who need government assistance and to provide the fundamental services that most citizens expect and are entitled to.

It is a bigger question than simply learning to live with the amount of water that we have at the moment. If that were the only change made, then Canberra as an economy would be on the way to a disastrous position where it would not be able to adequately provide the services that its citizens deserve. It is a bit of a Hobson's choice, but we do need to look at where we are going.

We may also remember—at this point in time, at least—that of the water we take into the town, we put 50 per cent of it back, and a very high quality effluent is returned to the river systems. It is only half as bad as it might appear, but at this stage I cannot see Canberra as anything other than requiring an additional water supply. When I say Canberra, I mean Canberra and the near region. More and more, the border between the ACT and its surrounding region is becoming just a line on paper. More and more, our fortunes are becoming integrated. Certainly, the economy of Canberra is interwoven inexorably with the fortunes of the near region.

Some of the upgrades that might exist have been canvassed. I can advise that Actew has commissioned a study by the CSIRO to look at our long-term prospects and to get at least the scientists' view as to whether our environment has changed, whether this drought that we are going through now is atypical, whether we will normalise altogether or whether some change is expected in the long term. They will all be wild guesses, but they will be scientific guesses and they will be the best information upon which we can plan.

In terms of the reverse privatisation of water supply, if we usurp the pricing control back to government, it will be reasonable to continue to enjoy the economies of scale, at least, of Actew operating our gas and electricity supplies and our water and sewerage services, rather than trying to set up parallel organisations that, 90 per cent of the time, will be doing pretty much the same thing with the same collection of customers.

To address the restrictions themselves, I think there can be debate about whether they are absolutely perfect. As far as we are concerned, they have to be understandable and easily communicated. They have to be practicable and enforceable. They are pretty damn obvious and relatively crude.

We cannot effectively mandate restrictions within the house—"Right, stage 4 restrictions: three-minute showers." How the hell do you implement that? "The four litres a day that you are drinking will be cut to three litres a day—and take on a bit of orange juice as well." I do not think we can do that. I am not going to say that the restrictions that are in place now are perfect; what I will do is come back to this place and let you know how effective they are.

In regard to people using sprinkler systems rather than hand-held hoses, yes, I think you can operate a reticulated system that will use less water than someone standing around for the same amount of time hosing the garden. I agree with that. But I will bet you money that on the overall average, people are not prepared to stand and water by hand as long as they are prepared to leave their sprinkler systems on.

**Mrs Dunne:** It's purely nuisance value.

**MR QUINLAN:** I am just prepared to take that bet. These have been put together intuitively. If you come in here and give me some scientific proof, some empirical evidence, that we can improve those restrictions, I will be happy to do it. Individuals have had problems with them, and that is understandable. But there was no intent, in putting those restrictions together, other than to reduce our consumption and to try and do it in the fairest, most practicable and most understandable manner.

If there is a better way to do it, and do it overnight—it is not a case of changing the whole infrastructure of houses, or whatever—then we are prepared to entertain any suggestion. All we want to do is get through this crisis to another year. We are facing this crisis for another year because of our limited treatment capacities. It is not only our limited water supply; we have a limited treatment capacity at this stage, which will be augmented.

**MS DUNDAS (4.25):** I thank Ms Tucker for raising this important issue for debate today. Water shortage is definitely a long-term issue for the ACT, but it has taken a drought such as the one we have experienced to focus public attention on it. The recent outbreak of blue-green algae in our lakes has highlighted the risks associated with discharging large volumes of untreated stormwater into our lakes.

I believe that the ACT is a place where visionary things can happen. The no waste by 2010 target was one that was ahead of its time. A target of 100 per cent water recycling by 2030 would be equally visionary and would mark the ACT as a world leader in environmental management.

We have had a lot of discussion already about the need for long-term water restrictions and the imbalance between our use of water and available supplies. Per capita water consumption in the ACT has dropped by almost 50 per cent since 1991, but overall water consumption is only 10 per cent down on 1991 levels. Total consumption continues to rise as the population grows. Naturally, the amount of water flowing through the Molonglo is not increasing in line with our population, so I believe that we need to reduce our per capita consumption very substantially.

In the past, a growing population has meant a decline in environmental quality. We have an opportunity to reduce environmental impacts as our population grows, but it will take a commitment to continuous improvement in energy efficiency and waste treatment, including water treatment.

