DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

1 JULY

2004

Thursday, 1 July 2004

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The Assembly met at 10.30 am.

(Quorum formed.)

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

Petition

The following petition was lodged for presentation, by **Mrs Burke***, from nine residents.*

Housing ACT tenants

> This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that:
>
> The Minister for Housing and Police takes steps to remedy the intolerable situation regarding the disproportionate effect that the anti-social behaviour of a minority of Housing ACT tenants is having on the broader community.
>
> Your petitioners therefore request the Assembly to:
>
> Put in place, as a matter of urgency, stronger measures to ensure that all ACT residents are allowed to live in peace and quiet and safety of their own homes.

Territory Owned Corporations Amendment Bill 2004

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

Title read by Clerk.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, and Acting Minister for Planning) (10.35): I move:

> That this bill be agreed to in principle.

I am today tabling the Territory Owned Corporations Amendment Bill 2004. This bill provides a number of amendments to the Territory Owned Corporations Act 1990.

Given the extent of government investment through the ownership of territory owned corporations, it is essential to ensure that there are effective risk management and accountability arrangements in place. The bill updates and improves the accountability arrangements of territory owned corporations. In particular, several of the legislative changes will assist the board to better understand its obligations to notify the voting shareholders of significant matters that it proposes to undertake or that are affecting the operations of the company.

The bill not only contains improved governance and accountability arrangements but also addresses certain anomalies in the Territory Owned Corporations Act. The proposed improvements are consistent with the government's commitment to integrity in government processes and improved accountability.

Let me go first through the improvements to the governance and accountability arrangements addressed in the bill. Under the existing provisions of the act, there are two sets of principal objectives for territory owned corporations, one set for ACTEW and another set for all other territory owned corporations. ACTEW's objectives cover financial, social and environmental matters. However, the objectives of other territory owned corporations are related to financial matters only.

ACTEW's objectives are consistent with the concept of sustainability and the government's desire to introduce principles of sustainability in the use of resources. The bill proposes to extend the objectives applying to ACTEW to other territory owned corporations. This means that all territory owned corporations will be working towards a consistent set of objectives.

The government, as owner of the territory owned corporations and subsidiaries, has a legitimate right to access regular and timely financial and operational information, and other information, in order to review and monitor their performance. Currently, the Territory Owned Corporations Act provides for a territory owned corporation to give the voting shareholders information required by them. The bill expands on this requirement by clarifying the type of information the voting shareholders may require and the time period within which the information should be provided.

It is important that the territory owned corporations and subsidiaries do not inadvertently expose the government to unintended risk. It is for this reason that the Territory Owned Corporations Act in its current form prescribes certain transactions that require the written consent of the voting shareholders. The bill seeks to expand these transactions to include requiring an undertaking that could reasonably be expected to become a main undertaking and entering into, or making significant change to, a partnership, trust, unincorporated joint venture or other, similar, arrangement. Following on from this proposed amendment, it is also proposed that the portfolio minister inform the Assembly within 15 days of the consent given by the voting shareholders.

In the past there have been occasions where there has been uncertainty about the interpretation of the terms "main undertaking" and "significant". It is therefore proposed that the Territory Owned Corporations Act be amended to include provisions that will assist in the interpretation of these terms. It is proposed that the terms "main undertaking" and "significant assets and interests" be interpreted in accordance with the accounting standard, or materiality, or as identified in a public document such as the statement of corporate intent.

The government, as owners of territory owned corporations and subsidiaries, need to be kept informed of any internal or external events that may have a significant impact on the value of the business or operational performance of a territory owned corporation or subsidiary. The Territory Owned Corporations Act in its current form does not provide any guidance to directors in this regard.

The bill proposes that the directors of a territory owned corporation or subsidiary must, as soon as practicable, inform the voting shareholders of any event that may significantly affect the entity's value or performance. The bill also proposes amendments to provide that voting shareholders, after consulting with the directors, may inform them of the general government policies that are to apply to the entity. The directors must ensure that these policies are complied with as far as is practicable.

Audit committees play an important role in corporate governance in terms of reviewing risk management, reporting and accounting and the structures thereof, monitoring internal controls and performance and ensuring compliance with relevant legislation. Accordingly, the bill proposes that each territory owned corporation should be required to establish an audit committee.

The bill also addresses certain anomalies in existing legislation. These changes will essentially ensure that territory owned corporations have similar standards of accountability that apply to statutory authorities. It is proposed that the definition of "borrowing" be amended to include financing leases. This method of financing is widely used in both commercial and non-commercial sectors. In fact, the definition of "borrowing" in the Financial Management Act 1996 that applies to departments or statutory authorities includes financing leases. The proposed amendment removes this anomaly.

Under current provisions of section 8 of the Territory Owned Corporations Act, territory owned corporations and their subsidiaries are not intended to have any immunity or privilege from the Crown nor be exempt from paying taxes, duties or fees. However, section 21 of the Legislation Act may inadvertently defeat the intention of the Territory Owned Corporations Act. Accordingly, the bill proposes to amend section 8 to preserve the original intention.

The bill proposes that the giving of guarantees by territory owned corporations and subsidiaries be subject to the Treasurer's approval. This is in keeping with similar requirements applying to statutory authorities under the Financial Management Act.

Finally, the bill includes an amendment that authorises the Department of Treasury to invest surplus funds on behalf of territory owned corporations and their subsidiaries. The proposal does not apply to money held in trust by a territory owned corporation or a subsidiary. There are some other minor amendments. These proposed amendments include creating a dictionary and moving it to the end of the Territory Owned Corporations Act, and renumbering various sections of the schedule.

In conclusion, the amendments proposed in this bill will improve and strengthen the governance and accountability arrangements for territory owned corporations and subsidiaries. I trust that members will support this bill. I commend this bill to the Assembly.

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

Land (Planning and Environment) Amendment Bill 2004 (No 2)

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

Title read by Clerk.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, and Acting Minister for Planning) (10.42): I move:

> That this bill be agreed to in principle.

Mr Speaker, I present the Land (Planning and Environment) Amendment Bill (No 2), which is designed to improve the operation of the consent to lease transfer provisions. The principal aim of these amendments is to stop speculative transfers of undeveloped residential land. As we all know, the ACT leasehold system from its inception has had as an underlying principle that speculating on sale of undeveloped land was not to be allowed. The issue of preventing speculative gains played a prominent part in the early debates in the federal parliament when the development of the national capital was being considered.

The orderly development of the city and the desire to ensure that leases are used to prevent speculation remain the underlying principles of the development of Canberra. However, amendments to legislation over the years have compromised the administrative ability to prevent speculation. In recent years publicity on speculative gains being made on the sale of land has highlighted that the current system does not effectively prevent a lessee from speculating through the sale of undeveloped land.

The planning minister indicated late in 2003 that he would be bringing forward a proposal to address the issue. On 9 December 2003 he gave the ACT Planning and Land Authority a statement of planning intent under section 14 of the Planning and Land Act 2002. That statement contained a legislative reform agenda including the requirement to address the issue of land speculation.

Members should note that these amendments do not affect lessees of destroyed properties who wish to sell their now vacant land. The clearest examples are provided by the hundreds of blocks left vacant by the January 2003 bushfire. Many owners have chosen to sell their land, often at prices much higher than they might have expected. Concern has been expressed about prices paid, with occasional implications that owners should not profit from this sale of raw land. In the cases of land sold following the destruction of property, the owners, or their predecessors, have already complied with the building requirement of their lease and have therefore already met the intention of section 180.

Their entitlement to profit from the value of the land is no less than that of a person who sells a house and land intact, providing they are pricing it according to the market value of both improvements and the land on which they stand. These are not speculative transfers but lessees exercising their right to profit from the improvements that they have made from their lease by complying with the building and development covenant.

These amendments do not change the current arrangements in section 128 of the land act to cover transfer or assignment of a lease that do not require consent. Consent is not required where a lessee has died; where the transfer or assignment is made under an order of the Family Court, or other court having jurisdiction under the Family Law Act, or an order under the Domestic Relationship Act 1994; where the transfer or assignment occurs by operation of, or under, bankruptcy or insolvency; or where the lessee has obtained a certificate of compliance under section 179 of the land act, which relates to compliance with building and development covenants in the lease.

If a lessee does not qualify under any of these circumstances, then the lessee must apply to the Planning and Land Authority for consent to transfer the lease. This provision was originally designed to cater for genuine hardship cases where the lessee, due to personal or financial hardship, could not comply with the building and development covenants of the lease, but where the operation of the existing provision proved to be ineffective.

If a lessee applies for an assignment or transfer of lease, the existing subsection 182 places the onus of proof on the transferee of that building, and the development covenants will be met. This is inappropriate, as the lessee is a person who in essence has a contract with the territory to commence and complete construction in accordance with the lease. It is the lessee who should be required in the first instance to demonstrate their inability to comply on the grounds of hardship. The lack of any requirement for an existing lessee to prove they are unable to comply with building and development provisions is the loophole that enables people to speculate on the sale of residential leases.

It is the single dwelling and small multiunit residential leases that are most attractive to land speculators because of the relatively small financial outlay that is required to reap potentially large speculative profits. This is the sector of the transfer market on which these amendments focus. The changes proposed in this bill will introduce an additional requirement in subsection 180 (2) for the lessee of the land to provide evidence of their inability to comply with the building and development covenants in a lease before the consent to transfer can be given.

The information to be provided by the lessee is stipulated in a disallowable instrument. To assist members to consider these amendments I will make available for your information a new draft disallowable instrument under sections 178 and 180 of the act, and I will formally table it after the Assembly has dealt with this bill. Section 180 will also be amended to enable the authority to consent to a lease transfer where it is part of a normal development process.

However, evidence that the request for consent to transfer meets one of the stated circumstances where the consent may be given will still be required. As with the existing provisions of section 180, a decision of the authority to refuse to consent to transfer is appealable to the Administrative Appeals Tribunal. If a lessee does not gain consent to transfer either from the authority or through the AAT, they must comply with the building and development provisions of the lease and they may also apply for an extension of those provisions in order to comply.

Alternatively, they may surrender the land back to the territory under the existing provisions of section 214. Under section 178 of the land act, the lessee of the original grant who surrenders the lease of undeveloped land to the territory is entitled to a refund of the amount paid by them for the grant, less the cost incurred by the territory in surrendering the land. The same refund amount is payable on termination of a lease.

The current provisions of section 178 do not envisage a circumstance where a surrender or a termination would apply to anyone other than the first lessee. If a surrender was to occur now and the lessee was not the original lessee, there would be no obligation to pay for the land. The amendments to section 178 will allow for the payment on surrender or termination of a lease to be determined by regulation. The regulations would maintain the current payment of an original lease of an existing residential lease. The payment on surrender or termination of the residential lease where the lessee is not the original lessee would be the lessee's purchase price or the current market price, whichever is the lesser.

Without the provision for paying the lessee the lesser of two amounts a significant drop in land prices may encourage a lessee who bought at a high price to surrender the lease to the territory in order to minimise their financial loss. Likewise, if a lessee bought in a low market and the legislation required the payment of market value on surrender, there would be an incentive to surrender the lease in a high market. That would make the territory a provider of guaranteed speculative gain. This would clearly be an unacceptable arrangement.

With the loophole for speculation removed, only persons intending to develop in accordance with the lease would purchase land that would contribute to the objective of maintaining an orderly development of land. The inclusion of a capacity to consent to transfer, under section 180, as a result of a lessee's financial and personal circumstances, provides an appropriate protection for genuine and demonstrated hardship cases. For example, where a lessee provides evidence that, as a result of long-term illness and associated medical costs, they are no longer able to comply with the building and development covenants, that evidence would enable the Planning and Land Authority to consent to the transfer of undeveloped land.

This bill will help to better support the fundamental principles of the leasehold system and clearly demonstrates the government's commitment to upholding those principles. The amendments will not affect genuine transfers but will hold accountable those who seek to manipulate the system for inappropriate personal gain, so that speculation on undeveloped residential leases will be no longer possible. I commend the bill to the Assembly.

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

Water Resources Management Plan 2004
Disallowance of D1 2004-66

MRS DUNNE (10.52): I move:

> That Disallowable Instrument DI2004-66–Water Resources Management Plan 2004 be disallowed.

Mr Speaker, we are here today to consider whether the document "Think water, act water" should continue to be regarded as the water resources strategy for the ACT. According to the Water Resources Act of the ACT, a management plan shall include:

- a description of the water resources of the territory, including the flows required to meet the environmental needs of individual waterways or aquifers, or parts of individual waterways or aquifers;
- the proposed water allocations for the next succeeding 10 years;
- the water allocations to be created for urban supply, industry and other uses; and
- actions to be taken by the authority to manage the water resources of the territory.

The Water Resources Act was passed in this place in 1998. As a result of that, the "Water resources management plan" came into operation on 16 August 1999, propagated by Environment ACT and the Environment Management Authority on the authority of the minister. It was designed to last for 10 years. We all know that documents of this sort should not be considered to be graven in stone and not looked at in the intervening time, and I am not here today to quibble about that. We are here today to determine whether this document produced by the government is a suitable substitute.

The document produced by the government "Think water, act water" has an interesting history. It could be said that it came about as a result of a motion moved by Ms Tucker on 5 June 2002 about a water conservation and re-use strategy. That motion, as originally moved, was:

> That this Assembly, noting that 5 June is World Environment Day and that one of the most pressing issues in the Murray Darling Basin region is land degradation caused by mismanagement of our water resources:
>
> (1) agrees that:
>
> (a) the building of further water supply dams in the ACT should be avoided;
>
> (b) the water leaving the ACT via the Murrumbidgee River should be of no less quality than the water flowing into the ACT;
>
> (c) adequate flows should be maintained in the ACT's waterways to maintain their environmental values; and
>
> (2) calls on the Government to:
>
> (a) develop an ACT water conservation and reuse strategy to ensure that the water needs of any increase in population can be met, as far as possible, within existing capacities;
>
> (b) investigate options for returning the ACT's water supply and sewerage services to full government control so that these services can be managed for the public benefit and not commercial return;
>
> (c) report to the Assembly on the implementation of this motion by the last sitting day of 2002.

As a result of that, but not necessarily directly because of the request made within, the government developed "Think water, act water", which, as is the case with almost everything done by this government, was preceded by the usual crop of glossy publications and stage managed public consultation. There was the workbook, which you

could take along to a number of seminars. But woe betide you if you said anything other than the received orthodoxy about water in the ACT. You were fairly quickly silenced and told to go away or sit back in the corner and just listen.

When we eventually got "Think water, act water" in April this year, there was a long list of things to do, things for the most part on the never-never. There are some targets, which the Liberal opposition has been critical of simply because of their very modest nature. The principal targets are to reduce per capita consumption of mains water by 12 per cent by 2013, which will be during the Eighth Assembly of this place, and we are now in the Fifth Assembly. So, two elections out we might consider whether we have met the first target. The other target is to reduce per capita mains water consumption by 25 per cent by 2023. If you say it very fast, it sort of sounds impressive. But when you think that the first of these targets does not need to be met until the Eighth Assembly and the second of these targets until well into the Tenth Assembly, these are pretty pathetic targets.

In addition to that, there is no mechanism in "Think water, act water" for the government to report on how it is going to meet these targets. It is difficult in public policy to set targets that are really meaningful, and when you do set targets that are really meaningful you set yourself up for (a) hard work and (b) the possibility that you might fail. But setting up a set of targets that do not have to be reported on until such time as probably none of us who make the policy will be here to answer for it is, frankly, risible.

This is what we are here to debate today. I do not want to spend a lot of time running a critique of this document, because it is perfectly fine as an aspirational policy document for the ACT ALP. It is perfectly fine for the Stanhope Labor government to say, "These are the sorts of things we would like to do." It is very much in the mould of the Canberra plan or the spatial plan. None of its components has been brought into this place for the endorsement of this Assembly. Making this document a disallowable instrument under the Water Resources Act is requiring the Assembly to endorse something that is essentially a policy document for the ACT ALP Stanhope government, and we have to make sure we understand exactly what we are doing. Because this is essentially an aspirational document, it cannot be considered a substitute for a water resources management plan.

"Think water, act water" cannot be regarded as a sound water resources management plan because its facts and figures are unable to withstand expert scrutiny. For example, water loss due to climate change is quoted by the government as being only 10 per cent in the next 30 years. But according to David Jones, head of climate analysis at the National Climate Centre at the Bureau of Meteorology, and James Risbey, of the Centre for Dynamical Meteorology and Oceanography at Melbourne's Monash University, what is called an "antarctic vortex" is plunging southern Australia into a state of perennial drought that could reduce average annual rainfall by up to 20 per cent.

Another reason why "Think water, act water" should not be regarded as a water resources management plan is that, in this climate of diminished water resources and increasing evaporation, "Think water, act water" has increased its estimation of the Googong Dam's resources by an average of 39 per cent. At the same time the government has reduced its environmental flow obligations in that catchment from 16.8 per cent to 9.1 per cent and currently, because of permissions given by Environment

ACT, we have reduced the environmental flows in the Googong catchment to less than one per cent of annual average rainfall.

The objects of the ACT Water Resources Act are:

- to ensure that the use and management of water resources of the territory sustain the physical, economic and social wellbeing of the people of the territory while protecting ecosystems that depend on those resources;
- to protect waterways and aquifers from damage and, where practical, to reverse damage that has already occurred; and
- to ensure water resources are able to meet the reasonably foreseeable needs of future generations.

The principal tool for this in the act is the water resources management plan, so we need to look carefully at whether "Think water, act water" should be regarded as a water resources management plan. I look at it as follows:

- "Think water, act water" cannot be regarded as a water resources management plan because it does not plan resource development to meet the future needs of the people of Canberra.
- "Think water, act water" cannot be regarded as a water resources management plan because it fails to identify the impact of restricted environmental flows, climate change, catchment regeneration and drought.
- "Think water, act water" cannot be regarded as a water resources management plan because in a climate of diminishing rainfall it has produced estimated catchment statistics that have increased water resources in some catchments by over 157 per cent while reducing other catchments by up to 40 per cent.
- "Think water, act water" cannot be regarded as a water resources management plan because it ignores the existing joint working group, made up of federal, state and ACT governments, that is already in place to discuss cross-border water related issues.
- "Think water, act water" cannot be regarded as a water resources management plan because it fails to provide verifiable population projections from its current water infrastructure.

Here is an interesting point. The water supply augmentation plan, which was the precursor to much of the documentation we are discussing, talks about the estimated population that would be supplied by the Corin, Bendora and Googong dams. When the water supply augmentation plan was put together, it was estimated that Corin, Bendora and Googong dams would supply 414,000 people using 713 litres of water per person per day.

But today, the average water consumption in the ACT is 498 litres per person per day. We have reduced our water consumption by in excess of 200 litres per person per day since the late 1970s. On that basis, the existing water infrastructure of Googong, Bendora and Corin should support a population of 539,000 people. However, depending on which set of figures you look at—anything but the government's figures; a 20 per cent loss of run-off is expected by the Bureau of Meteorology—when we look at what is going on in a variety of places as a result of the bushfires, we could expect that our resource could decrease in the next few years, especially when we add to that the drought, by as much as

57 per cent. This would mean that the population that could sustainably rely on water supply will be slashed dramatically.

"Think water, act water" is, like every one of the government's policy initiatives, a Pollyanna policy—everything will be all right in the end—combined with Scarlet O'Hara—"Tomorrow is another day." What it boils down to is that we do not have a policy where we think of what could possibly go wrong and how we plan to avert or alleviate that if it comes. This is what public policy should be about. We expect leaders to say, "This is the situation. The range of possibilities is this. The worst-case scenario is this, and we should plan for the worst-case scenario." If we do not plan for the worst-case scenario and it comes up and bites us, we will be in big trouble.

"Think water, act water" cannot be regarded as a water resources management plan, because it has failed to acknowledge the significant water saving initiatives that are available to it. The government's own department of housing has reduced, on a pilot, the water consumption of housing trust houses by 24 per cent, and in addition to those water savings it has saved tens of thousands of greenhouse gas emissions.

"Think water, act water" cannot be regarded as a water resources management plan because it is not serious about saving water. If it were serious about saving water, we would have something better than the targets that we have in this water resources management plan, about which we will hold the government accountable in 2013. We will come back in the Eighth Assembly and see whether we have met our 12 per cent target. That is not a target; that is a non-core promise. No-one will be able to hold Jon Stanhope accountable for meeting that because, unless he is a very long-lived man, he will not be here in the Eighth Assembly.

Mr Stanhope: You want to bet?

MRS DUNNE: I will take your money, Jon. We are not serious about water resources, saving water or being water efficient because we cannot even take up the simple, effective and proven program that is conducted just across the border in little old Queanbeyan. In the ACT we talk about struggle town. Canberrans joke about Queanbeyan, but Queanbeyan puts us to shame when it comes to water efficiency and actually biting the bullet. Mayor Pangallo and his council need to be congratulated for the sterling effort they have made. They have reduced water consumption in Queanbeyan by 12 per cent over the past three or four years because they have been prepared to put the money in. *(Extension of time granted.)*

In addition to the 12 per cent savings that we could pick up just by emulating what Queanbeyan has done, we also know from the department of housing's own survey that we could add another 24 per cent to that. That is a 36 per cent saving with very little effort. Talking of effort, I would like to refer members to page 16, volume 2 of "Think water, act water". There is a very informative table there called "Water efficiency measure cost comparison", where you have a long list of various things and how much it would cost to save a kilolitre of water.

It is very interesting that many of the measures that we could take up that we have decided not to take up come at the cheap end of that category, whereas the things that this government likes to talk about, while they are laudable, come at the very expensive

end. Rainwater tanks to existing houses cost $4 per kilolitre of water saved, greywater programs in new developments cost nearly $5 and greywater programs to existing houses exceed $5, while things like a water audit/tune-up would cost about 30c a kilolitre.

We are going for the hard stuff, the expensive stuff, when we actually have a whole range of things that we could do to ensure water efficiency that are at the cheaper end of the market. But they are not sexy. People say, "In the water efficiency policy, where's the sexy item?" Actually, the sexy item is usually a very efficient washer. Washers are not very sexy, but they do the job.

What we need to do here today is tell the Stanhope Labor government that, while we do not have a problem with "Think water, act water" as a document that sits in the same category as the spatial plan, the Canberra plan or the social plan, it should not be considered a disallowable instrument under the Water Resources Act. It is an aspirational document, and it fails many of the tests of what should be in the water resources strategy.

One of the biggest failings is that one of the things that is required under the water resources strategy is a clear reckoning of what the environmental flows need to be to maintain individual waterways and aquifers. By the government's own admission, we do not have up-to-date environmental flow information. This work is still being done. It is one of the jobs on the never-never being done by this government and, until we can have at least that up-to-date information, we should not be endorsing this document in any way in this Assembly.

I congratulate the Minister for the Environment for going to the effort of coming up with "Think water, act water". It is a good starting point. I am very critical of it, and other people have been very critical of it, but it is in many ways a good starting point. But it is not, for the purposes of the act, a water resources management plan. Its single biggest failing is that, by its own admission, the environmental flow information in this is out of date and it is highly suspect. Until we have up-to-date information on environmental flows, we cannot possibly endorse this document.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, and Acting Minister for Planning) (11.11): I have got to say from the outset that I rather think that the opposition ought to go further than simply gainsaying the government, which this particular motion seems to represent. Mrs Dunne said towards the end of her extended speech that it was a good starting point. I therefore do not see the sense in being negative for negative's sake.

I learnt an early lesson from the man on my right, Mr Bill Wood, when I first came into the place. When he entered debate on something the government was doing, he had the good sense to recognise the sensible and constructive parts of what the government was putting forward and then added his criticisms or reservations. That is a far more constructive approach. Given that we have a minority government, the opposition can from time to time stymie the government. But I do not think it should become an objective in itself, and it has seemed, from time to time, to be an objective in itself.

We have all agreed—we have all got the faith—and realised that water is a critical resource for the territory. I can claim to have been saying that since the 1980s, when I was a representative on a regional council. I said then that water would be the defining

parameter in many a program that decided what would be the capacity of Canberra and the region. That last word is so important: region.

We have an opposition that have decided, "Bang! We're going to fix the problem straight away. We're going to build a dam." I am of a mind that it is beyond the point now where we need to recognise what is said in the economic white paper and recognise that for many reasons the borders of the ACT are fading and that the solution for water in the ACT is not going to be an ACT solution. The solution is going to be a regional solution. That is why I have already had discussions with two New South Wales ministers—David Campbell, regional development; and Frank Sartor, utilities minister—regarding the joint development of a strategy that will address not only the ACT but also the region. The Chief Minister has had some preliminary discussions with the Premier of New South Wales along similar lines.

What we see from the opposition, unfortunately, is pure negativity on the one hand and this "we want to be the ones that solved it first" competition on the other. "We won't shillyshally around. We'll just build"—without the benefit of what one would think is the basic scientific research—"We'll just make a decision. We'll show you how good we are."

That might have some populist appeal. It might. But it is dumb. For the long-term future of Canberra, it is not the right thing to do. I was involved in electricity and water—I happened to have the job of putting ACTEW together once—and I was surprised in the first instance when I met these fellows called hydrographers. And there are people called hydrologists. I probably had the same simple view of water supply that underscores what you are putting forward now. But I soon came to realise that there is a lot more to the process of water supply than simply saying, "Let's make a decision and get on with the job." You might be getting on with something that is, if not a bad decision, a suboptimal decision.

What this territory needs, and what the region needs, is some commonsense applied, a complete analysis, an examination of the breadth of the problem and joint decisions taken between us and parties beyond our borders as to how co-operative we might be and how co-operative the New South Wales government might be. It may well be that when all that is cobbled together the solutions could be a whole lot different to the ones that are obvious if you have done precious little homework.

Returning to the "Think water, act water" paper, Mrs Dunne referred to leadership and then decried the fact that the document is aspirational.

Mrs Dunne: But that's all it is. Nothing wrong with aspirations.

MR QUINLAN: Are you saying, Mrs Dunne, that your party remains the short-sighted party it was when it involved us in the disasters that were the hallmark of any of the major things that you tried to do? Have a look at them. Have a look at the record of the major projects that a Liberal government in this town attempted, and have a look at the result. There is a common thread there, and the common thread, in its own way, still pervades the actions that you are taking today. Have you learnt nothing?

MS DUNDAS (11.19): Without a doubt there is room for improvement in the government's recent strategy for sustainable water resource management. However, we need to think about whether disallowing a document will help us get closer to the ecologically sustainable management of our water resources.

I would have preferred to see possible amendments put forward to the strategy so that, instead of disallowing the whole thing, we could keep bits that put forward some good ideas and then maybe take the detail on or remove parts that are of particular objection. Instead, we have a motion of disallowance for the entire strategy, even though it contains many elements that, I think from this discussion, we all support.

That being said, there are things that I believe are missing from this document, such as the commitment to harnessing and re-using stormwater and a commitment to new infrastructure for water recycling. I would have liked to work through, and possibly move, amendments to this strategy. However, with time constraints and the fact that this is a very detailed document it just was not possible. I think we would be throwing the baby out with the bathwater if we disallowed the entire document, because it is missing a few elements.

Arguments have been put forward that the plan does not comply with the Water Resources Act. I have reviewed section 19 of the Water Resources Act and obtained some advice form the department, and it appears that the plan does comply with the requirements. The information provided and the commitments made may not be as detailed as we might all wish, but I think that the document complies with the letter of the law.

I refer to the table on page 10 of volume 3, which, together with the statement on page 43 of volume 1 and the environmental flow guidelines, satisfies the requirement of subsection (a) of section 19 of the act to describe the water resources of the territory and the environmental needs of our waterways. The table on page 10 of volume 3 clearly satisfies the requirement of subsection 19 (b) to provide projections of allocations through to 2014.

The subcatchment and water resource description pages comply with the requirements of subsection 19 (c) because they state what purposes the water in each subcatchment will be put to. I think it is fair to say that the three-volume set that is "Think water, act water" complies with the requirements of subsection 19 (d), even though I agree that there is a lack of specificity in some areas.

That being said, my main disappointment with the government's water strategy is that it does not commit to 100 per cent water recycling. This goal would prevent the need for a new dam, even if the ACT's population growth were at the top end of the projections. When I opened debate on this issue last year, the head of ACTEW said that 100 per cent water recycling was a feasible long-term goal.

The "Think water, act water" plan is meant to take us through to 2050, but it sets only a conservative recycling goal of 20 per cent. That being said, I also have doubts that the government will be able to meet that modest target, when there is nothing in the

2004 budget for capital works to expand our water recycling infrastructure. The government has put forward a plan but does not appear to be committed to it.

I am disappointed that Canberra's 30 per cent of households who rent seem to have been completely ignored by this strategy. The government has taken the position that it will not fully subsidise the installation of water efficiency measures, yet there is no financial incentive for landlords to make their rental properties more water efficient and there is no penalty if they do not. So very little would change for a substantial number of households in the ACT.

The response the government put forward this week to the motion—supported by this Assembly—that I moved last year calling for better energy water efficiency measures for rental properties, was woeful and clearly inadequate. When faced with undercapacity at their treatment plant, the Queanbeyan council fully funded water saving measures such as dual flush toilets. The ACT government will not match these efforts, so it is unlikely that renters will benefit from new household incentive schemes that are put forward in the strategy.

As a landlord itself, the government has failed to follow rhetoric with action. The conservation council, ACTCOSS and ACT Shelter have all called for government spending to make public housing more water efficient. The ACT government is the landlord for one in 10 households in the territory, yet there was no initiative in the budget to improve water efficiency in public or community managed dwellings.

The other area the government has not done enough on relates to the treatment and utilisation of our stormwater. Polluted stormwater makes our lakes unsafe for swimming for some parts of the year and, if the water that was flowing into our lakes was actually captured, treated, and utilised for irrigation, we could reduce demand on dams and make our lakes a recreational focus for Canberrans and visitors. Not only would visitors see themselves in Canberra; they would see themselves swimming in our lakes. The government has argued that our lakes were designed to serve as open sewers, but this does not mean that we cannot move away from that thinking and actually clean them up. The "Think water, act water" document gives the government the leeway to fully address all of these outstanding areas if they could only find the political will.

On the subject of a new dam, the ACT Democrats are of the view that a new dam is unsustainable, both environmentally and economically. We have to finally learn to live within our means and start thinking about improving the quality of our natural environment, instead of consuming more resources as our population grows. Most people who support the construction of a dam, it appears, either do not care about downstream impact or believe that water running into the ocean is wasted and that our use of this water represents the highest value use of water that previously fed rivers in New South Wales, Victoria and South Australia.

The thing that I support most strongly in the strategy put forward by the government is its choosing not to commit to the construction of a new reservoir and instead viewing it as a last resort if the population actually comes in at the high end of predictions and if we cannot achieve sufficient water savings. I would be concerned if the government were rushing into detailed planning of a new dam when there is still so much we should be doing to reduce current levels of mains water consumption. If there is a risk of the

government making a firm commitment to a dam, the longer it leaves it, the better it is for all.

As a nation, we have already extracted so much water from the Murray Darling River system that the mouth of the Murray frequently closes. We have made the Murray cod an endangered species, and we have dramatically reduced populations of water birds that depend on extended floods for breeding. We have allowed the remaining flows to become sluggish and polluted.

We cannot delude ourselves that the water that flowed into the ocean before we started to build the countless dams in the Murray catchment was wasted water. The river ecosystems evolved with these large, flushing flows, and our dams reduce or prevent these floods, which are ecologically vital for keeping salinity and suspended nutrient levels low and keeping our rivers from choking on sediment.

I share Mrs Dunne's disappointment with this strategy, and she made the very good point that it is just an aspirational document that does not commit us to very strong targets for the future. That being said, I do not think that we should throw the baby out with the bathwater, and I cannot go so far as to support a motion of disallowance of this strategy.

It being 45 minutes after the commencement of the Assembly business, the debate was interrupted in accordance with standing order 77. Ordered that the time allottee to Assembly business be extended by 30 minutes.

MS TUCKER (11.27): The Greens will not be supporting Mrs Dunne's disallowance motion today. Mrs Dunne's argument in favour of disallowing the plan—as we understood it before, with the briefing—was that it did not meet the requirements of the act, although in her presentation this morning she has moved wider than that in her argument. I am assuming that she is still saying that it does not meet the requirements of the act?

Mrs Dunne: Yes.

MS TUCKER: But you did not talk about that very much. I will respond to that first. The water resources management plan, this time titled "Think water, act water", is required under the Water Resources Act 1998. Part 5 of the act sets out the requirements for the plan. Section 19 in particular sets out the requirements for content of the plan. I would like to go through the requirements set out in section 19, because I do not agree that the plan falls so far short of these statutory requirements that we should disallow it. I certainly have sympathy with the concerns that Mrs Dunne has raised in her presentation this morning. We have already had the same thing being said in a debate this week on the MPI, put up by Mrs Dunne.

Subsection 19(a) requires "a description of the water resources of the Territory including the flows required to meet the environmental needs of individual waterways or aquifers or parts of individual waterways or aquifers". Table 4 on page 10 of volume 3 of the plan begins to address this requirement. This table lists the individual waterways in the catchment, together with, for the ACT, New South Wales and the Commonwealth combined, the waterways' total water resources, environmental allocation and water available for use. For ACT portions of the waterways alone, it lists the total ACT

controlled water, environment allocation, ACT controlled water available for use, existing ACT controlled water use, allocation provision for 2004-2014 and ACT controlled ground water available for use. The remainder of volume 3 describes each catchment and sub-catchment in more detail, including seasonal averages of flow, environmental allocations and amount available for use. Volume 1 of the plan, on page 43, states:

> The Environmental Flow Guidelines under the Water Resources Act 1998 are the basis for calculating environmental flows in ACT controlled waters.

This section also explains that the guidelines are currently under review by the CRC for Freshwater Ecology. This review will make use of the data and knowledge developed on our waterways over the past five years. One of Mrs Dunne's specific complaints is that the revised guidelines are not part of the plan. However, the requirement is not for the guidelines to be reviewed or revised in the new plan.

I will make a quick comment on the whole question of environmental flows. If we go back a step and look at this, we find that the whole concept of environmental flows, in one sense, is quite illogical. An environmental flow is a natural flow. The Murray is currently reduced to 25 per cent of natural flow; three-quarters of the flow has gone. The agreement last week, celebrated by all the ministers as if we had achieved something significant, was that flows will not return by more than 10 per cent over 10 years.

I think the response is not proportionate to the crisis we are dealing with at either a national or a local level. The whole notion of environmental flow is dangerous because of the way it has been manipulated. We really need to get back to a broader understanding of the right of society as a whole to have an ecosystem that is functioning to normal capacity. We are all going to suffer in the long run if we do not. It is quite a concerning argument that somehow it is a selfish desire to have the ecosystem functioning properly. It denies the fundamental reality that we have no economy, no rural sector and no society if we do not have an environment that will sustain us as part of the web of life.

Subsection 19(b) requires the plan to include "the proposed water allocations for the next succeeding 10 years". Table 4, as I have already described, meets this requirement, with the allocation provision for each of the waterways over the next 10 years, from 2004 to 2014. Subsection 19(c) requires inclusion of "water allocations to be created for urban water supply, industry and other uses". Again, this is addressed throughout volume 3 of the plan. Subsection 19(d) requires the plan to include "action to be taken by the authority to manage the water resources of the Territory". This is more general. Volume 1 especially sets out the plans for managing the territory's water resources. While I have argued that what is in the plan needs to be done quickly, thoroughly and differently—for instance, the water tune-ups could offer a bigger subsidy and certainly, for low-income households, should cover the costs of at least basic upgrades—you cannot argue on this basis that it does not meet the requirements.

Just on that subject, I noticed that Mrs Dunne has spoken about the Queanbeyan model. I have raised this matter for quite a long time now in the Assembly. I asked a question in estimates on this. My question was: in relation to water savings and efficiencies, why are we not doing what Queanbeyan did? The answer was:

> In comparing the Queanbeyan City Council (QCC) program with the ACT Water Resources Strategy implementation, the following factors need to be considered:
>
> • The issues facing the ACT and Queanbeyan are quite different and have resulted in quite different strategies;

The obvious response to that is: no, the issues are exactly the same. The fundamental issue is that the region has a water crisis. The second dot point is:

> • A key issue facing the ACT is the need to secure our water supply into the future—and the primary approach taken has been to seek water efficiencies that reduce demand;

yes, that is no different from Queanbeyan; that is what we have to do—

> • Queanbeyan takes its water from ACTEW and accepts the need to increase water efficiencies as does the ACT (Queanbeyan water restrictions reflect those in the ACT);

yes, that is no different—

> • Queanbeyan sewage treatment plant is under capacity and it faces the need to augment its water treatment plant in the near future. Cost of augmentation estimated to be $10 million and as an alternative to an upgrade, the QCC adopted the strategy of an aggressive program to replace water inefficient toilets in Queanbeyan. Although a very expensive program, the QCC chose this option to avoid or postpone an even more expensive augmentation of the treatment plant;

The argument there seems to be that Queanbeyan had to do it because it had other cost pressures. An economic argument has been used. It is obviously fatally flawed if that is the way we are going to make decisions about how we reduce water use around the world, in Australia or in the ACT. The fundamental bottom line is that we need water to survive—and that is what we are dealing with. The last dot point is:

> • In contrast, the ACT does not have a problem with the capacity of our treatment plant—the Lower Molonglo Water Quality Control Centre, which has sufficient capacity for the present and for a considerable period into the future.
>
> Consequently the ACT has adopted a different approach to a toilet replacement strategy. There are real water savings to be made by replacing water inefficient toilets with dual flush toilets, but we do not have the urgency to replace units that Queanbeyan has. A program that extends over a longer period, and requires a financial commitment from the householder, is seen as a more appropriate approach to achieving household water savings within the ACT.

Basically the whole argument in that answer to my question was that we do not have to do it as fast because we do not have other cost pressures. I think that is a pretty disappointing response for the reasons I have put. Mrs Dunne had other concerns with the plan, which were expressed in a motion on the notice paper, but it was later withdrawn. I understood the motion was as follows:

That this Assembly:

(1) expresses its concern at the Government's failure to provide for the security of the A.C.T. water supply; and

(2) condemns the:

(a) A.C.T Government for its failure to show leadership through the development of a comprehensive water strategy for the A.C.T.;
(b) delay in commissioning ACTEW to investigate options; and
(c) Government for delaying the decision about future water storage until after the next election.

Mrs Dunne: I think you got that out of an alternative universe.

MS TUCKER: Mrs Dunne says that I got that out of an alternative universe. Okay, that is fine. The point I was going to make, which I do not think is out of an alternative universe, is that Mrs Dunne likes to talk about dams. I am wondering if that is part of the motivation for this motion today. I make the point that dams are very big engineering projects. There is a whole culture of dam development, of political expectation that is built up as soon as you begin work on even planning for a dam. We still do not have a thorough examination of the full environmental and social costs for our region, for the Murray-Darling catchment, or any attempt to take significantly more water out of the system, which of course is what a dam represents. *(Extension of time granted.)*

I would like to quote briefly from page 95 of the Victorian government's white paper, released earlier this week, "Securing our water future together". I think they put quite coherently why dams are a problem. The paper states:

New dams are not the solution
Upgrading dam and pipeline infrastructure is appropriate in some locations. However, new dams are not the solution. New dams do not create any new water. They simply take it from somewhere else—either from farmers who currently rely on it or from the environment.

North of the Divide, there is a cap on further allocations from the Murray-Darling river system. As a result, if new dams are built or existing dams expanded for towns, water would have to be purchased from somewhere else, most probably from farmers.

If a new dam were built for Melbourne, it would need to be filled with water that is currently used by rural and regional communities and the environment: it would also take water from our rivers that are already stressed. This would not only harm the habitat of our native plants, fish and animals, but also threaten our waterways, tourism and recreation industry.

The point I would like to make in conclusion—I did seek only a short extension, so I will respect that—is that I agree with Mrs Dunne's concerns about the quality of the government's response to the water situation. I refer members to the recommendations in the plan from ACTCOSS and CCSERAC, which have been well received initially as being a good start. They have recommended that there be a 20 per cent reduction in potable water use within 10 years. I think that should be supported and we should have

measures in place to achieve that. Other measures advocated by ACTCOSS and the con council included legislation requiring new developments and buildings to conform to high water conservation standards—it is very important to have water sensitive urban designs and I am still getting constant feedback from developers and people in the community that it is harder rather than easier to get support in planning processes to have innovative water sensitive design—greater investment in grey water and stormwater reuse and a program to ensure all public housing is retrofitted as a matter of priority—I have put up a number of ways we could do that, including innovative financing schemes—changes to the format of water bills to assist people in understanding their water usage; incentives and financial assistance to undertake water audits—and I have already talked about that at some length—rebate schemes on water efficient appliances; low interest loans for the purchase of expensive water efficient appliances—and I have just spoken about that—changes to current policies in relation to deemed use and flat rate usage applied to unmetered properties; and education to allow people to understand the need for environmental flows. I also challenge that concept, as I have already said.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (11.41): Everyone here certainly understands the fundamental importance of water to Canberra and in the operation of society. I think everybody understands why it is of paramount importance that we manage our vital water resources wisely and in a sustainable way if we are to sustain the economy and the environment and, indeed, our way of life. We certainly understand that. That is why, in 2002, the government embarked upon the ambitious task of developing "Think water, act water", of sustainable management of the territory's water resources, of a clear statement of policy and a comprehensive and responsible action plan to implement those policies. "Think water, act water" also contains information about each sub-catchment, including environmental flows, volumes of water currently licensed and the level of new allocations that we might expect to be needed over the coming decade. These are the requirements under the Water Resources Act 1998 of the water resources management plan.

The current water resources management plan came into effect in 1999. It was based on the data that was available at that time. We have now had the benefit of five years of additional data, providing us with more accurate and up-to-date information about flows and rivers and the demands on water resources, both now and into the future, on which to base our understanding and calculations of the management of our water resources.

By passing a disallowance in the new water resources management plan, the Assembly would be forcing us to keep in place a plan that is five years out of date. We would be required to keep it in place for goodness knows how much longer. Gone would be the opportunity to benefit from the more current and accurate data now available to us, which allows us to be more adaptive and accurate when making decisions about water resource management. Many months of intensive work, including considerable involvement of the community, extensive input from a range of experts, including from the Cooperative Research Centre for Freshwater Ecology, the Centre for Resource and Environmental Studies at the ANU and the CSIRO, the Institute for Sustainable Futures, ACTEW and ACT government agencies, has culminated in a robust and comprehensive strategy.

The approach to developing "Think water, act water" has paid off, with extremely positive feedback from sectors within the community expressing support for the policies and implementation actions identified in "Think water, act water", led by the Conservation Council of the South-East Region and Canberra. I am proud to think that the ACT is continuing to develop in its role as a national leader in sustainable water management through development of such a comprehensive and integrated strategy for the long-term guidance of water management in the ACT—a strategy that puts us in good stead in relation to capitalising on the national water initiative and implementation of the 1994 COAG water reforms. The strategy addresses a range of issues, including variables affecting the future of the ACT's water resources—population growth, climate change, bushfire impact, et cetera—water supply options, water use efficiency, water quality, water sensitive urban design, catchment management, riparian zone management and education of community partnerships.

"Think water, act water" is based on a responsible and balanced approach to both the short and longer term water resource issues facing the territory. By implementing a range of water efficiency measures now, water savings can start to be realised. This gives us adequate time to assess with more certainty the magnitude of impacts like population growth, bushfires and climate change, as well as the effectiveness of the water use efficiency program, and adequate time to determine if and when a new water supply is needed and the best option to meet the ACT's requirements.

Analysis by the Institute for Sustainable Futures, undertaken specifically for Canberra, compares various water efficiency options with water supply and reuse options. This analysis shows clearly that water use efficiency programs are the most cost-effective way to achieve the objectives of extending our water supply. A strategy to secure our water supply needs to focus first on obtaining the maximum benefit from the water efficiency program. Based on the analysis of the Institute for Sustainable Futures, water efficiency programs most suited to the Canberra situation and which balance good water savings outcomes with the cost to the community have been selected. The government will offer a range of incentives to households to encourage improvements in water efficiency in the house and garden, including providing a rebate for AAA showerheads, subsidising household, indoor and garden water tune-ups, subsidising the replacement of a single flush toilet with a AAA6 three-litre dual flush toilet and providing a revised rainwater tank rebate scheme.

Also supporting the water efficiency measures will be information and awareness programs that provide advice to householders and the business and government sectors, support for a national scheme for compulsory water efficiency labelling of appliances, a range of new regulations to support long-term water conservation in the home and garden without causing undue restriction, and new plumbing practices to ensure new buildings are constructed to minimise water use and to make reuse of waste water and rainwater more practical.

Initiatives are also needed in the commercial and industrial sectors and in government buildings, public housing and on public land. In consultation with business in the ACT, a detailed water efficiency program across the commercial, industrial and public sectors will be developed and initiated during 2004-05. In the ACT we currently use high quality drinking water for irrigation and other purposes. The reuse of water is another method

that will assist us to meet our water consumption reduction target while also reducing the pollutant impact on our waterways. Our target of increasing the use of reclaimed water to 20 per cent by 2013 will be a challenge and we recognise that further research is needed to determine how this can be achieved in a sustainable way. However, "Think water, act water" identifies a number of measures that we can pursue in the short term.

The government recognises the value of ensuring comprehensive and timely investigation into water supply augmentation in the event that water use efficiency does not deliver an adequate level of water saving in the required timeframes. A range of water supply options for the future is being considered. The planning process will take into account factors such as population growth, climate change and the legacy of the 2003 bushfires in the Cotter catchment. ACTEW has already begun this work. It has undertaken an initial assessment into possible infrastructure options and identified three major options for detailed evaluation. The government will work in partnership with ACTEW and the community to further investigate the full range of issues around those three options. At present we would envisage that a detailed cost benefit environmental and social analysis of each option will be completed early next year.

The ACT is Australia's largest inland population centre and our impact on downstream water quality needs to be carefully considered. In addition to setting the direction for future water resource management in the ACT, "Think water, act water" also considers the effect the ACT has on water management across the region and downstream of the ACT. We will review the environmental flow guidelines this year and we will also participate in the cap of water diversions as a commitment to our role in looking after the Murray-Darling.

Environmental and health water quality programs will continue to ensure that water leaving the ACT is as good as that entering and water resource monitoring programs will be renewed to facilitate a clear, coordinated program. Development of a cross border water supply strategy based on sustainable principles ensuring security of supply for the ACT is a priority. Work has begun on that integrated water supply strategy. The strategy will be consistent with and supportive of "Think water, act water". When we build our cities and towns, we significantly modify the national water cycle. "Think water, act water" addresses how we can better manage all the components of the water cycle—our waste water, stormwater and water supply—through best practice cost-effective water-sensitive urban design. The strategy will be reviewed every five years to ensure that it remains current. The strategy implementation plan will be reviewed every year to ensure its objectives are being met and progress on implementation will be reported annually in the ACT water report. The review of environmental flows later this year and the recommendations about water supply augmentation will need to be taken into account. The strategy is adaptive and will respond to these studies and to new information, including the impact of variables such as population, bushfire impacts and climate as they become better understood.

