DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

24 AUGUST

2004

Tuesday, 24 August, 2004

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

Planning and Environment—Standing Committee
Report 34

MS DUNDAS (10.31): I present the following report:

> Planning and Environment—Standing Committee—Report 34—Long term planning for the provision of land for aged care facilities in the ACT, dated 23 August 2004, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MS DUNDAS: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MS DUNDAS: I move:

> That the report be noted.

Mr Speaker, this inquiry was quite brief. The committee resolved to look into long-term planning for the provision of land for aged care facilities in the ACT. We were particularly interested in how we were working to meet what was seen as a growing demand for aged care in the territory. We have discovered that there is not only a growing need but also an urgent need right now for the provision of land for aged care facilities in the territory.

Through this report we have tried to clarify the relationship between the federal government and the ACT government. The committee also considered the need to look at ways of bringing our planning processes more into line with the allocation of beds through the federal government's Department of Health and Ageing.

Also, we looked at the different models of the provision of aged care. The federal government provides funding to support specific types of aged care, but we were told in submissions that there is a growing need to look at how we think about aged care. Many submitters indicated that people are looking to stay in their homes and communities and be supported there, as opposed to moving out of their communities. So that also has planning implications.

One submitter pointed out that recent changes to planning laws in the territory are limiting people's ability to be supported in their homes because they are not able to have the changes made to their properties that would make such an option viable. So there may be a need to look more broadly at how our planning policies are impacting on our aged community.

One of the main recommendations that this committee put forward is that there be the establishment of a land bank for the provision of land for aged care accommodation and that the government not just identify sites but start work to ensure that planning processes are working so that people can start building aged care accommodation.

The main criticism levelled at the government related to the way planning processes were applied to different applications or ideas in relation to the provision of aged care. The committee has recommended that the ACT government look at its policies and procedures around the allocation of land for residential aged care and other forms of accommodation for the aged, review the current planning policies and possibly rewrite and streamline them, and work through concerns with the community.

We put forward a case study of what has been happening recently in Belconnen. This is an issue that has been much talked about in the media and that was much talked about in submissions made to us. We have one proposal for aged care development in Belconnen being rejected by the government but a government plan for aged care at a different site at Belconnen progressing quite quickly, even thought there are ongoing concerns about the use of that particular site. I am referring to section 87 on the Lake Ginninderra shoreline.

Through the case study of the Belconnen experience we tried to highlight some of the concerns put to the committee in relation to how planning is done for aged care accommodation. We are not saying yes or no to either of the proposals that have been put forward, but we are saying that it seems a different set of rules is being applied in each instance. So we are concerned that the planning principles are not being consistently applied and that, in fact, the planning principles need to be reworked. The planning principles set down by PALM and still being used by ACTPLA and the ACT government today could be used to rule out almost any development of aged care accommodation. New developments are limited because of the way they are written and presented. So we ask the government to seriously reconsider those planning guidelines.

There is no doubt that the ACT government will need to plan for the demographic change that is occurring now and will accelerate over the next 30 years. We have concerns over the capacity of current planning processes and the flexibility of those processes to adequately meet current and future demand. The committee is concerned that the planning and development application process may be somewhat arbitrary and not sufficiently clear to enable developers to proceed with their projects with certainty.

The committee is concerned that the lack of flexibility in the planning process has resulted in a lack of recognition for different types of aged care accommodation—specifically, retirement villages and independent living options. It is virtually impossible to find a site for aged care accommodation that satisfies the current guidelines, which means that there is always a capacity for the government to reject a proposal because it

does not fit the guidelines. As I have indicated, that is something the committee is very concerned about.

While it is possible to determine to some extent the demand for residential care, the extent of demand for a retirement village and other forms of independent living accommodation is less certain. So I think the government needs to be doing a lot of work if we are to meet the ongoing demand for aged care accommodation in the future.

We also ask the government to consolidate the way in which waiting lists are maintained. Individual aged care providers maintain their own waiting lists but the ACT government assesses whether people are eligible to go on those waiting lists. So there is a need for the government to more accurately assess the amount of current demand as well as the demand into the future. We ask the government to do that as well.

I would like to take the opportunity to thank all those in the community who put forward submissions and participated in the public hearings of the committee. We had a very wide-ranging discussion about where we are going in relation to aged care. I would like to thank the submitters for their insight and their thoughts about current issues in relation to government planning processes.

I would also like to thank members of the committee for the way that we were able to deliberate on this issue. I, of course, thank the secretariat staff for their ongoing ability to consolidate into a digestible format all of the different information that we received.

I commend this report to the Assembly and to the government. I know we are approaching the end of a term of the Assembly but the crisis facing us in relation to aged care is much bigger than just one term and it is much bigger than just one government. I hope that the recommendations we have put down are accepted in good faith. We need to move forward so that we can plan for aged care accommodation into the future. We need to have planning policies that do not undermine but support good ideas for aged care accommodation.

MRS DUNNE (10.41): As Ms Dundas said, this was a relatively short inquiry but a very important one in the climate that we have faced over the past three years. As we have drawn to the end of the term of this Assembly we have heard increasing anxiety expressed in the community about the lack of availability of aged care accommodation.

In putting together and conducting this inquiry, the planning and environment committee was very mindful of the constraints placed upon it, in as much as we are not the health committee, the social justice committee or anything like that. So we looked exclusively at the planning for provision of aged care in the physical land management sense.

We found that the current arrangements leave a lot to be desired. The clear message that came in submissions to us from aged care providers and from organisations concerned with the provision of services for the aged, such as COTA, is that at the moment there is no land bank, and in a sense nor should there be.

At the moment the government should be acting to activate and to work on progressing to completion every proposal currently before it. Even if we approved and built every proposal currently before the government, we would not meet the demand in the ACT

community. It is very hard to determine what that demand is and there are very mixed messages. But we do know, for instance, that somewhere between 400 and 500 people on waiting lists have been assessed by ACATs as in need of high care places. We do not have any indication of how many people in need of low-care assistance are on waiting lists for residential aged care accommodation. We heard in evidence that 700 people are on the waiting list for both high and low-care accommodation at the Sir Leslie Moreshead Home. There are 700 people in the ACT community who are waiting to get into Sir Leslie Moreshead Home, a 120-bed facility.

The clear message from the evidence that came before the planning and environment committee is that if we did everything currently being discussed in the public arena we would not meet the current demand. That means that it is incumbent upon us as legislators, as people responsible to and paid by the ACT community, to make these things happen. We cannot any longer afford to pick winners.

There has been considerable criticism in the Belconnen community, the community that I am closest to, about the lack of action in relation to aged accommodation in Belconnen. The community has put forward the view that they felt the government was trying to hose down all other proposals so that they might get the best possible advantage out of their proposed selling of block 87 in Belconnen.

There has been a whole lot of community angst about block 87 in Belconnen. While I understand and appreciate that, I also hear very loudly the message from the community—a message that I think was most ably and eloquently put forward by the Goodwin Homes when they said, "At the moment we need every block of land that is set aside for aged accommodation. We need everything." We are not seeing from this government action to make that happen.

We were talking about selling block 87 for aged accommodation long before this government came to office. Eventually we have seen the PA and recently there have been some expressions of interest. But we do not have any development guidelines and we do not have any lease and development conditions. We are at the very early stages of finding people who might be interested.

So after three years of talking about how important block 87 Belconnen is to the aged care equation, we have the very first tentative steps being taken towards making that happen. At the same time we have people in other areas of the community bursting a boiler—and I will speak later in the day about Calvary—to try to move their project forward.

There might be ideological reasons why we do not want private people in the market. One of the things that became very apparent to the committee is that there is almost no private participation in the provision of aged care in the ACT. Almost invariably it is the not-for-profit community organisations. Some people might say that is a good thing but I am not entirely sure it is, because there are different ways of doing it. As a result of this, basically retirement village facilities are almost entirely funded by loan and licence. People in the ACT do not get an opportunity to choose other models because of the skewed nature of accommodation providers in the ACT.

People have been looking at entering the market but their efforts have been stymied by the government. The clear message from the community, from the people actually out there at the coalface trying to provide services, is that we need to approve every current application and every one that is vaguely being thought about. Even if we do that we will not meet the demand, especially if you use the figure that was put to us by Sir Leslie Moreshead Homes that there are 700 people in need of this assistance.

The committee's report contains a range of recommendations. The committee has not opted to pick winners and say that the government should do this or that in preference to something else. In fact, essentially the committee says that the government needs to do everything that it is currently doing and it needs to do it quicker. Recommendation 1 states:

> In recognition of the clear evidence from across the community that there are insufficient residential aged care places, the Committee recommends that the Government expedite the planning process for all sites currently under consideration.

Mr Speaker, the committee means all sites. That is a challenge to this government. Because what is proposed does not quite fit their view of the world, in many cases the government has been thwarting the process by applying the guidelines relating to the siting of aged care accommodation.

Ms Dundas rightly said that the clear evidence before the committee was that if we apply the guidelines in their strictest form it would be absolutely impossible to find a suitable block of land in the ACT on which to build any aged care accommodation. Just think of it: the guidelines say that aged care accommodation must be near to shops and medical centres and main roads; and not only must they be quiet but there must be no noise. That is a contradiction. If you are going to be near a main road so that you can have access to public transport and near shops so you can have access to facilities within easy walking distance, you cannot meet the other criterion that it has to be quiet. The criteria are set one against the other in a way that makes it absolutely impossible to meet the guidelines.

As a result, the government selectively uses the guidelines to rule some things out while the same guidelines do not apply to their pet projects. The guidelines do not apply to section 87 Belconnen. Section 87 fails most of the guidelines. In addition to that, the Calvary project, which has been championed by many in this place, does not meet the guidelines. What you have is people exercising discretion to rule out one thing because it is not flavour of the month and ruling in others because the government wants them.

There has to be an end to this. There has to be rationality in planning for aged care accommodation because the figures speak for themselves. The figures indicate that the ageing of the ACT population is ongoing. In our lifetime and in the lifetime of most of our children we will see an increased ageing of the population and planning for this must be addressed. We will also see a consistent change in household structures, with an increasing number of people living in single-person households, and this will have a big impact on our planning.

Most of these issues have been addressed in a very flawed way under the current government. Today has to mark the beginning of a new day where we put aside our political differences and say that if we believe that the population is ageing at such a rate we must act now in concert with one another to meet the current unmet demand. We must never again fall into the situation where we have a crisis in aged care accommodation—not just a crisis in respect of high and acute care facilities of the sort that the Commonwealth government contributes to but also a crisis in the provision of appropriate aged care accommodation for a whole range of people in their retirement years.

We have to remember that about only 10 per cent of the population ever avails themselves of a nursing home bed. Most Australians do not die in nursing homes: most die in the home that they choose. What we need to do is create a situation where people willingly and comfortably move from one level of accommodation to another appropriate to their age. They should not be in a situation where, because of disincentives to moving, they rattle around in a great big house that used to accommodate four or five kids, with a great big garden that they cannot manage and with their asset diminishing because they cannot continue to maintain it.

They should be able to move into accommodation where they do not have to worry about maintenance and where even when a light bulb blows somebody will come and replace it for them. That is the sort of accommodation that they should be able to move into. It does not mean that they are weak and infirm. It means that people are able to make adjustments so that they can have the best quality of life—a quality of life that is not ground down by worrying about your asset depreciating around you because you cannot maintain it the way you would like to.

This is not a large report and it will not be difficult for members opposite to read. The nine recommendations are very important. They basically represent the views of people in the community who recognise the dire crisis that we are in. They recognise that something needs to be done, not tomorrow but now.

MR HARGREAVES (10.55): Mr Speaker, this report says it pretty much how it is. It gives the good news and the bad news. It recognises where people have done some work, and recognises where the work needs to be done.

I want to take issue with a couple of things that Mrs Dunne said. She said the government in fact was thwarting the process because it does not conform to their view of the world. She said that the government selectively uses the guidelines. I take umbrage at the implication that some people within the government service would use the processes to deliberately stop something. It does not happen, and Mrs Dunne should be ashamed of herself for suggesting that that would be the case.

Certainly you will find some decision-making processes that are a bit hard to fathom. Sometimes you see the application of guidelines and regulations in what appears to be a contradictory fashion. And that may very well be the case. There is some inconsistency between the treatment of the Calvary site, the Belconnen golf course site and section 87.

We need to be aware, though, that it is appalling to suggest by innuendo and implication that there are public servants out there thwarting the process or selectively using the guidelines because something does not conform with the government's view. This denigrates not only this place but also the committee process and Mrs Dunne. She stands condemned for what she has said.

I did not hear Mrs Dunne listing, for example, the government's initiatives. She said, "We're in dire circumstances." The government in fact has recognised this. It recognised in its evidence that it has a commitment to the dire circumstances that Mrs Dunne talks about. If members look at pages 26 and 27 of the report they will get an idea of the attitude of ACTPLA and the Chief Minister's Department. For example, paragraph 3.22 contains the following extract of what was said by the CMD:

> Quite a lot of work has been done by the Land Development Agency to understand what the market wants on a site, especially section 87. We have spoken to providers. We have had meetings with the Commonwealth. Seminars have been held at which we have tried to understand where we think the market is at and where the market is actually going to be going, so when a block of land is released we put parameters around it and actually allow for the best form of development to meet the needs of the aged in Canberra.

That does not sound to me as though somebody is thwarting the process. It sounds to me as though something is being done.

I refer members to pages 15 and 16 of the report. This is a government that Mrs Dunne would have us believe is sitting on its hands and not paying appropriate attention to population growth. At those pages the report talks about the provision of low cost accommodation for older Canberrans through the construction of 82 aged persons units in 2004-05, to be located in the older suburbs, and $1.5 million worth of expenditure on modification to properties for new and existing tenants. It talks about lease offers having been made to the Little Company of Mary for a site in Bruce that will provide a 100-bed residential care facility and 80 independent living units; to Southern Cross Care for a site to provide a 70-bed residential care facility and 14 independent living units; and to Uniting Care at Mirinjani for a site in Weston to provide a 32-bed residential facility. Forty dwellings will be constructed on the Fadden/Gowrie site near Colin Hannah Park. Then we have the planning and consultation in respect of sites in Greenway, Nicholls and Gordon; planning studies on sites in Monash and Hughes are well advanced; and then, of course, we have got section 87 in Belconnen.

Mr Speaker, we have to acknowledge that there are complex arrangements and relationships between the Commonwealth and the ACT. There is a revolving door situation in that you cannot have the allocation unless you have got the land and you cannot get the land until you have got the allocation. That is being addressed.

I did not hear Mrs Dunne in her criticisms of and public utterances about section 87 talk about the fact that the Commonwealth has put a caveat on section 87. The Commonwealth is saying that you can have aged care beds so long as they go on section 87.

I think we need to take a bit of a breath here. There is nobody in this place who does not accept that we have a growing problem and that we need to address that problem with some urgency. I do not think there is anybody here who genuinely misunderstands the complex relationships between the ACT and the Commonwealth. But let us be absolutely fair when we talk about this issue and recognise the steps that are being taken.

It is not true to suggest that nothing is being done. It is not true to suggest that ACTPLA officers are selectively using guidelines. It is not fair to suggest that anybody is thwarting any process. The government's signalled intention to create a land bank will in fact go a long way towards addressing this issue. If such a land bank exists, the Commonwealth will not have an opportunity to continue the revolving door process. The land will be available, the allocations will be able to be made and then the providers can get on and build their services. It needs to be said that this government is taking the initiative in providing that particular opportunity to stop the revolving door process.

As a person in this place who is decidedly grey, I have a vested interest in this matter. I have older relatives who also have a vested interest. I urge the Assembly to recognise that our public housing system addresses the needs of the elderly from an independent living perspective. We do particularly well there. We need to recognise that this is an issue of great importance in the minds of our planners in both the Land Development Agency and ACTPLA itself.

I defy any member to step outside this chamber and say in public that the officers there do not regard this as a particularly serious issue and that they are not doing something about it. I would like them to tell me the names of those people who are thwarting this process, who are selectively using the guidelines. If any member chose to do so, those people would take great umbrage and visit their solicitor.

I think this is a good report. As I mentioned earlier, it actually says it how it is. I commend the report to the Assembly and I urge members not to use older people's accommodation issue in this town as a method for scoring cheap political points. If we do not work together on this issue, if we start using this to compete for points, nothing will get done—nothing will get done because those opposite will make it more difficult for the bureaucrats to get on and do their job. I commend this report to the Assembly.

Question resolved in the affirmative.

Planning and Environment—Standing Committee
Report 35

MS DUNDAS (11.05): I present the following report:

> Planning and Environment—Standing Committee—Report 35—*Variation to the Territory Plan No 241—Aged care facility, additional urban open space and expansion of Gossan Hill Nature Park, South Bruce*, dated 23 August 2004, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MS DUNDAS: I move:

That the report be authorised for publication.

Question resolved in the affirmative.

MS DUNDAS: I move:

That the report be noted.

Mr Speaker, this quite simple report looks at a variation to the territory plan that the government wishes to make in respect of some land near Gossan Hill in South Bruce. There is a map at the back of the report that members might look at in order to get a better idea of where this block of land is located.

The variation relates specifically to a site in respect of which a direct grant has been sought from the ACT government for an aged care development. It is proposed to create a new block for this development by relocating Jaeger Circuit in Bruce, along with services and the existing shared path to the south towards Belconnen Way, and to consolidate blocks 1, 2 and 3 of section 21, block 1 and part block 4 of section 4 Bruce and the portion of road to be closed into one parcel of land, which will then become block 18 section 4 Bruce. The remainder of part block 4 section 4 will be incorporated into the Canberra Nature Park and the remainder of block 3 section 21 will be converted from residential to urban open space land use policy.

This particular area of land has been under discussion for quite a while. The Standing Committee on Planning and Urban Services of the Fourth Assembly also undertook a brief inquiry into this section of land and made some recommendations that this committee is very well aware of. So, considering the timeframe available to us and the committee contributions that have already been made, the committee was able to report quite quickly and succinctly on this matter. We note the necessity for the ACT to respond quickly and effectively to any proposed development for accommodation for the aged, and we also note that this development proposal has been subject to consideration for some time.

The committee has decided to support variation 241 to the territory plan. We note that there were issues that arose out of the public consultation process undertaken by ACTPLA, but most of those issues relate not to the change in the land use policy but reflect greater concerns about the implications flowing from the changes to the land use policy. The committee recognised that these impacts should be addressed in the development application phase and urges the government to make sure that that is the case.

However, the committee does have some ongoing concerns in relation to the process that has been pursued with some draft variations. For example, on Thursday 12 August this year, the Chief Minister announced the development of the 100-bed aged care facility at

Bruce prior to any consideration of variation 241 by the committee and prior to the approval of the development itself by the headquarters of the Little Company of Mary.

The committee has again raised the issue that we are concerned that the government is treating the committee consideration phase as a rubber-stamping process and we are again disappointed that the committee's work has been pre-empted by government announcements. As such, I would like to quote from report No 5 of the Standing Committee on Planning and Environment, where we said:

> The Committee believes that the appropriate way to handle such developments is to complete the variation of the territory plan earlier rather than later in the process. This would enable the proposed variation to be considered on its merits without becoming confused with the detailed proposals of a specific developer. Issues such as alternative uses for the land, the areas to be preserved for community use, recreational space and the number of car parking spaces could be resolved in principle. It would also enable potential developers to have a clear idea of the requirements placed on the site throughout the process.

We have had to repeat in our 35th report to the Assembly what we said in our fifth report. I guess we are disappointed that earlier comments that we made in relation to committee processes were not heeded by the government. I hope that the government is listening to what I am saying today and that it will take those comments into consideration in its future dealings with committees.

The committee made three recommendations in relation to draft variation 241. One was that the variation proceed. But we also ask that the government ensure that there is adequate access for maintenance, fire mitigation and emergency ingress and egress onto the existing Haydon Drive access stub and Gossan Hill so that emergency access onto that part of the nature park can be maintained as the new development takes place. Concerns were raised by submitters about the need for adequate access, especially with the development of an aged care facility on that site.

We also ask that the ACT government ensure that future developments follow a more desirable process of dealing with detailed land use issues at the early stage of the development proposal rather than at a later stage. I commend this report to the Assembly.

MRS DUNNE (11.11): Mr Speaker, from the point of view of my constituency in Belconnen, this is a very important variation to the territory plan and one—and Ms Dundas alluded to this—that is much overdue. The planning and environment committee has acted quite expeditiously on this reference, considering that the variation came to us only last Thursday or perhaps Wednesday.

Mindful of the heavy requirement upon us in relation to solving the impasse over the aged care facility proposed by the Little Company of Mary, I think the committee all agreed that it was absolutely vital that we dealt with this in an expeditious way. Now that the report has been presented to the Assembly, it is our hope that the government will respond in such a way that this variation can be debated and finalised this week. If it is not finalised by Thursday, the variation will hang in limbo until another five or six sitting days pass and that might take us well into 2005. We cannot afford for that to happen.

It is my hope and the hope of the Liberal opposition that the government will respond to this in the course of the next two days so that on Thursday, during Assembly business, we can have a discussion to approve this variation, which will at last give some certainty to the Little Company of Mary.

But that, of course, will not be the end of the road for the planning approval process for the Little Company of Mary. I have been on the record on a number of occasions as being extremely critical of the delays that the Little Company of Mary has experienced in getting planning approval. My understanding is that if they had known at the outset just how convoluted this process would be they may not have started down this path and we would not be soon the recipients of their high quality care and accommodation.

This is a very important project for the elderly of the ACT and the elderly of Belconnen in particular. It has not been an easy path and I remain critical of the inaction of the government. This variation could have been before us very much sooner and we should not be dealing with it in the dying breaths of the Legislative Assembly. But I commend to members of the Assembly the report of the planning and environment committee and look forward to an expeditious response from the government.

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

Public Accounts—Standing Committee
Report 11

MR SMYTH (Leader of the Opposition) (11.15): I present the following report:

> Public Accounts—Standing Committee—Report 11—*The General Agreement on Trade in Services (GATS) with special reference to the Australian Capital Territory*, dated 20 August 2004, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MR SMYTH: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR SMYTH: I move:

> That the report be noted.

Mr Speaker, this report is about a very topical subject, namely, the General Agreement on Trade in Services. The period in which the committee looked at this issue covered the federal government's negotiations with the United States government on the Australia-United States Free Trade Agreement.

I think that it would be fair to say that the inquiry was a very interesting one that covered very complex issues. We found that the people and organisations that expressed an interest in the issue had a very intense interest and very intense purposes in coming to the committee to raise their concerns with the process that was going on.

The committee has put together three recommendations, some of which certainly have been overtaken by time. The recommendations focus on important issues, namely, the dispute resolution process and appropriate research and early consultation. There is a reference to the Australian-United States agreement as well.

Coming out of the process for this inquiry is the difficulty that exists for committees to inquire into these sorts of treaties. For the interest of members, all treaties notified by the federal government come to the committee for consideration and they often come with a very short timeframe in which to make a decision. It is a difficulty that often the federal parliament has as well that these treaties come up at the end of negotiation processes and then committees are set up to inquire into them, but often there is not a great deal of time for them to make inquiries.

Recommendation 2 is that the ACT government speak to the Commonwealth about making sure that there is more comprehensive independent research into, particularly, the social and economic impacts of proposed trade agreements and that more thorough consultation be undertaken. We believe that that should start earlier in the process. The Commonwealth, in evidence to the committee, listed the amount of consultation it had done. The Commonwealth was of the belief that it was extensive, but other groups had a contrary view. As we all know, the difficulty with consultation is that what you get out of it is often in the eye of the beholder.

Firstly, we would like the ACT government to speak with the Commonwealth about process. The second part of recommendation 2 looks at the ACT government's process for informing members of the Assembly as to where discussions are at, because, unless the committee asks for that detail, often it is not made public. It recommends that there be a process for informing the ACT public about treaties and how they affect them. It is a difficult issue. Often the timeframes do not allow for that. Perhaps there is an issue in that as well.

The third recommendation looks at the Australia-United States Free Trade Agreement. Unfortunately, in this case, we have certainly been overtaken by the process. AFTINET raised a number of concerns. The committee acknowledged the view that it holds and suggested that the Commonwealth take the concerns raised into consideration. We did not offer an opinion as to whether we agreed with all of them, but they are concerns that need to be addressed. In that regard, recommendation 3 asks the ACT government to communicate the concerns raised about the Australia-United States Free Trade Agreement to the Commonwealth urgently. Unfortunately, we have now run out of time.

The report calls on the ACT government to do a few things in regard to its relationship and negotiations with the Commonwealth and also to do a few things in regard to informing this place and the local population about what is happening with treaties that really do affect them. On behalf of the committee, I thank the people and organisations that made submissions, particularly those that appeared as witnesses and gave evidence.

The discussions were very interesting to the members of the committee. The inquiry took some time and the members of the committee worked hard on it. I thank the members for their input. In particular, I thank the secretary for putting a difficult report together in the excellent way that she has.

MS TUCKER (11.20): As one of the members of the committee, I would like to speak to this report. We were asked to inquire into the implications of GATS for governance in the ACT and the impact on regulation, funding and the provision of essential services. The committee also looked briefly, as Mr Smyth said, at the free trade agreement between Australia and the United States and looked generally at the process for other bilateral agreements.

As members are aware, GATS is a multilateral trade agreement, agreed to in 1995, which extends trade rules to the service sectors. It covers 12 service sectors: business; communication; construction and engineering; distribution; education; environment; financial; health; recreational, cultural and sporting; tourism and travel; transport; and a residual "other" category. So it is very broad ranging. The overwhelming view of the majority of the submissions—in fact, all of them, except for the one from the federal government—was that we need to be looking much more carefully at the implications of these sorts of agreements.

Just to make a point on that, the committee looked at the question of the environment and took as an example the supply of water. One of the submitters made the point that the effect of deregulating the management of water would be that the supply of water, a substance which is essential to human life and which is in crisis globally, would become subject to the rules of GATS, which operates on a market basis. The submission continued:

> This change is sought to be made in a global context in which 10 major water multinational corporations dominate the market and exercise great influence.
>
> The supply of water in Australia, as elsewhere, involves the weighing of public policy objectives, including the need to ensure access to all and the need to conserve the resource. Currently in Australia a robust public debate is under way as to the appropriate and fair means of regulating water supply, particularly with the drought affecting eastern and southern Australia. A broadening of the definition of environmental services to bring water for human use within GATS would dramatically changed the balance of interests in this important area without public debate as to the merits of such a change.

Other examples were given as well in the section of the report on sustainability. The general feeling that the committee expressed on this section was that it believed that the possible social and environmental impact of the areas included in Australia's member commitments needs further consideration.

A number of the submissions drew attention to particular case studies. One example was of Tasmania's salmon industry, which was negatively affected economically and environmentally by Canada's decision to use the WTO dispute resolution process to challenge Australia's ban on the importation of Atlantic salmon. Worsening the situation was the fact that the Tasmanian government could not resolve the issue because, under the rules, the matter could only be settled through nation-to-nation negotiation. The

Tasmanian salmon example raises important questions about the adverse effect on environmental sustainability of areas included in Australia's commitment schedule that will be subject to trade liberalisation.

The committee also made the point that the impact on social sustainability has to be given much closer scrutiny as well. We took another example there, once again related to water, as put to the committee by the Australian Consumers Association in its submission, that is, that as a result of the liberalisation of water services in Bolivia the price of water increased significantly, making it unaffordable for poorer people. In that environment there were bloody confrontations between the people and the government. In other countries consumer groups discovered that foreign owned, underregulated private monopolies, with little or no improvement in service, replaced inefficient government monopolies.

The point made very clearly in this report is that we have to be much more careful about what we are actually doing, because once we have made a commitment to liberalise particular service areas we are effectively binding ourselves to the results of that, regardless of the negative social or environmental outcomes, as the consequences are legal action or monetary penalty. As I just explained with the salmon example, it is very difficult to deal with any kind of dispute. One of the reasons for that, of course, is that, because there is no social or environmental analysis, or even reasonable economic analysis in lots of ways, brought into any of the process, you do not actually have the opportunity to raise these legitimate public policy concerns. That is why the committee made its recommendation about the dispute settlement process, a very important recommendation.

As Mr Smyth said, the committee also looked briefly at the Australia-United States Free Trade Agreement. We have acknowledged in the report the important concerns raised by AFTINET. AFTINET urged the federal government to observe a number of items in all proposed trade negotiations. The first was the need to cease any negotiations that could endanger important social policies. It was made clear to the committee in evidence that there has been no testing of the claims of the Australian government that important essential services will be protected. That has not been tested.

It was recommended that the federal government commission comprehensive independent research into both the social and economic impacts of all proposed trade agreements, including regional impacts, and that it be published for public debate before negotiations begin; ensure that essential public services like health, education and water and health and social policies like access to medicines, food labelling and quarantine are excluded from all trade negotiations; ensure that cultural and audiovisual services are excluded from all trade negotiations; and ensure that all trade agreements are debated and decided by parliament, not just by cabinet.

Basically, we have reflected those concerns in our recommendations. Interestingly, the Senate committee's report reflects pretty much the concerns we are reflecting in this report. It was interesting to look at the recommendations of the Labor senators regarding the free trade agreement with the United States. As I was looking at their 42 recommendations I was thinking how ironic it was that we have had such a lot of debate about pharmaceutical benefits, which we were told originally by the government

were not on the table at all, but it had to back away from that when it became really obvious to everyone in Australia that they were definitely on the table.