Water reuse is the most obvious way to dramatically reduce the water intake from reservoirs. Melbourne Water is striving for a water reuse target of 20 per cent by 2010.

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Overseas, Florida is already reusing 34 per cent of its water and California is reusing 63 per cent. Both parts of the United States are seeking even higher levels of reuse.

I understand that the ACT has tentatively explored water reuse through several trials, initially at ADFA, where treated water was being used to water grassed areas and currently through reuse trials where water is also used indoors for flushing toilets, but these schemes reuse only a tiny fraction of our waste water and the ACT has not yet committed to a water reuse target. Hopefully, that will be part of the strategy that will be released soon.

The water reuse efforts in Victoria and the United States are to be commended, but they have adopted a very expensive approach. They treat waste water to a level below that suitable for drinking and the recycled water is distributed through a dedicated piping system and exclusively used for outdoor watering. The cost of duplicating the water distribution network is quite substantial and that has made the economics of water recycling quite unattractive. It may well be a better approach to treat all waste water to drinking water quality and redistribute it through the ordinary water supply network, creating a closed loop system.

On 5 June 2002, this Assembly resolved that, as far as possible, the water leaving the ACT by river should be of a quality just as good as that of the water flowing into the ACT. If this were happening, we could be directly reusing our own treated water. Alternatively, or in addition to large-scale treatment for reuse, local water recycling strategies could be utilised for new residential developments. Model houses have been built in Australia to demonstrate how households could be entirely self-sufficient in water by capturing rainfall and treating and reusing water waste on site.

Yes, Canberra does have a lower rainfall than many of our coastal cities, so self-sufficiency could be achieved only by an extremely frugal household, but local rainfall capture could reduce the demand on our reservoirs by at least 20 per cent, even without adopting new household water conservation measures.

The approach of treating all waste water to the highest possible standard is analogous to the proposed approach for achieving the ACT's no waste to landfill goal. I think that we need to remember that this was an innovative approach that was taken, but we are looking like we are going to reach it. There are some things that need to be fixed in terms of ACT waste to achieve that goal, but it is something that we are committed to and are still striving to achieve.

Similarly, we could be working with water to reach a no waste water target. The high-quality effluent released from the Lower Molonglo Water Quality Centre already forms part of Adelaide's drinking water supply, illustrating that health risks can be eliminated or at least contained.

Although we could largely supply our water needs by treating waste water, some water would be naturally lost through garden watering and other evaporation, so additional input would be necessary. The untreated stormwater that runs off our roofs, roads and paved services currently discharges into our lakes, lowering water quality in the waterways downstream. This stormwater could be captured and treated and the volume available would be more than adequate to compensate for the water lost from our

systems through evaporation. Treating stormwater would also improve water quality in our lakes and rivers. That has become a critical issue of late with the recent blue-green algae outbreak.

Through the economic white paper process, the ACT government has proposed financial and in-kind support for high-tech and environmental management businesses so that the ACT becomes known as a centre of excellence in these fields. An ambitious water recycling target would stimulate the local environment industry and potentially save us millions of dollars down the track.

A previous Liberal government committed to the no waste target in 1996, back when it seemed almost impossible, and technology has risen to the challenge. I hope that the ACT Labor government will have the courage to commit to a date to achieve a 100 per cent water recycling target and then commit the resources to make it happen.

If Canberra adopted a goal of 100 per cent water recycling, it may be a world first; but there is no reason why our clean, green city cannot lead the way. We could put an end to our water crisis, water restrictions and spending on new dams and we would be doing our part to restore Australia's rivers and our own urban lakes to their former glory. That is something that needs careful consideration. Whilst there might be some initial costs, the long-term benefits would pay off and it would mean great things for our water use and the water use of those in the region.

**MRS CROSS (4.31):** Water is a valuable resource, as we all know. The management of our water is always something of an issue. Most of us really just want to turn the tap on and have a drink, shower or water the lawns whenever we want to. Most people are so used to having water literally on tap that they find it impossible to imagine living without it, particularly in this resource rich country. Water is a renewable resource. Even in the ACT it is a renewable resource. The problem of water here is not saving water because it may run out. The problem is using more than we get each year.

