DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

SIXTH ASSEMBLY

WEEKLY HANSARD

17 FEBRUARY

2005

Thursday, 17 February 2005

Schedules of amendments:

Answers to questions:

Thursday, 17 February 2005

MR SPEAKER (Mr Berry): took the chair at 10.30 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

Domestic Violence and Protection Orders Amendment Bill 2005

Mr Stanhope, pursuant to notice, presented the bill, its explanation statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for Environment and Minister for Arts, Heritage and Indigenous Affairs) (10.32): I move:

> That this bill be agreed to in principle.

The Domestic Violence and Protection Orders Amendment Bill 2004 lapsed with the dissolution of the Fifth Assembly. I am reintroducing the bill. It will be known as the Domestic Violence and Protection Orders Amendment Bill 2005. The bill is the end product of an extensive review of the current domestic violence and protection orders legislation. The review was undertaken as a result of a legislative requirement to examine ACT domestic violence and protection orders legislation for consistency with model domestic violence laws, and review the operation of the provisions relating to domestic violence. The review examined the scope of the domestic violence and personal protection order provisions and sought answers to questions such as what should constitute domestic or personal violence for the purposes of the act, who is a relevant person for the purpose of making an application for a domestic violence order, who may apply and when the court may grant an order.

The Domestic Violence and Protection Orders Amendment Bill 2005 provides a single consistent process for dealing with both domestic violence and protection orders. I will briefly highlight for members a few aspects of the bill. The most obvious change made by the bill is the renaming of the Protection Orders Act 2001 to the Domestic Violence and Protection Orders Act 2001. The new name acknowledges the difference between domestic violence orders and personal protection orders and gives greater recognition to domestic violence as a particular form of interpersonal violence that requires a higher level of protective response.

The bill makes important definitional changes with the expansion of the definition of domestic violence to include threats to or acts against pets and animals; burglary and destroying and damaging property. This amendment is important as it recognises that threats of animal abuse or the abuse of pets, and the destruction and damage of property are powerful tools often used by abusers to inflict fear and harm upon their victims. The recognition of a wider range of harm associated with domestic violence is consistent with the definition in the United Nations Declaration on the Elimination of Violence Against Women, which includes psychological violence. The bill recognises that the right to protection from cruel, inhuman or degrading treatment in section 10 of the Human Rights Act 2004 requires effective legislative measures against domestic and personal violence.

The bill also expands the definition of "relative" to take into account the kinship and cultural ties of Aboriginal people and Torres Strait Islanders, members of communities with non-English speaking backgrounds and people with particular religious beliefs. The definition is consistent with the importance given to the protection of the family under section 11 of the territory's Human Rights Act 2004 and the broad meaning given to "family" under the International Covenant on Civil and Political Rights. The bill expands the definition of "relevant person" to include relationships with similar dynamics to domestic relationships. The definition of "relevant person" is central to the definition of domestic violence. This new definition will provide greater scope for the application of the domestic violence provisions in the act.

The bill includes a clear statement of objects and principles. While the general object of the legislation is to facilitate the safety and protection of all people who experience interpersonal violence, it particularly recognises that domestic violence is a form of interpersonal violence that needs a greater level of protective response. The bill also recognises that a person's behaviour will be domestic violence if it causes personal injury and not just physical injury to someone. This is an important amendment as it means that the court can now make a domestic violence order where a person has not suffered physical violence but mental distress.

Another provision of the bill that I would specifically draw to the attention of members is the provision relating to personal protection orders in respect of the workplace. Employers and employees of kindergartens, childcare centres, schools and other similar organisations will now be able to take out a workplace order against people that they believe pose a risk to the children in their care. Similarly, employers and employees of paediatric wards, child protection offices and other similar facilities will also be able to access these orders. This amendment provides children with greater protection from people who may pose a risk to them. Violence, harassment and intimidation are not acceptable in our community, and this bill is another step towards addressing this sort of behaviour. I commend the bill to the Assembly.

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

Legal Aid Amendment Bill 2005

Mr Stanhope, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for Environment and Minister for Arts, Heritage and Indigenous Affairs) (10.37): I move:

> That this bill be agreed to in principle.

The Legal Aid Amendment Bill 2005 contains a number of amendments that will assist the Legal Aid Commission to maintain better control over its liabilities and to provide a greater range of services to its clients. The Legal Aid Commission provides a high-quality service to the people of the ACT and these amendments will assist the

commission to continue to improve the service. The bill includes amendments to allow legal assistance to be granted for discrete actions in the court process as well as whole matters. For example, it may be appropriate to provide legal aid to pursue general access arrangements in a family law matter, but not to provide it for an unreasonable aspect of the legally assisted person's views on access.

The bill further expands the options available to the commission in providing assistance by clarifying that the commission may provide minor legal assistance. This might include such matters as writing a letter for a client or assisting a client to fill in a form. These might seem simple tasks, but often they will make a world of difference to a client. The commission is also empowered to charge for this assistance where it considers it appropriate. The bill will allow the commission to maintain greater control over the provision of legal assistance in particular cases by providing the commission with the power to require the particular types of applications be referred directly to the commission for decision. It is anticipated that this would be a rare occurrence but might be used, for example, where a particular type of case is likely to have a significant financial impact on the commission.

In a similar vein, the bill includes amendments to clarify that legal assistance may only be granted after an application is received. Currently it is theoretically possible for a person to apply for legal aid retrospectively, after their matter has concluded. This makes it difficult for the commission to manage its finances. Of significance to the legal profession, the bill inserts a new provision into the act to require private legal practitioners to invoice the commission for services within six months of the finalisation of a matter. This amendment is designed to assist the commission in managing its finances.

The bill contains a number of housekeeping amendments to remove redundant provisions. It removes the provision for one of the ACT legal aid commissioners to be nominated by the Attorney-General for the commonwealth to represent him or her. The commonwealth has advised that it no longer wishes to be represented on the commission and has not had a nominated commissioner for a number of years. The bill also repeals the provisions of the act dealing with legal aid committees, as legal aid committees are no longer used. The bill also includes amendments to legislatively put beyond doubt the authority of the commission to allocate a particular solicitor for a legally assisted person. In making such a decision, the commission should take the legally assisted person's express choice into account. These are all quite small amendments, but they will have a substantive impact on the way in which the Legal Aid Commission provides this valuable service to the ACT community. I commend the bill to the Assembly.

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

Justice and Community Safety Legislation Amendment Bill 2005

Mr Stanhope, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for Environment and Minister for Arts, Heritage and Indigenous Affairs) (10.40): I move:

> That this bill be agreed to in principle.

The Justice and Community Safety Legislation Amendment Bill 2005 is the twelfth bill in a series of bills dealing with legislation within the justice and community safety portfolio. The bill makes a number of minor and technical amendments to portfolio legislation. The amendments are as follows.

The bill amends the Agents Act to remove the requirement for a person applying for a travel agents licence to manage another licensed agent's business as an employee from having to meet the additional eligibility grounds for licensing under section 26 of the Agents Act. Under the act, a licensed agent who operates more than one place of business must employ another licensed agent to be responsible for the day-to-day management of the other place of business or businesses. It was never intended that a licensed travel agent working as an employee of another licensed travel agent would be required to meet the additional eligibility grounds for licensing and participate in the travel compensation fund, because the owner of the travel agency would have already contributed to the compensation fund for the total operation of the business, including the branch office.

The bill amends the Evidence Act to remove the definition of "diplomatic or consular representative" and section 17 of the act, which deals with the attestation of documents outside the ACT. Section 17 is now redundant because the commonwealth has removed the obligation to adduce evidence to prove that a document was signed or attested, as it purports to have been signed or attested. As a result of recent concerns within the community about justices of the peace appointments in circumstances where a justice of the peace may have been convicted of a criminal offence, it has become necessary to amend the act to ensure that there are specific criteria for appointments and termination of appointments.

The bill amends the Justices of the Peace Act to include eligibility grounds for appointments of justices of the peace, as well as listing various circumstances in which the appointment of a justice of the peace may be ended, such as when a justice of the peace has been convicted of a serious criminal offence punishable by imprisonment for at least one year, or where a justice of the peace becomes bankrupt, executes a personal insolvency agreement, or is suffering from a physical or mental incapacity which substantially affects their ability to exercise their functions. The bill also amends the act to allow for the creation of further guidelines for appointments and termination of appointments in the future.

The bill amends the Liquor Act to extend the permit system under the legislation to allow winegrowers who do not hold an ACT off-licence to apply for a permit to sell unopened bottles of wine at ACT Tourism events for consumption away from the place or event listed in the permit. The extension will also apply to allow sales of wine by non-profit organisations as a fund-raising activity. The extension of the permit system was a recommendation that came out of the ACT business regulation review. The extension of the permit system to non-profit organisations to sell wine as a fund-raising activity mirrors the permit systems operating in other jurisdictions. Winegrowers who sell wine

under permits at ACT Tourism events would be limited to a price cap of $15,000 of total sales during each financial year. Similarly, non-profit organisations that purchase wine for sale under permits for fundraising activities would be limited to a price cap of $10,000 for the total purchase price of the wine sold during each financial year.

The bill inserts a new definition of Australian diplomatic or consular representative in section 11 of the Oaths and Affirmations Act that broadens the class of people who can administer an oath or affirmation outside of the ACT to include employees of the commonwealth and employees of the Australian Trade Commission. This is consistent with the definition in the Commonwealth Consular Fees Act 1955. I commend the Justice and Community Safety Legislation Amendment Bill 2005 to the Assembly.

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

Residential Tenancies Amendment Bill 2005

Mr Stanhope, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for Environment and Minister for Arts, Heritage and Indigenous Affairs) (10.45): I move:

> That this bill be agreed to in principle.

The Residential Tenancies Amendment Bill 2005 makes a number of important changes to the Residential Tenancies Act 1997. The amendments are the result of a review of the Residential Tenancies Act 1997 undertaken by my department. The review process identified widespread satisfaction with the existing legislation, although a number of areas were identified where change was desirable. A number of major reforms were made to the act last year as a result of the review. This bill contains the final stage of reforms to the act.