Then, of course, we had reassurances and were told not to worry about that. Labor did at least pick up that particular concern that came out of the Senate report. It also picked up the cultural identity issues. Unfortunately, it neglected to pick up really important implications in terms of copyright, which I think is as important for our cultural identity if copyright is actually to be restricted in the way that it will be, particularly for our learning institutions. I think that the Senate report is quite disappointing in lots of way, but it is interesting reading.

Aden Ridgeway, in his dissenting report, gave a good analysis of what was missed, put aside or ignored by the Labor senators. The question of consultation has come up in both committee reports—governance questions and democracy questions—in terms of the fact that it is for debate only by national governments. Therefore, the responsibility is very heavily on the federal government to ensure that state and territory governments and arguably local councils have the opportunity to be involved early on and that any debate is informed by a social and environmental analysis. That is a really important point that our committee made and the Senate committee made as well.

Also, it is interesting that if you look at the work that has been done and the analysis that has been done on this subject by economists you will find that they do not agree that these kinds of deals are in the economic interests of Australia. There was very interesting evidence to the Senate committee on that. There is a wide divergence of views by economists on the economic benefits of these deals but, once again, the real concern is that once we are tied into them we are tied into them regardless of the social, environmental or economic implications.

Mr Smyth said that we are a bit late in some ways because of what has happened. I totally agree with that, but I think that we are making a really important statement at the territory level about these sorts of trade agreements by saying, "Yes, it affects us. Yes, we want to be involved. No, we do not think the process is good enough at this point in time and we need to be much more careful and rigorous in our analysis of the implications."

Also, of course, bilateral agreements undermine multilateral ones. So, if we have multilateral agreements that take into account these important public policy effects, there is the potential for jurisdictional issues between the multilateral ones and the bilateral ones, as there is, as came out in our report, between different bilateral agreements, such as ours with New Zealand. How does favoured treatment of the United States fit with the agreement with New Zealand? It is all quite sloppy in its workings in lots of ways, which came out through the committee's work as well.

I thank members of the committee for their contribution to this report and the secretary of the committee. In particular, I thank Brendan Smyth for his work as chair of this committee. I have worked with him as chair of this committee for the last three years and on the health committee and I think that he approaches the job with an open mind and is prepared to work in committees with the evidence. I really respect that and appreciate it because I know that it means that he will not necessarily come out with a point of view that the party he represents wants and that he is respectful of the committee process.

I think that we have come out with a good report that puts the evidence before this place and the people of the ACT.

MS MacDONALD (11.33) I will be incredibly brief. I do not want to add any more to what Mr Smyth and Ms Tucker have already said on GATS. I just want to thank the committee secretary for all her work on this issue. It was a difficult one for all members of the committee to get their minds across. I know that Ms Stephanie Mikac made it a lot easier for us to do it and worked incredibly hard on this report. She was also working on many other reports at the time. I would just like to put on the record my appreciation of Stephanie Mikac's work on the GATS report.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (11.33): I have just thumbed through the report. Mr Smyth introduced somewhere along the line a recommendation that the government should inform the people of the ACT. I do not see that that is part of the report or the recommendations, Mr Smyth.

The recommendations are, effectively, that we should communicate with the Commonwealth. Provided the members are happy to have their names on the report, I am very happy to forward a copy of this report to the Minister for Trade and the shadow minister for trade.

Question resolved in the affirmative.

Public Accounts—Standing Committee
Report 12

MR SMYTH (Leader of the Opposition) (11.34): I present the following report:

> Public Accounts—Standing Committee—Report 13—*Review of Auditor-General's Report No 1 of 2003: Effectiveness of annual reporting*, dated 20 August 2004, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MR SMYTH: I move.

> That the report be authorised for publication.

Question resolved in the affirmative.

MR SMYTH: I move:

> That the report be noted.

Mr Speaker, this report is about the Auditor-General's report on the effectiveness of annual reporting. I suspect that decades from now standing committees of this place will

still be debating the effectiveness of annual reports and what can be done to make them better.

The Auditor-General made 38 suggestions. To its credit, the government has accepted most of them. The government has taken on board some, with 29 being either agreed to or agreed to in principle, and disagreed with nine as it felt that the Auditor-General did not quite get it right. The committee, in looking through the suggestions, has backed the government on some of them. We have agreed with the government on six of the recommendations that the government felt should not be agreed to, but have supported the Auditor-General on three of her recommendations as we think that they are reasonably important. So, well done, Treasurer!

The first of those three recommendations relates to who should be responsible for approving the annual reports directions and the second to quality assurance. The third recommendation asks the government to reconsider suggestions 3 and 13. Working through the suggestions, the approach of the auditor in this regard is interesting in that, instead of making recommendations, she has in this case made suggestions.

The first one that the government disagrees with is suggestion 1, whereby the auditor suggested that the Assembly give consideration to removing any ambiguity that exists between a number of acts. The government did not agree with that. The committee accepts, however, that there are ambiguities between the relevant acts and recommends that the government undertake a review of these acts to ensure that they are consistent in their application.

The next suggestion that the government disagreed with was suggestion 3. The auditor suggested that the act be amended to cover whole-of-government reporting. The government disagreed, saying that assessment of the strategic direction of governments is more appropriately addressed as part of the election cycle. The committee believes that there is some merit in what the auditor was suggesting.

In suggestion 5 the auditor suggested that the Standing Committee on Public Accounts have responsibility for approving the annual report directions. The government, oddly enough, disagreed. The committee agrees with the government at this time. It has certainly been the case over the years that suggestions have been made by various committees—not just the public accounts committee but also annual reports committees—that have not been acted upon by this government and, I suspect, previous governments as well. In recommendation 1 the committee suggested that the Standing Committee on Public Accounts of the Sixth Assembly keep a watching brief on this issue and that, if the annual reports do not improve, it might be worth making the PAC the approving body.

The next suggestion was suggestion 13. The auditor suggested that agencies be required to subject their annual reports to systematic assurance prior to their being published. The problem is that the annual reports all have to be tabled by the end of September and, given the tight timeframe, to add another layer to the process would, we believe, be inappropriate. In this case the committee sympathised with the Auditor-General's concerns but backed the government. It suggested instead that, rather than just not doing anything, the government might initiate a trial of independent quality assurance of annual reports prior to their publication. So they might check one or two of the reports to see

whether the quality and the standard of the reports are coming up and use that as a benchmark, rather than just forcing all departments to go through the process.

In suggestion 16, the auditor suggested that the directions be amended to require agencies to disclose in their annual reports the discretionary quasi-judicial administrative powers of any statutory office holders. The government disagreed, saying that it was an amazingly big issue and the scope of the recommendation is so broad that potentially it would capture all discretionary decisions and would probably mean naming two-thirds of the public sector. The committee agreed with the government that the suggestion was simply too broad in that vein.

Suggestion 24 was that the directions be amended to require agencies to include in their annual reports the financial statements of all entities over which they have control. The government disagreed, saying that those entities publish their own annual reports. The committee again agreed with the government in that regard, but suggested that there be appropriate cross-referencing in the annual reports to all entities so that people who wanted to follow the trail could do so easily.

I turn to suggestion 35. The auditor suggested that the Chief Minister's Department should decide whether chief executives may annex to their annual reports the reports of public authorities that fall outside the scope of the act. The government disagreed with that. The committee accepts that chief executives should be responsible for their agencies in the manner in which they report on those matters.

The last suggestion was suggestion 37, which was that consideration be given to the preparation of model annual reports as a practical aid. The government disagreed, saying that it would require quite large resources to do so. The committee agreed that the annual report directions should identify matters that should be included in the annual reports, but did agree with the government that the chief executives must be responsible for the way in which information is presented. These reports are from departments to their ministers. I think the intent of the Auditor-General's suggestion could be supported. Again, we would suggest that the next public accounts committee keep a watching brief on that.

The committee has made three simple recommendations. The first is that the public accounts committee of the Sixth Assembly keep a watching brief. The second recommendation is that there should be some trial of independent quality assurance. The third one asks the government to reconsider suggestions 3 and 13, to which it has disagreed.

I thank members for their participation in the report and the secretary for putting the report together and the way in which she supports the committee. She has again done a good job.

MS MacDONALD (11.42): I would like to make a couple of brief comments. As Mr Smyth has said, this report has three recommendations. The Auditor-General made 38 suggestions. The government did not agree with a few of those suggestions and the committee, for the most part, agreed with the government's position on those things.

The matter I particularly want to mention is recommendation 1. The Auditor-General suggested that the public accounts committee have responsibility for approving the annual reports directions. The committee was of the view and this was not its role, so it agreed with the government on that one and said that it should remain as part of the executive's responsibilities.

As would be well known, the issue here is that the committee has the right of input with regard to approving the directions. That was a change that went through that I appreciate as a member of the public accounts committee. I am sure that future public accounts committees will find it appropriate to be involved in that, but it is beyond our purview to approve or disapprove the final directions that go out to government departments as we do not have control over the government departments.

The committee also asked the government to revisit suggestions 3 and 13 of the report. Suggestion 3 was that the act be amended to provide for whole-of-government reporting. It was suggested that such a report might be prepared by the Chief Minister and presented to the Legislative Assembly and that the report could give an aggregated account of the operations of the public sector during the reporting period. The government disagreed with that suggestion.

Suggestion 13 was that agencies be required to subject their annual reports to a systematic assurance process prior to their being published. We made a recommendation about that as well—recommendation 2. I do not think that these are big issues that the government would have major problems with revisiting, so I have no issue with those suggestions being revisited by the government.

In regard to this report and the next report which is about to come out, I would like to thank Stephanie Mikac, the secretary of the committee, for her work on these reports. I appreciate everything that she put into them. She has done an excellent job in my time on the committee.

Question resolved in the affirmative.

Public Accounts—Standing Committee
Report 13

MR SMYTH (Leader of the Opposition) (11.46): I present the following report:

> Public Accounts—Standing Committee—Report 13—*Review of Auditor-General's Report No 4 of 2003: Management of fraud and corruption prevention in the public sector*, dated 20 August 2004, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MR SMYTH: I move:

That the report be authorised for publication.

Question resolved in the affirmative.

MR SMYTH: I move:

That the report be noted.

Mr Speaker, this report of the Standing Committee on Public Accounts deals with the Auditor-General's report concerning the management of fraud and corruption prevention in the public sector. Again, the Auditor-General has taken the interesting path of making suggestions rather than recommendations and has made 34 suggestions in this case.

The government has accepted 31 of the suggestions and disagreed with just three of them. Of those three, the committee makes no comment on one but has chosen to side with the Auditor-General on the other two. As a consequence, we have made two recommendations in relation to those two suggestions that the government has not taken up.

The first suggestion that the government disagreed with was suggestion 5. The auditor suggested that suitably qualified or experienced personnel should be appointed with specific accountabilities for the whole-of-government implementation of the integrity framework. The government disagreed, saying that that was the role of the Chief Minister's Department. The committee has agreed with the government, saying that it believes that the government's commitment to ensuring the whole-of-government implementation of an integrity framework has to be supported by the employment of suitably qualified or experienced staff.

Sorry, Mr Speaker, I have skipped a suggestion. In fact, the government disagreed with suggestion 1. In suggestion 1 the auditor recommended that the Public Sector Management Act be looked at in a wider context. The government disagreed with that, saying that it thought that it was appropriate to deal with it in a piece-by-piece way, amending sections as required. The auditor reckons that that approach does not give the best outcome. In this case, the committee has agreed with the auditor and suggested in recommendation 1 that the Public Sector Management Act be amended to legislate for the conduct of fraud and corruption risk assessment and prevention treatments.

I have already done the second suggestion. The third suggestion was suggestion 12. The auditor suggested that a summary actually quantifying the extent and cost of identified cases of fraud and corruption in the public service should be collated and included in the Commissioner for Public Administration's annual reports, to give an overall view of what was happening across the public sector. The government disagreed, saying that the information was already provided in the agencies' annual reports.

In this case, the committee agreed again with the Auditor-General, saying that if you really want to get the full picture and if you are truly interested in accountability and transparency, you should not be afraid to publish the entire picture in one place. Recommendation 2 deals with that. It states that the Commissioner for Public

Administration should include in the annual state of the public service report a summary of the extent and cost of fraud and corruption within the public service.

With those two recommendations for the government to consider, I commend the report to the Assembly. I thank members for their participation in the discussion of the issue, which is an important one. I close by thanking the secretary of the committee for the way in which she has supported the committee and the way in which the report has been presented.

Question resolved in the affirmative.

Legal Affairs—Standing Committee
Scrutiny report 56

MR STEFANIAK (11.51): I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 56, dated 24 August 2004, together with the relevant minutes of proceedings

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

Leave granted.

MR STEFANIAK: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

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

Leave granted.

MR STEFANIAK: Mr Speaker, scrutiny report 56 contains the committee's comments on two bills, 13 pieces of subordinate legislation and two government responses. I commend the report to the Assembly.

Given that I do not think the government is actually introducing any more legislation—I would certainly hope not—for the term of this Assembly, I would just like to take the opportunity to thank, firstly, the government for their sometimes prompt responses to the various things we raised and various issues we raised. And it is good to see in the responses coming back that they actually take note of areas raised by the scrutiny committee.

There are still a number of concerns, which I am not going to go over—I do not want to speak for very long—and a number of problems that keep recurring which the committee points out to the government. We are probably still not overly happy with the lack of response to that. Certainly I would commend to whomever is the government next time to take up those matters. Generally we had a pretty reasonable response, I think, most of

the time to quite a lot of the stuff we actually set on to the government and indeed to private members as well in relation to their bills.

I thank our legal adviser. He has provided wonderful assistance to the committee and it has been an absolute pleasure working with him. It has also been a pleasure working with the secretariat staff who have assisted us, including the now Clerk. He has handed over to his deputy, Max. Welcome aboard, Max. It is great to see the support we receive from the secretariat in relation to the committee.

Finally I thank my colleagues John Hargreaves and Kerrie Tucker for their diligent approach to these issues. It was a pleasure not only being associated with them on the committee but also to attend the scrutiny of bills meeting we had in Hobart in February 2003. Whoever is on the scrutiny committee next year will be hosting a conference early next year. That no doubt will be a very interesting conference.

The role of the scrutiny committee has become even more relevant by way of statute now in terms of Mr Stanhope's Human Rights Act. My personal opinion of that act is well known. I am not going to go into that. Needless to say, that increases, I think, the role and scope of the committee. The committee has actually been very mindful of those types of issues, especially through the various reports we have been bringing down during this Assembly, on rights issues not only in Australia but also around the world. A considerable amount of case law has actually been established in other countries.

We hope the reports we have provided to the Assembly have been of use to Assembly members. I thank everyone involved with the committee for their diligence and assistance this year. It has been a pleasure chairing the committee.

MR HARGREAVES: I seek leave to make a statement.

Leave granted.

MR HARGREAVES (11.55): I rise to support the comments made by the chairman of the Standing Committee on Legal Affairs acting in the role of a scrutiny of bills and subordinate legislation committee—a mouthful if ever there was one. I would just urge succeeding assemblies in fact to consider whether or not it is appropriate to have those two committees being combined or whether they need to be separated.

I would like to express my appreciation to my colleagues on the committee. Mr Stefaniak is chair. It has been a very easy process to go through committee meetings during the life of this Assembly with Mr Stefaniak in the chair. I thank Ms Tucker for her contribution. I know it has been a very steep learning curve, Ms Tucker, notwithstanding the length of service here because I do not think there was a particularly deep understanding of the role of the scrutiny of bills and subordinate legislation committee. Indeed I do not know whether that understanding on the part of Assembly members is all that deep. You soon get to know people you have seen on the committee.

I think it is important that we recognise, as Mr Stefaniak has done, the role that Peter Bayne has had in the committee in both of the two Assemblies that I have been a member. He actually performs a couple of roles. The first one is of course to advise us on the content of bills and subordinate legislation, but also he has made a very significant

contribution to the conferences, which the committee has attended over the years, on subordinate legislation in particular. He is recognised as a fair authority on these matters and it needs to be recognised that he will be the repository of corporate knowledge.

So I would urge the next government or the next Assembly in fact to retain his services or to find someone as eminent because there is always a danger when you have the change of membership that we will have in the Assembly that we will lose a certain amount of corporate memory. Mr Stefaniak would remember, when he came along—it was some years between his original membership of the committee and then his renewed membership of it—the gap that occurred in that period.

I would also like to express my appreciation to Tom Duncan and the late Celia Harsdorf for their contribution in the earlier stages of this Assembly and in the previous one. Tom's advice was invaluable. I think it needs to be said publicly that Celia Harsdorf, in fact, took on a role which was largely unsung, and that was as the person who examined subordinate legislation for the infringement of people's rights and liberties—a boring task if ever you could invent one—and she did it with an enormous amount of skill. When she left, Anne Shannon came on and has done, I think, a sterling job—a very great job indeed.

Thanks to Max Kiermaier—unfortunately a St Kilda supporter, but nobody's perfect. However, he seems to think that this is going to be a repeat of 1966—the year of the saint. We, I think, have to disabuse him of that. However, I do wish to congratulate him, the Deputy Clerk and Serjeant-at-Arms, and unfortunate St Kilda supporter, for his service to the scrutiny of bills committee. It has been great. Sometimes it has been a bit of touch and go. We had a bit of urgent stuff today which he handled, I thought, particularly well.

I echo the sentiments of my chair and do wish the members of the next Assembly's scrutiny of bills and subordinate legislation committee a most enjoyable time. It has been an absolute blast.

Planning and Environment—Standing Committee
Statements by members

MS DUNDAS: Pursuant to standing order 246A, I wish to make a statement on behalf of the Standing Committee on Planning and Environment in relation to the inquiry into renewable energy and sustainability.

Leave granted.

MS DUNDAS: On 11 April 2002, the Assembly referred the options for renewable energy strategy for the ACT to the Standing Committee on Planning and Environment. The terms of reference were expanded on 18 June 2003 by the Assembly directing the committee to inquire into suitable means of reporting greenhouse gas emissions from electricity for large businesses in the ACT. The terms of reference for this inquiry were quite broad and highly technical.

Although the committee has invested considerable time and effort into this inquiry, the terms of reference were ultimately too wide ranging. Considering the committee's heavy

workload of draft variations and other matters, it was not able to produce a comprehensive report on the matter. The committee also notes that the landscape in this area is rapidly undergoing significant change and movement both nationally and locally.

The committee initiated this inquiry through a public conference held on 11 October 2002 to bring together a range of views on the wide spectrum of renewable energy and sustainability issues. Organisations represented at the conference included ActewAGL, Environment ACT, ACT Sustainability Expert Reference Group, the Centre for Sustainable Energy Systems from the ANU, the Australian and New Zealand Solar Energy Society and the Australian Greenhouse Office. I believe that the body of work presented at the initial conference made a very important contribution to the debate surrounding renewable energy and I commend the transcript of these proceedings to all members.

The committee also undertook the following activities:

- public hearings on 29 August 2003 and 19 September 2003;

- a site visit on 15 August 2003 to see examples of renewable energy within the local area. This included a visit to the Crookwell wind farm and to the Yass photovoltaic power station at Queanbeyan;

- attendance at an international sustainability conference in September 2003 held at Notre Dame University in Western Australian and hosted by the government of Western Australia; and

- participation in the Parliamentary National Conference of Public Works and Environment Committees in 2003 and 2004. At both of these conferences sustainability issues were at the forefront of discussion.

The committee recognises the recent developments within the ACT government in the area of sustainability and, in particular, the work being undertaken by the Office of Sustainability in developing a policy framework for sustainability in the ACT. The office delivered its first progress report in July 2004.

The committee hoped that, by bringing a diverse group together to speak on this issue at its initial conference, one outcome would be better communication and coordination between stakeholders in the territory. However, in the opinion of the committee, the key problem appears to be the lack of a single oversighting body within the government to coordinate the direction of renewable energy and sustainability activity. For as long as these issues are perceived as the combined responsibilities of the Department of Urban Services and the offices of Environment and Sustainability, the government is failing in the task of cultural change and also failing in building the capacity to see and act on the independence of government actions when it comes to ensuring sustainability.

The committee acknowledges that sustainability is about balancing economic, social and environmental considerations. However, this balance must be over both the short and the long term. This is particularly important when weighing the short-term costs of new technologies or approaches against their longer term environmental and social impacts.

The committee hopes that the implementation of triple bottom line reporting will factor in this issue of short-term versus longer term considerations.

The government's policy makes clear that sustainability is not a destination point; it is an ongoing journey. The committee concurs with this policy stance and in many respects the ACT is still at the beginning of this journey. There is an important role for future assemblies to monitor the government's progress on this journey and to ensure that good intentions become good practice, which, in turn, translates into real and measurable outcomes for the ACT community.

MRS DUNNE: I seek leave to speak briefly on the statement.

Leave granted.

MRS DUNNE: I feel, essentially as the author of this inquiry at the outset, that I should say something. When this started out, when the Assembly in April 2002 referred this matter to the planning and environment committee, it was fairly obvious that it was a pretty large task. In a sense I and the rest of the members of the Assembly ended up biting off more than we could chew by giving a very large bite to the planning and environment committee to chew over.

I think that what Ms Dundas says is correct. This is the beginning of the process. At the time the energy minister was pretty unflattering about the importance of it. It is undoubtedly the case that the mere fact that the planning and environment committee was doing work and was getting people together in the one room to talk about these things meant that there was some impetus in the government. We have actually seen a little bit of a turnaround in the attitude of the minister for energy on some of these issues which will come to fruition, hopefully on Wednesday, when we see one small cog of the process coming together.

I think that the clear message from the committee's inquiries and from Ms Dundas's statement is that it should not be in here, that perhaps the next Assembly should be looking at these matters, not through a standing committee but through a select committee which is resourced with some scientific grunt so that we actually progress the matters that have been raised and started by the planning and environment committee. Because of the nature of its workload it found itself always having to put this inquiry on the backburner while we did more pressing things. It might say something about the structure of the committee system that perhaps we need a planning committee and an environment committee or, alternatively, important pieces of work such as this should have been done by a select committee.

Public Accounts—Standing Committee
Statement by chair

MR SMYTH (Leader of the Opposition): Pursuant to standing order 246A, I would like to make a statement relating to a new inquiry of the Standing Committee on Public Accounts.

Leave granted.

MR SMYTH: Mr Speaker, the committee has undertaken an inquiry into the alleged poor governance and financial management practices relating to ACT government grants received by the ACT Multicultural Council Inc. On 11 August 2004, the Standing Committee on Public Accounts received in-camera evidence alleging poor governance and financial management practices by the ACT Multicultural Council Inc. On 20 August 2004 the committee raised the matter with officers of the Department of Disability, Housing and Community Services and the Chief Minister's Department as they are the administrators of the grants.

The committee also received evidence in relation to the acquittal of the ACT government grants provided to the ACT Multicultural Council in the years 2002-2003 and 2003-2004. The committee was concerned by the evidence it received and on 20 August 2004 the Standing Committee on Public Accounts resolved to inquire into the alleged poor governance and financial management practices relating to the ACT government grants received by the ACT Multicultural Council Inc.

Mr Speaker, given the committee's inability to investigate these issues further at this time, officers from the relevant departments have undertaken to pursue the matters, taking into account the protection of the witnesses and procedural fairness for all concerned. The committee may report on this matter further at some time in the near future.

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

Clause 1.

Debate resumed from 19 August 2004.

Clause 1 agreed to.

Clauses 2 to 4, by leave, taken together and agreed to.

Proposed new clauses 4A and 4B.

MRS DUNNE (12.08): I move amendment No 1 circulated in my name, which inserts new clauses 4A and 4B *[see schedule 1 at page 4102]*.

As alluded to in the in-principle debate, I propose some amendments to this bill. While I and the Liberal opposition believe that there are some problems in relation to land speculation, the provisions set out in the bill are so stringent and the exemptions are so stringent that they do not actually take account of reality.

What my clause 4A does is allow a builder to sell, without restriction, a lease to another builder so long as he does so within the first 12 months of the lease. As members would know, the lease conditions of a new crown lease require that building on the crown lease begin within 12 months and are completed within 24 months.

But what happens—and this is reality and does not relate to anyone's ill motive—is that from time to time builders will purchase a block of land for the purpose of building a residence on it. They might buy two or three at an auction or at a sub-auction. The developer has acquired the land, put in the sewerage, the drainage, the utilities, the curbing and guttering and the roads—all of those things—and in that process the person who is actually going to put the house on the block, as opposed to the person who does the servicing, buys a parcel of land; he might buy two or three blocks. There could be a whole variety of reasons why he may not be able to build on all those blocks.

At the moment, one of the pressing issues that affect the building industry is the availability of building indemnity insurance. No builder in this town with a building licence can undertake building works without building indemnity insurance, and there could be a whole of lot of reasons why he may not be able to get such insurance, for example, someone is relatively new in the industry and is trying to work things out.

I know, for instance, that the Master Builders Association fidelity fund takes a very close look at what people are doing. They might say, "We will give you indemnity insurance for three projects this year," but he might have four blocks of land. He may have purchased four blocks of land but then be able to acquire indemnity insurance for only three of those projects. He is left with a block of land. If he does not do something with it, he will be in breach of his lease and development conditions.

This amendment provides for him a mechanism of handing that on to someone who may have building indemnity insurance sufficient to allow another project. It is very stringent, because it can be done only within the first year. What we are trying to do is ensure that the lease conditions are met and that building work begins within the 12 months, but there are a number of circumstances—and that is one of them—where a builder who, in good faith, purchased a block of land cannot build on it.

The other option would be to extend the lease conditions. There is general agreement that it is better that the lease conditions be met and that the building in a particular suburb happens basically together, so there are not vacant blocks left behind where people might think, "Oh, that might become a park one day," or things like that. This is a mechanism that just gives the building industry a little more leeway and does not punish them financially.

One of the points that I should have made in the in-principle speech is that one of the failings of the current system is that it is all too easy to obtain an extension on your lease conditions. Somebody owns a block of land and has lease conditions that say you must commence building within 12 months. It is very easy to obtain an extension of those lease conditions. That is an administrative process that encourages people not to build on blocks and may lead to the process of speculation.

This is a very specific mechanism that provides an honourable out for a builder or developer who is in a position where he cannot, for very good, valid reasons, fulfil his lease requirements. Rather than paying the penalty of surrendering the block, you should be able to on-sell it. I commend the amendment to the Assembly.

MR CORBELL (Minister for Health and Minister for Planning) (12.13): Mr Speaker, the opposition's new section 181, builders' exemption, if passed, would provide an exemption for builders whereby they could effectively transfer leases between themselves without obtaining the consent of the ACT Planning and Land Authority, provided that the two parties held the appropriate licence and the transfer occurred within one year of either party becoming lessee. This would potentially allow for an ongoing series of transfers, despite the fact that the general residential lease requires construction to commence within 12 months of the date of the lease. The government's concern—and the reason we will not be supporting this amendment—is that it effectively allows for an open-ended and ongoing arrangement for transfers without any approval by the regulatory authority.

The only other categories of transfer allowed without the need for the authority's consent relate to major events, such as death, bankruptcy and divisions of property resulting from the dissolution of marriages or domestic relationships or where the leaseholder has complied with the building and development conditions and has obtained the requisite compliance certificate.

The amendment, as proposed by Mrs Dunne, would continue to allow the practice of land speculation, of which the authority is aware. This practice effectively allows builders to transfer leases without complying with the building covenants in those leases while contributing to an increase in the cost of residential land and ultimately decreasing housing affordability. This exemption is not in the same category as the other transfers that I have mentioned above, and the government does not support the amendment.

MS DUNDAS (12.15): Mr Speaker, although I have not seen evidence that Canberra builders buy and sell undeveloped land for profit, I am not willing to support an amendment that leaves that possibility open. What applies to individuals should apply to business people, in this case, as well. I do not want there to be any financial incentive left for anyone to hold on to land that they are not building on. Builders have the option of applying to surrender leases to the territory if they have financially overextended themselves, and I understand that applications for surrender are never actually refused; so there are ways that builders can work through problems if they arise.

I do not believe that builders need a special provision simply to make it more convenient for them to swap leases with other builders or make decisions to re-sell undeveloped land. If our focus here is stopping land speculation, then we should not leave any loopholes, such as would be left by this amendment.

MS TUCKER (12.16): The Greens have similar views to Ms Dundas on this one. It allows builders who have taken on a block to transfer the title to another builder within a year. The argument is that the building business is not a certain thing and that warranty and other requirements can fall through, leaving a builder unable to commence the job. To exempt builders from the control of lease transfer, they can on-sell the property to another builder within a year.

The next section of the act, section 182 (2) (b) (i), however, does permit the authority to consent to such a transfer if it is satisfied that the lessee cannot for personal or financial reasons comply with the building or development conditions. That would seem to leave

enough flexibility in the system to deal with genuine cases. However, it certainly does not allow for builders to assume they could transfer a lease within a year to another builder and would undermine any scheme built on an assumption that such a process can increase the profitability and the sale price of home development.

MRS DUNNE (12.17): I can read the numbers. I know that this is going to fail, but I need to put on the record that the arguments put forward by the minister and the crossbenchers show a fundamental lack of understanding of how the building industry in the ACT works. The building industry in the ACT, whether you like it or not, is one of the principal economic drivers.