The ACT is showing national leadership through this integrated comprehensive approach to water resource management. The government is now acting with the best possible information currently available on which to base water resource management decisions and is also continuing to gain knowledge and data to ensure that we continue to adopt and respond in a well-considered and timely manner. "Think water, act water" clearly demonstrates that the government is acting responsibly through the delivery of an

extensive, balanced and holistic range of initiatives to address water security and water quality in the ACT now and into the future. I certainly commend "Think water, act water" to the Assembly as the new water resources management plan.

MRS DUNNE (11.50), in reply: Well, that was it. It was good for the Acting Minister for Planning, but there was no defence of why "Think water, act water" should be endorsed as the water resources management plan. This is the crux of the issue. Ms Dundas said that she was concerned that we might throw the baby out with the bathwater—

Mr Quinlan: We have had a look at this, Vicki. There is nothing in it.

MR SPEAKER: Order, Mr Quinlan!

MRS DUNNE: Yes, I know what it looks like, Ted.

Mr Quinlan: There is nothing in it.

MRS DUNNE: that there were some elements of "Think water, act water" which were good, and that perhaps we should not throw them away. By not endorsing "Think water, act water" as the water resources management strategy, it does not say that we cannot do any of the things that are in it. It still remains the policy of the government—a flawed policy, a pretty lukewarm policy, but it still remains the policy of the government.

The water resources management plan, which Mr Quinlan likes to wave around, is a statement of the basics, the things you aim to do. It does not need to be a glossy production. A good water resources management strategy is not made up of coloured pictures. I refer members to volume 1 of "Think water, act water", particularly to the photograph on page 10. As some wit around the place said when the plan was first released, there is one way that we can ensure we will green Canberra as a result of this water resources strategy, and that is by doctoring the photos. All the contrasts—the blues and greens—have been brought up. In "Think water, act water"—at least in volume 1—Canberra is a green city. Members might like to refer to those photographs. All the way through there is lush green grass everywhere. It is fantastic. It might be subliminal advertising. There is a photograph on page 19 of Lake Burley-Griffin. It does not look like that these days. This is not about glossy productions; it is about what is there. Photos do not make a water resources management plan. Mr Quinlan said, "Have you seen this?" Yes, I was about when it was introduced. I know what is in it. I have read it on a regular basis. It is five years old. More work needs to be done about environmental flows—and that is the problem.

Members of the government are asking us to endorse "Think water, act water" before they have done the work. They are saying that it is out of date, but they are substituting for it a document that is equally out of date. They have not done the work that they said they would do about environmental flows. Environmental flows, despite what Ms Tucker said, are a very important factor in what should be there. If we recognise that the information in this poor little black-and-white document, as opposed to the glossy document with the doctored photos, is wrong—and it is; we should be doing more work on it—that is equally the argument, the principal argument, for why we should not be endorsing this document. This is not a document that adequately describes our water

resources. By the government's own admission, and their admissions in this document itself, the vital piece of information that is missing is up-to-date environmental flow information—and it is not forthcoming. That is the principal problem.

I would like to touch on some of the issues. Mr Quinlan did his usual thing of saying, "What it really boils down to is that oppositions should not have ideas." This was the problem when Mr Quinlan was in opposition when we went to the last election. Those opposite proved that they did not have any ideas because they spoke about their 70-something investigations. We had reviews and investigations—

Mr Hargreaves: How did we win the election then?

MRS DUNNE: Yes, you did win the election.

Mr Hargreaves: What with—no ideas?

MRS DUNNE: With no ideas.

Mr Hargreaves: It says a lot about you lot then. You have got even less than no idea.

MRS DUNNE: You sort of had an idea; you had an aspiration to have an idea. When you had the resources of government, you thought about how you might develop that aspiration into a policy and into an idea. As a result of that, we got "Think water, act water", which is still not a policy. What are the major activities? They are not programs; they are pilot programs.

When we went to the last election those opposite did not have an idea; they did not have a policy—but they had a whole lot of reviews. The policy of members of this government going to the next election will be to have a whole lot of pilot programs. They are not prepared to commit. They are not prepared to say, "These are the views that we have." They are not prepared to propagate them. They are not out there saying, "This is what a party with commitment is prepared to do for the people of Canberra." This government is not prepared to make commitments for the people of Canberra.

I really like Mr Quinlan. He likes to go back to the white paper and say that it is a regional problem. Yes, it is a regional problem. That is why we have been saying for some time that we need to have a regional catchment management approach; we need to have a regional catchment management authority. But where in "Think water, act water" is there even the germ of an idea of a regional catchment management authority? We have the occasional meeting with Bob Carr and, according to the government response to the estimates committee, two ecologists. Today we also have Mr Quinlan meeting with Frank "we're on top of the problem" Sartor. Meetings with Frank Sartor, Bob Carr and two ecologists do not make an integrated catchment management strategy or an integrated catchment authority that will address the issues.

Instead of our being supine to the New South Wales government, which is in breach of its legislative requirements, we hear, "Oh, Frank, what do you reckon we can do for it?" "Well, Ted, we are on top of the problem! Water is not a problem in New South Wales and Warragamba Dam might be down to 40 per cent—but we are on top of the problem; we have got a long-term plan!" Have you heard it before from somewhere else? You

have heard it from Jon Stanhope as well. We are being supine to the New South Wales government. We are not out there saying, "You have a Commonwealth constitutional responsibility to meet certain requirements for the people of the ACT and their water supply and you are failing to do it." Instead we are having a mates' meeting between Frank "we're on top of the problem" Sartor and Ted "don't you worry about it" Quinlan. This is what is happening; we are having a complete failure.

To make "Think water, act water" a proper water resources management plan we need to adopt a demand management plan; to know what the people of the ACT and the region will need from our water supply; to adopt and develop an infrastructure and augmentation development plan to support the territory plan; to establish, as I have said, a catchment management authority; to adopt a whole-of-territory catchment rehabilitation plan because most of it was burnt down in 2003; and to support the development and facilitation of cross-border rehabilitation of the catchment. Members of the government are not doing any of that. They are relying on a collection of aspirations with pathetic targets that are so far out that no-one will ever hold them to them and, as a result, we have a flawed water resources management plan.

There is no support in this place for this plan, although there is general admission that the whole thing is flawed. It really boils down to the fact that most of the members on the crossbench are so transfixed by the idea that the Liberals would be championing environmental issues that it just does not compute. Gee, when Vicki Dunne and the Liberals start talking about environmental issues they go, "What is that about? No, we can't possibly agree with that." The Water and Sewerage Amendment Bill 2004 was adjourned yesterday. Because it was not the government's idea, they could not possibly support it. Again today they are not prepared to do anything—

MR SPEAKER: Order, members! Mrs Dunne has the floor.

MRS DUNNE: substantial about water resources issues in the ACT because it was not their idea.

MR SPEAKER: Order! This is a debate not a conversation. Mrs Dunne.

MRS DUNNE: That was borne out by Mr Quinlan in his opening statement. He said, "Here is the opposition again gainsaying and naysaying." He did not even listen. I said that there were things of merit in the plan but that, put together, they do not make a water resources management plan. I still contend that. There is nothing that Mr Quinlan or Mr Stanhope has said that changes the views of the opposition. I commend the motion to the Assembly.

Question put:

> That **Mrs Dunne's** motion be agreed to.

The Assembly voted—

Ayes 5	Noes 10	
Mrs Burke	Mr Berry	Ms MacDonald
Mr Cornwell	Mrs Cross	Mr Quinlan
Mrs Dunne	Ms Dundas	Mr Stanhope
Mr Smyth	Ms Gallagher	Ms Tucker
Mr Stefaniak	Mr Hargreaves	Mr Wood

Question so resolved in the negative.

Standing Committee on Legal Affairs
Report 8

MR STEFANIAK (12.04): I present Report 8 of the Standing Committee on Legal Affairs entitled "Victims of Crime Financial Assistance Amendment Bill 2003" together with an erratum to recommendation 2 and a copy of relevant extracts of the minutes of proceedings. I seek leave to move a motion authorising the report for publication.

Leave granted.

MR STEFANIAK: I move:

> That report 8 of the Standing Committee on Legal Affairs be authorised for publication.

Question resolved in the affirmative.

MR STEFANIAK: I move:

> That the report be noted.

I will try to speak for only 10 minutes. I do not think my voice will last much longer than that. There are some significant concerns with this report—namely, the evidence to back up a number of premises that the government has in its bill. I know this is a vexed issue. The Dare report followed a review of the previous government's Victims of Crime (Financial Assistance) Amendment Bill that came in in 1999. There are some real concerns with things such as the definition of "extremely serious injury" and issues around whether there should be special categories of persons who get money for pain and suffering. Currently, victims of sexual assault and emergency services workers—namely, ambulance officers, police men and women and members of the fire brigade—get that assistance.

The government accepted a number of recommendations in the Dare report and rejected others because it had a few concerns. I will deal, firstly, with pain and suffering. Members will see that there are a number of submissions in the report. For example, the Women's Legal Centre et al emphasised that "whilst no financial sum adequately compensates a victim of crime for the emotional and psychological impact of a crime, it does give the survivor a sense that the community is aware of how they have been affected and makes a gesture of support in response". Conversely, the Department of Justice and Community Safety confirmed their written submission to us. They stated,

"There is no conclusive research to indicate that victims who receive lump sum payments, such as the awards for pain and suffering available to police officers and victims of sexual offences, had improved outcomes." The Institute of Criminology examined sexual violence in Australia and noted, "There appears to be no empirical research undertaken into the relevant benefits of compensation, as opposed to counselling for victims of crime." The Victims of Crime Coordinator confirmed that lack of research. She stated that she had not been able to locate any research that shows whether the presence or absence of a financial lump sum has a positive, negative or neutral effect on that person's recovery.

The committee was concerned that government officials pursued a line of argument that was not supported by evidence; in fact, there does not appear to be evidence either way. The evidence and research are inconclusive and there appears to be no research in relation to the victims of crime and the outcome of any compensation strategy. It is of concern that officials from JACS make those claims. That is one area where there is simply not a lot of research being done. That was mirrored in a few other areas before the Standing Committee on Legal affairs. It was a fairly lengthy committee process. We spoke to a number of people at a number of hearings. It is fair to say that we became quite concerned about the general lack of empirical evidence to back up a lot of comments.

I can see what the government is getting at with this particular piece of legislation, but we do think that more work needs to be done. I note that New South Wales has commenced a review, which should be available very soon. Victoria has made changes to its legislation. It has gone back to some form of pain and suffering awards in 2000 from what it had in 1996. A lot more work needs to be done in this area. The committee made a number of recommendations. They are:

> (1) That the Government undertake a comprehensive review of the *Victims of Crime Act* 1994, the *Victims of Crime (Financial Assistance) Act* 1983 and Regulations.
>
> (2) That the review of the legislation includes but not be limited to:
>
> a) The structure of the Act and Regulations, so that the appropriate definitions, statements of principle … are included in the Act, while the administrative detail is contained in the regulations;
> b) The incorporation of the *Victims of Crime (Financial Assistance) Act 1983* and the *Victims of Crime Act* 1994;
> c) The definition of 'criminal injury' under the current *Victims of Crime (Financial Assistance) Act* 1983;
> d) The definition of 'extremely serious injury' under the current *Victims of Crime (Financial Assistance) Act* 1983;

I understand some six people have received benefits for extremely serious injury. In the sexual assault area—one of the exemption areas at present that exists under the act—eight or nine payments have been made to persons who have received more than $30,000. So there are some issues there for the committee. The committee further recommended:

> e) The status of children who are claimants under the current *Victims of Crime (Financial Assistance) Act* 1983 and the necessity for the re-evaluation and/or appointment by the court of the child's next friend under the legislation;
> f) The time limit for applications under the *Victims of Crime Act* 1994;

currently I think it is 12 months—

> g) The establishment of a two- tiered financial compensation scheme:
>
> > 1. one scheme administered by the Justice and Community Services Department [i.e. an administrative scheme] for small payments under $1000;

I think that would be eminently fair in terms of the out-of-pocket expenses a victim might need; currently I think it is about $100—

> > 2. the scheme as envisaged under the current Financial Assistance Act where the Magistrates Court determines the application, but where the threshold amount claimable under this scheme is greater than $1000.

The committee also made a recommendation on the issue of police officers. It was noted that federal awards—police officers are under workers compensation—included money for injuries received on the job and in the role of constable. We understand that that is no longer the case. The committee felt that there was a real need for police officers to be compensated in some way and thought that that might well be best done under federal workers compensation. The committee also had concerns with the availability of legal advice to claimants and potential claimants and wanted the matter investigated. Legal assistance goes up from $650 to $800, but that amount is still very low, and comes out of the general moneys available to a victim as well. There are a number of issues there. The committee also felt the Victims Services Scheme needs to be more visible to users and potential users—for example, by listing in the health and help section of the phone book and a more visible Victims Support Scheme web site.

We note in the current act that for the last financial year 2002-03 about $675,000 was dished out to victims of sexual assault for pain and suffering and $100,000 to the police—about three quarters of a million dollars. The government indicated that if definitions such as "extremely serious injury" were broadened there is a capacity for the Victims Support Scheme to really blow out. I know that one of the problems with the pre-1999 scheme was that it had grown to about $6 million a year and was forecast to grow within a few years to $14 million—hence the new thrust of the 1999 act and the thrust of a lot of what the government's bill has included here. This matter did concern all of us in the community. With some additional research, a number of problems may well be sorted out. It is very important that we end up with good workable legislation that does not cost the government a heap of money and gives due recognition to compensating victims.

The government's bill takes away the current provision whereby a victim has to report the crime to the police. My colleagues thought that this could be done in another way. I think the provision in the 1999 act should be included in any new act. If this act were to proceed that provision should be put back into this act because it is a very important checking mechanism, an important accountability measure. The majority of victims are

quite prepared to accept the need to report matters to the police. The police are usually very user friendly, especially with issues such as sexual assault and the more difficult issues.

It is difficult to categorise certain offences and say that some are more worrying than others, that some deserve to be treated differently. The committee heard some strong evidence and received some strong submissions as to why sexual assault should be treated differently. VOCAL stated that it is difficult to categorise offences and say that some are more serious than others. It depends on the matter and on the individual victim. Quite clearly, a nasty armed robbery might have a horribly traumatic effect on a bank teller. It is a very difficult issue. Similarly, there were some strong views from the Australian Federal Police Association and I certainly have considerable sympathy for them. The late Kevin Dobson SM was often wont to say that police should not be expected to be blue punching bags; they have an entitlement to go about their duties without suffering injuries on a regular basis. When the old workers compensation legislation in the 80s went out, whatever leeway they might have had was lost and they did not have any means of getting any financial compensation, except through this act. There is some strength in that argument too. Interestingly, only two ambulance officers have had cause to access this act, having been assaulted by people who had taken drug overdoses. No firemen have had cause to access it, which is quite pleasing. I have sympathy with the government in its attempts to place everyone on a level playing field, but we need more evidence. The government needs to do more work before we proceed further.

I have made the comment that a number of witnesses felt that the scheme was a way for society to say sorry that the victim was victimised. I do not think society should be necessarily blamed for that. It is not the fault of society; it is usually the fault of the individual criminal, who goes out and maims or does some horrible nasty act to a particular victim. It is important—this came through in some of the evidence too—that rather than society being blamed it has some duty, some responsibility, to assist victims overcome the injuries they received. I certainly prefer the latter view rather than just blaming society. I think it misses the point. Society and parliaments such as ours do have to pick up the pieces and that is why we need a good scheme. I commend the committee's report to the government.

MS TUCKER (12.18): I will make a couple of points that I think Mr Stefaniak did not cover. He has obviously made some personal observations that are not particularly reflections of the Standing Committee on Legal Affairs as a whole. I stress that questions were raised through this process about the notion that we need to put all victims on an equal footing. That, of course, raises questions around trauma of particular crimes such as a sexual assault and domestic violence. Mr Stefaniak did talk about this as well. The committee stated:

> In its report *Equality before the Law: Women's Equality*, the Australian Law Reform Commission recommended an alternative approach:
>
> To achieve equality for women the law must be capable of responding to the situation and experiences of women. This requires the starting point to be the effects of a law, policy or program and its social context. For that legal analysis must move away from principles that require a superficial comparison with men to a more

> substantive understanding of equality as a response to economic, social and political disadvantage of women.

Linked to this is the question about definitions:

> This definition has two essential elements—permanence and extremely serious. The Government submission explained that the provision is intended to provide assistance to those victims in the community most in need.

A contrary view to that is put well by the Victims of Crime Coordinator:

> In essence, a person must be [either] extremely, seriously and permanently injured without any hope of treatment, *or* recovered.

3.53 The submission went on to say:

> Setting the threshold so high may have a negative effect on all counts in that:
> - It emphasises the disabling permanency of post traumatic stress in victims of sexual offences above their extraordinary capacity (in the main) to find a degree of functionality and spiritual and emotional survival.
> - Withholds the expression of communal compassion from victims of sexual offences whether the person is a young child subjected to multiple incidents of abuse from a family member or an adult victim of a gang rape – unless the individual can prove a substantial and permanent reduction in their quality of life that cannot be alleviated by suitable medical or other treatment.
> - Denies the individuality of circumstance and impact with the prospect of an award of a flat solatium of $30 000.

3.54 This view was supported by the joint submission from Women's Legal Centre et al which suggested that the proposed amendments would create a system whereby victims of crime are implicitly encouraged to remain traumatised and harmed by the criminal victimisation in order to qualify for special assistance awards.

There is a comment about Freckelton. It states:

3.58 Freckelton also noted the problems with the restrictive nature of the definition of 'extremely serious injury'. In commenting on the definition in the *Victims of Crime (Financial Assistance) Act 1983* he suggests that the definition is so restrictive so as to indemnify the Territory against compensation payments. He states:

> The category of persons for whom, a psychiatrist would be prepared ethically to say that their post traumatic stress disorder, for instance, is extremely serious and will remain so permanently is so small as to guarantee the Australian Capital Territory Government almost complete indemnity against compensation payments for psychiatric injury applications. It would be a rare psychiatrist suffering from an existential source of pessimism and self-defeatedness who would abandon hope in respect of the efficacy of treatment for disorders such as depression, anxiety, adjustment and post-traumatic stress. Even in relation to physical injuries, it is only a small cross-section of victim's injuries that will fall into the category of permanently extremely serious.

The committee has raised serious questions—I will not go on because I think people will read the report—about the definitions as well as the notion of putting everyone on an equal footing. As Mr Stefaniak said, it was quite concerning that quite a serious misrepresentation of evidence exists on these issues. We clarified in the report that the misrepresentation was coming from government offices. It became obvious to us all in

the committee that there is a need to do a lot more work to understand what we are doing in this field—the capacity for healing of individuals who are victims and the impact on this capacity as to how we respond as a society.

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

Standing Committee on Legal Affairs
Statement by member

MR STEFANIAK (12.23): I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: I wish to note a few things on the Gungahlin Drive Extension Authorisation Amendment Bill 2004. Firstly, the Standing Committee on Legal Affairs has not had a chance to formally meet. I have been provided with a form of words by Peter Bayne, the legal adviser to the Standing Committee on Legal Affairs performing the duties of a scrutiny of bills and subordinate legislation committee. He is happy for me just to read out the form of words he has given us. He has had a look at this matter.

Peter Bayne advises that the declaration by a minister under the new GDE bill might have the effect of authorising an aspect of the territory plan in relation to what is a reserved area, but as far as he can see the territory plan is a piece of subordinate law which, in itself, is not an act. The plan is made under an act. What this means is that a subordinate instrument under the GDE bill would be changing another subordinate law and that has not usually been seen as raising any problems under the committee's terms of reference. It is not a Henry VIII clause, as is generally understood. Peter Bayne also mentioned that he had spent 20 minutes on the phone with the Planning and Land Authority, but could not get a response, and that he carried out his research over the net. I seek leave to table the document.

Leave granted.

MS TUCKER (12.25): I seek leave to make a short statement.

Leave granted.

MS TUCKER: I want to make just a brief comment on the process and the capacity of the Scrutiny of Bills Committee to look at this matter. Mr Stefaniak has read out comments from Peter Bayne, the legal adviser. We have not had a committee meeting or an opportunity to engage in discussion with the legal adviser about this comment. It is certainly not a report of the Scrutiny of Bills Committee. I think it is particularly ironic that, on the first day of the Human Rights Act being enacted, we now see this piece of legislation being pushed through without any capacity for the Scrutiny of Bills Committee to make a comment. I am looking forward to seeing the Attorney-General's statement when we debate this matter later today.

Sitting suspended from 12.26 to 2.30 pm.

Questions without notice

Canberra Hospital—incentive arrangements

MR SMYTH: My question is directed to the Acting Minister for Health. Earlier this month, a well-known Canberra specialist sent Mr Corbell a letter concerning incentive payments that the Canberra Hospital was making. The letter concerned allegations that the hospital is co-paying contracted private doctors up to the AMA scheduled fee if the doctors take private patients at Canberra's major public hospital. The doctor sought confirmation as to whether these rumours from sources were correct.

The opposition has also heard similar information from credible sources. Can the minister confirm whether the Canberra Hospital is offering incentives to specialists to book private patients at the Canberra Hospital? If so, how many private patients have been booked at the Canberra Hospital under these incentives?

MR WOOD: I have not seen that letter and I have not had a briefing on that issue. I undertake to find out the situation and get back to the minister with that information and any information in relation to his supplementary.

MR SMYTH: Mr Speaker, I have a supplementary question. The minister might also take on notice the question as to why the Canberra Hospital is paying—if it is found to be true—incentives to doctors to bring private patients to Canberra Hospital.

MR WOOD: Okay.

Capital works

MR STEFANIAK: Mr Speaker, My question is to the Treasurer. Earlier this week, you tabled the report on capital works activity to the end of the March quarter this year. This report confirms that the government has failed to achieve its capital works spending target for the first nine months of this year by an astonishing $45 million, or 26 per cent of the revised capital works budget. This is more evidence that Labor cannot manage projects, or anything else.

There is one particularly disturbing component of this report. It concerns infrastructure augmentation in the Department of Urban Services. At the start of 2003-2004, there was $391,000 of work in progress in infrastructure projects. At the end of March, only nine months later, this budget was reduced by nearly $1.2 million—that is, this part of the budget is now negative, to the tune of $760,000. Can you explain this variation? How is it possible to have a negative value for work in progress, and what does this mean for the projects that were intended to be funded in this capital works budget?

MR QUINLAN: In the short term, Mr Stefaniak, no, I cannot explain it. I will have a look to see whether there was an arithmetic error in previous reports.

MR STEFANIAK: Mr Speaker, I have a supplementary question. Treasurer, when you are looking at that, will you look to answer this question too: when will the projects that you appear to have slashed so savagely be resurrected to the capital works budget?

MR QUINLAN: That is rather contingent on what I find out in the first place. You can either cop a "soon", or I will look it up and get back to you.

Vardon report

MRS BURKE: Mr Speaker, my question is to the Chief Minister, Mr Stanhope. Chief Minister, yesterday, after question time, you explained that the Minister for Health also had an advance copy of the Vardon report, yet you said:

> I have been advised today that it probably was also provided to the office of the Minister for Health, but I repeat the comments I made in relation to my confidence in my ministerial colleagues and their officers. I guarantee absolutely that the leak of the Vardon report did not come from the executive.

Chief Minister, are you accusing the senior public servants who had access to the report, or Commissioner Vardon, of leaking the report, considering that you have given an absolute guarantee that it was not leaked by the executive?

MR STANHOPE: My office received a call from a journalist, before the official release of the Vardon report, in which the journalist said, "I have the report." It may be that she did not have the report but that is what she said. She certainly had information from the report. However, she is a journalist I respect and I do not believe that she would say to my office that she had the report when she did not have it.

The fact that a journalist rang my office and claimed to have a report on the day that it was delivered to me is a matter of grave concern to me. As I say, I have no reason to believe that it was not true and she certainly quoted information or material from the report in the paper the next day, although it may be that she was simply given information and not the report. If the claim by the journalist is true—and I proceeded on the assumption that she was telling the truth when she said that she had the report—that is completely unacceptable to me.

As I have indicated, I then directed the chief executive of the Chief Minister's Department to take certain steps in relation to that. I have given the details of the steps that he took in the Assembly in response to questions. I will guarantee that the report was not released by staff in any ministerial office—that the report did not come from a minister's office—which leaves us with just one assumption to make: that it was released by someone else.

If it was released by someone else, as I say, that is a matter of grave concern to me. I have indicated in this place that the advice I received was that there was nothing to be gained by pursuing the inquiries that the chief executive instigated any further than they were pursued. I accept that position but I have indicated to the chief executive that, if there is another instance in the ACT public service of that degree of disloyalty to this government and to professional responsibilities and duties, another instance of the leaking of a report of this order, then I expect that the police will be involved. In fact, I will involve them myself.

MRS BURKE: Thank you, Chief Minister. Will you tell the Assembly who had access to the Vardon report before its publication?

MR STANHOPE: No.

Mawson shops

MRS CROSS: Mr Speaker, my question is to the acting planning minister, Mr Quinlan. Minister, when people with businesses in Mawson Place, Southlands, went to work on the morning of Friday the 25th last week, they were surprised to find that an area of the footpath about 7 metres by 15 metres had been fenced off by a low barrier which had been concreted in place overnight in front of a newly opened bakery/coffee shop, Bruno's Truffles, at unit 2, block 2, section 47, Mawson Place. Also, a metal park bench and a metal bin, both of which had been set in the footpath as part of the recent refurbishment of Southlands, had been removed to make way for the fenced area. It seems that none of the neighbouring businesses had foreknowledge of this development.

Given that the original development application for this development was approved in October 2003, despite exhaustive objections from the owners corporation and, given that in December 2003 ACTPLA approved an amendment to the original development application without the knowledge of the owners corporation, the manner in which this latest action has been taken seems to indicate some sort of serial arbitrariness and disregard for the interests of others.

Minister, could you explain to or advise the Assembly whether ACTPLA had knowledge of this most recent action by the owner of the newly opened bakery/coffee shop and, if so, what was the scope of consultation undertaken with the owners corporation and/or other businesses affected?

MR QUINLAN: Thank you, Mrs Cross, for the question. It is an obvious candidate for questions on notice rather than questions without notice, so I will take it on notice.

MRS CROSS: Mr Speaker, I ask a supplementary question. Minister, given the present anger, even fury, among the neighbouring businesses in Mawson Place as a result of this sudden development, would you be able to get back to me with an answer next week?

MR QUINLAN: I will get back to you within the prescribed time limits and as soon as is practicable. But it may take time—I would have to find out what the damned problem is. I love the colourful words "anger" and "fury" and that sort of stuff but I imagine there is some concern in it.

Public interest disclosure

MS TUCKER: Mr Speaker, my question is to Mr Stanhope. Chief Minister, with regard to the review of the Public Interest Disclosure Act, which is now open for written and oral submissions—I am assuming you are aware of the process—will there be privilege, or some kind of protection, given to people who may want to make a submission in response to this review document? There is concern among some members of the

community that, by putting in a submission, they could make again themselves vulnerable.

MR STANHOPE: Thank you, Ms Tucker. I have to say that that had not come into my thinking. It is not a position that I am aware has been put to the department, in relation to the discussion paper: that there would be people wishing, or proposing, to make a submission who were concerned that a submission they might make to the discussion paper would, of itself, raise issues in relation to themselves. I understand what you are suggesting—that there are people who would wish to make disclosures. It makes me wonder, in the circumstance that I imagine you are alluding to, if the issue with the constituents you are referring to is that they are in effect proposing a public interest disclosure as part of their submission to the discussion paper.

That aside, there may be people who would like to make a submission to a public process—essentially a process inviting submissions or comment on a discussion paper or a way forward in relation to a piece of legislation. I think it would be unique for those submissions to be regarded as confidential or requiring a status that did not require their disclosure. However, in what some might regard as a circumstance that might expose them to retribution of some sort, maybe there are mechanisms we could utilise to ensure that there is potential for such evidence or representations to be treated as in camera, for instance.

I probably need to take some advice on it but I would certainly not like to think that there is anybody who would, in a genuine sense, like to make a submission to a public inquiry who feels disinclined to do so on the basis that they fear retribution, so I would be more than happy to look at what mechanism we could put in place to ensure that there is nobody who feels so potentially open to threat that they would not make a submission in the first place.

I imagine we can achieve a mechanism of some sort but I will take advice on the detail of it. I would have to take into account things like the application and operation of the Freedom of Information Act and how we would ensure that that did not apply to submissions made to a public governmental process.

So there are other competing issues such as that in relation to the operations of government. That submissions can be made to a public process and for those submissions to be treated as not acceptable to the Freedom of Information Act, for instance, perhaps raises some considerations for me, but I am open to the possibility, Ms Tucker, and I am more than happy to explore it.

MS TUCKER: Mr Speaker, I have a supplementary question. Chief Minister, could you also tell the Assembly what you envisage the process will be once the submissions are in? Do you intend to make the revised document public? Do you have a timeframe for potential action?

MR STANHOPE: I have not given detailed consideration to the process post the completion of the public phase of the inquiry into the operation of the public interest disclosure legislation. I am very aware of your interest in the legislation. Indeed, I think it is fair for me to acknowledge that it was through your probing questions in question time that this inquiry is a matter of fact.

This is a very important piece of legislation. The initial advice I have received in relation to it, from the point of view of my officials, is that the legislation essentially works quite well. I am quite happy with the process; I am happy to see whether we can refine it; and I am happy for those who seek to utilise public interest disclosure legislation to have an opportunity to participate in the process. I am happy to be very open about how we take it from here. The legislation is in place; it is operating and I am happy, in conjunction with that, to run a process. I don't think there is any urgency around it. I would be more than happy, for instance, to release an exposure draft and invite further comments on that, once we get to that stage.

Bushfires—warnings

MR PRATT: Mr Speaker, my question without notice is to the minister for emergency services and Minister for Urban Services, Mr Wood. On Tuesday, Mr Wood, in response to a question from me you said:

> If you go into what is now the record you will see that at a certain point it just exploded across the pine forests and into the suburbs. It is something that was entirely not anticipated.

Mr Bartlett, the head of ACT Forests, has given evidence to the coroner's inquest that he warned the head of the Department of Urban Services that, if the McIntyre's hut fire got into the pine forests with a north-westerly wind, it would reach the suburbs of Canberra. Mr Thompson has confirmed in his evidence that Mr Bartlett advised him that if the fires got into the pine forests the consequences would be very serious. The meeting between Mr Thompson and Mr Bartlett occurred on 10 January, eight days before the inferno hit Canberra.

Minister, when did Mr Thompson and Mr Bartlett warn you of the very serious consequences of the McIntyre's hut fire getting into the pine forests, given that they had come to that conclusion eight days before the McIntyre's hut fire exploded into Duffy?

MR WOOD: Mr Pratt and others continue to ask these questions that are properly the province of the coroner who is exploring all these issues in the most minute of detail—and fairly so.

Mr Pratt made another statement, and I want to go back and repeat what I said the other day: yes, certainly the fire might reach the pine forests; it had the potential to do that and had the potential to reach Canberra. I repeat: nowhere did I ever pick up any notion that it would reach into the city and certainly into the city in the way that it did. I am repeating myself; you're repeating yourself.

I was part of the general discussions. I was there every morning. You know that. The extent of the knowledge of those discussions, which was comprehensive, is what I and others paid attention to.

MR PRATT: Mr Wood, you say that they didn't warn you. Why didn't they warn you, given that they understood the consequences of the McIntyre's hut fire getting into the pine forests eight days before the fires hit? Why not?

MR WOOD: In your question today and other days you're trying to put words into people's mouths. Mr Speaker, I was well aware, from my attendance at those briefings, of the issues around that fire.

Naas Valley dam proposal

MS MacDONALD: My question is to the Chief Minister. On Tuesday, during debate on a matter of public importance, the Leader of the Opposition reiterated the Liberals' commitment to the construction of a dam in the Naas Valley. Chief Minister, can you tell the Assembly what form of consideration would properly inform such a significant policy decision?

Mrs Dunne: I take a point of order, Mr Speaker.

Mr Quinlan: You don't want to hear this one.

Mrs Dunne: I can give the answer now. Mr Speaker, I ask you to rule on whether the question is in order, because it is almost exactly the same as the question that Mr Hargreaves asked on, I think, Tuesday.

MR SPEAKER: I cannot compare it with Mr Hargreaves's question. I think that Ms MacDonald's question is in order.

Mrs Dunne: On a separate point of order, Mr Speaker: I think that Ms MacDonald said—I am open to correction—that we talked about the dam this morning. In fact, the Liberal opposition did not mention the dam this morning.

MR SPEAKER: That is not a point of order.

MR STANHOPE: Yes, there was a discussion about the Liberal Party's position or the opposition's position in relation to the construction of a dam in the Naas Valley. We know that this is a one-site-fits-all response to issues in relation to our long-term water resource needs. Indeed, the Leader of the Opposition did wax lyrical in a debate the other day about the Liberal Party's approach to this issue. It was a very interesting speech—a speech that wandered all over the place, a speech full of flim-flam. He talked about Kentucky bluegrass, native grass, what we need to do in our gardens and what Canberra was like 30 years ago. As we know, the Liberal Party has committed essentially to a plan to build in the Naas Valley on the basis of, I think, engineering work that was done 30 years ago.

Mr Smyth: Not essentially. We do commit to a plan.

MR STANHOPE: Mr Smyth, the Leader of the Opposition, interjects that they have not committed essentially to it; they have done it. Mrs Dunne backs him up on that. In the debate in relation to the matter of public importance, Mr Smyth said that they have committed to it on the basis that it probably would be the best result.

That is interesting. It is interesting that we are actually seeing the rigour that the Liberal Party brings to major infrastructure development, the rigour that the Liberal Party brings

to an issue around how to secure the ACT's water supply needs into the future. He did it in precisely those terms—that construction of a dam in the Naas Valley is probably the best cost-benefit option for the community. Probably the best! I think that sums it up. It is probably the best cost-benefit option for the people of the ACT—probably. Here we have policy that is actually the centre point of the Liberal Party's campaign for the coming election.

Mrs Dunne: I rise on a point of order, Mr Speaker. Could you enlighten the Assembly as to which of Mr Stanhope's responsibilities he is speaking on at the moment? I did not think that he was the minister responsible for the Liberal Party's platform.

MR SPEAKER: That is not a point of order, Mrs Dunne. It is time wasting, perhaps.

MR STANHOPE: There we have it: the Liberal Party, in a pre-election advertising campaign, has indicated that the centre point of its pitch for government at the next election is the construction of a $150 million dam in the Naas Valley. You do not need any inquiries. You do not need to look at the options. You need to get out there and build the Naas dam on the basis that it will probably represent the best cost-benefit solution for the people of the ACT.

I assume that the Liberals have thought about it. It is probably the best cost-benefit option, of course, if one assumes that it will probably rain appropriately, if one assumes that there probably would be no environmental impediments to the construction of a dam in the Naas Valley, and if one assumes that there probably would be no issues around climate change, rainfall patterns and the fact that the dam probably would hold water and there is no need to do hydrological studies to determine whether the water would soak through the ground or not.

The land probably will hold the water and the engineering issues involved in the construction of the dam probably will be able to be overcome and there probably is a site for the dam that the engineers think is capable of actually holding water. As I say, it will probably rain and water probably will flow into the dam and there probably will be water for the future of the ACT and its needs.

Of course, there needs to be; because the other startling aspect of the dam, if we did construct it, is that Mr Smyth tells us that we could meet the needs of Goulburn, Cooma and Yass and the thing that we could do, essentially, is we could actually irrigate all those grapes we always talk about. Here we have the only politician in Australia who is talking about constructing a dam so that we can do more irrigating. Mr Smyth wants to build the Naas dam so that we can irrigate all those grapes we keep talking about.

One of the fundamentally interesting things about this proposal is the connection to the past, the throwback, like the decision that Mr Smyth took in government when he thought that you could probably rebuild Bruce Stadium for $12.7 million, that you could probably rebuild it without breaking the law, that it probably would not cost you $84 million and that it probably would not involve 14 separate reports by the Auditor-General disclosing the absolute incompetence of the decision-making process involved in deciding that you could probably do it, you could probably build it there, it would probably hold water, and you could probably resolve all the environmental issues.

MR SPEAKER: Order! The minister's time has expired.

Gungahlin Drive extension

MRS DUNNE: My question is directed to the Minister for Urban Services. This morning Radio 2CC quoted from the Save the Ridge website a statement by Labor's newest recruit, the candidate for Kingsford-Smith, Peter Garrett. In a statement dated May 2003 on the Save the Ridge website, he stated:

> I call on the ACT Government to oppose a road through O'Connor Ridge. I call on Federal Labor to also oppose a road through O'Connor Ridge...

The statement continued:

> As I said four years ago, yours is an honourable cause and you are not alone.

I wonder whether you could set that to music? As far as I am aware, this is not one of the issues on which Mr Garrett has felt a need to change his position since being pre-selected to the ALP safe seat of Kingsford-Smith.

When you have a high profile member of the Labor Party—indeed, a protégé of the federal leader—making comments supporting Save the Ridge; when you have ACT Labor candidates doorknocking wearing Save the Ridge paraphernalia; when the road is two years behind schedule; and when Save the Ridge has taken every trick in the legal battle so far, how can the people of Gungahlin have confidence in Labor's commitment to Gungahlin Drive extension?

MR WOOD: I did not make any response to Mr Garrett then; I do not know why I need to now.

MRS DUNNE: Mr Speaker, I have a supplementary question. Are you dragging the chain on this whole venture in the forlorn hope that Mark Latham will get up federally and you will be able to revert to the western route?

MR WOOD: Last week Mrs Dunne raised a point of order that the supplementary question did not match the first question. That is very much the case here. But I am happy to answer it.

Mrs Dunne: No. It is entirely in order.

MR WOOD: You should just put that as one question and not put yourself out of order. But I am happy to answer it in the sense that the work and the planning are now so extensive that there is no going back.

Lake shore development

MS DUNDAS: My question is to the Acting Minister for Planning, Mr Quinlan. Minister, I draw your attention to increasing community concern about proposals to further develop the shores of Lake Ginninderra and Lake Burley Griffin. What action has

your government taken to ensure that our lake shores remain free from development and retain public access and amenity?

MR QUINLAN: My own opinion—and that is what you are getting now—is that those lake shores should not be considered totally sacrosanct or be barred from development. There is a raft of amenity that can flow from those lakes. You know, they are man-made lakes; we are not preserving something out of our environmental heritage. In fact, a lot of those areas look quite stark and barren, particularly at this time of the year. If you took a vox pop around Canberra about what people would like to see on the lake, I think you would find they would like to see more activity and more life.

I think the lakes should be protected and kept clean. If there are areas that abut wetlands or other parts of our environmental heritage or are part of the environmental diversity of the place and add to Canberra, we should preserve them. But I do not think we should have this prohibitive mindset. There is room for making those bodies of water available and open for the people of Canberra to enjoy.

Precious few Canberrans seem to access those lakes. There is certainly sailing and rowing, and we have Weston Park and a couple of other places and, in the central basin of Lake Burley Griffin, Commonwealth Place, where there is one restaurant and one portrait gallery. But there is room for us to have a variety of environments around those lakes—while still keeping them clean, making them a genuine part of a vibrant city.

MS DUNDAS: Mr Speaker, I have a supplementary question. Minister, I think you need to spend more time around Lake Ginninderra if you think the lake is barren. I draw your attention to the front page of the Belconnen *Chronicle* of 10 October 2000, where the now Chief Minister, Jon Stanhope, was quoted as saying that the Ginninderra lake shore plan was "nothing more than a land sale plan for the shores of Lake Ginninderra". He went on to mention that the land was part of the identity of Belconnen.

Now that the Labor Party is in government, and has been for 2½ years, will the minister commit to protecting open space at the west of Lake Ginninderra and redoing the Belconnen lake shore plan accordingly?

MR QUINLAN: I am not going to make any commitments until I see what the proposals are. You can make a comment about a land grab, and there is a lot of room to move between that and saying from that that nothing will be built anywhere near any lake in Canberra at any time. There is a little bit of scope there. We intend to investigate propositions that might arise within that scope.

Koalas

MR CORNWELL: My question is to the Minister for Environment, Mr Stanhope. Minister, I refer to your recently announced proposal to consider the importation of koalas—those nice, little furry animals that live in trees and that apparently have weak bladders—from other states and territories, including Kangaroo Island, to restock the Tidbinbilla nature reserve.

In 1966 I put a similar proposal to the minister for the environment, who looked into the issue and found it would not be practicable, principally because at least the King Island

koalas would not adapt well to the species of eucalypts present at Tidbinbilla. Apparently koalas are very sensitive to the types of oils in various eucalypts and those on Kangaroo Island have different types of oils to the ones here.

What studies have you undertaken into the feasibility of importing koalas from Kangaroo Island and, for that matter, elsewhere? Are these concerns about the eucalyptus oils justified?

MR STANHOPE: Mr Speaker, as members are aware, during the January 2003 bushfires 21 of the 22 koalas who were then resident in the Tidbinbilla Valley were killed. One koala of the 22 survived and was named Lucky.

Since the fire, significant work has been done on reviewing the future of the Tidbinbilla—

Mrs Dunne: On a point of order: could I ask you to invoke standing order 42 and ask the Chief Minister to address the chair.

MR SPEAKER: Address your comment through the chair, Chief Minister.

MR STANHOPE: I am, Mr Chair; I always do.

Mr Speaker, one of the 22 koalas survived. Since then, we've been undertaking significant studies; we've developed a master plan and are in the process of continuing to do that. One of the decisions that is yet to be taken, amongst a range of decisions that have been taken, in relation to Tidbinbilla is a determination to restore some of those facilities that did make it iconic and particularly popular, not just for the people of the ACT but, indeed, for many people that visit the ACT.

We are proposing to restore a koala enclosure at Tidbinbilla, just as we've proposed to restore a brush-tailed wallaby breeding facility and program at Tidbinbilla, along, of course, with the corroboree frog breeding program that has already been established at Tidbinbilla and which has to date been particularly successful—and I touch wood and hope for its continuation.

At this stage decisions around the sourcing of the koalas have not been finalised. A decision has been taken that we will rebuild the enclosure. Work has commenced on that. Discussions have commenced, I am advised, with officers of New South Wales parks and officials from South Australia around the availability of koalas from those two sources.

Of course there are issues in relation to the sourcing of koalas, I think from any destination—a whole range of issues in relation to quarantine, disease control, diet and even genetics. It is quite possible, of course, that there are genetic differences between koalas from different places. Those issues need to be taken into account. All of those issues will, of course, be taken into account.

Let me assure Mr Cornwell—and I admire your sensitivity to the needs of koalas—that we will not import into Tidbinbilla koalas that we don't have the capacity to feed or to keep alive. We won't do that. Let me assure you of that. If, at the end of the day, South

Australian koalas cannot survive at Tidbinbilla we will not bring South Australian koalas here.

But there is an opportunity there in relation to an island with a significant koala population that has grown above and beyond the size of the island to sustain it. There were proposals a year or so ago by South Australian parks authorities to begin a culling program in relation to koalas on Kangaroo Island. If there is a capacity in relation to Kangaroo Island koalas, which have outgrown their home, for us to provide them with an alternative home, then I will do everything I can to ensure that we can extend that possibility to those koalas. That is the process we're following.

Tourism

MR HARGREAVES: Mr Speaker, my question, through you, is to the Minister for Economic Development, Business and Tourism. Can you please advise the Assembly of any recent developments in tourism? In other words, can he tell the Assembly what he did for lunch today?

MR QUINLAN: Mr Speaker, I am sure I can say "Bula".

Mrs Burke: How does that go?

MR QUINLAN: It's a great word, isn't it? It is one that almost always evokes a response. You just can't help yourself.

Today I welcomed the first regular international flight to Canberra airport. Members are probably aware that the flight originated in Nadi, Fiji. So this is a very important day for Canberra—the first of many more. Canberra airport is now an international airport.

This is an important milestone for Canberra and for the airport, and it reinforces Canberra's status as a gateway and as a national capital. The Fijian national airline, Air Pacific, will fly twice weekly between Canberra and Nadi using very colourful 737 aircraft and will provide an international link to several other foreign ports, including Los Angeles and Vancouver. This is a significant vote of confidence by Air Pacific in Canberra and its future as an international destination.

I am very pleased with this growth in aviation services at the airport and the government will continue to work to develop Canberra as an international destination. I look forward to welcoming many more visitors from around the world to Canberra as a tourist and business destination.

MR HARGREAVES: Mr Speaker, I ask a supplementary question. Can the Deputy Chief Minister please advise the Assembly if the government provided support to this venture?

MR QUINLAN: Mr Speaker, I am very happy to say that the government saw benefits in this new service and has provided considerable sums through Australian Capital Tourism to the marketing of this service. I cannot claim that we are going to spend $8 million to increase air services to and from the ACT but I can say that we have spent $200,000 to build the promotional program around this service. This is a statement of the

commitment we have to building flights into Canberra. I am very pleased that, at the end of the day, we did provide this level of support because, as it transpires, the level of support and the ACT government's involvement was crucial in sealing the deal.

It turns out, I am advised today, that Fijians have very high regard for acts of trust and faith. They believe that the ACT government's commitment was an act of trust and faith, so much so that Mr Victor Sharan, the regional general manager of Air Pacific, was adamant that the deal would not have come about without the support of the ACT government. This was underscored by the owner of the airport, Mr Terry Snow, who also said that this deal would not have taken place without the support of the ACT government.

The Fijian government places great stock in this particular exercise. The Fijian High Commissioner attended the launch at the airport today, as did one of the Fijian ministers and the manager of Fijian business and tourism development. So members should be aware that the Fijian government is right behind this, the ACT government is right behind this, and it is a material demonstration that we are taking genuine, concrete steps forward in tourism.

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

Supplementary answers to questions without notice

Smoking in pubs and clubs

MR WOOD: Yesterday a couple of questions were held over, one of which was from Mrs Cross about smoking. It is quite a long answer. For Mrs Cross's benefit, I will read it. The phasing out of exemptions on 1 December 2006 will result in all enclosed public places in the ACT becoming non-smoking areas. That was the clear intent of the Assembly and the purpose of the legislation when it was enacted. There are no changes to the exemption system up to December 2006, except that any exemption that is granted now will end on 1 December 2006, rather than three years after the date of granting.