One of the major reforms contained in the bill is in regard to the termination of residential tenancy agreements by prescribed crisis accommodation providers. Crisis accommodation sits uneasily in the act at present because service providers wish to impose a condition on a tenancy to the effect that it is conditional on the tenant continuing to use a particular service or on a comparative assessment of needs of others in the community for the service. The effect of this condition is that a tenant may be evicted—for example, if they no longer require therapy—with four weeks notice. To include such a provision in a residential tenancies agreement currently the provider must seek endorsement of the condition on a case-by-case basis by the Residential Tenancies Tribunal.

The bill provides for the minister to declare crisis accommodation providers only if they provide emergency accommodation for people in crisis and if they provide information to people in the accommodation about alternative accommodation and services. The bill provides that declared accommodation providers can terminate a tenancy with four weeks notice if the premises are needed for crisis accommodation for someone other than

the tenant, and if the tenant has been given information about alternative accommodation. This amendment will reduce the need for crisis accommodation providers to seek endorsement of each tenancy agreement before the Residential Tenancies Tribunal. The bill does not affect short-term crisis accommodation where there is no residential tenancy agreement in place.

The bill also includes important provisions relating to tenancy databases. Tenancy databases collect information on the tenancy history of tenants. This information is used by property managers to screen prospective tenants and, during a tenancy, to minimise the risk of a tenant defaulting. The majority of tenancy databases are operated for the real estate industry, with private lessors unable to access information directly. However, there are at least two major national databases for the use of private lessors.

Significant privacy issues remain in the current operation of tenancy databases, including consumers not being aware they have been listed, and limited opportunities for tenants to access, correct or update information concerning their rental history. Tenancy databases can have potential adverse impacts on disadvantaged tenants' ability to access housing in the private rental market. The bill removes these concerns by providing restrictions on public tenancy databases that list personal information about previous tenants. The bill also allows an individual to apply to the Residential Tenancies Tribunal to have their personal information on a database omitted or corrected. The provisions in the bill are based on the provisions in Queensland.

The bill includes a range of other important amendments. The bill provides for a clause to be included by agreement in residential tenancy agreements for posting. The clause would allow for termination of a tenancy on either a lessor being posted back to Canberra or a tenant being posted from Canberra. The tenancy would be terminated following four weeks notice. Such clauses have been a feature of the Canberra market for some time because of the relatively high proportion of defence and diplomatic personnel. Currently, posting clauses can only be included if endorsed by the Residential Tenancies Tribunal.

The bill also permits Housing ACT to rent premises at a rate that initially reflects the additional cost of a past debt, reducing to the ordinary rate when the debt has been repaid. To avoid inappropriate charging, and to permit review in the event that the payment cannot be made in reasonable circumstances, the bill provides that the Residential Tenancies Tribunal must endorse such arrangements.

The bill includes a number of amendments to provisions dealing with evictions. The bill provides that the Residential Tenancies Tribunal may evict a tenant who is seriously or continuously interfering with a neighbour's quiet enjoyment of their property. This amendment is consistent with an existing standard clause in residential tenancy agreements which states that a "tenant shall not interfere, or permit interference, with the quiet enjoyment of the occupiers of nearby premises". The bill clarifies when an eviction may occur. Unless there are exceptional circumstances, an eviction shall only occur between the hours of 8.00 am and 6.00 pm from Monday to Thursday, except for public holidays.

The bill includes new provisions governing the transfer of a public housing tenancy under a will. The bill provides that new residential tenancy agreements may provide that

the tenancy may not pass to a non-occupant on the death of a tenant. The bill also provides that the Commissioner for Housing may seek an order from the Residential Tenancies Tribunal where a new tenant takes possession of public housing under testamentary law adjusting the rent or terminating the agreement. These orders may be necessary where the new tenant is not eligible for housing or where the rent may need adjusting to take into account the financial means of the new tenant.

The bill includes a penalty for failure to lodge a rental bond within the prescribed time. A number of private lessors habitually delay in lodging rental bonds. While most if not all bonds are eventually lodged, the delay occasions enforcement costs which cannot be recovered, and the delay also reduces the interest yield on the rental bond corpus, which is used to pay for tenant advice services, the management of bonds and the operation of the Residential Tenancies Tribunal. Including a penalty for a failure to lodge a rental bond should be an incentive for lessors to lodge rental bonds within the prescribed time.

The bill also includes a series of minor amendments such as permitting the Residential Tenancies Tribunal to adjust a tenancy agreement to take into account a court order and clarifying that a tenant is not required to notify the lessor of minor maintenance that an ordinary tenant would be expected to do, such as changing a light globe or a fuse. I commend the bill to the Assembly.

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

Appropriation Bill 2004-2005 (No 2)

Mr Quinlan, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement and supplementary budget papers.

Title read by Clerk.

MR QUINLAN (Molonglo—Treasurer and Minister for Economic Development) (10.52): I move:

> That this bill be agreed to in principle.

The bill provides for an increase in appropriation of $75.3 million. The Appropriation Bill is necessary for a number of reasons. Firstly, it supports a number of election commitments commencing in 2004-05. We are lucky that we are not trying to support the election commitments of the opposition this time. Secondly, this bill provides for a number of enterprise bargaining agreements that were finalised after the delivery of the 2004-05 budget. Thirdly, the bill provides funding to address specific recommendations resulting from the Vardon report, funding for recent amendments to asbestos law reform and funding for ACTION to address benchmark targets. Finally, the bill addresses a number of cost and demand pressures being experienced within agencies.

I will address significant elements of the bill. The appropriation provides for a number of election commitments to commence in 2004-05. Some examples are $375,000, which provides for an extension to the Kippax Library collection; $125,000 to provide additional per capita funding to non-government schools for kindergarten to Year 3 classes, in recognition of the importance of the early years of education; $50,000 to

review the government college system to ensure Canberra's flagship colleges remain relevant and targeted to student needs; $56,000 for a dental health program to be operated within Winnunga Nimmityjah Aboriginal Health Service; and $1.2 million across two years to provide government schools with interactive whiteboards that will give them the capacity to introduce new ICT-based teaching and learning methods.

The government continues to acknowledge the value of our staff and the depreciation of public sector wages and salaries over the past year, and has included funding of $47.2 million within this appropriation for enterprise bargaining agreements, to fund the difference between that appropriated in 2004-05, and the final negotiated positions. It should be noted that $47 million is included in the bill for wage negotiations. The impact on the operating result is only $8.9 million. Allowance was made in the original budget estimates for the bulk of this expense. However, appropriation was not provided to the individual agencies, as wage negotiations were not final. The $8.9 million, of which $6.4 million was identified in the pre-election update, is largely due to the recognition of prior year expenses and the impact on employee entitlements.

The bill also includes specific recommendations resulting from the Vardon report such as additional funding of $2.139 million for care and protection staff; the child at risk assessment unit; revision of the child protection manual and other support. Appropriation of $1.5 million provides for the operation of the asbestos task force, established under the asbestos law reform adopted late in the life of the last Assembly. In addition to the appropriation for the Vardon report, the Office of Children, Youth and Family Support receives appropriation of $4.504 million to address base and cost pressures. These pressures relate to items such as individual support packages, interstate transfers of juvenile justice clients and additional staffing at Quamby Youth Detention Centre.

The Department of Disability, Housing and Community Services is provided with, amongst other things, an additional $2.021 million for the increase in cost and growth in usage of concessions. That department will also receive $106,000 to provide additional respite services to primary carers 65 years and over. This matches the 2004-05 federal budget carer package respite for older carers initiative and will provide much-needed support for aged carers.

The Department of Justice and Community Safety continues with activities related to the coroner's inquiry and the Eastman case. The department is provided with: $1.086 million for the Director of Public Prosecutions, of which $703,000 is for continued legal counsel; the Magistrates Court gets $383,000 for the coroner and associated staff, contractors and other associated operating costs in relation to the coronial inquest; and $1.136 million in funding for the continuation of the Eastman case, $217,000 of which is for the Director of Public Prosecutions, and $919,000 goes to the Supreme Court.

The Department of Education and Training will receive $3.1 million to meet increased demand for trainees and apprenticeships under VET, addressing skill shortages that have been discussed in public forums in recent times. Although the bill provides for $75.3 million in appropriation, the impact of the bill on the operating result is $25.9 million. As already mentioned, the lower impact represents the allowances already made in the 2004-05 budget for the expected final negotiations of the enterprise bargaining agreements. The provision of appropriation is necessary to allow the funding to be available to the agencies from the territory public account. For the information of

members, I have also tabled supplementary budget papers in accordance with section 13 of the Financial Management Act. This paper provides the detail of all items covered in the bill. I commend the bill to the Assembly.

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

Public Accounts—Standing Committee
Reference

MR MULCAHY (Molonglo) (10.59): I seek leave to move a motion concerning the Appropriation Bill 2004-05 (No 2).

Leave granted.

MR MULCAHY: I move:

> That:
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> (1) notwithstanding the provisions of standing order 174, the Appropriation Bill 2004-2005 (No. 2) be referred to the Standing Committee on Public Accounts;
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> (2) the Committee report by March 31 2005;
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> (3) if the Assembly is not sitting when the Committee has completed its inquiry, the Committee may send its report to the Speaker, or in the absence of the Speaker to the Deputy Speaker who is authorised to give directions for its printing, publishing and circulation;
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> (4) the forgoing provisions of this resolution so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders; and;
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> (5) on the Committee presenting its report to the Assembly, the resumption of debate on the question-That this Bill be agreed in principle-be set down as an order of the day for the next sitting.

Question resolved in the affirmative.

Utilities Amendment Bill 2005

Mr Hargreaves, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (11.01): I move:

> That this bill be agreed to in principle.

The territory's streetlight and stormwater networks are important pieces of infrastructure which provide vital services to the community. There are numerous places around Canberra where the streetlight and stormwater networks are not on public land. There is nothing unusual about that. Stormwater drains generally have to follow the lie of the land and in some suburbs the electricity power lines, to which the streetlights are connected, run along the rear or side boundaries of properties. To effectively maintain the streetlight and stormwater networks, territory officials and those contracted to provide maintenance services need to be able to conduct appropriate inspections, undertake maintenance and enforce requirements to prevent potentially damaging and dangerous interference with the networks. The right of the territory to access private land is currently derived from three sources. In some instances the right is governed by access easements. In other instances it is governed by a reservation contained in the crown lease for the property, and in other instances access is obtained following negotiation and agreement with the relevant landholder.