The minister himself said that this mechanism would provide open-ended and ongoing access to the power to speculate. The clear reading of the words shows that it is not open-ended and is not ongoing, because if, in the first year—therefore, in the period of time which is available to a builder to commence work as set down by the requirements of the lease—the principal is in breach of that part of the lease it does not apply.

I think Ms Dundas said that, if builders acquire more land than they can reasonably deal with, they always have the option of surrendering. The changes, as they currently apply, mean that on almost every occasion somebody who chooses to surrender a block of land will lose money. Not only is this trying to stop people speculating, it is actually designed in such a way that, if for some reason you overextend, you will lose money on the deal. You will always lose money on the deal.

This is not an anti-speculation measure; this is a measure that will ensure that builders who, for whatever reason, buy four blocks when they can only build on three—we are not necessarily talking about large consortiums; we are talking about mum and dad builders here—will lose money. They might buy half a dozen blocks but can build on only three or four of them within the time limit. As a result, they will inevitably be losing money. The decision of this Assembly today will ensure that they lose money.

There are personal and financial constraint provisions later in the bill, but there is no guarantee—and it is certainly one of the things that have been said to me by the building industry—that those provisions will be used in these circumstances. It is not personal financial hardship; it is something beyond the financial burden. They may not have building indemnity insurance that allows them to do it. That is not a personal or a financial hardship.

If this amendment is to fail, I need, and the building industry needs, a commitment in this place from this minister that those personal and financial hardship provisions will be interpreted generously and not in a constrained way. That direction needs to come from this place on this day so that the people putting together the guidelines and the people making the decision understand that this Assembly considers that there are sufficient provisions there but that they must not be interpreted so narrowly because as they currently stand, as they are currently written, there is no guarantee that, for instance, a person who cannot obtain building indemnity insurance to build that last project will be able to avail themselves of the provisions of personal and financial hardship and that they will not be forced to surrender the block of land and lose their shirt.

Proposed new clauses 4A and 4B negatived.

Proposed new clause 4A.

MR CORBELL (Minister for Health and Minister for Planning) (12.22): I move amendment No 1 circulated in my name, which inserts new clause 4A *[see schedule 2 at page 4103]*.

The government is moving this amendment. It clarifies the relationship of section 181 to the new section 180 (2A) by adding the appropriate cross-references. This is an administrative matter only, and I commend the amendment to members.

Proposed new clause 4A agreed to.

Clause 5.

MRS DUNNE (12.23): I move amendment No 2 circulated in my name *[see schedule 1 at page 4102]*.

Mr Speaker, unfortunately this is a slightly wordy amendment. It does two things simultaneously: it removes categorically the charge for transferring the lease from the first leaseholder, that is, the land developer, to the builder or the home owner who wants to buy a block of land and build a house on it or the builder who is building a spec house—a house and land package.

As things currently stand—and I know in the current legislation there is provision for charging for the transfer of the first lease, the crown lease, to the individual builder—I think there is general agreement that it is fairly inappropriate, especially in the current climate when we are talking about housing affordability. As I said in the in-principle speech, the Housing Industry Association, the Commonwealth Bank and other august bodies have put together fairly comprehensive information about how government charges add significantly to housing affordability. This, whilst potentially only a modest charge, is one of those charges.

Let's take an example of Harrison stage 1, which was eventually sold for, I think, about $64 million. The government reaped $64 million from the sale of the raw land. It also reaped the stamp duty on that sale. There are a whole lot of fees associated with lodging the plans for the development of the site—laying down the services, et cetera—and, after those blocks are developed, the developer acquires the first lease. That lease may be on-sold to a builder who might build a spec house and then sell it to a home buyer. There are two more sets of stamp duty in that process. As things currently stand, there are potentially three sets of charges for the transfer of lease.

Alternatively, the builder may sell directly to a home buyer who wants to go out and find his own architect and build his dream home. So there may be only one transfer but then, potentially, again some stamp duty on that transfer and another charge for transferring the first lease, the original lease, to the person who is going to hold it. What happens in this process is that we all know that the person who goes out and bids for Harrison stage 1 or Gordon stage 9 or anything like that is not going to be the person who builds the houses; it is almost never the person who is going to build the houses. That first lease

will always be transferred to a second and sometimes a third party. It is understood that that is the case.

I think it is incumbent upon us to cut down the cost. We always know that this is going to happen and there should not be a charge for something that is as natural in the building industry as breathing in and out is for the average person. The charge is unjust and we should ensure definitively today that it should not be there.

The other part of the amendment allows for what might be called a little bit of speculation but it also addresses the issue which I spoke of in the in-principle speech, where a mum and dad builder might buy a block to build their dream home on and a variety of circumstances might come into it—they are not covered by personal and financial circumstances—where they may wish to transfer the lease because, for a variety of reasons, they have decided that they cannot really face the arduous task of actually building a house, dealing with the subcontractors and things like that and they decide that it is not for them, or their circumstances may require that they move interstate or they just decide that they do not want the block of land; they have bought it and they feel that they cannot deal with it. The options now are to build something on it and then sell it or to surrender the lease and, as I have said before, lose money.

This provides them with another option Because we have put in here a stipulation that they cannot have transferred a lease in this way in the previous two years, we are making perfectly clear that this is not being done by those people who are speculating. There is a difference of agreement here as to whether speculation in land is a bad thing. The general view of the Assembly is that we should cut off all means of speculating in land. This is not speculating in land; this is again adding flexibility so that people who find themselves in circumstances where what seemed like a good idea six months ago is no longer a good idea can divest themselves of a block of land without undue penalty. The surrender path will be an undue penalty.

MR CORBELL (Minister for Health and Minister for Planning) (12.29): Mr Speaker, this amendment is simply unnecessary. The authority currently does not impose a fee on the first transfer from a holding lease; so it is simply an unnecessary amendment.

I note that the opposition also brings into the debate the issue of stamp duty. Well, this amendment has nothing to do with stamp duty and, at the end of the day, charging for a transfer is not exactly an onerous impost in terms of the land transaction. I think that $264, or thereabouts, is the current charge for transfers beyond that first transfer of the holding lease to effectively the first lessee. It is not an appropriate amendment; it is an amendment that simply fails to recognise the current circumstances in which these matters are handled. There is very little compelling argument to say that there is a need for this type of law in this act.

MRS DUNNE (12.30): I will just draw members' attention to clause 5, line 13, page 4, where it says:

> A fee may be determined under s 287 for this provision.

That is the provision that relates to the issuing of the first lease.

I said at the outset, that there is currently no fee levied but this legislation allows for that possibility. I want it ruled out definitively. If we are all saying we do not want to do it anyhow, what is the problem with ruling it out definitively?

MS DUNDAS (12.31): I think this amendment goes a little bit further than Mrs Dunne is indicating. It also, besides talking about a fee determination, actually talks about the ability for somebody to speculate on the land if they have not done so in the past two years. That, I think, is a loophole that I cannot support. We have a leasehold system that was devised to prevent land speculation. We know how many people are struggling to enter the property market. If we want to support affordable home ownership, then we should not allow land speculation to continue.

As I indicated in my in-principle speech, I do not think it is acceptable to let people make windfall gains of around $550,000 every couple of years at the expense of people wanting to build their first home. I said that this is what this amendment would actually permit. If Mrs Dunne were interested in talking about just removing that bit that related to allowing a fee in relation to the surrender or transfer of a lease to be levied, then we should have been having that discussion separately from the idea that we can allow somebody to on-sell land if they have not done so in the past two years.

I think that does leave open a loophole for land speculation. It will permit land speculation to continue. I do not have an objection to the removal of the charge for lease transfer in cases of hardship but this amendment has all those other things caught up in it that I do not agree with. So I cannot support the amendment, but I think the government has heard loud and clear that if we hear of the charge for lease transfer being applied in cases of hardship, then we would look on that disfavourably and may even reconsider this part of the Land Planning and Environment Act in the future.

MR CORBELL (Minister for Health and Minister for Planning) (12.33): Mr Speaker, I think there are a couple of things that need to be clarified. First of all, if Mrs Dunne is so strongly concerned about the issue of a fee being levied, she should be aware that it is normal for such fees to be made by disallowable instrument. So there is a check on fees that may be instigated in the future. It is not as though there is open slather for the government to impose a fee without any sort of review, oversight or potential for it to be disallowed in this place. So I think we can put that to bed.

The other issue of concern, which Ms Dundas has appropriately raised, is the issue of sub-clause (b) of Mrs Dunne's amendment, which appears to provide an opportunity for anyone to transfer a lease, with the authority's consent, provided the person or entity has not, within the two years from the date of the transfer application, sought to transfer a lease. So basically what this amendment attempts to put into the act is an amendment that says, "Well you can do it once every two years; you can speculate in land once every two years."

The relaxation of what the government is proposing by this amendment is, in the government's view, unwarranted and does really undermine the intent of the government's bill. The amendment potentially allows everybody to speculate in land at least once. Potentially it could lead to practices whereby undeveloped lease land was transferred once every two years, again, contributing to an increase in the cost of

residential land and ultimately decreasing housing affordability. Again, it is an amendment that undermines the central tenet of this legislation and is not one that the government can support.

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

Sitting suspended from 12.35 to 2.30 pm.

Unparliamentary language
Statement by Speaker

MR SPEAKER: During the last sitting, following a point of order from Mrs Dunne, I undertook to review *Hansard* in relation to some words used—"a bloody suppurating boil." I rule that they ought to be withdrawn, Chief Minister.

MR STANHOPE: The comments were made in general and were not directed to an individual, but I will withdraw them.

Questions without notice
Hospitals—access block

MR SMYTH: My question is to the Minister for Health. The ACT branch of the Australasian College for Emergency Medicine has noted that access block has become the "new normal" in the ACT health system. The *Canberra Times* has published figures showing that half of all patients admitted to Calvary Hospital in June were stuck in the bottlenecked emergency department for more than eight hours before acute beds could be found for them. The figures for the Canberra Hospital show that 25 per cent, or 500 people, were waiting for over eight hours, supporting claims of the emergency professionals about the poor state of our hospital system. Why has access block become the so-called new normal in our health system under Labor, as stated by health professionals and as evident from your own statistics?

MR CORBELL: Access block is a cause for concern in our public hospitals, as it is in public hospitals right around the country. Indeed, just today I had a discussion with Australasian College for Emergency Medicine representatives along with the director of the emergency department at Canberra Hospital. Both of them indicated that the build-up to access block has been occurring for a significant period of time, certainly longer than the period of any particular government. I am not going to seek to play the game of saying that certain things should or should not have happened in the past. The important thing is that we focus on trying to fix the concerns that doctors and nurses have raised.

That is exactly the approach the government is intent on undertaking. Last night, the chief executive of ACT Health, Dr Sherbon, presented to the regular meeting of the ACT Clinical Council at the Canberra Hospital a range of options to improve access from the emergency department for those people admitted into the ED and needing to be admitted to a ward. The range of options being considered, and which have been welcomed by a number of people, includes the re-establishment of a discharge lounge in the Canberra Hospital. A discharge lounge would permit people currently waiting to be discharged from hospital, instead of waiting in their beds on the day of discharge, to go to the

lounge—a comfortable place to stay for the day—to get their final pathology, their final consultation with their specialist, and so on, thus allowing them to move from their beds and, importantly, allowing those beds to be available for new persons coming into the hospital.

My discussions with clinicians at the Canberra Hospital have indicated that it is clear that getting people discharged in the morning rather than waiting till late in the day will make a significant difference. The figures we are looking at to address the access block problem in the emergency department involve, I am advised by the clinicians themselves, a net gain of approximately five to 10 in the number of beds available during the day. So the range of strategies we are outlining is designed to free up those beds. The government is not interested in counting mattresses. The issue is beds available when the doctors need them. That was the point that both Dr Richardson and Dr Singer made in the media conference I held with them earlier today.

The key issues the government is also exploring include making sure, where they do not occur already, that specialist rounds are completed in the morning rather than later in the day. Again, these measures will make sure people can be discharged earlier rather than having to be discharged later in the day. In addition to that, there is a range of other measures, such as the establishment of nurse practitioner positions in the emergency department. That will build quite strongly on the other steps the government has already taken. For example, we have now completed the construction of a new emergency medicine unit at the emergency department. Again, that will deal with certain categories of patients who, perhaps, do not need to be admitted but can be observed for a longer period within the ED prior to going home.

Last night I was very pleased to spend some time in the emergency department. I had an opportunity to speak with the senior clinician on duty, along with both the director and the deputy director of the ED. They were able to demonstrate to me how the new rapid assessment team is dealing with lower acuity cases and dealing with the waiting times that those people—that is category 4 and category 5 patients—currently face. They indicated to me that their key concern was making sure that there were available beds when they faced their peak so that patients could go through to the wards and allow the emergency department to do its job, as it does so well.

So, that is the range of measures the government has in place. Equally, it is the co-ordinated and considered response of the government that the only way we are going to address the significant issues we face in the ED is working with doctors and nurses, and that is what we will seek to do.

MR SMYTH: I have a supplementary question. Minister, would you not consider a gain of five to 10 beds simply tinkering at the edges rather than addressing the root cause of the hospital crisis, which is the lack of large numbers of acute beds and not enough staff?

MR CORBELL: I reject the claim that it is tinkering at the edges. The view the clinicians I have spoken to in the past 24 to 48 hours have indicated to me—

Mrs Dunne: Who have been nobbled.

MR CORBELL: I ask Mrs Dunne to withdraw that comment. She suggests in some way that clinicians have been nobbled. That really suggests an improper motive on my part. I ask her to withdraw that comment.

MR SPEAKER: I missed it. Can you repeat that?

MR CORBELL: A comment was made that I had nobbled clinicians. That is quite improper.

MR SPEAKER: First of all, the interjection was disorderly, but if that is what you said, you ought to withdraw it.

Mrs Dunne: I withdraw it, Mr Speaker.

MR CORNWELL: The clinicians have indicated to me that a net gain—and that is a net gain—of between five and 10 beds available when they are needed will make a significant difference to the operations of the ED. I know that those opposite would like to paint a simple solution to this problem, but the reality is that there is no simple solution, nor is there the capacity to view the ED in isolation from the rest of the day-to-day operations of the Canberra or Calvary public hospitals.

So, the government's approach is focussed on the detail, getting the mechanisms of the hospital working well, making sure that, wherever possible, procedures are put in place to make sure beds are available when they are needed. There is a broad acknowledgement amongst both medical and nursing staff that simply to promise more beds is an unrealistic claim, especially when we are yet to hear from the opposition how it will deal with the workforce shortage to staff the beds it thinks are needed.

Kangaroo cull

MS TUCKER: My question is directed to the Minister for Environment and is in regard to the use of commercial operators in the ACT during the recent cull of kangaroos in the Googong Dam area. Minister, your officers acknowledge that this was the first time that the ACT had used commercial operators in a kangaroo cull and that they were monitoring how that worked. My question is: will the results of that monitoring be made available to the public? Can you tell the Assembly the criteria used to assess the effectiveness of the use of the commercial operators?

MR STANHOPE: Yes, it is correct that a decision was taken at the outset that the kangaroos to be culled at Googong would be culled on a commercial basis by commercial operators. That was a decision taken by Environment ACT, essentially as a recognition or acknowledgement of a commitment to sustainability and an acknowledgement that, if the kangaroos—in the order of 800—were to be culled or shot, it made good practical sense, as difficult as the issue is, for those 800 kangaroos to be utilised. That of course was the basis of the decision. It was a pragmatic and practical decision made in light of the decision to institute the cull.

Environment ACT did undertake to monitor the cull. I am not aware whether Environment ACT has prepared a formal report of those aspects of the cull. I am more

than happy to ask them to do that, if they have not done it, and to make available for public perusal the details of all of the issues surrounding the cull of kangaroos at Googong. That is reasonable.

Kangaroo culling of itself is not something that the ACT government or ACT instrumentalities, as a rule, are involved in. I think it is only the second occasion in eight years or thereabouts that an ACT government agency has been directly involved in culling kangaroos on land managed by the ACT government. But certainly kangaroo culling is a feature of land management by rural lessees within the ACT. I understand that about 3,000 kangaroos are culled by rural lessees in the ACT each year. This was a continuation of that culling process undertaken by Environment ACT on behalf of the ACT government.

It is appropriate that there be a formal record and that it be publicly available. I will pursue those aspects of the question asked by Ms Tucker and ensure that there is a formal report for perusal.

MS TUCKER: Will the minister be taking the results of that monitoring to a reconvened kangaroo management committee?

MR STANHOPE: I am more than happy to respond to you on that, but I will take advice on the issue of your question from Environment ACT. That advice may suggest to me that there are issues that might be further pursued. I think that there are issues about the Australian standard on the killing or destruction of young kangaroos—joeys—and commercial kangaroo culling that might be pursued nationally. I concede that. It was an issue of general concern to the Canberra community in relation to the cull that was undertaken. I believe that there are issues of that order that could legitimately be pursued, and I would be happy to pursue them.

Department of Education and Training

MRS BURKE: My question is to the minister for education, Mrs Gallagher. Minister, correspondence dated 27 November and 2 December 2003 was sent to Ms Fran Hinton, Chief Executive, Department of Education, highlighting serious concerns about maladministration and corruption in your department. In response to those claims Ms Hinton replied:

> If you have any knowledge of fraud, corruption or maladministration within the department or the public service you should report this as soon as possible. I can assure you that any reports of this kind are taken seriously and carefully investigated.

Minister, correspondence containing a similar message was also sent on 22 October 2003 to Mr Trevor Wheeler, a former senior manager within your department, regarding these concerns. Mr Michael Bateman, Director, Human Resources, in your department was also informed on 19 January 2004, as was the Assistant Manager, Workplace and Legal Support. Minister, why did you make the comments in this chamber on 3 August and 4 August that you knew nothing about claims of corruption and maladministration within your department when the chief executive of your department and three senior managers knew about the issues as long ago as 22 October 2003?

MS GALLAGHER: The answers that I gave on 3 August and 4 August were correct. I did not know of the allegations that have been raised in this chamber or that have been subject, as we now know, to a public interest disclosure.

MRS BURKE: I ask a supplementary question. Minister, why do you assert the public interest disclosure defence as the reason why you knew nothing about this issue when the chief executive officer and other senior managers knew about this for months before the public interest disclosure was lodged?

MS GALLAGHER: I repeat that no information about this public interest disclosure—which I presume is what Mrs Burke is alluding to—was brought to the attention of my office. It is very difficult for me to answer why a matter that was brought to the attention of the chief executive and other senior officers was not brought to my attention. That was not a decision that I made. I can only repeat that my answers in this Assembly have been correct. A matter is currently under very thorough investigation and it is quite proper that that investigation be undertaken.

When that investigation has been undertaken I will be fully briefed on the matter. Any action that is required to follow that investigation will be taken. At this stage for the benefit of Assembly members I repeat: all the allegations that have been tossed around this chamber and that I believe are subject to a public interest disclosure are unsubstantiated at this stage. It is not in the interests of the natural justice of other people who might be involved in those allegations to have this matter discussed in such a way. If members would like a private briefing on how this matter is being handled I would be more than happy to arrange that.

It is entirely inappropriate for this matter to be the subject of continuous discussion in question time. I have had legal advice to the effect that I cannot respond to allegations being made in question time. If members are interested in a briefing—it would be more beneficial for them if they were as interested as they pretend to be in question time—I will arrange one for them. I urge Assembly members to tread carefully in relation to this matter. These allegations are unsubstantiated. A process is in place. When that investigation is finished we will all be the wiser for it.

Department of Education and Training

MR STEFANIAK: My question is also to the Minister for Education and Training. Minister, you continue to argue that you knew nothing about the concerns of alleged corruption and maladministration within your own department, even though correspondence shows your chief executive was fully informed, as were three senior departmental managers as far back as October last year. Minister, did the CPSU fax your office a copy of the public interest disclosure which articulates these concerns? If so, when was the PID faxed to your office?

MS GALLAGHER: From advice I have taken from my adviser, I understand the CPSU left a message with my office on 19 July, naming an employee of the Department of Education and Training. That was the message that was left. Prior to returning that call, my adviser undertook a search of records, because the message had been left that

correspondence had been forwarded to my office. A thorough check of the records was undertaken and no correspondence had been received.

On Tuesday, 20 July, the adviser had a discussion with the CPSU organiser, at which point it became clear that the person's name had been misspelt. So another check of the mail register and records of correspondence was undertaken. No record was found. On Tuesday, 20 July, during that conversation, I understand, the organiser said she would fax a copy of the allegations to my office. That fax was not received in full. Apparently, the first few pages of the fax were received.

Following the discussion, it became clear that it might be a public interest disclosure matter. My adviser sought advice from the department on about 23 July. The advice came back that the matter was subject to top confidentiality provisions of the Public Interest Disclosure Act. A brief confirming this advice was provided to me by the chief executive of the Department of Education and Training at a briefing on 26 July 2004.

At the time that it became clear it was a public interest disclosure, the adviser did the right thing—it would have been highly inappropriate to take any further action or for my office to be involved in any way—and sought the advice of the department. The advice was that there was a matter relating to public interest disclosure and that I could not be briefed on the matter.

MR STEFANIAK: A supplementary question, Mr Speaker. Thank you for that, Minister. Why did you say in this place on 3 and 4 August that you knew nothing about it? Why did you provide, effectively, false information to the Assembly, which you now seem to have corrected today, 24 August?

MS GALLAGHER: I have not in any way provided incorrect advice to the Assembly. I had not received the public interest disclosure; it has not been received by my office. The CPSU attempted to send a fax, which was never received by my office, apart from the first couple of pages, which were not to do with any of the matters that have been raised in this place by any member of the opposition. I am not aware of the issues that have been raised in the public interest disclosure. My actions have been correct all the way.

Another interesting fact is that, even if I had received the public interest disclosure, it would have been highly inappropriate for me to have involved myself in it anyway. That is a side point. That is something that you guys cannot push past; you are all obsessed with: did I receive it; and, if I did, what did I do to get involved in it?

Mrs Burke: That's the point.

MS GALLAGHER: That has been the nature of questions for the last two weeks. I can repeat, for members of the Assembly: I have not received the public interest disclosure; I have never received the public interest disclosure. Any allegation that I have is incorrect.

Aged care accommodation

MRS CROSS: Mr Speaker, my question is to the Treasurer, but the planning minister may decide to answer it. The Treasurer would be aware that the Chief Minister has recently announced approval of a major number of aged care and supportive housing developments. Does the Treasurer believe that such developments should attract the standard change of use charge? Is the Treasurer aware that the change of use charge will render the Chief Minister's aged care policy null and void?

MR CORBELL: Mr Speaker, as I am responsible for the administration of the change of use charge, I will take the question. I thank Mrs Cross for the question. The change of use charge is levied on aged care facilities only where they are converting from an existing use to a new use. In relation to the range of measures the government has announced in the most recent round of land grant allocations, direct grants of land do not attract a change of use charge.

MRS CROSS: Mr Speaker, I have a supplementary question. Minister, are you aware that the Australian Valuation Office is insisting that supportive housing complexes and retirement villages are subject to the maximum rate of change of use charge?

MR CORBELL: Again I thank Mrs Cross for the question. The Australian Valuation Office undertakes valuations according to agreed valuation principles. How a valuer values something is not a matter that the government can influence. However, with all due respect to Mrs Cross, I think the second part of her question is a little bit off the point, simply because the rate at which the change of use charge is applied is not a matter for the valuer, it is a matter for ACTPLA and the government as to the percentage of change of use charge levied.

Bushfires—pine replanting

MRS DUNNE: Mr Speaker, my question is to the Minister for Environment. Minister, in the *Canberra Times* of 18 August 2004, Dr Roger Good, a lecturer in fire science and management from the University of NSW and who is said to be "one of Australia's leading experts in fire management", was quoted as saying:

> "Don't get me started on what's happening with pine plantations after the fires in the ACT—I get really angry … I have the horrors when I see what they're doing."
>
> "The claim that they are planting pines to stop soil erosion is a furphy—

I had often thought that too—

> … By the time the trees grow to the point where they will be of any use … most of the catchment will be washed away."

The article went on to say:

> He described the pine plantations as "a huge standing crop of fuel … a ready supply of high-hazard fuel … a short-term solution to the problem of fire management.

The report also noted that ANU Professor David Lindenmayer had previously raised concerns about the fire hazard and threat to Canberra's water catchments by the replanting of pines. The article went on to reassure us that the Chief Minister had something to say. The article stated:

> Chief Minister Jon Stanhope's office said the approach being taken to forest plantings was based on "expert advice".

Chief Minister, who were the experts and what was their advice?

MR STANHOPE: The decisions in relation to the non-urban areas of the ACT affected by the bushfires of January 2003 resulted from a study chaired by Mr Sandy Hollway and an expert reference group of very significant Canberrans and national experts in relation to a whole range of issues. The expert reference group that informed the work of the non-urban study, and that was established and appointed in relation to issues around rehabilitation of areas that were destroyed by the fire, included the chair of the sustainability expert reference group, Professor Bob Wasson, a very significant academic with direct expertise in relation to issues around sustainable ecosystems, particularly the natural environment; Professor Peter Cullen, who at the time of his appointment was the chair of the ACT Natural Resource Management Advisory Committee and who I think is without peer in Australia in relation to catchment management issues and water; and Professor Peter Kanowski, head of forestry at the Australian National University and acknowledged as being without peer in relation to issues around forest management.

These were some of the experts. There was a range of other experts employed and on whom the government relied in relation to the decisions that were taken on the reafforestation and the replanting and regeneration of non-urban parts of the ACT. I cannot recall the names and the circumstance of all of the experts who were engaged in that particular project but I can assure the Assembly that amongst the experts were Professor Bob Wasson, head of the sustainability expert reference group, without peer in Australia; Professor Peter Cullen, without peer in Australia in relation to catchment management and water; and Professor Peter Kanowski, without peer in Australia in relation to issues relating to forestry. They were some of the experts on whom the government relied.

I think if Mrs Dunne could be bothered to take the time to read the detailed report into these issues she could be advised or informed of the range of other very significant experts who were involved in that particular process and on whom the government relied in the decision it took.

MRS DUNNE: Mr Speaker, I ask a supplementary question. Minister, you have named a range of people who you say are without peer. Were individual views on matters relating to soil erosion and catchment taken into account or were they in some way synthesised to come up with a solution that had already met decisions that had been made by the government?

MR STANHOPE: That question is so amazingly insulting to three of Australia's most eminent scientists. I am staggered at the effrontery of the Liberal Party suggesting that

Professor Wasson, Professor Cullen and Professor Kanowski could be bought, or bought off or silenced. Have you ever met Professor Peter Cullen?

Mr Cornwell: Yes I have.

Ms Tucker: They are not silenced. They are objecting to what you came out and—

MR STANHOPE: Professor Wasson, Professor Kanowski, Professor Cullen—this was their report.

Mrs Dunne: No it wasn't. No, it was the government's report.

MR STANHOPE: This was their report.

Mr Smyth: Oh!

MR STANHOPE: No it is not. It is their report. They signed up to it. There is no dissenting report. There was no suggestion that they did not agree with it.

It is just amazing effrontery to suggest that Wasson, Kanowski or Cullen have now walked away from their advice. They have not contacted me to say, "Chief Minister, you know how you appointed us to your advisory committee in relation to the regeneration of non-urban areas of the ACT and we gave you advice? We would now like to resile from it." Nobody has written to me to say that they resile from any of the advice that they provided to the government. Nobody has written to Sandy Hollway and said, "Mr Hollway, you know how we told you what our views were? We now no longer stand by our views or our position in relation to this."

What they did was provide advice on which the government, through Forests ACT, acted in relation to the establishment of a regime for the replanting of devastated areas of the ACT. We sought the best possible advice available to us. We consulted broadly and widely. We engaged the acknowledged experts in Australia, we accepted their advice and we are acting on it.

Australian Federal Police

MR PRATT: Chief Minister, recently you posed with uniformed AFP officers in ALP television and newspaper advertising. Chief Police Officer Davies has stated that there was "a need for police agencies to remain neutral during the election campaign and I regret that the recently published photographs may detract from our position on this issue". Mr Speaker, I seek leave to table a letter from the Chief Police Officer to this effect.

Leave granted.

MR PRATT: I present the following paper:

> Australian Federal Police—Inclusion of images in election material—copy of letter from the Chief Police Officer for the ACT to Senator Gary Humphries, dated 12 August 2004

Chief Minister, why did you pose with AFP uniformed officers for ALP election advertising, thereby compromising the neutrality of the AFP? Did you or your office play any role in arranging for the AFP officers to appear in this advertising? If so, what role was played?

Mr Wood: I take a point of order, Mr Speaker. Mr Pratt has raised a matter that is not relevant to members of the cabinet. It is a matter beyond our influence. It is a matter between the AFP and a party organisation.

MR SPEAKER: It is said that the Chief Minister was in a photograph with police officers. I think that members are entitled to ask questions about that.

MR STANHOPE: I attend a significant number of events in my capacity as an elected representative of the people of Canberra. I meet with government agencies, government organisations, private sector organisations and individuals constantly, essentially on every day of the week throughout the year. At almost all of those functions, on almost all of those occasions of visit, I have my photograph taken by a range of people. That happened on this occasion.

MR PRATT: I have a supplementary question. Chief Minister, will you ensure that these advertisements are no longer broadcast and will you publicly apologise to the AFP for compromising its neutrality?

MR STANHOPE: No.