Canberra has always been a dry place. The yearly rainfall is low and people often forget that we do live in a dry city. This knowledge has been around for years and Actew have known about that for years. It does surprise me a little, though, that it has taken the long drought and the bushfire issues to galvanise them into action and to encourage people to reduce their water consumption. I am encouraged by Mr Quinlan's comment that they have commissioned a report by the CSIRO. I look forward to that report being tabled in this Assembly.

Actew has always had an inherent conflict of interest. On the one hand, it is the sole provider of water for the territory. On the other, it is supposed to and does make a reasonable profit to add to general revenue. Perhaps that needs to be addressed.

There are ways to reduce the overall water consumption of the city, ways which I have thought very reasonable, but which have constantly been objected to by Actew and the department for years. Some of those are now being encouraged—at the eleventh hour. Water economies for households should include rainwater tanks and grey water usage.

The reluctance of certain authorities in the past to encourage these strategies previously leaves us now in the situation where many people are very worried about their gardens.

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People have spent many thousands of dollars establishing gardens and adding to the general character of the city. Many have included very efficient watering systems that they are now unable to use, even though these systems are more efficient than the hand-held hoses now permitted if those people who wish to use hoses do so for lengthy periods, which more often than not is unlikely.

Other have established Australian native-style gardens with eucalyptus chips as cover. These people are now told that their gardens are a higher risk in bushfire terms. They are in a catch-22 situation. Many are worried about the possible loss of the ambience of their neighbourhoods, with many shrubs and larger trees dying or showing signs of severe stress.

It is time to assess the water usage in this dry city, but let's not throw the proverbial baby out with the bathwater. Let's instead use the bathwater, the shower water, the dishwashing water and the clothes washing water on the gardens and keep the greenery we love and the trees we cherish alive in Canberra. Let's have a no water waste target by 2015. Let's not sit around debating whether it should be 2010 or 2015; let's just say 2015, which would give us at least 12 years to put something into action, and let's take it seriously.

The executive of this place are not in an easy position on this one. They have had to impose water restrictions, which I have found to be absolutely necessary. In fact, recently I hosted a dinner at which one of the ministers of this place was attacked by one of the guests who was very unhappy that she could not use her watering system on her garden, even though she claimed that her watering system was a water efficient watering system.

I know that this does not happen often, but I truly felt sorry for the minister at this dinner because we have to give the government an opportunity to trial the water restrictions as they are. If we find that they do not work, something else has to be tried, but at least something has to be tried. Following the severe bushfires of January, knowing that we had a water problem and given that no-one has presented a more ideal solution than we have at present, let's try the existing restrictions and see how they go, but let's also set a no waste by 2015 target.

**MR DEPUTY SPEAKER:** The discussion is concluded.

## **Adjournment**

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

That the Assembly do now adjourn.

## **Bushfires—hazard reduction**

**MRS DUNNE (4.36):** During question time today, the Chief Minister accused me of blatant hypocrisy with respect to hazard reduction burning and Oakey Hill. He also referred to the period when I was an adviser to the previous minister for the environment, Mr Humphries. I resent the accusation of hypocrisy. My position is quite simple. Listen and take note, Chief Minister.



Hazard reduction burning should be undertaken when required, at the appropriate times, based on climate, not politics. You do it when the conditions are right; that is, when it is cool and moderately dry, the autumn and the winter. You do not do it when you are taking stick from an inquiry or a critical report comes out, or you think it is time for a tricky media stunt.

Members of the previous government, unlike this Chief Minister, are prepared to admit mistakes. I was not a member of the previous government, just a humble adviser, but we did make mistakes. Like many of us, we took advice from people who were opposed to hazard reduction burning. Unlike the members opposite, we did not have the experience of not one but two disastrous fires and expert analysis of how and why they occurred to show where we were getting it wrong. Unlike those opposite, however, we are prepared to admit that we made mistakes.

We also did some good things. We unburied the McBeth report after it had been buried by the previous minister responsible for that—one, Bill Wood. We brought it into the open. We introduced the bushfire fuel management program, for all its faults, and there were faults in it. We will continue to consider the issues relating to hazard reduction—not just hazard reduction burning, but all of those issues. They are entirely consistent.

We do not think that it is appropriate to clear-fell the hilltops around a suburb just to show that you are responding to a current issue. That is what has happened with this government. This government has had two disastrous bushfires. I hope that there will not be a third on their watch.

### **Hospital waiting lists**

**MRS BURKE (4.39):** I refer to a statement made by Mr Corbell in question time earlier today. He clearly and quite wrongly—knowingly, I believe—misrepresented me about a statement I had made in a media release I had issued yesterday. I propose to table that media release, along with another one that I have.