Other utilities, such as electricity, gas and water and sewerage, are already governed by the Utilities Act 2000. The government believes that it is appropriate for the operation and maintenance arrangements for streetlight and stormwater networks to be consistent with existing arrangements for the other utility networks. Accordingly, this bill substantially mirrors parts 7 and 8 of the Utilities Act 2000. This bill amends the Utilities Act 2000 to ensure there is a clear and consistent legal basis for authorised persons to enter onto private land to undertake inspections, maintenance, repair and replacement of streetlighting and stormwater drainage equipment.

The bill requires the territory to provide affected landholders with a minimum of seven days notice of its intention to access their property, except in urgent situations where it is necessary to protect the integrity of the network or other public or private property, to protect the health and safety of people or protect the environment. Landholders can waive the requirement for seven days notice, should they wish to. The bill makes it clear that there is an obligation on the territory in undertaking work on the infrastructure to cause minimum disruption, to remove waste and, where the land has been disturbed, to restore it to the state it was in prior to the work. The bill also reinforces that we all have an obligation to ensure that structures and vegetation on our land do not interfere with the networks.

The most common issues encountered by maintenance staff are branches reaching into cabling, causing streetlights to go out or, worse, potentially starting fires, and tree roots blocking and damaging stormwater pipes and potentially causing flooding. Unfortunately there are sometimes also more deliberate acts of interference, such as the erection of sheds or other structures directly over stormwater access holes or very close to streetlight power lines. There have been instances of stormwater drain openings being boarded up to prevent pets from entering drains. The bill makes it an offence for a person to interfere with streetlight or stormwater network infrastructure, and allows a landholder to be given notice to remove sources of interference with such infrastructure. I commend the bill to the Assembly.

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

Legal Affairs—Standing Committee
Scrutiny report 3

MR STEFANIAK (Ginninderra) (11.05): I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 3, dated 17 February 2005, 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: Scrutiny report 3 contains the committee's comments on two bills and two government responses. I commend the report to the Assembly.

Leave of absence

Motion (by **Mrs Dunne**) agreed to:

> That leave of absence be given to Mr Corbell (Minister for Health and Minister for Planning) and Mr Pratt for this sitting.

Planning and Environment—Standing Committee
Report 1

MR GENTLEMAN (Brindabella) (11.06): I present the following report:

> Planning and Environment—Standing Committee—Report 1—*Draft Variation to the Territory Plan No 243—Aged Care Facility Monash,* dated December 2004, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

The committee considered draft variation to the territory plan No 243, relating to an aged care facility in Monash, on 21 December 2004. Since the issues had been in the public domain for some time and the planning study and preliminary assessment found no

major issues of concern in the proposal, the committee decided to proceed directly to a report and not call for submissions or hold public hearings.

The Standing Committee on Planning and Environment inquired into and reported on long-term planning for the provision of land for aged care facilities in the ACT. With the federal government's lack of ratio funding in relation to aged care facilities, the committee can approve land for development for aged care beds, but I understand that there is still a lot of time wasted before federal funding becomes available.

With this government's commitment to aged care facilities in the ACT, the committee is of the view that DV243 will enhance the prospects for ageing with dignity of many residents in Tuggeranong. As noted by the government, there is a pressing need for more quality aged care accommodation in Canberra, in Tuggeranong in particular. As one submission noted, the new facility will enable older Tuggeranong residents to remain in their local neighbourhood near friends and possibly family.

DV243 is a strong start to the Stanhope Labor government's commitment on aged care facilities. As part of the territory plan and the sustainability of the Tuggeranong community, this committee is committed to working towards recommendations of land use changes in order for there to be a better range of aged care facilities.

I take this opportunity to thank those involved in the consultation process.

MR SESELJA (Molonglo) (11.08): The opposition supports DV243. We believe that it is important that land be made available for aged care facilities, so we welcome the change in land use policy in this area.

I would like to make a couple of points. By replacing the urban open space land use policy and the entertainment accommodation and leisure land use policy with the community facility land use policy, this draft variation recognises the need to balance the community's desire for urban open space with a real and very pressing need for more aged care facilities in this territory. Given that, the opposition certainly welcomes more land being made available.

I make the point that the government has been the cause of significant delay in making land available for aged care facilities. For instance, I understand that Goodwin Aged Care Services has been seeking land for several years. It is disappointing that it has taken so long. We certainly welcome the moves of the government now to start to address the real needs of the community for more aged care facilities. It has been too slow. Unfortunately, it still is too slow, but we are very supportive of achieving the right balance in land use policy and making more land available for aged care facilities. Given that, we support DV243.

MR SMYTH (Brindabella—Leader of the Opposition) (11.10): The opposition's support for this DVP has been outlined by Mr Seselja. As a member for Brindabella, it is fantastic to see that some land is now available in Tuggeranong for the building of aged care facilities. I want to comment on the time taken.

Goodwin Homes, I understand, applied for this land in early 2002 and we are now in 2005. Almost three years, at least 2½ years ago, they asked for it and it will be almost

three years to the day when the land is finally made available through the DVP for the construction of additional aged care facilities in the ACT.

That delay is intolerable. That delay can be laid fairly and squarely at the feet of the minister and the cabinet for their inability to make quick decisions on obvious issues that are very important to the community so that we an actually get on with building these aged care facilities. The Chief Minister has made much in the past six months of the fault for not providing these facilities being with the providers, saying that the government has cleared the way for them, but it is the time taken on each of these facilities by the minister and the land development authority, the procedures that the government has put in place and, ultimately, the cabinet that really slow down this process. You could really cut about 2½ years out of the process.

We will debate shortly the situation concerning St Andrew's, which has had the same problem. The Calvary facility has had the same problem. The problem for each of them can be sheeted home to a government that is slow to react, often is inactive and does not have the ability to make quick and timely decisions to allow the community and the providers to get on with enjoying the services that these facilities provide.

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (11.12): I welcome the Leader of the Opposition's comments on anything positive for our electorate. I acknowledge the Leader of the Opposition's commitment to our electorate, but I also have to put on the record that it has taken some time for this government to unravel the shocking mess that it inherited in 2001 with respect to land being made available for the purposes of older persons' accommodation.

In fact, if the record is examined, it will be found that it was this government that decided to break the nexus, the chicken and the egg system, whereby land or money was not available from the commonwealth and we went round the traps. It was this government that proposed and started off the process of land banking so that at least that part of the issue was taken care of.

Mr Speaker, I am really pleased to see the Monash development taking place. I think that it has been, as Mr Smyth quite rightly put it, a long time in the coming. We welcome it and I thank the committee for its words, but we have to understand and remember for future developments like this that this government has introduced positive change to the exercise.

It now behoves the federal government to lift its game and work with the ACT government in providing these people with appropriate accommodation and for us to remove as many of these barriers as we can. Having done so, it then behoves the private sector to prove that it can provide appropriate accommodation in appropriate locations and not come up with silly concepts that will raise people's hopes but will never get off the ground. I also support the recommendations of the committee.

Question resolved in the affirmative.

Report 2

MR GENTLEMAN (Brindabella) (11.14): I present the following report:

> Planning and Environment—Standing Committee—Report 2—*Draft Variation to the Territory Plan No 248—Aged Care Facility Hughes,* dated January 2005, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

Mr Speaker, on 16 December 2004, the Minister for Planning, Mr Simon Corbell MLA, referred draft variation to the territory plan 248 to the Standing Committee on Planning and Environment for consideration. The committee considered DV248 on 11 January 2005 and 18 January 2005. The committee decided to proceed directly to report and not call for submissions or hold public hearings, due to the government's commitment to aged care places in the ACT.

Draft variation to the territory plan 248, relating to an aged care facility in Hughes, is also a welcome addition to the land for aged care facilities. A significant number of residents attended the public consultation process. The main objection concerned the protection of approximately 90 trees in the area around the development. Most of the high-value trees are located around the edge of the site.

In addition, the Conservator of Flora and Fauna considered the application, suggesting that it presents no problem provided that protection of any significant trees on the site is taken into consideration in the redevelopment. As these trees come under the protection of ACT legislation, this is a requirement of the design process. Assessments of further environmental impact were made during the planning process and taken into account in the final variation presented.

I take this opportunity to thank those involved in the consultation process.

MR SESELJA (Molonglo) (11.16): Mr Speaker, the opposition welcomes the variation to the plan to allow for the provision of more aged care places and the construction of extra facilities. It is something that we have been vocal about during both the previous and the current assemblies.

I would just like to make a point. Heading to the 2001 election, Mr Corbell was critical of the Liberal Party's plan to consolidate some urban space, particularly for facilities such as these, but it seems that Mr Corbell has changed his mind on this one and we certainly welcome that. Our policy was about achieving a balance for urban open space and Mr Corbell condemned that. But he is happy now to take it away, despite being so vocal about it previously. He did take a shamelessly populist position before the election, but once he took office he changed his tune.

I note that the committee points out that this variation is the second such variation dealt with in the Sixth Assembly. It would seem a bit rich for the government to think now

that it is responding to current and projected aged care needs. It may well be trying now to paint a picture of doing something and Mr Corbell may well seek to appear as action man, but the fact remains that for the last three years we have put up with delays, reports, analysis and hand wringing.

The government has had ample opportunity to ease the planning regime for aged care facilities. Instead, for its first term it did nothing. It created a policy, albeit in December 2003, some two years after it came to office. St Andrew's Village has been seeking this land for a significant amount of time—for around four years, I think—and the government certainly needs to take responsibility for the significant delay.

I welcome the fact that this variation has been finalised. I welcome the fact that the government, only after being told that it needed to do something to provide further aged care land bank sites, has commenced to do something. But it would still seem to be too little and too slow, and it results in unnecessary delays for aged care places in the ACT.

I note Mr Hargreaves's comments a few moments ago about silly proposals. I do not know which proposals for aged care facilities he is referring to as silly. Perhaps he could enlighten the house on that at some stage.