Rehabilitation Independent Living Unit

MR CORNWELL: My question is directed to the Minister for Health. In response to a question about consultation regarding the future of RILU with the NRMA-ACT Road Safety Trust, you said, "I understand that, in my absence, the acting minister, Mr Wood, met with the chairman of the road safety trust and spoke with him,"—as I suppose you would if you met.

You had been developing a proposal to shut down RILU for months before the Assembly passed a motion defending it. Yet it seems you did not bother to consult with the organisation that provided funding to establish this important health facility. Minister, why did you wait so long before consulting the NRMA-ACT Road Safety Trust about the future of RILU?

MR CORBELL: When it was drawn to my attention that the NRMA had an interest in RILU, we ensured that consultation took place.

MR CORNWELL: Mr Speaker, I have a supplementary question. When will the minister receive advice about RILU? Will you guarantee that it will still be in place if Labor, unfortunately, wins the election?

MR CORBELL: I am currently considering that matter. Obviously I have to take account of the Assembly's resolution on the matter. I take that very seriously, as indeed I take a range of advice on the issue of RILU. We will make sure that all those issues are

properly considered. At this stage, I am yet to make a final decision. I hope to do so very soon.

Calvary Hospital—psycho-geriatric facility

MS DUNDAS: Mr Speaker, through you, my question is to the Minister for Health. Minister, the public psychiatric ward at Calvary Hospital, ward 2CN, looks out on to some open space and has a garden where patients can sit. Concerns have been raised about plans to build a new psycho-geriatric facility next to ward 2CN, on the garden and the open space that is appreciated by in-patients of ward 2CN.

Are you aware of such a proposal for this site and the effect it will have on ward 2CN and are you aware of whether or not the community will be able to comment on the development in relation to the psycho-geriatric facility?

MR CORBELL: I thank Ms Dundas for the question. Yes, the government is, as it has already publicly announced, building a psycho-geriatric facility along with a subacute care facility on the campus of Calvary Public Hospital. The site has been identified on the campus of the hospital, after an extensive range of investigations. Both 2CH and Calvary Public were considered as sites for the facility.

Following that, the government is now in the process, through the department of health, of establishing the formal development proposal. That will, in the course of events, be notified, as is required under the land act. I am sure people will be able to comment through that process. In addition, if there are particular concerns in relation to the operations of existing parts of the hospital, the views of both patients and staff will need to be taken into account in terms of the location of that facility adjacent to existing buildings and operations. I will certainly pass Ms Dundas's concerns on to my department for their investigation.

MS DUNDAS: Minister, has there been any discussion about allocating extra resources, be they monetary or land-wise, for Calvary so that the new psycho-geriatric ward can be developed without impacting on ward 2CN and the in-patients there?

MR CORBELL: Members need to appreciate that the psycho-geriatric facility is not a stand-alone facility; it is part of the subacute care facility that we are proposing to build at Calvary Hospital. That facility is a single building, but it has two discrete elements. I am not familiar with the specific design of that facility. I do not think that that has yet been finalised. I certainly have not been briefed on it.

I do not think I can add anything further to my previous answer, except to indicate to Ms Dundas that I am very happy to pass her concerns to officials of my department to ensure that issues raised by her constituents are properly taken into account.

Education—funding

MS MacDONALD: My question is to the Minister for Education and Training, Ms Gallagher. Minister, during the last election campaign Labor made a strong commitment to investing in and improving the education sector. For the information of

members would you outline the major achievements of the Stanhope government in education over the past 2½ years?

MS GALLAGHER: I would be happy to outline the major areas of achievement in education in the ACT delivered by the Stanhope government since it came into office. On arrival in office in 2001 this government worked comprehensively to invigorate, renew and enhance the ACT education system. It secured and finalised the passage of the Education Act 2004, providing for reforms that would support flexible, responsive and student-centred education. An inquiry into ACT education funding, a first for the territory, has been undertaken by Ms Lyndsay Connors. The government accepted all but one of the recommendations when it responded to that report in May 2003.

In the 2003-04 budget the government provided $1.8 million over four years for the Career Transition Support Service to support government and non-government schools in the provision of effective guidance to students in their transition from school to work. This government provided $939,000 over four years to improve the health and fitness of school students across both government and non-government schools at primary and high schools and in senior secondary colleges. This government funded health coordinators at colleges. Two health coordinators will be working across our college system to provide support and information to students on health issues, drug education, alcohol and tobacco use, domestic violence, sexuality and relationships.

In the area of information and communication technology, the government allocated $11 million in its last budget to support ICT in schools to ensure that students in the ACT had access to the best equipment and programs in the country. This government allocated $906,000 over four years to assist parents and parents associations with the cost of preschool education. The Koori preschool program has been expanded to five sites with multiple sessions for each site to support children accessing preschools. The ACT Industry Training Advisory Association was established following de-funding by the Commonwealth and the industry training advisory boards.

We have seen huge increases in the number of apprenticeships and traineeships. In the period January to March 2004, we saw a 23 per cent increase in apprentices and trainees, a 400 per cent increase in existing workers undertaking training and a 64 per cent increase in new apprenticeships commencing in the government sector. To support these increases in the 2004-05 budget the government provided $9.5 million over four years to guarantee quality vocational education and training for ACT workers. A well-resourced and supported public education system is central to the government's education reforms.

With the Industrial Relations Commission's ratification of the teachers enterprise agreement we secured a deal to have the best paid teachers in the country in our public school system. We lowered class sizes to an average of 21 in years K to 3. In curriculum renewal we provided $2.3 million over four years to ensure that our curriculum is the best it can be for students in our schools. We had a report into boys' education. We formed the Government School Education Council. We implemented individual school pathway plans for all students in years 9 to 10 to help with the transition into secondary education. We improved professional learning opportunities for teachers.

We implemented the school excellence initiative to allow for a full review of individual school operations to occur more frequently within the school improvement framework.

That is a commitment by this government to ensure that our school system in the ACT is the best it can be. This government prioritised education and delivered on its promises. It has more to do, but we now have an education system that is achieving the best results in the country. No doubt that is as a result of some of the major achievements that this government put in place and worked for over the past 2½ years.

MS MacDONALD: I thank the minister for her extensive answer and ask a supplementary question. Could the minister inform the Assembly how education issues affecting indigenous students, students with disabilities and students at risk have been addressed through this government's initiatives?

Mr Smyth: Point of order. There is a question on the notice paper concerning the education of indigenous students. Mr Speaker, will you rule this supplementary question out of order?

MR SPEAKER: Would Ms MacDonald repeat her supplementary question?

MS MacDONALD: Certainly, Mr Speaker. My question was: Could the minister inform the Assembly how education issues affecting indigenous students, students with disabilities and students at risk have been addressed through this government's initiatives?

MR SPEAKER: I think the supplementary question is different. I call the minister.

MS GALLAGHER: Initiatives addressing children and students who need support most are central to any successful education system. Indigenous students are not achieving the results that are being achieved by their non-indigenous peers in schools, which is a matter of major concern. It is not a matter of concern only in the ACT; it is also a matter of concern around the country. We have seen enormous improvements in the results for indigenous students in the ACT, in particular when they are measured against national benchmarks and the ACTTAP testing. This government implemented the Services to Indigenous People Action Plan 2002-04 and it increased indigenous early childhood support by $868,000 over four years in order to focus on those early years.

When indigenous children attend Koori preschools or they have access to early childhood experiences they tend to do much better on their entry into school. So it is important to target those students and young children prior to their entry into school. In relation to students already in the primary and secondary school system, the government increased the numbers of home-school liaison officers from two to 11 in term four of 2003. Those home-school liaison officers are working hard to form partnerships between families and schools to ensure that students have support in both their home and school life.

In relation to indigenous student support, in the last budget the government allocated $1.6 million over four years to support learning and retention for indigenous students in government schools, with a particular focus on improving literacy and numeracy. Part of that initiative was to address and support students in year 3 who might not have been achieving benchmarks, so by the time they are tested in year 5 they would have had that extra support. It was also to provide opportunities for mentoring for older students in

upper secondary schools and colleges to become leaders in their community and support other indigenous students at school. Those are important programs.

In relation to autism, the government has been opening extra learning support units. The number of children being diagnosed with autism is increasing all the time. This year, three primary school units and one high school unit have been opened. Those units will continue to open as demand increases. This government increased funding for students with disabilities by allocating $4.4 million over four years. Of course, some of that money will go to the non-government sector to ensure that we are meeting our responsibilities in that area. Children must have access to their school system, an area of growth and an area in which this government is assessing the level of need and allocating the necessary dollars.

I refer next to learning support units. Eight new settings for students with disabilities opened in the beginning of the 2004 school year. The government undertook a student-centred appraisal of need. It measured the need of students with disabilities in the government system and that work is now being done in the non-government system. A number of programs have been implemented for youth at risk. However, I do not have time to go into them at the moment.

The youth workers in high school initiative was to target those students who might not need school counselling services but who might need another type of support to enable them to exist in the school environment. The government has addressed students at risk, indigenous students and students with disabilities. It has put in place a number of programs aimed at supporting them that will enable them to continue their education and that will enable them to achieve whatever they can as students in the ACT.

Small business

MR HARGREAVES: Mr Speaker, my question is to the Minister for Economic Development, Business and Tourism. The Leader of the Opposition was reported last week as saying that, according to ABS statistics, the number of small businesses in the ACT was in decline. Can the minister shed light on the true state of play for business in the territory?

MR QUINLAN: Thank you, Mr Hargreaves. I am reminded of that phrase, "Lies, damned lies and statistics."

Mr Smyth: Why tackle the ABS?

MR QUINLAN: I am going to defend the ABS, Mr Smyth. I am going to attack you and your misuse of ABS statistics. The ABS series *Small business in Australia* has been discontinued because it is entirely unreliable. The table the Australian Bureau of Statistics puts out lists numbers and proportions of small businesses. The table, which I hold in my hand, is very heavily qualified. All the numbers incorporated there have a qualification that starts with, "Estimate has a relative standard error of 10 to 25 per cent and should be used with caution." Other figures have estimates of standard error of 25 to 50 per cent and should be used with caution; and some are even considered too unreliable for general use.

Nevertheless, Mr Smyth happily clasps these figures, broadcasts them and, drawing from those figures, says that there is a decline in the number of small businesses in the ACT. Secondly, he draws the conclusion that that means that the economy is going to hell in a handbag. I think you would have to accept that Mr Smyth's conclusions are entirely counter-intuitive.

Mr Smyth: Oh!

MR QUINLAN: That is a big word! Mr Smyth referred to these figures at a breakfast put on by Australian Business Ltd, who listed their concerns in relation to the future. What was the first concern of Australian Business Ltd? It was a shortage of skilled staff. That is backed up, of course, by an unemployment figure of 3.4 per cent. We still have, in the ACT, growth in retail sales and we have Austrade telling us that, last year, the ACT gave birth to more exporters than South Australia or Tasmania. So surely, if you were to use these figures and draw the conclusion that the economy is running down, you would look beyond them.

Mr Smyth of course did not look beyond these figures. All of the evidence around us—whether it be those figures or survey figures that we have brought up in this place before—says that the economy is strong, that the economy is going well; but, based on figures of a discontinued survey that are statistically unreliable, Mr Smyth says the economy is going down.

I have to say that that has to be one of the most spurious conclusions drawn from a single set of figures and entirely out of context with all the other indicators. That is important. You have to ask yourself: would you trust a bloke who happily uses such dodgy figures to misinform the public? No.

MR HARGREAVES: Mr Speaker, I have a supplementary question. Can the minister advise how the government is assisting with the development of the number of businesses, particularly small businesses, in the ACT?

MR QUINLAN: I intend to deliver a ministerial statement on the implementation of economic white paper initiatives. I will not take up too much of the house's time with this, except to say that, since June 2002, $8.1 million in business development grants has been provided to nearly 300 ACT companies. Since 2001, more than 12,000 business contacts were made with the advisory and information services the ACT government funds through the Canberra Business Advisory Service—the one that we fund.

We will provide $1.2 million in funding for the business acceleration program over the next four years. We have provided $567,000 in funding for the employment ready program over the next four years. We have funded the highly successful Canberra Business Advisory Service. Mr Speaker, you have to agree with two things: first, that this government, more than any previous government, has taken more initiatives to build small business in the ACT; and, secondly, that this government is presiding over an economy in very good shape.

I think Mr Smyth has said that, based on one set of figures, he will not support the appointment of a small business commissioner. We will have that debate, and I suppose

I should not anticipate it. I think Mr Smyth has been quoted as saying—I think I was there when he said it—that he would rationalise services to business from government. To me, that sounds like code for: "I will cut services to business." I challenge Mr Smyth to identify the services to small business that he intends to cut. Is it the export program? Is it the grant programs? Is it the employment ready program? Is it the advisory service accessed by so many people? Mr Smyth, what will you cut?

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

Supplementary answers to questions without notice

Australian Federal Police

MR STANHOPE: I present the following paper:

> Community Policing—Canberra Liberals Policy Statement 2004.

It includes three photographs of members of the ACT police force, as the header to the ACT Liberals' policy statement 2004 on policing. I acknowledge the humbug and absolute hypocrisy of the people opposite.

Gungahlin Drive extension

MR WOOD: I am responding to a question from Ms Tucker. She wanted some extensive detail about seed collection for the regeneration of the area adjacent to Gungahlin Drive. I have that information. I present the following paper:

> Gungahlin Drive Extension preliminary works—Seed collection—Answer to question without notice asked of Mr Wood by Ms Tucker and taken on notice on 18 August 2004.

Personal explanation

MR SMYTH (Leader of the Opposition): Mr Speaker, under standing order 46, I would like to make a personal explanation.

Leave granted.

MR SMYTH: Further to the Treasurer's tirade about the use of figures: the only figure that I actually used from that survey—I can read the small print as well—was the final one, which of course is not qualified. It is, therefore, I can only assume, given the statistical accuracy of the ABS, accurate because they themselves did not qualify the report. That says that in June 2001 there were 18,500 businesses in the ACT and at June 2003 it was down to 16,100. That figure is not a qualified figure from the ABS.

Paper

Mr Speaker presented the following paper:

> Quarterly Travel Report—Non-Executive MLAs—1 April 2004 to 30 June 2004.

Executive contracts
Paper and statement by minister

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

> Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—
>
> Long-term contracts:
> Ken Paulsen, dated 4 August 2004.
> Ian Bennett, dated 4 August 2004.
> Gerard Ryan, dated 20 July 2004.
>
> Schedule D variations:
> Philip Mitchell

I ask for leave to make a statement.

Leave granted.

MR STANHOPE: I present another set of executive contracts. These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. Contracts were previously tabled on 17 August 2004. Today I present three long-term contracts and one contract variation, the details of which will be circulated to members.

Drug and alcohol program
Paper and statement by minister

MR CORBELL (Minister for Health and Minister for Planning) (3.31): For the information of members, I present the following paper:

> ACT Health—Probity Review—ACT Drug and Alcohol Program—Internal Audit Review 2004/05—Final report, prepared by Acumen Alliance, dated July 2004.

I seek leave to make a statement.

Leave granted.

MR CORBELL: Mr Speaker, members will be aware that a range of issues was raised by Ms Kerrie Tucker in regard to the operation and management of the ACT alcohol and drug program. She raised these matters in correspondence with the Chief Minister on 28 June this year, including a range of allegations made anonymously in an attachment to her letter.

Given the gravity of the allegations made, ACT Health commissioned three separate external reviews:

- Firstly, a probative review conducted by Acumen Alliance, ACT Health's internal auditors.

This is the paper I have tabled today.

- Secondly, a workplace environment review will examine management and staff behaviour in the workplace as well as key human resource policies in the alcohol and drug program.

This review has commenced and is being conducted by Ms Catherine McPherson, former Senior Assistant Ombudsman.

- Thirdly, the clinical governance review will examine the appropriateness of clinical services and clinical policies within the alcohol and drug program.

The review team for this review is currently being recruited but will be composed of experts in drug and alcohol services and clinical governance. The review is expected to commence in the coming weeks and be completed in early 2005.

The probity review conducted by Acumen Alliance was completed on 9 August 2004. The review has made several findings, which are listed by reference to the review objective, the conclusion of the Acumen Alliance report and the subsequent ACT Health management response. These are the documents that I have tabled for the information of members.

This report is an important first step and a comprehensive response aimed at verifying the truth made in the allegations raised by Ms Tucker and moving the alcohol and drug program onto a more sound footing so that they can keep providing their most valuable services to the ACT community.

I move:

> That the Assembly takes note of the paper.

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

Paper

Mr Wood presented the following paper:

> **Subordinate legislation (including explanatory statement unless otherwise stated)**
>
> Legislation Act, pursuant to section 6—
>
> Magistrates Court Act—Magistrates Court (Occupational Health and Safety Infringement Notices) Regulations 2004—Subordinate Law SL2004-32 (LR, 4 August 2004).

Personal explanation

MR PRATT: Mr Speaker, I seek leave to make a personal explanation under standing order 46.

Leave granted.

MR PRATT: Mr Speaker, I just want to point out that, in terms of the document the Chief Minister just tabled on the community policing policy, in fact his statement just now has misrepresented—

MR SPEAKER: What is the personal nature of your explanation?

MR PRATT: The explanation is this: in fact the photos that the Chief Minister referred to were sourced; we did not pose with them; no MLAs posed with the police.

MR SPEAKER: Order! This is a—

Mr Stanhope: You're using photographs of ACT police in your election material.

MR PRATT: No.

Mr Stanhope: You were caught out.

MR PRATT: No. The photos are sourced; they are not posed.

MR SPEAKER: Order! I have given leave for a personal explanation. I do not want people to get involved in a debate over a point of argument.

MR PRATT: Well, then tell the Chief Minister to jump back into his box.

MR SPEAKER: Order! Do you want to continue with a personal explanation? I remind you that I will sit you down if you do not confine yourself to matters of a personal nature.

MR PRATT: Mr Speaker, under standing order 46 I seek leave to make a personal explanation.

MR SPEAKER: I have already given you leave, Mr Pratt.

MR PRATT: The Chief Minister misrepresented our position in the paper that he tabled.

MR SPEAKER: Sorry, no, resume your seat.

MR PRATT: He is good at misrepresenting. That is all he is good at. Back in your box, Chief Minister.

MR SPEAKER: Order! Resume your seat.

Prison project
Ministerial statement

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs): Mr Speaker, I ask for leave of the Assembly to make a ministerial statement concerning the ACT prison.

Leave granted.

MR STANHOPE: Mr Speaker, the subject of an ACT prison was first mooted as early as 1955. My government is now turning the vision of a prison for the ACT into a reality. The government has funded in the 2004-05 budget the development and construction of the ACT prison. We have moved beyond the empty rhetoric of the opposition, which failed to fund the prison and continued to transfer vast numbers of prisoners interstate, on this matter.

The Alexander Maconochie Centre will include a new 139-bed remand centre to replace the Belconnen Remand Centre and the Symonston Temporary Remand Centre. It will include a 175-bed facility for sentenced prisoners and a 60-bed transitional release centre for low-risk prisoners in the final stages of their sentences.

The name "Alexander Maconochie Centre" was deliberately chosen to honour the memory of a great prison reformer and the many humane reforms he introduced to a brutal prison system. It also sets the tone for the ACT prison, which will uphold human rights and focus strongly on prisoner welfare and rehabilitation. His last words on prison reform to a House of Lords committee are documented as:

> My experience leads me to say that there is no man utterly incorrigible. Treat him as a man, not as a dog. You cannot recover a man except by doing justice to the manly qualities which he may have and giving him an interest in developing them.

One description of Maconochie says:

> To the hopelessly brutalised convicts on Norfolk Island, Alexander Maconochie appeared like an angel from heaven.

Little did they know that, but for the failure of an earlier dream, his fate and theirs could have been very different.

Our aim, through the ACT prison, is to change the fate of prisoners, offer them a better future and equip them with skills to live successfully in the community after their release. We have a responsibility to the ACT community, to our prisoners and to their families to provide opportunities for persons sentenced to imprisonment to turn their lives around. As noted by Justice Stephen Tumin, Her Majesty's Chief Inspector of Prisoners for England and Wales between 1978 and 1995:

> Criminal behaviour emerges as a result of joint failures of the individual and the society of which he or she is part. As a result, society must take some responsibility for crime, and at least make an attempt to rehabilitate offenders.

In establishing a prison, the ACT will be taking responsibility for managing its own prisoners. The transportation of ACT prisoners to New South Wales correctional facilities leaves our justice system fractured and incomplete and fails to promote positive and appropriate criminal justice system outcomes. In this regard Lord Justice Woolf noted in 1991:

> If the experience of imprisonment results in a deterioration in the ability of a prisoner to operate effectively and lawfully within society or if prisoners are treated in a way which is likely to leave them in an embittered or disaffected state on release, then the overall purpose of the criminal justice system will have been prejudiced.

Correctional literature is replete with references to the prison environment and the damage a dysfunctional environment can have on staff, prisoners and the community. With the establishment of a new prison in the ACT, an opportunity exists to establish and sustain a healthy, positive organisational culture. We will achieve this by integrating the features of the site, the design, the operating philosophy and the staff who will bring these features together.

We aim to achieve reductions in offending behaviour by applying a broad range of therapeutic and behaviour management prison programs. These programs will offer choice and flexibility and will be research based, well managed, appropriately resourced and evaluated to determine their effectiveness. The local community and families will, where appropriate, be involved in prisoner rehabilitation programs.

We will encourage greater and more focused involvement in prisoner health and wellbeing and rehabilitation. This will involve applying integrated health management services and case management and through-care strategies as prisoners move from the community to the prison and back to the community. Improvements in prisoner educational attainments will be targeted, in recognition that offenders are frequently long-term unemployed and have poor records of educational attainment. Without a minimum level of education, offenders will forever find it difficult to escape from the margins of our society.

The Alexander Maconochie Centre will accommodate men and women remandees and sentenced prisoners. It will be a campus style design, incorporating separate accommodation units around a central facilities area, including rehabilitation program spaces, education areas and health and logistic areas. Inside the main facility, low, medium and high-security accommodation will be constructed in the form of single cells, dual occupancy cells, and cottage units. Typically, negative psychological impacts for both staff and prisoners occur with large prisons, to the extent that staff and prisoners may feel overwhelmed by both the scale and the size of the facility. We will design our prison to avoid this problem.

There will be open space reserved inside the main prison for an additional 120 places to cater for possible future expansion. The prison will incorporate sustainability in its design principles and its operating model. To this end, it will require minimal energy to meet demands, maximise the use of renewable energy sources, minimise demand for potable water, maximise the re-use of water, minimise demolition, construction and operational waste, minimise pollution and avoid or minimise impacts on local

biodiversity. The achievement of the sustainability objectives will be assisted by the application of the Green Building Council's green star rating tool. The development aims to achieve a minimum four-star rating on the six-star rating tool.

The operating philosophy and model of the Alexander Maconochie Centre are founded on the ACT Human Rights Act. The prison's operating philosophy will be the major factor influencing the design at the centre. The centre will be a secure and safe place that will have a positive effect on the lives of prisoners held there and on staff who work there. Its management and operations will give substance to the dictum of Sir Alexander Paterson that offenders are sent to prison as punishment, not for punishment.

Programs and activities for prisoners will be based on individual assessment of each prisoner as the foundation of individual case plans. A multidisciplinary and indeed multi-agency approach to program delivery and case management will be adopted. This aspect of the operating philosophy for the ACT prison will contribute to achieving whole-of-government objectives for crime prevention and community safety and to the principles of restorative justice.

Boredom and inactivity in the correctional setting encourage drug use, undermine rehabilitation objectives and threaten security and safety. The new prison will provide vocational training and employment opportunities to aid rehabilitation and reduce prison costs. Initially, work will primarily be in domestic industries, such as grounds, facilities, maintenance, cooking and cleaning. Space within the prison has been identified to permit the possible development of limited horticultural activity, facilities maintenance, waste management and recycling and to provide other work opportunities for prisoners. Visits will be available seven days a week, with specific periods being set aside for family visits and for professional visits, with visit areas designated specifically to be non-threatening and child friendly. Both formal and informal recreation programs will also be available in the centre.

Poor health, including a high incidence of mental health and substance abuse problems, is prevalent amongst prisoners. Prisoners, particularly women prisoners, exhibit backgrounds of physical, mental and sexual abuse. The provision of health services in the new facility will be based on the principle of equivalence, that is, prisoners should be able to access health services comparable to those accessible by the rest of the community. The goals of health services in the correctional setting include minimising self-harm, reducing dependency on drugs, addressing mental health issues and promoting a healthy lifestyle. A medical centre will be provided in the prison, equipped for assessment, treatment, consultation and clinical support to meet the primary health needs of prisoners.

Mental illness may be linked to substance abuse. ACT Corrections and ACT Health services staff will collectively provide an effective joint health/corrections response to both these issues within the ACT correctional centre. This will include the provision of both acute and long-term mental health care services and their integration with community-based services.

Illicit drugs pose one of the most serious problems in prisons. The ACT prison will have in place policies and procedures to deal specifically with drugs in prison. Drug and alcohol policies and practices will be an integral part of prison management, addressing

health care, rehabilitation and reintegration and administration and discipline. Drug use, particularly injecting drug use behaviour, presents as an occupational health and safety risk to staff, other prisoners and visitors. Australia's national drug strategy has recognised that some illicit drugs will get into prisons and the appropriate response is to adopt the policy of harm minimisation. The main objectives of the prison's application of harm minimisation would be to ensure the security and safety of prisoners, staff and visitors.

Safe withdrawal and rehabilitative treatment will be provided and health issues related to alcohol and drugs addressed. Education programs dealing with alcohol, safe injecting practices, safe sexual behaviour, drink/drive programs and smoking programs will also be provided. Drug detection measures will be set and will include drug detection dogs as well as appropriate technology and services provided by the Australian Federal Police.

In simple terms, the profile of the female prisoner population is marked by more damage, disadvantage, disease and disaffection than in the male prisoner population. Accordingly, four principles, which reflect those adopted in Canada, Western Australia and New South Wales in its new facility at Dillwynia, will underpin the management of women prisoners. The first principle is personal responsibility and empowerment of the individual. Many women in custody are marginalised and alienated, with no experience of making positive decisions that affect their lives. Prison staff will give women in their care the power to make such decisions and accept that as their personal responsibility.

The second principle is family responsibility. The objective of this principle is to ensure that prisoners who are mothers and primary carers are provided with maximum contact with their families and children and to buttress this by providing programs and support directed at improving relationship and parenting skills. The third principle is community responsibility. Many women are alienated from their communities and lack supports within them. Prisoners will be encouraged and supported to become engaged with members of the community, develop a sense of community responsibility and set in place post-release support arrangements.

The fourth principle is respect and integrity. Services provided within the prison will be gender and culturally appropriate and will respect the dignity of people and the differences between them. Where it is determined to be in the best interests of a child, provision will be made for the child, up to the age of three, to reside with the mother in custody, although the safety and wellbeing of the child will always be the priority.

The Australian Capital Territory population projections 2002-32 and beyond report that the indigenous population in Canberra, currently approximately 1.2 per cent of the total population, is expected to continue to increase both in number and as a proportion of the total population, due to the higher levels of fertility, high migration into the ACT and an increasing propensity for people of indigenous descent to identify themselves as indigenous. Indigenous prisoners presently constitute approximately 9 per cent of the ACT prison population. While this is lower than the national average, it still represents an unacceptable level of indigenous overrepresentation in prison.

The government's recent initiatives in circle sentencing and restorative justice are engaging indigenous groups and the indigenous leadership in responding to issues arising

from the relationship between indigenous offending and imprisonment. Our aim is to prevent indigenous persons being sent to prison.

The selected site for the ACT prison is located at Hume—block 6, section 18, and block 12, section 24. A preliminary assessment under the Land Planning and Environment Act has recently been submitted to the Minister for Planning for determination. Earlier this month I received a letter from Senator Hill advising that a portion of the land to the north-east of the airport, identified as block 102, is surplus to Australian government requirements and recommending that the ACT submit a priority sale proposal for the site. I formally applied for a priority sale more than 12 months ago and made repeated efforts to secure this land, only to be thwarted at each turn by the Commonwealth.

It is almost impossible for the ACT to change sites at this late stage. To do so would clearly put the project back substantially 12 to 18 months, and possibly longer, as terms, conditions and limitations attached to the land in question would inevitably have to be negotiated with the departments of Transport and Regional Services, Defence and Finance, as well as the Canberra International Airport and the National Capital Authority.

Should planning revert to the site in the Majura Valley, the cost of the current preliminary assessment would be wasted and new contracts required. Canberra International Airport has also expressed concerns at any proposed move to Majura, as block 102 has been identified as land required for the future expansion of the airport, and aircraft noise would be an ongoing concern.

There are also significant environmental issues associated with the sites identified by the Commonwealth, including grassland and earless dragons to the west and woodlands to the east. Resolving these issues would require detailed consultation with Environment ACT and referral to Environment Australia under the Environment (Protection of Biodiversity and Conservation) Act 1999. Following the completion of the detailed impact assessments on the site at Hume as part of the preliminary assessment, I am convinced that the Hume site presents the best available option for the establishment of the ACT prison.

Work is well progressed at the current site. There are a number of tender processes due to commence in the coming months. A program manager will be engaged to assist with the management of the design and construction process. Shortly thereafter we will engage a designer to develop a detailed design and the associated documentation and a builder to commence construction of the prison. After almost 50 years of debate, speculation, deliberation, analysis and procrastination, my government has not only substantially progressed work towards the establishment of a prison, we have provided $110 million in funding to that end.