Absolutely no changes have been made in relation to the size of the area in which smoking in exempt premises is permitted. It is still the maximum of 25 per cent of a dining area or 50 per cent of a public area of a licensed premises. There have been discussions with hospitality representatives about aspects of the new legislation and this may require clarification or guidelines.

One significant issue has been the reference in the legislation to prohibiting smoking in places that are "completely or substantially enclosed". Clearly what is meant by "substantially enclosed" is fundamental to the understanding of the scope of the legislation. Proprietors have therefore been seeking more information about that definition. Work is currently underway in developing a clearer definition that will apply to the new legislation when it takes effect in December 2006.

The government is fully committed to seeing smoking completely banned from enclosed public places by 1 December 2006. ACT Health is not in the process of drafting guidelines to allow enlarged smoking areas in public places.

Pharmacies

MR WOOD: The response to a question from Ms Tucker about pharmacy friendly societies is even longer. I will table that.

Review of traffic management

MR WOOD: On February 11 this year, the Assembly resolved that Ms Gallagher and I conduct a review of all crossings and traffic management around schools, child-care centres and older persons' facilities and report back by 1 July 2004.

This was a major task. I am not surprised that it has taken a great deal of time to complete. Therefore I seek agreement from the Assembly—a nod will do—to an extension of time to report back on those findings. The report is substantially done. We are now looking at the implications of that report. I anticipate that I will provide an answer in the next sitting period.

Children—playgroups

MS GALLAGHER: Yesterday Ms Dundas asked me a question on the Playgroups Association. I undertook to get back to her with some information. The 2004-05 funding agreement for the ACT Playgroups Association has recently been finalised. The new agreement was negotiated with the executive officer of the association. Prior to the finalisation of the agreement, the executive officer forwarded suggested wording and performance measures the association wanted to be included in the agreement and these were incorporated.

During the negotiations, there was discussion with the executive officer about Australian government funding for new playgroups and the role of ACT government funding. ACT funding is primarily expended on promotion of playgroups and telephone support for families wanting to find out more about playgroups or join a playgroup. This was articulated to and supported by the Executive Officer. In 2003-04, ACT Playgroups Association received $36,733.48 in ACT government funding. It will receive $47,222.89 in 2004-05.

Education

MS GALLAGHER: Yesterday Mr Cornwell asked me a question about the number of year 10 and year 11 students who dropped out in 2003. Mr Cornwell's questions can best be answered by comparing students enrolled in the February 2003 census to those enrolled in the August 2003 school census.

Of the year 10 students who appeared in the February census, 114 were not enrolled in ACT government schools in the August 2003 census. Of the year 11 students who appeared in the February 2003 census, 324 were not enrolled in the ACT government schools in the August 2003 census. These figures include students who found employment or undertook an apprenticeship or traineeship or who moved interstate, overseas or to a non-government school between February and August. Therefore the number of students who dropped out will be only a small proportion of these totals.

Mr Cornwell also asked for the percentage of students who started year 12 but did not complete the year. The percentage of year 12 students who appeared in the February 2003 census but did not appear in the August census was 11.5. Again, these figures include students who completed their year 12 certificate prior to the August 2003 census; those who found employment or undertook an apprenticeship or traineeship; and those who moved interstate, overseas or to a non-government school between February and August 2003.

Standing committees
Reports—government responses

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

> Community Services and Social Equity—Standing Committee—Report 4—2002-2003 annual and financial reports: Department of Disability, Housing and Community Services; Discrimination Commissioner; Community Advocate—Government response.
> Education—Standing Committee—Report 2—Inquiry into 2001-2002 Annual and Financial Reports—2002 Annual Report: Canberra Institute of Technology—Government response.
> Health—Standing Committee—Report 7—2002-2003 annual and financial reports: ACT Health—Community and Health Services Complaints Commissioner—Healthpact—Government response.
> Legal Affairs—Standing Committee—Report 9—Annual and financial reports of the Department of Justice and Community Safety and related agencies—Government response.
> Planning and Environment—Standing Committee—Report 26—Inquiry into Annual and Financial Reports 2002-2003 for the Department of Urban Services and the Related Agencies—Government response.
> Public Accounts—Standing Committee—Report 7—2002-2003 Annual and Financial Records of the Chief Minister's Department, Department of Treasury, other related agencies and the ACT Legislative Assembly Secretariat—Government response –

I seek leave to make a statement.

Leave granted.

MR STANHOPE: I am pleased to present the government's responses to six standing committee reports on the annual and financial reports for 2002-03. As I did last year, I am tabling the responses to all the standing committee reports covering all portfolios. This is because the standing committee reports generally cover more than one minister and more than one portfolio and, in certain cases, issues raised in the reports apply to all departments and agencies.

As members will be aware, annual and financial reports are prepared by agencies in accordance with the Chief Minister's annual report directions and in accordance with the Financial Management Act 1996. The government seeks to ensure that the directions and the act are continually updated to reflect best practice and full accountability in

accordance with government policy. In line with this approach, some of the issues raised in the committee reports have already been addressed in the 2004 annual report directions.

The six standing committee reports made a total of 53 recommendations. In broad terms, the government supports 33 of these and notes a further 18. Only two recommendations are not agreed to. Both of the recommendations that are not agreed to relate to the report by the Standing Committee on Public Accounts. Recommendation 7 of that report proposes that the government introduce regulations in a timely manner to enable the Legislative Assembly to scrutinise them before their implementation date.

While the need to introduce regulations in a timely manner is agreed to, it is neither practical nor appropriate to put in place a process for all regulations to be scrutinised by the Assembly before their commencement. This proposal would negate the fundamental reason for having regulations: that is to allow for flexibility in the administration of policies to meet the objectives set out in the legislation. Notwithstanding this position, the government will endeavour to better assist the Assembly in its scrutiny of subordinate legislation by identifying where there is likely to be a high degree of interest in the content of regulations and consulting with Assembly members.

The other recommendation that has not been agreed to relates to the committee's view that the Gambling and Racing Control Act 1999 should be amended to ensure the independence of the ACT Gambling and Racing Commission. This recommendation appears to stem from the committee's belief that the independence of the commission was brought into question because the chair of the commission was not present at the committee hearings. The government does not share the committee's view. Examination of the transcript does not support the committee's contention that on a number of occasions the chief executive deferred questions to the minister.

Overall, however, I am sure that the Assembly will agree that the government has responded in a way that entrenches and enhances our record of openness and accountability. I thank the standing committees for their effort in preparing their reports. I commend the government's response to the Assembly.

Administrative arrangements
Paper 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 paper:

> Administrative Arrangements 2004 (No. 4)—Notifiable Instrument NI2004-191 (S4, dated 30 June 2004).

I seek leave to make a statement.

Leave granted.

MR STANHOPE: On 22 June 2004 the Legislative Assembly passed the Emergencies Act 2004 to give effect to the establishment of a new Emergency Services Authority. The

administrative arrangements orders have been remade to reflect the changed legislative and administrative responsibilities that flow from the establishment of the new authority. The arrangements come into effect today. The arrangements have also been updated to reflect the recent repeal of the National Crime Authority (Territory Provisions) Act 1991.

Paper

Mr Stanhope presented the following paper:

Ministerial Travel Report—1 January to 31 March 2004.

Papers

Mr Quinlan presented the following papers:

Financial Management Act—
Pursuant to section 14—Instrument directing a transfer of funds between appropriations—Department of Education and Training, including a statement of reasons, dated 24 June 2004.
Pursuant to section 16—Instrument directing a transfer of additional capital injection to the Office for Children, Youth and Family Support, including a statement of reasons, dated 28 June 2004.
Pursuant to section 17—
Instrument varying appropriation related to Commonwealth funding—Department of Disability, Housing and Community Services, including a statement of reasons, dated 29 June 2004.
Instrument varying appropriation related to Commonwealth funding—Department of Education and Training, including a statement of reasons, dated 29 June 2004.
Pursuant to section 19B—
Instrument varying appropriation related to the National Handgun Buyback Program—Department of Justice and Community Safety, including a statement of reasons, dated 29 June 2004.
Instrument varying appropriation related to the Pathways Home Program—ACT Health, including a statement of reasons, dated 29 June 2004.
Pursuant to section 19F—
Instrument amending budgets—Chief Minister's Department, including a statement of reasons, dated 29 June 2004.
Instrument amending budgets—ACT Health, including a statement of reasons, dated 29 June 2004.
Instrument amending budgets—Department of Justice and Community Safety, including a statement of reasons, dated 29 June 2004.
Instrument amending budgets—Department of Education and Training—Territorial Account, including a statement of reasons, dated 29 June 2004.
Instrument amending budgets—Department of Education and Training, including a statement of reasons, dated 29 June 2004.
Instrument amending budgets—ACT Workcover, including a statement of reasons, dated 29 June 2004.
Instrument amending budgets—Office for Children, Youth and Family Support, including a statement of reasons, dated 29 June 2004.
Instrument amending budgets—Department of Disability, Housing and Community Services—Departmental, including a statement of reasons, dated 29 June 2004.

> Instrument amending budgets—Department of Disability, Housing and Community Services—Territorial Account, including a statement of reasons, dated 29 June 2004.
> Instrument amending budgets—Department of Urban Services, including a statement of reasons, dated 29 June 2004.
> Instrument amending budgets—ACT Planning and Land Authority, including a statement of reasons, dated 29 June 2004.

Financial Management Act
Papers and statement by minister

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, and Acting Minister for Planning): For the information of members I present the following papers:

> Financial Management Act, pursuant to section 18—Statement of Authorisation of Expenditure against the Treasurer's Advance, including a statement of reasons, dated 8 June, 10 June and 22 June 2004.

I seek leave to make a statement.

Leave granted.

MR QUINLAN: As required by the Financial Management Act 1996, I table an instrument issued under section 18 of the Act. Issuance of Treasurer's Advance under the Financial Management Act 1996 allows for unforeseen expenditure which is in excess of the amount specifically appropriated for expenditure of that kind when the need for the expenditure could not reasonably have been foreseen at the time of presentation to the Legislative Assembly of the bill for the first Appropriation Act relating to the financial year in which the expenditure is to happen. Amendments to the Financial Management Act 1996 require the details of all expenditure authorised under section 18 to be tabled in the Assembly within three days of the signing of the authorisation—my amendment, I might add.

These instruments indicate the total funding provided over the year. The total expenditure from the Treasurer's Advance for the year amounted to $1,655,783. All three instruments relate to the finalisation of costs associated with the contractual dispute relating to IT services provided for the development of the AIMS database for WorkCover. Mr Speaker, I commend these papers to the Assembly.

Land Development Agency
Paper and statement by minister

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

> Planning and Land Act, pursuant to section 48—Direction—Payment of dividend by the Land Development Agency to the Department of Treasury, dated 24 June 2004.

I seek leave to make a statement.

Leave granted.

MR QUINLAN: I have presented a direction given to the Land Development Agency under section 48 of the Planning and Land Act 2002. As you are aware, Mr Speaker, the Land Development Agency was created to provide a planning and land system that contributes to orderly and sustainable development in the ACT in accordance with sound financial principles. I am pleased to report that the operations of the Land Development Agency have continued to flourish and that an interim payment of $102 million was made to the territory in December 2003.

The purpose of this direction is to formally request a final dividend payment for 2003-04 of $15 million, which will leave the agency with sufficient working capital to fund its operations for 2004-05. The amount of the dividend payment has been agreed to between Treasury and the Land Development Agency and has been calculated with due regard for the continuing operations of the agency as is required by the legislation. I commend this instrument to the Assembly.

Coroner's court inquest
Papers and statement by minister

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (3.28): For the information of members I present the following papers:

> Coroners' Court Inquests into manner and causes of death—Reports—Government responses—
> Mr Brett Ponting, dated June 2004.
> Mr Neil Summerell, dated June 2004.

I move:

> That the Assembly takes note of the papers.

Today I table the ACT government's response to the recommendations of the coronial inquest into the manner and cause of death of Brett Ponting and Neil Summerell. Members will be aware that the tragic deaths of Brett Ponting and Neil Summerell contributed to the establishment of a board of inquiry into disability services in the ACT.

The board found that the rights and interests of people with disabilities had not been adequately or effectively protected by the policies and systems operating in the territory. It found that the service system was not working well for people with disabilities, concluding that we could and should be doing better.

In responding to this report, the government signalled its commitment to meet the challenges through a systematic strategy. It moved quickly to progress a range of initiatives outlined in the government's response to the board of inquiry. We have made significant progress in delivering improved disability services, working in partnership

with people with disabilities, their families, carers and supporting community organisations.

The documents I table today will outline the actions we have taken in response to the recommendations of the ACT coroner. In the case of Mr Ponting, the coroner found that his death "clearly resulted from the failure of his carers to properly supervise him while he was in his bath". The coroner proposed a review of a number of work practices in disability houses, including risk management procedures, individual planning processes, management structures, and staff qualification and training.

Our response details the specific measures taken to address the coroner's five recommendations. In particular, Disability ACT has implemented an expanded risk assessment process and enhancement to the individual plan process to better guide staff working practices in the care and support of clients. This includes the implementation of risk assessment into the review of each individual plan. Disability ACT has also reviewed its management structures, training and supervision. There is now a greater focus on client support.

The coroner found that Mr Summerell's death following scalding was accidental. He made 10 recommendations and, as with the inquest into the death of Mr Ponting, the majority addressed the need to reform work practices, training and risk management procedures. The government's response translates into a wide-ranging practical reform of the structure and procedures pertaining to the care and support of clients in disability houses.

As I have noted, since September 2002 the government has substantially reformed disability services. In May 2004 I tabled the third six-monthly progress report on the implementation of the recommendations of the Board of Inquiry into Disability Services. It outlined the raft of changes that have occurred to enable us to better meet our responsibilities. I also released the draft *Future Directions for Disability ACT 2004-2008*. This document plots the course of action over the next four years to further progress the disability reform process.

The government deeply regrets the death of these two young men. I again express my deepest sympathy to their families and friends.

MRS BURKE (3.32): Mr Speaker, I seek leave to make a short statement.

MR SPEAKER: There is a question now before the House. You can speak to the question that the report be noted.

MRS BURKE: I note that the report has been handed down and that the standard time is three months. I pose a query to the house: were the families informed prior to this being tabled? I am concerned. The customary manner is to inform families. I want clarification on that, Mr Wood. Thank you.

Mr Wood: I understand they were.

MR SPEAKER: Order! Mrs Burke, if you want to speak to the question, that is fine. But Mr Wood will be closing the debate if he—

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and heritage, and Acting Minister for Health) (3.32): Okay, I will close the debate. In discussions with the department I understood that it was the intention to do that before I tabled that document.

Question resolved in the affirmative.

Papers

Mr Wood presented the following papers:

> Subordinate legislation (including explanatory statements unless otherwise stated)
> Legislation Act, pursuant to section 64—
> Australian Crime Commission (ACT) Act—Australian Crime Commission (ACT) Regulations 2004—Subordinate Law SL2004-21 (LR, 22 June 2004).
> Gene Technology Act—Gene Technology Regulations 2004—Subordinate Law SL2004-17 (LR, 4 June 2004).
> Magistrates Court Act—Magistrates Court (Dangerous Substances Infringement Notices) Regulations 2004—Subordinate Law SL2004-18 (LR, 4 June 2004).
> Road Transport (General) Act—Road Transport (Offences) Amendment Regulations 2004 (No 1)—Subordinate Law SL2004-20 (LR, 17 June 2004).

Territory plan—variation 224
Papers and statement by minister

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, and Acting Minister for Planning): For the information of members I present the following papers:

> Land (Planning and Environment) Act, pursuant to section 29—Approval of Variation No. 224 to the Territory Plan—Block 1, Section 54 Lyneham (Australian Capital Motor Inn)—Proposed residential use, dated 8 June 2004, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

I seek leave to make a statement in relation to this paper.

Leave granted.

MR QUINLAN: Draft variation 224 proposes to amend the territorial plan map by replacing the current entertainment accommodation and leisure land use policy with the residential land use policy and a B12 area specific policy overlay.

The variation was released to public comment on 30 January 2004 with comments closing on 12 March 2004. One written submission was received during that period. The issues raised in this submission were addressed in the report on consultation with the public and government agencies. No revisions were made to the variation as a result of the consultation process.

In its report No 29 of May 2004, the Standing Committee on Planning and Environment made four recommendations in relation to the draft variation. The committee's first recommendation was that the government facilitate more open competition through the application of more flexibility in the land use policies to provide the best opportunity for business to develop in the ACT. This recommendation has been achieved for draft 224, as the proposed land use policy allows the most appropriate alternative use to the current motel, taking into account the established land uses in the vicinity.

The proposed multi-unit housing on the site is consistent with the strategic direction contained within the spatial plan for achieving a more compact city in a sustainable and orderly manner. One of the key principles of the spatial plan is the encouragement of residential intensification within a 7.5 kilometre radius of the city centre close to existing major employment areas, transport routes, and services and facilities. Medium density residential redevelopment on the block will achieve the objectives contained in the spatial plan and the sustainable transport plan.

The site is located within a few kilometres of the city centre and the opportunity exists for residents to patronise public transport and utilise other transport modes such as walking and cycling to access places of employment, local retail and community and recreation facilities.

The committee's second recommendation was that the government take more care in being seen to generate changes in land use policy that are the result of specific requests of private developers. A rigorous planning process is followed by the ACT Planning and Land Authority when evaluating and determining the viability and appropriateness of a territory plan variation, whether developer initiated or otherwise.

In most cases, including the current proposal, the process involves the submission of a comprehensive planning study prepared by a suitably qualified person describing the existing planning framework; the human, physical, and biological effects of the proposal; the statement and policy context; development options; and the details of public consultation undertaken by the proponent. This document is thoroughly assessed by the authority and advice sought from the Planning and Land Council prior to any determination regarding the initiation of a draft variation.

The committee's third recommendation was that all future draft variations include a statement to show where the change in land use policy is either consistent or inconsistent with all the current strategic planning documents released by the ACT government, which provides strategic frameworks for Canberra's future.

The ACT Planning and Land Authority will henceforth ensure that all draft variations incorporate a statement of the planning context for the proposal including an assessment against the current strategic planning documents such as neighbourhood plans, the Canberra plan, spatial plan, social plan, economic white paper and sustainable transport plan. The committee's fourth recommendation was that it endorse draft variation 224 as a variation to the territory plan.

I now table variation to territory plan No 224.

Territory plan—variation 226
Papers and statement by minister

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, and Acting Minister for Planning): For the information of members, I present the following papers:

> Land (Planning and Environment) Act, pursuant to section 29—Approval of Variation No. 226 to the Territory Plan—Phillip Section 22, Block 2—Phillip Pool, dated 28 June 2004, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

I seek leave to make a short statement.

Leave granted.

MR QUINLAN: Draft variation no 226 proposes to amend the territory plan by adding an area specific policy overlay for this site to ensure that public access to the existing pool facility is continued at all time if and when a long-term crown lease is granted. To this end, the variation proposes to include a specific clause in the territory plan written statement that prevents a lease variation being approved that would have the effect of removing the requirement that a 50-metre swimming pool be maintained and operated on the site and made available for public access for at least five months each year.

The variation was released for public comment on 12 December 2003 with comments closing on 18 February 2004. A total of five written submissions were received during that period. These submissions expressed general support for the proposal to ensure that the pool was protected for ongoing community access and use. No revisions were made to the variation as a result of the consultation process.

In its report No 28 of 2004, the Standing Committee on Planning and Environment made two recommendations in relation to the draft variation. The committee's first recommendation was that the government proceed with the implementation of draft variation No 226 and that the minister investigate the possibility of affording the existing ice skating rink the same long-term protection as the pool. The committee acknowledged that the structure of the ice skating rink is privately owned and therefore not an ACT government asset. The government is of the opinion that the ice skating rink should remain as a privately operated commercial venture and that the government should not be involved in compelling the operator to maintain such a facility.

The committee's second recommendation was that any future development application or lease variation for the pool and ice skating rink be considered in conjunction with the Woden town centre master plan to ensure that recreation and sporting facilities in the area are protected. The Woden Town Centre master plan was released in May 2004. The government will ensure that any application for development is in accordance with the master plan.

I now table territory plan variation 226.

Child protection
Discussion of matter of public importance

MR SPEAKER: I have received letters from Mrs Burke, Ms Dundas and Ms MacDonald 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 Mrs Burke be submitted to the Assembly, namely:

> Child protection services in the ACT.

MRS BURKE (3.41): Mr Speaker, let me state at the outset that this MPI into child protection services in the ACT is not a frivolous one; rather, while the government might like to argue consistently that it's time to move on, I am afraid to say that it is not that easy. This MPI goes to the heart of concerns relating to the protection of our children, albeit in kinship or substitute-care arrangements. It therefore goes to the heart of leadership and the ability of this government and the current minister to address what I see as one of the most important public policy functions carried out by any department in this territory.

Much has been made by the minister about moving on. The minister consistently tells us that, as a result of the Vardon report, everything is okay and is under control and concludes that, as an opposition, we are simply carping for political gain. This is a tragic position for the minister to take, a quite shallow and incongruous view, given the evidence that is available for all of us to see via the Vardon report.

It is obvious that the minister is in denial since the revelations made to her by her most senior bureaucrat that the department had not complied with its statutory obligations to report suspected cases of child abuse to the Office of the Community Advocate, as required under 162 (2) of the Children and Young People Act 1999. This must, of course, also bring into serious question the issue of other areas of delegation; for instance, compliance under 161 (1) of the act that requires the chief executive to compile reports in the first place. It is very clear from the Vardon report that the chief executive had many discussions with the Community Advocate as to what was a report and what was a consultation.

This debate ensued only after the chief executive and her department had been sprung on two separate occasions for non-compliance by the Community Advocate. I draw members' attention to page 62 of the Vardon report. I would have to say that this is a valiant attempt at a cover-up. This is my feeling and understanding when you look at the evidence before us. Again, to say it is under control and we are moving forward is a broad-brush statement and one, sadly, that many people currently having or trying to have dealings with the department are experiencing. The level of frustration amongst people calling my office is worrying and concerning. To not answer telephone calls or respond in a timely manner or reply to letters or emails—sometimes there is no response at all—is simply not acceptable.

While I respect greatly the minister, I do have grave concerns about the minister's ability to handle the portfolio. I watched in the recent estimates process the minister being virtually hung out to dry by a whole row of senior departmental officials. Indeed, the

minister has herself expressed disappointment, and rightly so, about the level or lack of advice she received over the failings of the department. So one has to ask: how has this changed? How can the minister and others in this place and in the Canberra community have full confidence that, given the serious nature of these failings, the same public servants have changed their ways?

Their support of the minister, compared particularly with Housing ACT officials, was, in all honesty, absolutely appalling and quite sad. Unlike the Housing ACT officials, who all day constantly offered themselves up to address the committee on behalf of Mr Wood, departmental officials from the department of family services merely sat back and allowed Ms Gallagher to flounder and push on. I think the minister finds herself caught between a rock and a hard place, caught between needing the advice and being able to command respect for her leadership and authority.

This is a concern that goes not only to the heart of ministerial leadership but also to the core of departmental culture. Similar to the Whitlam days, when, after nearly 20 years of Liberal federal governments, federal bureaucrats were aggressively reluctant to assist a Labor government, this current minister is now dealing, I suggest, with a similar problem, that is, an arrogant and ineffective departmental culture—a culture that this minister is either unable or unwilling to change—and an issue which is and should be a real concern with regard to child protection services in the territory.

Why do I say this? Unless there is a concerted effort by this minister to address the current culture within the department of family services, I am afraid to say that the government can throw as much money as it likes at the issue but nothing will change. Money does not change a culture and, sadly, the concern is that this Assembly will most likely have to revisit the issue once again in the future.

I fully appreciate the pressure associated with this area of work. The minister has said that money is being pumped into the department. I reiterate my strong apprehension that this will do nothing to change the entrenched culture that has been fostered over years. The minister had a prime opportunity to take real command of the situation and to really take charge of this department. I fear, however, that we still have a situation of the tail wagging the dog.

Unless this change occurs, I can see the system becoming increasingly arrogant, withdrawn, secretive and therefore completely ineffective. This sort of system does not in any way better protect children, because good-intentioned people will continue to pull out of the system because they find dealing with the department no different from dealing with, say, the KGB. As we all know all too well, while this unfolds we will continue to be flooded with children in need. I hope the alternative is not some form of so-called post-modern institutional care.

There is a small window of opportunity. I hope things will change but I hold grave fears that they will not. If I could dare the minister to prove me wrong I would. However, my point remains that if the current culture within family services is not addressed it will undoubtedly lead to a more litigious and bureaucratic system in a vain attempt to cover up poor leadership. This system, if allowed to progress will not serve to better protect children in our community.

Are these real concerns or just drummed-up assertions? The Vardon report itself highlighted concerns from families and carers with regard to the arrogant and often unfriendly attitude of the department—their words, not mine. I am just portraying today in this place the words spoken to me and the concerns and the angst that people in our community still have.

I also see for myself and talk with family after family in total despair as a result of children, particularly those in care, being taken away from them by family services, with absolutely no explanations as to why. Moreover, in many cases, the children themselves, which is the more important point here, have no say in their removal; and when carers seek information from the department, I can say in all honesty, their calls are rarely returned or insufficient explanations are given. A sad state of affairs!

Foster carers also suffer and can often be left high and dry. It is hoped that, as a direct result of the Vardon report, recommendations will be implemented in order that foster carers will now start to receive the support they seriously deserve. However, not wanting to sound like a broken record, unless we see those cultural changes I've talked about and a willingness to address the very valid concerns of foster carers, then the status quo will get worse and foster carers again will continue to leave the industry or new families will simply not put their hand up to help out.

I do note here and appreciate the minister's efforts to inject some money into the foster care sector—I want that to be noted also—and I applaud her for that. The current system does not adequately protect children in foster care or, for that matter, foster carers themselves, despite how much the minister protests. It is simply naive and not true to continually say everything is working much better, because it is not; otherwise I wouldn't keep getting the calls to my office. I have relayed many of these calls, the emails and all of the information that I get to Ms Gallagher and even to the Chief Minister himself in his capacity as minister responsible for the Community Advocate.

Foster carers who are provided with a child from an agency are not given any substantive understanding of the child's history or mental health condition. This shroud of secrecy which envelopes the entire area of child protection services, while necessary in many instances, is a deep concern. Under the current system, foster carers are simply allocated a child by the department, with little, if any, idea of the child's history or mental health concerns. This process in no way protects the foster carer or addresses the best interests of the child. Instead, we need a system that allows the carer and the child to have a greater say in the placement process. Moreover, when a placement does occur, carers need to be far better aware of the circumstances surrounding that particular foster child.

The protection of children in care is not just about violence and harm; it is also about the child's best interests while in that care. If the current system adequately protects and therefore upholds the best interests of children, how many children, for example, in foster care in the ACT actually finish high school? Education should, Mr Speaker, be an absolute priority. But I guarantee that there are serious questions being raised by those in the sector, as we speak on this very point. I feel the minister and the department are unable to answer the question.

Secondly, why do care orders for foster children finish at age 16? Where is it written anywhere that a parent abdicates their parental responsibility at age 16? It doesn't. And it should especially not apply to foster children.

What currently happens to juvenile sex offenders in the ACT? If we are seriously protecting our children in care, why are there also serious questions being asked about children who are sex offenders? Why are we not adequately addressing this issue? Why aren't we adequately addressing the concerns of the foster carers who are fostering children and who are not being given the necessary support they need?

What about the definition of child abuse? Here lies a can of worms that requires urgent leadership. I know that technically the definition of child abuse can be the difference in a family giving their foster child a Vegemite sandwich today and a jam sandwich tomorrow. I know that is to the extreme, but I understand that exponential increase of cases. The minister said herself that the definition of child abuse had changed and therefore more reports were coming in. This is completely unacceptable.

Lastly, if we are committed to protecting children in our care, what are we doing in our court system to uphold this right? Why is it that we still have no independent voice or advocate for our children in the court system—not outside it but within that system—like that implemented in Queensland, for example, which, by all accounts, is working exceptionally well? Why is it still acceptable that children in the legal system are often afforded less motivated and ill-experienced legal representation? This is not protecting our children or looking after their best interests.

In conclusion: we can spend $68 million to fix a problem that requires urgent addressing and hold no-one accountable for systemic, statutory failures but, in the end, if the issue is not given the leadership it urgently requires, I am afraid to say it will be all a waste of time. I appreciate that we must move forward, but leadership is the key to this issue and the culture of the department of family services must change.

The issues I have raised here today have been raised by those in the sector and also must be addressed. We have a small window of opportunity which we must take hold of with both hands. Sixty eight million dollars is a lot of money, but the state of child protection services in the ACT and, therefore, the care and protection of children is a priceless issue. Leadership—strong leadership—is the key. Let's deal with the culture alongside policy in the hope that we never have to revisit this issue in the same way ever again.

MS TUCKER (3.55): This matter of public importance relates to child protection services in the ACT. I have listened to Mrs Burke and she has raised some interesting points. She has been pretty narrowly focused in one sense, in that she has focused particularly on the aspect of the culture in family services and on the Vardon report. But the Vardon report itself of course took a much broader view of the issues of child protection.

I just want to make the point that, while I understand that Mrs Burke thinks it is important to focus on the culture within family services and the role of the minister—and I have some sympathy with some of the comments she has made about the culture within family services—I would also have to say that there are two documents to come before

us soon, the audit and also the rewritten response of the minister to the report of the committee that looked at these issues. So I am actually not prepared to jump up and down in quite the way as Mrs Burke at this point; I am waiting to see both those documents before I am prepared to go into too much detail about how terribly Katy Gallagher has failed. I do not think that we are in a position to do that at this point at all.

But what I would like to take the opportunity to talk about and focus on—because it is something that is so easily overlooked in this conversation and is much more exciting, contentious and conflicting—is the particular issue that started this inquiry by Cheryl Vardon, which was the failure of compliance with the statutory obligation. That is all very interesting and political, et cetera, but what the Vardon report also states again is that we have to look at the broad social context and the general and broad social services that we provide if we are to have any analysis of how we protect children or how we support the wellbeing of children in our community.

I think the cultural issues are particularly challenging, but not just in family services. I think in Australia we have this notion that we're egalitarian, we are proud of the fair go ethic; but the reality is quite different. We have our fair share of prejudice and intolerance as well as an increasingly market-based, individualistic and materialistic society that does not know quite how to integrate with those qualities of a fair go for all and the compassionate or egalitarian community.

We have our national leaders at the moment—potentially supported by some members in this place—both government and opposition federally telling us that they want us to be inclusive and tolerant and to reject violence and all sorts of emotional abuse of children. At the same time they publicly demonise lesbian mothers and their children by telling us and them that they are not fit to be seen on television, thereby making it clear that, in their view, it is not the quality of the parenting or the love that counts, it's the sexuality of the parents.

My question is: how do these views affect the many children who are being raised in families other than heterosexual families? How does it feel to be a child who is told that their family is so unacceptable that it cannot be seen on television? Where does that fit into the discussion about social inclusion and tolerance? Where does that fit into the discussion about violence, isolation and child abuse? We also have our political leaders telling us it is in the national interest to keep children behind razor wire and in detention camps for years because they come from somewhere else.

I raise these issues because they have to be acknowledged as part of the abuse of children in Australia. And this is part of the story we tell as a nation; it is part of who we are. You cannot separate that story that we tell as a nation from any debate on child abuse and social exclusion. What chance do we have as a society to develop an ethic of care and inclusiveness, of responsibility to all our brothers and sisters, of acceptance and of the enjoyment of difference between us rather than the fear and hatred of it if our leaders are so willing to use that fear for political ends?

To move on from that particular aspect of child abuse: I want to focus, in the time I have left, on the question of the general cultural context of social services that we provide for families in our community. I think it is really important to remember that if we get to

a situation where parents are abusing their children we have got to a very unnatural situation; there has been a level of distress that is so extreme that we have an environment where they hurt, arguably, the people they love the most. So the question really is about acknowledging that people need support, that we need to be really careful about a punitive approach and that we need to have a sense, from the ground up, of what we can do as a community and as a government, or a parliament, to assist families in their struggle.

I was speaking recently at a federal forum on child abuse. I think I have mentioned this before, so I will not go into detail. Basically, the thing that interested me was that there was a long list of what we understand to be the correlating conditions that are easily recognisable around child abuse, substance abuse, mental illness, single parenthood, Aboriginality, et cetera. I think we have got to be really careful about confusing those correlating conditions with fundamental causes, because by doing that you pathologise communities, you stereotype people, you create a situation where profiling can occur, which is certainly not in the interest of any individual—not to mention the stigma that also of course just feeds on the social exclusion that then isolates people, that then creates an environment where there is more likely to be unhappiness and potentially child abuse.

There have been several examples of that in this place on which we have had debates. I remember one really well, where I was lobbying the government to try to support this young woman. She was threatened with eviction from a supported accommodation service. She was apparently not meeting all the guidelines and tough love that was being dealt out. She was successfully recovering from a heroin addiction, something that, in my view, deserves a medal in itself. She was supporting two small children. She was not able to use a car. It was 40 degrees outside. The public telephone was quite a way away. She was desperately trying to find accommodation. Recorded messages were mostly what were found at the end of the line. When there was a human answering, they were not able to assist.

I took on her situation and I, from an air-conditioned office, spent several hours trying to find her somewhere to live. My blood pressure was going up very high as I realised the total blockage there was in trying to assist this family. That woman deserved support in that situation. She was struggling with an addiction; she was struggling with a difficult family situation; she was threatened with being homeless as well as, in the end, losing her children.

I have to ask the question: what is it that we are doing as a community and what was our service response to that situation in terms of our actually going to assist that family and prevent a mother losing her cool with those children or losing her children and causing in itself an abuse of the children by removing them from a home where really this woman was trying to do the best for her kids? She needed support, not the kind of obstruction that she was getting.

On the question of homelessness I have to say this: Mrs Burke, you are talking about these issues—you look at the Vardon report. There is a whole section on homelessness in it. One of the recommendations says:

> The Review recommends that the ACT's Children's Plan, the Policy for Young People and the Homelessness Strategy give priority attention to the needs of children and young people in the care and protection system.

The Vardon report is bringing these issues into the conversation. I am sorry to have to say this, but I got an email from your office today about a homeless young person. The language is: "This person is homeless but that's cool with us and her." What I find absolutely stunning is that there can be a statement like that made and Mrs Burke has not gone to find that young girl a house.

Mrs Burke: You haven't given me the opportunity yet, Ms Tucker.

MS TUCKER: So Mrs Burke says she didn't know.

Mrs Burke: I haven't had a chance to speak to my adviser. That's really off.

MS TUCKER: I didn't know that.

MR SPEAKER: Order! This is not a conversation.

MS TUCKER: Mrs Burke is saying that her office put out this email, but she had no idea that this girl was homeless. Her staff was claiming she was homeless. Okay, I will accept that. Then the question is: if we have young people—

Mrs Burke: I think you should apologise to my office for that statement too.

MS TUCKER: Mrs Burke said I should apologise to her office.

MR SPEAKER: What Mrs Burke said was disorderly, and you can direct your comments through the chair, please, Ms Tucker.

MS TUCKER: We have an email circulated that is naming a young woman as homeless. She is not homeless. Nothing was done to find her a home if she was homeless. The offer was not made from Mrs Burke's office to find her a home. In fact, she is not homeless at all. It makes me wonder how serious we are in this place. Okay, that is Mrs Burke's office. There is no apology needed there at all. I accept that Mrs Burke did not know, but I think that this is an outrageous thing to be circulating around the Assembly.

The other point I want to make generally in conclusion is that, as I said, we are going to see an audit coming out and we are going to see a new response to the committee's report on these issues. I am waiting to see that. I agree with Mrs Burke that there are issues within family services; there have been. The Vardon report does identify a number of those issues, responses and remedies to them; so I wait to see how the government responds.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (4.05): I thank Mrs Burke for bringing this matter of public importance to the Assembly, because it is a matter of public importance, but I have to say that when I alerted

Assembly members to the issue of the department's non-compliance with section 162 (2) I actually had to look up on the Liberals' website who was the shadow minister for family services because, in all my time as minister, I have never heard a peep out of the shadow minister. I thought it was Greg Cornwell; he has actually asked me a couple of questions about mandatory reporting.

We have heard again from Mrs Burke a very uneducated, political attack on a very important part of government service delivery. I am not standing here and saying that family services in the past has delivered the service that it should have. I think we have all got the material before us that outlines a number of problems within that organisation. When Mrs Burke accuses me of failure of leadership I would just draw her attention to everything that has gone on in the past six months—not only the money but also the reform process and the fact that I have been leading that.

Mrs Burke uses that term "failure of leadership". I think it is actually code for "why didn't we sack someone", which is about the only point that Mrs Burke makes consistently and which she actually cannot get past. She cannot understand why I did not sack someone, as though it would make all the problems in family services, all the issues raised in the Vardon report, a lot better if we had got someone, if we got one individual, and said, "You failed; you haven't done your job; therefore you are sacked." Because I have not done that, I failed to lead the reform process when in actual fact what you'll see, or what you should have seen over the past six months, is a very significant reform process and a great deal of honesty by this government and by me about all the problems that exist within family services and a way forward. How you translate that into lack of leadership and a hostile and arrogant department that are not providing me with this support, I do not know.

Mrs Burke accuses me of floundering through estimates. We had a very difficult session, from memory. I had four hours on a politically hot topic, which I always understood would be quite a trying time in estimates. But estimates is that for a minister. Mrs Burke has not been in the position where she has had to give evidence like that. It is naturally quite a stressful environment. But I must say it was not nearly as difficult a time as I had thought it would be. I did not get nearly the attacks that I thought I would get. I actually managed to answer all the questions. Because I could answer all the questions, I did not necessarily need all my bureaucrats jumping up and answering questions. It is evidence given by the minister, with the support of bureaucrats. I do not know if Mrs Burke was taking something that day or experienced a hearing that I was not at but, whilst it was a difficult hearing, I hardly think you can accuse me of floundering.

Mr Pratt: On a point of order: Mr Speaker, I was wondering whether "Mrs Burke had been taking something" is an offensive attack. I would ask you, under the standing orders, to ask her to withdraw that.

Mr Hargreaves: On the point of order, Mr Speaker: an implied reference that Mrs Burke should have had a Bex and a good lie down is hardly unparliamentary.

Mr Pratt: I stand by that. It wasn't a Bex and a lie down; it was something more dramatic than that, I'm sure.

MR SPEAKER: I didn't hear the remark.

Mr Pratt: "Taking something" or "on something", Mr Speaker?

Mrs Burke: The Minister knows what she said. She can live with that, that's all right.

MS GALLAGHER: Yes, I can live with it.

MR SPEAKER: I'll look at the transcript and make a decision on it later.

MS GALLAGHER: Thank you, Mr Speaker. There is a significant reform process going on in family services at the moment. The new Office for Children, Youth and Family Support is working around the areas that the Vardon report identified as areas for reform. There were, I guess, the key areas around children and young people, their support needs and their participation; services for indigenous families and indigenous children and young people; service and sector development; prevention and early intervention services; accountability in governance frameworks; and workload, staffing and training.

There have been six working parties set up to progress all of those issues—six reference groups. They are focusing their energies around those key areas of implementation. The chief executive of the Chief Minister's Department is leading the implementation team and working in a very collaborative approach with a whole range of organisations, including all the out-of-home-care agencies, the Children's Services Council, the CREATE Foundation, the foster care associations, the Official Visitor, the Community Advocate.

I must use this opportunity to extend my thanks to all those organisations who are volunteering their time and who see this as a fantastic opportunity to reform the system and the processes to make sure that we are providing the best service that we can to children and young people who need the care and protection of the territory. And many of those organisations, of course, are non-government agencies that are providing it in addition to the services they already provide. It is invaluable that we have that support.

Of course the additional money will help. I do not know that you can just say chucking money at something will not help; it will help. One of the major areas that have been identified has been the lack of resourcing for this area since self-government. I think it is fair to say that, when you look back, it has never been resourced to the point it should have been. I do not know, if you look back to when the Commonwealth ran it, whether it was properly and adequately resourced then. But we are going through an exercise and we are having a look at what it actually costs to provide the level of support that we have to—and, indeed, anything that we have to provide on top of a minimum level of support—and it shows that the office has not been adequately resourced and that has in turn led to services not being of the standard that they should be.

Some of the immediate areas that expenditure will be paying for are, again, looking for more child protection workers; strengthening prevention; early intervention and family support services; importantly, looking at alternative accommodation options, a key finding of the Vardon report that there just are not enough accommodation options for children and young people, particularly those who are difficult to place; more staff and services for indigenous children, young people and their families; and more opportunity

for advocacy on behalf of children and young people and looking at different ways children can participate in decisions that affect their lives.

I took offence at this when the shadow minister raised it in estimates and kept continually referring to an arrogant and ineffective bureaucratic structure. Mrs Burke alleges that phone calls do not get answers; people get nothing back; children are taken without explanation. That is a load of rubbish, frankly.

Mrs Burke: You're accusing me of lying now?

MS GALLAGHER: It is a load of rubbish to say that children are taken out of their homes and away from their families without an explanation. I have not seen any example where that has occurred; I have not seen any example that you have indicated to me where that has occurred.

Mrs Burke: Are you accusing me of lying, then, Minister?

MS GALLAGHER: I am saying that I think it is ridiculous. I think your accusations are uneducated; I think you use them for political gain; and you do not have the evidence to support them.

Mr Pratt: Mr Speaker, under standing order 42, the minister should address her comments through the chair, not give Mrs Burke a lecture.

MS GALLAGHER: I'm responding to Mrs Burke who was interjecting. Sit down; you're wasting my time.

MR SPEAKER: Mr Pratt, resume your seat. I have raised the issue of Mrs Burke interjecting. It is inappropriate for Mrs Burke to interject and it is out of order. It is also inappropriate to respond to the interjections; otherwise it gives them credibility.

MS GALLAGHER: Mr Speaker, I will go through the chair. One of the final points I would like to make is: I need to say that I believe Mrs Burke is playing quite a dangerous game and one that I have suffered from this week, where there are sides being taken in very difficult, very complex family situations, where there are breakdowns and a whole range of issues which impact on decisions where children are involved. By taking one side and giving people, I think, false hope in some instances—

Mrs Burke: On a point of order, Mr Speaker: I think that comment is quite out of order and brings before this—

Mr Hargreaves: There's no point of order.

Mrs Burke: The minister is making imputations, Mr Speaker.

MR SPEAKER: There is no point of order, Mrs Burke; this is a point of argument in a discussion of a matter of public importance about child protection services.

MS GALLAGHER: Anyway, I will leave it at that, because that is the point I wanted to make and I think the opposition have taken at least a minute out of my time with all their

points of order. But, in closing, I would like to commend the staff who have remained with us during this very difficult time in family services; they have been under pressure like nothing else, and they have done a fantastic job in very difficult circumstances.

MS DUNDAS (4.16): I thank Mrs Burke for putting this debate on the table. As many have said, child protection is a very important matter and one that we must all take very seriously. One of the reasons I think we need to have such a focus on child protection is that research has clearly shown that a significant portion of harmed children can and do descend, as adults, into homelessness, welfare dependency, failed or dysfunctional relationships, substance abuse, crime and suicide. A majority of those in our prisons were harmed as children, and antisocial behaviour often has poor childhood as a cause. If we can look after our children today, then we can definitely build a better society into the future by having adults who are less likely to lash out and continually show antisocial behaviour.

I think early intervention is definitely something that we need to focus on in relation to child protection. Most of this debate today has focused on the Vardon report, but I wanted to turn back to the Community Services and Social Equity Committee report into the rights, interests and wellbeing of children and young people. I await the government's rewritten response to that. The committee spent some time focusing on early intervention, particularly in relation to children's services, and we noted something that the Community Advocate had said. I repeat that quote:

> One of the things that I think has happened over the years is that, with the reduction in resources that are available to care and protection agencies and the poor record that care and protection agencies have had—in Australia and overseas countries– care and protection systems have narrowed their focus and not become so involved in preventative work as might well have been the case

The committee went on to note that recent analysis has shown that:

> … while the ACT has above average real expenditure per child on child protection and out of home care services … it has the second lowest real expenditure per child on *family preservation services*.

We are actually supporting the intervention programs that mean that families do not get to the point of crisis where a child needs to be put into protective care.

There is a lot to be said for early intervention and the work that can be done to help families when they are at the cusp of going into full crisis mode. We need to go back a step and look at why children need to be taken away from their families. What is happening in that situation, such that their parents can no longer care for them or that there is systemic abuse happening to those children? Why is that going on? What are we then doing to support those families once it has reached crisis point and the child needs to be removed, so that those families can deal with the issues that led to ongoing harm?

A lot more needs to be focused on in relation to child protection services besides the crisis management end that we seem to be focusing on and besides the record-keeping end that we are focused on at the moment. I think the minister made this point—if not today, she has made it before—that we need to have a focus on the children here, the children who are in care, and what is actually happening to them. There have been

problems in reporting—that is without a doubt—but there is still support there for those children and there is still a lot of work that needs to be done to ensure that that support works.

I would like to quote then from the Vardon report itself. There was research done into actually hearing the voices of young people. Ms Vardon picked up on the fact that children suggested that they lived in fear of their parents and that they often felt they were not believed when they expressed such concerns to family services workers. It is of great concern that, when a young person comes up and says, "I'm in fear of my parents, I'm in fear of my life in this home," they felt they were not being believed. That is a major problem that needs to be addressed. It is not just a systemic one about reporting; it is one about attitudes in this community to young people and hearing young people's voices and valuing young people's voices.

This echoed concerns that the community services committee had heard when we ourselves went out and spoke to young people. Again and again, we heard from young people that they felt that their voices were not being heard and, when they were being heard, they were not being believed.

This is something broader than just child protection; this goes across the entire community and is something that we all need to think about: why we do not hear children's voices enough and why there is continual disrespect for young people. We think that young people, because they have not lived long enough, do not have enough life experience to contribute to our society. That attitude is continually perpetrated and needs to be stopped. It flows into child protection and flows outside child protection as well. We need to respect young people to be able to articulate their concerns about what is happening to them in a way that is relevant to them. And then we need to encourage young people to do this, support them to do it and then work with them to address their problems. I think that is something that we all need to do a little bit better.

I would like to conclude by referring to the government's response to the annual reports that were tabled today. There were some serious concerns raised, specifically in the Standing Committee on Education's report—and I think this flows into the Vardon report—that annual reports were not providing full and frank information not only in relation to judicial decisions from coroners but also on the actual work of the department and how this was impacting on accurate record-keeping and how it was impacting on this Assembly's oversight role.