MR SMYTH (Brindabella—Leader of the Opposition) (11.19): Mr Speaker, I want to comment on some of the things that Mr Seselja has quite succinctly put. We have from the government an appearance that it is doing a lot for aged care, yet the fundamental block is still the planning process and the cabinet process to approve direct grants of land. Until the government addresses that, we will go through this continual charade of the government saying, "Here we are doing stuff. We have set up the land bank. It is all the commonwealth's fault". It is amazing how much is the commonwealth's fault in this territory.

I need to point out again to the Assembly that anyone who blames the feds for everything that goes wrong should remember that there has been a capacity out there for 200 beds for two to three years but the facilities have not been built because of the planning system and the failure of cabinet to make decisions. There are a further 505 beds in the offing—I think that something like 160 were released the other day—and they will now go through this same process that this government has established.

The other interesting thing, of course, is the use of urban open space. We always maintained when last in government—and still maintain—that it was appropriate to review the use of land to make sure that it was being used in the best interests of the community. Of course, Mr Corbell always beat the drum about rampant development and how there was going to be cement and buildings on every bit of open space in the ACT.

Mr Corbell promised to hold a referendum in the first term of this government about locking away all the urban open space to save it from those rampant developers and the nasty Liberals. I might have missed it at the election, but I do not recall the referendum being held. Indeed, it was not until very late in the piece that a green paper version of a DVP was put out by the minister to cover up his lack of action on this issue.

We believe that, quite appropriately, where blocks of urban open space can have a higher use for the betterment of the community, they should be used. But we need to point out the glaring hypocrisy of the minister in the way that he has gone about this matter and his lack of action. Fundamentally, it comes down to Mr Corbell. It is a shame that he has not been here all week but, given the way the health and planning systems have been brought to task this week, I guess I would have been away as well if I had wanted to avoid the attacks that he is so rightly suffering.

In the debate on draft variation 243, Mr Hargreaves talked about inappropriate proposals that have been put forward.

Mr Hargreaves: Is he reflecting on a debate, Mr Speaker?

MR SPEAKER: I was just churning through my head which standing order you have offended, Mr Smyth. I have discovered one. You are reflecting on a vote, because the Assembly gave leave to that member to be away. I would ask you not to reflect on that.

MR SMYTH: I withdraw. I would hate to reflect on any vote of the Assembly, Mr Speaker. Like Mr Seselja, I would ask Mr Hargreaves to nominate what were the silly proposals for aged care developments. I can think of at least another two proposals in the Tuggeranong Valley. The Valley Vikings wanted to put an aged care facility next to their club in the town centre. That was just too hard. I know that the Christian City Church has identified a block of land in Monash on which it wants to build a church and aged care facility. I know of the discussions because the church approached me towards the end of the last government about gaining access to that land and we started the process, but three and a bit years later it still cannot even get the go ahead on, firstly, whether it can have the land and, secondly, what the value of that land might be.

So, despite all the protestations from Mr Hargreaves that his government has fixed the system, again it is just a chimera. It is the image of action, but we still have a system for the allocation of land for aged care facilities that is fundamentally too slow and does not meet the needs of the community and that is, of course, the product of the reforms of this government.

Question resolved in the affirmative.

Report 3

MR GENTLEMAN (Brindabella) (11.23): I present the following report:

> Planning and Environment—Standing Committee—Report 3—*Draft Variation to the Territory Plan No 209—East O'Malley—Extension of Mount Mugga Mugga Nature Reserve,* dated 28 January 2005, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

Mr Speaker, the committee considered DV209 at meetings on 11 and 18 January and on 1 February 2005 and recommended that this variation be noted after much consultation with members of the community, Environment ACT, the ACT Planning and Land Authority, the ACT Commissioner for the Environment, and the Conservation Council of the South-East Region and Canberra. As the extension of the Mount Mugga Mugga nature reserve is likely to have broad support within the ACT government and the community, the committee decided to proceed directly to report and not to call for submissions or hold public hearings.

The committee recommends that Environment ACT work with interested community stakeholders to restore woodland habitat in the Mount Mugga Mugga nature reserve as a matter of priority. Whether weeding and natural regeneration or some revegetation is required should be assessed. This is consistent with the planning and conservation issues identified for the Mugga Lane west unit in the ACT lowland woodland conservation strategy.

This proposed variation to the territory plan primarily increases the size of the Mount Mugga Mugga nature reserve by removing the residential land use policy from about 66 hectares of mostly yellow box/red gum grassy woodland on the eastern edge of the suburb of O'Malley. The proposed variation also replaces the existing residential land use policy on sections 38, 39, 40 and 42 with the urban open space land use policy. This will create an open space corridor of about 2.5 hectares through the east O'Malley residential estate. Pedestrian paths and a playground are planned for the area.

The ACT Commissioner for the Environment has welcomed the protection of the yellow box/red gum woodland in east O'Malley. The 2003 state of the environment report says that the ecological communities at greatest risk in the ACT are grasslands and lowland woodlands, particularly endangered yellow box/red gum grassy woodland. By the end of the reporting period there were 10,870 hectares of this endangered woodland in the ACT, of which 2,345 hectares were in nature reserves. This is a significant and high-quality component of the 25,200 hectares that remain in the ACT and surrounding region.

The ACT easily meets the regional forests assessments target of retaining 15 per cent of the original extent within its own borders. The remaining 25,200 hectares are only 8.5 per cent of the original regional extent of yellow box/red gum grassy woodland. The recommendation of the committee to consider the proposals to replace 66 hectares of land that was originally intended for residential development in east O'Malley with high-quality yellow box/red gum grassy woodland and other woodlands is highly commendable.

I thank those involved in the consultation process.

DR FOSKEY (Molonglo) (11.27): I want to make brief comments about draft variation to the territory plan No 209, relating to east O'Malley and extension of the Mount Mugga Mugga nature reserve. I want to have it noted that the Greens have opposed the development that is in progress adjacent to this reserve and I want to raise questions for the Assembly to consider about the net contribution that this new development will make—I have visited it—in terms of the impact on the environment.

Whilst the extension of the Mount Mugga Mugga nature reserve is very good and we endorse it, we question the greenfields development that is taking place in east O'Malley. Having noted that it is isolated in a sense from the rest of the suburb and certainly from the amenities of shopping centres and so on, it will increase the movement of cars into and out of that area. I could not get any assurances from the developer that there will be amenities within the development so that people do not have to jump into their cars every time they want to buy a carton of milk, but I was told that it was probably not likely.

I am very concerned that, while we are conserving a bit more of the grassy woodlands that are endangered, we are losing quite a lot of it, remembering as well the poisoning of the trees last year by persons unknown then and still unknown, even though it is nearly a year later. I am also concerned that, whilst significant trees are being earmarked for retention, there has not been any consideration given to understorey species and, of course, trees of their own are not an ecosystem.

I am concerned that there will be a net impact on greenhouse gas emissions. I am also concerned that these new houses, which will be very expensive houses—it is an elite estate; another one—are not going to be subject to any energy efficiency or water conservation conditions. I am especially concerned, having seen yesterday both major parties in the Assembly combine to defeat the possibility that those people who could well afford to introduce those particular standards in their houses be made to do so.

Question resolved in the affirmative.

MR SPEAKER: I acknowledge the presence in the gallery of a former member of the Assembly, Mr Bill Wood.

Report 4

MR GENTLEMAN (Brindabella) (11.30): I present the following report:

> Planning and Environment—Standing Committee—Report 4—*Draft Variation to the Territory Plan No 246—Changes to Residential Area Specific Policy Overlays—Suburb of Downer,* dated 16 February 2005, including a dissenting report, 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 GENTLEMAN: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR GENTLEMAN: I move:

> That the report be noted.

The Minister for Planning, Simon Corbell, forwarded draft variation to the territory plan No 246 to the committee in the Fifth Assembly. There was insufficient time for the committee to consider the proposal before the election on 16 October. DV246 was held over for the consideration of the committee in the Sixth Assembly.

On 9 December 2004, I was elected Chair of the Standing Committee on Planning and Environment, with Mr Zed Seselja MLA as the Deputy Chair and Mary Porter AM, MLA as the third member of the committee. The committee considered DV246 on 21 December 2004 as a priority as it had been held over from the last Assembly. With the committee wanting to have all members available for consideration, DV246 was considered again on 8 February 2005 and finally on 11 February.

The documentation and consultation reports provided by the ACT Planning and Land Authority, as well as correspondence and detailed expositions of views sent to the committee by several stakeholders, favoured the retention of the earlier and extended A10 residential core area specific policy in Downer. These were carefully considered before the committee made its decision.

The processes for developing the Downer neighbourhood plan commenced in March 2003 and has involved extensive community consultation. Key events included a neighbourhood newsletter, photographic character discovery, focus groups, a vision workshop, the exhibition of ideas plans, and the establishment of a residents reference group and information sessions. The six-week formal consultation period started on 4 June 2004 and finished on 19 July 2004.

The Downer neighbourhood plan guides the suburb as it meets the challenges of the next 15 years whilst respecting what makes the suburb unique now. It provides planning strategies for the future of the local shopping centre, open spaces, residential areas, community facilities and transport networks. The plan outlines the future character of these neighbourhoods, while protecting and enhancing the elements currently valued.

A task of the neighbourhood planning program is to better fit the territory plan's residential core areas. This involves recognising that a neighbourhood may contain features that are highly valued by residents. Sometimes modifying the core area boundaries is justified to ensure that a broader policy aim can be achieved whilst respecting the local area conditions. This draft variation is a result of the extensive consultations and the planning and design work undertaken by the ACT Planning and Land Authority in the formulation of the Downer neighbourhood plan.

The ACT Planning and Land Authority's extensive consultations with the residents of the Downer neighbourhood have indicated a high level of community value associated with the south-west corner of the suburb. This value includes a mature streetscape in certain streets, such as Berry Street, Blackett Street, Legge Street and Padbury Street, consisting of trees such as Eucalyptus, cinerea, Quercus palustris, Eucalyptus mannifera and Quercus cerris.

In preparing this draft variation to the territory plan, the ACT Planning and Land Authority is required under section 16 of the Land (Planning and Environment) Act 1991

to consider any recommendations made by the Conservator of Flora and Fauna. The conservator made the following comment:

> In accordance with section 16 of the Land (Planning and Environment) Act 1991, I advise that I have had Draft Variation to the Territory Plan No 246—Changes to the Residential Area Specific Overlays, Suburb of Downer examined and there are no issues of concern for the Conservator of Flora and Fauna provided that protection of significant trees is taken into consideration in any redevelopment proposals.