What is more, my government is ensuring that the ACT prison will be a model of sustainable design, and its operations will promote a safe, healthy environment for all associated with the prison—prisoners, staff and visitors alike. The Alexander Maconochie Centre, through careful planning and community involvement, will offer prisoners opportunities, inviting them to rehabilitate and reintegrate with the ACT community of which they are a part, and where they belong.

Economic white paper
Ministerial statement

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming): I seek leave to make a ministerial statement concerning the economic white paper.

Leave granted.

MR QUINLAN: I would like to deliver a report to the Legislative Assembly on the economic white paper. We came into office with a commitment to deliver a strategic, decision-making framework on the way we govern people in the territory. The economic white paper, released in December 2003, was the first of three important strategic planning documents. The Canberra plan, which was announced by the Chief Minister in March of this year, draws together the major themes that link the economic white paper, the Canberra spatial plan and the Canberra social plan.

Today, Mr Speaker, I want to focus solely on the economic white paper and how it has kick-started a process of building an economy for the future. In broadest measures, the government has now committed $126.7 million to roll out economic white paper actions. All the centrepiece actions that required new funding have been supported in either the March 2004 third appropriation or the 2004-05 budget. Let me briefly list them:

- $10 million commercialisation investment fund;

- $10 million to the University of Canberra to expedite construction of the new School of Health Sciences;

- $21.4 million for enterprise development programs over the next four years;

- $28.2 million to tourism, marketing and promotion;

- $40 million to support the long-overdue upgrade of Canberra's convention facilities;

- $11.7 million for ICT infrastructure in our schools;

- $1.2 million to establish the office of Film, Media and Digital Media.

There are a host of other initiatives.

While the government is proud of its financial commitment, this statement should not be seen as a ticked-off government shopping list. It is one thing to commit money, it is another to spend it with impact and achieve the outcomes we are targeting. The four key strategies underpinning the economic white paper shed light on these outcomes.

Strategy one is supporting business. It would clearly need to expand and diversify the ACT private sector economy. Accordingly, the economic white paper establishes a work program with many initiatives to directly and indirectly support Treasury businesses. Strategy two is capitalising on competitive advantage. It is closely linked to the first

strategy. This means developing a better understanding of our private sector strengths and targeting limited government resources to areas and activities that provide the greatest return.

Strategy three is leveraging our intellectual assets. It must continue to invest in the territory's remarkable stock of human capital, but with a clearer focus on utilising this resource for improved economic outcomes. Talented people are the new currency of competition, and the ability to attract, develop and retain talented people is inexorably linked to the territory's economic future. Strategy 4 is providing supportive planning and competitive government infrastructure. This not only means providing efficient and reliable infrastructure and services to the business community but also being much more focused on how our urban plan and indeed other government services and infrastructure can support our economic objective.

I would now like to talk briefly about the implementation activity that is occurring behind these four strategies. Supporting business we have been packaging into an important, aspirational goal. The government has set this goal of making the ACT the most small-business friendly jurisdiction in Australia. Ninety-seven per cent of private sector firms in the ACT are small and micro businesses—maybe 96 per cent if you believe Mr Smyth's interpretation of ABS statistics. They employ over half the territory private sector workforce. They provide many points of delivery to drive the economy in sustainable new directions.

Our small business sector can be broadly grouped into two categories of firms: first, the traditional small business and micro business, those in retail, wholesale, hospitality, personal services, trades and professions, home-based business and so on; and, secondly, the technology-based firms, the start-ups, those that are driving Canberra's burgeoning knowledge economy.

The economic white paper made us look at the mix of government services and programs and how they support the sometimes competing needs of these two groups. For the latter group, we have boosted funding to the knowledge fund to build on the program's extraordinary early success and direct more support to our knowledge economy firms. Similarly, the $10 million commercialisation investment fund aims to draw down on the commercialisation potential contained in the leading edge resource research conducted in the territory's universities and institutions.

In July, we announced an exciting new Canberra-California bridge program, a program that will be delivered with the assistance of our international development partners—LATA, from Los Angeles, and San Diego Connect. This program will provide accelerated and hands-on learning to ACT economies that have the product and the wherewithal to participate in the US west coast markets.

The policy and program, focusing on the sexy end of town, does not distract us from the issues confronting traditional small business. For example, the government has:

- provided $1.2 million in funding a business acceleration program;

- provided $567,000 in funding employment ready over the next four years;

- funded the highly successful CanBAS service;

- consolidated our business development capability in a new, single shopfront at Braddon;

- upgraded web-based information and advisory services to ACT firms;

- commenced the review of Canberra Connect, with the aim of establishing this service as a major entry point for business related information in the ACT;

- introduced a new $2 million export growth program, a flexible program which provides grants to support a broad range of export market development activity; and

- introduced a new pre-tender consultation process designed to facilitate a more small-business friendly approach to government purchasing projects.

- worked on a new e-procurement system that will simplify the tendering process for small firms and reduce the cost of tendering;

- taken a fresh look at the information needs of the home-based business sector and how we best service this dynamic part of the ACT economy.

The major impetus of our small-business friendly goal is the government's policy to establish the ACT's first Commissioner for Small Business. On Thursday, 26 August the Assembly will debate the Small Business Commissioner Bill, an initiative and a piece of legislation that has been widely acclaimed by both the local and national small business community. The Assembly has an opportunity to put in place a strong and independent advocate for small business in the territory. But I might quickly add that the commissioner's role is much more than symbolism and advocacy. In the legislation we have provided a charter for the commissioner to effect change on a range of issues that small business demands action upon. It is my hope that the Assembly will not fail to grasp this opportunity later this week.

No discussion about goals for small business would be complete without reference to some of the important changes we have made to occupational health and safety. I will not labour those, other than to say that a couple of them that have received some profile have been ranked very low by Australian Business Ltd as important issues. To repeat this government's contention: the existence of a safe, fair and just workplace is not mutually exclusive to a positive business environment. In fact, more often than not they go together rather than operate separately or competitively in aim.

We intend to capitalise on our competitive advantage through the various sectors of the economy: information communications technology, defence, education, biotech, public admin, creative industries, space sciences, environmental studies, sports science and administration.

I will skip through a fair part of my speech, because I have had the nod from my whip that we would like to get on with the program today, but I will table it at the end of my delivery. Let me just say that this government is working on a number of fronts. It is not

only working on building business but also on building the environment, the revitalisation of Civic and City West—the developments that will take place there—and the precinct that will develop at City West.

The economic white paper is a generational strategy. Accordingly, many of the important changes that we are trying to introduce will be ongoing. It will take time to build critical mass in our biotech sector. Some of our priority industry sectors may not come but new sectors and opportunities will emerge and we will have the policy and program dexterity to assist their development when the time is right.

Exciting new business programs are now in place and existing programs have been extended because they work. The task ahead is to channel the support to the right firms at the right times. The Small Business Commissioner will establish a work program that adds value. The legislation provides the landscape, but the proof of the pudding will be in the eating and I am confident of long-term success.

The revitalisation of Civic and the development of City West are a 10-year project that will be built around many incremental achievements. The commercialisation investment fund will support many great ideas, many of which will go on to achieve commercial success. As I said at the launch of the economic white paper in December of last year, some of the actions will be subject to a phased implementation program.

The economic white paper is a strategy that builds on the enormous success of the past three years, and I listed earlier, at question time, some of the conditions that prevail in the ACT right now. There has never been a better time for a stronger economy or an economy that has been performing this well in the ACT in its history. The business confidence that we have is shared by many of the surveys that have been conducted by the *Business Review Weekly* and by their assessment of the state of the states, by the financial review of our budget.

I will table the full speech. I conclude at that point and say that I believe that the government has more than honoured its commitment to deliver on the various initiatives that we outlined in the economic white paper and we will continue to build on the work that has been done. I present the following paper:

> Government's Economic White Paper implementation—Ministerial statement, 24 August 2004.

Planning
Discussion of matter of public importance

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

> The state of planning in the ACT.

MRS DUNNE (4.04): When the Liberal government left government in 2001, it had set in train a process of assessing Canberra and its sustainable future in cooperation with the OECD. The result of that work was finally published in May 2002—it is entitled *Urban renaissance—Canberra: a sustainable future.* This is a work of the OECD that looked at

a variety of cities at various stages of their development, and how they might find their way through into a sustainable future. Some very important things are said about Canberra in this report, one of which is as follows:

> Richly endowed with visionary planning and design, Canberra is a brave and bold urban experiment that befits its role as the national capital of a young, ambitious, and successful nation.

That is how the OECD assessed Canberra, basically on the cusp of a new government. It goes on to say:

> The economic growth and prosperity of cities are crucial factors to their well being, frequently determining social and environmental outcomes. In the case of Canberra, a pro-active effort to build the city's economy as a mix of public and private sectors…will affect the current spatial pattern.

It looks at various things that Canberra needs to do. It refers to the shift to "new economy" jobs, and adaptive reuse and modernisation of the city centre—the area known as Civic. It talks about enhancing coordination with the Commonwealth; consideration of sub-themes with an economic development focus; how a strategic planning process might make Canberra a better place; how it would relate to sustainability, land use and measures to realise the city's potential so that it can be improved and the outcomes implemented. At the change of government, we had this assessment of the OECD—that there were a whole lot of things going for Canberra but we needed some strategic reassessment. Since then, we have had an awful lot of reassessment and an awful lot of documentation but, for the most part, I do not think it has been as strategic as some people would have us believe.

If you talk about a strategic plan for Canberra and you talk about it often enough and you say strategic this, strategic that and strategic the other thing, you might give people the impression, if they were not anything more than casual observers, that you were actually doing something that was really useful for Canberra. From the outset, in this job as shadow minister for planning, I have always been supportive of the development of a strategic planning initiative for Canberra. What this means, of course, is that you need to have a strategic plan. This is what the government talked about in terms of a spatial plan. But, instead of coming up with a spatial plan, we had two interminable years of publications and consultations. I will go through them.

There was the launch of the beautiful maroon report entitled *The Canberra spatial plan—Canberra's planning future* in May 2002. Then there was the blue *Your Canberra your future—changes and challenges* in July 2002. There was then *Your Canberra your say*, which was a report on the community consultation of December 2002. As if you did not know what we were doing, there was then the lovely lilac *Towards the Canberra spatial plan* of August 2003. Then we got a draft spatial plan. It was December 2003 and we were getting pretty close. Then eventually we got it—*The draft Canberra spatial plan*.

You might notice that we had also changed format from the cute little curvy lines to something that became symbolic of the government—the blurred picture suddenly came into fine focus. The subliminal message is that, before Corbell and before Labor, everything was blurred; and now, during Corbell, we come into sharp focus. So we had

the draft spatial plan, and then at last *The Canberra spatial plan* with its pull-out planning minister. Sadly, my copy has already lost its planning minister. I hope that is not an omen—or perhaps it is an omen.

We have six publications to get us to a spatial plan. We all puff ourselves up and say how wonderfully we have done—but let us look at the fruits. Let us look at what has happened. When this minister came to office as the planning minister he did so with a great flourish and a planning policy called *Planning for people*. That contained great eloquent things about how it was going to be fabulous—and everyone would be happy in the Simon Corbell utopia of the new planned Labor Canberra.

It is interesting to note that, some time back, *Planning for people* was quietly removed from the ACT ALP webpage because again, along with all the failures in planning, the people were forgotten. It really is a bit of an embarrassment that the ACT planning document for the last election was called *Planning for people*, because the people were forgotten. The processes were there: there were lots of publications and there was all this consultation. But the planners forgot that the people who were being consulted had day jobs, and other things to do with their lives.

On top of all this spatial planning and social planning, we had a whole range of other things. We went through a phase where people would say to me, "I'm just DVP 200-ed out. I'm sick to death of talking about DVP 200." I think this was the subtle plan of the Stanhope Labor government and of Simon Corbell, its planning minister. It is rather redolent, as I have said in the past, of the days of *The rise and rise of Michael Rimmer*—a movie about participatory democracy. In that movie there was a consultation and referendum on everything until, eventually, people were so sick of it that they had one final consultation and one final referendum to do away with consultations and referendums. I think this is what was done.

Let us look at the planning activity in the ACT over the past three years, and look at the litany of disasters. The ones that come to mind are St Anne's Convent being rezoned for aged care persons—eventually, but it took four years. And there was the zoo. For over three years the Canberra National Zoo and Aquarium has been waiting for an allocation of land. There was the spectacle of the western route of the GDE with a 10-metre trench in front of the AIS. As we touched on today, there were the unconscionable delays for The Little Company of Mary—and there was, as I contend, the illegal call-in of the sites in Gungahlin for Coles and Woolies.

Mr Corbell: Mr Deputy Speaker, I wish to raise a point of order. Mrs Dunne has suggested that I acted in some way illegally in determining a particular development application. That is quite disorderly and I would ask you to ask Mrs Dunne to withdraw it.

MR DEPUTY SPEAKER: I did hear the word "illegal". Withdraw it.

MRS DUNNE: I withdraw it.

MR DEPUTY SPEAKER: Thank you.

MRS DUNNE: Then we have had, of course, Draft Variation 200—the spur in the side of a great number of people. I would like to share the following comment with members of the community. It says:

> Town planning in 2003 took some particular turns…It began with "Variation 200" to the Territory Plan, which affected every block in all residential areas throughout metropolitan Canberra.
>
> It was probably the most contentious of all Variations. Seven hundred formal representations were generated by the Draft, and 96 per cent were opposed to it.
>
> For the first time in my experience, the Draft Variation was opposed by every one of the nine professional organisations and business groups involved in Canberra's building industry.
>
> When the Real Estate Institute and the Royal Australian Institute of Architects are loudly singing from the same songsheet, something most unusual is afoot.
>
> The Draft Variation was unanimously rejected by the Assembly's non-partisan Planning and Environment Committee—its report contained some of the most scathing comments on the Draft and the Planning Authority that I have ever read.
>
> Despite the…strength and depth of opposition to the Draft, planning minister Simon Corbell has succeeded in getting the Variation through the Assembly, with support from Kerrie Tucker and John Hargreaves who reneged on his decision to reject the Draft Plan as a member of the Planning and Environment Committee.
>
> Variation 200, which came into effect in August 2003, has two main provisions.

It goes on. When you read this it sounds like a speech that I made in this place. Fortunately, it was an article in the *Canberra Times* on Friday 23 April this year by Mr Phil O'Brien, a chartered town planner and a senior former planner with the National Capital Development Commission and the ACT Planning Authority. These are not my words; these are the words of professional planners. What we have across the territory is that sort of scathing criticism. We have seen the problems for this minister in relation to Tasman House and the unconscionable delays there from his own factional colleagues in the CFMEU.

We have the failure of the interaction of the spatial plan and draft variation 200. Back in 2002 I was saying in this place that the policy had got out of sync—that we were doing two things in step that should have been done sequentially, and that future generations will judge us very severely if we get it wrong. Really, the draft variation is part of a mosaic that does not fit with a so-called strategic approach. You cannot be strategic and ad hoc at the same time; something has to give.

This was constantly the message throughout our inquiry into draft variation 200. I recall extensive evidence from the Turner Residents Association. Not only had they been draft variation 200-ed, they had also been neighbourhood planned. Members of the Turner community were saying that, after the process of being neighbourhood planned, there was a list of 42 actions to be carried out. Ms Katie Saxby said to the planning and environment committee in February 2003:

> That's the neighbourhood plan action list—but no funding. Perhaps there's goodwill—there's goodwill in PALM and other agencies, but they don't have the funding.

That is the commitment this government had to planning for people. The whole resolution and the whole determination of people to support a changed approach to planning goes out the door when you have people like Ms Saxby, who said on that occasion, "I was very supportive of neighbourhood planning and I am very supportive of the notions of draft variation 200, but essentially we were betrayed by the process."

We have had much notice of the betrayal by the process, but none more up-to-date than yesterday's *Canberra Times* where, again, this government has got it desperately wrong. We saw the residents of Griffith up in arms over their neighbourhood planning, for a variety of reasons. The core area was going to be changed to extend A10 development down through all of the modest brick bungalows along Captain Cook Crescent, potentially doing away with a large swathe of those.

There were a whole lot of other changes being proposed for Griffith. The really interesting one, Mr Deputy Speaker—about which you have asked questions in this place on a number of occasions and it is nice to see it confirmed at last—is that residential aged care accommodation will be established on the old O'Connell Education Centre site—section 78 Griffith. For members of the opposition who were then associated with the government, we will die with "Section 78 Griffith" engraved in our hearts, because of the agony created by this minister who now proposes to go along and do away with the open space there and build aged care accommodation.

Late last week I talked about the Chief Minister as being a Bourbon and you pointed out that my quotation was wrong—that it was actually about the courtiers around the king, who had learnt nothing and forgotten nothing. Again, this planning minister has learnt nothing about the people of Canberra, and he also seems to have forgotten just how painful section 78 Griffith can be. I hope that, as we draw to the end of this minister's inglorious reign, that pain will come home.

MR HARGREAVES (4.19): What an entertaining speech! I thank Mrs Dunne for the hyperbole and rhetoric contained therein. It was a most entertaining diatribe, can I say. It was also full of phrases like: the Labor Party has done this wrong; the Labor Party has done that wrong; the Labor Party has done something else wrong; and this minister has done something wrong. However, what is consistent about this is that this minister has done something—this government has done something.

Mrs Dunne was attached, like a sucker fish to the underbelly of a shark, to the regime that did absolutely nothing except sit there and watch things fester in the sun. Then Mr Corbell comes along. Out of her own mouth, she says, "We will go to our graves with section 78 Griffith in our ears." Why do you think that is? It is because they made a monumental cock up of it. I can say, "Good on you." I hope, sincerely, that you live forever but that the last voice you hear is mine saying, "Farewell."

Along comes Mr Corbell. For right or wrong, every new thing you do has teething issues; there are problems with it, but essentially you have a look at its core and see

whether it is okay. In the past three years we have seen a paradigm shift. I am very glad Mrs Dunne put this MPI on the notice paper about the state of planning in the ACT. I think it is a wonderful opportunity for those opposite to get up and congratulate Mr Corbell on moving things forward at such a pace. This place has boomed. It has gone from strength to strength. We have seen the government take over the development of land out there and the revenue flows to the pockets of the taxpayers, not into the coffers of others.

Mrs Dunne: But they can't afford to buy land to build their houses!

MR HARGREAVES: I think sometimes there is a bit of "sour grapes" here because they did not think of it themselves. We have the independence of the LDA, and ACTPLA is considerably more independent than it was before. We do not have rampant use of call-in powers. It is this minister who brings along the explanations to it. It is this minister who has turned planning upside down in this town. It is just as well he did too because, as I say, it was just a festering sore in the sun before this minister came along.

I think it is wonderful, and I thank Mrs Dunne from the bottom of my heart for giving us the opportunity to extol the virtues of the government and the movement forward. As the planning minister has outlined before, on a number of occasions in this house, this government has been progressively and proactively working towards the establishment of the administrative arrangements for the new planning and development system and providing strategic planning and policy platform for sound decision making.

Before, it was decision making on the run: shoot from the hip and hope like heck it hits the target. It never did. When the Land Act was introduced in 1991 there were over 150 amendments to the bill made on the floor of the Assembly. In conjunction with subsequent amendments these have created an overly complex, and in some respects, unorthodox planning system.

The territory needs to be more competitive in attracting development. It needs a better guide to government strategic investment and social and physical infrastructure. This can only be achieved through the development of a spatial plan and strategic planning policies that the minister has referred to on a number of occasions in this place. Today the politicians, developers, the community and administrators of the system operate under an increasingly cumbersome and inflexible system created by the Assembly, something that this minister has taken on as a personal challenge to fix. I have to say that, to a great degree, he has succeeded and will continue to succeed when he continues on as Minister for Planning for as long as he feels so inclined.

From the outset the government's reforms have been ambitious and have already seen significant change, not the least of which has been the establishment of the ACT Planning and Land Authority and the Land Development Agency. It is important to understand that underpinning both of these issues is the independence. Mr Corbell has taken the planning regimes of this town largely out of the hands of politicians, who sometimes face the apple on the tree of temptation. But now they do not need to worry about resisting that because it is an independent authority and agency. Having delivered these, the government is committed to integrating its strategic planning across areas of planning, environment, society and economic performance that will deliver clarity, efficiency and a city like no other.

Walter Burley Griffin planned this city. In the meantime the Liberals unplanned this city, and now Simon Corbell is putting the plans back into this city. In my view, he is almost as visionary as Burley Griffin. The government has completed the Canberra spatial plan, the first comprehensive strategic plan for the future development of this city since self-government. It has also adopted its economic white paper, which outlines the key directions necessary for Canberra to maintain a dynamic and competitive economy. Together these two documents, in conjunction with the social plan, underpin the Canberra plan and provide Canberrans with a clear vision for the future development and the health of this city. The Canberra spatial plan and economic white paper were prepared collaboratively to ensure that the aspirations for the economic performance of the city could be effectively achieved within the proposed strategic planning framework.

Already we have demonstrations of this. The draft Canberra spatial plan has confirmed what the OECD advised—that we need an identifiable, pre-eminent and vibrant "city heart"—something missing during the reign of the Carnell and Humphries governments. The City West master plan identifies opportunities for new investment and linkages with the Australian National University. Where was the then government when the need for that arose? Nowhere to be seen—and there was no plan.

It can be anticipated that the Canberra central program will similarly identify opportunities to build partnerships. We have master planning for the Woden and Belconnen town centres, facilitating renewed interest in those areas. The spatial plans propose further investigation of future employment nodes in areas where urban development is anticipated to occur, like the airport. The Canberra region has approximately 1.5 million square metres of office space, which represents the fourth-largest office stock behind Sydney, Melbourne and Brisbane—eight per cent of the Australian market. This reflects the concentration of Australia's population and business on the eastern seaboard, but its significance for the ACT is the degree to which we place ourselves to capture a greater degree of this investment.

Pivotal to realising this is the need to further improve the operation of a planning system and the partnerships we foster. An example of this has been the recent launch of the design policy books and refined development assessment process, which replace much of the cumbersome and confusing processes associated with high quality sustainable design without compromising those principles. The government is working towards a planning system that encourages the community to be involved in the planning process at the policy development phase, so that anyone working to help realise the strategic vision should not be "penalised" by the planning system, but "rewarded" by it.

In undertaking the detailed planning for land development the Land Development Agency will take into account the objects of the Planning and Land Act 2002 and contribute to the orderly and sustainable development of the ACT, consistent with the social, environmental and economic aspirations of the people of the ACT in accordance with sound financial principles—neither of which have been introduced to those opposite yet. I look forward to the opportunity for this government to introduce to members opposite things like sound financial principles. I am sure that, when they meet them, they will realise how wonderful they are.

Clearly, having a government developer with these broader objectives should see better planning outcomes on the ground in communities that have been created throughout Canberra. Indeed, the quality of the developments already undertaken by government agencies is very high. Recent developments at Kingston Foreshore and at Yerrabi are producing high quality outcomes. It is this dual approach, improving both the independence of the system and ensuring that the physical outcomes deliver on broader objectives rather than just on profit, that will see better outcomes for all the Canberra community.

The next step in the reform of the planning and development system is for the government to ensure that the new organisations—and especially the ACT Planning and Land Authority—are equipped with the appropriate tools to deliver the better outcomes we need. The significance of having a planning system that is designed not only to consider myriad issues but also to consider the relationship between those issues has been recognised nationally.

The territory is in an excellent position to demonstrate innovation and leadership in planning, as it has both state and local government functions. The combination of these roles means the Assembly can be confident that its policy setting and its implementation can be well integrated. It is the intention of this government to ensure that we continue to deliver a planning and development system that better performs in attracting investment, maintains appropriate community safeguards and protects Canberra's amenity. This minister has led the government in delivering just that.

I reiterate that I am grateful to Mrs Dunne for putting this MPI on the agenda because it gives the Assembly an opportunity to recognise the quantum leap forward from the stagnant pool of incompetence we were faced with when we came to office in October 2001 and the gigantic leaps forward that have occurred since 2001, remembering that this is the beginning of a journey of excellence—it is the biggest step forward. This government, through Minister Corbell, is leading the way.

We have the confidence of business out there. Business and planning are necessarily linked, so my figuring is that, if business is so buoyant, then they are reasonably happy with the planning process as well. They are very happy with the signals the minister has put out in respect of City West and city central development; and with his commitment to making sure proper planning regimes apply in Gungahlin—so that people can get in and out of Gungahlin—and also making sure that some hope comes out of the misery of the bushfires. People are now planning for what can happen as a result of that devastation.

People in Chapman, through this minister's planning regimes, have been revitalised further. The opportunity for us to expand into the Molonglo Valley will be done at no detriment to the ACT. It will be a huge credit to the ACT taxpayers' purse—thank you very much. We will find that we do not have a small number of developers walking away from this place as squillionaires; rather, the taxpayer will benefit. All the places that pop up in that new town centre will do so with the benefit of sound planning regimes, sound planning practices and sound planning processes.

Mrs Dunne: You have seen all those rear lanes in Gungahlin and you are happy with them?

MR HARGREAVES: I also welcome the squeals of delight coming from Mrs Dunne, that she has been able to share her limited time in this Assembly with such a luminary as Mr Corbell.

MS TUCKER (4.33): The ACT Greens are committed to working towards a planning and design framework that will allow people to live in more ecologically and socially satisfying ways, which will promote a healthier and more sustainable Canberra community. It is a more holistic approach than simply trying to address the problems through, for example, the introduction of a territory architect as the Labor and Liberal Parties have proposed this week. Having a design vision for the ACT is important, but it is only one step in the process.

The ACT Greens recently released a comprehensive action plan for planning in the ACT which is cost effective, environmentally and socially sustainable and able to be implemented immediately. The ACT government recently released new development application and design guidelines for residential, multi-residential, commercial, industrial and institutional developments in the territory. The new guidelines replace the ACT Planning and Land Authority's high quality sustainable design process, introduced in 2001.

Mrs Dunne made several comments about variation 200. I remind members that when the Greens supported that—basically, it is consistent with the planning policy that the Greens have promoted in all the terms of the Assembly that we have been here that you target density around facilities and public transport—we certainly did have qualifications about the implementation and development of that planning framework, which were to do with the neighbourhood planning process which Mrs Dunne spoke about with concern, as well as the high quality sustainable design issues.

One key concern comes up continually when you converse with residents about planning issues. I participate in residents' meetings as much as I am able to, and this has been consistent also over my time in the Assembly. They are sympathetic to the notion of targeted increased density and the problems with greenfields expansion and infill development, as well as the gross speculative development that occurred under the Liberals. However, residents want to see the quality of the design of the built environment improve so that people are not horrified by what happens when this density is increased. The constant comment has been, "We are not opposed to development if it is good development and takes into account the sense of place we have in our environment, and takes account of privacy and solar access—environmental design and an aesthetic which is acceptable."

I will admit that the term "aesthetic which is acceptable" is one of the ongoing debates that occur around planning, because there are conservative and conventional ideas of what a suitable aesthetic is for Canberra. Then there is the notion of the aesthetic of sustainability—which the Greens promote, of course—which is about a transformative process, acknowledging the pressures the climate is under due to greenhouse gas emissions and so on, as well as the pressures of population.

You have to have an emerging aesthetic of sustainability, supported by the leaders in the community, but it must be about best practice and high-quality design. There is then a real chance that people will accept it, and I believe they will. The ACT Greens' action plan for the built environment is built on those understandings. The government's new guidelines on high-quality sustainable design encourage—and I underline encourage—energy and water conservation measures and the use of more suitable building materials.

These are steps in the right direction but the government has not gone far enough in helping a sustainable Canberra future take shape. Indeed, it has not gone much further than its previous position, which was reflected in the HQSD process. To truly commit to a more sustainable built environment the government must prescribe mandatory improved minimum standards for design and construction in the ACT. A new approach to urban planning is needed—one based on ecological and social sustainability.

Canberra's planning and design regime should provide adequate guidance to residents and developers to assist them to reduce their impacts on the environment. It should also assist residents and developers to reduce their energy and water costs through building and land use design to suit the capital city's climate and landscape. There should be clear sustainability standards and targets, as have already been established in Victoria, New South Wales and other parts of Australia.

From July 2004, for example, builders in Victoria have had three options—five-star energy rating or four-star energy rating plus water-saving measures, plus rainwater tank; or four-star energy rating plus water-saving measures plus solar hot water, with requirements set to become more stringent over time. In New South Wales the government has introduced the Building Sustainability Index, or BASIX, to ensure that new homes use less water and energy. All residential development applications must now include a BASIX certificate.

The BASIX certificate demonstrates that the design meets the government's targets for reducing water and energy use. Applicants must show that their proposed homes will be designed and built to use 40 per cent less mains supply water and produce 25 per cent less greenhouse gas emissions than the current New South Wales average. From 1 July 2006 this will rise to 40 per cent less than the average greenhouse gas emissions.

New homes must also meet BASIX requirements relating to the thermal performance of the building envelope. This requirement is aimed at ensuring that homes are not overly reliant on artificial heating and cooling, such as air-conditioning, in order to be more comfortable. The implementation of the prescribed targets in New South Wales will result in a cumulative reduction in water consumption of 182,000 megalitres and a cumulative reduction in greenhouse gas emissions of 7.2 million tonnes over the next 10 years. These reductions will save consumers across New South Wales $182 million for water and $36 million for energy.