I was disappointed because he knowingly, for his own cheap political gain, twisted the truth about the real situation on hospital waiting lists. I find that unacceptable. He should stop playing with smoke and mirrors, particularly with people's lives at risk. Mr Corbell simply plucked part of my media release out of the air, without putting it in context. If he had cared to read on he would have found that I said:

...there was no point admitting more people for surgery, when those already on the list couldn't be catered for.

I went on to say:

September's result is the highest the waiting lists have been since an all time high in April of 4,330 (April's figure was the highest result in over two years) and any gains bought by the Minister have already been wiped out.

I think that speaks for itself and ever likely I would say what I said. My great concern is that this minister is keeping focus on access to lists rather than management of waiting lists. While the \$2 million injection may be giving access to more elective surgery, it is

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doing nothing more to reduce our waiting lists and physically ensure that patients get their operations in a suitable and timely manner.

I have call after call to my office. Category 2 patients are suffering the most. They should be seen within 90 days, but on average they are waiting some 140 days. If the minister is proud and crowing from the rooftops about that, I leave it to people to make up their mind on whether they think that that is acceptable and he should be crowing about it.

The September figure is only five short of a record high waiting list figure of 4,330 in April this year—five short of a record high. I think that the minister needs to explain why a \$2 million injection into waiting lists has done nothing to reduce waiting lists and the times that, in particular, category 2 and category 3 patients are having to wait for their operations.

We cannot continue to spend more and receive less. Having an increase of 70 patients on the waiting list and a total of 4,325 patients on the waiting list is not good enough. This government needs to start getting its priorities right. The priorities should not be on dressing up access to elective surgery figures. They should be clearing the waiting list as quickly as possible and getting waiting times down to an acceptable level.

I seek leave to table those media releases.

Leave granted.

**MRS BURKE:** I present the following papers:

Hospital Waiting Lists—

Media Release by Mrs Burke, MLA, dated 20 October 2003.

Media Release, by Mrs Burke, MLA, dated 21 October 2003.

### **Hospital waiting lists**

**MR QUINLAN:** (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, Minister for Police, Emergency Services and Corrections) (4.43), in reply: I have to say on behalf of the Minister for Health that Mrs Burke was being entirely illogical in saying that we are spending more and getting less. Mr Corbell went to great lengths today to demonstrate that we are spending more and getting more.

**Mrs Burke:** More time on the waiting list. You're splitting hairs here; you know it.

**MR QUINLAN:** We may well be the victims of our own success—our Health Minister may be the victim of his own success—in as much as the more we put through, the more potential surgeries are booked to the list. The government can control the rate—

**Mrs Burke:** If they are going through, why are there waiting lists?

**MR DEPUTY SPEAKER:** Order!

**Mrs Burke:** You have defeated your own argument.

**MR DEPUTY SPEAKER:** Order, please! You have had the opportunity to put your point of view.

**MR QUINLAN:** The government can control the rate and can apply resources to increase the number of patients put through, but it does not have control over how many people apply.

Question resolved in the affirmative.

**The Assembly adjourned at 4.43 pm.**

## Schedules of amendments

### Schedule 1

#### Financial Management Amendment Bill 2003 (No 2)

Amendments moved by Mr Stefaniak

1

#### Clause 5

##### Proposed new clause 11 (1) (f)

Page 3, line 6—

*insert*

- (f) an audit report on the proposed budget under section 11B.

2

#### Clause 5

##### Proposed new clauses 11B and 11C

Page 6, line 4—

*insert*

#### 11B Audit report on budget

(1) The auditor-general must review the financial statements included in the proposed budget for the Territory for a financial year and report to the Legislative Assembly on whether it appears that—

(a) the statements have been prepared on a basis consistent with the accounting policies on which they are stated to be based; and

(b) the statements are consistent with the targets specified in the financial policy objectives and strategies statement under section 11A for the financial year; and

(c) the statements have been properly prepared on the basis of the economic or other assumptions contained in the statement under section 11 (1) (b) for the proposed budget.

(2) The auditor-general must state in the report whether the auditor-general considers the methodology used to decide the economic or other assumptions contained in the statement under section 11 (1) (b) was reasonable.