The committee specifically considered that comment and made special note of the importance of the conservation of those trees protected under the Tree Protection (Interim Scheme) Act 2001. Other considerations for maintaining harmony in Downer are the predominance of original 1960s cottages and the level of bed and breakfast accommodation that should not be affected by the new B12 zoning.

The relatively minor changes to the suburb of Downer, along with the traditional and consistent setback of houses on the properties and the wonderful established gardens, have been a value that the community and the ACT Planning and Land Authority have worked hard to maintain. The authority prepared a variety of options in order to retain the valued qualities of this part of the neighbourhood.

After considerable negotiations with key stakeholders, the option of reducing the extent of the A10 residential core area specific policy and introducing the B12 increased density development area specific policy on Antill Street was agreed upon. This option delivers a number of outcomes for Downer. One is maintaining the existing streetscapes and the regeneration of local shops. A second is that Downer will offer three residential land uses—that is, suburban; an A10 residential core area specific policy; and a B12 increased density development area specific policy which allows for two-storey townhouses and apartments with a maximum 0.65 plot ratio, compared with 0.35 for traditional dual occupancies and 0.5 for front-of-yard dual occupancies.

The option offers a level of protection for the much valued south-west corner of the neighbourhood. It retains and encourages the bed and breakfast accommodation provided by a variety of businesses on Northbourne Avenue. As well, the existing character of Antill Street is a mix of single storey detached dwellings with two-storey dual occupancies, which will lend itself to the modest increase in density to an urban housing area, B12.

Mr Speaker, the draft variation is consistent with the strategic principles contained in the Canberra spatial plan, particularly in regard to creating and maintaining a healthy community and to obtaining and providing opportunities for a diverse range of housing for the full range of household types and lifestyle preferences. Overall, housing choice will be achieved through a mix of residential releases balanced with greenfields development and redevelopment within existing urban areas. Such a mix will reflect the projected demand for medium to higher density dwellings due to changing household and community characteristics.

To protect the character and amenity of existing suburban areas of the ACT, residential development will be strategically directed to locations that will contribute to overall levels of accessibility to facilities and services and reduce dependency on vehicle use. In the short to medium term, this will mean that the further opportunities for redevelopment

will be primarily within Civic, the Northbourne Avenue corridor, Constitution Avenue, the town centres of Belconnen, Gungahlin and Woden, and around key nodes, including Kingston, Dickson, Barton and Russell.

The principles of the life cycle neighbourhood are being adopted so that housing for the ageing population can be provided in the best locations to meet the diverse needs of the community. This will be particularly relevant within established areas so that people can remain living in their familiar environment, close to existing networks; that is, to enable ageing in place.

Greenfields developments and major redevelopment and urban renewal projects will ensure opportunities for a range of housing to provide for life cycle ageing in place, including housing for families, adaptable housing, older persons' accommodation, affordable housing for young people and social housing in appropriate locations with high levels of accessibility to services and public transport.

Investigations will ensure that these areas are consistent with sustainable planning principles, including proximity to existing infrastructure, environmental constraints and proximity to services and families. The goal in any redevelopment is to maintain and develop sustainable employment opportunities. To achieve this, there must be higher density residential development and a choice of housing types within the existing urban areas, predominantly in and around the town centres, to provide for people wishing to live close to places of work, education, community services and cultural activities.

In the territory plan we have worked hard to maintain and develop that, giving us a vibrant town centre with a number of new dwellings in or near town centres as a proportion of the ACT dwellings. The committee considered that the retraction of the A10 area specific policy and the introduction of the B12 area specific policy adjacent to Antill Street, near the Dickson group centre, as a reasonable compromise in the application of sustainability processes.

The proposed B12 policy is consistent with the Canberra spatial plan's aim of intensifying residences near commercial centres and transport routes within a 7.5-kilometre radius of Civic, although the committee feels that this aim had been better met under the A10 policy. When the ACT Planning and Land Authority has implemented the proposed new design guidelines for residential core areas, it is my hope that this will lead to a more accepted necessity for sustainable urban environments, including substantial residential intensification in inner Canberra.

As the committee chair, I thank those who advised us on the variation.

MR SESELJA (Molonglo) (11.41): I welcome the government's backflip on this matter; I genuinely do. I think it is very welcome. For some time, we have been talking about the A10 policy and the need to scale it back. We certainly opposed it at the time and we continue to oppose it, particularly as currently defined. DV246 is recognition of that. I really do welcome the government's adoption of the Liberal Party's policy of scaling back on the A10 policy and of concentrating on the intensification of development around group centres, around town centres and along major transport corridors.

I would like to make a bit of a point about what the previous committee had to say on the A10 policy. I note that the previous committee was made up of a member of the Labor Party, a Democrat and a member of the Liberal Party. The committee noted at the time—

Mr Hargreaves: And an independent.

MR SESELJA: Sorry, my apologies. The committee unanimously noted that the A10 policy was too broad in its application, that it lacked a strategic framework and that it lacked longevity. What do we get now? We get DV246 saying, "They were right and we were wrong. We are going to scale it back. It was encroaching on the neighbourhood in a way that the community found unacceptable, so we are now going to scale it back." The committee said that the policy lacked a strategic framework and it lacked longevity. It certainly lacked longevity.

Mrs Dunne: I like the longevity bit.

MR SESELJA: Yes, it lacked longevity. It has not lasted very long. We certainly do welcome this change in policy. We welcome the fact that the government has realised the folly of its broad application of the A10 policy, the blanket application of the A10 policy 200 metres from small centres and 300 metres from group and town centres. We would like to see a more strategic framework, as the previous committee noted.

I would also note the change in committee policy. It seems that previously members of the government felt free in committee to analyse government policy and critique it. Mr Hargreaves is an example. He joined in that unanimous report. Unfortunately, it seems at the moment that government members of the committee just want to toe the party line. I would certainly call for more analysis of government policy by committees and I look forward to contributing to that.

I would like to make a couple more comments on the report. I am concerned about lecturing the community. On the one hand, it is being said that the committee is supporting DV246 after community consultation. The community said that it did not like the way the boundaries were drawn for A10 areas in Downer, so the committee supported their being scaled back. But then the committee said:

> Perhaps when the ACT Planning and Land Authority has implemented the proposed new design guidelines for Residential Core Areas, Canberra residents will be more inclined to accept the necessity of more sustainable urban environments, including substantial residential intensification in inner Canberra.

I put it to the Assembly that Canberrans are prepared to accept that, but it needs to be done in a proper, thorough and considered way. That is what they have now said to the government. Thankfully, the government has responded. May there be many more such backflips on A10, the ill-conceived, ill-thought-through policy, which the previous committee, government members included, unanimously condemned as being inappropriate. I continue to make the point that I can only hope that in the coming few years the committee process will still analyse government policy, that it will still critique it, that it will look at it in a thorough and considered way, and that it will not toe the party line, that it will not just accept Simon Corbell's directives.

DR FOSKEY (Molonglo) (11.45): I am very pleased that we have the opportunity to comment in the Assembly on decisions made by the committee. Of course, I note the omission of any Greens perspective on the committee, not through any desire of our own.

Mrs Dunne: There wasn't a Greens perspective on the last one, either.

Mr Hargreaves: Just a numerical solution.

DR FOSKEY: Thank you for those little annotations; I really appreciate them.

Mr Hargreaves: I thought you might.

DR FOSKEY: It would be nice if you listened as well, but that might be a little difficult.

Mr Hargreaves: That's pushing it.

Mr Quinlan: Yes, that's a bit much.

MR SPEAKER: Order, members! Dr Foskey has the floor.

DR FOSKEY: Thanks. I would like you to listen to me with the respect that I grant you.

MR SPEAKER: Interjections are disorderly, but it does not help much to respond to them.

DR FOSKEY: Thank you, Mr Speaker. I am sure I needed that, too. We are in the process this year, I would assume, of doing what was planned when DV200 was adopted by the Assembly; that is, that it was agreed that in the middle of 2005, being two years after the adoption of the draft variation, as it was then, there would be a review of the success of that variation. Perhaps Mr Seselja is unaware of that. I can see that he is probably not hearing what I have to say, either.

The Greens would have seen that as a more preferable and more open mechanism for examining the impact of the neighbourhood planning process, which, in fact, did agree to A10 areas of a certain size around shopping centres. What happened—and I do not think that the processes by which it happened have been at all transparent; therefore, I do not feel that there is accountability there—is that a change was made at a rather crucial time, just before the ACT election, and suddenly it was decided that Downer would be the exception among the many inner suburban areas that had an A10 zone around their shopping centres. I note that the Downer shopping centre is in rather dire straits, so there is a problem there with the declining population.

I am going to finish by talking about a submission that I am sure that the members of the committee are familiar with. One of my constituents—and yours if you are a member for Molonglo—did put in a submission that I thought had some really good views, views that we do not hear put in the public forums. We all remember that prior to the election there were a number of public forums at which very vocal people said, "Down with DV200". Obviously, they are the only people Mr Seselja has been listening to.

However, there were other perspectives put. Not everyone goes to such meetings and not everyone goes to neighbourhood planning consultations; open though they are to people. There are constraints on public participation. Quite a lot of the members of the community feel disempowered by their inability to read these incredible documents, which are dense enough even for those of us with university degrees. People who are looking after children and getting meals together actually do not think they have a say, yet they do. They should have. We hope that the review in mid-2005 will give those kinds of people a say.

In fact, DV246 could represent a major loss of opportunity in the quest to make Canberra a more sustainable city. It is about an area that could take a denser population because it is adjacent to the Dickson shops as well as the Downer shops. The argument has been put that the treescape would have been affected if the A10 policy had gone forward. I would hope that our planning guidelines would ensure that streetscapes, where they are valued and especially where they retain mature existing trees, would be maintained. So I do not think that was an argument for taking the area out of A10.

Also, the kinds of houses that we have in Downer—I have lived in Downer and I have lived in one of these houses—were built to house workers and we all know that workers do not get the very best of facilities. They are energy inefficient. They are badly sited in terms of solar access. The opportunity to have some energy efficient housing there has been lost for the time being.