An average New South Wales family living in a home certified by BASIX is likely to save between $300 and $500 a year on combined water and energy, compared with an electric household. In Canberra, the nation's capital—a city designed by Walter Burley Griffin and Marion Mahoney Griffin to be a city in the landscape—it is vital that the government commit to a vision that champions a light ecological footprint, respect for

the natural environment as its fundamental principle, and a distinctively Australian designed signature which models equity and accessibility for its citizens.

These are ideas that were inherent in the original Canberra plan but which have real and renewed significance today. To improve the current state of planning in the ACT and the new development application and design guidelines issued by ACTPLA, the government must commit to the following:

(1) Mandatory five-star efficiency standards for all new developments and an extension of the rating scheme up to 10 stars to reward well-designed houses. Evidence from Victoria shows that five-star homes will cost about $1,100 more to build than four-star homes. This would add $90 per year to the average mortgage repayment. This is more than offset by an expected 50 per cent cut in energy bills, which will save $210 per year on average. Water consumption in a five-star home is also expected to fall by 25 per cent.

(2) Mandatory solar hot water for new homes and a requirement that replacement hot water systems in existing homes be solar or some other approved low greenhouse option.

(3) Mandatory rainwater tanks for new homes and incentives for adoption of other water-saving technologies such as grey water reuse systems.

(4) Five-star efficiency for all government office developments and all new government tenancies, using a recognised assessment and accreditation tool such as the Australian Building Greenhouse Rating Scheme.

(5) Introduction of minimum sustainability standards linked to territory level targets for reducing water and energy use as a first step, and regular reporting against the same.

(6) Ensuring that all new design applications demonstrate that they meet sustainability standards, compliance with water and energy use targets as a minimum, via a modified residential sustainability report.

(7) Random audits across the full range of development types to monitor compliance with sustainability commitments set out in development applications at design and construction stage, and reporting on results, with penalties for non-compliance.

(8) Ensuring that commercial, industrial and institutional developments demonstrate compliance with minimum sustainability standards, by way of a sustainability report at application stage.

(9) Mandatory benchmarking at design and construction stages for all large-scale developments, to recognise and reward better practice.

(10) Along with the mandatory passive solar siting of new houses and streetscapes in new suburbs and rural villages, a commitment to environmental outcomes having priority over design elements such as consistent street frontages.

(11) Incorporation of solar access requirements in planning and design processes to ensure that passive solar residents are not overshadowed by neighbouring dwellings.

I will not have time to finish all of our 19 points. I will conclude by saying that I think this action plan for Canberra's built environment is something that should be picked up by the government of the next Assembly. We are lagging behind other world cities and behind better performing Australian states in this regard.

MR CORBELL (Minister for Health and Minister for Planning) (4.43): Members would recall that this same matter was raised by Mrs Dunne towards the end of last year. At that time I outlined why, as part of the government's pre-election commitments, it identified planning for the ACT as one of its top priorities, as well as the significant reform that it has undertaken to date and intends to continue, if given the chance to be returned to government.

This government has, I would argue, been both visionary and innovative in its approach to reforming the planning and development system—more so than any of its predecessors since self-government. The planning system was, it is fair to say, completely neglected by our predecessors—and in some instances it could be argued that it was abused. On the other hand, I am pleased to say that the government has introduced a raft of leading changes to the administration of the system, including the establishment of the ACT Planning and Land Authority, which has the capacity to make many of its decisions at arm's length from the political process.

The fact that many planning decisions come under scrutiny from members of the public, media and indeed this place, does not in any way reflect poorly on the system; in fact, the opposite is the case. As we all know, decisions will sometimes be made where someone is disaffected but, in reality, we only get to see and hear about the small fraction of decisions being made on a daily basis.

Planning systems have evolved over the last 10 to 15 years from essentially dealing with managing the separation of incompatible land uses to dealing with a much more diverse and complex range of issues. These include land use practice, European and Aboriginal heritage, environmental considerations, landscape, transport, affordability, natural hazard mitigation, significant trees, energy efficiency, noise, urban character, urban design, sustainability issues, and water management.

The point I am making is that this highlights a broad range of issues that planning systems are now struggling to come to grips with. It is important that we continue to refine and reform our systems to try to engage this range of issues in an integrated way. The government's arrangements for planning in the ACT in the past have been subject to political interference and undue influence, reducing public confidence in the process and impinging on the appropriateness of some planning outcomes. There has been a focus on regulations and statutes at the cost of sound forward planning and policy development and, in some circumstances, whilst there has been an admirable desire to achieve consensus planning, this has resulted in unacceptable delays in delivery of outcomes and raised unrealistic expectations.

With all this in mind I would now like to return to the government's commitment to planning, which was contained in our planning and land management policy for Canberra, *Planning for people*. The policy articulated the need to build a strategic planning approach, develop more open and accountable planning, protect the qualities of the garden city and our open space network, revitalise our neighbourhoods and local centres, and restore public land development activity to the community.

Since coming to office the government has delivered on all these commitments. In the past two years the government has introduced the Planning and Land Act, which established the ACT Planning and Land Authority, a statutorily independent authority that develops and implements planning policy, oversees the land release program and determines planning proposals at arm's length from government. We have established the Planning and Land Council to provide the minister and the ACT Planning and Land Authority with independent and impartial expert advice on matters of planning importance, in parallel with the authority giving consideration to a development proposal. All of this information is publicly available every month after the council meets.

We have established the Land Development Agency to undertake land development in a manner that ensures that maximum community benefit is achieved. We have abolished the position of Commissioner for Land and Planning—removing an unnecessary layer of assessment in the planning assessment and appeal process—and we have introduced provisions into the Land (Planning and Environment) Act that allow proponents to seek the reconsideration of development applications, allowing for a simple process where ACTPLA can reconsider a matter without the decision-making process having to resort to a formal appeal in the first instance.

We have introduced changes to the Administrative Appeals Tribunal Amendment Act, which provides for significant changes to the way planning appeals are performed, including an increased emphasis on resolving disputes through the use of mediation prior to formal tribunal hearings; a time limit on the completion of planning appeals; and the concept of awarding costs against a party where it fails to comply with the direction of a tribunal. It is worth noting what even my most vocal and trenchant critic, Mrs Dunne, has said. I quote:

> I have to go back and say about the issues raised in the first instance by the minister that the changes to the AAT in particular—

And these are her words. She said:

> —are brilliant changes, and we need to acknowledge those.

In fact, she went on to say:

> The introduction of mediation has been a great innovation.

I welcome her endorsement of that approach. Not only that, but we have developed a future direction for planning and development in Canberra. It is the first metropolitan plan since the early 1980s—the first since self-government. The Canberra spatial plan

represents a comprehensive vision for the future growth and development of the city and guides investment decisions by both government and the private sector as we accommodate future growth in Canberra.

We adopted the sustainable transport plan, which is complementary to the spatial plan and demonstrates integrated transport and land use planning principles consistent with the national approach developed by ministers right around the country. These changes focus strongly in particular on high-density development close to where people work, where they use services, and are close to public transport groups. This is key in challenging and addressing one of the key issues of greenhouse gas emissions in our city, which is the use of the private motor vehicle.

Master planning for both the Woden and Belconnen town centres is well advanced. We have introduced the garden city provisions to the territory plan, which have protected substantial areas of suburban Canberra, maintaining its local character while still allowing for urban renewal in a targeted way, again around centres of activity and employment. We have done the detailed master planning for areas such as City West, which is now the subject of a draft territory plan variation and has been the recipient of two ACT chapter Planning Institute of Australia awards, which have been further considered in national forums. We have also got on with the job on the ground—the launch of the Canberra central program, designed to engage in the revitalisation of our city centre.

Mrs Dunne quoted the OECD inquiry into Canberra. That document outlines very clearly that, without a clear strategy to drive the development and future growth of our city centre, we will not attract the level of economic diversity and activity we need to sustain our community into the future. We have launched the Canberra central program, which will dedicate a team of experts to engage with property investors, shopkeepers, business people, community organisations and individual citizens to transform the amenity and performance of Civic as the heart of Canberra.

There is a range of other proposals that I could go through in much detail, but I will not seek to do that now. Instead I will end on the note of future reform. In your speech you, Mr Deputy Speaker, made the point that we have seen the Land Act grow to be a cumbersome and difficult piece of legislation to administer. There were 120 amendments on the floor of this Assembly when it was first introduced in the early 1990s. My colleague Mr Wood is still scarred by the experience!

Quite clearly that legislation must be reformed. This government is the government that has made the investment into ACTPLA, so that work has been started. As announced in the most recent budget, a comprehensive system and reform process is now underway. It is designed to improve the certainty, clarity and timeliness of the decision-making process and—most importantly—to make sure we get good outcomes on the ground. That is the true inheritance of the legacy of the built environment that is the national capital. The government is proud of its record on planning. It is a contentious area—there is no way around that—but, at the same time, we have set out a clear direction and vision for the future growth and development of our city. I am proud of that legacy and look forward to the opportunity to continue with it, hopefully, after the next election.

MS DUNDAS (4.53): There are few issues that create controversy and argument within community more than planning and development in Canberra. Canberra is proud of its history as a planned city and there is a community interest in the planning system in Canberra that is probably unparalleled anywhere else in this country. The spatial plan has been presented as a strategic view of Canberra for the next 30 years.

Broadly, the Democrats have supported this process and welcomed the community consultations that were held to provide some direction for the future shape of our city. However, the spatial plan omits important elements such as the sequencing and triggers for when additional development will be required. The spatial plan is premised on the possibility of Canberra's achieving a population of half a million. While this is a possibility, it is also quite possible that Canberra's population will not increase all that much over the next few decades.

Certainly we need to be ready for higher than expected growth but we need to ensure that we know how to proceed if that population growth does not occur. Recent population growth has been far below the official estimates upon which the spatial plan is based. The ACT grew by only 0.17 per cent in 2003 and, in fact, the population decreased between March and December last year. So, despite low unemployment and placing high emphasis on other social and economic indicators, the ACT could be faced with low population growth for some time. This may mean we need to rethink some of the proposals in the spatial plan and at what time we start looking at future development.

Another much-trumpeted initiative of this government is neighbourhood planning; and, while the general premise of non-statutory community consultation in planning for suburbs is one that the Democrats support, the particular use of neighbourhood planning has had mixed results and has already been discussed based on particular examples. One issue the Democrats have with neighbourhood planning is that it appears to be one-off consultation. The original proposal for continued involvement of communities in the implementation and review of neighbourhood plans has not been forthcoming.

Neighbourhood planning seems to have little longevity and we are, of course, still waiting for some comprehensive response to non-statutory consultation for the future. As I have said many time before, LAPACs were not the perfect consultation mechanism, but they were the best we had before this planning minister simply dismissed them. The government has burdened community councils with the responsibilities of the LAPACs. It is clear that ACTPLA and the government need to spend some time re-engaging the community and rebuilding the trust and confidence that was destroyed by a disregard for community input. They also need to work with the community councils to make sure they are not overly burdened by the considerations now placed on them.

Another area of concern will always be how development is processed and ensuring that planning processes involve a minimum of delay, whilst preserving the right of the community to have input into the process and, if necessary, to have their concerns heard before a tribunal such as the AAT. There needs to be further work done on how the various planning stages are coordinated with one another and with various pieces of legislation. HQSD, PAs, DAs, environmental assessments, tree protection, NCA approvals, heritage concerns, building approvals and so on are all important concepts in

our system of planning, but far too little attention has been paid to how to make these things link together.

While there will always be delays where there is controversy around a proposed development, in my experience an awful lot of delay is created not by objections or community concerns but by misleading or contradictory advice, or by duplication or lack of coordination by approval authorities. A lot of work needs to be done to make sure all of the different planning stages are working together. As legislators and governments we have to start to realise that, ultimately, planning should be a democratic pursuit. Maybe it is time for the government, ACTPLA and the minister to relinquish ownership of planning and give it to the people of Canberra.

There is a view in this place that only important and professional people should be allowed to make planning decisions, but not the people who have to suffer the effects of these policies for decades to come. It is time to let community members have some control of their planning system and of the planning happening in their area, so they can identify the issues of most concern to them and comment on them freely, openly and fairly to the government and to ACTPLA. It is only with a cooperative planning consultation system that the ACT can move to resolve its current planning conflicts.

MR CORNWELL (4.58): While watching the news on television last night I was interested to see the new Riverside development that overlooks Lake Burley Griffin where the old woolsheds used to be in Barton. Approval was given for this multimillion-dollar development, to which the St George Bank contributed some $50 million. Approval was given for this very large development in six months. I think that indicates the differences between ACT planning and federal planning—because, of course, the Barton area is under the control of the NCA.

Earlier here today a report from the planning and environment committee was tabled, which related to the crisis in aged care. This committee of the Assembly has put down nine sensible recommendations that this government has taken three years not to do. One has to ask why.

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.

MR CORNWELL: Mr Corbell comes in here this afternoon and gives us a long list of wonderful things that this government has done. Minister, it is too late. You have had three years to do all these things and you have not done them. Only now are you beginning to move. In the meantime we have a crisis in aged care that has been growing larger week by week. I would have thought that we could address that matter without, I might add, bringing in a series of rules and regulations, of which the Greens have suggested some 19—that is perhaps too many—but there is certainly the opportunity to streamline the matter of planning in this territory. We have not seen that to date.

Mr Hargreaves said something along the lines of removing the apple of planning temptation from the reach of politicians. I do not think that is feasible, and I do not think it is possible. The fact is that, sooner or later, some minister has to be held responsible for what happens in the planning area. You cannot hand it over to the bureaucrats—God

forbid that you do. Therefore, the fact is, Mr Corbell, that you are responsible, on behalf of this government, for failure to do anything in the planning area for three long years.

Mr Wood: You spoke about a long list. Come on, make up your mind!

MR CORNWELL: I was speaking about the Greens' 19 points for their planning arrangements, which would be an absolute nightmare.

Mr Wood: Go and read what you said!

MR CORNWELL: I am concerned, as I have been repeatedly concerned, about the aged care crisis and the fact that you have done nothing for three years. It is only now, with the approach of an election, that you suddenly start churning out areas for development for aged care facilities. There is, of course, one exception to this. We heard it earlier today when the Chief Minister announced the ACT prison project. From what I heard upstairs it is going to be one of those social softness things. Irrespective of what the government may be calling it, I think most Canberrans will be calling it "the Canberra Hilton". Nevertheless, it is not a terribly impressive result after three years that you have finally got a you-beaut, new, modern prison coming forward.

I will wait and see if that comes to fruition. Equally, I will wait to see if all the promises you have made over the past few weeks in relation to aged care facilities will, in fact, come to fruition if this government is returned. Again, I have no faith that what you are doing and what you are proposing will be translated into bricks and mortar. It seems to me that your idea of improving and streamlining the planning process has a very long way to go. Unfortunately it seems that, if the last three years are any indication, you are in the hands of the bureaucrats, and I would strongly suggest that you reconsider.

MR TEMPORARY DEPUTY SPEAKER (Mr Hargreaves): The time for the discussion is completed.

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

Clause 5.

Debate resumed.

MS TUCKER (5.04): This amendment provides some wiggle room for speculation by leaseholders. It seems to give everyone an opportunity to sit on a lease, make a bit of a speculative profit and transfer the lease and then a couple of years later, which is about the timeframe that they would have under building and development requirements, just do it again.

Leaseholders have two years to complete their building under the present regime and that period can be extended on application to ACTPLA, so there is no need to create this exemption. The system in the ACT is a leasehold system and the Greens do not support the view that speculation in land value is a right. The issue of charges on the first transfer of a lease is a moot point, as such charges are not imposed.

Amendment negatived.

Clause 5 agreed to.

Clause 6.

MRS DUNNE (5.06): Mr Speaker, I will not be proceeding with the amendment circulated because it was consequential upon my amendment No 1.

Clause 6 agreed to.

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

Bill, as amended, agreed to.

Crimes (Restorative Justice) Bill 2004

Debate resumed from 5 August 2004, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MS DUNDAS (5.07): Mr Speaker, I will be supporting this bill in principle, although the irony of this debate does not escape me. This bill seeks to remove people from the criminal justice system and set up more positive outcomes and aid in rehabilitation. These are all things that we should be supporting. However, recently we have debated government bills that have increased the penalties for minor offences and we have seen the government vote against sentencing reforms, actions that, to me, seem to be at odds with what the government is proposing in this bill.

Nonetheless, restorative justice is an important concept to support. Plenty of research has been gathered that shows that the overall majority of both victims and offenders find that conferencing is fair and does have satisfying outcomes. The ACT has had conferencing for some time on a small scale. For youth violence offenders, the reoffending rates were significantly lower for those who attended conferencing versus those who went to court.

A recent study in New South Wales found that conferencing reduced the rates of reoffending by between 15 and 20 per cent, and this fall was consistent across different offence types and regardless of the gender, criminal history, age or Aboriginality of the offenders. A more comprehensive study earlier in New Zealand found that, while 29 per cent of first offenders did reoffend five or more times, 28 per cent did not reoffend at all in the five-year observation period.

This report found that indicators of negative life events, such as poverty or a neglected childhood, and what happened after the conferencing—unemployment and criminal association—were significant factors and predicators of a likelihood of reoffending. However, the report also found several key factors from conferencing that had an impact on reducing the likelihood of reoffending—if the conference was memorable and the offender was not made to feel like a bad person, when they had agreed to participate and participated and complied with the outcome decision, when they had met the victim and

apologised and when they truly felt sorry for the decision. If all of those things were happening, the chances of reoffending were reduced.

This study in particular makes it clear that restorative justice is helpful in reducing the rates of reoffending, but it is perhaps more important that we address the causes of offending in the first place. More can always been done to address poverty and unemployment, particularly youth unemployment, and we simply cannot afford to allow the cuts and underspending we have for crime prevention programs. We do need to focus more on our crime prevention programs and make sure that we have the concepts in place that actually divert people from crime before they undertake that first criminal activity.

This bill is a commendable move by the government in relation to restorative justice and reoffending, but I for one would like to see more happening with actually targeting offending behaviour before it happens. Tinkering around the edges to prevent reoffending is all well and good, but we need to focus on crime prevention. If we do not focus on crime prevention in the first place, there really is not much point in continuing to work on all of these restorative justice and reoffending programs because we will continually have more people coming into contact with the criminal justice system, more work for our courts and more work for our police. That is something that I think needs to be reprioritised, especially by this government.

MR STEFANIAK (5.10): Mr Speaker, the opposition will be supporting this bill. In fact, if you look at the justice policy that we released recently, you will find that this is one of the approaches that we feel is very important in terms of the full sentencing process. I must say that I have detected in the ACT over a 20 to 25-year period—perhaps it extends to the rest of Australia—a lessening of community confidence in the judicial system. One area in which there seems to be a lack of confidence is in relation to sentencing, often for very good reason.

Often the forgotten people in the process are the victims. I think that victims often do feel as if they have been badly let down by the system. One of the big problems, of course, with serious offences is that the victims feel let down by the fact that often the offender just seems to walk away with little, if any, punishment. That is of great concern to the community.

It is particularly important in looking at a bill such as this one to see how many people are proposed to be affected by it, what it actually does for victims and what benefit it is going to provide to our system. On balance, it looks as if this bill will have some considerable benefits to our system. The government has indicated that initially it will start the process with juveniles, but it will probably end up in dealing with about 200 cases annually, representing about 5 to 10 per cent of the existing case numbers that go before the courts.

The system augments the criminal justice system. I have benefited from being a member of the scrutiny of bills committee and looking at the report there and I accept that it does augment the criminal justice system. For indictable offences, I have been advised, it can only occur if a person pleads guilty or is found guilty. For minor offences—indeed, for lots of young persons—it is inherently diversionary, but the system is more than just

a diversionary one. It goes further. It is a victim-oriented system and the victim will always be there. Indeed, the victim has to consent to this system actually being used.

It is a system where the victim is able largely to call the shots. There are restrictions there in relation to having whatever is decided not being unduly humiliating or anything like that, which I think is sensible, but fundamentally the victim is very much involved, unlike some other systems used in the past. The victims can get from the scheme what they cannot, in many instances, get from a court. Indeed, it is a scheme that has been used to varying degrees elsewhere. It is used in other jurisdictions in Australia. In New South Wales, for example, it is used pre-release, pre-parole. In New Zealand, there is a pilot scheme. It is a scheme that has been utilised in the United Kingdom. I think that there are considerable benefits in relation to this scheme.

The attorney, in his response to some concerns which the scrutiny of bills committee raised, as is its charter as set down by this Assembly, noted in the explanatory statement that, through community consultation, it became quite clear that the interests of victims were of primary importance. That is certainly something that the opposition supports. It was noted that in the context of the prosecution of an offence a victim usually has no opportunity to address his or her needs and that this policy aims to provide victims with a means to better understand the crime and the offender's behaviour and to enable the victim to express the effects of the crime in a formal setting.

There was an issues paper. There has been quite considerable consultation in relation to this process. Various groups have been consulted, including VOCAL, the DPP and others one would expect to be consulted. The issues paper that was released dealt with whether restorative justice should be victim oriented or offender oriented. The community consultation and the focus groups, after considering the evidence, felt that it should be victim oriented. That is the approach that the government appears to have taken. The bill is also drafted to have a constructive impact upon offenders, but the logic of it flows from the point of view of victims. I think that is of crucial importance.

There are a number of issues here as to whom it is going to relate to. It has to be much bigger than just diversionary conferencing because it is victim oriented. It is complementary to the justice system rather than exclusive of it. The restorative justice process can be utilised and be part of the sentencing process. The way I read this bill, if someone should serve a term of imprisonment the bill does not stop them doing so. The way the courts operate sometimes probably does, but this bill certainly does not; it is complementary to the sentencing process and that is one end of the scale.

A number of other things can flow from this bill. The idea of the bill, as I understand it, is to come up with a conferencing agreement at the end. Again, that may be simply part of the whole sentencing process and other things might flow from it if it is a serious matter. That will be useful to the justice system, but it will not be the only thing that occurs. Things that can come up from a conferencing agreement can range from an apology to a work plan that might benefit the victim, a work plan that might benefit the community, some kind of financial reparation by the defendant and a plan to address the offending behaviour of the defendant.

I can see that being particularly useful in a number of circumstances. It is useful in the most serious of offences as a way of assisting in the rehabilitation process of the

defendant, making the defendant realise how appalling the crime was that the defendant committed and hopefully start a process whereby the defendant can go down the path of actually reforming and at the same time give some satisfaction to the victim as a result of that.

I envisage that for more serious offences that might well mean that the defendant would serve a period of incarceration but would benefit from this program, just as in New South Wales offenders who are about to be released pre-parole benefit from such a situation. There are safeguards in there, it would seem, to ensure that the process is managed very carefully. Everyone will go into it with his or her eyes wide open. That is important in terms of some other things that might flow from this process, such as the accused actually making an admission in relation to other offences during the process. People will not go into this process without their eyes open. They will have to be suitable and they will have to be assessed. There are a number of safeguards there. There are two filters, eligibility and suitability. There are some essential safeguards there.

I think that it is a useful scheme for not so serious crimes or crimes where a scheme like this can be used as an additional way of justice being done. I have given an example of a more serious offence where the person should go to jail and still would, despite some of the problems we see in our system. That might be an armed robbery situation, a manslaughter situation or some other fairly serious crime.

Conversely, there might be another type of situation—say, a young offender performs a series of break and enters and there is a confrontation in a house with someone and there is an assault as a result of that, an aggravated burglary type of situation—where this system is utilised as the victim is happy for that to happen and the young offender, as a result of this system, will enter into a restorative justice model that satisfies the needs of the victim, the needs of society and ultimately the needs of the offender. I can see the system being used appropriately as a non-custodial option in some circumstances.

I think that there are some big positives in relation to this scheme. I do not know that the attorney is right in saying that it is going to be used in 5 to 10 per cent of cases. We will see what happens there. But it does seem to be a useful adjunct to the criminal justice system, a system for which, sadly, for a number of reasons, there is a lot less respect in our community than there was even 10 years ago, certainly 20 or 30 years ago. It is a scheme with a lot of potential and one with which, as a result of the work done to date, it seems victims are pretty happy. Indeed, offenders who have been through something similar are fairly happy with it as well. So it is a scheme worthy of support.

The scheme features prominently in the sentencing package that the government released recently, a mammoth 2½-year effort which merely consolidates a number of acts and still misses the point on a number of serious issues, such as addressing adequate sentencing and adequate penalties for serious crime. A lot is made in that package of this restorative justice model. I would counsel the government not to expect this system to be the be-all and end-all. I would certainly counsel others on that, including a few Labor candidates who are very keen on this scheme and who have been writing glowing letters to the editor recently about what a wonderful idea it is. It is a good idea, but it is not the be-all and end-all.

Sentencing is a very complex issue. The criminal justice system is a very complex area that governments, courts, individuals and society have to contend with, but I think that this scheme will have a positive effect. The opposition is happy to support the scheme. We look forward to seeing how it actually operates in practice. It is not the be-all and end-all, but it is a useful addition to the criminal justice system and we support it.

MS TUCKER (5.21): The Greens will be supporting this bill in principle, but I will be moving amendments in the detail stage. This bill is a very important piece of legislation. Restorative justice has been demonstrated to have quite a profound impact on many of the problems of our criminal justice system. Diversionary programs developed by the police and community members have been in operation in the ACT and circle sentencing for the Aboriginal and Torres Strait Islander communities in the ACT commenced recently. This bill is an important step forward in that it sets out a broad program involving the whole-of-government criminal justice system and has a statutory basis, so the Assembly is formally engaged with this subject for the first time.

Professor John Braithwaite has done a lot of work at the ANU on what works and what does not, and theories to explain why, as has Heather Strang. Professor Braithwaite chaired the group that worked on the issues paper but, since then, following the focus groups that brought in various community groups, the department, as I understand it, has taken that input and shaped this system.

The Greens support restorative justice for its great capacity to have a humanising effect on dealing with wrongs between people for all the people affected. That means the person who committed the wrong, that person's family, friends and so on and the person or people directly affected—the victims, for want of a better word—and their friends and family. It can also work when the perpetrator of a crime is apprehended before there is a victim.

That is important because we know that a criminal justice system based on the punishment of imprisonment and dealing with wrongs through an adversarial formal court creates its own problems for all that we value in the system. We know that the results for society are not good when we send people to prison for a crime and the end result of that is the use of illegal drugs. However, having said that, we now need to consider carefully the details of the particular proposal in this bill.

It is good to see the reviews built into this scheme. It is particularly pleasing that the criteria for evaluation are on the table at the beginning, which should mean that the necessary data collection and observation will be built into the system right from the start. Creating a centralised public service unit will be helpful, I believe, in developing knowledge and expertise, keeping up with research, monitoring, and developing a consistent approach to decisions on the suitability of particular people and cases for conferencing.

Whilst it is not specifically set out in the legislation, it seems logical for this unit to have responsibility for the monitoring and evaluation of the scheme and for responding early to any identified problems. Whilst restorative justice holds a lot of promise as an alternative or an addition to the problems of the court system, we need to be mindful of the interaction between these two systems and of not losing the protections of justice that have been developed over a long history of practice.

The scrutiny of bills committee raised a number of specific concerns. Fundamentally, I think that it is fair to say that we need to find a balance to ensure that restorative justice conferences do not become a means of gathering evidence for a court trial and that a conference does not offer a means for an offender to avoid the standard court process by disclosing evidence or other offences in a protective setting.

The scrutiny of bills committee did raise these issues with the government and the government responded by dealing with quite a lot of the concerns. One of the comments that we made related to the protection of offenders in terms of what they disclose in a conference and the government said in its response—I do not have it with me, but my recollection is that it was to do with clause 41—that that was covered by the bill because it says that the convenor will warn people of potential liability, which deals with those issues.

However, that is not to say that that means that they would have the legal protections that they would have in the criminal justice system. For example, in the Evidence Act protections exist around the use later of something that was not said earlier. For example, if there were an offence and a person did not say that he or she had an alibi, but did say later that he or she had an alibi, under the Evidence Act that person would be protected in terms of being seen as not being a credible witness because he or she had made potentially two different statements. That kind of protection is not there and I do not think that the government is claiming that it is.

That is why I think it is really important that we keep an eye on what we are creating. As I said, the Greens are very supportive of restorative justice and this model as well, but we are interested in keeping an eye on that. We would like to be assured that, should rights be breached, that would be identified as a problem and changes would be made. For example, although one of the benefits of this scheme is to make the restorative process an option from all points along the existing system, some of the problems with rights come about because conferences may be run before a case goes to court. If it emerges that a conference does create problems or is somehow being used as an evidence gathering exercise, I hope that that would be identified by the unit.

The other comment I would make is that this scheme definitely is a victim-oriented scheme that excludes offender aims, which is of concern. However, given the time we had to look at the bill, we could not see how we could amend it without doing a lot of careful work, which we just did not have the time to do in the three weeks following the tabling of the bill. I think that that will mean that there will be some situations where the benefits of adopting a restorative approach may not be part of this system for offenders.