I guess I am very disappointed that the government's response to these serious concerns was one line and that we may never actually know what the department of education thought in response to coroners' inquiries about the deaths of young people in this community. So I ask the government to respond more fully. We did not get that information through the annual reports; we have not seen that information in any other sense. It is not in the government's response to the committee's concerns about the annual reports. So hopefully there will be more information forthcoming on not just how the department of education acted in the past but how the things that came out of the coroners' inquiries into the relationships of young people known to family services will be used to inform how the new Office of Children, Youth and Family Support actually operates.

MR CORNWELL (4.23): I rise to support this matter of public importance. The only question I would put is a question mark itself at the end of the "child protection services in the ACT" subject, because I am not sure that they are still operating. The minister talks about the services being below standard and how more money is needed.

There is a culture problem here, I believe. The Vardon report states that I asked a question on 23 September 2003. In fact, I began asking questions on 4 March 2003. I must admit that initially I was quite happy with the answers. A mandated person has to reasonably suspect that a child or young person is suffering sexual abuse or non-accidental physical injury. I began to smell a rat, however, a little later in the same answer when it said:

> It should also be noted that responsibility to prosecute persons under the mandatory reporting requirement belongs to the police. This would be an option in cases of extreme negligence.

All of that is fine.

> A punitive approach—

it went on—

> to mandated reporters is inconsistent with the development of partnerships with the professional community.

I thought it was the police who made this decision, not the department saying yes, of course, we'll let the police in. However, remember:

> A punitive approach to mandated reporters is inconsistent with the development of partnerships with the professional community.

Minister, I thought we were here trying to protect children.

Ms Tucker internationalised the subject and also spoke on social things. Ms Dundas mentioned early intervention and went on with the rights of the young. These are reasonable arguments, but I would put to you that they are of a political nature. I do not necessarily agree but I do not disagree, and I do not want to argue with them now. I want to get back, however, to the real issue, and that is whether family services is actually operating or not in this territory. I have already said the culture appears to be biased.

I will now turn to the question on notice of 23 September, that is, nine months ago. I thank the minister for the answer that in fact the total number of reports of physical abuse, sexual abuse and neglect had risen substantially in the year 2002-03—physical, 485; neglect, 442; sexual, 218; a significant increase of 1,145 reports. It was explained that the reason for that is that some reports previously were handled as consultations– how I do not know. However, the reports were changed and we now have these facts.

However, I was particularly concerned a little later at information in an answer to another question that I asked. I asked what percentage of reports of abuse and neglect

came from various people. You will be interested to hear this, I am sure. In fact, I think you'll be shocked. The complaints in 2002-03 were from:

- medical practitioners, mandated persons; 1 per cent;
- hospital and other personnel, mandated persons; 8 per cent;
- school personnel, mandated persons, 14 per cent;
- child-care personnel, mandated persons, one per cent;
- social workers, mandated persons, 2 per cent.

Twenty-six per cent of these reports were from mandated persons. The other 74 per cent were from non-mandated persons, including 39 per cent from friends and neighbours—74 per cent from non-mandated people. The police figure was 16 per cent, I might add.

The point I am making, Minister, is this: wouldn't these people have seen these children perhaps presenting at hospital? Wouldn't they necessarily have gone to school? How come only 26 per cent of the reports came from mandated people and 74 per cent came from the rest of the community? This raises very serious questions in my mind on the whole question of mandatory reporting.

You know I have attacked this before, and I will continue to do so. You made a statement earlier, Minister, about how matters had improved in the last six months in your department. Yet as recently as 4 May, two months ago, in answer to a question about action on mandatory reporting, you trotted out Justice Kirby's comments of 23 years ago:

> The Commission believes that the existence of the sanction—

that is, of mandatory reporting—

> is more important than its enforcement; it can be purposefully used to educate, to direct and to reinforce good intentions rather than provide a basis for prosecutions ...

I do not think that Justice Kirby, even 23 years ago, Mr Speaker, was directing those comments to the case of two children who died in this territory. I do not believe that that was the case at all. In fact, the whole question of mandatory reporting is now in serious doubt in the ACT. I am beginning to suspect that we may be planning to do away with it.

Mr Hargreaves: Is that an election promise?

MR CORNWELL: Thank you for the interjection. I see. Mr Hargreaves asked me if it is an election promise. I am asking you, Mr Hargreaves, or I am asking your minister and your government, because it seems to me your government's failure to act upon this matter—

Mr Hargreaves: On a point of order, Mr Speaker, following on Mr Pratt's point of order before: could you ask Mr Cornwell to direct his questions through the chair.

MR CORNWELL: I am addressing it—

MR SPEAKER: Mr Hargreaves, don't provoke him with interjections.

MR CORNWELL: Thank you. One has to ask, sir: if mandatory reporting is not being enforced, then what is the purpose of it? I personally think it is a necessary thing, but I do believe it needs to be enforced. And I am naturally suspicious of any government, any minister or any department that fails to fulfil the law as it is set out. Therefore, I would imagine that perhaps they want to get rid of it. I would be very concerned, incidentally, if that were the case, because clearly children in this territory do need to be protected. And without mandatory reporting, I seriously fear for their safety, though I must admit that I have every reason to doubt their safety even with it.

There seems to be a culture of not wishing to enforce child protection services here in the ACT. I accept that your comments, Minister, indicate that a lot of good work has been done—you claim—over the last six months. I am happy to accept that assurance. But may I say that I still believe that the jury is out on this matter. We have still to see what you and your department will do about these issues. We do not want any more child deaths in this territory and we, at least on this side of the house, will be watching very carefully because to date the answers that I have received are totally unsatisfactory.

MR HARGREAVES (4.32): If time permits I will list all the significant things that this government and the department of education, youth and family services have done to address the lack of satisfactory mandatory reporting obligations. This matter of public importance is the most appalling and thinly veiled attack on the hardest working bureaucrats in this town by the most shallow shadow minister that I have ever had the misfortune to encounter in this place. In debate on this matter this queen of clichés referred to "a shroud of secrecy", "a can of worms", and to "a Vegemite sandwich today and a jam sandwich tomorrow". I happen to like jam sandwiches. This so-called shadow minister is a disgrace. She is full of rhetoric and innuendo.

Mr Smyth: On a point of order. The member should be relevant to the subject matter of the matter of public importance.

MR SPEAKER: There is no point of order.

MR HARGREAVES: The shadow minister is full of rhetoric and innuendo and there is no substance to her argument. She talked about a leadership failure, when she is sitting right behind the biggest leadership failure into whom God ever blew breath. The shadow minister referred to this government showing leadership in the area of child protection. There has been an administrative failure and a number of people have not discharged their statutory reporting obligations.

The relevant minister immediately introduced changes in the child protection area. She obtained a budgetary allocation of $68 million and directed it into that area. She organised international recruiting programs and implemented organisational change. She also stood up in this place and defended those who work in the child protection area. They need protecting from those opposite. Members opposite should hang their heads in shame. People who work on behalf of somebody else ought to be congratulated and not attacked as they have been by this shadow minister. I cannot tell members how much this matter sickens me.

Mrs Burke referred to a lack of confidence. However, Mr Cornwell said earlier in debate that he doubts the safety of children, even if there is mandatory reporting. That was akin to saying that the people who are involved in protecting our kids do not have his confidence. I say to those who are working in the child protection area that they should not worry about gaining the confidence of Mr Cornwell. They will be working in their jobs for a much longer period than he will be a member of parliament in this place.

Mrs Burke stood up in this chamber and babbled on but there was nothing to sustain her argument other than a bagful of wind—and I apologise to members for that cliché. I wish to ask Mrs Burke a simple question. I refer to the report to which Ms Dundas and Ms Tucker refer frequently in this place—the report of the Standing Committee on Community Services and Social Equity on its inquiry into the rights, interests and wellbeing of children. Mr Cornwell was a member of that inquiry and I thank him for his valuable contribution. But where was the shadow minister's submission and where are the points that she made today with no substance and no justification? Her contribution to that inquiry was noticeably absent. Mrs Burke said that this government has a leadership problem. It does have a leadership problem; it has a lot of leadership from this minister and it has sod all, other than inconsistency, from people across the chamber.

Mrs Burke: Point of order. Mr Hargreaves just used unparliamentary language.

MR HARGREAVES: As it happens, that word is not in the list, Mrs Burke. Mrs Burke should get hold of the list and commit it to memory. Mrs Burke said that the minister's bureaucrats left her alone when the committee questioned her, which is true. She was left alone because she did not need them. She was exercising leadership. Mrs Burke cannot have it both ways.

Mrs Burke: Neither can you, Mr Hargreaves.

MR HARGREAVES: Mrs Burke might spin on a stick but she still cannot have it both ways. The police are mandated reporters and total reports from mandated reporters amounted to 42 per cent. It is not the intention of this government to remove the reporting requirement. I ask a rhetorical question at this point: What sanctions does Mr Cornwell suggest should be imposed? Is he suggesting that we should take away mandatory reporting? I heard an election promise from him. He said that mandatory reporting was useless and that it would not help kids. So I assume that the Liberals intend to remove that mandatory reporting requirement.

Mrs Burke: No, that is what you are saying; it is not what we are saying.

MR HARGREAVES: What sanctions would opposition members impose? Would they lock up these people in jail? We have to find a way to fill the jail somehow. Let us put in jail all those who tried their hardest to protect the kids but who every now and again made a blue because they are human. What will opposition members do? Will they chop off their hands, stick them in jail and expose them by putting their names in the paper? This matter of public importance is an appalling abuse of the time of this Assembly.

The only reason the shadow minister introduced this matter of public importance was to give the minister an opportunity to demonstrate the difference between the two of them.

We are talking about David and Goliath. Mrs Burke has the same effect on the minister as would a mosquito biting the knee of an elephant. She has no effect at all. I wish she would get a change of portfolio. It is about time that Mr Smyth had a good look at what Mrs Burke is doing to the morale of people in the department of education, youth and family services. This is an appalling state of affairs.

Mr Pratt: Point of order, Mr Speaker.

MR SPEAKER: Order. What is the point of order? Come to it quickly.

Mr Pratt: I refer to standing order 62. My point of order relates to relevance. This matter is about the protection of children; it is not about Mrs Burke.

MR HARGREAVES: That is right, Mr Speaker. I take Mr Pratt's point. It is not about Mrs Burke because she has nothing to do with child protection in this town. However, if she is successful she will destroy people who work in the child protection area. She came into this chamber and talked a lot of rot. She said that a large number of people had visited her in her office and she had received a large number of phone calls in relation to this matter. Mrs Burke should list those people.

Mrs Cross: Point of order, Mr Speaker. Mr Hargreaves made an imputation against Mrs Burke. I ask him to withdraw that statement.

MR HARGREAVES: I have not yet made an imputation, but I am about to do so. However, it will not be an imputation; it will be a direct statement.

Mrs Cross: Mr Speaker, I ask you to control the member.

MR SPEAKER: Order! The time for discussion has expired. What was the imputation, Mrs Cross?

Mrs Cross: Mr Hargreaves said that if Mrs Burke were in that role she would destroy people who worked in the child protection area. That is an imputation against the member.

Mr Hargreaves: It is a fact.

Mrs Cross: No, it is not a fact; it is a subjective statement. It is an imputation, Mr Speaker.

MR SPEAKER: Order! I think it is a point of discussion.

School Crossings
Alteration to resolution of the Assembly

Motion (by **Mr Pratt**, by leave) agreed to:

> That the resolution of the Assembly of 11 February 2004 be amended by omitting, in paragraphs (2) and (3), "1 July" and substituting "17 August".

Gungahlin Drive Extension Authorisation Amendment Bill 2004

Debate resumed from 29 June 2004, on motion by **Mr Wood**:

> That this bill be agreed to in principle.

MS DUNDAS (4.43): The ACT Democrats oppose the Gungahlin Drive Extension Authorisation Amendment Bill. When the bill was introduced in this Assembly, the ACT Democrats opposed it because it took away the rights of Canberrans and it interfered with the proper relationship between the executive and the judiciary in the territory. This bill undermines the ACT planning system and the Democrats are opposed to that. This bill is not the proper way to change the territory plan. A process is already in place to change the territory plan—one that requires scientific study, community consultation and scrutiny by an Assembly committee.

Canberra is one of the best-planned cities. Planning is an essential part of our heritage and our history. The people of Canberra care about planning, how their city will take shape and how open spaces and nature reserves will be protected. The interest and participation in planning in Canberra supersedes that in any other part of this country. The foundation of our planning system is the territory plan. That document sets out how we control development in our city, how we protect our environment and how we wish to see our city grow and prosper. It is intentionally difficult to tamper with, sometimes requiring discussion and research to ensure that we do not make the wrong decision when we try to amend it.

The territory plan has never been able to be changed on the whim of a minister in order to fast-track development. It is unfortunate that today we have before us a proposed law to change that longstanding principle. If this bill is successful today it will suddenly mean that a change to the territory plan can be achieved at the discretion of a minister with no consultation, no assessment and no scrutiny. That appalling precedent shows the contempt that this government has for the planning process in the ACT. This government came to power on a wave of discontent following the Liberals' cavalier attitude to planning yet we now see it interfering in planning laws to an extent that was never dreamt of by the Liberals.

Let it be clear that the inclusion of parts of Caswell Drive, Belconnen Way and Bindubi Street within Canberra Nature Park was not some anomaly or mistake; it was a deliberate decision by drafters of the territory plan to protect the nature reserve. Roads bounded by the nature reserve on both sides were intentionally included in the nature reserve as part of the territory plan so that the conservator of flora and fauna would have the jurisdiction to oversee any work or development in those areas and he or she could assess the need to protect the environmental value of the reserve. If this motion is successful today it will be taking away that important piece of protection.

We also recognise that it is quite possible that this unprincipled move will be entirely unnecessary. The ACT government will put its argument to the court this week and the court might choose to remove the injunction. The information I have been given is that the government believes the construction of the road is entirely consistent with the territory plan. If that is the case this proposed law is unnecessary and the court will

uphold the laws that we already have. In the next few days this legislation may become redundant. It is extremely bad law-making to change the law when a court questions a decision of government. The proper place to determine the meaning of laws is in a court, which performs that job every day.

This is an act of blatant desperation and political interference to keep dodging legal processes by changing any law that has been called into question. Just like the Gungahlin Drive Extension Authorisation Act, this piece of legislation is not required for the road to be built. All that is needed to build the road is for the government to obey the law. It is true that sometimes obeying the law takes longer than breaking it. This debate is not about whether or not we should build the road; it is about whether it is good government simply to change the law every time it inconveniences someone. There is no pressing question of law in this debate; it is about political expediency.

On the day that the ACT Human Rights Act becomes law the government will be setting a dangerous new precedent in ACT laws that will affect our relationship with the courts and the community. In the Gungahlin Drive Extension Authorisation Act the government eroded the appeal rights of Canberrans, even when laws were being broken, to further its own political ends. All the planning, consultation and scrutiny that protect the territory plan are now being thrown out the window in the pursuit of political advantage. When will it end? What will happen next? How many other rights will this government trample on and destroy in order to achieve its blatant political ends? When will the next project be implemented to strip away our systems of governance so that we can get something done a few weeks earlier? The project about which we are speaking is already two years late.

The ACT is heading down a very dangerous path with this legislation. I urge all members of the Assembly not to support it. I know that some members think this legislation is important and that it will facilitate the building of the Gungahlin Drive extension but they need to remember that a court is looking at the issues that are being debated today. There is no need to rush through this piece of legislation. It is a shame that it is occurring. It is shameful that this kind of law is being picked up by the Assembly and passed quickly, with no-one scrutinising its impact or determining what precedents it will be setting. There has been no community consultation or participation in this process. The community needs to know that our legal systems are working.

Last month, in debate on the Gungahlin Drive Extension Authorisation Bill, I asked when we would again be seeing this type of legislation. Unfortunately, I got an answer all too quickly. If the Assembly does not stand up against the abuse of our legislative process this type of legislation will become all too common and our rights will slowly disappear. This bill is yet another example of the Labor government, supported by the Liberal opposition, using the Assembly for blatant political purposes—to interfere in our system of governance and our system of planning. The ACT Democrats will not be part of it.

MS TUCKER (4.50): The Greens do not support this legislation. It is ironic that today is the proud day when the Human Rights Bill comes into effect, promising a better standard of government. It is relevant to debate the Gungahlin Drive Extension Authorisation Amendment Bill, which has the honour of being the first bill to breach the law on the very first active day of the life of the Human Rights Act. I quote from the Human Rights

Act, which refers to better lawmaking and to the scrutiny and consideration due to any piece of proposed legislation that comes before the Assembly. Part 5, which is entitled "Scrutiny of proposed Territory laws", states:

> **Section 37 Attorney-General's statement on government bills**

I have not seen such a statement from the Attorney General, but it might have been tabled. The act states:

> (1) This section applies to each bill presented to the Legislative Assembly by a Minister.
>
> (2) The Attorney-General must prepare a written statement (the ***compatibility statement***) about the bill for presentation to the Legislative Assembly.
>
> (3) The compatibility statement must state—
>
> (a) whether, in the Attorney-General's opinion, the bill is consistent with human rights; and
>
> (b) if it is not consistent, how it is not consistent with human rights.
>
> **Section 38 Consideration of bills by a standing committee of the Assembly**
>
> (1) The relevant standing committee must report to the Legislative Assembly about human rights issues raised by bills presented to the Assembly.
>
> (2) In this section:
>
> ***relevant standing committee*** means
>
> (a) the standing committee of the Legislative Assembly nominated by the Speaker for this section; or
>
> (b) if no nomination under paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for the consideration of legal issues.

Since no time has been allowed to enable us to do the right thing and to follow the law, I will bring some human rights issues to the attention of the Assembly and, in particular, to the attention of the Attorney General. I refer to clause 6, which will introduce a new subsection to section 10, which is entitled "Standing to bring proceeding in relation to authorisations." Standing relates to gaining access to the courts and it provides the basis on which to bring a proceeding. The essence of the Gungahlin Drive Extension Authorisation Act is to be found in section 10 (4), which states:

> The imposition of a condition on an authorisation does not create a right in anyone other than the Territory.

The purpose of that section was to rule out any basis for scrutiny by the courts. So far as I can tell, the amending clause in the bill today will ensure that no interest—not even a public interest—can be claimed. That is because the courts decided that an interest

could be established. The Supreme Court brought down a judgment on what I understand to be the topic of public interest, although I have to say that I am working on the reporting of the judgment rather than the judgment itself. On Tuesday 22 June an article in the *Canberra Times* written by Roderick Campbell and Scott Hannaford states:

> Justice Madgwick said that he had granted the temporary injunction because the possibility of significant and irreparable harm being done to native fauna and flora during construction narrowly outweighed the financial cost to the ACT of further delays and the fact that the Assembly had passed laws intended to facilitate construction of the GDE.

To me that seems to be weighing up what is in the public interest. If I understand this amendment correctly—and I cannot be absolutely sure that I do because we have not had time to obtain considered advice—it will make it explicitly clear that no-one but the territory, that is, the government, will have any standing to argue any case about the public interest. It is of great concern that this law, which is being rushed through this chamber, will ensure that, for the construction of the Gungahlin Drive extension, only the government would be deemed to understand the public interest for the purpose of gaining standing to test actions and decisions made by the minister. That is really moving towards dictatorship.

Tim Bonyhady, professor in the Faculty of Law and director of the Australian Centre for Environmental Law at the Australian National University, in an article in the *Canberra Times* on 21 May this year entitled "Stifling activists does us all harm in the long term", argued against the government's policy of amending the law when a case is lost in the courts. He discussed the earlier ACT Supreme Court case in which Justice Crispin found that Save the Ridge was entitled to bring its action as its case was well founded. Bonyhady wrote:

> The Government, the judge held, had failed to obtain development approval for its actions.
>
> This sequence of events is a vindication of our democracy. It is a story not only of members of the public's having access to the courts but also of government's being subject to the general law rather than above it. The proper democratic consequence should be for the Government to comply with the law it has breached as any ordinary citizen would be expected to do.
>
> The ACT Government has ignored this principle. First it introduced regulations to remove the need for development approval, just as it introduced other regulations to stop a second challenge by Save the Ridge to the ACT's Administrative Appeals Tribunal. Now it has introduced legislation to authorise the road and free it from challenge on the ground that further litigation would be "expensive and divisive" and would not "reflect the wishes of the Canberra community as a whole".
>
> This legislation flouts the principle that general laws should not be undermined by special provisions for specific cases. It offends also the principle that law should not operate retroactively by validating unlawful acts. The Government's argument about popular support for the road misses the point that access to our tribunals and courts should not depend on opinion polls.

Professor Bonyhady criticised the Liberal Party's territorial significance bill and stated:

> A new territory dam is one example nominated specifically in the Liberals' Bill, which aims to stop "vexatious appeals."

He also said:

> This bill is even more unfortunate. If future governments chose to exploit it, the Liberals' measure would deprive members of the public of the opportunity to have an independent tribunal scrutinise key questions about the most important developments in the ACT. Public rights would be lost in exactly those cases where they mattered most.

He referred to Jim McClelland, a former minister in the Whitlam Labor government, and said:

> McClelland was scathing about the way in which such legislation deprived members of the public of their rights, diminished environmental scrutiny and prevented judicial supervision of decisions. He declared such legislation an "abuse of power".

This bill, which was prepared on the run so as to negate a reasonable court decision, takes us further down the abuse of power road. Clause 4 will give the minister the power to declare an area of nature reserve that is or may be part of the Gungahlin Drive extension construction not to be part of the nature reserve. New clause 6A (5) (b) provides that territory laws apply to the land in question, that is, formerly a reserve, with the modifications, if any, prescribed under the regulations. That is an extraordinary clause.

While it has been noted, the scrutiny committee has not had time to meet to consider properly this contravention of the Human Rights Act 2004. This clause clearly seems to authorise the use of regulations under this act to modify the effect of other acts. This morning Peter Bayne, the legal adviser, in response to my query about this, said that he thought it applied only to the territory plan, itself a subordinate law, and so it was not a Henry VIII-type clause. However, the words of this proposed new clause mention territory law. We have not had time to fulfil our obligations under the Human Rights Act and the scrutiny committee has not had time to pursue this issue. It is the responsibility of every member in this place to take time to examine legislation such as this, but obviously that does not seem to pose a problem for many people.

I have referred in debate to the significant issue of proper democratic and human rights processes. Although this bill might be limited to the Gungahlin Drive extension, it has set a dangerous precedent in that it will enable governments to wipe away laws whenever it is convenient for them to do so. It is likely that this sort of thing will happen in the future because we have created this precedent. I will not speak at length about road issues because I think the view of the Greens is well and truly on the record. However, I do not think this issue is as simple as the government is portraying it to be. The government claimed that this extension was always going to be part of the road, so there was no issue. Obviously I do not agree with that statement.

MRS CROSS (5.00): The last time I spoke in debate on the Gungahlin Drive extension I said that all that had to be said had already been said. Nothing has really changed that statement. In May the Assembly passed the Gungahlin Drive Extension Authorisation

Bill 2004, but despite that decision by a majority of the territory's elected representatives, construction work on the road has been continually disrupted by the actions of a minority group bent on opposing a decision that was arrived at democratically.

This group cannot be permitted to continue to invoke so-called democratic rights as justification for its actions while at the same time refusing to acknowledge the truly democratic decision that reflects the wishes of the majority. That is what democracy is about. Whenever someone talks about democracy it is interesting that Ms Tucker, someone who is interested in human rights and so-called democratic rights, is never in the chamber. Democracy is the primary guiding principle of our society and it is not up for hijacking in the service of those who set out to overturn it.

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

MRS CROSS: I said earlier in debate that in the case of this project it is regrettable that things had to reach a point where curtailment of certain appeal rights was necessary. That had to happen in order to break a deadlock and to serve a wider community need. I find offensive the comments Ms Tucker made earlier about the majority of people in this place ignoring human and democratic rights, as that is not the case.

This was not an easy issue for me to assess and I am sure that many members in this place did not find it easy to go down this path. However, at the end of the day, we represent the people and the majority of people who will benefit from this road said, "We want a road." So that should be the end of the story. That is why I supported the Gungahlin Drive Extension Authorisation Bill. I am supporting the Gungahlin Drive Extension Authorisation Amendment Bill so that the minister can take the necessary action to ensure that the road is built without further disruption in order to serve the many people who need it and who have waited a long time for it.

MRS DUNNE (5.02): The Liberal opposition, in supporting this bill, places on the record its hope that, in the future, the minister does not hightail it into the chamber to ask the Assembly to again get him out of hot water. Earlier Ms Dundas asked, "When will this end?" The activists who are costing us money also have to be asked, "When will it end?" The government has to be asked, "When will it get its house in order? When will it do its homework? When will it stop popping up its head like a rabbit in the spotlight waiting for Save the Ridge to knock it down again?"

As things stand at the moment the Assembly looks pretty tawdry. This government seems to be completely unable to control the situation. A bunch of activists is able to take it to court and to take it down every time. Those activists have won every legal challenge that has arisen. When I talk to officials I know that Save the Ridge activists are just sitting there thinking, "When we have done this we will wait a little while and we will then do it again." Officials cannot tell me when Save the Ridge activists will strike again because they do not know.

We are debating this legislation today because a lot of people who have been dealing with the territory plan for a long time have said, "This is what we think the territory plan

means." Those planners appear to understand all the words but they do not run the common activist test. A common activist who looks at the plan might say, "Look at this. We have a nature park with a road running through it and the nature park is contiguous to the road. That appears to be an issue." The planners think they know what the plan means because they wrote it. They cannot comprehend that anyone might look at it differently and gainsay what they have said. That is what is happening.

The part-timers and activists have gainsaid the experts. When I asked why Caswell Drive was incorporated into the nature reserve, even though it is a major road that is planned to be upgraded, why Belconnen Way, a major road, was incorporated into the nature park, and why Bindubi Street and other streets in the Belconnen electorate were included in the nature reserve I was told, "We could have done it another way and excised those bits from the nature reserve, but we wanted people to be sensitive to the fact that this was a nature reserve with a road running through it." That is the most preposterous ex post facto justification of bad administration that I have heard in a long time.

Mr Wood: Do you know who did it?

MRS DUNNE: It was done under the territory plan. I do not care who did it or which minister signed off on the territory plan; I am saying that it was wrong and that the justification from the bureaucrats is preposterous. If we do not get our house in order, start to do our homework and look at the documentation in the way that terrorists look at it—and I do not mean by that that we should throw Molotov cocktails; rather we should look at the documentation in the way in which those who run guerrilla warfare on this project look at it—we will be done in the courts every time. It is time that the minister ensured that his bureaucrats got their house in order so that these ongoing costs and delays are not perpetuated.

Liberal opposition members support the Gungahlin Drive Extension Authorisation Amendment Bill, but we issue a number of warnings. This is a preposterous piece of drafting. Ms Tucker referred to some of the issues about which we are concerned. For example, the minister may, in writing, declare that land is reserved but that it is not reserved land for a stated purpose. If the minister makes a declaration in relation to land that is reserved, the land ceases to be reserved land. The legislation then refers to whether or not the land may or may not be reserved. People have to read it about 15 times and take their Orwellian doublespeak guide with them to work out what it means.

We have got ourselves into a nice muddle. The problem with this legislation is that it is the wrong approach at the wrong time. But we have to support it because the alternative is continued chaos and delay. The people of Gungahlin in particular and the people of Canberra in general will be inconvenienced for a long time and held to ransom by a few. What we are talking about is a complete shambles. Ms Dundas said earlier that this government tries to keep dodging legal interference. If only it did. It goes to the courts, somebody comes up with something out of left field, it has no idea that it is going to hit it and it does not know how to approach the issue in the courts.

I feel sorry for Mr Wood because he is between Scylla and Charybdis in relation to this issue. Ms Tucker quoted from an article written by Tim Bonyhady—a contemporary from my old alma mater—who said that it was a terrible thing for the government to

change the law after it had lost its case in the courts. A few minutes earlier Ms Dundas said that we should wait until the court makes its decision. So Mr Wood cannot win either way. Opposition members said that they would support the legislation but in the meantime they will give the minister a bit of a shellacking.

I am concerned about this legislation because we are about to have a five-week interregnum, we will sit for three weeks and essentially we will then be in a caretaker period. The people who are running legal guerrilla warfare on this project will take advantage of that, which is why this government has to get its house in order and why it has to get it right now. Today we are sorting out the Gungahlin Drive issue but it is a quick short-term fix. I place on the record the fact that we must revisit the Belconnen Way and Caswell Drive issue. Bindubi Street is the next likely culprit. If the government ever tries to do anything in Bindubi Street we will use as a justification the fact that it is in the nature reserve.

The first job of the Sixth Assembly should be to undertake a review of the territory plan and to excise these bits of road from the nature reserve. We must comprehensively go through the territory plan and ensure that when Roads ACT builds a road that we have told it to build it is not faced with this sort of embuggerance. This legislation, which was never a good piece of legislation, has been made worse today. It was introduced because it was politically expedient to do so; and I make no apologies for that. The Assembly has said, "We hear the will of the people in Gungahlin and we are responding to that."

This is not the best way to do it. Tim Bonyhady is wrong about the territory's approach to projects of significance. One has to sort out all the arguments first and only then can one approve a project. What we are doing today is asking, "What will come up next and how will we stop it?" Mr Wood will start looking like the boy with his finger in the dyke. As I am sure that a whole lot of other issues will arise, I fear Mr Wood might run out of fingers and toes. We need to address these issues now. Planners and people in Roads ACT need to take a deep breath and look at these approvals with a fresh eye, not as someone who reads these things every day and who sees what he or she wants to see.

If planners cannot take a fresh look at these approvals they must find somebody who can. We must establish when these issues are likely to arise and we must deal with them before the government is again taken to court. In the past this government has not done anything about requiring guarantees for costs. Save the Ridge activists go to court and state, "We will cover costs", but we know that that is no guarantee. This group of activists should be prepared to put their houses on the line as a guarantee. Save the Ridge activists do not have the assets to meet those sorts of costs. Before we proceed any further this minister must require guarantees for costs. We almost certainly will end up in court again and we should not let Save the Ridge activists get away with it.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (5.13): I thank Mrs Dunne for her support for the bill, but I am not too sure about her speech. Let me own up, as I have before, with respect to heritage legislation. I understand that the legislation was introduced in 1993. Can members guess who was minister at that time?

Mrs Dunne: I did not want to attribute blame. I thought it might have been one of ours.

MR WOOD: I confess to being minister at that time. Mrs Dunne quite fairly asked, "When will it end?" I cannot answer that question. This is complex legislation in which two authorities have a say, so I cannot guarantee that there will be no further challenges. I think I would be surprised if there were not. Mrs Dunne said that we have not won yet but, in a sense, we have not lost either. Those challenges have not gone through to the appeal stage and there have been injunctions. We have taken before, and we will take today, a path that provides for certainty. I agree with Mrs Dunne that it is the community, represented by this Assembly, that is seeking this road. I am grateful for the support of members today.

Question put:

> That the bill be agreed to in principle.

The Assembly voted—

Ayes 11		Noes 2
Mr Berry	Mr Hargreaves	Ms Dundas
Mrs Burke	Ms MacDonald	Ms Tucker
Mr Cornwell	Mr Smyth	
Mrs Cross	Mr Stanhope	
Mrs Dunne	Mr Wood	
Ms Gallagher		

Question so resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with detail stage.

Bill agreed to.

Health Professionals Bill 2003

[Cognate bill:
Health Professionals Legislation Amendment Bill 2004]

Debate resumed from 11 December 2003, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR DEPUTY SPEAKER: I understand it is the wish of the Assembly to debate this bill cognately with executive business order of the day No 3, Health Professionals Legislation Amendment Bill 2004. That being the case, I remind members in debating order of the day No 2 they may also address their remarks to order of the day No 3.

MR SMYTH (Leader of the Opposition) (5.19): The Health Professionals Bill 2003 consolidates all the regulatory frameworks of various health professions into one act. It also establishes a new disciplinary tribunal and a couple of new bodies—the professional standards panel and the personal assessment panels. It might be interesting for members

if I went back in history and traced the progress of this bill. I believe that Michael Moore commenced work on this bill in 2001, but it was not completed before the former Liberal government left office. It is a shame that it has taken an additional three years before coming before this chamber, but that is just another example of the glacial pace at which this government moves.

The Health Professionals Legislation Amendment Bill 2004 contains the consequential amendments that are required as a result of the passage of the Health Professionals Bill. The bill and any arguments as to its merits rely on definitions. By creating a new classification, that of health professional, which captures everyone who provides a health-related service, there is no longer a need for the Dentists Act, the Nurses Act, the Chiropractors Act, et cetera, as they are all now covered by the rules that cover health professionals. As a result, all health professionals will adhere to the same basic set of rules.

Individual groups and distinct professions such as chiropractors will still be regulated and registered by a chiropractors board as they are now, with the minister deciding when a board is needed. The only practical difference with the boards under this bill is that they must now have a community representative on them. The minister now has the power to dismiss the board. While individual boards have the day-to-day responsibility of regulating and registering their professionals, the bill establishes a tribunal that acts as a higher authority. The tribunal can hear appeals from individuals dissatisfied with action taken against them by their industry board. Conversely, the tribunal can overturn a decision taken by a board if it feels that the board's action is insufficient. Even then the tribunal is not the final arbiter; the right to go to the Supreme Court to challenge a tribunal decision is explicitly stated.

Another new disciplinary avenue is the personal assessment panels that examine the individual capacity of professionals to practice. A panel may make the judgment that an individual is too old to practice or is too unwell. Another panel created by these bills is the professional standards panel. These panels will be responsible for creating and updating the professional standards of each of the professions. The opposition is supportive of these bills. However, it has received a number of representations from affected parties who are less than supportive, but I suspect that all members in this place have had the same representations. I had a representation from an organisational psychologist who objects to all psychologists being lumped together as health professionals.

However, I think that that complaint misses the point of this bill—that one is defined as a health professional only if one is providing a health service, which is also clearly defined in the act. The argument as to whether or not the services of an organisational psychologist are a health service is a debate for another day. The Australian Medical Association has told me that it is basically satisfied with these bills, but it has some concerns about what it refers to as regulation 78. I can only assume that that regulation appeared in earlier draft regulations. It is interesting that some organisations get to see regulations before members do. These regulations were tabled formally on Tuesday this week but it is obvious, from the date of the letter that I received from the AMA, that it saw the regulations some months before.

Regulation 78, as it was then numbered, applied to retired doctors who occasionally referred or prescribed. This issue is not urgent as these regulations will not be finalised today, but I draw this matter to the attention of the government. This failure to meet insurance needs is possibly now contained in regulation 124 or 125. I believe it is contained in regulation 125. The AMA suggested that we lift from New South Wales legislation the Healthcare Liability Amendment (Exemption) Regulation 2003, which allows for medical practitioners whose practice is limited to the referral, without fee or reward, of persons to other medical practitioners for health care or to the prescribing, without fee or reward, of therapeutic substances in limited circumstances to be exempt from the requirement to be covered by approved professional indemnity insurance.

The New South Wales regulations, which are quite clear and neat, set out some time limits. I refer the acting health minister to the New South Wales regulation and ask him to consider it before the exposure draft regulations are promulgated. But, as I have said, we do not have to address that issue today. I received representations from the Pharmacy Guild, which indicates that it is concerned about a number of issues in these bills. I understand that other members have amendments that seem to go a long way towards addressing that body's concerns.

If these bills are to work, certain professionals cannot be left out or cannot opt in. If we are to pursue that kind of legislation it is very much a case of "one in, all in". Aside from the AMA and the Pharmacy Guild I have not received any objections from any other health professional groups. I believe that, ultimately, there is potential for the public to be a winner if these bills are passed as the health field could be more consistently regulated. This belief is tempered somewhat by the knowledge that the creation of three new bodies could lead to more bureaucracy.

My other concern is that we are again being presented with substantial legislation that is dependent on regulations, without those regulations having been made available. Obviously the government heeded what I said in debate last week on private members' day about ensuring that we see the regulations early, preferably when we are discussing a bill, so that we know what we are passing. There is a lot of detail in which devils may hide in these 196 pages of regulations.

I am grateful to the government for ensuring that the exposure draft regulations were made available. Nevertheless, having scanned the regulations I cannot find any serious flaws. The opposition is prepared to support the bills at this stage. As I have already said, a number of amendments will be moved to address several minor concerns. In the main, the opposition will support those amendments, so naturally it will also support the Health Professionals Amendment Bill 2004 and the Health Professionals Legislation Amendment Bill.

MS DUNDAS (5.26): The Democrats support the Health Professionals Bill and the Health Professionals Legislation Amendment Bill. The regulation of our health industry is vital. When people seek the services of a doctor, physiotherapist, podiatrist, pharmacist or any of the health professionals that these bills cover, they must be assured that the service will be provided by a properly trained, qualified and registered practitioner. The community needs to know that adequate complaint mechanisms are in place and that changes to the profession can be made in an adaptable and responsive

fashion. For those reasons the Democrats agree that it is timely that we update the regulation of health professionals in the territory.

The Health Professionals Bill, which has been the subject of lengthy industry consultation, has the ambitious task of placing 12 different acts covering the regulation of health professionals into one omnibus bill. I am pleased that the government is being proactive in updating legislation that, in some instances, is over 70 years old. There is a dramatic shift in the way these professions will be regulated with the bulk of specifications being shifted to regulations and schedules rather than individual acts. This leaves the law to deal mainly with the formation and operation of professional boards that administer the regulation of standards for each individual health profession.

Despite its length the bill before us is rather simplistic. But it does improve transparency and accountability as well as increase community representation and public consultation. These are principles to which the ACT Democrats are firmly committed. Whilst I am generally supportive of the move to have the bulk of legislation regulated as it allows for a more adaptive regulatory scheme and enables new health boards to update professionals in a more speedy fashion, it raises the prospect that the Assembly will lose some of its oversight powers. Amendments have been circulated to address those fears. I am supportive of those amendments, which we will deal with in the detail stage.

When I consulted with health professionals in relation to this legislation they told me about the lengths to which the government and the health department had gone to consult with stakeholders. However, concerns have been raised about the fact that the draft regulations have only just been made available and a number of stakeholders are yet to see them. Members in the Assembly have had these draft regulations for only 2½ days. Specifically, the Pharmacy Guild raised concerns about regulation of place versus regulation of person. Just this week the Nurses Federation raised questions about medical indemnity for nurses and the supervision of enrolled nurses by registered nurses.

Those issues will need to be worked through adequately when we develop individual schedules in this bill. Because of the way in which this bill was set up it was originally envisaged that questions such as these would not be answered for some time. If the amendments that we debate tonight are not successful they could bypass the Assembly altogether, which raises some serious transparency issues. Effectively, the Assembly could vote on legislation that it had not yet seen. Once those amendments have been moved, I hope the Assembly has an opportunity to scrutinise the regulations and schedules before they are enacted.

I understand that the government has agreed to my suggestion to stagger the commencement of each profession. Consequently, the repealing of each of the professions in the current act must be made more explicit so that we do not repeal one law before we are aware of what the new law is and whether or not that law has been accepted by the Assembly. The Health Professionals Legislation Amendment Bill, which is relatively uncontroversial, amends other pieces of legislation in line with the Health Professionals Bill, which is something that we support. I foreshadow that I will be moving one amendment in the detail stage that will seek to change the exception provisions from a notifiable instrument to a disallowable instrument.

Whilst these bills have at their core the good principle of consolidating and updating legislation, concern has been expressed about the way in which the whole process has been handled. The bulk of the law is to be incorporated into regulations and schedules. If amendments are not moved in the detail stage those concerns will remain unanswered. When the government is looking at omnibus-type bills and it is seeking to codify the regulation of professionals in such a way, it should be aware of those concerns. I hope that the regulations and schedules address all the concerns that have been expressed by industry and by stakeholders and that we no longer need to have extensive debates about them. However, we will not be taking that leap of good faith if those amendments are not supported tonight.

MS TUCKER (5.32): These two bills are the outcome of a fairly long project, dating from a review of the legislation of health professionals which began in 1999. There are a number of features of this project that are generally supported by the professions and the community. Rather than having 10 separate acts, with their own arcane details in regard to competence, registration and standards, these bills will ensure that there is a consistent approach, with all professions governed by the same act. Details specific to the various health professions will be addressed in schedules made by regulation. There is a 12-month period for that process of working with the professional boards to determine the schedules to be completed.

Key features of this consolidation that the Greens support include community representation on the boards of health professionals and greater transparency and accountability requirements. There are real limitations with any industry or profession that is entirely self-regulating and self-governing. Consumer or community participation in these governance structures is one of the essential components of building sustainable communities. That engagement will not happen unless the structures we set up are both transparent and accountable.

Linked to those basic components is a broader shift that is reflected in this legislation. Once the right to practise, like the right to do almost anything, simply depended on whom you trained with. Once you had qualified or been accepted into the club or the profession, your place was assured—lawyers, doctors, accountants and all. There is much more emphasis now on ongoing competence, about people practising in the professions being, if not at the cutting edge, certainly not left behind. There is much closer scrutiny of people's work. Given that, a legislative framework that can manage that scrutiny, deal with issues of competency, set out and enforce standards of behaviour, and effectively and fairly manage complaints is essential.

In this case, the balance ensures health professionals constitute the majority of persons on the relevant tribunals and panels, in addition to community representatives and a presiding magistrate. I am fairly confident that there are sufficient protections in this legislation for health professionals who are called before the tribunal panels, ranging from specific natural justice requirements to appeals to the Supreme Court.

There have been some issues that have concerned various health professionals as this legislation has come closer to coming into force. Psychologists raised the point that not all psychologists could reasonably describe themselves as health professionals and that to capture all psychologists with this legislation would create problems. The government

has some amendments to address this issue. I am also putting some amendments to this bill. Much of the details of the operations of this regime will need to be sorted out with the board and other stakeholders over the next 12 months as the schedules are agreed on. I think it is important that the health professionals can have confidence that such a process will be open and accessible.

There are particular concerns regarding the registration of midwives as nurses. I draw the Assembly's attention to recommendation 15 of the health committee's report into maternity services in the ACT—*A pregnant pause*. That recommendation called for the establishment in the first instance of a midwives and nurses board and at a later date a standalone board for midwives. Indeed, it argues that midwifery is a separate profession, distinct from nursing, and should be regulated by midwives rather than nurses.

I accept that some of the concerns that arise in regard to this legislation reflect the amount of detail that will take effect through regulation. For example, I note that issues to do with professional indemnity insurance, at present a key problem for independent midwives, will be addressed at board level or perhaps by the minister on advice from the board. I flag that it is important that our health industry is not regulated by insurance businesses and that professional indemnity insurance is not made a requirement for professionals such as independent midwives to practise.

My first amendment ensures that, at the very least, no regulations can be made in regard to a health profession without referring the matter to the relevant board or representative group. In the case of midwives, for example, the Australian College of Midwives would seem to be the appropriate group until there is a board. In regard to pharmacists, the Pharmacists Board, which does already exist, will be a part of the process.

My second amendment makes those regulations effectively allowable; in other words, they cannot take effect until the Assembly has had an opportunity to disallow them. In that way, I believe that the people concerned would be made aware of projected changes and there would be enough space for appropriate scrutiny and, where necessary, response. If the issue of friendly societies and pharmacies becomes important in the community, or the need to ensure that independent midwives are not constrained from practising due to fairly ill-informed insurance practices, or even that midwives are still seen to be practising a form of nursing when they warrant a specific professional standing, the regulations can be amended in the Assembly.

I also propose to amend clause 78 so as to make it clear that a health professional can report a reasonable belief that a colleague is contravening the required standards, even should they become aware of the matter in their capacity as a member of a privileged committee. It is important that unethical or incompetent activity is reported appropriately.

In regard to the Health Professionals Legislation Amendment Bill, I am aware that the psychologists' associations have particular concerns. Their view is that they ought to be taken out of the bill entirely, continue to exist under their own legislation and be linked to the Health Professions Bill in such a way that the governance and protections offered by that legislation apply only to all clinical psychologists.

The key difference for psychologists is that their practices range from delivering specialist health services to working as industrial or institutional psychologists, providing operational guidance to a range of enterprises. They have however, in common with more narrowly defined health professionals, traditionally being governed by an act and registered through a health professionals board.

I do not believe that this new legislation does anything to their status other than define them fairly loosely as health professionals and, in common with all other health professionals, provide stronger scrutiny and support of competence and behaviour. Setting up a regime that more accurately reflects the two different domains in which people who trained as psychologists work is a national project. I understand that the ACT government is happy to work with the psychologists' associations to progress it, but this legislation is not the place to do it.

I think that one can become a little too suspicious in examining legislation that one does not like. It was put to me as proof of an incautious approach that the definition of a doctor and of a counsellor would preclude PhDs and financial counsellors from using those terms. That is a conclusion that can only be drawn by not referring to the amended legislation. The real work to address specific issues regarding the various professions cannot be done with ad hoc amendments to these bills, but in collaborative work on the regulations.

MRS CROSS (5.40): I rise to lend my support to the government's Health Professionals Bill 2003. The purpose of this bill is to bring the 10 health professionals acts together into one piece of legislation. I will not go into the role that this bill will play, other than to say that this bill significantly improves protection for the ACT community. I will, however, touch on a couple of issues that the bill addresses.

The first of these is the added role that the community has in regard to health professionals boards. I am pleased to see that the community will have a much larger role in the administration of the health professions, having representation on all boards as well as ensuring that the boards have enhanced links with the Community and Health Services Complaints Commissioner.

It is extremely beneficial for the community to have representation on each of the boards as it adds a layman's perspective that is often missing from professional boards. This is crucial. Having community representation on health professionals boards will provide each board with a different view that will ensure that not only the profession's views but also the community's views are heard and canvassed.

I was also pleased to see the proposal for the establishment of a health professions tribunal to assess and deal with complaints and reports about the standard of practice of a health professional. Having an independent mechanism to deal with complaints is important, but so is having a body that is easily accessible and consistent. Having a health professions tribunal achieves these aims as it provides an easy access point for those with a complaint against a health professional, whilst allowing for a transparent process that should see a consistent response across all health professions. This is added to by Ms Tucker's proposed amendments, which I shall discuss later.

I intended to move an amendment that would ensure that the amendment made last week to the Pharmacy Act that prevents pharmacies from operating on, partially on or within the premises of a supermarket remained in effect. I was concerned, following the government's opposition to this amendment, that the government would not include the amendment in the pharmacy schedule or in regulations relating to pharmacy ownership.

That was of very serious concern for me and, whilst I realise that this amendment would not have sat nicely in the Health Professionals Bill, I did feel that it was necessary. I have, however, been assured by the government—specifically by Minister Bill Wood, the Acting Health Minister—that that will not be the case. I thank the acting minister for giving me the time today to reassure me on that.