Anyway, my point is that the process set in place by this Assembly two years ago for DV200, which is now, of course, variation 200, to be examined in the middle of this year would have been the right time to have considered this variation.

MS PORTER (Ginninderra) (11.51): I rise in support of Mr Gentleman's tabling of report 4. In particular, I would draw the Assembly's attention to the importance of the protection of the trees located in Blackett, Berry, Legge and Padbury streets, and note that the Tree Protection (Interim Scheme) Act 2001 ensures the protection of such valuable assets to the environment and to the streetscape. The committee took particular pains to note, as Mr Gentleman said, the importance of these trees, although I would not have been able to pronounce them in the brilliant way that Mr Gentleman was able to do.

We also considered and agreed that the existing bed and breakfast precinct along Northbourne Avenue should be preserved and noted the valuable contribution these businesses make to tourism, particularly with regard to Summernats and other national events held in the immediate area, of which I am sure members are aware there are many. We agreed to maintain the gateway aspect of Northbourne Avenue in this area.

We agreed that the B12 rezoning of blocks along Antill Street is in harmony with the existing denser development in that area and is in agreement also with the spatial plan, notwithstanding that the A10 zoning is totally appropriate for an area such as this because of its proximity to shops and public transport. I am disappointed that Mr Seselja is making a political point at the expense of what the community wanted, as we have already outlined.

I am also disappointed that, although other members of the committee have gone to enormous lengths to accommodate Mr Seselja on every occasion and met on additional days in order to consider these matters and work in a collegiate fashion to get the best outcome for the people of Canberra, Mr Seselja continues to present objections to matters we thought we had already agreed to. This government has been criticised in this place regarding so-called delays. For delays to be caused by a member of a committee is very disappointing. I support the noting of this report.

Question resolved in the affirmative.

MR SPEAKER: Order! The time for Assembly business has expired.

Personal explanations

MR SESELJA (Molonglo): Mr Speaker, I have been misrepresented in this place and, under standing order 46, I would like to respond.

MR SPEAKER: Leave is granted for you to make a personal explanation.

MR SESELJA: Ms Porter just raised a number of concerns about me and claimed that I was somehow the cause of delay with the committee report. That is plainly incorrect. The committee actually approved the report in December, very soon after the referral of the matter to the committee, and then I provided dissenting comments, after which time the committee members came back and changed the report in response to my dissenting comments, and then we had to rescind the approval of the report and approve it again, to which I could then dissent again. So Ms Porter's accusation that somehow I delayed the release of the report is completely false and I object to the misrepresentation by Ms Porter. The accusation is completely false. It is not based in fact in any way, shape or form.

Dangerous Substances (Asbestos) Amendment bill 2005

Debate resumed from 15 February 2005, on motion by **Ms Gallagher**:

> That this bill be agreed to in principle.

MR MULCAHY (Molonglo) (11.56): The opposition supports this bill. When the question of the legal and regulatory regime for dealing with asbestos in buildings was debated in the previous Assembly, I believe in August 2004, my colleague Mr Stefaniak made it quite clear that the opposition supported, with some amendments, the legislation proposed. Since that time an industry task force, chaired by Mr Wood, the former minister whom you, Mr Speaker, acknowledged is in the gallery, has identified several changes to improve the Dangerous Substances Act, the themes of which are reflected in this bill. I am advised that the task force is due to report in August 2005 but in the meantime some suggestions it has made for overcoming concerns raised particularly by industry members of the task force are being implemented.

The bill amends section 47J of the original act to clarify that an owner or occupier of premises is not required to find out if asbestos is present. If asbestos is present, the owner

or occupier is no longer required to find out where it is or what its condition is. However, the owner/occupier is still required to convey information about asbestos about which he or she is actually aware.

The amendments define the term "tenant" to clarify to whom a duty is owed to be informed by the owner or occupier, and they postpone the commencement date from 1 March to 4 April 2005. I note that the scrutiny report states:

> The amendment puts beyond doubt that it is not the intention of section 47J to require the owner or occupier to obtain an inspection report or to provide information beyond what he or she currently knows. The amendment does not displace the common law rules about the liability of owners or occupiers, however, in relation to their premises.

The new section 47K covers circumstances where asbestos may be disturbed and thus become hazardous. Under the original act the owner or occupier could have been obliged to conduct an extensive and costly investigation in order to discover the required information about asbestos. The amendments remove that obligation and liability. Essentially, the effect of the amendments is that an owner or occupier of a building is really only obliged to provide what he or she knows. The owner or occupier is no longer required to carry out further investigations as per section 47J unless a high-risk activity such as renovation or demolition is to take place. This is provided for in 47K.

As we are now well aware, asbestos can be a particularly nasty product. From all the advice now available, if it is left undisturbed it appears to be relatively safe, but when it is loose, damaged or friable it is in its most hazardous state. Exposure to asbestos fibres can result in diseases such as asbestosis and mesothelioma and this seems to be fairly widely documented and accepted by the medical fraternity. People who have suffered asbestos-related diseases have generally been exposed to dangerous fibres through their occupation, mainly in the building, mining and product manufacturing industries.

In Canberra homes until about 1983 there was widespread use of asbestos. I think we all know that for many years it was a very evident part of our life. I know as a child we had it in our own home and our garage and I think many people simply just took it as one of those postwar products that was widely available—a bit like the X-ray process with tuberculosis, nobody understood that frequency of exposure could have potentially long-term damaging effects.

The James Hardie episode, which seems to be an endless saga, has highlighted the suffering from asbestos-related diseases. The Australian government banned the import, manufacture and use of all forms of asbestos in Australia from 31 December 2003, and in the Australian Capital Territory the national ban was implemented by the Dangerous Substances (General) Regulations of 2004. The community these days is looking for assurances of greater margins of safety but the community realises that it must meet additional costs as part of this process. There was also concern that the legislation as it stood would allow asbestos inspectors to capture the market for providing required information.

There may be further amendments down the track based on experience but I am advised by the affected industries, particularly building and housing, that they are comfortable and supportive of the changes that have been put forward. There are plans for an

education campaign, which has support across the board. I was a bit troubled by the costs involved—some $200,000—but it appears to have good support from the task force members and is therefore something that we will be pleased to go along with. It is something that was previously supported in this Assembly by Mr Stefaniak when he spoke on the matter.

I would also like to thank the minister and his office for providing a comprehensive briefing on this legislation and we look forward to further briefings as the need for more amendments emerges.

DR FOSKEY (Molonglo) (12.01): The Dangerous Substances (Asbestos) Amendment Bill 2005 arises, I think, because the process of putting the original asbestos bill together in August last year was less than perfect. The original regime proposed by Independent member Helen Cross was inadequate and fairly ill considered, although it did address a range of concerns very dear to the hearts of those suffering from the consequences of asbestos exposure, and the activists who care about them. It is also fair to say that, if the Labor Party had been the majority government at the time, nothing much by way of legislation would have happened then or soon after.

As it was, in responding to pressure from the other parties—particularly, I understand, from my Greens predecessor, Kerrie Tucker—government officers put together a scheme, via the dangerous substances amendment bills of 2004, which promised to deliver wide-ranging awareness and protection of people across the community. The scheme created, in effect, a safety duty for owners and occupiers in order to safeguard buyers, tenants and tradespeople from the possibly catastrophic health impacts of asbestos fibres. But it was put together in a very tight time frame in which it was understood that some later amendments might be necessary.

So now we are dealing with this bill, to amend the resulting act, just two days after this bill was introduced into the Assembly, a situation that I find most unsatisfactory. The limitation of time in this case is that the Dangerous Substances (Asbestos) Amendment act will commence on 1 March, unless this bill is passed, and the government is arguing that it simply is not ready to begin the public awareness and safety duty promotion campaign that the commencement of the act requires. I am prepared to accept that advice and so this bill postpones the commencement of the act for about a month.

In terms of the operation of the scheme, the bill also takes out the term "ought reasonably to know" as it applies to the immediate duty of care that owners and occupiers of premises have to have to inform relevant people of what they know about asbestos in their premises. It was never intended that this initial responsibility to disclose known information to tenants, workers and purchasers would require owners or occupiers to discover the material. However, the existing language does seem to suggest such a requirement. This would impose both a financial cost on owners or occupiers and arguably shift some of the responsibility for any health impacts away from others who perhaps more rightly deserve it, such as the manufacturers of the building materials. This legislation also makes it clear that information that is due to a tenant is also due to prospective tenants.

I would like to emphasise that the responsibility to discover such information does kick in in another year, once the Asbestos (Assessment) Task Force has finished its

comprehensive sampling and survey of Canberra buildings and reported to the Assembly in August this year and there has been time to amend the legislation once again if necessary. This more rigorous requirement for information will then apply when owners and occupiers engage people to work on their building or when they put it up for sale. I still see that as somewhat unsatisfactory as tenants are also likely to engage in the occasional wall stripping or construction work where they might be vulnerable to attack from asbestos fibres.

I am also concerned with the transfer of general information. There are many houses across Canberra which are likely to include asbestos-based materials. That information—that your bathroom, for example, might be lined with asbestos sheeting—may well become available through the work of the asbestos task force but then perhaps forgotten by absentee landlords or unconcerned owners. I do wonder what we can do to make sure that this kind of general awareness is passed on to construction workers, new tenants and so on. The time to push that point, however, is with the task force over the next few months or when it reports in August. I think that until then we need to take the work a step at a time.

I will support the amendment but I reiterate my concern that it was tabled on Tuesday and is being addressed by the Assembly only two days later.

MS GALLAGHER (Molonglo—Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.07): The legislation we are considering today seeks to amend the Dangerous Substances (Asbestos) Amendment Act 2004. It is a bill to improve the clarity of the act's operation in time for its proposed implementation in April of this year.

As other members have said, the Assembly passed this legislation in August 2004 when we significantly amended a bill introduced by Mrs Helen Cross. The resulting act, the Dangerous Substances (Asbestos) Amendment Act, created a comprehensive framework for addressing the risks arising from exposure to asbestos in the built environment.