It will be difficult under this scheme to deal with situations in which there is not a victim. In other places there have been successful systems under which a member of the community stands in the victim role. That can be where, for example, a person was apprehended for shooting off an air gun in the suburbs but no-one was actually hurt. We know that in the ACT the offences related to violence had the most successful conferencing outcomes in reduced recidivism. Drink driving is another example of a victimless crime if a drink driver is apprehended before any injuries occur. In fact, there was a conference diversionary scheme for drink-driving, but an evaluation of it found that the results were not good; so, I understand, it was stopped.

I do have some concerns about domestic violence and sex-related crimes. The New Zealand government has said in its best practice principles:

> The use of restorative justice processes in cases of family violence and sexual violence must be very carefully considered … The particular dynamics of family violence and sexual violence, including the power imbalances inherent to this type of offending, can pose significant risks to the physical and emotional safety of the victim. Family violence offending, in particular, is often cyclical and reflects deeply entrenched attitudes and beliefs. Offenders may be more manipulative and have offended seriously and repeatedly. A one-off intervention may therefore not be effective or safe. Where a restorative justice process does take place, providers must ensure that facilitators possess the specialised skills and experience required to facilitate these cases and that additional safety and support measures are in place. Advice from those knowledgeable in responding to family violence and sexual violence should always be sought.

I know that there are programs in the Northern Hemisphere where professionals with knowledge of the range of community support and intervention programs, such as drug rehabilitation, are brought into the conference to present and workshop options and then leave. This offers a richer engagement with service providers for the offender that in the end is to the benefit of the whole community. It is not directly clear that it is of benefit to the victim, unless they come wanting it themselves.

There is a difference between this form of conference and the broader restorative justice responses and programs, well-researched and evaluated, for sex offenders and for domestic violence—for example, Safecare in Western Australia and the domestic violence perpetrators program which is a sentencing option in the ACT. These programs also attract some controversy. It is difficult for some people to accept the spending of money on perpetrators when services for the victims of these crimes are not well enough resourced.

Evaluations are essential to see whether the programs have a beneficial effect and to compare that with the absence of such a program or a different form of program. In some cases, even though the rate of change is low it is still better. It still means that some offenders will not reoffend, whereas otherwise it is likely that they will do so.

I have been told about a program in Adelaide run by Alan Jenkins and Rob Hall through their practice, Nada. This program, which has links with the equivalent of family services and with the justice department, is a therapeutic process used with perpetrators of violence and sexual abuse in the family towards adults and children. This program, I understand, does use a conferencing step in some cases, but this is set into a therapeutic process and the conferencing is used only after other steps and outcomes have taken place. That is why we will be moving some amendments to that area of the bill.

It is not about a lack of faith in the people who will be in the restorative justice unit; it is just about backing them up, making sure that the resources to develop the knowledge, appropriate regulations, guidelines, training, links to community programs, and therapeutic methods are in place before these particular types of offences, these particular harms, are dealt with in this way. Although the guidelines are disallowable, the

absence of guidelines does not as far as I can see prevent the application of the conferencing process to particular types of offences.

We know that the court system does not deal well at all with these offences. Victims are often left feeling more victimised or their cases are not brought before the court. So there is a lot to be gained by working on an alternative model, one that also has a chance of addressing the offender, addressing the offender's behaviour and, hopefully, changing it, and of providing the victim with some sense of healing or closure, of having been heard and of having the abuse publicly taken seriously.

But we have to be sure that the model has been developed thoroughly and at this point in the bill there is not an assurance that that work must be done first. There is also a lot of harm that can be done and we do not want to perpetuate the wrongs of the criminal justice system by opening up the offence, only to find that the system is not prepared to provide support in the ways that the people involved need. There have also been findings that the outcomes for victims are worse where a conference fails.

As we were told in the briefing, the unit will not have the resources to provide therapeutic interventions. That is a danger and a matter of concern with this set up. If we are referring people to treatment programs that do not exist or are not well enough resourced to take in people, we are not doing what is best for our society. We know from various committee reports that there is a lack of programs to deal with sexual offences by young people. We are not working to reduce crime if we do not provide the resources for that. That is why I am disappointed that offender assistance outcomes are not explicitly a part of the objects of this bill. There is not then an explicit obligation in this legislation for the government to resource the kinds of programs that are needed.

The same comments have been made in relation to the exposure drafts for the sentencing bills. These retain an outdated, unhelpful and probably damaging focus on punishment. At a seminar last year held by ACTCOSS in conjunction with the Youth Coalition of the ACT, Professor John Braithwaite described how restorative justice processes have their effect. He said—this is not a direct quote, but notes taken as he spoke—that there is a flip so that the victim is interested in how to resolve the problem. It changes the emotional response of people to the criminal situation. Focus on the problem, rather than the offender, and therefore prevent it happening again. Equal concentration on victims, offenders and the broader community tends to draw out a victim's sense of forgiveness and solution, leading to a better future for the victims and offenders, particularly young offenders.

He also talked about the values base being empowerment for all participants so that in the police run conferencing at that time the idea was that it was not the police saying what should happen but rather asking for ideas. The government was clear in presenting the bill that when the bill talks about restorative justice it refers to the particular model in this bill and that particular model is exclusively victim focused.

I note that New Zealand paid for some of the programs it ran by selling off juvenile justice facilities that were, apparently, on prime development land, which goes to remind us that if we take restorative justice seriously it has the capacity to reduce recidivism, to reduce the need for prisons, because it has actually reduced the level of harm across the community. That is not achieved by focusing on punishment.

Terry O'Connell of Real Justice, a group that works to promote conferencing in many situations, says that for restorative practices to be effective in changing offender behaviour his group tries to avoid scolding or lecturing. He said:

> When offenders are exposed to other people's feelings and discover how victims and others have been affected by their behaviour, they may feel empathy for others. When scolded or lectured, they act offensively. They see themselves as victims and are distracted from noticing other people's feelings.

In this experience the best results for victims, the achievement of the aims we have for victims, are dependent on that balanced approach. I support this bill and I look forward to seeing how it actually works out and the results of the review that will occur.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (5.36), in reply: Mr Speaker, I am very pleased with the support and understanding of members of the Assembly with the restorative justice initiative and framework inherent in the Crimes (Restorative Justice) Bill 2004. Ms Tucker has indicated that she has some amendments in relation to issues around some aspects of the proposed ambit or scope of the restorative justice conferencing that will be part of the restorative justice unit. I will address those issues when we get to that stage.

In closing, the bill creates a framework for a scheme of restorative justice that is an expansion of the small program that has been run for some time now by ACT Policing to create a system available throughout the entire criminal justice system. The details of the expanded system are based on the issues paper of the restorative justice subcommittee for sentencing review, comprising representatives of all justice sector agencies. Consultation with the community through focus groups and a call for public submissions provided further clarity to the recommendations of the issues paper.

It is important to note that the interests of victims are of primary importance in the expanded scheme of restorative justice. In the traditional prosecution of an offence, a victim usually has few, if any, opportunities to address his or her needs. The expanded restorative justice system provided for through this legislation will provide victims with the opportunity to talk about the impact of the offence on them and their families. In this way, victims of crime can better understand the offence and the offender's behaviour and express that in a formal setting.

The scheme is also designed to have a constructive impact upon offenders through enabling them to accept responsibility and to acknowledge the impact of their actions in a way that allows them to be reintegrated into the community. It is of central importance to note that the new restorative justice scheme will augment the criminal justice system rather than replacing it or providing a substitute for traditional criminal justice procedures. The expanded restorative justice system provides no new positive or negative consequences nor any statutory advantage or disadvantage for any participant in the process.

Accepting responsibility for an offence in restorative justice creates no obligation for an accused to plead guilty should the matter return to court. Restorative justice does not

provide tacit permission to harass or humiliate anyone, nor does it allow any member of the community to take the law into his or her own hands. The expanded restorative justice system that we are debating this evening does not affect open justice or formal prosecution of crimes because the scheme does not intervene in the normal processes of criminal justice.

The expansion of restorative justice may lead—one hopes that it will—to cultural change. The new system has a greater coverage of offences, victims and offenders. It will place the onus upon the referring agency to take the initial action it believes is appropriate and, upon conclusion of the case, to determine its response if the outcomes are incomplete.

By expanding coverage to cases involving serious offences and adult offenders, such cases will be able to be referred to restorative justice during or after prosecution. In suitable cases, a restorative justice conference may be held in addition to the trial and sentencing of an offender. The restorative justice process is one that I think can be used by the criminal justice system to provide a more complete response to an offence in a way that increases the opportunities to satisfy victims, offenders and the community at large.

I might just say, acknowledging comments that have been made during the debate in relation to the sentencing review that the government has been involved in for some time, two years or thereabouts, that it is relevant to note that that sentencing review did, through its processes, lead to the development of the issues paper which is now being incorporated into legislation through this bill. There has been some implied and some quite direct criticism of the process that the government pursued in relation to sentencing. I think that with some of that criticism and some of the concerns that have been expressed about the time there has been a misunderstanding of the scope and the nature of the process and the scale of the task.

We have seen from exposure drafts that have been tabled by the government over the last six weeks the extent of the work involved in the review and the consolidation of the territory's legislation in relation to sentencing. I might just say, without being unnecessarily defensive on behalf of officers, on behalf of the department of justice or, indeed, on my own behalf, that I think that the criticism is unwarranted and I certainly think that it is unfair. My comment on the unfairness is not so much in the context of unfairness to me, as I expect those sorts of responses. They are part and parcel, unfortunately, of the way we do business. But I really do think that it is unfair to the officers of the department of justice who have worked on the process for two years and have consulted broadly.

I do not think that there is a single stakeholder within the ACT community who not only has not been invited to be part and parcel of the process but also has chosen not to participate. We have brought together in a single piece of legislation all the law in the ACT relating to sentencing. I have indicated before that, essentially, that involved concertinaing and rationalising into a single piece of legislation 12 separate acts of the ACT. It was a major undertaking and we see that in the work that has been produced. The new sentencing package is close to 450 pages. I think that it is the single largest piece of legislation introduced into this Assembly in this term.

I think that it is unfair to criticise and to express concern about the time that it has taken to put it together in the context of the other workload and the other initiatives being pursued, the least of them being in the context of criminal law the ongoing implementation of the criminal code, a massive piece of work in its own right. To add to that the detail and the level of work, thought and new policy and to belittle it and deride it really is unfair to those officers. It is not so much unfair to me, though it is directed at me, I guess. The political point that is sought to be made is a point that is sought to be made at my expense as the Attorney-General and minister for justice.

The government has released the work as an exposure draft, an expression of its commitment to sentencing reform and to a new way forward, to a rationalisation and reordering of sentencing. To suggest that we were somehow tardy or that the work, as expressed during this debate, was nothing but a compilation of existing law really is to deride two years of hard slog, not just by departmental officials but by every single one of those community representatives that have signed up to the reform package.

I can say the same in relation to the Crimes (Restorative Justice) Bill, which arose out of that sentencing process. This package in relation to restorative justice has the broad support of all the stakeholders concerned with every aspect of this package. We can talk and argue about the focus on the victim as opposed to the offender. We can talk about the fact that there are other models of restorative justice or restorative justice programs that are pursued in other places round the world. But this was the model that arose out of detailed consultation with all stakeholders. Nobody was excluded, everybody was invited, and this is the consensus or collective position of all of those that have sweated blood on this project over a period of two years.

It is a major piece of law reform. It is a major enterprise. It has consumed enormous hours, energy and commitment and I applaud those who, at the end of the day, through that process, have produced the Crimes (Restorative Justice) Bill, which will stand us in good stead and actually bring us into the fold to some extent. Until the introduction of this piece of legislation, which is not yet law but which we hope soon will be, the ACT was at a significant disadvantage as against all other jurisdictions in Australia in relation to its capacity to take seriously and genuinely grapple with restorative justice and a way of enhancing our criminal justice outcomes through sentencing and, indeed, addressing the concern which is often expressed that the criminal justice system ignores—if not ignores, at least at best neglects—that is, the interests of the victim.

This bill is a genuine attempt by the government to firmly embrace restorative justice and to embrace it through a model that goes a long way towards addressing the oft repeated concern that the criminal justice system in its development, a point made by the shadow attorney, has led to something of a crisis in confidence throughout the community, which is not good. It is not good for the institution, it is not good for the application of criminal justice, and it is not good certainly for the respect due to our police forces, let alone our judicial institutions and our judicial officers, that there is a level of cynicism about whether our justice system does do justice.

In that context, I think the concern about whether the justice system does justice is around the extent to which our justice system recognises the impact of crime on the victims of crime through its operation. I think that through this particular piece of

legislation we are certainly grasping that issue and that concern and we are genuinely dealing with that concern around whether victims are taken seriously by our courts—by our judicial officers, by our investigating officers and by our prosecutors.

I say that as something of a digression, but it is relevant to this debate. This piece of legislation—the Crimes (Restorative Justice) Bill—is a product of the sentencing review which has been played out over the last two years and which has delivered, I think, the most significant piece of law reform, certainly in terms of weight and in size, perhaps the single largest piece of legal drafting in the last three years, which is something of an effort in itself. As somebody who in another life worked as an instructing officer in departments of state, I understand in fine detail just how much work is required at the policy end of the chain, at the instructing end of the chain, to produce a piece of legislation of the order that we are concerned with in relation to the new sentencing legislation.

It has been a massive task. The development of the instructions for the production of the legislation which has been tabled as an exposure sentencing package is an enormous task, just enormous, and I think that the criticism of it indicates a lack of understanding of what policy officers and instructing officers go through to produce a piece of legislation of the order or of the ilk that has been tabled in this place in relation to sentencing. It is a massive task. To produce a 500-page piece of legislation is an exercise of some enormity, an enormous undertaking, so to suggest that two years is a long time to produce a piece of legislation of that order is to completely misunderstand what is required of instructing officers and policy officers determined to consult in detail and in depth with the community about the content of a piece of legislation of that order.

I commend all officers of the department for the work that went into this bill and I defend on their behalf the suggestions that we were in some way tardy or slack or that it was just a bit of rote work that required that we just come together and consolidate under a single heading a dozen pieces of legislation. It is a massive piece of work and, through its exposure now to the community, I believe that it will be improved. We will get comments and we will get further feedback. It is a great opportunity for further consultation and we will end up with a piece of sentencing legislation that I think will meet all of the needs, requirements and hopes of all of us who are genuinely progressive in our thinking around sentencing and criminal justice. I am. That is my philosophy, and it is this government's philosophy.

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

MR STANHOPE: Thank you, Mr Speaker. I thank members for their support of this bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MS TUCKER (5.51): I seek leave to move amendments Nos 1 to 8 circulated in my name together.

Leave granted.

MS TUCKER: I move amendments Nos 1 to 8 circulated in my name together *[see schedule 3 at page 4103]*.

I have already spoken to these amendments. They are fairly simple; they remove sexual offences and domestic violence offences from the restorative justice scheme at this time. In the bill at the moment these offences would become part of the scheme in phase 2 and I am moving to delete these from the bill because the transition to phase 2 is essentially automatic.

While there are certainly some good arguments for having these offences dealt with using conferencing, there are also serious concerns that indicate that it should be done in a very careful way and probably as part of a broader specialist process. As the statutory Domestic Violence Prevention Council said in its submission to the restorative justice issues paper in relation to adult domestic violence offenders:

> Restorative justice approaches should only be used at any stage in a heavily resourced and carefully planned system.

In relation to juvenile offenders, they "would not rule out the use of a diversionary restorative conference subject to careful checking".

We would want to see the specific regulations and guidelines and be assured that appropriate training and/or outside expertise would be brought into conferences to be sure that the processes for domestic violence and sexual offences are right before agreeing to these being part of the program. These amendments are effectively a precautionary approach ensuring that, for phase 2 to begin for these offences, the Assembly would first have to have a careful look at the arrangements and could do so with the benefit of a review of how well the scheme was working so far. Drawing on other broadly restorative models for dealing with these particular types of offences may also indicate particular ways of structuring the conferences or other processes.

It is true that in the bill the government has placed additional restrictions on eligibility for conferences in relation to family violence. An offender must have pleaded guilty. There is a focus in the first instance on young offenders. This is often a particular subgroup where a mother is assaulted by a son, for instance, and has a great deal of reluctance to prosecute the son. There is also the case-by-case assessment of suitability, which looks at power imbalances; it looks at offenders' and victims' motivation for participating and so on.

It also draws in, in clause 33 (1) (a), any specific policy approaches of the government, and these are good as far as they go. However, as I said in the in-principle speech, while there is great potential for use of conferencing for these sorts of offences, as an Assembly I think we have to know what we are agreeing to. We do not at this stage. Therefore by making this bill, at this point, exclude these types of offences, I would

suggest that the next Assembly—after the review and after the work has been done to develop appropriate systems tied into longer term therapeutic programs, where appropriate—then can consider re-introducing this set-up, along with the details of the programs themselves.

MS DUNDAS (5.55): Just briefly: I will be supporting these amendments, as I agree with Ms Tucker that we need more time to see how the restorative justice unit will work and if we can apply these broader principles to cases of domestic violence and sexual offences. We need to collect more evidence that I hope will come out of the restorative justice unit. That is why we support the establishment of the unit. Hopefully we will see some more meaningful evidence collected and will be able to see how we can apply restorative justice ideals to issues of domestic violence and sexual offence cases. So I am happy to support these amendments and will wait for the further work to be done in relation to these issues.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (5.56): Mr Speaker, the government will not support the proposed amendments. Extreme care was taken on, and considerable attention given in the development of the policy to, the question of the appropriateness of applying restorative justice to serious interpersonal offences around domestic violence and a range of sexual offences. That ranged from the deliberations of the restorative justice subcommittee that developed the issues paper through to the subsequent consultation phase, which involved focus groups and public submissions.

The focus groups and the public submissions were significant and very serious and genuine attempts—and, at the end of the day, not just attempts but approaches—to arrive at a publicly agreed position, essentially, in relation to the full application of the Crimes (Restorative Justice) Bill that caused the policy in relation to domestic violence offences or sexual offences to be improved. I think I can fairly say that the policy was improved by the very direct involvement and the submissions that were made to the restorative justice subcommittee by the Domestic Violence Prevention Council.

The Domestic Violence Prevention Council made written submissions to the inquiry. I think it is fair to say—and I am not overstating it—that every single one of the major issues raised by the Domestic Violence Prevention Council in its written submission to this project were carefully addressed in the legislation, in the development of the legislation, and safeguards were incorporated in the bill to deal with all the issues that the Domestic Violence Prevention Council raised.

I do not know really how much more can be expected of a government than to go to the peak organisation involved in a particular issue that advises government or the community on an issue around violence, around domestic violence or around sexual offences and their impact—in this case, the Domestic Violence Prevention Council—and ask the Domestic Violence Prevention Council to make its submissions to you on a draft bill that the government was contemplating introducing and to say, "What is the full range of your issues or your concerns in relation to this proposal?" For them to set out in a detailed submission their full range of concerns and for us to accept them as genuine, to meet them, to respond to them, to resolve them and to include in our legislation that response—that is what we did.

I think it needs to be reiterated that restorative justice under the scheme that we are debating tonight will only be accessible for less serious offences during the first phase of the scheme. That first phase, which we have indicated we anticipate will last one year, will come about through the operations of clauses 14 (3), 15 (4) and 16 (4). But restorative justice will not be available for any sexual assault or domestic violence offence in the first year. That applies to both young offenders and adult offenders. Acknowledging that, as we have, we have provided that, in its first year of operation, the restorative justice option will essentially extend only to young offenders and not to adult offenders, in any event. As I say, it is anticipated that, as a consequence, in that first year we will not be providing a restorative justice option in relation to sexual assault or domestic violence offences.

For an adult offender in a domestic violence offence, as set out in clause 16 (3) of the bill, restorative justice will only be available if the adult offender pleads guilty to the offence or has been found guilty of the offence. This clause does not distinguish between serious and less serious domestic violence offences. By requiring that, for any domestic violence offence, restorative justice can only be applied if the adult offender pleads guilty or has been found guilty, a more rigorous test than the acceptance of responsibility threshold, which applies generally, will be established.

There is—I need to explain, Mr Speaker—one exception to that. There is an exception at clause 16 (2). It excludes domestic violence offences from pre-court referral conferences, which will be strictly limited just to young offenders. But that does not take effect until the second phase of the scheme, which is set out in clause 16 (4), comes in, and that will be after a year. The rationale for that exception is the recognition that in intra-family violence, violence within families, parents will often resist seeking any intervention for fear of their children becoming caught up in the traditional criminal justice system—a fear that one, of course, would accept as quite natural, in that parents will almost always seek to protect their children from becoming engaged with the criminal justice system.

So by enabling a referral to restorative justice at the pre-court stage, in those situations, an early intervention that may break the cycle of offending becomes possible, and of course that is inherently what we are seeking in relation to restorative justice. We want to break the cycle of offending and that is why we have established the scheme in the way that we have.

In a similar vein, and also not applicable until phase 2, clause 27 (4) will require exceptional circumstances to exist in order to justify referral to restorative justice by a court for serious domestic violence offences allegedly committed by a young offender. In addition, clause 33 (1) (a) will enable the restorative justice unit to determine that an offence is not suitable for restorative justice if it would undermine a policy governing the treatment of particular offences. For example, if providing restorative justice for a family violence offence would undermine the current family violence intervention program, then the unit may entirely, on this basis, decide that the offence is not suitable for restorative justice. We need to understand the significance of provisos such as that in response to the concerns that have been expressed about inclusion within the restorative justice regime. But the prospect is that, after a year, domestic violence and sexual offences will be made part of the scheme.

In addition, clause 75 of the bill requires the government to evaluate the first and second years of the operation of the restorative justice scheme; so there will be an opportunity for the efficacy of the scheme to be judged by the Assembly, as well as by the community, and there will, out of that evaluation, of course, be an opportunity for all of us to ensure that issues that may be thrown up, concerns that may be identified, are addressed.

The bill also includes a range of safeguards that were suggested, as I say, by the Domestic Violence Prevention Council. The scheme will not enable perpetrators of domestic violence to hide behind restorative justice. One of the fears often expressed is that offenders will take it as an easy option; they will hide behind it; they will pretend; they will not take the issue seriously; and, through that, will escape an appropriate response by the community or by the criminal justice system in relation to their particular offending behaviour. Nor would restorative justice intervene in a prosecution of domestic violence offences. Restorative justice will be available for these offences only if the offender pleads guilty or is found guilty and only if a restorative justice conference will help to break the silence of abuse rather that continuing it

There has also been a concern—I will respond to this aspect of concern before concluding—about the inclusion within the bill of the potential for domestic violence or sexual offences to be the subject of restorative justice, a concern about whether or not the legislation, to the extent that it is silent on the question of the rehabilitation of sexual offenders, creates in itself a further disability in the operation of the scheme that is arranged through the legislation. I think the response to that is to acknowledge that this is a very flexible system that has been created under the Crimes (Restorative Justice) Bill. Its flexibility, I think, is its great strength and it is through that flexibility that we can respond to many of the concerns being expressed.

It is a result of that flexibility that, as a consequence of the fact that is not a prescriptive scheme, potential responses arising from a restorative justice conference can be tailored specifically to the needs of everybody that is part and parcel of the process of restorative justice. That is all of the participants—the offenders as well as the victims—and that is, of course, the outcome that we are seeking through restorative justice.

Some of the outcomes that might be achieved might very well range from cognitive skills programs to retraining for offenders, such as the right turn program for motor vehicle offenders that is currently operational and is extremely successful. It has been a fantastic program for diverting young serial car thieves from their car thieving behaviour. That has very high levels of success and is a fantastic example of how, through the retraining of offenders, we have turned them away from crime. I have lost my train of thought. Of course, these issues apply in relation to sexual offenders and rehabilitation.

Clause 51 of the bill enables any of the extensive range of offenders programs available in the corrections sector to be included in a conference outcome just as one part of the full suite of systemic responses that are included within this legislation. As I have said, to ensure that we have this very high degree of flexibility and to minimise the restorative justice system's rigidity, we have not been overly prescriptive in relation to the range of

remedies possible and that would be utilised. Even though the use of these remedies is a possibility, the system will readily be able to provide for them.

Just before concluding, I want to point out that the shadow attorney did refer earlier to the government's response to the scrutiny of bills committee report in relation to this legislation. I might just say it was a response to a committee report that the government did not willingly accept, to the extent that the report was very much tailored to what we took to be something of a misunderstanding by the scrutiny of bills committee of the process adopted by the government.

The scrutiny of bills report was very much focused on the issues paper rather than on the legislation. The government's position, as expressed through our response to that, was very much one of some of surprise that the scrutiny of bills committee had not seen fit to focus on the operation of the legislation at all but very much on the issues paper. I think we need to draw to the attention of the committee the extent to which it, I think, completely missed its terms of reference or its brief in relation to this particular piece of legislation.

MR STEFANIAK (6.11): Briefly: one, I do not agree with the Attorney in relation to the scrutiny of bills committee. I think it is doing its job. Perhaps he misses the point. I take on board what he says about pages 2 onwards, though, and thank him for that.

I accept that the government is taking a careful approach to domestic violence in relation to this scheme. I can actually see significant potential, especially for young offenders, from its being included in the scheme. Accordingly, the opposition will not be supporting the amendments by Ms Tucker. I think she misses the point there.

In regard to a lot of what the attorney says, certainly in relation to the issue before the Assembly of domestic violence, I would have to say, in the immortal words of Justice McTiernan, "I concur with what he said."

MS TUCKER (6.12): Just briefly: I think I need to repeat this. I have already said it but I just want to make the point, responding to Mr Stanhope, that the Domestic Violence Prevention Council, which he quoted, did say in its submission that in relation to adult DV offenders:

> Restorative justice approaches should only be used at any stage in a heavily resourced and carefully planned system.

I think I need to make the point again that of course we acknowledge that there is a review—and I have acknowledged that—but the point is, with our amendment, we actually have the opportunity to stop at that point, look at the review, look at what came out of it and look at the resource capability to deal with using conferences in domestic violence and sexual assault.

It is absolutely critical to understand that we have a properly resourced response here, but there is no guarantee. You cannot give me a guarantee today that you are going to have that well resourced. This gives the Assembly of the time an opportunity to look at the resource implications for doing this properly, as the Domestic Violence Prevention Council said. By having that phase 2, just the check inserted into the process, it is not

automatic; it allows the Assembly of the day to actually look at what we are doing. I would have thought that that was a very sensible process. I am sorry that it will not be supported.

Amendments negatived.

Bill, as a whole, agreed to.

Bill agreed to.

Road Transport (Public Passenger Services) Amendment Bill 2003

Debate resumed from 17 June 2003, on motion by **Mr Wood**:

> That this bill be agreed to in principle.

MRS DUNNE (6.14): Mr Speaker, the Liberal opposition's inclination with this bill was to oppose it entirely in principle but, on reflection, we have decided that we will support the bill in principle but when it comes to the detail stage we will be opposing all the provisions in this bill that relate to the taxi auction. We are not voting it down in principle, simply because there are definitely things that need to be addressed in relation to the buyout for hire cars and the hire car code of practice, which has generally had support.

The problem with this bill—and this is a very flawed process—is that the government's thinking has not changed one iota since November 2002, I think it was, when they first put forward their policy. The minister opposite said, "As a result, the concept of deregulation is dead." Deregulation of the taxi industry has been a fraught issue in every jurisdiction but, as I have constantly maintained, the issue will never be dead until you actually do it. It will not be easy and you will not have unanimous support, but at some stage it must be done.

But what we have here today is a bill that has been through a great deal of thinking and we have seen very little movement from the government in response to a very clear view from the community about what needs to be done. This bill was introduced last year; it was referred to the Planning and Environment Committee. The Planning and Environment Committee made a very large number of recommendations. For some reason the numbering system seems to have fallen over, so I cannot tell you easily how many there were.

The really principal ones, the ones that sort of go to the heart of this bill, are these: the committee recommends that, while the ACT needs a bill like this, the ACT government should not proceed with the legislation in its current form. Which part of this does the minister not understand? You have to remember that this was a unanimous report of a multi-party inquiry. The committee recommended that the government should not proceed with the legislation in its present form and that a new bill must be drafted to reflect an integrated sustainable transport approach and include such changes that have been recommended in this report to prevent further delay in urgently needed structural adjustment in the ACT public transport industry.

I suspect that the problem for this government is that it has not quite realised that the taxi industry is public transport and so dysfunctional is the ACT government's approach to public transport that we actually have two ministers responsible for public transport. We have Mr Corbell, who is responsible for buses; and Mr Wood, who is responsible for taxis and hire cars. This is a totally dysfunctional approach.

Today I was actually reading, in preparation for the MPI, the OECD report about urban renaissance. One of the things it says is that you have to break down the structures between organisations to get better integration. What better example do we have than when we are talking about public transport, when we are talking about sustainability and public transport and we have two separate entities—ACTPLA and urban services—planning in relation to transport and not really getting it together.

One of the principal recommendations in this report that came down in December 2003 was about making transport more sustainable. We actually looked at issues about demand responsive transport. But has this government listened? Has this government taken on any of this? Mr Corbell has talked about demand responsive transport on and off and we had a few feasibility studies, but there were substantive suggestions in this report, to which the response from the government was: "Well, we asked the ACTION authority whether they thought it was a good idea, and they said, 'No, we don't want to do it,' and so we've decided not to do it; we've decided not even to consider it."