I am further comforted by the fact that the Acting Minister for Health will put that on the record. I am pleased to see the government put on the official record its commitment to matters recently decided by the Assembly, including the decision by the Assembly to prohibit pharmacies from operating on the premises of a supermarket. That is good enough for me. Therefore, I will not be moving my proposed amendment. Once again, I thank the acting minister, Bill Wood, for reassuring me that the government would not do anything to repeal the amendment under the Pharmacy Amendment Bill of last week.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (5.43): I thank members for their contribution to the debate. I will be proposing a number of amendments that I believe will take up some of the concerns expressed. As well as that, there will be amendments from Ms Tucker and Ms Dundas that the government will be supporting.

It was the intention in introducing the bill to allow the Assembly the opportunity to consider the provisions of the bill along with those of the Health Professionals Legislation Amendment Bill so that we could debate them at the same time. This bill replaces the current laws relating to health professionals. As you know, there are some 10 acts; so the situation is quite complex. More significantly perhaps, some 8,000 people from 13 professions are registered annually as a result of the laws that exist.

The bill proposes the consolidation of the existing health professionals legislation under one act and one lot of regulations. The new act will contain detail in relation to core legislative principles and structures and will be supported by a health professionals regulation containing the necessary administrative detail. Review of the territory's health professionals laws was commenced in 1999, so the process has been a long one.

The regulatory approach in use in the ACT is based on a model for health professionals legislation that was first used in the 1930s. There is now increasing recognition by stakeholders that our legislation has failed to keep pace with contemporary expectations of good practice. In proposing the upgrading of this legislation, we have been careful to retain those features that have proved themselves over time.

This legislation will continue to support the concept of professional self-regulation through the boards. Involvement of health professionals in their own regulation is essential as those professionals are best positioned to make assessments of the clinical

standards and suitability of their peers. The public also needs to continue to be able to identify persons who are suitably skilled to address their health needs. For this reason, people who falsely use the title of a regulated health professional or provide a service while not being registered will remain in breach of the legislation.

In updating the legislation, we have had two issues in mind: the revised legislation should offer enhanced public protection and involve appropriate checks and balances on the practice of self-regulation. We have endeavoured to improve public protection by introducing revised processes and structures. We have also introduced a raft of checks and balances that include improved legislative accountability, greater transparency through community representation, instructions relating to the administration of the act from a natural justice perspective, clarified rights of appeal, and improved interaction with the Community and Health Services Complaints Commissioner; and we have established a separately convened health professions tribunal to assess serious misconduct matters.

Under regulations drawn up under this act, the ACT will continue to require the registration of all the health professionals that currently work in regulated health professions. Under the act, a regulated health profession is prescribed when the required regulation is made. This regulation will set out a number of profession-specific requirements, including the structure of the relevant health board, the suitability requirements for entry into and continued performance within, and any specific profession-based standards of practice.

In response to members of the Assembly and, as Mrs Cross mentioned, to allay concerns from some quarters, I am specifically making the following statement: in amendments that will be proposed later in the debate, we have agreed that, prior to a profession-specific regulation being made, there will be consultation with stakeholders who are generally accepted to represent the health profession.

It is the government's intention also that, where there is a profession-specific requirement under an existing act, this requirement will be included in the revised professional regulation or as an amended provision to the principal act. Matters, for example, that have recently been considered by the Assembly in relation to pharmacy businesses will be included in the act or appropriate regulation.

We will be addressing the profession-specific regulations and the transition of existing professions during the 12-month transitional period. Members of the Assembly will have the opportunity to review the profession-specific regulations as disallowable instruments. As a new statutory feature, the proposed legislation also provides guidance to governments on issues they must consider when they are assessing new applications from currently unregulated professions to become registered in the ACT.

The legislation provides for the establishment of health profession boards, with their members continuing to be appointed and/or elected, as is currently the case. Each board is now, however, to have a minimum of one community representative. There is some flexibility for the construction of health profession boards and it would be possible under this legislation for a number of health professions to be represented by the one board or for boards to delegate some of their functions to other persons or bodies.

Health profession boards under this legislation are expected to become largely financially self-sufficient and to exercise their functions with an appropriate level of independence. The legislation specifies what functions a health profession board is required to undertake and sets out an expectation that a board exercise its functions diligently. A board must report on the exercise of its functions to the minister and, where a board fails to act diligently, the minister can take action, including, as a last resort, asking the Assembly to approve the discharge of a board.

People who have met the suitability to practise requirements of the relevant profession, who have an adequate level of knowledge of written and spoken English and who hold any required professional insurance are entitled to apply for registration as a professional. A board may register a professional conditionally or unconditionally. A board may review the ongoing performance of a professional and, if considered appropriate, treat the performance review as a report concerning the standard of practice of that person. Within the regulations, generic standards of practice are set out. A professional who breaches these standards of practice may be found not competent to practise in a profession or have conditions placed upon them.

The use of the term "report" has been introduced within this legislation to describe an expression of concern about the performance of a professional. The choice of the term "report" has been deliberate, both to encourage persons to make an early and potentially remedial report about the safe standards of practice of a person and to separate the term from some of the fault and settlement issues that could surround the making of a complaint.

The legislation sets out the requirements of a report and the requirements for the joint consideration of all reports by the relevant health council and the Community and Health Services Complaints Commissioner. The legislation intends that the commissioner and the health board would jointly manage each report and, where there are opposing views, the most serious of those will prevail.

The legislation provides for a number of outcomes that may arise from the management of a report. These options include seeking an emergency order in relation to a health professional's registration or the making of a decision not to investigate a matter further. A matter may also be referred to a panel hearing conducted by the relevant health board.

The legislation provides for the hearing of a report by one of two panels that may be established by a board. The first of these panels is a personal assessment panel intended to inquire into the mental or physical health of a professional. The second is a professional standards panel whose purpose is to inquire into a health professional who has or is contravening the required standard of practice or does not satisfy the suitability to practise requirements for the profession.

Both panels have been established with a legislative framework to ensure certainty, accountability and procedural fairness. The policy intention underlying the panels is that they operate with the cooperation of the health professional involved and seek as far as possible to protect the public through early intervention and remedial strategies.

Both panels can recommend action be taken from an enhanced range of treatment options or undertakings. Neither panel, however, can make a decision to suspend or remove a registration. The removal or suspension of a professional registration is a serious public protection matter that also has severe implications for a person's ability to earn a livelihood.

Responsibilities for decisions about whether a person should remain working as a professional do not fit comfortably with the sole decision making of professional colleagues. For this reason, the legislation takes steps to formalise such decision making within a health professions tribunal. It sets out that this tribunal will be established and a magistrate will be its president. While the president can act alone on certain matters, a formal hearing will involve both the president and a panel of three members. Health professionals may also take an appeal against a health board decision to the tribunal. The powers and procedural requirements for the conduct of a health professions tribunal are outlined in the legislation.

The legislation contains a number of other important elements, including offences against the act and provisions for both the protection of persons providing a report and the protection of information gathered during the exercise of functions under the act. Privacy is also very important.

As this legislation is proposed to replace existing legislation, transitional arrangements are contained therein. A separate Health Professionals Legislation Amendment Bill 2004 has been drafted to address the consequential requirements arising from the change of legislation. That bill and the amendments in it are primarily a result of the consolidation of the ACT's health professionals acts into one act.

The amendment bill includes amendments proposed to the Community and Health Services Complaints Act 1993. These reforms, amongst other changes, propose an enhanced process in relation to the assessment and investigation of reports about professionals. To effect these changes it has been necessary to revise the Community and Health Services Complaints Act 1993.

The remainder of the consequential amendments in the Health Professionals Legislation Amendment Bill relate to removing references in ACT legislation to acts that are to be repealed under the transitional provisions of the Health Professionals Bill. In a practical sense, if these two bills are passed into law, it is the government's intention to complete the transition of all health professionals laws and all registered health professionals to this act within the next 12 months.

I consider that this bill and the amendment bill that follows meet our intention to provide updated and improved legislation relating to the regulation of health professionals in the ACT. This legislation is anticipated by most stakeholders and will lead to better public protection in the ACT.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 14, by leave, taken together and agreed to.

Clause 15.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (5.56): I move amendment No 1 circulated in my name *[see schedule 1 at page 3240]*.

I table a supplementary explanatory statement to the government amendments. If I may, I will speak to the amendments in general. The full legislative package for this bill was developed following a lengthy consultation period with all the major stakeholders that addressed many of the concerns. There are, however, some amendments still required to ensure that the bill affords appropriate coverage.

The first major amendment relates to the definition of health service under clause 15 of the bill. Increasingly, the professional practices of many health professionals are entering areas that are predominantly non-health service areas—for example, the use of medical practitioners as full-time legal experts to write medico-legal reports for the presentation of evidence before a court. Whilst these health professionals are not providing a health service as currently defined in the bill, they are still required to be registered as a health professional.

The government is of the view that the public should be afforded the same protections and that the same level of professional standards should be adhered to in respect of the delivery of these services as for the delivery of other health services. In order to accommodate these areas of practice, the government proposes to include a further subclause at clause 15 to extend the definition of a health service to include all non-health services provided by health professionals in their professional capacity.

The amendment proposed will include, as part of the definition of a health service, a definition of a professional service, which will be defined as a service provided by a registered health professional in that professional's capacity as a registered health professional. This amendment would capture all the non-health professional groups of the health professions that are regulated under the bill. An amendment that incorporates a definition of a professional service as part of the definition of a health service will also avoid the need for any further consequential amendments to be made through the legislation.

The remaining proposed amendments largely arise from comments made by the scrutiny of bills committee. The main amendment relates to clause 130. It allowed the relevant minister to exempt a health professional from a provision of the act if the minister was satisfied that the public interest was so served. This provision was aimed primarily at enabling registration in circumstances where it was in the public interest to allow a health professional to practise, even though the health professional would not normally satisfy the registration criteria. This exemption was to be a notifiable but not disallowable instrument.

The scrutiny of bills committee was concerned that this clause contained insufficient definition of administrative powers, inappropriate delegation of legislative powers and insufficient subjection of an exercise of legislative power to the necessary parliamentary scrutiny. Whilst it is appropriate for the law to apply equally to all citizens, it was always intended to allow a broad discretion in respect of the dispensation of the operation of the bill in favour of a particular person or group of people. Any decision to suspend the application of the provisions of the bill was required only in situations where the public interest was served by doing so. This is an important qualification that safeguards against any arbitrary application of the power provided under clause 130.

The scrutiny of bills committee, in its report on the bill, suggested that consideration should be given to issuing guidelines as to how this power would be exercised and whether these guidelines needed also be subject to parliamentary scrutiny, that is, made a disallowable instrument. In view of the need for transparency in decision making, the government has agreed to amend the provision to allow for guidelines to be issued specifying in more detail how the power in clause 130 will work.

The remaining amendments relate to minor drafting changes that will assist in making the provisions of the bill more user friendly. Amendments are proposed for clauses 58, 59 and 115 to make reference to self-incrimination and client legal provision at sections 170 and 171 of the Legislation Act. That will assist the practitioners in their understanding of the provisions and the possible protections available to them.

An amendment is being proposed to the regulation-making power to provide for the exercise of the jurisdiction of the Supreme Court in respect of elections conducted under this act, including when a decision of the Supreme Court is final and conclusive, and how the validity of an election may be challenged. Likewise, an amendment has been proposed to provide for a regulation-making power to enable the imposition of penalties of not more than 30 penalty units for offences against the regulations. That is necessary to accommodate certain offences that are likely to be prescribed under the regulations.

Two further amendments are proposed to the transitional provisions at clauses 151 and 152. The first amendment allows for regulations in respect of savings or transitional matters to be made for not only the Health Professionals Bill but also for other legislation referred to in the Health Professionals Legislation Amendment Bill. The second amendment allows for regulations to be made to allow for modifications in respect of savings or transitional matters to be made for not only the Health Professionals Bill but also in respect of the operation of other territory laws.

Members will appreciate when we come to the actual amendments that we have facilitated their passage by explaining all this at the moment. I believe that Ms Tucker intends to move a number of amendments—three, I think—and they will be supported by the government. Make the most of it now, Ms Tucker. Later in the night the position may not be the same. Firstly, in relation to clause 22, which is concerned with how regulations may regulate professions, I understand that her amendments relate to ensuring that consultation occurs with an entity representing the particular profession before a regulation is made. In relation to clause 78, Ms Tucker proposes an amendment that encourages and protects health professionals who make reports about other professionals.

I am aware that Ms Dundas is proposing to move an amendment to clause 130 to provide that any exemption granted under that clause is to be a disallowable instrument. The government, in response to the concerns expressed by the scrutiny of bills committee, has already agreed to amend this clause to provide that any exemption must be in accordance with guidelines that are issued and any guidelines that are made are a disallowable instrument. To require the exemption also to be a disallowable instrument is unusual and to some may appear unnecessary but, to demonstrate the government's commitment to the transparency of decision making, we will be supporting that amendment as well.

Finally, the government will be moving an amendment to clause 136, which is concerned with the repeal of legislation. The proposed amendment will remove all doubt that a repeal of an act mentioned in that clause will not take effect until a corresponding schedule has been developed by the relevant health profession and made part of the regulations to the Health Professionals Act.

I commend these amendments to the Assembly and look forward to rapid progress in their carriage.

MS TUCKER (6.05): I will not be speaking about the whole bill in the way that Mr Wood did, but I will respond quickly to the two amendments to clause 15, which make it clear that all services provided by people described as health professionals in their capacity as health professionals are acceptable as a health service in the context of this act.

I understand that the amendments to clause 15 are a consequence of representations made by psychologists, who argued that the legislation unamended would result in them being precluded from using the title of psychologist because they would not be delivering health services as defined in the unamended act, and so would be operating under false pretences. I understand that that problem has been, in part, addressed through the amendments and will be further addressed in government amendments to the health professionals legislation and then at a later time in consultation with the professions through regulation.

MR SMYTH (Leader of the Opposition) (6.06): Mr Speaker, in this outburst of cooperation, I will just say that, having looked at all the amendments, the opposition can support them all. We have some concerns about how the motion of the Assembly last week to keep pharmacies out of supermarkets will be affected, but note the assurance of the minister and the amendment of Ms Tucker. I think that has been covered quite well.

I have suggested to the Clerk that all the amendments be moved as a job lot, but he has said that that cannot be done because some of them are consequential, so we have to do one before we can do the other. That being said, the opposition will support all the amendments as they are before us at this time.

MS DUNDAS (6.07): The Democrats are happy to support this amendment and, as with other members, we are quite happy with the rest of the government amendments. However, we do need to go through them one by one because there is an amendment that

I will be moving to a government amendment later. That being said, I thank the government for putting this amendment forward and we are happy to support it.

Amendment agreed to.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (6.08): I move amendment No 2 circulated in my name *[see schedule 1 at page 3240]*.

Amendment agreed to.

Clause 15, as amended, agreed to.

Clauses 16 to 21, by leave, taken together and agreed to.

Clause 22.

MS TUCKER (6.09): I seek leave to move together amendments Nos 1 and 2 circulated in my name.

Leave granted.

MS TUCKER: I move amendments Nos 1 and 2 circulated in my name *[see schedule 2 at page 3242]*.

My first amendment ensures that, at the very least, no regulations can be made in regard to a health profession without referring the matter to the relevant board or representative group. In the case of midwives, for example, until there is a board, the Australian College of Midwives would seem to be the appropriate group. In regard to pharmacists, the Pharmacists Board, which already exists, would be a part of the process. Similarly in the case of psychologists, who are truly concerned by some of the implications for their wide-ranging profession of being been incorporated into a strict health professionals regime.

My second amendment makes these regulations effectively allowable. That cannot take effect until the Assembly has had an opportunity to disallow them. Of course, the problem with instruments such as these is that the Assembly can more certainly find itself in the firing line. In this case, however, we are dealing with fairly complex issues and any decisions on those regulations have to have ongoing implications, so the extra scrutiny is of real benefit.

The concern that psychologists will all be defined as clinical psychologists through this legislation can be addressed through the regulation-making process. I have no doubt that, if there were to be any outstanding issues when these regulations are made into law, the Assembly would be well informed of the issues.

MS DUNDAS (6.10): I thank Ms Tucker for moving these amendments and I am quite happy to support them. They will make it explicitly clear that regulations and schedules

will not be brought forward until consultation has taken place with those groups representing the relevant health professionals that we are setting up under this bill.

The second amendment is also worth supporting as the majority of practical specifications needed to regulate the health professions will come in the form of regulations and schedules and it is vital that the Assembly retain oversight of these changes and, if any ongoing issues are brought to us by health professionals, we can address them at that stage.

MRS CROSS (6.11): I will be supporting all of Ms Tucker's amendments. The first of these amendments ensures that the executive must consult with an entity that is generally accepted to represent the health profession when making regulations in relation to that health profession, which makes sense. Consulting the relevant entities will only improve the regulations that are put in place.

Ms Tucker's second amendment to make regulations allowable instruments will also have my support. That will ensure that no regulation will come into effect until either six sitting days have passed or a motion to disallow a regulation is moved and negatived, which will ensure that there is proper scrutiny of any regulation relating to the health professions before it is implemented.

Ms Tucker's third amendment combines her first two amendments and inserts them into section 37. Whilst I do not believe this amendment is necessary as the regulation-making powers of the executive are spelt out in part 4 of the bill, I will be supporting it because it provides an added safeguard by ensuring that regulations made under the act are placed under the scrutiny of the Assembly.

I shall also be supporting Ms Tucker's fourth amendment, which increases the protection levels of those making reports against health professionals. That is very important as it further reduces the chance that somebody will not report against a health professional because they fear that they are breaching some professional ethics or they fear that they may be held civilly or criminally liable. Ms Tucker's amendment exclusively protects those reporting against a health professional, which should have the subsequent effect of seeing increased reporting of health professionals who have contravened or are contravening their required standard of practice.

Ms Tucker's amendments significantly improve the Health Professionals Bill and thus have my support. I note for the record that I will be supporting the government's amendments to the Health Professionals Bill, whilst I shall also be supporting the Democrats' amendment to the Acting Minister for Health's eighth amendment.

Amendments agreed to.

Clause 22, as amended, agreed to.

Clause 23 agreed to.

Clause 24.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (6.12): Mr Speaker, I move amendment No 3 circulated in my name *[see schedule 1 at page 3240]*.

Amendment agreed to.

Clause 24, as amended, agreed to.

Clauses 25 to 36, by leave, taken together and agreed to.

Clause 37.

MS TUCKER (6.13): I move amendment No 1 circulated in my name on the purple sheet *[see schedule 3 at page 3243]*.

This amendment echoes the effect of my first two amendments. It has been put in this place to reassure members of those professions and businesses, such as the pharmacists, that the consultation with board or representative entities will apply to all matters concerning regulation of a profession and its businesses. I understand that the drafters have no doubt that the first two amendments will be completely effective in this regard. This amendment, while almost certainly redundant, does no harm and provides concrete reassurance.

MS DUNDAS (6.14): We will be supporting this amendment. We agree that it is not absolutely necessary. However, it further ensures the scrutiny and oversight of the Assembly in regard to the regulations that will be established under this legislation.

Amendment agreed to.

Clause 37, as amended, agreed to.

Clauses 38 to 53, by leave, taken together and agreed to.

Clause 54.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (6.15): Mr Speaker, I move amendment No 4 circulated in my name *[see schedule 1 at page 3240]*.

Amendment agreed to.

Clause 54, as amended, agreed to.

Clauses 55 to 57, by leave, taken together and agreed to.

Clause 58.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (6.16): Mr Speaker, I move amendment No 5 circulated in my name *[see schedule 1 at page 3240]*.

Amendment agreed to.

Clause 58, as amended, agreed to.

Clause 59.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (6.17): Mr Speaker, I move amendment No 6 circulated in my name *[see schedule 1 at page 3240]*.

Amendment agreed to.

Clause 59, as amended, agreed to.

Clauses 60 to 77, by leave, taken together and agreed to.

Clause 78.

MS TUCKER (6.18): I move amendment No 3 circulated in my name on the green paper *[see schedule 2 at page 3242]*.

This amendment has come about out of concerns raised with us about the removal of any form of mandatory reporting of incompetent or unethical behaviour among health professionals. While the reporting processes are encouraged, it appears that they are not required. More importantly, there is an issue that such information may become apparent, for example, through committees such as quality assurance and clinical practices committees that are granted privilege under the 1993 Health Act.

The debate on the recent review of neurological services, on which I have heard from a constituent that the health complaints commissioner approached more than 30 medical practitioners for statements and was declined, does little to bolster one's faith in the system, to quote him. This amendment, while not mandating reporting, makes it explicit that such privilege will not prevent matters coming to the relevant board and the health complaints commissioner in a timely fashion.

Amendment agreed to.

Clause 78, as amended, agreed to.

Clauses 79 to 114, by leave, taken together and agreed to.

Clause 115.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (6.19): Mr Speaker, I move amendment No 7 as circulated *[see schedule 1 at page 3240]*.

Amendment agreed to.

Clause 115, as amended, agreed to.

Clauses 116 to 129, by leave, taken together and agreed to.

Clause 130.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (6.19): Mr Speaker, I move amendment No 8 as circulated *[see schedule 1 at page 3240]*.

MS DUNDAS (6.20): Mr Speaker, I move amendment No 1 circulated in my name to amend Mr Wood's amendment No 8 *[see schedule 4 at page 3243]*.

I thank the government for bringing forward its amendment introducing guidelines under which a health professional could be exempted under this act. I think that the amendment is an important accountability measure and I support it. However, I think that it is important to retain the exemption as a disallowable instrument. I believe that, even with the guidelines, the Assembly should retain the power to disallow any exemptions to the registration of a health professional as I think that this is a very important part of the act.

Ms Dundas's amendment agreed to.

Mr Wood's amendment, as amended, agreed to.

Clause 130, as amended, agreed to.

Clauses 131 to 133, by leave, taken together and agreed to.

Clause 134.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (6.21): Mr Speaker, I move amendment No 9 as circulated *[see schedule 1 at page 3240]*.

Amendment agreed to.

Clause 134, as amended, agreed to.

Clause 135 agreed to.

Clause 136.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (6.22): Mr Speaker, I move amendment No 1 as circulated on the pink sheet *[see schedule 5 at page 3244]*.

MS DUNDAS (6.22): Mr Speaker, I think that this amendment is very important and I am glad that the government has taken up the suggestion put forward through my office. This amendment makes explicitly clear that relevant acts governing each health profession will not be repealed until the new schedules that will need to be seen and debated by this place are ready to replace the old acts.

Amendment agreed to.

Clause 136, as amended, agreed to.

Clauses 137 to 150, by leave, taken together and agreed to.

Clause 151.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (6.23): Mr Speaker I move amendment No 10 circulated in my name *[see schedule 1 at page 3240]*.

Amendment agreed to.

Clause 151, as amended, agreed to.

Clause 152.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (6.23): Mr Speaker, I move amendment No 11 circulated in my name *[see schedule 1 at page 3240]*.

Amendment agreed to.

Clause 152, as amended, agreed to.

Clause 153 agreed to.

Dictionary agreed to.

Title agreed to.

Bill, as amended, agreed to.

Health Professionals Legislation Amendment Bill 2004

Debate resumed from 11 March 2004, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 3, by leave, taken together and agreed to.

Schedule 1.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (6.25): Mr Speaker, I ask for leave to move together amendments Nos 1 to 4 circulated in my name.

Leave granted.

MR WOOD: I move amendments Nos 1 to 4 circulated in my name *[see schedule 6 at page 3244]*.

I present a supplementary explanatory statement to the government amendments. Mr Speaker, I wish to speak briefly to these amendments. The full legislative package for this bill and the Health Professionals Bill was developed following the lengthy period I mentioned. Many of the concerns expressed have been addressed. There are still some amendments required to ensure that the bill does not inadvertently extend the category of health service provider beyond the current legislation.

The amendment to the dictionary meaning of "health service provider" is required as the original amendment inadvertently included a much broader category of health service provider than intended. That was an unintended consequence and it is being corrected by the amendments to this bill.

Amendments agreed to.

Schedule 1, as amended, agreed to.

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

Bill, as amended, agreed to.

Sitting suspended from 6.27 to 8.00 pm.

Suspension of standing and temporary orders

Motion (by **Mr Wood**) agreed to, with the concurrence of an absolute majority:

> That so much of the standing and temporary orders be suspended as would prevent order of the day No 14, Private Members' business, relating to the GMO (Environment Protection) Bill 2003, being called on.

Gene Technology (GM Crop Moratorium) Bill 2004

[Cognate bill:
GMO (Environment Protection) Bill 2003]

Debate resumed from 11 March 2004, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to have a cognate debate with private members business order of the day No 14? There being no objection, that course will be followed. When order of the day No 14 is called on, members, if driven to do so, will be able to speak again. This is a cognate debate. When speaking to the Gene Technology (GM Crop Moratorium) Bill 2004, members should keep in mind that they can also speak to private members' business order of the day No 14, GMO (Environment Protection) Bill 2003.

MR SMYTH (Leader of the Opposition) (8.03): The opposition will be supporting this bill. Its purpose is to enable the government to prohibit, for a period of three years, the commercial cultivation of specified genetically modified food crops in the ACT. Unlike the Greens' bill, there is no wholesale moratorium. This bill allows the cultivation of genetically modified crops unless the minister specifically intervenes with a moratorium on a particular GM crop in order to preserve the identity of other crops, either genetically modified or non-genetically modified for marketing purposes. The moratorium is a disallowable instrument. If a moratorium is imposed it would cease no later than 17 June 2006—three years from the date of announcement of the moratorium and the release of the exposure draft of the Gene Technology (GM Crop Moratorium) Bill 2003.

However, I note the amendment proposed by Ms Dundas to give the minister the authority to repeal the act after 17 June 2006, subject to disallowance of the Assembly. We will support that amendment because it does allow legislation to remain in force if circumstances require it.

Basically the bill is aimed at larger scale field trials—that is, commercial quantities—and is designed not to apply to the plant breeding and experiments in trial plots conducted by the CSIRO and possibly any new biotechnology investor in the ACT. Indeed, in order to ensure that biotechnology research is not threatened, the bill provides for exemption from the moratorium order of any field trials or contained research of the sort conducted by the CSIRO and similar research bodies.

Importantly, the bill complements Commonwealth legislation and is consistent with New South Wales legislation. And of course New South Wales surrounds us. Being an island

in New South Wales, there would be no point in having legislation in the ACT that encouraged biotechnology research organisations and firms to locate or relocate their research activities to New South Wales. All genetically modified research would continue to be conducted according to the stringent licence conditions imposed and monitored by the Office of the Gene Technology Regulator.

At my suggestion, the government has proposed an amendment to establish an advisery council to assist the minister to make better-informed decisions on the question of exemptions from a moratorium order. The minister must consult the advisery council and if he or she does not follow its recommendations he or she must make the reasons publicly available. I agree with the composition of the advisery council, including the government's foreshadowed amendment to add, first, a person with professional skills or experience in the marketing of food crops and, secondly, a person to represent the community generally.

The main weakness of the bill is that, although there are references to marketing, there is no definition or explanation of what is meant by marketing. Perhaps that was deliberate. The purpose of the bill is to prohibit the cultivation of certain GM plants to preserve the identity—that is, keep separate—of other crops for marketing purposes. That should be clarified.

The assumption seems to be that marketing means selling and collecting a payment. That may be a common belief. But in fact there is a wide range of functions which marketing encompasses such as:

(1) the definition and measurement of quality;
(2) the provision of information on quality, availability, time and method of delivery;
(3) transport method, time and cost;
(4) segregation;
(5) storage;
(6) blending for specific end uses;
(7) evaluation of risk—who bears it and capacity to trade risk; and
(8) the quality, time, risk, price spectrum and so on.

The essential point is that many of these questions should be evaluated, even though no product is actually sold. The legislation should therefore allow trials to be conducted so that useful knowledge about marketing can be gained. The minister might like to take a stab at clarifying what "marketing" means and assure the Assembly that trials conducted to research and evaluate marketing issues, without selling the product, will be permitted.

There is some dilemma. Depending on which bit you go to throughout all the legislation in the ACT—indeed in the federal legislation—there are myriad uses of the word "marketing" in various pieces of legislation. It may be that the vague way in which it is used here in the legislation may prove useful. It would be interesting to know what the government has done to clarify the issue.

Research into gene technology has enormous potential to improve the safety and quality of food; to produce more of it through more efficient uptake of soil nutrients, using fewer quantities of fertiliser, and fewer herbicides and pesticides; and to improve

environmental sustainability. In the ACT we are fortunate to have the CSIRO conducting such research. It is the sort of high-tech, creative industry that we must encourage. So we support this bill.

That being said, there is still a long way to travel in the use of genetically modified crops, particularly in the ACT, in surrounding New South Wales and in Australia. I will certainly continue to monitor the progress of that.

Some years ago, the health committee did a report into genetically modified foods and their impact. Around the world the jury is still out as to their impact and their potential to increase, decrease or harm existing markets. The question here is: how do we in the ACT approach what we do here? We can stand King Canute-like and oppose the tide that is raging around us or we can take what is proposed in this bill—a middle road. It is not quite what the Commonwealth wanted and it is certainly not quite what, for instance, the Greens would want. But it allows us to play to our strengths, which are the strengths of research and the CSIRO, and other biotech-type companies, given that there probably will not be large-scale cropping of many, if any, genetically modified foods in the ACT.

That being said, it is not an excuse not to be wary. But I think the approach that we take in the bill, modified by the amendments that the government has put forward, so that the government is responding to the community and seeking advice from those with expert knowledge in this, gives me an assurance that we can use genetically modified research in the ACT for the betterment of the community. Only once the research is done, and perhaps moratoriums lifted, will there be widespread use. With those words in mind, the opposition will be supporting this bill.

MS DUNDAS (8.11): I would like to speak to both bills. I think that there is a general agreement in the Assembly that we do not believe it is appropriate for genetically modified food crops to be commercially grown in the ACT at this time. However, there is a clear difference of opinion on how to best achieve this.

Ms Tucker has put forward a bill, as has the government. They are similar in many respects. They both have the effect of preventing commercial release of genetically modified organisms. However, Ms Tucker's bill goes significantly further than the government's bill in its scope, as it deals with the environmental release of all genetically modified organisms, which is far beyond the specific issue of food crops.

We need to be careful not to capture too much in the bills before us, as we would not wish to prevent important medicines, such as insulin or Factor VIII, which are produced by transgenic bacteria, being used in the territory. Equally, there are some important questions about Ms Tucker's bill such as whether the ACT has legal jurisdiction to legislate on these issues, particularly as they may end up being inconsistent with Commonwealth legislation.

At this stage, I am happy to support Ms Tucker's bill in principle, although I highlight the problems that I have just put forward. We need to look further at her bill before the detail stage to ensure that those issues are cleared up. I note that Ms Tucker has circulated amendments to her bill that go some way to addressing these issues. But, as I said, the Democrats support the general thrust of total GMO regulation in the territory and hence support Ms Tucker's bill in principle.

In a sense, the threat of GM food production in Australia has retreated somewhat since the minister announced he would legislate this moratorium. In May this year, the Canadian gene tech company, Monsanto, announced it was pulling out of Australia, frustrated by state government moratoriums on GMOs. The other major player in this technology, Bayer CropScience, announced that it had reached the same conclusion in June. That is no reason not to proceed with these laws, but it does give us a greater time to consider the developments in genetic technologies, particularly in agriculture.

That being said, out of all the states and territories, this government seems to have chosen the least effective model for a moratorium. Instead of declaring all GM food crops under a moratorium, whether we know about them or not, the government has chosen to prohibit them one by one. While at the moment Roundup Ready canola appears to be the only GM food crop on the table for Australia, there are a large number of current and potential GM food crops that are out there. Banning them one by one seems an awfully roundabout way to ensure that these technologies are not used in the territory.

A number of issues have surfaced in federal parliament since the passing of the Gene Technology Act 2000. My colleague Senator John Cherry has been looking closely at these developments. I need to thank him and his staff for his assistance in our consideration of the bills before us.

On 25 July last year, the Office of Gene Technology Regulator announced the approval of a commercial release of a genetically modified canola by Bayer CropScience. This was a very important decision, despite the fact that Bayer has now pulled out of that release. It was the first approval of the commercial release of a genetically modified food crop into Australia. It comes at a time when the world outcome for GM crops is still quite uncertain. At that time, the Democrats raised serious concerns about the regulator's approval, which was based on a very narrow assessment of environmental and health effects.

The gene regulator is a respected scientist who has always acted with the utmost integrity and comprehensiveness. But they are constrained by a very restrictive mandate under the act to deal with only the immediate health and environmental effects rather than the broader changes from GM. This has resulted in approval based on a narrow set of criteria that expressly excludes key environmental issues such as changes between agricultural practice due to different crop herbicide systems and the ability to effectively segregate GM and GM-free canola.

Ironically, the approval came just one week after a report of a panel of 30 British scientists headed by the chief scientist, Sir David King, about the science of GM crops. That report warned that, in considering the effects of GM pest-resistant crops—and I quote—"it is necessary to judge the crop pesticide combination as a system rather than simply considering the ecological impacts of the crop in isolation". The Australian decision failed to do just that, deferring any questions to do with pesticide to another regulator, who in turn was to rely on a crop management system designed by Bayer CropScience. The question of the combination of crop and pesticide and its impact on biodiversity simply was not considered.

The science review panel has also warned that we must be cautious in drawing general conclusions, as these observations were based on relatively few field experiments. Yet this is exactly what Australia chose to do. The Democrats support a more cautious approach of the precautionary principle, as no corner should be cut when we are dealing with the issues of the food we eat and the environment we live in.

The scientific panel warned of major gaps in the knowledge of environmental effects of genetically modified crops and called for more research before new GM crops were approved for commercial release. It found that the longer term impact on biodiversity and wildlife, soil ecology and pesticide use was uncertain and needed to be more certain before crops were commercialised. We need to do that longer term research work.

Australian farmers are yet to embrace genetically modified crops, with a new survey by Biotechnology Australia showing that an overwhelming 74 per cent of farmers said they would not consider growing genetically modified crops; 49 per cent said they were generally opposed to GM crops, while 23 per cent said they were supportive; and 17 per cent said they were agnostic on the issue.

Farmers in that survey were particularly worried about consumer resistance with GM crops followed by performance in the paddock and access to markets with GM bans. There was also a concern about the flow of pollen from GM plants and the resistance to weeds. Again, I make it clear that these issues are yet to be sorted out in the Australian context. Farmers in Australia tend to be conservative people, but they will always pick up the technology where they have confidence in it from an environmental point of view and if there is an economic benefit.

Those issues are yet to be proved in Australia—yet to be proved to our farming community and to our consumers. For example, the Network of Concerned Farmers believes that smart promotion and industry interests backing GM crops have misled many farming groups and the federal government. Ms Julie Newman from the network has said, "GM benefits are doubtful but the risks are very real." She goes on to say that there is a high market sensitivity to very low levels of GM contamination in any of our produce.

One of her group's key concerns and one shared by some grain handlers is the time and effort that must go into segregating GM crops from GM-free crops. I quote the former British environment minister, Mr Michael Meacher, who warned:

> There are several lessons that Britain can, and should, learn from the Canadian experience. The most important is that "co-existence"—a framework to ensure that organic and conventional farming can survive and prosper alongside GM farming—is a mirage.

Our governments need to take account of that. The evidence coming from Canada and the evidence being collected by the environment minister of Britain is showing that the road we are going down could ultimately end up to be a blind alley for Australian farmers.

We are still in a position where governments firmly believe that once a science based gene technology regulator has made a decision, all the commercial decision making

should be left to the industry. The problem is that the gene technology regulator is operating, and continues to operate, under a very narrow mandate. There are large holes in our science, and science based decision making is not giving confidence to our farmers. This needs to occur before we go further down the GM route.

For these reasons the ACT Democrats will be supporting a moratorium on GM crops here in the territory. But we have amendments to help ensure that this moratorium is as strong as possible.

MRS CROSS (8.20): I will also speak to both bills. First, I will not be supporting Ms Tucker's GMO (Environment Protection) Bill 2003 as it was originally proposed. I believe that Ms Tucker's bill goes a little too far. It stifles progress as a whole and is a little draconian. Simply, this bill is punishing those who have any dealings with GMOs, which essentially is prohibiting GMOs from the ACT.

The main problem with Ms Tucker's bill, even with her exception regime, is the fact that it places those dealing with GMOs in a position, it seems, of indefinite liability. I find that unacceptable. Certainly the prohibition of GMOs will stifle development and experimentation, some of which will certainly be beneficial to the ACT. Ms Tucker's amendments to her own bill providing an exception regime certainly improve the bill. But in my view the bill is still unsupportable.

I shall, however, be supporting the government's Gene Technology (GM Crop Moratorium) Bill 2004. This bill is modelled on the New South Wales Gene Technology Bill 2003. The government's bill will not prohibit genetically modified crops but rather will allow the minister to place a moratorium on certain genetically modified food plants in order to preserve the identity of crops. This is much more reasonable than Ms Tucker's bill.

The bill also allows the minister to make exemptions for the moratorium imposed. This exemption regime is extensive and allows for Assembly scrutiny, a very important point. Simply, the government's bill provides both flexibility and safety. It allows GM crops to be cultivated and transferred within the ACT, whilst providing the safety of allowing the minister to place a moratorium on GM crops that may adversely affect existing crops.

Whilst I accept that there are many fears about the impact that GMOs will have on nature, I do not believe fear alone should stop progress. Who knows what benefits some GMOs will produce? If we did not allow for experimentation because we feared what may come out of it, the world would be nothing like it is now. There is a possibility that some GMOs and some GMO experimentation may, indeed, damage our natural environment, but we should not stop progress because of a "may". We need to look to the future and what in the long term could be best for the ACT.

MS TUCKER (8.23): I would like to address some of the issues raised in this debate, in terms of specific details that gave rise to aspects of the exemption program proposed in my bill and circulated to members and some of the broader issues that gave rise to our approach. I will refer members to the report of the health committee inquiry into the gene tech bill 2000, which was published in December 2002. I was chair of that committee. Brendan Smyth was a member, and Karin MacDonald was and still is deputy chair of the committee. It was a unanimous report.

The report recommended that the Assembly pass the gene tech bill with a series of amendments. I am tempted to read out all 25 recommendations of that report, because the intervening period has only demonstrated that the concerns we raised then are as pertinent now and so far I have not heard anyone address them in this debate. However, I will limit myself to reminding the Assembly of those recommendations that are key to this debate. Recommendation 3 states:

> The Committee recommends that the ACT, for the purposes of marketing itself as a centre for research excellence and for promoting bio-business, assert its right under section 21(b) of the bill to declare itself GE-free. This moratorium should be reviewed five years after the enactment of this bill.
>
> The Committee recommends that this include a moratorium on dealings with transgenic organisms, such as that in place in Tasmania, on:
>
> • all new commercial environmental releases of transgenic crops;
> • environmental releases of transgenic animals and transgenic animal feed;
> • trials in the open environment of transgenic food crops; and
> • trials in the open environment of transgenic non-food crops where no test is available to detect the presence of the transgenic material.

Recommendation 5 states:

> The Committee recommends the Government make representations to the Ministerial Council to require the OGTR to consider the economic and social impact of applications before granting licenses.

Recommendation 6 states:

> The Committee recommends that the Government make representations to the Ministerial Council to call on the Federal Government to urgently review the makeup of the Gene Technology Grains Committee to ensure that it has more equitable representation of the community, including farmers.

Recommendation 8 states:

> The Committee recommends that the Government make representations to the Ministerial Council to ensure that all residents within a reasonable radius of field trial sites be informed in writing of the location and nature of the site and that the sites of field trials within the ACT be listed on the ACT Government website.

Recommendation 19 states:

> The Committee recommends that Section 1 Part 4(a) be withdrawn from the Gene Technology Bill and replaced with the definition of the precautionary principle as named in the Environment Protection Act 1997 (ACT), Section 3 (2)(a). This definition should explicitly name the precautionary principle and not include a reference to cost-effectiveness.

We have just heard Mrs Cross take a totally different view on that, as is her right. But she seems to have no sympathy with the notion of the precautionary principle, as the majority of members here do, as I understand it.

Recommendation 21 states:

> The Committee recommends that the issue of liability and adequate insurance coverage be addressed as a matter of urgency and before any environmental release of GMOs occurs.

When some of these recommendations were put forward in a fairly moderate way as amendments to the ACT's gene tech bill towards the end of last year, it was made very clear that we had a possible problem with corresponding law of the Commonwealth. Arguably, if we had gone ahead, the ACT would have needed to set up a regime to mirror the Commonwealth gene technology regulator.

Accepting the government's concern with that approach, the Greens chose instead to put forward a bill that would, in effect, implement recommendation 3—a ban on the environmental release of any GM crops or other transgenic. While that bill, the Genetically Modified Organism (Environment Protection) Bill, sets up an unlimited ban, as I made clear at the time, the intention was always to establish an exemption scheme to allow for strictly controlled field trials, consistent with the recommendations of the inquiry.

An amendment to this bill, which I have circulated, was the framework for such a scheme. With perhaps more enthusiasm or resources, I believe we could have found an approach that would have been more or less acceptable to the biotech industry in the ACT, at least on an interim basis.

Putting all the arguments in this debate has limited value. I would like to focus on some of the key ones. As I understand it, even within the very limited scope of the Commonwealth and ACT gene technology acts, the territory can assert its right to make decisions in regard to GMOs for the purpose of protecting areas for non-GM crops for marketing purposes. In the short term, consistent with the recommendations of the committee report, it made good sense to protect the whole of the ACT from non-GM crops and so put controls on all GM organisms.

The exemption scheme circulated to members as an amendment to my bill has the following features. Health and veterinary products are automatically exempt; other exemptions are obtained by application to the minister, who needs to notify any neighbouring property owners, to consult with the public and to seek the advice of an advisory committee. That does not seem unreasonable, nor need it be too time consuming, as any exemption application could be timed to coincide with the OGTR processes. The minister can grant exemptions only for carefully supervised scientific trials and would need to be confident that the information could not be gathered through using non-GM organisms in the interests of a precautionary approach.

One of the key sticking points appears to be that the applicant would need to be able to prevent or remedy any contamination and have the capacity to pay compensation for any harm that results from contamination. I understand that businesses might be afraid that some consequences of their activity might emerge some years down the track. No-one

yet, however, has put a cogent argument as to why that should mean that the liability does not exist or that costs should be carried by those who are not involved in the enterprise.

I notice that the question of liability came up in a couple of the debates; the most recent speaker was Mrs Cross. The whole notion of the liability questions is so fraught that I find it really surprising that people in the Assembly are not pursuing that problem in the debate tonight, because it is one of the fundamental ones. It is fundamental to the question about who carries the cost. Will it be the non-GM farmers even when, with no responsibility at all, they find their farm contaminated by a GM crop?

The question of socialising the problems and privatising the profit is an obvious problem in the particular framework that is set up at the moment. It is one of the key issues that keep coming up from many people in the community. It is one that we have tried to address. In our amendments to the government's legislation we are still trying to address it, because it is obvious that my legislation will not be successful. Surely anyone pursuing research for private or business gain should not be able to just palm off the risk to the community or, even more particularly, to those individuals making a living out of a non-GM enterprise.

It is interesting that, at a forum of biotech researchers and business people to address issues arising out of these bills earlier this year, some frustration at another layer of regulation was expressed. It was conceded by some at that forum, however, that liability was a valid concern and that it was reasonable to seek some mechanisms for dealing with it. It is worth remembering that in many areas we have a fault based insurance system in order to build in an imperative to take care. Of course, the other alternative would be to set up a no-fault insurance cover. As far as I am aware, no-one in the biotech area is doing that.

Finally, there is the question of who should constitute an advisory committee. Without going into too much detail—and I would like to acknowledge that one can take a capability or a representational approach, both of which have their strengths—I would like to put on the record that it is important that such a group encompass some diversity of perspective and expertise. In this scheme, and with amendments to the government's own amendments, I will be looking for Assembly support to ensure that, at the very least, there is someone on such a committee representing organic or non-GM farming; a nominee from the Conservation Council of the South East Region and Canberra; and a person with academic legal skills, perhaps a nominee of the Australian Centre for Environmental Law at the ANU.

Some concerns about our approach have been put to us by the CSIRO, among others. I recognise the validity of some of those concerns on issues such as intellectual property, and amendments were made to the scheme prior to final circulation in response.

Other issues, I think, are more philosophical. For example, there was considerable concern when the ACT's Gene Technology Act was debated last year and at our attempt to move back to the precautionary principle rather than, as used in the Commonwealth act, the precautionary and cost-effective approach that was eventually passed. Concern was again raised when we suggested proposals for putting the principle into this exemption scheme. It has since been taken out of the circulated amendment.

I think it is worth posing the question, a question that has not yet been answered by government or the CSIRO: what dealings would not be captured by the different wording between the precautionary approach with its cost-effective rider and the precautionary principle?

In regards to the Greens' approach, one issue that has arisen time and again is our argument that in situations such as this a public interest test ought to be applied.

In earlier discussions, the potential and value of biotech were described to us in several ways. One was that we now have a form of cotton in Australia that requires significantly less water than the usual crop. I am inclined to argue that a shift in Australia to growing hemp for fabric could quite well make more environmental, agriculture and social sense nationally and globally.

Similarly, the notion of beef with the health properties of fish was offered to us as a step away from obesity and heart disease. Again, I would argue that less meat consumption overall would be better for western health, probably result in more ethical treatment of animals and would eventually lead to better distribution of nutrition around the world. I do not know how to make that shift, but cattle made of fish oil would not appear to be the right direction.

I took the liberty of forwarding some of the discussion to Dr Charles Lawson, Research Fellow, Australian Centre for Intellectual Property in Agriculture at the Griffith University School of Law. He is also visiting Fellow at the Geonomic Interactions Group at RSBS at the ANU. Dr Lawson made the point:

> … some of us still believe that science is not value free and that values drive research. So, what better place to have those values explored than by the legislature. It is a figment of regulators' imaginations that somehow science is value free and its results neutral. With respect, the OGTR's decisions are demonstrably value laden as she makes judgments about what are and not acceptable environmental and health risks ... scientists are no better placed to make judgments about the values of science than anyone else.

On the issue of liability, Dr Lawson is most eloquent:

> If it's safe then the market will apply a very low premium to the risk. Perhaps those releasing GMOs into the environment would have no trouble getting insurance. However, insurance companies are reluctant to provide insurance as they are unable to quantify either the risk or the amount of damages resulting from the risk. In those circumstances it is individuals or the broader tax paying community that assumes the risk for releasing GMOs. If this is correct, then those proposing potentially damage causing activities should be prepared to cover the losses they cause, unless they can demonstrate the public interest in their liability being carried by others.