The act inserted new provisions into the act establishing the asbestos task force and statutory disclosure requirements in relation to information about asbestos on premises. Section 47J requires owners and occupiers to provide required information about the presence of asbestos. Section 47J is due to commence operation on 1 March 2005. Section 47K imposes an obligation to investigate the presence of asbestos when high-risk activities are to be undertaken and section 47L imposes an obligation to furnish a report for properties listed for sale. The two latter provisions will not commence until 16 January 2006.

The intention of 47J is to ensure that owners and occupiers of buildings who are aware that their building contains asbestos disclose this fact to people such as prospective purchasers or tenants or persons doing certain types of work who need to know this information. This duty was to be imposed only upon persons who have actual knowledge of the existence of asbestos but would not require a person to discover whether there is asbestos in the building. The proposed amendments in the bill will ensure the original intent is achieved.

When section 47K commences in 2006, owners and persons in control of buildings will have a duty to undertake an asbestos inspection when a high-risk activity is planned. Section 47L will also commence in 2006, providing that a seller of a property accepting specified circumstances or exempted by regulations must obtain an asbestos report before the property is first advertised, listed or offered for sale. A seller must also make the asbestos report on the property available for inspection during the time an offer to buy may be made.

The asbestos task force established by the act is comprised of representatives from the building, housing and property industries, unions, the community, victim support groups and all government departments. The role of the task force is to analyse the extent and impact of asbestos in the territory and to prepare a report of the analysis for presentation to me by 1 August this year.

The task force was formed late last year. It has made significant progress, including the development of a draft survey methodology for the required survey. The task force has already undertaken a pilot survey to test the methodology of the survey and the task force has also undertaken initial technical research and has engaged a reference panel of expert advisers who are providing technical advice and support on scientific building and health issues.

The task force has prepared an extensive communication strategy to prepare the community for commencement of section 47J of the act. It is in this context that the bill before the Assembly today has been prepared. The task force has identified areas of the legislation needing clarification and amendment in anticipation of the first disclosure requirements coming into effect. The asbestos task force has brought to the government's attention that there is some concern about when an owner or occupier is required to make further inquiry about the presence of asbestos essentially through obtaining an asbestos survey report in order to comply with the new provision.

At the time of the debate last year, the Assembly as a whole was conscious of the need to minimise community anxiety that could result from the legislation and to avoid uncertainty in the act. For these reasons, it was determined that section 47K of the act, which imposes the obligation to investigate the presence of asbestos when high-risk activities are to be undertaken, would not commence operation until 16 January 2006. Despite these best endeavours, the task force has advised that clarification of section 47J is needed and that a short postponement of the commencement of 47J is wise to enable appropriate information to be publicly disseminated.

As it is presently phrased, section 47J would apply when an owner or occupier knows or ought reasonably to know that there is asbestos at the premises. That knowledge would give rise to a duty of care to persons at risk to provide such persons with required information about the asbestos at the premises. At present the required information includes up-to-date information about the location and condition of asbestos.

The amendments proposed in this bill have two important effects: firstly, to clarify the intended scope of section 47J of the act and, secondly, to postpone the operation of 47J until 4 April 2005, which will allow for the effective implementation of the government's asbestos awareness program. As other members have stated, the current

wording of 47J(1) with the words "ought reasonably to know" has raised concerns that the obligation of an owner or occupier of premises could be construed as going beyond the provision of the information based on actual or current knowledge and thus require the person to discover information that they ought reasonably to know.

The bill before the Assembly removes the expression "ought reasonably to know" so that it clearly refers to information which the owner or occupier actually knows about the premises without the need for further investigation. The effect of the amendment is that section 47J of the act will now clearly require only that a person must give whatever information they have about asbestos at their premises.

After the commencement of sections 47K and 47L, information obtained for the purposes of those provisions will also need to be given to relevant persons. There is concern also about required information which is defined as up-to-date information about the location and condition of asbestos. This may not be something the average owner or occupier could furnish with confidence. It was not the intention of the government to require people to obtain the services of an expert in respect of this duty. The bill replaces the reference to "required information" that is currently in the section with a reference to what the owner or occupier knows. The definition of "required information" is relocated to section 47K to ensure that the reference of up-to-date information about the location and condition of asbestos is not taken to imply a requirement to obtain current information in section 47J. It is appropriate for the existing definition to continue to apply to the conduct of an investigation under section 47K and to the provision of a report under 47L.

To remove any doubt, the bill adds a new subsection to 47J that expressly states that the owner or occupier is not required to find out whether there is asbestos at a property in order to satisfy the duty of care contained in the section. It has also been suggested that the scope in 47J(2) of the class of persons to whom a duty of care is owed is unclear. In relation to tenants, in particular, unnecessary alarm has been expressed that the term might extend as far as hotel and motel guests and that owners of these businesses would need to provide written information to each short-term occupant. So, to put the matter beyond doubt, 47J is amended to define a tenant as a tenant under the Residential Tenancies Act and the Leases (Commercial and Retail) Act or as otherwise prescribed in regulations. In both the Residential Tenancies Act and the leases act, definitions of "tenant" capture persons who are likely to be a tenant, and a note to this effect is added to 47J.

The expression "person at risk" has been replaced by the expression "relevant person". The term "relevant person" more correctly describes the category of persons to whom a duty to disclose known information is owed. By way of example, a purchaser of a property needs to know this information not necessarily because they are at risk but because they are assuming responsibility for the property and may have duties to others in relation to the risk of asbestos.

Finally, the bill amends the commencement provision of the act to allow 47J to commence on 4 April 2005. The proposed amendment follows a recommendation of the Asbestos (Assessment) Task Force. A public information program is planned by the task force and the additional time created before section 47J commences will ensure that

a public information program will be as effective as possible. Given the need for other amendments to the act, the proposed delay is entirely appropriate.

These amendments ensure that there will be a minimum of confusion about the obligations of owners and occupants to inform people about asbestos on their premises. That is a very important objective and one that this Assembly should support, and I thank members for their support. I acknowledge the members for their swift consideration of this bill. It is not ideal, as Dr Foskey has pointed out, to introduce the bill on Tuesday and expect it to be debated on Thursday, but briefings were available, it was a matter of urgency and the government does it only in very rare and urgent circumstances.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Health Records (Privacy and Access) Amendment Bill 2005

Debate resumed from 15 February 2005, on motion by **Ms Gallagher**:

> That this bill be agreed to in principle.

MR SMYTH (Brindabella—Leader of the Opposition) (12.17): The Health Records (Privacy and Access) Amendment Bill 2005 is designed to amend the Health Records (Privacy and Access) Act. The bill is designed to fix a loophole whereby a person may be able to gain access to the identity of people making mandatory and voluntary reports under sections 158 and 159 of the Children and Young People Act 1999.

The loophole occurs because many of the records made under the Children and Young People Act can actually be classified as health records and can thus be accessed under the provisions of the Health Records (Privacy and Access) Act. The bill inserts a requirement that a record-keeper must not give access to a health record or part of a health record under section 10 of the Health Records (Privacy and Access) Act 1997 if it relates to a report under either the voluntary or mandatory reporting provisions of the Children and Young People Act 1999 and if that record, or part of a health record, would identify the person who made the report or enable the identity of the reporter to be worked out.

Other parts of the bill ensure that the police can still access reports as necessary and that people can still access some of the information contained in the reports as long as it does not identify the reporter. The bill is essentially a fix-up that closes the potentially damaging loophole. It should lead to increased security for the reporters of child abuse, which of course is a good thing. The opposition will be supporting the bill.

DR FOSKEY (Molonglo) (12.18): As we know, today individual health and medical data can be collected, collated, stored, analysed and distributed in unprecedented quantities and put to diverse uses. Some of these uses are, of course, a benefit to patients

and should be safeguarded; others, as this bill identifies, have a potentially harmful ability to rebound on people. So we accept that there is a need to protect the identity of persons making child protection reports.

However, I am going to seek leave to have the discussion adjourned to allow time for full consideration of the amendment, particularly as we have not yet seen the government's legal advice on it. While we accept the proposed intention of the bill, it is a complex area of law and it requires compliance with the principles and practices outlined in the federal Privacy Act as well as special amendments covering the health service providers. It is a very complex issue and one that deserves our full attention, particularly in relation to the complex relationships between the rights of individuals to privacy and the interests of individuals and the need to protect children from harm.

We would hope that the introduction and quick passing of bills within a matter of two days does not become a pattern of this Assembly. We feel strongly that careful consideration and due process should be afforded for each new piece of legislation. I seek leave to move a motion to adjourn discussion on this matter.

Leave not granted.

MS GALLAGHER (Molonglo—Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.21), in reply: I thank members for their support. Again, it is not desirable to have legislation introduced on Tuesday and debated on Thursday but this matter has come to our attention through some work that the Department of Health has been doing and it is very important that we move on this as quickly as possible.

This bill seeks to amend the Health Records (Privacy and Access) Act 1997, which gives protection to the identity of persons making reports to care and protection services under the Children and Young People Act. Anything that improves the safety of our children, however small, is a step in the right direction and consistent with the approach that this government has taken in the matter of child protection.

As members may be aware, a range of important and collaborative pieces of work have been undertaken in the last 12 months to improve the ACT's approach to child protection. Of particular importance has been the development of a memorandum of understanding between ACT Health and the Office for Children, Youth and Family Support. The MOU, which was signed by chief executives this month, sets out procedures by which these two government agencies should deal with each other in the matter of child protection. As members will appreciate, the relationships between these two agencies are complex, and the MOU will assist to ensure that procedural and administrative matters do not impede the ACT child protection system in any way. This MOU will be overseen by a management committee of senior executives, who will report regularly to the chief executives on the implementation of the MOU.

The ACT Health Child Protection Advisory Committee is another example of the work that has been undertaken collaboratively across government. This committee includes senior clinicians from ACT Health and representatives from the Office for Children, Youth and Family Support, the Division of General Practice and the Australian Federal Police. It was this committee that first identified the anomaly that led to this amendment

being developed. The anomaly meant that an agency's internal record of reports made under the Children and Young People Act 1999 can be provided to persons who made an application under the Health Records (Privacy and Access) Act 1997 because this document will, in most cases, be a health record.

The government takes its responsibility towards children and young people very seriously. We moved quickly to address this anomaly and that amendment is before the Assembly today to ensure that when a person makes a report, either under the voluntary or mandatory provisions of the Children and Young People Act, and keeps a copy of the written report or notes of the action, these internal records may be available to a person, when requested, under the health records act.