(3) The auditor-general must give the report to the Treasurer a reasonable time before it is required to be presented to the Legislative Assembly under section 10 (a) (Budget papers).

(4) The *Auditor-General Act 1996*, section 18 (Proposed reports) does not apply to a report under this section.

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### Schedule 2

#### Financial Management Amendment Bill 2003 (No 2)

Amendments moved by Ms Tucker

1

**Proposed new clause 11 (4) (c)**  
**Page 3 line 16**

*insert*

- (c) the object of ecologically sustainable development.

2

**Proposed clause 11 (6), new definitions**  
**Page 4 line 1**

*insert*

***ecologically sustainable development*** means the effective integration of economic and environmental considerations in decision-making processes achievable through implementation of the following principles:

- (a) the precautionary principle;
- (b) the inter-generational equity principle;
- (c) conservation of biological diversity and ecological integrity;
- (d) improved valuation and pricing of environmental resources.

***inter-generational equity principle*** means that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

3

**Proposed new clause 11 (6), new definition**  
**Page 4 line 8**

*insert*

***precautionary principle*** means that, if there is a threat of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

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**Schedule 3**

**Justice and Community Safety Legislation Amendment Bill 2003**

Amendments moved by the Attorney-General

1

**Proposed new part 2A**  
**Page 5, line 22—**

*insert*

**Part 2A**

**Criminal Code 2002**

**7A Act amended—pt 2A**

This part amends the *Criminal Code 2002*.

**7B Delayed application of ch 2 to certain offences  
Section 8 (1) and (2)**

*substitute*

(1) Despite section 7, the provisions of this chapter (other than the immediately applied provisions) do not apply to a pre-2003 offence unless—

- (a) the offence is omitted and remade (with or without changes); or
- (b) an Act or subordinate law expressly provides for the provisions to apply to the offence.

**7C New section 8 (4A)**

*insert*

(4A) In this section:

*omitted and remade*—an offence is not *omitted and remade* if it is amended without being omitted and remade.

*pre-2003 offence* means an offence in force before 1 January 2003.

**7D Section 8**

*renumber subsections when Act next republished under Legislation Act*

2

**Proposed new part 2B**

Page 5, line 22—

*insert*

**Part 2B Director of Public Prosecutions Act 1990**

**7E Act amended—pt 2B**

This part amends the *Director of Public Prosecutions Act 1990*.

**7F Functions  
New section 6 (1A)**

*insert*

(1A) To remove any doubt and without limiting subsection (1), the functions of the director include the following:

- (a) appearing before a board of inquiry under the *Crimes Act 1900*, part 20 (Inquiries into convictions);
- (b) for civil proceedings (including appeals) connected with or arising out of the exercise by the director of a function under this Act or a proceeding in relation to which the director has a function—
  - (i) beginning proceedings; or
  - (ii) conducting proceedings, whether begun by the director or not; or
  - (iii) responding to proceedings.

**7G Section 6**

*renumber subsections when Act next republished under Legislation Act*

**3**

**Proposed new clauses 8A to 8D**

**Page 6, line 3—**

*insert*

**8A Preparation of draft codes of practice  
New section 33 (1A) and (1B)**

*insert*

(1A) A draft code of practice may do 1 or more of the following:

- (a) require an entity to be licensed or registered and prescribe conditions on licences or registration;
- (b) provide for fees to be imposed or collected in relation to a licensing or registration system established under the code;
- (c) impose educational and competency requirements on entities licensed or registered, or applying to be licensed or registered, under the code;
- (d) establish alternative dispute resolution committees and prescribe the functions the committees may exercise.

*Note* **Entity**—see Legislation Act, dict, pt 1.

(1B) Subsection (1A) does not limit what a draft code of practice may do.

**8B Section 33**

*renumber subsections when Act next republished under Legislation Act*

**8C Regulations—codes of practice  
Section 34**

*omit*

The regulations may

*substitute*

(1) The regulations may

**8D New section 34 (2) and (3)**

*insert*

(2) To remove any doubt, a code (or a provision of a code) prescribed under this section before the commencement of section 33 (1A), is not invalid only because the code (or provision) did something mentioned in section 33 (1A).

(3) Subsection (2) and this subsection expire 2 years after the day this subsection commences.

*Note* Transitional provisions are kept with the original provisions for a limited time to ensure people are aware of them. However, the expiry of transitional provisions does not end their effect (see Legislation Act, s 88).