On the issue of who should make judgments about whether risks are worth taking and who is on the advisory committees, I will quote Dr Lawson for a final time:

> … most decisions about the risks and release of GMOs are not questions that require specific scientific expertise, although the views of scientists and others with science expertise might be informative. Perhaps significantly, were a decision of the

> Gene Technology Regulator to be challenged in a Tribunal or Court, then it would be the Tribunal members or Court judges making the decisions, taking into account the views of experts and other witnesses. Thus, having a diversity of opinion and views across the community is more important, rather than the views of those with technical expertise and interests.

It seems, however, that the ACT Assembly has chosen to follow a path where the risk is carried by the community but assessed by and large by the research community. The government has chosen to echo the New South Wales approach without any close regard to its limitations, and the opposition, it seems, has joined with the government, conceivably in the face of an industry threat to go elsewhere. The fundamental components of a truly precautionary approach have been abandoned. I do believe we could have set up a workable scheme that would have provided appropriate care and scrutiny.

This government's GM Crop (Moratorium) Bill is a much more limited operation. It implements almost none of the more significant recommendations of the Health Committee inquiry. It simply mimics the New South Wales scheme that makes no requirement for any state level of licensing, notification or scrutiny, but simply provides for the government to declare a moratorium on the cultivation of selected GM crops. There is then an additional process that allows for the government to issue exemptions to that moratorium.

I have some amendments to the government's legislation in order to ensure a little more transparency and balance in that process.

MRS DUNNE (8.37): Mr Speaker, this is, as Ms Tucker said, a very fraught argument. We spend a lot of time worrying about the future, and we should. But in worrying about the future, we should be also making sure that we preserve it.

There has been a lot said in this debate—and a lot has been said in debate over many years—about the pros and cons of GM food. I remember in the previous Assembly having debates that were a lot less rational than this one, where people talked about frankenfood and how this was the end of civilisation as we know it. There is a lot in the media on both sides of the argument.

I think that, as Mrs Cross said today, we must be careful that we do not stifle progress. People will actually make money out of this. Monsanto and Bayer are big companies and will make money out of this. They are the principal proponents of most of what we are likely to grow as GM crops in the next little while. Putting that aside and putting aside the commercial benefit to companies like these, we must be very careful that we don't, to use Ms Dundas's phrase from earlier today, throw the baby out with the bathwater. We might be concerned about Monsanto and Bayer, stop their progress and, as a result, fail to provide part of the solution to Third World hunger.

We have to be very careful that we do not let our prejudices get in the way. There is much to be said in this debate, and we need to actually dispel a few myths, like the one perpetrated by Phillip Adams in the *Australian* of 8 and 9 May 2004. It really does not help to have the sorts of articles that Mr Adams wrote on that occasion. "A toad in a test tube" was a rather cute cartoon that had a whole lot of boffins around the place and one of them saying, "Okay, who put the cane toad genes in with the rabbits?" There are these

sort of green cane toads with bunny ears. It is not like that. What is being proposed is not like this. As I said the other day to someone, we are not proposing to put frog genes in the tomatoes.

Ms Tucker: Sorry, you are. There are fish genes in tomatoes.

MRS DUNNE: We are not proposing to put frog genes in tomatoes so that they can jump out of the way of the aphids. We are proposing a series of trials that, before anything can happen, have to be approved by the Office of the Gene Technology Regulator. You have to demonstrate that what you are doing is for the good in a whole range of areas.

What we are talking about, for the most part, is—yes, we are crossing over species—taking drought resistance genes out of something like kangaroo grass and putting them in wheat; we are not talking about crossing the phylums in the way that some people were speaking, particularly a few years ago. We have to be very careful because innovators tend to make enemies of people—and I think it was Machiavelli who said something like this—who stand to gain from there being no innovation. That is not the exact quote but it is something like that. The people who do stand to gain are not as activist in a way as those who stand to lose. And this is what has really been happening across the world.

I think that the farming community in Australia and farming communities in many other parts of the world have been the great losers. As a result, people in developing countries will be the great losers because we are not going to have the innovation and the research necessary to create drought-resistant wheat or drought-resistant cotton.

As I have said in this place on a number of occasions, I have a real problem with cotton farming in this country because we use so much water on a crop. I think that there would be better uses for that water. But if we could come up with a cotton that uses less water, perhaps people like me would not have such a problem with the crop.

We have to put aside our fear and loathing of the unknown and allow these trials to continue. Yes, we do have to be cautious—and that is why we have the Office of the Gene Technology Regulator—and we must require him to be cautious. But we cannot afford, for our own sakes, for the sakes of our own farmers, for the sakes of people here and overseas, put a stop to this. What actually happens is that the people who are investing the money, the Monsantos and the Bayers, will stop investing the money. When that happens we will stop having the innovation, and that will be the end of it for some time. We will eventually bounce back from that.

But what is being proposed, especially in Ms Tucker's bill mainly, basically means that CSIRO in the ACT would have to pack up and go away; they would go somewhere else. And this is not the sort of environment that we should be fostering in the ACT, one where we are afraid of innovation. We will not have a creative city if we pass a piece of legislation here tonight that will cause vast slabs of CSIRO to pack up and go elsewhere. They might move their trial paddocks out to Wallaroo Road just across the border, but it sends a very bad message that we are telling CSIRO that they are not wanted in this town.

There is a lot to be said, and so much of that is emotive. There is a group of people who, as in many cases, have very strong views and are strongly motivated, and they participate in the debate. And there are a whole lot of people who are entirely agnostic on the subject and are not going to the trouble of participating in the debate. But they are the people who will benefit from this process.

We have to be alert not only to the problems but to the benefits that we will see. We cannot afford to have more years of trials that do not happen because we do not have the courage to look to the future for our own prosperity and wellbeing and because we bury our heads in the sand and say, "Goodness, something bad might happen."

As legislators, we have to be prepared to go down this path cautiously, and this is what the government's bill is about and this is what the federal government's bill is about; it is about doing it cautiously. Actually I have come to this debate with a very open mind and have looked at it for a very long time. I have explored the arguments about whether or not there is a market for non-GM food. I have looked at the research and actually went looking for an opportunity to have my prejudices confirmed. I actually started out in this argument thinking, "If everyone's producing GM food, perhaps for a country like Australia—we sell our food into Europe and Asia with the clean, green brand on it—you add to that 'clean, gene and GM-free'." When you look at the research from Australia and around the world there is no premium for GM-free. People do not go out and pay a higher price because something is GM-free.

That surprised me, and I went away and continued to research and I found that this was the case. There is a very small niche market; it is a bit like going to the organic butcher or the organic greengrocer and paying the premium. I actually walked into an organic greengrocer the other day and looked at the apples for $9 a kilo and thought, "Well, it's very nice, it's a good service and it's a good product to have, but it's not the product for the average man in the street, with three kids; he's not going to pay $9 a kilo for apples."

Third World countries looking for a solution to the problems of feeding their populations are going to want good nutritious food that is going to come to them relatively cheaply, and that means that they need to have resilient food, resilient crops which are not going to be knocked about radically by changes in the weather patterns. We had a discussion earlier today about projections for lower rainfalls across the southern hemisphere. Part of the solution and part of the answer to that may be in some of these crops and their drought resistance. We cannot afford to throw the baby out with the bathwater; we cannot afford to say, "Stop the clock," or, "Stop the world, I want to get off," because if we do that we are doing a disservice not only to our own electors but to people beyond our waters.

MR PRATT (8.48): Mr Speaker, I rise to support the government's bill and also to oppose Ms Tucker's GMO bill. I will also oppose Ms Tucker's amendments to the government's bill if they arise. I am deeply concerned about the Greens' credentials in respect of gene technology, and the reasons are as follows. I am going to quote wholeheartedly from Sally White in *The Land* of 18 December, who wrote:

> The opponents of GM such as the Greens, despite their proclaimed concern for the plight of people in underdeveloped countries, are actually denying those same people the opportunity to have more and better food.

You could insert here, "and also impeding progress in the ACT". The article goes on:

> For example, a Swiss firm has developed a genetically modified (GM) rice which delivers vitamin A to people in developing countries where rice is the staple food. Vitamin A deficiencies are believed to be responsible for 3,000 deaths a day and 500,000 cases of infant blindness a year.
>
> While a GM rice, known as "golden rice" capable of delivering a person's daily vitamin A requirements in a 200 gram serve has been ready for four years, the crop has still not been made available to farmers in developing nations because of regulatory obstacles based on undue paranoia on the part of well fed Green's and so-called environmentalists and the political pressure they have been able to place on nervous government and regulators.

I will not take it too much further than that but, as one who has for many years urged further capacity building in hard-luck countries and urged my nation and others to undertake deeper humanitarian aid operations and empower our own commercial entities to assist in that process in the interest of trying to minimise the need for emergency operation interventions in those places, I find that this article strikes a nerve.

To bring it back to home, I am not an agriculturist by trade, but I take a bit of an interest in this and have read a raft of opinions such as this, which reinforce the uncomfortable notion here in the ACT that the Greens and their fellow travellers have their heads firmly planted in the sand in respect of gene technology. I believe that exposing the weaknesses of the Greens' argument in respect of the international scene demonstrates how backward their position is in respect of the ACT. I do not think that they are doing anything at all to advance the argument. By amending the government's bill, they will not be advancing this argument in a positive way at all.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (8.52): The government takes issue with Ms Tucker's bill. It is reasonable to interpret it as requiring the minister to make decisions about matters on environmental protection grounds rather than on marketing grounds as permitted under the national regulatory scheme. Hence, Ms Tucker's bill potentially trespasses on the legislative authority of the Commonwealth.

First, under the Constitution, the ACT government is not permitted to legislate in an area that the Commonwealth is thought to cover. Consequently, Ms Tucker's bill is potentially invalid, making any decisions made under it null and void. Secondly, it appears to be in conflict with the national regulatory scheme for gene technology; the position jeopardises the territory's participation in that scheme. The overall purpose of the bill differs considerably from the government's.

Ms Tucker's bill covers not just GM food crops but also potentially any GMO that has been approved by the regulator for intentional release into the environment. Ms Tucker's

bill seeks, broadly, to ban the environmental release of GMOs. This covers dealings with GMOs that include the conduct of experiments with a GMO to make, produce or manufacture the GMO; to grow, raise or culture the GMO; and to propagate the GMO.

Such a broad moratorium is likely to have a detrimental impact on our scientific and research community. A key issue of concern is the restrictions the ban would place on gene technology research activities, in particular those of CSIRO, ANU, University of Canberra and the Cooperative Research Centre for Pest Animal Control.

A substantial part of CSIRO's biotechnology research conducted in the ACT focuses on gene technology, and as such it is regulated by the regulator. This includes research work by the CSIRO divisions of plant industry and entomology at the Black Mountain site, sustainable ecosystems at Gungahlin and field trials at the Ginninderra experimental station.

Ms Tucker's bill also has the potential to impact on the ability to use therapeutic GMOs currently commercially available in Australia and in the ACT. It would appear that under the scope of the proposed legislation the genetically modified oral cholera vaccine, Orachol, which was registered as a prescription medicine by the Therapeutic Goods Administration and granted a licence for continued commercial release by the regulator in June 2003, would not be allowed to be used here. Such a clause would potentially also affect research on prescription drugs in animals such as noxious pests.

Ms Tucker's bill is without a sunset clause. If the bill were to be passed, it would place a ban on the environmental release of GMOs for perpetuity or until repealed. It would see the territory act on gene technology development in a fear-driven manner, locked out of opportunities the technology may bring in the future. This could well result in a marketing disadvantage for the territory's scientific community, with research moving interstate.

By contrast, the government's proposed legislative scheme will enable any future government of the ACT to serve the interests of the community in a sound and rigorous way. Ms Tucker's bill would create uncertainties for the operation of the national gene technology scheme and threaten the existence of the biotechnology research community in the ACT. Hence, the government is quite opposed to Ms Tucker's bill.

Mr Smyth, when he spoke, asked about marketing. Mr Smyth, I have highly expert advice on the matter, as you expected. The word "marketing" in the act will mean what it means in the Commonwealth act. In simple terms, marketing is what happens in markets. That is a sensible, reasonable definition. As Mr Smyth observed, we thought it better to not specify a special meaning in line with the Commonwealth legislation. If a special meaning needs to be determined, the courts will decide. Mr Smyth, you have your answer.

Mr Smyth: I have your non-answer, Minister.

MR WOOD: Not at all. For the government's part, gene technology involves the modification of living organisms by incorporating or deleting one or more genes to introduce or modify the characteristics of the organism. As a new and rapidly evolving

technology, this government and Australia generally have responsibilities to ensure that GMO is developed in a regulated, considered way.

Currently, the Commonwealth, territories and states have enacted a collaborative, nationally consistent, regulative system for gene technology, based on the assessment of risks to human health and the environment. The legislative mechanisms underpinning the system are the Commonwealth Gene Technology Act 2000 and mirroring territory and state legislation.

The ACT Gene Technology Act 2003 applies the Commonwealth laws as the ACT laws. The federated legislative mechanism establishes the Gene Technology Regulator, who is responsible for making decisions that will protect our community's public health and the environment. Territories and states have retained the right to regulate gene technology on marketing grounds.

The ambit of the bill and the government's strategy have been shaped by two major factors. Firstly, this legislation needs to be consistent with the Commonwealth legislation; secondly, it needs to be consistent with trading obligations under the World Trade Organisation Agreement on Technical Barriers to Trade, to which Australia is a signatory.

So, the proposal we have before us has the ACT take up its right to regulate gene technology with respect to the marketing impacts on the territory, and it honours the ACT government's commitment of June 2003 to place a three-year moratorium on the commercial release of GM foods. The proposed legislation has a sunset clause of 17 June 2006.

The bill creates a legislative framework for the prohibition of the commercial production of certain GM food crops in the territory for a period of three years. The government is not opposed to GM crops but is prepared to intervene at this point to provide time for the community to evaluate the potential marketing impact of GM food crops on the territory's non-GM food crop industry. We will use the three-year moratorium as an opportunity to consider the costs and benefits associated with GM food crops in this territory. It is important that the potential impact of GM food crops on the territory's affected industries be considered carefully.

The bill confers authority on the minister to make regulations. Authority is given to prohibit the cultivation here of a specified GM food plant or class of food plants, on a case-by-case basis. It only applies to the cultivation of food crops. The legislation does not apply to non-food crops, such as ornamental flowers and medicinal products. It provides a mechanism for the minister to grant exemptions from prohibition. For example, exemptions may be granted for research trials or contained research involving GM crops that have been approved by the regulator.

The provision for such exemptions is critical to enable important research into GM food crops to continue in the ACT. The CSIRO has made comment on the bill and endorses the narrow and well-defined scope of the proposed exemption scheme, which assists biotechnology research organisations in the ACT. The bill also gives the minister the power to look for and investigate possible breaches of the legislation and the court to impose penalties where a breach has been proven.

The bill contains appropriate enforcement and penalty provisions for offences where there is a failure to comply with an order, including, but not limited to, powers of entry and inspection, powers of seizure and destruction, and powers to order testing. It is a good bill, and I am appreciative of the promised support.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 6, by leave, taken together and agreed to.

Clause 7.

MS DUNDAS (9.03): I move amendment No 1 circulated in my name *[see schedule 8 at page 3246]*.

Mr Speaker, this amendment is designed to broaden the scope of moratorium orders and ensure that genetically modified food crops cannot fall through the gaps of such moratorium orders. This amendment is based on the legislation used by other states, such as Western Australia, to introduce their moratoriums. The New South Wales legislation, on which this bill is based, is generally regarded as the weakest form of moratorium enabling legislation among the states. Unlike legislation in other jurisdictions, this legislation would require the ACT government to list each and every genetically modified food crop that it wishes to ban separately.

If the ACT misses a new GMO, or an instrument is not properly made, or the ACT suddenly decides that it will allow a new GMO to be planted, the bill before us will not stop the crop actually being planted at whim. In contrast, other jurisdictions have employed an opt-out system where the moratorium order covers all genetically modified food crops, regardless of whether they have been identified by the government. In fact, it includes those that may not even have been invented yet.

This amendment seeks to give the government that option. However, in line with other states, it does not compel the minister to do so. If this amendment passes, I would like to see the minister immediately declare the entirety of the ACT GM free by designating it an area where no GM food crop may be cultivated. The minister could then use the exemption system currently in the bill, as necessary, for the CSIRO to conduct field trials. However, the option remains open to cover different areas of the ACT with different moratorium orders or to list a GMO separately.

This amendment would not restrict the minister's powers under the act. Instead, it actually expands them and gives the minister a greater variety of tools. It does not prevent the minister from doing anything that is not in the existing version of the bill; nor does it require him to do anything in addition. What it does do is give the ACT government more extensive powers to make moratorium orders to protect the ACT from unwanted GMOs. If other jurisdictions can take this precautionary approach to GM food

crops, I see no reason why the ACT should not be following. I commend this amendment to the Assembly.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (9.05): The government will not agree to the amendment. It introduces a clause, a power for the minister, to declare an area GM food crop free. We have chosen here a regulatory scheme that exempts certain GM food crops on a case-by-case basis for marketing purposes. As Ms Dundas indicated, the alternative regulatory model is based on declaring areas GM food crop free, as operates in Western Australia and South Australia. However, the government system is a different one, so we are opposed to introducing this amendment, as I believe it would result in a hybrid regulatory system.

MR SMYTH (Leader of the Opposition) (9.06): The opposition will also oppose the amendment because it changes the subject of the moratorium from a species of plant to an area. As was already pointed out in the case of WA, they then declared the whole of WA GM free. The purpose of the government's bill is to authorise the minister to protect the marketing of an existing crop, which might be a GM-free crop, from the arrival of modified crops into the area species by species. The method proposed by the Democrats is a very blunt instrument. It is a blunt instrument that was used, I think, poorly in WA. There is no need for it here.

MS TUCKER (9.07): The Greens are happy to support this amendment. It takes an area based rather than crop based approach to prohibiting GM food plants. This would enable the minister to declare the ACT GM crop free if he so desired. Of course, the government scheme still allows for the cultivation of any crop or food plant to be exempted from the moratorium. The advantage of this opt-in approach is that the government and its advisory committee need to consider each plant case by case. It automatically allows for closer scrutiny, with better notification procedures and a clearer sense of responsibility. It is a more responsible approach.

Amendment negatived.

Clause agreed to.

Clause 8.

MS TUCKER (9.08): I move amendment No 1 circulated in my name on the blue sheet *[see schedule 10 at page 3250]*.

This amendment introduces a small amount of transparency and accountability to the scheme. Any proposed exemptions from moratoriums need to be publicised, and neighbours of such activity should be forewarned. The government appears satisfied that no such public notification is necessary. The experience of non-GM farmers in many locations around Australia stands in stark contradiction to that view.

MS DUNDAS (9.09): Mr Speaker, the Democrats are happy to support this amendment as it is aimed at greater transparency in how exemptions are granted to those who wish to cultivate GM food crops. This amendment would ensure that there is community debate

on any proposal to cultivate GM foods and, particularly as many of the sites currently used to crop GM food trials are located not far from the homes of those in my electorate of Ginninderra, it is important the public is made aware of what is occurring.

This is a sensible amendment that allows the community to actively participate in what are important decisions of government. It is particularly important to inform the community of decisions under this act, as they are not subject to judicial review and are not the province of the AAT. With such huge discretionary powers given in this legislation, we need to be very careful in exercising the exemption options without informing the public we serve of those deliberations.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (9.10): Mr Speaker, the government will not be supporting this amendment. It seeks to make the granting of an exemption by the minister conditional on securing an undertaking by the applicant to prevent or remedy any contamination of GM food crops in the environment.

The clause is concerned with regulation for the purpose of environmental protection. As such, the government believes—

Ms Tucker: That's not the right amendment. This one's about the notification of people nearby.

MR WOOD: This is your first amendment, is it?

Ms Tucker: Clause 8. It's the one where we want public notification.

MR SPEAKER: The question is that clause 8 be agreed to.

MR WOOD: Clause 8 (1A), was it?

MR SPEAKER: Ms Tucker's amendment on the blue sheet.

MR WOOD: All right. Yes, that is a more recent one, and I do not have any words on that. But it is not for supporting.

MR SMYTH (Leader of the Opposition) (9.11): Mr Speaker, I guess you take either the path of the moratorium and say that nothing happens in a specific area or you take the path that the government has chosen to take, which is to say you will grant permission to do certain activities. The amendments inserting 1AA, 1AB and 1AC seek to undermine that. They say that you have got to write to the occupier of land that adjoins land where cultivation is proposed under the exemption. What you get is a system that is impossible. You are going to have to bestow on the minister the wisdom of Solomon to work out who wins in the end. It will effectively undermine what the government's bill attempts to achieve. The opposition will be opposing it.

Question put:

> That **Ms Tucker's** amendment be agreed to.

The Assembly voted—

Ayes 2	Noes 11	
Ms Dundas	Mr Berry	Ms MacDonald
Ms Tucker	Mrs Burke	Mr Pratt
	Mrs Cross	Mr Smyth
	Mrs Dunne	Mr Stanhope
	Ms Gallagher	Mr Wood
	Mr Hargreaves	

Question so resolved in the negative.

Amendment negatived.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (9.16): I move amendment No 1 circulated in my name *[see schedule 9 at page 3247]*, together with a supplementary explanatory memorandum to the amendments.

Mr Speaker, in response to issues raised in consultation with members of the Assembly and the scrutiny of bills report No 47, the government proposes to table seven amendments to the bill. Two of these represent procedural changes to the bill, one is substantive and four are technical. The government believes these amendments are important additions to the regulatory regime outlined in the bill, strengthening the government's engagement with stakeholders and prescribing the appropriate accountability mechanisms.

The first procedural amendment sees the establishment of an advisory council under clause 10A. It will comprise eight members who belong to the various interest groups—academic, scientific and agricultural—prescribed in the clause. Members represent a mixture of skill sets and expertise. The establishment of an advisory council ensures that the minister's decision on whether to grant an exemption is made with input from key stakeholders.

MR SPEAKER: Mr Wood, wouldn't it be better to deal with your amendment 1?

MR WOOD: All right. I will do them as they come up, Mr Speaker.

MR SPEAKER: Yes, it might be easier; otherwise members might not understand.

MR WOOD: I was going to do a repeat of that last one.

MS DUNDAS (9.18): Mr Speaker, amendment 1 requires the minister to consult with an advisory council before making a decision about whether to grant an exemption, and this is a good step in creating greater consideration of the issues before granting an exemption from a moratorium. However, I have some concerns about the membership of the council, and I foreshadow that I will be supporting Ms Tucker's amendments in that regard. I would add that consultation with a small group of hand-picked professionals is

not a substitute for broader community consultation, and I would encourage the government to go further than this council when considering an exemption from the moratorium. That being said, it is a minor improvement to the act, so it is worthy of support.

MR SMYTH (Leader of the Opposition) (9.18): Mr Speaker, the opposition will be supporting the government on this amendment simply because we recommended these things to the government, following consultation. Amendment 1 is the procedure of how the minister must consult with his council and what he must do if he goes against the recommendation of the council. Amendment 2 is to establish the council. The third amendment is just about reporting when you are establishing a GM crop, and the others are consequential. We will be supporting all of the government's amendments.

Amendment agreed to.

MS TUCKER (9.19): I move amendment No 2 circulated in my name on the blue sheet *[see schedule 10 at page 3250]*.

This amendment asks for the applicant to commit to preventing, or remedying, any contamination. It is very hard to understand, as I argued earlier, why the community or non-GM farmer should carry the risk of contamination caused by GM cultivation. I noticed that in the response speeches from members of the Assembly on the Liberal side, and from the government, nobody addressed the concerns about liability. For Mr Pratt's interest, Mr Smyth was very concerned about liability when we were looking at it as a committee, so it is not just those terrible Greens that had some issues about this. This amendment attempts to bring that responsibility into the bill.

MR SMYTH (Leader of the Opposition) (9.20): Mr Speaker, the opposition will not be supporting this amendment. Ms Tucker is right: I did have a large number of concerns when we did our report about the issues of liability—

Ms MacDonald: That's why we needed to take a longer time.

MR SMYTH: Thank you, Ms MacDonald, for the wonderful interjection. But since then we have done some more research and followed some of the cases as they moved through the court system. Some of what was reported to the committee is not as clear cut as may first have appeared. The system the government has set up is that you proceed down either one path consistently or down the other path consistently. This will fly in the face of the path that the government attempts to take.

I believe that setting up the council and the advisory and reporting mechanisms will go most of the way to addressing the fears that were put to us. I still have some concerns and will monitor this closely, but I will not be supporting the Greens' amendment.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (9.21): The government will not be supporting Ms Tucker's amendment. The clause is concerned with regulation for the purpose of environmental protection. Among other things, I believe that is beyond the territory's powers. Further, its insertion into the government's bill, if it did go ahead, would result

in the duplication of regulations and undermine the national cooperative regulatory scheme, which defers to the Commonwealth expertise and authority on environmental issues.

MS DUNDAS (9.22): This amendment goes to a very important issue in the debate. It goes to the heart of the precautionary principle, ensuring that those who profit from new technologies are also responsible for any ill effects. We know that these technologies are new and that we cannot possibly know all the future ramifications of utilising them. It is essential that, if we license people to disseminate experimental products in the environment, we ensure that there is someone who will take responsibility for any costs or damage that those technologies entail.

This amendment would ensure that that would occur and that a potential future producer of GM products in the territory will have to commit to rectify any harm associated with their product. This amendment does something that is only fair to the people of the ACT: it ensures that our natural environment is protected from any ill effects. I am happy to support the amendment and would have hoped that other members of this Assembly would have found the same.

Question put:

> That **Ms Tucker's** amendment be agreed to.

The Assembly voted—

Ayes 2	Noes 11	
Ms Dundas	Mr Berry	Ms MacDonald
Ms Tucker	Mrs Burke	Mr Pratt
	Mrs Cross	Mr Smyth
	Mrs Dunne	Mr Stanhope
	Ms Gallagher	Mr Wood
	Mr Hargreaves	

Question so resolved in the negative.

Amendment negatived.

MS DUNDAS (9.25): I move amendment No 2 circulated in my name *[see schedule 8 at page 3246]*.

Mr Speaker, this amendment would ensure that an exemption under this act is not granted without the opportunity for the Assembly to disallow it. We have had this discussion a number of times before on different issues—there is not much point in making some instruments disallowable if they can be implemented before the Assembly has had the opportunity to disallow them. In this case, if an exemption is made under this act and this occurs before the Assembly has had the opportunity for disallowance, the environmental release of the GMO will have occurred before the Assembly has the opportunity to debate and overturn the decision

Once again, I point out that this act has extremely restrictive provisions for access to the courts to challenge a decision made by the minister to grant an exemption, meaning there

would be no opportunity to question or delay that decision by any other means, such as a court injunction on the release of GMOs. The Assembly would be the last and only line of defence against an unwanted release. I think this additional restriction is a sensible one. It would allow the Assembly the time and opportunity to consider whether an exemption is appropriate before the release of a GMO occurs.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (9.27): This amendment would prevent an exemption from commencing until the disallowance period has passed. Under the government's bill, an exemption is already a disallowable instrument, and the government believes this provides reasonable opportunity for Assembly input.

The potential effect of the proposed Democrat amendment would be to delay the operation of an exemption for a very long period. The proposed new clause could result in unnecessary procedural delays to the operation of exemptions and not change the ultimate outcome of the disallowable instrument process. Such a procedural change would act as a significant disincentive to GM research, as project commencement could be suspended for various periods.

MS TUCKER (9.28): The Greens will support this amendment. It is clear that the whole process of managing the cultivation of GM crops has been handed to the research and marketing community. I refer members to Dr Lawson's comments, that I quoted earlier in this debate, that science and research are not value neutral and that it is not inappropriate to have some control vested in the Assembly. I appreciate that the issue of timing is crucial, but it is not impossible for people planning field trials or cultivation to be apprised of the timetables of the Assembly and to ensure that they do not miss a growing season. The reverse—a crop being disallowed after it was planted and largely grown—would seem to be worse.

Amendment negatived.

Clause 8, as amended, agreed to.

Clauses 9 and 10, by leave, taken together and agreed to.

New clause 10A.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (9.29): I move amendment No 2 circulated in my name, which inserts a new clause, 10A *[see schedule 9 at page 3247]*.

Mr Speaker, this is what I was trying to refer to earlier. It proposes the establishment of an advisory council and ensures that the minister's decision about whether to grant an exemption is made with input from various stakeholders. I think this is a sound measure that enhances the bill.

MR SMYTH (Leader of the Opposition) (9.30): Mr Speaker, the opposition will be supporting the insertion of the advisery council clause. It is something we suggested in

consultation. Our consultation with the community leads us to believe that this is a balancing item that will put some of the onus back on to the community. It makes the minister refer certain items, and licensing, to the community. The minister can, of course, reject that but must give reasons for why that has occurred. With those points, we will be supporting the amendment.

MS TUCKER (9.31): I move amendment No 1 circulated in my name to amend proposed new clause 10A *[see schedule 7 at page 3245]*.

This amendment would slightly change the composition of the proposed advisery council. I am at a loss to understand why two positions on this committee have been reserved for nominees of local rural landholders. I am aware that one of those groups contains three or four farmers, most of whom are in negotiation to surrender their leases and are presumably leaving farming in the ACT altogether.

It is beyond me to understand why one position should go to that group rather than to someone who represents organic or non-GM farming. It has been put to me that the council should only be concerned with marketing. Even in the context of the government's fairly limited approach, one would think it would have slightly broader concerns. Coexistence springs to mind. Even in regard to marketing alone, organic and non-GM farmers have a very sophisticated understanding of markets and would make an important contribution.

I wonder what theory the government—and, indeed, the opposition—have about including a nominee from the conservation council and why they should be opposed to bringing on someone with a legal perspective. As I understand it, there are real limits to the council in New South Wales, and a number of experts that my office consulted, not simply anti-GE activists, were quite emphatic about the need for a council with diverse perspectives putting on one member to be the nominal community representative.

MS DUNDAS (9.32): These amendments, both Ms Tucker's and Mr Wood's, go to the make-up of the advisery council on gene technology. As Ms Tucker has already outlined, it is important that the council is able to give a balanced viewpoint on these issues coming from a number of different stakeholders with an interest in the use of technology. The proposal from the government appears to deviate from standard practice in specifying representatives of particular organisations rather than, as you would expect, specifying a particular type of pool required.

I think that the Greens' proposal is more useful in relation to the minister having access to a range of opinions. I will be supporting Ms Tucker's amendment, but I am also supportive of the government's original amendment.

MR SMYTH (Leader of the Opposition) (9.33): The Liberal Party ends up being the only consistent group in the Assembly over a period of time. We have always been opposed to giving specific seats to specific bodies on specific boards. People should go to these boards because they possess the highly informed and scientific advice that the minister needs, not because they are a member of a certain organisation that has a certain bent that meets a certain need at the time. We will oppose this amendment.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (9.34): Mr Speaker, the government opposes the amendment. We believe the composition of the proposed council appropriately represents those people that need to be represented. This amendment would bring an imbalance that I do not think would be helpful to this specific council.

Amendment (**Ms Tucker's**) negatived.

New clause 10A agreed to.

Clauses 11 to 13, by leave, taken together and agreed to.

Clause 14.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (9.35): Mr Speaker, I move amendment No 3 circulated in my name *[see schedule 9 at page 3247]*.

This is an amendment about the obligation to report cultivation of a GM crop. Under the bill there is an obligation to report the cultivation of GM food crops where there are reasonable grounds to conclude that such activities are occurring. A person will be held to have committed this offence where a reasonable person in the circumstances would believe the cultivation of the GM crop was occurring and did not report the activity. This amendment is consistent with conventional legislative drafting and provides an objectively determinable standard.

Mr Speaker, further amendments are technical in nature, as we proceed through this bill.

MS DUNDAS (9.36): Mr Speaker, the Democrats are happy to support this amendment. It would ensure that people who could not be reasonably expected to believe that a GM food plant was being cultivated would not be caught by the offence here. Given that the offence is one of strict liability, this amendment is a better expression of the intention of the provision.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 15 agreed to.

Clause 16.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (9.37): I move this technical amendment, amendment No 4, circulated in my name *[see schedule 9 at page 3247]*.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 17 to 37 taken together and agreed to.

Clause 38.

MS DUNDAS (9.37): I move amendment No 3 circulated in my name *[see schedule 8 at page 3246]*.

Mr Speaker, I move this amendment as I have concerns about a provision in this bill that it would be automatically repealed less than two years after it has been enacted. This seems to be a little pre-emptive, as there is no guarantee that there will be any form of replacement legislation before this time. Nor is it clear that the ACT government or the Assembly will no longer require a moratorium after this time.

We have yet to see what the outcome of numerous investigations of gene technology will produce, both here in the territory and across Australia. The amendment that I move would allow extra time for consideration, if that is required, without extending the life of the act into perpetuity. I also note that we have just included provisions to appoint an advisery council for this act, which would also disappear less than two years after it had been set up.

However, rather than simply removing the sunset clause, I have suggested that the minister be empowered to repeal the act after the proposed sunset date. If the minister decides to take this course of action, the Assembly will have the opportunity to disallow the instrument if it does not agree. This amendment maintains the policy intention of having an interim moratorium on GM food crops, as there is no guarantee that the moratorium would extend past the proposed finish date.

However, if it is prudent to retain the moratorium after this time, the act can continue in force until it is no longer required. This amendment retains the current policy position of government but allows an extension of the policy without returning the Assembly to legislate once again. We have seen this before with sunset clauses. The seemingly endless extensions of the gambling machine cap come to mind. Instead of the Assembly having to continually extend the life of this act, which would seem quite possible, I put forward this amendment so that we put the power in the hands of the minister, and that power is a disallowable instrument. I commend this amendment to the Assembly.

MR SMYTH (Leader of the Opposition) (9.39): This is a very sensible amendment from the Democrats. As Ms Dundas points out, if the bill lapses on 17 June 2006, all of the provisions, as well as the council, will disappear. The construction of the amendment is very neat, in that it forces the minister to give written notice of the expiry of the bill, which is a disallowable instrument. Then the Assembly can have the debate to extend or accept the notice. It is a very good amendment from Ms Dundas.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and

Heritage, and Acting Minister for Health) (9.40): Mr Speaker, the government supports this amendment. It builds a useful flexibility into the bill.

Amendment agreed to.

Clause 38, as amended, agreed to.

Clause 39.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (9.40): I seek leave to move my amendments Nos 5 and 6 circulated in my name together.

Leave granted.

MR WOOD: I move my amendments Nos 5 and 6 *[see schedule 9 at page 3247]*.

MR SPEAKER: Have these amendments been dealt with in discussion earlier? You have spoken to these earlier?

MR WOOD: Yes. They are technical, Mr Speaker.

Amendments agreed to.

Clause 39, as amended, agreed to.

Dictionary.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (9.41): I move my amendment No 7 circulated in my name *[see schedule 9 at page 3247]*.

Amendment agreed to.

Dictionary, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

GMO (Environment Protection) Bill 2003

Debate resumed from 11 March 2004, on motion by **Ms Tucker**:

> That this bill be agreed to in principle.

MS TUCKER (9.42), in reply: I will wrap up debate on this bill. I put forward my points on this legislation during the cognate debate. However, I want to respond to some

of the points raised by particularly Mrs Dunne and Mr Pratt, who decided to go wider in their presentations and talk about what they perceive to be the potential benefits of genetic modification for the production of food.

I would also like to respond to their assertions that people who are expressing concern about the haste with which this technology has been embraced are somehow fearful and even loathing—Mrs Dunne used quite strong language—of the unknown or afraid of innovation. I think it is important to make the point that an understanding of the precautionary principle is not about a loathing of the unknown: it is about understanding that we have to take responsibility for what we are doing.

Mr Pratt referred to an article or a letter he had read in *The Land*, and spoke about the lack of qualifications held by people who expressed concerns about this particular technology. He also talked about golden rice and vitamin A deficiency, so I thought I might just fill him in a little bit on that.

Just on the general question of biotechnology being a high tech cure for the woes of the world's people who are poor, I remember in the 70s there was a sticker around with the words "Food for people, not for profit." That is basically still the problem. Feeding the world is not about production and distribution; it is about political will and financial will. Mrs Dunne and Mr Pratt alluded to developing countries. In this respect, the Christian Aid report on biotechnology and GMOs stated:

> Biotechnology and GM crops are taking us down a dangerous road, creating the classic conditions for hunger, poverty and even famine. Ownership and control concentrated in too few hands—

Mrs Dunne mentioned Monsanto and Bayer several times—

> and a food supply based on too few varieties planted widely are the worst option for food security.

Golden rice is produced by splicing three foreign genes—two from the daffodil and one from a bacterium—into japonica rice, which is a variety adapted for temperate climates. The developers anticipate that at least five more years will be required to breed the vitamin A trait into rice varieties.

It is quite clear that, even if golden rice is successfully introduced, it will likely do little to ameliorate VAD—the condition that is apparently going to be helped by golden rice. VAD is a condition that afflicts millions of people in developing countries, especially children and pregnant women. As explained by Mr Pratt, it causes partial or total blindness. But if golden rice is successfully introduced—and we are certainly not at that point—it will not do that much to ameliorate VAD because it produces so little beta carotene—just 1.6 micrograms per gram of rice at present, with a goal of 2.0 µg/g. Even if scientists reach this goal, a woman would need to eat 16 pounds of cooked rice every day in order to get sufficient vitamin A, if golden rice were her only source of the nutrient. A child would need 12 pounds.

More realistically, three servings of half a pound of cooked golden rice per day would provide only 10 per cent of her daily vitamin A requirement and less than six per cent if she were breastfeeding. Yet even these modest contributions are uncertain. In order to

absorb beta-carotene, the human body requires adequate amounts of zinc, protein and fats—elements often lacking in the diets of poor people. Those with diarrhoea—this is common in developing countries—are also unable to obtain vitamin A from golden rice.

John Lupien, director of the Food and Nutrition Division, Food and Agricultural Organisation of the United Nations—I do not know if he fits into the category of underqualified greens—said:

> A single nutrient approach towards a nutrition-related public health problem is usually, with the exception of perhaps iodine or selenium deficiencies, neither feasible nor desirable.

Nutrition experts thus confirm what commonsense tells us: a balanced, diverse diet supplying a full range of foods and nutrients is the only sound way to promote health and prevent VAD and other nutritional deficiencies. According to Dr Samson Tsou of the Asian Vegetable Research and Development Centre, VAD is not a major problem in countries with vegetable consumption of more than 200 grams per day. A preschool child's daily requirement of vitamin A can be met with just two tablespoons of yellow sweet potatoes, half a cup of dark green leafy vegetables or two-thirds of a medium-sized mango. And unlike golden rice, these vegetables supply other micronutrients as well.

Dr Richard Horton, editor of the British science journal *The Lancet*—not an underqualified person, I would not have thought—said:

> Seeking a technological food fix for world hunger may be…the most commercially malevolent wild goose chase of the new century.

The green revolution of the 1960s and 1970s replaced diverse cropping systems with monocultures of new wheat and rice varieties. These new hybrids required irrigation, fertilisers and herbicides to deliver increased yields. These herbicides killed off many green leafy vegetables that had been important sources of vitamin A. They also poisoned rice paddy waters, causing steep declines in fish and stream populations in areas such as Bangladesh, where integrated rice-fish farming is practised.

Monoculture in the fields predictably led to less diverse diets. In India, household consumption of vegetables has decreased 12 per cent over the past two decades. In Thailand, 80 per cent of caloric intake now comes from rice, up from less than 50 per cent before the green revolution. An impoverished diet that consists of little else but rice, golden or not, will never provide a solution to world hunger or malnutrition.

Even if golden rice is successfully developed, many question whether it is an efficient use of scarce public funds. An educational project in Bangladesh, begun in 1993 by the UN's Food and Agriculture Organisation, has helped landless families develop home gardens with vitamin A-rich crops, such as beans and pumpkins. This successful program grew to involve at least three million people by 1998. A public education campaign in Thailand, which utilised radio, posters and street theatre, taught farmers the advantages of growing the ivy gourd, another good source of vitamin A.

A project in the Jiangsu province of China has helped spawn a huge increase in rice/aquaculture systems, which resulted in 10 to 15 per cent increases in rice yields and, more importantly, 750 kilograms of fish per hectare of rice paddy. The fish also helped

reduce the incidence of malaria by consuming mosquito larvae. There are innumerable small-scale projects such as these throughout the developing world, only we rarely hear about them. They do not get nearly the amount of funding that they deserve.

Those points are important because so often very general and bland statements that just do not stand up to the reality are made in debate, especially when people talk about developing countries. If you speak to the scientists in the developing countries—and I have done that—you will find that they will support what I have just said.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 2	Noes 11	
Ms Dundas	Mr Berry	Ms MacDonald
Ms Tucker	Mrs Burke	Mr Pratt
	Mrs Cross	Mr Smyth
	Mrs Dunne	Mr Stanhope
	Ms Gallagher	Mr Wood
	Mr Hargreaves	

Question so resolved in the negative.

Bill negatived.

Annual Leave Amendment Bill 2003

Debate resumed from 25 September 2003, on motion by **Ms Gallagher**:

> That this bill be agreed to in principle.

MR PRATT (9.53): Mr Speaker, the Liberal opposition supports the bill. The Annual Leave Amendment Bill 2003 serves dual purposes—to allow Canberra businesses to operate under a flexible employment framework and to ensure that part-time employees receive the benefit of annual leave, as full-time employees currently do.

For many years now Canberra businesses have had to engage part-time employees for a minimum number of hours per week if annual leave was to be accrued. Businesses were obliged to have these employees work this number of hours even if the business did not require it. In addition, employees had to work the minimum number of hours to accrue annual leave even if it did not suit their lifestyles.

Mr Speaker, there have been important changes in employment patterns over the past decades. Employers and governments have to be flexible with these changes. We have to be flexible in this Assembly to ensure that no employer or employee is negatively impacted by the conditions we impose upon employment benefits in Canberra. We

believe that this bill not only benefits employees but also gives flexibility to employers in Canberra.

This bill allows Canberra businesses, in particular small businesses, to be attractive to employees by offering benefits such as annual leave. It also allows them to be cost-effective and to engage the employee only for the hours they are needed each week, be it 10 or 20 hours. It also supports employees by allowing them to access accrued annual leave even if they work only 10 or 20 hours per week.

Mr Speaker, the opposition is a flexible opposition. We support Canberra employers and employees concurrently, ensuring that employment benefits are advantageous to all. We hope to see the government make more changes to current restrictive schemes relating to employers.

Finally, Mr Speaker, as this is a workplace relations policy that benefits employees and employers, the opposition supports the bill.

MS DUNDAS (9.56): Mr Speaker, this bill makes a sensible and necessary change to the Annual Leave Act by ensuring that all part-time employees are able to accrue annual leave. This minor alteration to the act underlies an important principle of equality in the workplace.

Part-time workers are often women who use the flexibility of part-time work to combine work and family responsibilities. The ACT Democrats recognise the growing pressure felt by the 60 per cent of workers who have family responsibilities and the need for flexible workplaces that are friendlier to families. The ACT needs to improve the security and conditions of part-time work and to assist working families, and this bill is one small but significant step in doing that.

According to the October labour force statistics released by the Australian Bureau of Statistics, 28 per cent of the ACT workforce are part-time workers and two-thirds of those workers are women. Government policies governing part-time work differentially affect women, and will often most affect women with a partner and dependent children.

Women have increasingly moved into the Australian workforce since the 1960s. Part-time work has been particularly attractive to women as it allows them to have both social contact and the satisfaction accruing from employment, as well as leaving them enough time to attend to child-rearing and other social activities.

However, as Judy Macinolty notes in *The Economist* 18 July 1998:

> "Part-time" seems to equate all too often to "second-class". One woman "previously in a high-powered full-time job, returned to work part-time after childbirth and found that 'everyone behaved as though I had suddenly gone dumb'". Many women prefer the flexibility of part-time work and employers like them not only for that reason but because they cost less and, more often than not, achieve much more than the hours suggest.

Yet part-time workers are more likely to be passed over for promotions. Part-time jobs are rarely advertised despite the fact that part-time workers make up more than a quarter of the workforce. Many women still find it difficult to secure part-time work after the

birth of a child and many others find that their level of responsibility and respect is diminished if they cannot get work. Governments have a duty to ensure not only that the entitlements of part-time workers are equivalent to those of their full-time counterparts but also that employers pay due regard to the availability of part-time work and afford due respect to their part-time staff.

I hope that this bill is only a first step in addressing the needs of part-time workers. I hope that the government intends to continue to move forward in promoting part-time work as a viable alternative in the modern workplace, particularly in the interests of working women. On the whole, we have to make our employment system fairer and allow for the employment of a more diverse range of people.

MRS CROSS (9.59): Mr Speaker, it is always positive to end a sitting period with a unanimous vote on a good bill, and I rise to express my support for this bill, the Annual Leave Amendment Bill 2003.

At present, those who work less than 22.8 hours a week on average are not eligible for annual leave. This is a legacy of a past era when most people who were employed were employed on a full-time basis. Today there are many more people employed on a part-time or casual basis than there were in the years gone by.

As at the last census, 66.6 per cent of those employed in the ACT were employed full-time and 31.2 per cent were employed on a part-time basis. In 1991 70.1 per cent of those employed in the ACT were employed full-time with 25.6 per cent employed on a part-time basis. This is a considerable change in people's work status in only the last decade.

These part-time and casual employees should not be discriminated against because of their work status. This bill removes part of that discrimination, ensuring that all employees are entitled to annual leave if they forgo leave loading. All employees should be entitled to annual leave on a pro-rata basis. This bill achieves that. Therefore, I commend the bill to the Assembly and support the minister.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (10.01), in reply: The last decade has seen a significant increase in part-time employment. The government is committed to ensuring that there is a fair and balanced industrial relations framework in the ACT and that these workers are not disadvantaged in their working conditions. This bill makes an amendment to the Annual Leave Act 1973, removing a barrier preventing the accrual of annual leave by part-time employees who work less than 22.8 hours a week on average.

The Annual Leave Act currently provides that employees who work less than 22 hours a week or receive a loading in substitution for annual leave under an award or agreement are not entitled to annual leave. The restriction of annual leave to those working more than 22.8 hours a week reflects the restrictions that were formerly placed on part-time employment in federal industrial awards. Employees were previously required to give part-time employees a minimum number of hours engagement each week.

However, the Howard government enacted federal legislation in the Workplace Relations Act 1996 that specifically provides that it is illegal for federal awards to set maximum or minimum hours of work for regular part-time employees. The Australian Industrial Relations Commission was therefore forced to remove these protections for part-time workers through the awards simplification process, and part-time employees are now able to work a shorter span of hours each week.

Part-time workers should not be disadvantaged as a result of entitlements to annual leave. If a part-time employee is now working an average of five hours a week, then they should be entitled to take annual leave on a pro rata basis according to their average hours.