As a result, we have got to the end of this Assembly with no progress at all on sustainable transport planning; no progress at all on this government's commitment to demand responsive transport. This is one of the multitude of reasons why the Liberal opposition opposes much of what is in this bill. Because we have undertaken to be brief, I will be brief. We will be supporting the notion of a government funded buyout of the taxi industry—and I will come back to that—we will be supporting a government funded buyout of the hire car industry; and we will be supporting the hire car code of practice.

But the rest of the bill that relates to the regulation of taxi plates and the auctioning of taxi plates will be opposed most categorically by this opposition. There is nobody in this community, no-one in this community outside the ranks of the government, who thinks this is a good idea.

In some ways, it is difficult to find the way forward for the taxi industry, but this certainly is not the way forward. Again it is the *Yes, Minister* thing; we have to do something; therefore we must do this. It is the wrong solution and we must oppose it. I am confident that the non-government members of this Assembly understand that and understand that this is a lost opportunity to deal with demand responsive public transport.

But I must go back to the principal reason why I have encouraged my colleagues not to vote against this bill in principle, and that is to put on the record the need for a hire car buyout scheme. I will say what I have said on at least two occasions in this place since the government announced that, essentially, the only substantive recommendation of the planning and environment committee that has been adopted is this one, and that is: the government needs to be congratulated for agreeing to a budget buyout of the hire car industry.

There are some people who do not want to get rid of their hire car plates, but there are a significant number of people involved in the industry who no longer have an asset in a hire car plate because of the changes and the uncertainty in the industry. In many ways, it is a moribund industry; it needs to be revitalised. We need to progress quickly—and this is the message for this minister—to come up with the buyout because there are some people whose personal circumstances are such that they cannot wait until the time designated by this minister and this government, which is before 1 July 2005 and which is essentially when they will do it. 1 July 2005 is too late for some people.

The government has made up its mind that it will do this and it needs to find the resources. The minister said to me, when I raised this with him, "We didn't want to bring forward another appropriation bill." My response to that is: why not? We bring forward bills for supplementary appropriations on all sorts of occasions but when people's livelihoods and people's quality of life are depending on it and, for the sake of $2½ million tops, we cannot bring ourselves to be motivated enough to work on behalf of the community, in the best interests of individuals in our community.

I am not entirely convinced that it could not come out of the Treasurer's Advance. I know that the opposition has made the government a bit gun-shy about the Treasurer's Advance—and I understand that—but here is a circumstance when perhaps it could be justified and, if not, there should have been an appropriation bill. It should have been in here and debated and dealt with so that these people do not have to wait another year for their money, because having to wait another year for their money is unconscionable. The minister needs to make some commitments in here tonight before the Assembly rises about when these people will be paid out. It needs to be better than 1 July next year; it needs to be before you go into caretaker mode.

MS DUNDAS (6.23): Mr Speaker, the Democrats will be supporting this bill in principle. We will oppose some parts in the detail stage. That will be something we get to in greater detail later on.

The issue this bill seeks to address, namely the ACT taxi and hire car system, has been dragging on now for at least half a decade. We are all agreed that the ACT taxi industry needs reform and we all agree that this issue has been taking far too long to get a positive outcome. However, the fundamental stumbling block in this debate is that both this government and the former government have refused to take a broader view on the issues for both consumers and workers in the taxi industry and how taxis form part of our sustainable transport system. Instead we have seen the focus being on the whole issue of taxi plate prices rather than addressing the problems in the industry as a whole. In a sense today's debate is a disappointing one simply because, whatever we do here today, we will not resolve the problems that face the taxi industry.

Despite continued protestations from the industry and despite the fact that the committee recommended that this bill not proceed in its current form, these complaints have effectively fallen on deaf ears. There have been calls from all sides for this issue to be approached in a more encompassing way, to look at demand responsive transport more broadly and to look at the issues of public concern more directly. This has not been done.

There seems to be a prevailing attitude that if the price of the plates can be reduced then all the taxi industry problems will be solved. This obsession with competition policy appears to be the biggest stumbling block in the debate. Until the government can move beyond viewing competition as the sole issue, then we will not be able to move further.

We are also not acknowledging the historical development behind the acquisition of these plates. Many have invested in buying a plate in good faith. Obviously the value of the plate was directly related to the regime that was in place at the time. However, we are faced with a situation where the little guys will be paying for the big problems. The people we are talking about are not rolling in cash. For some, the ability to sell their taxi plates at some point in the future is their investment in their superannuation. They are, in some cases, living close to the edge.

So it is particularly of concern that the government has sought to address the same problem in two different ways. The buy-back of limousine plates is welcomed—and the Democrats have supported that—but it is inconsistent to buy back one set of plates for the hire car industry but refuse to do the same for the taxi industry. The competition issue is one that needs to be addressed in both industries; yet the government has chosen two different solutions for these industries. One allows those who hold hire care plates to be compensated for their plates, while those who hold taxi plates will see the value of their investment being slowly eroded by the government's policy.

It is clear that perpetual licenses are not a good regulatory method. Providing more of them simply propagates a poor system and will continue to cause problems into the future. It is also an unfair and inconsistent policy decision which requires taxi plate owners to shoulder all losses of past government mistakes. For this reason, the Democrats will not be supporting the sale of additional taxi plates.

When looking at industry reform, we need to remember that industries inhabit a particular economic environment. It is clear that there are considerable economies of scale in the taxi industry as well as informational asymmetries, which means that the industry will probably always need some form of regulation in order to function with some degree of efficiency.

The small size of this city further contributes to the problem. It is time we started to realise that it may be neither possible nor desirable to try to make the taxi industry perfectly competitive. Instead, we should refocus on the particular outcomes the people of the territory need to see addressed in the industry and, where appropriate, legislation or other regulation for these areas could be improved. Competition is not always going to produce the best outcomes and it is likely the ACT taxi industry is such a case.

The committee heard of the demise of a network that was established in Canberra's past to rival the main taxi system and how that taxi company did not actually function. We note there is nothing currently in the law that would stop a new network being established. So this whole focus on competition policy in relation to taxis is also almost a null and void argument.

The issues that I actually see out there in the community are not about outrage or inefficiencies associated with the price of the actual taxi plates; they are about service

standards; they are about costs; and they are about the working conditions and wages of taxi drivers. In the end, these are the issues that we need to be addressing in any reform of the taxi industry, but these issues are not addressed by this bill.

Taxis form part of this city's sustainable transport infrastructure. Taxis provide people who cannot or choose not to rely on private car transport an alternative means to get around. They might be for shopping or late night transport or getting somewhere in a hurry and are particularly important for people who, because they cannot afford to or are unable to, do not drive a car. They are also important as an option to avoid drink driving and they support night time safety. They play a role in the ACT's tourism industry and for interstate and international business visitors. It is unfortunate that these functions of the taxi industry are barely acknowledged, let alone reflected in the government's reforms.

So we need to start again, unfortunately, on taxi reform. And we should not start from a position that focuses on competition or taxi plate licenses. We need to start by recognising the role the taxi industry plays in this city and identify any problems the people of Canberra have with that service. We need to look at how taxis fit with our other transport modes and the sustainable transport plan. This will lead us to identify current problems and work towards meaningful solutions, whether they be market-based or regulatory and legislative solutions.

This whole saga should be a lesson to government and demonstrate the problem with looking at an issue of competition in a vacuum. We cannot simply assume that competition will produce a fair or better outcome or that any means of increasing competition is automatically a better option. Instead, we should be taking broad and inclusive perspectives of industry regulation and working with stakeholders to achieve improved outcomes for consumers and workers.

That being said, that is why we will support parts of the Road Transport (Public Passenger Services) Amendment Bill which actually support the hire car industry in the regulation of that industry, but we cannot support the proposal put forward by the government in relation to the option of new perpetual taxi licenses because it just reinforces the mistakes that have been made in the past and does not provide a positive solution to the problems that exist today.

MS TUCKER (6.30): This amendment bill centres on the buyback of hire car licences and the staged release of additional taxi plates in the ACT. The issue of taxis has been before the Assembly in various guises over a long period of time, and it is disappointing that it remains unresolved. While I have no problem with the buyback of the hire car licences it is my view that the release of more taxi plates will do little to address the challenges we currently face and on which the Standing Committee on Planning and Environment was charged to report last year.

Given that other states have elected not to deregulate the taxi industries, and particularly given the experiences with deregulation in Victoria and the Northern Territory, I am concerned that a buyout may penalise passengers rather than increase the quality of services available. I understand that Canberra Cabs is already having trouble attracting good drivers and that the increase in taxi plates would exacerbate the situation. I am also

concerned that an increase in the number of taxi plates may create further disadvantage for drivers in an industry that is already relatively poorly paid.

In both Victoria and the Northern Territory there have been significant problems attracting good quality drivers. Up to 15 per cent of Melbourne's taxis are without a driver at any given time, exacerbating rather than addressing the issue of access to services. We know that in Canberra, similarly, only 84 per cent of the existing fleet is currently on the road, due to the shortage of drivers. This situation could be expected to worsen if there were more competition for Canberra's shrinking taxi market.

The amendment bill leaves the important questions of a more integrated, sustainable transport system for the ACT and access and equity for all consumers unresolved. In particular, it does little to address the challenges currently faced by passengers travelling with infants, who cannot be guaranteed access to child-friendly safety capsules and seats, or by users of wheelchair accessible taxis, or WATs.

The WATs issue is not new either. There are longstanding concerns about the level of service provided to mobility impaired taxi users. The government has done little to address the issue, and there needs to be urgent action on this. The government's recently released taxi industry satisfaction survey demonstrated that only 40 per cent of WAT users were happy with response times. This compares with 87 per cent of business customers who were generally pleased with the level of service provided.

The basic issue, as I understand it, is that some WAT drivers are choosing to accept better paying fares to the detriment of mobility impaired passengers, who must wait for a window amongst better paying work. Canberra Cabs statistics demonstrate that WATs have an acceptance rate of only 60 per cent of jobs requested by mobility impaired people. In the worst case, a WAT driver accepted only 12 per cent of the work to which he was required to give priority. Some drivers are doing eight disability jobs per day, whereas some are doing only one or two. Only 52 per cent of WATS are currently meeting their accreditation criteria, and I am very interested to know why these criteria are not being enforced and what steps the government is taking to address this.

Given that the WAT drivers are choosing not to accept wheelchair work because they cannot make enough money from that work alone, it should be possible to develop a new community focused business around the WATS, whereby the WATS could accept only community work but the range of community work would be expanded to include mobility impaired passengers, school transport runs for children with special needs and aged persons transport.

Currently, there are approximately 550 children accessing special needs transport provided by Canberra Cabs, with 40 students accessing the service on a daily basis. In Sweden, community transport for older people is provided in 12-seater vehicles that provide a bridge between standard public transport options, private cars and taxis. A bonus is the opportunity to interact and socialise.

Ideally, this new community based service would involve Canberra Cabs and ACTION coming together to deliver an integrated service for the benefit of the Canberra community. I understand that there is already a significant amount of goodwill between ACTION and Canberra Cabs and a shared desire to have a better functioning public

transport system in the region. I understand also that, unfortunately, there has been some difficulty communicating this vision to the government.

As a Green, I see taxi services as the least desirable option—only one step up from the private car—of the full range of public transport options available to the community. That said, it is desirable that the taxi service we have is as effective as possible in terms of community access and equity. My preference, clearly, is for a well functioning public transport system that provides cheap and reliable services in the places and at the times that people need them. Ideally. Canberra's taxi and hire car service would fit into this integrated public transport model.

I am very interested in the possibilities for the ACT offered by a demand responsive transport model, known as the DRT system. For example, services would be provided by taxis or hire cars, minibuses and shuttles, rather than the standard empty ACTION buses, and would be available on demand. The DRT vehicles would stop at prerequested points or at nominated points along a standard public transport route. They would transport passengers to larger transport hubs around the existing interchanges and would ideally offer greater flexibility through access to bike racks on buses and taxis and bike lockers at interchanges.

DRT models have already been tried and found to be effective in Europe, the USA and other areas of Australia, but on a small scale. DRT systems are particularly useful in areas where high volume services are least effective—that is, in low-density metropolitan regions that have previously been dominated by the private car. I have been advised that Canberra would be the perfect location for a DRT system.

It is possible that the buyback of the hire car licences will give the government greater flexibility to explore options for a DRT model for the ACT, in the first instance perhaps focusing on a community focus system as envisaged by the Greens—that is, using the WATs and other vehicles to provide demand responsive services for mobility impaired passengers, young people who participate in school transport runs and aged persons. Of course, it would be desirable that any such model would be developed with input from ACTION, Canberra Cabs and the hire car industry.

Canberra Cabs has already expressed an interest in working with the ANU and CSIRO in developing a trial DRT project, but I have been informed that it has been hard to get anyone from government on board. Instead, the government has commissioned its own DRT study, which I understand will be released later this week. It is perplexing that the government will be proceeding with the idea of the release of more taxi plates in advance of the results of this study.

I know that this is the last week of sitting, but it would seem a strange time to be revisiting this issue with the imminent release of what should be a relevant report. Indeed, it is a strange time to be revisiting this issue for a range of reasons: the imminent release of the DRT study, the dramatic drop in demand for taxis in the ACT, experiences in other states and territories after the release of more plates, the impact of the entry of Queanbeyan cabs into the ACT market and the Productivity Commission's current review of the National Competition Council and its future role, to name but a few.

Of more concern, however, is that the government is not recognising opportunities to get serious about sustainable transport planning for the ACT. Earlier this year we had the release of a very disappointing sustainable transport plan for the ACT. This is a plan that understated the possibilities of light rail for the ACT and listed a series of actions which had as their foundation the continuing importance of travel by private car. The plan identified that Canberrans have the most car dependent transport system in Australia with the highest average speeds in a month and the lowest level of congestion. However, it lacked meaningful timelines and targets, identified no base lines and provided no indication of the steps to be taken to achieve integrated sustainable transport planning for the ACT.

So we have arrived at the current situation where the taxi industry is calling for the introduction of a sustainable transport commission and raising options for innovative integrated public transport provision, and the government is focusing on short-term economic gains—not only that, but putting forward proposals that do nothing to address serious and longstanding community concerns relating to services for the mobility impaired.

MRS CROSS (6.38): Mr Speaker, I echo many of the sentiments expressed tonight by Mrs Dunne, Ms Dundas and Ms Tucker, especially with regard to sustainable transport and complementary transportation solutions for the ACT. I have a number of concerns with this bill, mainly about the likely effect it will have on taxi drivers. One of the reasons for the introduction of additional taxi plates is to reduce delays and pick-up times experienced during the morning and afternoon peak-hour demand periods.

Let's look at some of the practical implications of this approach. On the minus side, there are some points worth considering. Accepting that the introduction of some new plates would marginally ease the peak-hour demand, what will be the consequence during the off-peak hours when the demand decreases markedly, the available work is shared among more drivers and the income of individual drivers decreases? It seems that under such an arrangement the swings and roundabouts will be out of kilter.

Some of the causes of delays in trips around peak hours cannot be overcome by granting more plates. For example, recent changes in road traffic arrangements, such as the introduction of bicycle lanes, the reduction of State Circle from two lanes to one to accommodate a bicycle lane, the abolition of the 70 kilometre per hour zone on Northbourne Avenue and the removal of a second rank lane on Acton in Bunda Street have increased the waiting period for taxis.

Having more taxis is not going to ease created problems such as these. Indeed, it is likely that more vehicles on the road will make them worse. Here is another example of the effect peak hour has on availability of taxis. During non-peak hours the trip from the airport to the Kings Avenue roundabout in Russell takes four minutes. In peak hour the same trip can take 15 or even 20 minutes. More taxis will not solve this sort of traffic problem.

Already there is considerable dead time in a taxi driver's working day. To reduce this dead time the drivers need to be responsive to local points of need. For instance, it is difficult to predict where the demand for taxis will be, and taxis cannot wait around in an

area on the off-chance of satisfying an uncertain or possible demand. I do not want to see measures taken that will possibly have an adverse effect on the incomes of the workers in the system—that is, the taxi drivers. Therefore, I will be supporting this bill in principle but will oppose it in parts. I will support the hire car industry and the regulation of that industry but will oppose the rest of this bill related to the taxi industry.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (6.41), in reply: Mr Speaker, to pick up that last point, this discussion is not about taxi drivers; it is about taxi owners. There are about 1,400 taxi drivers and I would think about 170 or thereabouts taxi owners. That is what all this debate over this period has been about. The major thrust of the government's reforms appears not to be succeeding tonight, if I can count.

Mrs Dunne: It is because it is not a reform bill.

MR WOOD: Well, there is a statement there from people that we need reform, but by hell we are not going to get it and we do not want it. The words do not match the votes. Mrs Dunne said we need structural adjustment. But we are not going to have it; we are not going to do it. We in the government proposed a structural adjustment, and everybody from there around says, "No, we do not want a structural adjustment; we want to protect the existing system." That is what you are saying.

You proposed a buyout for the taxis. We have tried that path, and I am afraid we cannot get it to work. No other jurisdiction—particularly Western Australian, which has paid a deal of attention to it—can get it to work either. After that, you do not want a structural adjustment; you want a soft landing for everybody. In fact, I think a soft landing was the way we were hitting it. This proposal was a relatively gentle one, and I think it was going to have an effect—not rapidly, but over a period—that would solve all the issues for all the players.

What you are saying to us now, as a result of this stuff tonight, is an imperfect outcome. We will have a buyback of the hire car plates, and we will issue licences to hire cars. We can do that. We can do that quite a deal. As a result of this, we are holding to the system we have—which I could have employed in the last three years—of auctioning more plates, in the way we have always done it.

I am not sure that people in the industry and people generally would think that combination is very good, but you are giving the government the sort of authority to do that. So be it. If you will not let us make a gentle adjustment; at least you have opened it up a bit more. As always, the government will be entirely responsible and careful in what it does and give consideration to all the players in the industry.

Ms Tucker goes on about sustainable transport. She did not like the material the government put out, because it did not have light rail in it. I have to say that anybody thinking of light rail out to Gungahlin, or anywhere else in this town, in the next 20 years or so has not got a very clear thought in their head about it. I am afraid light rail, Ms Tucker, is not a system that is going to work. Not at this stage, and not until our city—

Mrs Cross: You can't rule it out though, Bill. You can't say it's not going to work and not consider it.

Mrs Dunne: Yes, he has. He's just ruled it out. Thank you, Bill. Thank you.

MR WOOD: No, I am not ruling it out. The data say that when the population grows and it is a little more intensively settled in some areas, a light rail system will come. Go into all the documents over very many years.

Mrs Cross: But you can't plan it in 20 years time. You've got to think about it.

MR WOOD: It can be brought forward in due course, and it will be. But we are dealing with the here and now, and Ms Tucker wants a light rail system right now and that is the answer. So many people think that is the answer. It is the answer to the Gungahlin Drive extension, and it is the answer to all sorts of things. Well, it simply ain't the answer. In due course, let me say, in due course. We will get down to the detail stage now and see how that goes, although the result appears to be inevitable. The result is not the best result, really, for anybody.

Mrs Cross: On a point of order, Mr Speaker, under standing order 47, I want to clarify something.

Leave granted.

MRS CROSS (6.46): Thank you, Mr Speaker, for your patience and understanding. Mr Wood picked up on something in my speech about taxi drivers. Many taxi owners are also taxi drivers. I just wanted to clarify that. Also, Mr Wood said that we are dealing with the now. For the purpose of accuracy, as legislators we have to deal with the now and the future.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1.

MRS DUNNE (6.47): I move amendment No 1 circulated in my name on the yellow paper *[see schedule 4 at page 4104]*.

This is a simple amendment that modifies the name of the bill—or the act, as it will become—to make it clear that this is really about the hire car system. Members of this place are essentially opposing all those provisions that relate to the taxi industry, and we want to make it perfectly clear that this is now a bill about hire cars.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (6.48): It does not really change anything, Mr Speaker. What difference?

Amendment agreed to.

Clause 1, as amended, agreed to.

Clauses 2 and 3, by leave, taken together and agreed to.

Proposed new clause 3A.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for the Arts and Heritage) (6.49): Mr Speaker, I move amendment No 1 circulated in my name, which inserts a new clause 3A, and I table a supplementary explanatory statement to the amendments *[see schedule 5 at page 4104]*.

This simply adds the phrase "to provide for the licensing of vehicles" as one of the objects of the act.

MS DUNDAS (6.49): I wish to put on the record at this stage that the Democrats have no issue with the government's amendments, which largely implement the government's decision to buy back the hire car licences. As I have indicated previously, the Democrats agree with this proposal and hence will support the amendments that are coming up in relation to this. There are other amendments, which deal with minor issues, such as the incorporation of additional protections against illegal hire car services and broadening the objects and functions in the act to incorporate the new hire car scheme. The Democrats are happy to support these changes put forward by the government.

Proposed new clause 3A agreed to.

Clause 4.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (6.50): I move amendment No 2 circulated in my name *[see schedule 5 at page 4104]*.

This amends clause 4A of the bill so that it is clear that the criminal code applies to the new offence of providing unauthorised public passenger services. That provision is provided in amendment 8.

Amendment agreed to.

Clause 4, as amended, agreed to.

Proposed new clause 4A.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (6.51): I move amendment No 3 circulated in my name, which inserts a new clause 4A *[see schedule 5 at page 4104]*.

This amendment provides that a new function of the Road Transport Authority, as set out in section 5 of the act, is to administer the hire car licensing scheme. Previously, this function was carried out by the Road Transport Authority under the Road Transport (General) Act 1999.

Proposed new clause 4A agreed to.

Proposed new clause 4B.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (6.52): I move amendment No 4 circulated in my name, which inserts a new clause 4B *[see schedule 5 at page 4104]*.

This amendment amends the note to section 6 of the act to make it clear that a register of accredited hire car operators is to be kept by the Road Transport Authority.

Proposed new clause 4B agreed to.

Clauses 5 and 6, by leave, taken together and agreed to.

Clause 7.

MRS DUNNE (6.52): This is a slightly chaotic situation, where Ms Tucker, Ms Dundas and I have the same amendment. Perhaps we should take it in turns to oppose the next three clauses—7, 8 and 10—so that everyone gets a bite of the cherry. We will be opposing this clause because it is part of that bit that relates to the taxi licences. We have already expounded on that, and because of time I will not say anything more.

MS DUNDAS (6.53): The Democrats have outlined that we oppose this clause because we oppose the proposed auction of new perpetual taxi licences. This clause, along with clauses 8 and 10, is aimed at allowing the government to auction these additional taxi licences. This is something that the Democrats cannot support. The auctioning of new licences is designed to erode the value of existing plates, with no guarantee of adequate compensation to current plate owners.

It is unfair to expect current plate owners to bear the cost of poor government regulation in the past. Expecting that also stems from the mentality that increasing competition in the industry will solve all of the industry's problems. The Democrats share neither this unbridled optimism nor the obsession with reducing plate values. Hence, we will not be supporting this initiative.

I would like to take this opportunity to thank all those taxi and limousine drivers who have taken the time to contact me on this issue and whomever I have spoken to over a number of months. Your insights into this issue as drivers and owners—as the people who work at the coalface in this industry—have been invaluable in our deliberations on this bill. I thank you for the time that you have taken to do that.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (6.54): The government supports this clause. You know why; we have had that debate. However, as I am looking at the time and the rest of the clauses, I propose to call a division on this. That will finish the night but set the pattern for the next couple of critical clauses. We will adjourn then until Thursday.

Question put:

> That clause 7 be agreed to.

The Assembly voted—

Ayes 8		Noes 9	
Mr Berry	Mr Quinlan	Mrs Burke	Mr Pratt
Mr Corbell	Mr Stanhope	Mr Cornwell	Mr Smyth
Ms Gallagher	Mr Wood	Mrs Cross	Mr Stefaniak
Mr Hargreaves		Ms Dundas	Ms Tucker
Ms MacDonald		Mrs Dunne	

Question so resolved in the negative.

Clause 7 negatived.

Clause 8.

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

Adjournment

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

> That the Assembly do now adjourn.

Committee office

MS MacDONALD (6.59): This is the last sitting week of the Fifth Assembly, so I want to place on the record my appreciation for what I have learnt from people who are the experts within the committee secretariat. Since I came into this place, on the education committee I have had Judith Henderson, David Skinner and Kerry McGlinn lending me their expertise, and on the health committee Maureen Weekes, Derek Abbott and Siobhan Leyne.

On the public accounts committee, because I came on to it later, I missed the first secretary, but I had the expertise of Derek Abbott and Stephanie Mikac and, on the Select Committee on Privileges, Jim Pender. I was on three estimates committees. On the main one for 2003-04 Derek Abbott provided us with his excellent skills; on the supplementary bill (No 3) 2003-04 it was Stephanie Mikac; on the main one for this most recent budget it was Siobhan Leyne, Robina Jaffray, Kerry McGlinn, Stephanie Mikac,

Jane Carmody—who is now Jane Neilson—Natalie Swart, who filled in for Judy Moutia while she was away, and, of course, Judy Moutia brought all the papers together.

For the Assembly art collection committee, we have had Tom Duncan, and before him, Mark McCrae, Margaret Jones, Jenny MacFarlane and all the art experts who generously volunteered their time. On the members' superannuation committee, we have had the expert advice of Garry Cartwright. I just wanted to place on the record my thanks and appreciation to them for all their assistance.

Question resolved in the affirmative.

The Assembly adjourned at 7.01 pm.

Schedules of amendments

Schedule 1

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

Amendments moved by Mrs Dunne

1
Proposed new clauses 4A and 4B
Page 3, line 11—

insert

4A Transfer of land subject to building and development provision
New section 180 (1) (ab)

insert

(ab) if the proposed assignor and proposed assignee, or the proposed transferor and proposed transferee, both hold a builders licence (other than an owner-builder licence)—the assignment or transfer happens within 1 year after the day the assignor or transferee became the lessee; or

4B Section 180 (1)

renumber paragraphs when Act next republished under the Legislation Act

2
Clause 5
Proposed new section 180 (2A)
Page 4, line 7

omit proposed new section 180 (2A), substitute

(2A) The planning and land authority may also, in writing, consent to a transfer of a lease, or an interest in a lease, mentioned in subsection (1) if—

(a) the proposed transfer is the first sale of an individual lease of undeveloped land by the person who provided the infrastructure on, and subdivided, the holding lease of which the individual lease is a subdivision; or

(b) the transferee has not, within the previous 2 years been given a consent under subsection (2) or this subsection.

(2B) A fee must not be determined under section 287 for this section in relation to a consent to a transfer of a lease, or an interest in a lease, mentioned in subsection (2A) (a).

(2C) A fee determined, before the commencement of this subsection, under section 287 for this section does not apply in relation to a consent to a transfer of a lease, or an interest in a lease, mentioned in subsection (2A) (a).

(2D) Subsection (2C) and this subsection expire immediately after they commence.

Schedule 2

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

Amendment moved by the Minister for Planning

1
Proposed new clause 4A
Page 3, line 11—

insert

4A Transfer of land subject to building and development provision
Section 180 (1) (d) (ii)

substitute

(ii) the consent of the planning and land authority under subsection (2) or (2A).

Schedule 3

Crimes (Restorative Justice) Bill 2004

Amendments moved by Ms Tucker

1
Clause 14 (3)
Page 12, line 9—

omit

2
Clause 14 (6), definition of *less serious sexual offence*
Page 12, line 20—

omit

3
Clause 15 (3)
Page 13, line 12—

omit

4
Clause 16
Page 14, line 8—

omit clause 16, substitute

16 Non-application of Act—domestic violence and sexual offences

Despite section 14 and section 15, this Act does not apply to—

(a) a domestic violence offence; or

(b) an offence against the *Crimes Act 1900*, part 3 (Sexual offences).

5
Clause 24 (3)
Page 24, line 25—

omit clause 24 (3), substitute

(3) This section is subject to section 27 (Referral during court proceeding).

6
Clause 26
Page 26, line 4—

[oppose the clause]

7
Clause 27 (4) to (10)
Page 28, line 8—

omit

8
Clause 33 (2) to (8)
Page 33, line 7—

omit

Schedule 4

Road Transport (Public Passenger Services) Amendment Bill 2003

Amendments moved by Mrs Dunne

1
Clause 1
Page 2, line 2—

omit clause 1, substitute

1 Name of Act

This Act is the *Road Transport (Public Passenger Services) (Hire Cars) Amendment Act 2004.*

Schedule 5

Road Transport (Public Passenger Services) Amendment Bill 2003

Amendments moved by the Minister for Urban Services

1
Proposed new clause 3A
Page 3, line 5—

insert

3A Objects
Section 2 (b)

substitute

(b) to provide for the licensing of vehicles used as taxis and hire cars within or partly within the ACT; and

2
Clause 4
Proposed new section 4A, note 1
Page 3, line 17—

omit 4th dot point, substitute

- s 60O (1) and (2) (Pretending to be an accredited hire car service operator)
- s 60T (Unauthorised public passenger services).

3
Proposed new clause 4A
Page 3, line 25—

insert

4A Functions of road transport authority
Section 5 (b)

substitute

(b) to administer the licensing schemes established under this Act for the licensing of taxis and hire cars; and

4
Proposed new clause 4B
Page 3, line 25—

insert

4B Registers of accredited people and licences
Section 6 (1), note

substitute

Note Section 5 (c) requires registers for the following to be kept:

- accredited bus service operators
- accredited taxi network providers
- accredited taxi service operators
- accredited hire car operators
- taxi licences
- restricted taxi licences
- hire car licences
- restricted hire car licences.