I thank members for their support of this bill. Also, I acknowledge the work of Garrett Purtill and the Office of Industrial Relations in putting this bill together.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Adjournment

Motion (by **Ms Gallagher**) proposed:

> That the Assembly do now adjourn.

Gungahlin Drive extension

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (10.03): Yesterday, the *Canberra Times* quoted a spokesman for me, in my capacity as urban services minister answering questions about Gungahlin Drive extension, as saying there was no requirement for government ecologists to be on site at all times during tree-felling operations.

I am making this statement because the *Canberra Times* did not print a correction today, as I sought. As I explained to the reporter when the article was being prepared, that was not correct. The reporter's initial question to my media adviser was about the Environment ACT rangers. My media adviser confirmed that there was no requirement for them to be present. However, he then stated that biodiversity consultants or ecologists were required to be there. This is exactly what I said in the Assembly on Tuesday afternoon after question time.

The reporter then named someone to my media adviser, and my adviser confirmed that this person was in fact a biodiversity consultant or ecologist working for Environment ACT. There was a brief discussion about his status and what he does and the fact that he

also has an offsider working with him. The reporter seemed to understand clearly the difference between a ranger and an ecologist.

From the way the article was written, however, it appears that the reporter deliberately took the media adviser's comments about the EACT rangers and applied them to the ecologists, despite being told by my media adviser and later by my senior adviser that this was not the case. My senior adviser also had a discussion with the reporter about the word "ecologist" and our definition of an ecologist, and read her the following extract of an email from the department:

> I refer to the ecologists who identify and mark potential habitat trees in advance of tree felling as well as inspecting felled trees as evidence of animal activity.
>
> Generally at least one ecologist is on site from 8 am till the end of felling operations in the afternoon (about 4.30 pm or later)

So both my media adviser and my senior adviser made it abundantly clear to the reporter that the ecologists are required to be on site, and this is consistent with what I said in the Assembly. As the *Canberra Times* has printed otherwise and not seen fit to print a correction, I want the record in this place, at least, to show that at all times that reporter was given correct information—namely, that at least one ecologist is on site from 8 am till the end of felling operations in the afternoon. It is disappointing that the reporter chose to print incorrect information, and more disappointing that, at least as of today's date, the *Canberra Times* has not corrected that misinformation.

Mr Bill Bastion

MRS CROSS (10.06): Mr Speaker, I rise to acknowledge one of our brave veterans who met with a sad fate a year ago. I refer to Bill Bastion. It was with a heavy heart that I read Lucy Gibson's article in the *Canberra Times* last Sunday, and I am going to quote from that article tonight. The article, which was headed "Silent victim of war", read:

> June 28 used to be a cause for celebration for Raewyn Bastion—a day she shared with her husband Bill.
>
> It was the day they married and tomorrow would have been their 29th anniversary. But instead of planning a romantic meal, Raewyn finds herself finalising arrangements for a memorial service for the man she once referred to as her rock—the husband, father and grandfather who killed himself in July last year.
>
> To those who knew him, Bill Bastion was a quiet but fun-loving man. A man who rode the Lethal Weapon ride at Movie World with his hearing aid in his mouth, just to please his grand-daughter. A man who would cuddle his niece and not let go until he had finished what he had to say.
>
> But Bill Bastion was also battling the horrors he witnessed during the Vietnam War.
>
> He served in the Australia Air Force during the war but like many vets struggled to retain a normal life on his return. He retired at the age of 58, unable to cope with the stress of work and gradually his health began to deteriorate. He drank and smoked heavily and in the last 10 years before his death showed signs of extreme anxiety.

> "If I touched him on the shoulder he would jump," Raewyn said. "At night he would break into sweats and I often woke up to find him digging a hole in the bed as though he was digging a fox hole. The stress just took over his life and he was barely able to function." After several visits to a psychiatrist, Bill was diagnosed with post-traumatic stress syndrome, a diagnosis that was accepted by the Department of Veterans Affairs. But despite medical records stating otherwise, he was not recognised for a total and permanently incapacitated pension, paid to veterans who are unable to undertake paid employment of more than eight hours a week as a result of their war or defence service related injuries.
>
> Bill appealed through the Veterans Review Board and faced an Administrative Appeals Tribunal before being awarded 90 per cent of his pension, but it was the fight for the remaining 10 per cent Raewyn believes led to his death.
>
> "Bill went to the VRB board in April last year and was knocked back," Raewyn said. "He was late coming home and then he came in with a letter and a bag of groceries. The next thing the groceries were all over the floor and he turned to me and said, 'What do I have to do to prove I am not lying? Kill myself?'''
>
> Raewyn referred her husband to hospital where he was treated by his psychiatrist. He returned home, seemingly better, but several weeks later, on July 1, Bill went missing.
>
> He was found 10 days later in his son-in-law's truck by the side of the road in Captain's Flat. He was 65.
>
> Bill's tragic story is not unique. According to a study on the mortality of Vietnam veterans, conducted by the Department of Veterans Affairs and the Australian Institute of Health and Welfare between 1980 and 1994, 67 people who served in the regular army during the war committed suicide—a 19 per cent higher suicide rate than expected for people of the same gender and age. Of those who were on national service in the Vietnam War, 62 committed suicide—a 21 per cent higher rate than expected.
>
> Co-founder of the Queanbeyan RSL Sub-Branch Support and Welfare Centre, John Wright, was a close friend of Bill's.
>
> Mr Wright said the support centre acted as an interface between veterans and the DVA, medical specialists and other agencies. Where appeals against DVA decisions are required, an advocate will arrange the appeal and accompany the veteran to the VRBs and AATs. But the process, he said, was frustrating.

The purpose of my reading this tonight is that Bill Bastion left a wife, a daughter, four grandchildren, a son-in-law and extended family, and a support group in the ACT. Bill Bastion served his country in a variety of capacities and it is a pity that he had to fight to earn what was rightfully his. My understanding is that he earned the balance of what he fought for posthumously.

I believe it is important that we extend our support to all veterans in our community, to a greater extent than we do at the moment, to minimise and, hopefully, eliminate this suicide rate. It is also important that we support the families, and others, who are assisting people suffering from depression and post-traumatic stress syndrome, particularly veterans who have served us in war.

Calvary Hospital—anniversary

MR SMYTH (Leader of the Opposition) (10.10): Mr Speaker, I wish to bring to the attention of members the 25th anniversary of the opening of Calvary Hospital. Calvary opened on 2 March 1979, and last Saturday evening they had a hospital ball to celebrate.

The ACT Calvary Public Hospital is run by the Little Company of Mary. This order was founded in 1877 in Nottingham, England, by Mary Potter, a lady who, in her late teens and late twenties, was found to be suffering from a serious illness. She came to understand that God was calling her to found an order of sisters who would pray and care for people who were sick and dying. Since that time the Little Company of Mary have been doing just that. For the last 25 years they have been a very large part of the Canberra scene.

The hospital was officially opened on 2 March 1979 by then Prime Minister Malcolm Fraser. Since that time there have been a number of major events. Calvary Public Hospital opened in 1979; Calvary Private Hospital opened in 1987; a 24-hour emergency room was opened in 1991.

MR SPEAKER: By Wayne Berry.

MR SMYTH: Apparently in 1991, Mr Speaker, the 24-hour emergency was in fact opened by the then Minister for Health, Mr Berry. Calvary Private Maternity opened in 1994. In 1995 there was, most importantly, a continuation of the work of the venerable Mary Potter when the Calvary Little Company of Mary took over the ACT Hospice management. The Calvary Clinic opened in 1997; Hyson Green, the private psychiatric facility, opened in 1998; and in 1999 major redevelopment of the hospital commenced and the Calvary Foundation opened.

Calvary Public Hospital was renamed Calvary Health Care in 2000; Clare Holland House, the ACT permanent hospice, was opened in 2001; in 2002 a new chapel was opened; and events, of course, have unfolded this year with celebrations on 2 March and with the hospital ball last Saturday. There is a hospital review in August, and in November the 25-year history of the hospital will be launched.

One of the most significant achievements is that of the Calvary Hospital Auxiliary, which on 2 March this year gave their millionth dollar in fundraising for the good work of the hospital. I think it is worth naming the inaugural members of the Hospital Auxiliary. They are Pam Fenning, Mary O'Callaghan, Margaret Goyne, Phil Dogan, Betty Cooper, Hazel Harris, Pat Smith, Nancy Hagen, Lee Faulks, Pauline Hurley, Bev Jungwirth, Pat McGovern, Josie Collier, Kath McLinden, Eileen Halsall, Christine Faulks, Jim Rochford, Margaret McKinnon, Gwen Dempsey and Lady Mary Scholtens.

It is interesting to look at what has been done in those 25 years. In the 1979-80 financial year there were 9,000 presentations to the emergency department. In their first year of operation there were 611 births in the maternity department, and in the 2002-03 financial year there were 1,681 births. In their first year of operation 2,584 patients were formally admitted to the hospital for care. In the year 2002-03 there were 19,384. There was an initial complement of 252 staff, and it is now more than 1,200 staff.

To all those who currently work at Calvary: thank you for what you do and enjoy the celebrations of the 25 years. To those who have built up the tradition that those currently at the hospital can celebrate: thank you for all the work that you have done. In closing, I quote the words of the venerable Mary Potter, who said:

> …we are commencing a work in time that is to influence eternity.

The love and care at Calvary, the way they go about their tasks there and the spirit of healing, hospitality, respect and stewardship—that is indeed work that influences eternity. Well done to all at Calvary Hospital.

Mr Reg Walters

MS MacDONALD (10.16): I rise this evening because I understand that Reg Walters, the attendant, was admitted to hospital this morning and, further, that he has been released and has gone home. I hope Reg makes a full and speedy recovery and brings himself, his cheery attitude and his cheerful socks back to the Assembly ASAP.

Canberra Currency

MS DUNDAS (10.17): I rise this evening to pay tribute to the ACT Women's AFL team, the Canberra Currency, for their second placing at the National Women's AFL Championships, which were held in Adelaide last weekend. The team played strongly through the round robin competition and ended up second on the table.

Despite what can only, unfortunately, be described as a hammering at the hands of the Victorians in the grand final, four locals were selected for the all-Australian team. I would like to congratulate Toni Alexandrow, Emily Disprose, Alison Smith and Alana Lowes. ACT coach, Greg Lonsdale, was also selected to coach the national team, which I think is a sterling effort. I also congratulate my friend Beth Bobroff, who in her first season on the field playing AFL—and I believe it was her first year ever touching a footy—made it onto the ACT side and served with distinction in Adelaide.

Mr Hargreaves and I had the pleasure of watching the ACT Women's AFL grand final last year, and the calibre of play was certainly impressive. It is great to see yet another ACT women's sporting team doing well. I wish the girls well next year when, hopefully, they will improve again and bring home the championship.

Homelessness

MRS BURKE (10.18): Earlier on today, Mr Hargreaves made the comment, "You've got heaps of people and phone calls coming into your office. How about listing them?" We were referring to people coming to my office to talk to me about matters relating to my portfolio area. For the information of the house, I received nine emails from 17 May to 9 June—obviously, I cannot reveal names because of confidentiality. This does not include the numerous telephone calls or the letters written to me in that period. On 10 and 15 June, respectively, I wrote to the Chief Minister and to Minister Gallagher in regard to three separate cases.

I also refer members to a matter raised today about the *Big Issue*. Mr Speaker, our office became involved in the *Big Issue*—and I will give some information to members about that in a moment—as a result of joining a homeless, and potentially homeless, gathering of people for breakfast outside the Assembly about a month ago. Some members may remember that.

I find it rather unfortunate and a bit sad that the good and honourable intentions of my senior staffer were taken so out of context by Ms Tucker. In fact, some fairly disparaging comments were made about him. I think members should decide for themselves. Briefly, an email was sent around to members, which talks about the *Big Issue*. It reads:

> *The Big Issue* is an Australian independent current affairs magazines sold on the streets by homeless people. The philosophy is to positively change the lives of homeless people (the vendors) by instilling a real sense of personal worth, value and responsibility. *The Big Issue* was first launched in London back in 1991 and in Australia in 1996. The most recent mag has just come off the press and costs only $3.00 with the vendor receiving $1.50 from every magazine.
>
> Clearly Justine is homeless but that's cool with us and her. She is very bubbly and quite excited about coming into the Assembly.

In other words, the intention of my senior staffer was to dispel the stigma that sometimes goes with these people. He was calling a spade a spade, and Justine was really happy with that. This was the best advice that we were given at the time. And it is not a matter of me finding her a home, as Ms Tucker was trying to suggest. I think she has taken things out of context. My senior staffer goes on to say:

> SO if you'd like a seriously good read – and I guarantee it is otherwise I wouldn't be pushing it - then pop into our office between 12.45 and 1.45 this Thursday. Have a chat with Justine and give her a hand.

Under your instruction, Mr Speaker, we realised that that was not appropriate. Justine, as some would have seen—indeed, the Chief Minister went to talk to Justine and buy a magazine from her—was outside the Assembly today. I just wanted to clear those matters up with members. Thank you.

Education

MR PRATT (10.22): I want to talk about two issues. First, I congratulate Reece Coleman, who I had the good fortune to have in for morning tea a few days ago with his mum, Michelle, the acting principal of his school, Judy Pettiford, and the deputy principal of the school, Diana Wymark. Reece Coleman is the school captain of Wanniassa and also chair of the ACT government schools student network. He is one of 10 Australian students, and the only ACT student, who will represent Australia at the International Student Representative Council Conference in Canada in August.

Canberra can be very proud of young Reece Coleman. He is a wonderful role model for his school and for other students across the ACT. He is a real breath of fresh air and a nice chap to talk to. The school principal and deputy were just in awe whenever he opened his mouth to give an opinion about a range of matters. I was pleased to see that

the government has provided, or will provide, some monetary assistance. He requires $6,500 to travel, and they are about a third of the way to getting that. I wish Reece and Wanniassa School the greatest luck. It is a good high school, and it is trialling the middle schooling concept. It will be very interesting to see how that comes about.

Mr Speaker, I would like to also talk about values-based education. I am pleased to see that we are having a pretty strong debate at the moment around the country and here in the ACT. I picked up an article by Samantha Maiden in the *Australian*, dated 3 May, which I think is quite a head article. It really goes to the crux of this issue. She writes:

> Promoting values-based education is winning back disillusioned parents and students from independent and Catholic schools to the public education system, according to a new report.
>
> The *Values Education Study*, which presents the findings of 12 case studies in Australian schools, found literacy and retention rates have improved after the introduction of value-based classes and programs.

This clearly underpins the message that a properly organised, effective value system in a school will significantly improve academic outcomes as well as improve behaviour and harmony. We have come a long way and we have had to lament now for far too many years the absence of values in education. I put it to you, Mr Speaker, that the community is struggling to get this back. I will quote an article by John Hirst, a historian at La Trobe University. He writes:

> Of course, in the libertarian age of the 1960s and '70s, in which too many of today's educational spokespeople formed their views, ritual and ceremony were at a discount…
>
> There are now elaborate assemblies to reward and honour students as they leave school and the students dress up for their formal.
>
> The libertarian age in Australia coincided with the collapse of Britishness in Australia, which produced uncertainty about Australian identity. Since it no longer made sense for schoolchildren to promise to obey the Queen, they were not asked to promise anyone anything.

That includes, as we have seen so often in recent years, not even promising to behave properly or to respect—and, of course, respect is a two-way street. I thought those comments were very interesting, and I would love to see members take note of those comments and the importance of ensuring that values-based education is in place for all ACT schools.

Sexual Servitude
Croatian National Day

MRS DUNNE (10.26): In the press release put out on Tuesday in relation to the two-day Asian and Pacific Parliamentarians and Ministers' Conference, the Minister for Women, Ms Gallagher, said:

> Since establishing the Office for Women in the Chief Minister's Department, we've been developing and implementing policies that aim to address issues relating to

> financial security for women, population ageing and health and eliminating violence against women.
>
> These are similar to the issues to be addressed by the Asian and Pacific Parliamentarians and Ministers at their conference this week.

She also said that this would be "a great opportunity…to showcase some of our own achievements for women in the Australian Capital Territory".

Minister, seeing that you were talking about financial security for women and eliminating violence against women, I hope that you also took note of the joint parliamentary committee on the Australian Crime Commission report, tabled last week, entitled *Inquiry into the Trafficking of Women for Sexual Servitude*. This report showed that at least 300 women are trafficked into Australia for sex each year, mostly from Asia and predominantly from Thailand, and that this is a significant problem that needs to be taken seriously.

As I have said on a number of occasions, it is good to see bodies around the country starting to take this issue seriously. The federal government made considerable progress last year in August-September-October in finding a refreshed way of looking at this. The joint committee on the Australian Crime Commission has made another contribution. I hope that all those policy bodies interested in the furtherance of the welfare of women take on board the recommendations of the committee and make their contribution to ensuring that this insidious violation of human rights is stopped in its tracks.

I would also like to note that last weekend I had the privilege of attending two functions put on by the Croatian community to mark Croatian National Day. One was an embassy function and the other one, on Saturday night, which I was able to attend for a short period, was put on by the Croatian community in Australia. That was well attended, at the usual venue for such things, the Croatia Deakin Soccer Club.

It was heartening to see a wide representation of community members from the multicultural community and many of my colleagues from the Liberal Party there in support of the Croatian community. But it was a little irksome that, to my knowledge, ministers of the Labor government have said for three years that they would turn up to this event and for three years in a row have failed to show. Members of the Croatian community are starting to feel that perhaps the Labor government takes no interest in multicultural affairs. I see members at events from time to time, but it seems strange that for three years in a row ministers have not been able to show, when the organisers were told that they were coming.

Homelessness

MS TUCKER (10.30): Mrs Burke has made a comment in this debate, and I felt I have been unkind and I am sorry if I was unkind. I would just like to say that I found it extraordinary that an email from the shadow minister for disability, housing and community care was going around the Assembly that made the statement, incorrectly, that, "Clearly...is homeless but that's cool with us and her." I am sorry, but I had to respond to that. Apart from privacy issues, it shows a total lack of understanding of what it means to be homeless.

I was particularly shocked to see it coming from Mrs Burke's office. She claims she knew nothing about it. I accept that; it is something for her to work on. But in the middle of a debate on the abuse of children and with the understanding we all have of homelessness, the social context for families and early intervention and prevention, it was difficult for me to be quiet about it. I am sorry if it was not appropriate to do that, but I think the point had to be made.

Question resolved in the affirmative.

The Assembly adjourned at 10.30 pm until Tuesday, 3 August 2004, at 10.30 am.

Schedules of amendments

Schedule 1

Health Professionals Bill 2003

Amendments moved by the Acting Minister for Health

1
Proposed new clause 15
Page 9, line 16—

omit

For this Act

substitute

(1) For this Act

2
Proposed new clause 15 (2)
Page 9, line 22—

insert

(2) Also, a health service includes a service provided by a health professional in the professional's capacity as a health professional.

3
Proposed new clause 24 (3)
Page 15, line 19—

insert

(3) Also, the regulations may make provision in relation to the following:

(a) the jurisdiction of the Supreme Court in relation to elections under this Act, including the giving of jurisdiction to the court;

(b) the exercise of the jurisdiction of the Supreme Court mentioned in paragraph (a);

(c) when a decision of the Supreme Court about an election is final and conclusive, not subject to appeal and must not be called into question;

(d) how the validity of an election may be challenged.

4
Clause 54, note
Page 32, line 17—

omit the note, substitute

Note Judicial bodies, unless exempted, are required to comply with the rules of evidence (whether under common law or statute) that govern what evidence may be put before them and how. The health professions tribunal is not required to comply with those rules.

5
Clause 58 (2), new note
Page 33, line 18—

insert

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

6
Clause 59 (1), new note
Page 34, line 5—

insert

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

7
Clause 115, new note
Page 68, line 6—

insert

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

8
Clause 130 (2)
Page 76, line 6—

omit clause 130 (2), substitute

(2) An exemption under subsection (1) must be made in accordance with the guidelines (if any) made under subsection (3).

(3) The Minister may make guidelines for the giving of exemptions under subsection (1).

(4) Guidelines are a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

9
Proposed new clause 134 (2A)
Page 77, line 23—

insert

(2B) The regulations may prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 30 penalty units for offences against the regulations.

10
Clause 151
Page 85, line 28

after

this Act

insert

or the *Health Professionals Legislation Amendment Act 2004*

11
Clause 152
Page 86, line 2—

after

this part

insert

(including in its operation in relation to another Territory law)

Schedule 2

Health Professionals Bill 2003

Amendments moved by Ms Tucker

1
Proposed new clause 22 (1A)
Page 13, line 14—

insert

(1A) However, the Executive may make regulations under subsection (1) in relation to a health profession only after it has consulted with an entity that is generally accepted to represent the health profession.

2
Proposed new clause 22 (3)
Page 13, line 17—

insert

(3) Subject to any disallowance or amendment under the Legislation Act, chapter 7, the regulations mentioned in subsection (1) commence—

(a) if a motion to disallow the regulations is moved in the Legislative Assembly and the motion is negatived—the day after the day the motion is negatived; or

(b) the day after the 6th sitting day after the day the regulations are presented to the Legislative Assembly under that chapter; or

(c) if the regulations provide for a later date or time of commencement—on that date or at that time.

3
Proposed new clause 78 (2) to (4)
Page 46, line 18—

insert

(2) A health professional may make a report under subsection (1) despite any other Territory law.

(3) If a health professional makes a report under subsection (1)—

(a) making the report is not—

(i) a breach of confidence; or

(ii) a breach of professional etiquette; or

(iii) a breach of professional ethics; or

(iv) a breach of a rule of professional conduct; and

(b) no civil or criminal liability is incurred only because of the making of the report.

(4) Subsection (3) (b) does not apply to a report that the health professional knows is false or misleading.

Schedule 3

Health Professionals Bill 2003

Amendment moved by Ms Tucker

1
Proposed new clause 37 (6) and (7)
Page 24, line 15—

insert

(6) The Executive may make regulations under subsection (2) in relation to a health profession only after it has consulted with an entity that is generally accepted to represent the health profession.

(7) Subject to any disallowance or amendment under the Legislation Act, chapter 7, the regulations mentioned in subsection (2) commence—

(a) if a motion to disallow the regulations is moved in the Legislative Assembly and the motion is negatived—the day after the day the motion is negatived; or

(b) the day after the 6th sitting day after the day the regulations are presented to the Legislative Assembly under that chapter; or

(c) if the regulations provide for a later date or time of commencement—on that date or at that time.

Schedule 4

Health Professionals Bill 2003

Amendment moved by Ms Dundas to the Acting Minister for Health's amendments

1
Amendment 8
Clause 130 (2)

insert

(1A) An exemption under subsection (1) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Schedule 5

Health Professionals Bill 2003

Amendment moved by the Acting Minister for Health

1
Proposed new clause 136 (2)
Page 78, line 22—

insert

(2) Despite section 2 (Commencement), subsection (1) does not repeal an Act mentioned in subsection (1) (a), (b), (c), (f), (g), (h), (i), (j), (k) or (l) unless a schedule of the regulations deals with the health profession that is regulated by the Act.

Schedule 6

Health Professionals Legislation Amendment Bill 2004

Amendments moved by the Acting Minister for Health

1
Schedule 1, part 1.3
Proposed new division 8.1
Page 9, line 12—

omit

2
Schedule 1, part 1.3
Proposed new division 8.2 heading
Page 10, line 13—

omit

3
Schedule 1, part 1.3
Proposed new division 8.3 heading
Page 11, line 3—

omit

4
Schedule 1, part 1.3
Dictionary, definition of *health service provider*
Page 11, line 9—

omit the definition, substitute

health service provider means a person who provides health services at a health facility or uses the equipment or other facilities of a health facility to provide health services elsewhere.

Examples of people who may be health service providers

1 a chiropractor
2 a dentist
3 a dental technician
4 a dental prosthetist
5 a doctor
6 a nurse
7 an osteopath
8 an optometrist
9 a pharmacist
10 a physiotherapist

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Schedule 7

Gene Technology (GM Crop Moratorium) Bill 2004

Amendments moved by Ms Tucker to the Acting Minister for Health's amendments

1
Amendment 2
Proposed new clause 10A (2) to (4)

omit proposed new clause 10A (2) to (4), substitute

(2) The advisory council consists of 8 or more members appointed by the Minister.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

(3) The members appointed must include at least 1 of each of the following:

(a) a person nominated by the chief executive who is to be the chairperson of the advisory committee;

(b) a person to represent non-GM and organic farmers;

(c) a person nominated by the Commonwealth Scientific and Industrial Research Organisation;

(d) a person nominated by a university based in the ACT who has professional skills or experience in research in a field relevant to gene technology;

(e) a person nominated by the Conservation Council of the South-East Region and Canberra (Inc) with skills or experience in ecological or environmental issues;

(f) a person nominated by the ACT Rural Lessees' Association;

(g) a person nominated by the Canberra Region Branch Biotechnology Group of AusBiotech;

(h) a person who has academic legal skills.

(4) If an entity mentioned in subsection (3) (e) to (g) ceases to exist or does not nominate a member for appointment to the advisory council, the Minister must appoint a person nominated by another entity the Minister considers has similar objectives to the entity.

Schedule 8

Gene Technology (GM Crop Moratorium) Bill 2004

Amendments moved by Ms Dundas

1
Clause 7 (1)
Page 4, line 4—

omit clause 7 (1), substitute

(1) The Minister may, in writing, make an order (a ***moratorium order***) designating an area of the ACT as an area where—

(a) a stated GM food plant may not be cultivated; or

(b) no GM food plant may be cultivated.

(1A) A moratorium order, or a combination of moratorium orders, may designate all of the ACT.

2
Proposed new clause 8 (4A)
Page 4, line 15—

insert

(4A) Subject to any disallowance or amendment under the Legislation Act, chapter 7, an exemption commences—

(a) if there is a motion to disallow the exemption and the motion is negatived by the Legislative Assembly—the day after the day the disallowance motion is negatived; or

(b) the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or

(c) if the exemption provides for a later date or time of commencement—on that date or at that time.

3
Clause 38
Page 22, line 12—

omit clause 38, substitute

38 Expiry of Act

(1) This Act expires on a date (not earlier than 17 June 2006) fixed by the Minister by written notice.

(2) The notice is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(3) Subject to any disallowance or amendment under the Legislation Act, chapter 7, the notice commences—

(a) if there is a motion to disallow the notice and the motion is negatived by the Legislative Assembly—the day after the day the disallowance motion is negatived; or

(b) the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or

(c) if the expiry notice provides for a later date or time of commencement—on that date or at that time.

(4) The date fixed by the notice must not be earlier than the day the notice commences.

Schedule 9

Gene Technology (GM Crop Moratorium) Bill 2004

Amendments moved by the Acting Minister for Health

1
Proposed new clause 8 (1A) to (1C)
Page 4, line 10—

insert

(1A) Before giving an exemption, the Minister must ask the advisory council, in writing, for its recommendation about whether the exemption should be given.

(1B) If the Minister does not receive a recommendation from the advisory council within 28 days after the day the Minister asks for it, the Minister may give an exemption without a recommendation.

(1C) If the advisory council recommends against giving an exemption but the Minister decides to give the exemption, the Minister must—

(a) give the advisory council written reasons for not following its recommendation; and

(b) make those reasons, and the recommendation, publicly available.

2
Proposed new clause 10A
Page 5, line 11—

insert

10A Advisory council

(1) The ACT Advisory Council on Gene Technology is established.

(2) The advisory council consists of 8 members appointed by the Minister.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

(3) The Minister must try to ensure that the following people are appointed as members:

(a) a person nominated by the chief executive who is to be the chairperson of the advisory council;

(b) a person nominated by the Commonwealth Scientific and Industrial Research Organisation;

(c) a person nominated by a university based in the ACT who has professional skills or experience in research in a field relevant to gene technology;

(d) a person nominated by the ACT Rural Lessees' Association;

(e) a person nominated by the ACT Sustainable Lands Group;

(f) a person nominated by the Canberra Region Branch Biotechnology Group of AusBiotech;

(g) a person who has professional skills or experience in the marketing of food crops;

(h) a person to represent the community generally.

(4) If an entity mentioned in subsection (3) (d) to (f) ceases to exist or does not nominate a member for appointment to the advisory council, the Minister must appoint a person nominated by another entity the Minister considers has similar objectives to the entity.

(5) The advisory council has the following functions:

(a) to investigate anything the Minister refers to the advisory council;

(b) to give advice in relation to proposals for research trials for GM food plants the Minister refers to the advisory council;

(c) to give policy advice in relation to licences issued under the *Gene Technology Act 2003* that relate to GM food plants;

(d) to give advice on current developments and issues in relation to gene technology and its application to agriculture.

(6) Subject to any decision of the Minister, the advisory council may decide its own procedures.

3
Clause 14
Page 7, line 20—

omit clause 14, substitute

14 Obligation to report cultivation of GM food crop

(1) A person commits an offence if—

(a) the person has reasonable grounds for believing that a GM food plant is being cultivated in contravention of a moratorium order; and

(b) the person does not report the cultivation to the chief executive within 48 hours of having those grounds.

Maximum penalty: 20 penalty units.

(2) Strict liability applies to subsection (1) (b).

(3) Subsection (1) does not apply to a person if the person believes on reasonable grounds that the cultivation has already been reported to the chief executive.

4
Clause 16
Page 9, line 14—

omit

person

substitute

public servant

5
Clause 39 heading
Page 22, line 15—

omit

new clause 7

substitute

new clause 8

6
Clause 39
Proposed new clause 7
Page 22, line 17—

omit

7

substitute

8

7
Dictionary
Page 23, line 7—

insert

advisory council means the ACT Advisory Council on Gene Technology established under section 10A.

Schedule 10

Gene Technology (GM Crop Moratorium) Bill 2004

Amendments moved by Ms Tucker

1
Proposed new clause 8 (1AA) to (1AC)
Page 4, line 10—

immediately after clause 8 (1), insert

(1AA) If the Minister receives an exemption application, the Minister must arrange for notice of the application to be—

(a) given, in writing, to each owner or occupier of land that adjoins the land where the cultivation proposed under the exemption would be carried out; and

(b) published in a daily newspaper.

(1AB) The notice must include an invitation to make comments about the giving of the exemption within the consultation period stated in the notice.

(1AC) In deciding whether to give the exemption, the Minister must take into account any comments received within the consultation period.

2
Proposed new clause 8 (2A)
Page 4, line 12—

insert

(2A) The Minister may give an exemption only if the person to whom it is given undertakes to prevent or remedy any contamination of the environment that may happen because of the cultivation of a GM food plant under the exemption.

Answers to questions

Government contracts (Question No 1418)

Mr Berry asked the Minister for Health, upon notice, on 30 March 2004:

In relation to contracts for the financial years 2002-2003 and 2003-2004 to date, for each agency the Minister is responsible for, could the Minister provide the following information:

(1) number of contracts;

(2) number of consultants;

(3) number of contractors;

(4) number of labour hire firms;

(5) number of contracts containing labour hire component;

(6) number of contracts with no labour hire component;

(7) types of services provided;

(8) number of contracts needing extension after 2003;

(9) numbers of each type of contract used, in the following categories (a) standard (b) schedule of fees, (c) quote/lump sum, (d) invoice and (e) other;

(10) number of services outsourced in the following categories (i) whole, (ii) in part or (iii) unidentified;

(11) number of contracts directing appropriate award usage;

(12) number of contracts where there is subcontracting occurring;

(13) number of contracts with (a) permission or (b) non-permission clause for subcontracting;

(14) number of contracts requiring award usage for subcontractors.

Mr Corbell: The answer to the member's question is:

No	Question	Portfolio 2002-02	Portfolio 2003-04
1	No. of contracts	472	571
2	No. of consultants	64	71
3	No. of contractors	408	500
4	No. of Labour hire firms	13	24
5	No of contracts containing labour hire component	284	296
6	No of contracts with no labour hire component	64	90
7	Types of services provided - **See Note below**	Various	Various
8	No of contracts needing extension after 2003	382	511

9	No. of each type of contract used:		
	(a) Standard	21	5
	(b) Schedule of fees	91	122
	(c) Quote/lump sum	108	195
	(d) Invoice	240	245
10	No. of services outsourced:		
	(i) Whole	63	72
	(ii) In part	11	16
	(iii) Unidentified	265	290
11	No of contracts directing appropriate award usage	0	5
12	No of contracts where there is subcontracting occurring	4	6
13	No of contracts with clause of subcontracting:		
	(a) Permission	17	18
	(b) Non-permission	210	192
14	No. of contracts requiring award usage for subcontractors	20	20

Note: Type of Services Provided. Various Includes:
- Clinical Specialists.
- Short term labour in key health service delivery areas.
- Specialist advice areas.
- Specialist labour to meet peak workloads.

Bus concessions (Question No 1474)

Mr Cornwell asked the Minister for Planning, upon notice, on 1 April 2004:

(1) Further to your response to Question on notice No 1295 regarding the bus concessions review to extend pensioner off-peak tickets to peak periods and the assurance that the outcome of this review would be made available to Members of this Assembly, why has the Government not yet considered the review, given the review was completed in November 2003 as indicated in answer to Question on notice No 1172.

(2) By what date will the outcome of this review be made available to members of this Assembly, given the review was completed in November 2003.

Mr Corbell: The answer to the member's question is as follows:

(1) The Government has considered the review.

(2) The Government has decided not to extend the pensioner off-peak ticket to peak periods in 2004-05 due to other priorities. This matter will be reconsidered in the 2005-06 budget context.

Aged care facility
(Question No 1481)

Mr Cornwell asked the Minister for Health, upon notice, on 4 May 2004:

(1) In relation to the $5.15 million set aside in the 2003-2004 A.C.T. Budget, budget paper 4, page 142, for the provision of a sub/non-acute care facility containing 60 beds for aged persons, has construction of this facility commenced; if so, when did it commence; if not, why not, and when will it commence;

(2) Where is, or where will, this facility be located;

(3) How much of the $5.15 million budgeted for this project has been expended to date;

(4) Will construction of this facility be completed by the forecast date of December 2004; if not, why not, and when will it be completed;

(5) By what date will the facility be open for use;

(6) Will this facility still provide 60 beds for aged persons; if not, what is the exact number of beds that will be provided;

(7) Of the beds to be provided, how many will be for (a) rehabilitation, (b) transitional care, (c) psycho-geriatric dementia type patients and (d) other.

Mr Corbell: The answer to the member's question is:

(1) No. Detailed planning and consultations are currently underway to ensure that the facility will meet the needs of the community. It is anticipated that construction will commence in late 2004 or early 2005.

(2) On the Calvary Hospital Campus.

(3) None. Funds expended to date have been expended from the $0.3m feasibility funding provided in the 2002-03 Budget.

(4) Construction is expected to be completed in late 2005.

(5) The facility is expected to be operational in early 2006.

(6) The facility will provide 60 beds for time limited rehabilitation, transitional care and acute psychogeriatric care for any Canberran for whom treatment and care within the facility is considered clinically appropriate, regardless of the age of the person.

(7) 40 beds will be allocated for rehabilitation and transitional care services with the mix dependent on demand at any time. 20 beds will be allocated for acute psychogeriatric care.

Munchausen Syndrome by Proxy
(Question No 1506)

Mr Cornwell asked the Chief Minister, upon notice, on 4 May 2004:

(1) When might I receive a response to my letter of 12 March and my follow-up letter of 2 April, in support of representations from a constituent seeking an immediate review of the decision to remove her grandchildren from the care of their mother, following recent developments in the United Kingdom in respect of Munchausen Syndrome by Proxy (MSbP);

(2) Is it a fact that these developments in the United Kingdom have discredited previous claims about women suffering MSbP to the extent that (a) these women have been freed of murder charges and (b) the principle proponent of MSbP in the United Kingdom is now under professional misconduct charges by the British General Medical Council;

(3) In view of the background of part (2), will the Chief Minister institute an immediate review of the case at part (1); if not, why not.

Mr Stanhope: The answer to Mr Cornwell's question is:

(1) The then Minister for Education, Youth and Family Services responded to Mr Cornwell on my behalf in a letter dated 5 May 2004.

(2) There appears to be an ongoing debate among health professionals concerning Muchausen Syndrome by Proxy. The only basis on which determinations are made about child protection is the continued safety and welfare of the children.

(3) It would be inappropriate of me to provide Mr Cornwell with details of any individual case, particularly one which is readily identifiable by its circumstances. I understand that all child protection orders are reviewed regularly to ensure that they continue to meet the care and welfare needs of the children.

Community Inclusion Board (Question No 1528)

Mr Cornwell asked the Chief Minister, upon notice, on 5 May 2004:

(1) Further to your media release dated 3 May 2004 announcing the Community Inclusion Board membership, do any of the members appointed to the Board receive any kind of remuneration or payment of expenses as a result of their appointment;

(2) If so, what amount of remuneration or payment of expenses are they each entitled to.

Mr Stanhope: The answer to the member's question is as follows:

(1) Yes.

(2) A determination will be sought from the Remuneration Tribunal as to an appropriate level of remuneration for Community Inclusion Board Members. In the interim, non-Government Board members are classified under Group 2 Level 1 of *Remuneration Tribunal Determination 133: Part-Time Holders of Public Office:* 'Significant advisory boards and other bodies advising Government on key strategic matters AND/OR operating significant Government programs', with a per annum rate of $30,000 for the Chair and $10,000 for other members.

Alcohol inhalers
(Question No 1532)

Mr Smyth asked the Attorney-General, upon notice, on 13 May 2004:

(1) Has the Government, through liquor licensing, received any requests from local hotels, clubs or pubs to install alcohol inhalers on their premises;

(2) What is the Government's view regarding alcohol inhalers and will they be permitted in licensed establishments in Canberra.

Mr Stanhope: The answer to the member's question is as follows:

(1) No. Permission under the *Liquor Act 1975* (the Act) is not required when installing such equipment.

(2) My government would take advice on this matter from the Liquor Licensing Board. My government fully supports the board in its efforts to ensure that practices that lead to the rapid and excessive consumption of liquor are not allowed to become established in the ACT.

The *Liquor Act 1975* and its associated Licensing Standards Manual (Manual) permits the banning of a practice or promotion that may encourage rapid or excessive consumption of liquor. The provisions of the Manual are a matter for the Liquor Licensing Board to determine.

The ACT industry has been accepting of, and compliant with, declarations made under the Manual that a practice is inappropriate, particularly in relation to new and novel drinking practices. While there may be an argument about whether the 'consumption' of liquor in a vaporised form is covered by the definition of 'liquor' under the Act, there have been no instances to date where declarations, even of matters that only have a loose connection with the consumption of liquor, have been challenged. If this becomes a matter of concern then the definition of liquor, or the matters that can be declared to be an 'inappropriate practice' could be expanded.

Infant forensic pathology
(Question No 1536)

Mr Smyth asked the Minister for Health, upon notice, on 13 May 2004:

(1) In relation to a National Pathology workshop held in Canberra in March to discuss infant forensic pathology in which the Federal, NSW, Victorian, Tasmanian and Northern Territory Governments contributed to the cost, as did SIDS and Kids A.C.T., why didn't the A.C.T. make a contribution to this conference;

(2) Will the Government give consideration to compensating SIDS and Kids A.C.T. for their contributions towards the cost of the conference; if not, why not;

(3) What A.C.T. Government funding is currently given to SIDS and Kids A.C.T. on an annual basis;

(4) What other grant programs, if any, has SIDS and Kids received funding through.

Mr Corbell: The answer to the member's question is:

(1) ACT Health made an in kind contribution to the value of approximately $4,000 by providing facilities to host the workshop at The Canberra Hospital. I also wrote a letter of support for the workshop to my state colleagues.

(2) I am informed that the funds provided by other jurisdictions, together with the in kind support of facilities by ACT Health, fully met the costs incurred by SIDS and Kids ACT in facilitating the workshop.

(3) In the 2003/2004 financial year SIDS and Kids ACT received $107,704 from ACT Health for the delivery of: safe sleeping education; programs leading to a reduction in SIDS; and information to parents, caregivers, health professionals and teenagers (future parents) on the prevention of SIDS.

(4) I am not aware of other grant programs provided to SIDS and Kids ACT.

Education—indigenous (Question No 1551)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 13 May 2004:

(1) In relation to indigenous education and further to Question on notice No 1449, what is the current retention rate of indigenous students from (a) Year 10 to College and (b) Year 6 to high school;

(2) What are the most recent figures that reveal the percentage of indigenous students who finish their schooling at the end of (a) Year 10, (b) Year 11 and (c) Year 12;

(3) What is the (a) absentee and (b) truancy rate among indigenous students;

(4) Of the suspension figures in response to Question on notice No 1467, what are the numbers of indigenous students suspended in (a) 2001, (b) 2002 and (c) 2003.

Ms Gallagher: The answer to Mr Pratt's question is:

(1) Retention rates are based on enrolments in August in succeeding years.

Apparent indigenous student retention rates from August 2002 to August 2003 are:

(a)	Year 10 to college (year 11)	101.8%*
(b)	Year 6 to high school (year 7)	84.6%

* Apparent retention rates greater than 100% indicate that more students are transferring into ACT Government schools than are leaving.

(2) The mobility of the indigenous community makes it difficult to determine when students complete their schooling.

(a) Of the 49 indigenous students who were enrolled in an ACT government high school in year 10 in August 2003, 38.8% were not enrolled in an ACT government secondary college in February 2004. Data is not available to indicate whether these students finished their schooling at the end of year 10, or enrolled in an interstate school or a non-government school in the ACT.

(b) Of the 56 indigenous students who were enrolled in year 11 in an ACT government secondary college in August 2003, 19.6% were not enrolled in an ACT government secondary college in February 2004. Data is not available to indicate whether these students finished their schooling in year 11, or enrolled in an interstate school or to a non-government school in the ACT.

(c) Of the 52 indigenous students who were enrolled in an ACT government secondary college in year 12 in February 2003, 76.9% were still enrolled in August 2003.

(3) (a) Data on absentee rates for indigenous students is available in the six-monthly reports to the Legislative Assembly on Performance in Indigenous Education.

(b) Truancy rates for students are not identified therefore the information is not available.

(4) (a) No separate data on the number of indigenous students suspended is available for 2001.

(b) 90 indigenous students were suspended in 2002.

(c) 109 indigenous students were suspended in 2003.

Callaghan Street tree removals (Question No 1555)

Mr Cornwell asked the Chief Minister, upon notice, on 14 May 2004:

When might I receive a reply to my letter of 22 March 2004 seeking a copy of your response to an Evatt constituent regarding the removal of seven trees from the nature strip in Callaghan Street, Evatt.

Mr Stanhope: The answer to the member's question is as follows:

The Department of Urban Services has no record of having received your letter of 22 March 2004. A member of staff hand delivered a copy of my direct response to the constituent to you on 1 June 2004.

Bushfires—evacuations (Question No 1557)

Mr Smyth asked the Chief Minister, upon notice, on 25 May 2004:

(1) In relation to the preparation of evacuation centres at Lanyon High School and Hawker and Phillip Colleges on 18 January 2003 and a meeting called to discuss the possible evacuation of the suburbs of Duffy, Holder and Rivett on the morning of 18 January 2003 chaired by Mr Tonkin, then the head of the Chief Minister's Department, when was it decided that the fires were a direct threat to suburbs requiring the possible evacuation of these suburbs on the weekend of 18 and 19 January 2003;

(2) Who decided to call the meeting at 8 am on 18 January to discuss the possible evacuation of suburbs;

(3) What advice was provided to the Chief Minister about this critical meeting and (a) how and (b) when was it provided;

(4) When was it decided that it might be necessary to prepare evacuation centres at Lanyon High School and Hawker and Phillip Colleges on 18 January 2003;

(5) Who made the decision to prepare these evacuation centres and when was that decision made;

(6) How were these sites identified and what factors were critical to the selection of these sites;

(7) When and how was the Chief Minister advised of this decision;

(8) If the Chief Minister was not contacted on the evening of 17 January 2003 or the morning of 18 January 2003 to discuss the possible evacuation of suburbs, why not;

(9) If the Chief Minister was not advised of these significant developments in a timely manner, what disciplinary action was taken against the officers who failed to advise him; if disciplinary action was not taken, why not;

(10) Were any other ministers advised of this decision; if so, (a) what, (b) when and (c) how was it provided;

Mr Wood: The answer to the member's questions is as follows:

Under the provisions of the *Coroners Act 1997* the ACT Coroner's Court is conducting a comprehensive inquiry into the cause, origin and circumstances of the fires which destroyed and damaged property in January 2003 and inquests into the deaths associated with those fires.

The Coroner presiding over the inquiry has legal authority to examine all aspects of these matters, including the evacuation procedures.

On this basis, I do not believe that it is appropriate to answer the Member's questions and pre-empt the findings of the Coroner. This Assembly should not usurp the functions of the Coroner. In addition, I do not have all of the answers to the Member's questions, as some of the answers to the Member's questions have been, or will be provided by witnesses through the coronial process. Further, answering some of the Member's questions may prejudice matters being dealt with by the Coroner. In particular these questions could have an effect on witnesses who are yet to give evidence.

Bushfires—power supply (Question No 1558)

Mr Smyth asked the Treasurer, upon notice, on 25 May 2004:

(1) In relation to the Macgregor substation, when was (a) ACTEW and (b) TransGrid warned that the January 2003 bushfires could pose a significant threat to it;

(2) What advice did ACTEW provide to Cabinet or individual ministers about the possible threat of a disruption to the power supply due to the 2003 bushfires causing substantial damage to the Macgregor substation;

Mr Quinlan: The answer to the member's question is as follows:

(1) The Government considers that it is not in the best interests of the ACT to have these matters discussed in a public forum and will not be responding to this question. The Government will arrange a confidential briefing by the Chair of the Emergency Management Committee if requested. A confidentiality agreement will also be required as part of this briefing.

(2) This question deals with the workings of Cabinet and, therefore, it is inappropriate to provide this information for public release.

Motor vehicles—government leases (Question No 1559)

Mr Smyth asked the Treasurer, upon notice, on 25 May 2004:

(1) In relation to motor vehicle leases, how many cars does the A.C.T. Government lease for (a) government and (b) private use by A.C.T. Government employees as part of a salary package;

(2) What is the total annual cost of the A.C.T. Government's car leasing arrangements;

(3) How many cars were involved in collisions in (a) 2002-03 and (b) 2003-04 to date;

(4) What is the cost to the A.C.T. Government of those collisions;

(5) Does the A.C.T. Government have a program of driver instruction or training to reduce the number and cost of motor vehicle collisions.

Mr Quinlan: The answer to the member's question is as follows:

(1) At end April 2004, there were 1,503 vehicles leased for government purposes.

(2) The total annual lease cost of the abovementioned vehicles is approximately $12.98 million. Costs of fuel and some maintenance are borne by the individual agencies and consolidated information is not readily available.

Privately purchased lease costs are fully met by employees.

(3) Insurance claim data is maintained on the basis of a claim year period commencing 28 September. For the period 28 September 2002 to 27 September 2003 there were 407 vehicles involved in collisions. There were 232 vehicles within the period 28 September 2003 to date.

(4) The net costs to the Territory (total repair costs less payments received due to third party fault) for the two periods were $1,019,074 and $383,470.

These amounts do not include amounts for repairs below the excess applicable for claims, the costs of which are borne directly by the lessee. The amounts do not incorporate instances where damage is not repaired, and the vehicle is repaired at lease end as excess wear and tear. Consolidated information is not readily available.

(5) Yes. A driver training program has been in place since 2001 and monthly courses are offered to drivers. Courses are structured around 5 – 8 people to ensure maximum involvement, and can be tailored to particular needs.

Cotter Road bridge (Question No 1560)

Mr Smyth asked the Minister for Urban Services, upon notice, on 25 May 2004:

(1) Was the Cotter Road Bridge upgrade (Uninsured Works) originally scheduled for completion in December 2003;

(2) Was a new completion date of January 2004 reported in the December quarterly Capital Works progress report;

(3) Was there still an outstanding authorisation of $96 000 for this project as at the end of December;

(4) Has this project now been completed;

(5) If not, when will it be completed and what is the delay in finalising this project; if so, when was it completed and what was the total expenditure for the project.

Mr Wood: The answer to the member's question is as follows:

(1) The original completion date published in the 2003-04 Budget Papers was December 2003.

(2) Yes.

(3) At the end of December 2004 there was $96,000 outstanding authorisation, which was fully expended in January 2004.

(4) The project was physically complete in January 2004 and settlement with the Territory's insurers is imminent.

Roads—armour cable replacement (Question No 1561)

Mr Smyth asked the Minister for Urban Services, upon notice, on 25 May 2004:

(1) For the last four budgets where Armour Cable Replacement (ACR) has been funded as part of the work of Roads A.C.T., at what sites have replacements occurred;

(2) What other sites will have ACR as part of the $350 000 remaining in the 2003-04 budget for this purpose;

(3) Has $250 000 been allocated in 2004-05 for ACR; if so, what sites will be included in this replacement program;

(4) Have any further sites been identified in need of replacement for future budgets; if so, what are those sites.

Mr Wood: The answer to the member's question is as follows:

(1) Replacement has occurred in the suburbs of Yarralumla and Narrabundah.

(2) The remaining 2003-04 Armour Cable Replacement funds will be used in the suburb of Deakin with completion expected by December 2004.

(3) $250,000 has been allocated in 2004-05 for Armour Cable Replacement for the suburb of Griffith.

(4) Further sites identified in need of progressive Armour Cable Replacement are Forrest, Kingston, Barton, Red Hill, Turner, O'Connor, Braddon, Reid, Ainslie and Lyneham.

GIO House (Question No 1562)

Mr Smyth asked the Minister for Urban Services, upon notice, on 25 May 2004:

(1) As at the end of December 2003 had no funds been expended on the 2002-03 capital works project Make Good GIO House; if so, have any funds been spent on this particular project since 31 December 2003; if so, how much; if not, why not;

(2) When first funded was this project meant to be completed by June 2003 and does the Capital Works progress report this project has been pushed out to a completion date of May 2004; if so, will this completion date be met;

(3) If no to part (1), why not and when will it be completed; if yes to part (1), what date was this project completed;

(4) What has been the delay in completing this project as first scheduled;

(5) Has the owner of the building expressed any concern about the delay.

Mr Wood: The answer to the member's question is as follows:

(1) In January 2004 the make good payment was made for GIO House. The remainder of the budgeted amount has been allocated to the make good payment for areas vacated in Allara House in Allara Street.

(2) The GIO House make good payment occurred in January 2004 and the Allara House make good payment will be made in June 2004.

(3) See answer 2.

(4) The original sub lease for GIO House expired on 31 January 2003. To meet government accommodation requirements the lease at GIO House was extended for a further 12 months and expired on 31 January 2004 after which the make good payment was made to the lessor. Make good payments are made in lieu of paying for the removal of all fixtures and fittings that are not required and are financially settled at lease expiry.

(5) Lease changes have been made with the agreement of the building owner.

Bushfires—emergency declaration (Question No 1563)

Mr Smyth asked the Minister for Police and Emergency Services, upon notice, on 25 May 2004:

(1) In relation to the declaration of a State of Emergency on 18 January 2003, was a meeting formally convened to consider a declaration of a State of Emergency; if so, who convened it;

(2) If a meeting was formally convened, at what time was the decision made to convene the meeting;

(3) Were you invited to come to attend that meeting;

(4) If not, why not;

(5) If so, why didn't you return from leave given that the meeting was of such critical importance;

(6) What representations did Commander Mandy Newton or other police officers present at the Emergency Services Bureau make before the meeting of the need for a declaration of a State of Emergency and when;

(7) Was John Murray, the Chief Police Officer of the A.C.T. formally invited to attend the meeting to declare the State of Emergency or did he arrive at the Emergency Services Bureau to press the case for a declaration of a State of Emergency;

(8) If he was formally invited, (a) who invited him and (b) how;

(9) What preparations were made between 15 January 2003 and 18 January 2003 by the Emergency Services Bureau for the possible declaration of a State of Emergency over the weekend;

(10) Who finally made the decision to warn the people of Canberra about the pending disaster and when.

Mr Wood: The answer to the member's question is as follows:

Under the provisions of the *Coroners Act 1997* the ACT Coroner's Court is conducting a comprehensive inquiry into the cause, origin and circumstances of the fires which destroyed and damaged property in January 2003 and inquests into the deaths associated with those fires.

The Coroner presiding over the inquiry has legal authority to examine all aspects of these matters, including the process for deciding if, and when, a state of emergency should be declared.

On this basis, I do not believe that it is appropriate to answer the Member's questions and pre-empt the findings of the Coroner. This Assembly should not usurp the functions of the Coroner. In addition, I do not have all of the answers to the Member's questions, as some of the answers to the Member's questions have been, or will be provided by witnesses through the coronial process. Further, answering some of the Member's questions may prejudice matters being dealt with by the Coroner. In particular these questions could have an effect on witnesses who are yet to give evidence.

Manuka Arts Centre (Question No 1564)

Mr Smyth asked the Minister for Arts and Heritage, upon notice, on 25 May 2004:

(1) In relation to Manuka Arts Centre, why has only $16 000 of the $240 000 allocated for this project been expended when the project was originally scheduled for completion in June 2003;

(2) Does the December 2003-04 quarterly Capital Works progress report indicate the new completion date for this project is December 2004; if so, will this project be completed according to that schedule; if not, why not and when will it be completed.

Mr Wood: The answer to the member's question is as follows:

(1) The relocation of community radio station ArtSound FM to Manuka Arts Centre is a complex project with quite unique requirements. The project is being undertaken in partnership with ArtSound FM, which is primarily staffed by volunteers. The Government has been working closely with ArtSound FM, with the assistance of expert consultants, to resolve a number of technical issues that are specific to the requirements of a broadcast station.

(2) Subject to resolution of the technical issues referred to above, it is intended that the project will be completed by December 2004.

Hospitals—nursing home patients (Question No 1566)

Mr Cornwell asked the Minister for Health, upon notice, on 25 May 2004:

(1) How many nursing home type patients, who should not be in hospital beds but in other appropriate accommodation, are currently in the (a) Calvary and (b) Canberra hospitals;

(2) What has been the daily average number of such patients in hospital beds in the A.C.T. each month for the last 12 months;

(3) What is the current cost per day for accommodating such patients in hospital beds in the A.C.T.

Mr Corbell: The answer to the member's question is:

(1) On 26 May 2004 the number of nursing home type patients were:

a. The Canberra Hospital 15
b. Calvary Hospital 10

(2)

a. The Canberra Hospital
Average NHTP Inpatients
Per month 2003 - 04

2003-04	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	Monthly average
NHTP (Monthly average)	n/a	23	21	13	27	11	9	7	23	21	17.2

b. Calvary Health Care
Average NHTP Inpatients
Per month 2003 - 04

2003-04	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	11 Month Average
NHTP (Monthly average)	10	10	9	5	6	7	7	3	6	6	7

(3) $635 per day

Cotter Road access (Question No 1567)

Mr Cornwell asked the Minister for Planning, upon notice, on 22 June 2004:

(1) Were plans for a bypass road from Adelaide Avenue (northbound) near the Mint to the Cotter Road, made in previous years; if so, (a) when were these plans made and (b) what were the details of this project;

(2) Why has building of this road not gone ahead;

(3) Were the road mounds, which are still visible near the Mint, part of the preparation for the building of this road;

(4) Are there any plans for this road to go ahead in the future; if so, when will this project commence;

(5) If not, why not and will the A.C.T. Government give consideration to building this road in the future to, among other things, alleviate the problem of drivers taking short-cuts via Theodore Street in Curtin to access the Cotter Road.

Mr Quinlan: The answer to the member's question is as follows:

(1) The Government is unaware of any plans for a bypass road along the lines described in the Member's question.

(2) See answer to (1)

(3) See the answer to (1). The mounding in the median near the Royal Australian Mint forms part of the landscaping associated with Yarra Glen. It is not part of any scheme for future road connections between Adelaide Avenue/Yarra Glen and the Cotter Road.

(4) Planning for the future Molonglo District outlined in the Canberra Spatial Plan will require a careful analysis of future road connections between the new district and the rest of Canberra. Concepts such as those to which the Member's question refers will be examined as part of the planning for the new district.

(5) See answer to (4). In the absence of any connection which might be required for the new Molonglo District's development, the Government does not consider that such connections would be justified.

Theodore Street in Curtin attracts a proportion of "through" traffic accessing Cotter Road and Lady Denman Drive. Local area traffic management measures have been implemented by the Department of Urban Services on Theodore Street and McCulloch Street to discourage heavy vehicle traffic and other through traffic with a view to improving road safety and residential amenity in Curtin.

Bunda Street parking (Question No 1568)

Mr Cornwell asked the Minister for Planning, upon notice, on 22 June 2004:

How many (a) parking and (b) disabled parking spaces have been or will be available to the public in the Bunda Street, Section 84 Carpark Redevelopment

(i) prior to the development work commencing,

(ii) while development is underway and

(iii) once the development is completed.

Mr Quinlan: The answer to the member's question is as follows:

(i) The approved Development Application for the infrastructure works indicated that there were 1110 parking spaces available prior to the development work commencing. Six of the spaces were disabled parking spaces.

(ii) The approved Development Application for the infrastructure works dated 16 June 2004 replaced the existing car parking spaces with 1090 spaces available at the completion of the infrastructure works. None of the spaces are disabled parking spaces. During the construction of the infrastructure works a minimum of 828 spaces were to be kept available. Work has commenced on the new Community Centre and underground car park in Precinct 'E'. This, along with a new car park in Precinct 'B' is scheduled for completion early in 2005 and will provide 670 spaces in those precincts alone which is double the original amount in this area. The Precinct B car park plans as approved indicate four disabled spaces at grade, six disabled spaces at upper basement level and a further six disabled spaces at the lower level basement which when finished will be available to the public.

(iii) Under the existing Master Plan for Section 84 there will be approximately twice the amount of parking that existed prior to redevelopment. Proposed revisions to the Master Plan are envisaged to include three times the amount of car parking that existed prior to redevelopment. Car parking for people with disabilities will be provided in accordance with the Building Code of Australia (BCA) Part D3.5 'car parking'

ACTION—services—Hall (Question No 1569)

Mr Cornwell asked the Minister for Planning, upon notice, on 22 June 2004:

(1) Why doesn't ACTION (a) provide a bus service to and from the suburb of Hall from the major bus interchanges in the A.C.T. and (b) extend its Nicholls or other bus service to Hall, given the close proximity of Nicholls to Hall;

(2) What other public transport options do Hall residents and visitors to Hall currently have to travel to other parts of the A.C.T.;

(3) Are there any plans for ACTION to extend the Nicholls or other bus services to Hall in the future; if not, why not;

(4) Should bus travellers to and from Hall who wish to get to other areas of the A.C.T. be made to catch expensive and infrequent transborder bus services in order to do so.

Mr Quinlan: The answer to the member's question is as follows:

(1) (a) There is not enough patronage demand to provide a public bus service to Hall from major bus interchanges in the ACT.

(b) To extend bus services from Nicholls or another route to Hall would involve additional running time for those services and impact on shift allocations. This additional time would also have an adverse flow-on effect for existing patrons for connecting services.

(2) Transborder Express provides a regular route bus service to and from Hall with drop offs at the Belconnen, City and Woden Interchanges. There are two morning services from Hall and four afternoon services that divert through Hall upon request.

(3) No. The services provided by Transborder are poorly patronised with an average of less than two passengers per day. At present, there is not enough patronage demand for ACTION to review its network to include this area.

(4) Pensioner concession fares from Hall to Canberra are consistent with the fares determined by the ACT Government for ACTION services. Additionally, the ACT Government has contracted Transborder Express to provide school bus services for students residing in Hall. The fares for these services are also consistent with the fares determined for students living in the ACT.

Public toilets (Question No 1571)

Mr Cornwell asked the Minister for Urban Services, upon notice, on 22 June 2004:

(1) How many public toilets exist in suburban shopping centres;

(2) Are they available for public use; if so, (a) during what hours and (b) on how many days per week;

(3) Are these facilities locked at night; if so, who is responsible for securing these blocks each night;

(4) What is the estimated cost of maintaining these facilities per annum;

(5) Has consideration been given to removing these facilities; if so, what criteria are applied for removal.

Mr Wood: The answer to the member's question is as follows:

(1) There are 22 toilet blocks and Exeloos within our suburban shopping centres. This includes a toilet block within Colbee Court, Phillip. It does not include any public toilets inside a shopping centre, such as Cooleman Court.

(2) Yes. The toilets are opened as early as 6.00am and no later than 7.00am and are locked at 9.00pm or no later than 10.00pm every day of the week (including public holidays). During daylight saving hours the toilets are locked at 10.00pm or no later than 11.00pm.

(3) Yes. Canberra Urban Parks and Places

(4) $330,000

(5) No. However provision of toilets has altered in new larger commercial developments or when commercial areas containing a public toilet are redeveloped. It becomes a development condition that public-access toilets be provided and maintained by the body corporate managers of the centre.

Red light cameras
(Question No 1573)

Mr Cornwell asked the Minister for Urban Services, upon notice, on 22 June 2004:

(1) Is the A.C.T. Government to install joint speed and red light cameras at intersections in the A.C.T.;

(2) If so, (a) when will these be installed, (b) when will they come into operation, (c) how many such cameras will there be and (d) at which intersections will these joint cameras be installed;

(3) Why is the installation being done;

(4) How much additional revenue is expected to be raised from this exercise;

(5) How much will it cost to (a) install/convert these cameras and (b) operate and maintain them;

(6) Which other States / Territories have (a) installed such cameras to date and (b) indicated they will do so in the future.

Mr Wood: The answer to the member's question is as follows:

(1) There are no plans to install further cameras. For your information the details of the current situation are provided:

- The ACT has 9 red light cameras. All are joint speed and red light cameras and have been since the day of installation. Press advertisements providing information about joint red light and speed cameras appeared in local papers on 14 June 2003.

- Three cameras were installed in 2000; three in 2001; and three in 2002. They are installed at the following locations:

  Northbourne Avenue, Barry Drive and Cooyong Street, Civic

  Drakeford Drive and Marconi Crescent, Kambah

  Southern Cross Drive and Coulter Drive, Belconnen

  Ginninderra Drive and Coulter Drive, Belconnen

  Ginninderra Drive and Aikman Drive, Belconnen

  Barry Drive and Marcus Clarke Street, Civic

  Hindmarsh Drive/Tuggeranong Parkway, Woden

  Northbourne Avenue/Mouat Street/Antill Street, Dickson

  Northbourne Avenue/London Circuit, Civic

Police force—advertising (Question No 1574)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 22 June 2004:

(1) Who holds the current advertising contract for A.C.T. Policing;

(2) How long have they held the contract;

(3) Did this company produce the current television advertising campaign for ACT Policing; if not, who did;

(4) Did the contract for the current A.C.T. Policing advertising campaign go out to tender;

(5) If so, (a) when was the tender process advertised, (b) where was it advertised and (c) how many people or companies tendered for the contract;

(6) If the contract did not go out to tender, why not.

Mr Wood: The answer to the member's question is as follows:

(1) There is currently no advertising contract between ACT Policing and any advertising agency. However, there is a contract between the Commonwealth Government and HMA Blaze for newspaper advertising placements (not creative or copywriting) which the Australian Federal Police and hence, ACT Policing is entitled to use from time to time.

(2) Not Applicable.

(3) No. Orima Research, Zoo Creative, Gamalla Photography and Bearcage Film Productions combined to produce the campaign.

(4) No. Five agencies were approached and three agencies submitted bids for concept and delivery against established criteria. A selection was made from the bids for a preferred provider.

(5) Not applicable.

(6) The contract did not go out to tender because there is already a list of advertising agencies accredited by the (Australian) Government Communications Unit from which several were selected to respond to our approaches as per question three.

Police force—advertising (Question No 1575)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 22 June 2004:

(1) Has the current television advertising campaign for A.C.T. Policing been included in the budget of the purchase agreement between the Australian Federal Police and the A.C.T. Government;

(2) If so, how much funding has been allocated for advertising;

(3) If not, (a) which budget does this advertising come out of and (b) how much funding has been allocated;

(4) What is the approval/sign off process of this advertising and who in A.C.T. Government and A.C.T. Policing approved this advertising before it was put to air.

Mr Wood: The answer to the member's question is as follows:

(1) Yes.

(2) $213,000 which included all media community awareness campaigns. It should be noted that this does not include other forms of advertising such as for recruitment which is managed at the Commonwealth level.

(3) See 1.

(4) The ACT Policing Executive approved the advertising campaign. In my capacity as the Minister for Police and Emergency Services I was provided with a video copy of the finished television commercial for information.

Government—corruption allegations (Question No 1576)

Mr Pratt asked the Chief Minister, upon notice, on 22 June 2004:

(1) Does the *Public Interest Disclosure Act 1994* stipulate that Government agencies must report all allegations of corruption, abuse of power and improper behaviour, with reports then to be tabled in the A.C.T. Legislative Assembly; if so, how many allegations of (a) corruption, (b) abuse of power and (c) improper behaviour, have been reported under this Act in (i) 2001-2002, (ii) 2002-2003 and (iii) 2003-2004;

(2) How many of these reports have been tabled in the A.C.T. Legislative Assembly in (a) 2001-2002, (b) 2002-2003 and (c) 2003-2004;

(3) What action has been taken to investigate these allegations and what outcomes have been achieved.

Mr Stanhope: The answer to the member's question is as follows:

(1) The *Public Interest Disclosure Act 1994* does not stipulate that Government agencies must report all allegations of corruption, abuse of power and improper behaviour, with reports then to be tabled in the A.C.T. Legislative Assembly. Rather section 11 of the Act requires that a Government agency that is required under an Act to prepare an annual report for tabling in the Assembly shall include in its report the following information relating to disclosures made under the Act:

"(a) a description of the procedures maintained by it under section 10 during the year; and

(b) statistics relating to the year in accordance with subsection (2); and

(c) particulars relating to the year in accordance with subsection (3).

(2) The statistics to be included in the annual report are—

(a) the number of public interest disclosures received by the government agency; and

(b) the number of each type of public interest disclosure received by the government agency; and

(c) the number of public interest disclosures received by the government agency that were referred to it by other government agencies; and

(d) the number of public interest disclosures investigated by the government agency; and

(e) if the government agency has referred public interest disclosures to other government agencies for investigation—

(i) the total number of disclosures referred; and

(ii) the identity of each other agency to which a disclosure was referred; and

(iii) the number of disclosures referred to each other agency;

and

(iv) the number of each type of public interest disclosure referred to each other government agency; and

(f) the number of public interest disclosures on which the government agency declined to act under section 17; and

(g) the number of public interest disclosures that were substantiated by the government agency's investigation of the disclosure.

(3) The annual report shall include particulars of remedial action taken by the government agency in relation to—

(a) each public interest disclosure that was substantiated on investigation by the government agency; and

(b) any recommendations of the ombudsman or the auditor-general that relate to the government agency."

(2) This information is available in agency annual reports.

(3) This information is also included in agency annual reports.

Manuka Oval
(Question No 1577)

Mr Stefaniak asked the Minister for Sport, Racing and Gaming, upon notice, on 22 June 2004:

(1) In Estimates hearings did officials from Sport and Recreation A.C.T. state that the operating cost of Manuka Oval is stable at around $300 000 to $310 000 per year; if so, and the funding made available is only $240,000, how is Manuka Oval expected to operate efficiently with a $70,000 shortfall;

(2) Have any bids been made to the Government to increase funding to Manuka Oval; if so, (a) what was the bid and (b) can supporting documentation be provided;

(3) What cost has the Territory worn in splitting any deficit for Manuka Oval at the end of the financial year 60:40 with the Territory for the years (a) 2001-02, (b) 2002-03 and (c) anticipated in 2003-04.

Mr Quinlan: The answer to the member's question is as follows:

(1) According to the Management Agreement for Manuka Oval, the Territory approves the MOMC's annual budget, which may include a Government operating subsidy. At the end of each financial year, a "deficit" occurs if annual expenditure exceeds income (including any operating subsidy). The Management Agreement provides that the two MOMC members (local AFL and Cricket) are required to jointly contribute up to 40% of any annual deficit to a maximum of $20,000. The remainder of the deficit is to be provided by the Territory.

As identified at Estimates hearings, the annual operating subsidy required for Manuka Oval has now stabilised at around $310,000 to $320,000. Whilst the Government provides annual operating subsidies to the MOMC for the facility, any deficits achieved are/will be covered by the formula outlined in the Management Agreement.

(2) The question pertains to matters relating to Budget Cabinet deliberations. Therefore, I will not be responding.

(3)	(a)	2001/02	nil
	(b)	2002/03	$11,400
	(c)	2003/04	$66,000 (estimated)

Fireworks
(Question No 1581)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 23 June 2004:

(1) Further to Question on notice No 1498, how many explosives from the A.C.T. Workcover fireworks amnesty were handed over to the Australian Federal Police (AFP) Bomb Squad for disposal;

(2) How many explosives from the A.C.T. Workcover fireworks amnesty were handed over to the AFP Bomb Squad for use in their training exercises;

(3) What kind of surrendered explosives were used in training exercises;

(4) What training exercises were undertaken by the AFP Bomb Squad using these surrendered explosives.

Mr Wood: The answer to the member's question is as follows:

(1) A number of explosives and related items were received by Australian Federal Police (ACT Policing) Specialist Response and Security, Bomb Response Team (Bomb Team) during the ACT Workcover fireworks amnesty including the following:

- 25 electric detonators;
- one detonator;
- three marine signal flares and one tin of black powder;
- 17 rounds of commercial ammunition;
- three sticks of AN60 gelignite;
- one shopping bag full of expended and live commercial ammunition;
- one roll military safety fuse, one box of military combination booby traps, one box of weatherproof fuse igniters, one military plain detonator, one box of military percussion fuse igniters;
- two jars of home made TNT powder; and
- one box containing commercial ammunition, primers and black powder, one timber box containing jars of chemicals.

(2) No surrendered explosives were used in Bomb Team training exercises.

(3)Not applicable – refer to part 2.

(4)Not applicable – refer to part 2.

Public art program (Question No 1583)

Mr Stefaniak asked the Minister for Arts and Heritage, upon notice, on 23 June 2004:

(1) In relation to the Public Art Program, did the December Quarterly Capital Work Progress Report show that in December expenditure of $27 000 has been deleted; if so, why is it that this funding was apparently expended in the first quarter but is now shown as not being expended in the second quarter;

(2) Has any of the $195 000 allocated to this project been expended since; if so, (a) how much and (b) for what purpose;

(3) Is this project meant to be completed by the end of June; if so, will this completion date be met; if not, why not.

Mr Wood: The answer to the member's question is as follows:

(1) The December Quarterly Capital Works Progress Report showed an incorrect costing for the first quarter that was corrected in the second quarter.

(2) The $195,000 includes two public art commissions. A total of $9241 has been expended on the selection and final design of an artwork to raise the profile of the Gorman House Arts Centre. A second project, to commission an artwork for a significant private development, is in final stages of development and sector consultation before going to tender.

(3) No. Pending development approval from both the National Capital Authority and the ACT Planning and Land Authority, the Gorman House artwork will be completed later this year. The artwork associated with a major development will be completed at the same time as the selected development is completed.

Questions on notice (Question No 1584)

Mr Smyth asked the Speaker, upon notice, on 23 June 2004:

(1) Has the Speaker received any correspondence from the Government regarding any interest in limiting the number of questions on notice that can be asked by non-executive members of the Legislative Assembly;

(2) If so, can copies of that correspondence be obtained and what advice was given in return;

(3) What process would need to be followed or implemented to change the current procedure regarding questions on notice in the Legislative Assembly.

Mr Speaker: The answer to the member's question is as follows:

(1) No.

(2) Not applicable.

(3) The Assembly Standing Orders would need to be amended to change the current procedure in relation to the question on notice.

Questions on notice (Question No 1602)

Mr Smyth asked the Chief Minister, upon notice, on 23 June 2004:

(1) Has his attention been drawn to statements made by the Treasurer, Mr Quinlan, in recent Budget Estimates hearings state, in relation to questions on notice, that "something will have to change … we need to protect accountability in this place and that has to be our first standard … at the same time 1 550 question on notice in that period of time just is way beyond the pale";

(2) Does the Government have plans to reduce accountability and limit the number of questions on notice non-executive members of the Legislative Assembly are allowed to ask;

(3) If so, what is the Government's proposed new structure;

(4) If not, will you guarantee this remains the Government's position and you will not move to reduce accountability by changing the current questions on notice structure.

Mr Stanhope: The answer to the member's question is as follows:

(1) No.

(2) No.

(3) Not applicable.

(4) See (2) above.

Hospitals—radiologists (Question No 1603)

Mr Smyth asked the Minister for Health, upon notice, on 23 June 2004:

(1) Further to the response to part (1) of Question on notice No 1443, did he fail to address how many radiologists are currently employed to work in the A.C.T. instead giving detail on qualifications; if so, could he now advise how many radiologists are currently employed to work in the A.C.T.;

(2) In response to part (2) of Question on notice No 1443, did he indicate that the Radiation Oncology Department at The Canberra Hospital has positions for four radiation oncologists and 21.5 full time equivalent radiation therapists; if so, are these the positions available (filled or unfilled) or are these the actual positions that are currently filled.

Mr Wood: The answer to the member's question is:

(1) As of 29 June 2004, the Royal Australian and New Zealand College of Radiologists has 2,376 Radiologists recorded nationally as being eligible to be employed to work in the ACT and 25 of these live in the ACT. These Radiologists can work part-time or full-time in both the public and private sector and the information regarding the private sector is not available to ACT Health.

(2) Yes. These are the funded positions available within the Unit.

Finance—departmental deficits (Question No 1604)

Mr Smyth asked the Minister for Economic Development, Business and Tourism, upon notice, on 23 June 2004:

(1) In relation to the analysis of financial performance of departments in Budget Paper No 4, 2004-2005 where a department anticipates an increase in a deficit why is this described in some instances as a reduction in the outcome, that is, as a negative variance (for example, Budget Paper 4, pages 27, 65 and 267);

(2) Where a department anticipates an increase in a deficit, why is this described in some

instances as an increase in the outcome, that is, as a positive variance (for example, Budget Paper 4, page 303);

(3) Where a department anticipates a decrease in a deficit, why is this described in some instances as a reduction in the outcome, that is, as a positive variance (for example, Budget Paper 4, pages 137, 245);

(4) Where a department anticipates an increase in a deficit, why is this described in some instances as a decrease in the outcome, that is, as a negative variance (for example, Budget Paper 4, page 236);

(5) What are the reasons for these differing treatments of outcomes of financial performance.

Mr Quinlan: The answer to the member's question is as follows:

Treasury has an established protocol to report year on year variance in the budget statements. The formula used by Treasury's financial management system is:

$$\frac{(\text{2004-05 Budget } \textbf{\textit{less}} \text{ 2003-04 Estimated Outcome})}{\text{2003-04 Estimated Outcome}} \times 100\%$$

Under the protocol, the increases and decreases in revenue and expenses follow the usual sign convention. In relation to operating results (particularly the operating deficit) however, the convention is:

- an increase in operating deficit is reported as a negative variance; and
- a decrease in operating deficit is reported as a positive variance.

Notably, this part of the sign convention is opposite to the results from a 'rigorous' application of the mathematical formula used to calculate variance. It has been adopted to assist lay readers in gauging performance at a glance, i.e., a decrease in operating deficit from one year to the next is an improvement in performance (positive variance, rather than a negative as dictated by the formula), and vice versa.

The current financial management system calculates variances on all line items through the standard formula, and manual adjustments are made to the variance on operating deficit calculated by the system.

The examples provided in Questions (1) and (3) reflect the protocol.

The example provided in Question (2), relating to Justice and Legal Services Output Class, is an omission to manually change the sign of the variance.

Question (4) refers to ACT Forests, where the operating result has improved from -$19.104m to -$8.773m. The deficit has not increased as suggested in the question.

Treasury advises that mathematically speaking, an increase in the deficit from the estimated outcome year to the budget year will result in a positive variance. Conversely, a reduction in the size of the deficit from the estimated outcome year to the budget year will result in a negative variance.

Treasury will investigate automating such adjustments to overcome the inherent problems of a process that requires manual intervention.

Motor vehicles—government fleet (Question No 1608)

Mr Smyth asked the Minister for Environment, upon notice, on 24 June 2004:

(1) How many vehicles in the A.C.T. Government car fleet are (a) gas powered, (b) electric powered or (c) powered by another source that makes them environmentally friendly;

(2) What percentage of the entire A.C.T. Government car fleet does the figure in part (1) represent;

(3) Does the figure in part (2) include salary-sacrificed vehicles for personal use; if so, what is the percentage excluding vehicles for personal use;

(4) What effort is made to encourage use of environmentally friendly vehicles in the Government fleet for work use.

Mr Quinlan: The answer to the member's question is as follows:

(1)

ACT Government Fleet by Fuel Type	Number of Vehicles	Percentage
LPG Dedicated	12	0.96%
Unleaded/Electric	20	1.60%
Dual Fuel LPG / Unleaded Petrol	2	0.16%
Unleaded Petrol	1089	87.33%
Premium Unleaded	4	0.32%
Diesel	120	9.62%

(2) LPG dedicated and Unleaded/Electric vehicles total 2.56% of the total ACT Government Fleet.

(3) The above figures include the entire ACT Government vehicle fleet, but do not include salary-sacrificed vehicles, trucks or plant.

(4) The Chief Minister's instructions are that a large number of hybrid vehicles be included in the ACT Government Fleet. An initial target of 25 vehicles across a range of government agencies was set. To date, there are 12 Toyota Prius hybrids in service and 23 on order.

Veterinary examination room (Question No 1609)

Mr Smyth asked the Minister for Urban Services, upon notice, on 24 June 2004:

(1) As at the end of December 2003 was only $10 000 expended of the $100 000 allocated for a veterinary examination room at Domestic Animal Services; if so, what was delivered for the $10 000 spent to date;

(2) Have any further funds been expended since 31 December 2003; if so, (a) how much and (b) for what purpose; if not, why not;

(3) Was the completion date for this project March 2004; if so, (a) was this deadline met, (b) when were the works completed, (c) was the entire budget expended and (d) what will the benefits of the new room be; if not, (a) when will this project be completed and (b) what has been the delay in completing this project.

Mr Wood: The answer to the member's question is as follows:

(1) $10,000 had been expended to the end of December 2003. Design and approval services were delivered for this expenditure.

(2) Since 31 December 2003 a further $102,020 has been expended for the purpose of upgrading and separation of the existing makeshift examination room from the dog registration and garage areas. Upgrading of the existing Dog Pound waste water system was also undertaken as part of the works in order for it to comply with Australian Standards.

(3) The works were completed on 22 March 2004, which met the estimated completion date. The entire budget was expended. The benefits of the new room will allow for veterinary services to be delivered in a purpose built surgery, which is separate to other functional areas of the Dog Pound.

Health—psychiatric services (Question No 1611)

Mr Smyth asked the Minister for Health, upon notice, on 24 June 2004:

(1) What is the breakdown of the $12,000 expended on the Refurbishment of Psychiatric Services as at 31 December last year;

(2) What, if any, additional funds have been expended on this project since that time and for what purpose;

(3) Was the original completion date listed for this project in the 2003-04 Budget Papers December 2003 and did the December Quarterly Capital Works Progress Report 2003-04 list the completion date as June 2004; if so, what is the correct completion date for this project;

(4) Why is there a discrepancy or change in the completion date times from the Budget Papers to the December Quarterly Capital Works Progress Report;

(5) Why is this project not listed in the 'works in progress' in 2004-05 Budget Paper No 4;

(6) Why has there been such a delay with this project.

Mr Wood: The answer to the member's question is as follows:

(1) $7,755 was expended on demolition of parts of the High Dependency Unit Courtyard to reduce immediate risk of patient harm. The remainder of the expenditure was progress claims for architectural design services for the refurbishment of the Psychiatric Services Unit (PSU).

(2) Since December 31, an additional $29,000 has been expended. $4,500 was for a fire safety audit, the remainder for progress claims for architectural design services for the refurbishment of the PSU.

(3) Yes – the dates shown in each document reflect the anticipated completion of the first stage of the project at that time noting that these time estimates were estimated about nine months apart. The estimated completion date is now December 2004 following the decision to undertake a more substantial refurbishment of the PSU.

(4) The Quarterly Capital Works Progress Report is intended to provide updates on current progress towards expected deadlines. The report was adjusted to reflect the anticipated completion date at the time.

(5) The first stage of the project was not included in 'Works in Progress' in 2004-05 Budget, as the project was not budgeted as a rollover in figures provided to Treasury. Full expenditure was expected to be achieved in the 2003-04 financial year, but was delayed pending approval of second stage funding for completion of the full scope of works in 2004/05. The balance of the unexpended funds from the $0.350m has been rolled over within ACT Health.

(6) The original amount of $350,000 approved in 2003/04 for upgrade of the PSU was to be used to address concerns raised by the Mann-Laroche report. Certain urgent works were undertaken, but the majority of the building works were held back pending the approval of additional budget in 2004/05. Design for the full scope of work was undertaken in 2003/04 including a lengthy and extensive consultation process that recognised the complexity of the environment in the PSU and to ensure that an effective and workable solution was achieved. The total funding for fully implementing the improvements is now $1.350m. Full design & construction documentation on the total package of works is being completed and a Project Manager will be appointed in the next few weeks to manage the works. The revised completion date is expected to be December 2004.

Fireworks
(Question No 1612)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 24 June 2004:

(1) How many reports or complaints were made to A.C.T. Policing from Friday 11 June 2004 to Monday 15 June 2004 regarding the use of fireworks;

(2) How many of these reports or complaints were investigated by A.C.T. Policing and what action has been taken;

(3) If there had been reports made to A.C.T. Policing about any illegal explosives or fireworks in the A.C.T. how many (a) calls or reports were received by A.C.T. Policing, (b) explosives or fireworks were seized and (c) referrals were made to the Australian Federal Police Bomb Squad.

Mr Wood: The answer to the member's question is as follows:

(1) The following reports or complaints were made to ACT Policing from Friday 11 June 2004 to Monday 15 June 2004 regarding the use of fireworks and were recorded on the police computer database (PROMIS).

Date Reported	Fireworks Incident
11 June 2004	6
12 June 2004	7
13 June 2004	10
14 June 2004 (until 11.59pm)	10
Total 2004	**33**

Source: 'Fireworks Incidents' recorded on PROMIS as at 2 July 2004.

ACT Policing Communications also received 110 calls or inquiries regarding fireworks.

(2) Of the 30 complaints received by ACT Policing, 13 complaints were investigated. The remaining 20 complaints were not investigated because the information provided to police was insufficient to justify an investigation or police attendance. The action taken by police varied depending on the nature of the incident reported and included searches of reported incident locations, identifying and obtaining information from witnesses, scene examination, photographing fireworks, the seizure of fireworks, and the referral of incidents to ACT WorkCover.

(3) (a) See part (1).

(b) ACT Policing seized one commercial grade firework (a four inch mortar).

(c) From Friday 11 June 2004 to Monday 15 June 2004, the ACT Policing Bomb Response Team received one referral regarding fireworks. This referral was a request for information by a general duties patrol.

Community gardens (Question No 1618)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice, on 24 June 2004:

(1) In relation to the Community Garden Project to establish community gardens in three of six residential complexes and the subsequent service agreement between the Department of Disability, Housing and Community Services and the YWCA, out of the $24 000 allocated to the project how much did each of the three separate projects receive;

(2) Can the Minister provide a detailed summary of funds allocated to each project;

(3) How much of the $24 000 allocated in totality was consumed in administrative costs;

(4) Putting aside the administrative costs, how much of the $24 000 allocated actually went into the three projects;

(5) With regard to the actual funds spent after administrative costs are removed, what was the money spent on, broken down by project.

Mr Wood: The answer to the member's question is as follows:

(1) and (2) In February 2003, the YWCA were granted one-off funding of $24,000 to establish community gardens in three of the six residential complexes of Northbourne Flats, Jerilderie Court, Stuart Flats, Fraser Court, Strathgordon Court and Malahide Gardens. The project was funded as one project rather than three separate projects. Separate funding amounts were, therefore, not required in relation to each individual garden. Under the conditions of funding, the report from the YWCA in relation to financial expenditure on this project is due on 10 August 2004.

(3) Administration and management costs of the project were met by the YWCA. The budget provided in the original application was broken down as follows:

• Auditing	$168	
• Insurance	$480	
• Equipment Hire/Purchase	$10,000	
• Materials/Consumables	$13,352	
TOTAL	**$24,000**	**(GST EXCLUSIVE)**

(4) and (5) The proposed budget indicated that $23,352 or 97.3% of the funds were allocated directly to the project. The YWCA is also to provide a report against the following performance measurements:

- Number of tenants participating in project;
- Number of planning group meetings conducted;
- Number and nature of contacts with government and community service providers in the delivery of the project;
- Evidence of mechanisms in place for clients to provide feedback on services received;
- Level of participant satisfaction; and
- One case study (with non-identifying information) which demonstrates how the service works with clients and how this has met client outcomes.

TransACT contracts (Question No 1619)

Mr Cornwell asked the Treasurer, upon notice, on 29 June 2004:

(1) In relation to Transact being selected as the preferred tenderer to deliver telephone (voice) services for $4.5 million per year to the A.C.T. Government, what specifically will be provided by Transact to the A.C.T. Government under this contract;

(2) Why was this contract awarded to Transact above other tenderers on the project;

(3) How will the savings of $3.5 million per year be brought about and when will they occur;

(4) In addition to the $4.5 million annual recurring expenditure for this contract, will there be any additional costs to the A.C.T. Government as a result of the change over to the new technology; if so, what are those costs;

(5) Is the cost of the actual handsets and other equipment to be installed under this contract included in the $4.5 million annual funding; if not, how are these handsets being funded;

(6) How will the other major infrastructure required for the installation of the new Voice Over Internet Protocol (VOIP) technology under this contract, such as new cabling, switches and hubs be funded or financed;

(7) If additional infrastructure or equipment is required to be funded or financed by Transact, (a) how much will this cost and (b) how will this cost be met without ultimately placing the financial burden back on the A.C.T. Government or the A.C.T. taxpayer in some way;

(8) Will each telephone that is currently installed within A.C.T. Government departments and agencies be replaced under this new contract; if so, (a) what is the cost of each of these new handsets and (b) how many will the be installed; if not, (a) how many will be replaced and (b) in what departments or agencies;

(9) When will the A.C.T. Government transition to VOIP technology commence, and when will the transition be completed and the new voice technology fully operational;

(10) How reliable is the new VOIP technology and what backup systems will be in place in the event of a VOIP system failure.

Mr Quinlan: The answer to the member's question is as follows:

TransACT has been selected as the preferred Tenderer to provide voice services to the Territory and a contract has not yet been awarded.

Contract negotiations have commenced on 30 June 2004 and will continue for about 10 weeks. A contract is expected to be executed in early September 2004. Until the contract is finalised the full details of the solution to be delivered by TransACT will not be known and the question asked by the Member would require assumptions to be made on the final contract deliverables.

In the event that contract negotiations with TransACT were not successful, the Territory has the discretion to commence negotiations with the second ranked Tenderer.

Disclosure of the potential form and content of the contract, prior to it being finalised, could compromise the Territory's position in the negotiations with TransACT, or any with other Tenderer should the negotiations be unsuccessful. It could also compromise TransACT's business because the Response to the Request for Tender has been submitted on a Commercial in Confidence basis. Contract details will be made public after the contract has been signed in accordance with the legislation.

In light of the current negotiation process with TransACT a detailed answer to the Members question cannot be provided at this time. When the contract has been executed an answer to the Members question will be provided.

Belconnen sports complex (Question No 1620)

Mr Cornwell asked the Minister for Sport, Racing and Gaming, upon notice, on 29 June 2004:

(1) During construction of the foundations for the new Belconnen sports complex on Block 7 Section 3 Bruce, was an underground spring or water source uncovered which required the pumping of additional concrete to stabilise the site before the complex could be erected;

(2) If so, (a) how much did the rectification of this problem cost and (b) how long was the project delayed as a result;

(3) Which company or contractor performed the work to supply and pour the concrete to rectify this problem;

(4) Is the underground spring likely to cause any problems on this site in the future.

Mr Wood: The answers to the member's questions are as follows:

(1) No underground spring or watercourse was uncovered during the construction of the foundations for the new Belconnen Sports Complex. However, an underground spring was encountered during the boring of piers to support the 25 metre lap/leisure pool base.

Due to a geological unconformity under the pool basin, a portion of the 50 metre pool and the 25 metre lap/leisure pool were designed to bear on bored piers. During the pier boring process under the 25 metre lap/leisure pool, ground water was encountered at three or four pier locations. Following engineering advice, a decision was made to change from bored piers to "screw-in piles".

(2) (a) Approximately $40,000 cost to the pool developer, but no cost to the Territory.

(b) Approximately 4 weeks

(3) The work was carried out by Piletech Pty Ltd, as a sub contractor to the pool basin builder, AVP Constructions.

(4) No.

Burnie Court redevelopment (Question No 1625)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice, on 29 June 2004:

(1) Apart from the current aged care development, what progress has been made at the former Burnie Court site with the proposed new development for mixed-use housing solutions;

(2) Are there currently any offers under consideration for the purchase of the remaining blocks.

Mr Wood: The answer to the member's question is as follows:

The sale of the northern portion of the former Burnie Court site has not proceeded. The property was passed in at auction having failed to meet the reserve price, which had been based on the written advice of a number of valuers.

Following the auction, the block remained 'on the market' at valuation. To date no offers, close to valuation, have been received. The Department of Disability, Housing and Community Services is considering a number of development options and will provide advice to me on the best way forward.

Emergency services (Question No 1631)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 30 June 2004:

(1) Did the response to Question on notice No 1133 state that the (a) Belconnen Joints Emergency Services Centre, (b) Joint Emergency Services Training Centre and (c) Joint Emergency Services Centre, West Belconnen had not been scrapped; if so, is this still the case; if not, why not;

(2) Did part (2) of the response to Question on notice No 1133 state that funds for these projects will be expended in this financial year and that at the end of the second quarter $0 was the YTD expenditure on the training centre and Belconnen JESC, while only $5 000 was spent on the West Belconnen JESC;

(3) Have any funds been spent on any of these projects since 31 December 2003; if not, (a) why not and (b) will the Minister meet his commitment for these funds to be expended this financial year.

Mr Wood: The answer to the member's question is as follows:

(1) The response provided to Question on notice No 1133 stated that all of the projects had not been scrapped.

Since that time the Emergency Services Bureau has undergone considerable change in structure in its transition to the Emergency Services Authority (ESA).

As part of this transition the authority is undertaking a Strategic Basing Study to determine the best possible position for its response facilities over the medium to longer term. In relation to the Joint Emergency Services Centres, the outcome of this study will determine best options for these facilities and whether they be joint facilities or single service facilities.

With regard to the Joint Emergency Services Training Centre, the authority is currently considering a concept plan for the collocation of this facility with the new ESA headquarters. The authority expects to make a recommendation to government in relation to this proposal within the next three months.

(2) Due to the changed arrangements and transition to the ESA it was considered prudent not to expend funds on these projects until the impact of changes in both the response and planning needs of the community were fully understood. However, some funds have been expended on the development of the collocated training and headquarters facilities.

(3) As above.

Bicycles—helmet fines (Question No 1647)

Mr Cornwell asked the Minister for Police and Emergency Services, upon notice, on 1 July 2004:

(1) Further to Question on notice No 141, how many fines have been issued to bicycle riders for (a) failure to wear a helmet and (b) other offences in (i) 2001-02, (ii) 2002-03 and (iii) 2003-04;

(2) What were the other offences.

Mr Wood: The answer to the member's question is as follows:

(1) (a) During 2001-2002 there were 32 fines issued to bicycle riders for failure to wear a helmet and four for other offences. During 2002-2003 there were 63 fines issued to bicycle riders for failure to wear a helmet and 11 for other offences. During 2003-2004 there were 32 fines issued to bicycle riders for failure to wear a helmet and three for other offences.

(b) See (1)(a) above.

(2) The following table demonstrates the "other" offences during these periods.

Offence Type	2001-2002	2002-2003	2003-2004
Ride bicycle without visible front white light	3	5	1
Ride bicycle without visible rear red light	1	4	1
Ride bicycle without working brake	0	1	0
Ride bicycle without warning device	0	1	0
Rider on bicycle that is being towed	0	0	1
Total	**4**	**11**	**3**

Source: A.C.T. Policing Traffic Representations

Motor vehicles—theft (Question No 1648)

Mr Cornwell asked the Minister for Police and Emergency Services, upon notice, on 1 July 2004:

How many motor vehicles were (a) stolen and (b) recovered in the A.C.T. in (i) 2002, (ii) 2003 and (iii) 2004 to date.

Mr Wood: The answer to the member's question is as follows:

The number of motor vehicles stolen and recovered in the ACT during 2002, 2003, and 2004 is set out in the following table.

Year	Stolen	Recovered
2002	2716	2081
2003	3200	2367
01 January to 30 June 2004	1083	767

Note: the stolen vehicles recovered in a period do not necessarily relate to those stolen for the same period. Further, recovered vehicles do not necessarily relate to vehicles stolen in the ACT as some vehicles may be from interstate.