The identification of a reporter and their information could place the child or young person, other adults, the reporter and agency staff at risk. So the bill today seeks to amend the health records act to prohibit access to a health record or part of a health record if that record or part of the record identifies the person who made a report under either the voluntary or mandatory reporting provisions of the Children and Young People Act or if the record-keeper is satisfied that the identity of the reporter could be worked out from the record or part of a record.

The Health Records (Privacy and Access) Act 1997 commenced operation in February 1998 with the intention of providing for the privacy and integrity of and access to personal health information. I would like to stress that the amendment we are debating today will retain to the greatest extent possible access to personal health information through the act. The amendment will not prevent people from seeking a review by the Health Complaints Commissioner of any decision taken under the health records act, nor will it prevent a court order being issued or hinder care and protection services or the police in the case of an investigation. The amendment will protect the identity of reporters, and therefore our children, while minimising the extent to which information under the health records act is withheld.

The amendment strikes the balance between the human rights of children to be protected from harm, a reporter to have their identity protected and the rights of community members to access information regarding their health records. This issue has been rightly flagged by the Standing Committee on Legal Affairs' scrutiny of bills report of 17 February 2005 and I thank the committee for its speedy consideration of the matter.

In this case, the government judges that the rights of our children to safety from abuse and neglect are paramount and, consequently, the identity of child protection reporters must be protected. That said, this amendment will retain to the greatest extent possible access to personal health information through the act. This issue has been thoroughly examined by the Department of Justice and Community Safety in relation to the Human Rights Act 2004, and a statement of compatibility with the Human Rights Act 2004 has been issued. I thank members for their support for this bill today.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Sitting suspended from 12.26 to 2.30 pm.

Questions without notice

Canberra Hospital—staff

MR SMYTH: Mr Speaker, my question is to the Chief Minister as minister responsible for the public service. Chief Minister, you would be aware of a report in the *Canberra Times* today that details a memo circulated to acute care staff in the Canberra Hospital that instructs staff to work harder and not to take breaks. Minister, the public sector standards and all current certified agreements note that managers should ensure that "employees take a meal break of not less than 30 minutes no later than five hours after commencing duty, and ideally every five hours thereafter".

Chief Minister, why is the management of the Canberra Hospital breaching the terms of the certified agreement and the public sector standards, and what action are you taking to protect the rights of workers at the hospital?

MR STANHOPE: I thank the Leader of the Opposition for the question. Mr Speaker, I am advised that the memo described by the *Canberra Times* really was not a memo but a personal email from the deputy general manager at the Canberra Hospital to the director of emergency medicine and one of the emergency department doctors who, at the time that the email was sent, was the admitting officer. It has been described to me as a personal email by the deputy general manager to his employed doctors.

It was never, ever the intention of the deputy general manager of the Canberra Hospital, in sending the email, that it be distributed to staff. It was in the nature of a personal email by the deputy general manager to the admitting officer.

The email—as I say, a personal email—from a senior officer to the admitting officer was made to confirm a telephone call that occurred a few minutes prior to the dispatch of the email. The admitting officer had requested of the deputy general manager that emergency go on ambulance bypass, which, of course, as we know, redirects ambulances away from the hospital's emergency department to other hospitals before they arrive.

Ambulance bypass is, of course, one of a number of ways of managing variation in demand for emergency department services. The Canberra Hospital has very strict criteria, as you would expect, for ambulance bypass, and those criteria involve a process that requires the approval of the deputy general manager or his delegate to any decision to go on bypass.

In this particular instance, the admitting officer, having sought approval, was denied it. The deputy general manager declined to approve a request for ambulance bypass because the deputy general manager was not satisfied that other measures had been taken, at that stage, to redistribute workload, to increase deployment of staff and to admit those patients waiting for admission.

The deputy general manager's comments were directed specifically to the admitting officer; they were not directed to and were not intended to be distributed to nursing staff or, indeed, any other member of staff in the emergency department. The admitting officer, during the request for bypass, had advised the deputy general manager that all rostered staff were present on duty.

I think it is relevant, Mr Speaker, to note that, on the day this particular incident occurred, the Canberra Hospital emergency department had 132 attendances and 27 admissions. I am advised that those numbers are very much on a par or, indeed, an average workload for the emergency department. On that basis, the deputy general manager's decision not to agree to bypass was justified.

MR SMYTH: My supplementary question is: why are hospital staff being forced to cover for the inadequacies of your government's health policies?

MR STANHOPE: They are not. I have just made the point: a request was made by the admitting officer of his senior officer for approval to go on ambulance bypass. He was advised, in a personal email, that the request was denied. The extent to which this has been blown out of all proportion, described now as a general memorandum to all staff directing them to behave in a certain way, really is an extreme response to the legitimate denial of a request by the deputy general manager to go on bypass—a denial which, in the circumstances and in the context of the workload experienced on that particular day, was certainly justified.

Community safety

MR GENTLEMAN: My question is directed to the Minister for Police and Emergency Services. Can the minister inform the Assembly of the ACT government's new affordable security initiative for both household and car theft protection?

MR HARGREAVES: I thank Mr Gentleman for the question and note his ongoing interest in community safety issues—indeed, his very long history in the security industry.

Lockout is a new and affordable ACT government security initiative for both household and car theft protection. It targets people who can least afford household and car theft protection equipment, that is, those receiving Centrelink carers, disability or age pensions. Lockout provides 400 free car immobilisers to prevent car theft and $100 vouchers for household security items.

An immobiliser has proven to be the single best deterrent to opportunistic motor vehicle theft such as joyriding, which forms the overwhelming majority—around 75 per cent—of car theft in the ACT. Most of the vehicles targeted by thieves are 10 years old or more, as these cars were sold before immobilisers became standard equipment. The people who will receive assistance through lockout are those most likely to own cars more than 10 years of age as a result of their low income level. As such, they are also the ones who can least afford to be victims of crime.

Earlier this month I had the great pleasure of launching this program. I presented the first three recipients of car immobilisers with their vouchers—all of them were recipients of carers pensions and were heavily reliant on their cars. Lockout is a joint initiative between the National Motor Vehicle Theft Reduction Council and the ACT government.

For household protection, lockout also extends the existing program known as CLASP—the community liaison and safety project—which is a joint initiative of COTA, National Seniors and the ACT government. It shows the practical impact of our property crime reduction strategy.

MR GENTLEMAN: Mr Speaker, I have a supplementary question. Can the minister advise the Assembly of other successful crime reduction strategies the government has implemented?

MR HARGREAVES: The government has adopted a range of crime prevention strategies as part of the ACT property crime reduction strategy 2004-2007. These include the right turn program, where recidivist property offenders attend a full-time 10-week course in car maintenance and, as part of the course, students restore a damaged vehicle that is then given to a victim of crime; the corrective services intensive supervision program for recidivist offenders; early intervention initiatives in schools, health and family welfare settings, such as the Constable Kenny Koala program; and a range of drug diversion programs.

The evidence suggests that strategies for reducing property crime are most effective when they involve a mix of law enforcement and justice system interventions, raising community awareness, building community capacity and implementing designing-out-crime principles.

The government has acted on this evidence. I am very pleased to report that the level of major crime in the ACT has declined significantly in the past six months. Since the introduction of the property crime reduction strategy in August 2004, we have seen a huge 36 per cent reduction in motor vehicle theft; a 21 per cent reduction in burglary; and a 34 per cent fall in other robberies.

These results are in no small part due to crime reduction strategies such as lockout and excellent programs such as turnaround, and of course the excellent work of ACT policing. The combination of the government's crime reduction strategy and the proactive work of ACT policing has led to this significant reduction of crime in the territory. It is further evidence that intelligence-driven policing is working for the people of the ACT.

Kangaroo cull

DR FOSKEY: My question, to the Minister for Environment, concerns kangaroo culling undertaken by the ACT government. Minister, freedom of information documents obtained indicate that two senior wildlife ecologists in Environment ACT expressed serious reservations at the decision to undertake the kangaroo cull at Googong Dam in July last year. In addition, despite supporters and opponents of the cull calling for the release of the scientific advice that informed the government's decision to go ahead with

the cull, this advice has not been publicly released. Given this, can you assure us that any cull occurring in the future will be based on scientific advice and that this advice will be made available to the public prior to the commencement of the cull?

MR STANHOPE: I thank Dr Foskey for the question. I go to the heart of the issue, namely, scientific advice that Dr Foskey suggests has been prepared and has not been made available. I have to confess that I am not aware of the circumstances in relation to that particular claim that you make about the existence of information that has not been made available. I will pursue that particular point.

In relation to the other assurances that you received, they are, to some extent, hypothetical. I, at this stage, do not anticipate further kangaroo culls. It has not been suggested to me that there is any expectation in the foreseeable future that further or additional kangaroo culls will be required or necessary. Certainly, if such advice were forthcoming at some stage in the future the advice would be given due weight and consideration and a decision would be taken at that time. But, to that extent, the question is hypothetical. I have no expectation, I have not been briefed and it has not been suggested to me, that there will in the foreseeable future be any need for the ACT government to seek to cull kangaroos on land managed by it.

It is, of course, a fact that there are ongoing kangaroo culls throughout the whole of the ACT at the behest of our rural lessees and rural landholders within the ACT. Indeed, I understand that something of the order of four times the number of kangaroos culled at Googong last year are culled annually within the ACT for quite legitimate purposes in relation to the livelihood of those rural lessees and land management.

On the point of scientific advice and the basis on which decisions are made, I would always, of course, expect that a controversial and sensitive decision such as that taken to cull any animal will be taken on the basis of evidence and that the evidence will be soundly and scientifically based and ratifiable. Indeed, that would always be my expectation in relation to issues such as this.

Going to the other issue that you raised, the point does need to be made that, yes, two officers within Environment ACT expressed some concerns about the decision. They are senior officers. Those to whom they report, those within the organisation who make decisions, disagreed with them. A part of the decision-making process in any organisation is that a range of views is gathered. The views will not always be consistent or the same. In this particular instance, yes, some officers within Environment ACT expressed a point of view that was not a consensus view or a universally held point of view. Officers to whom they were responsible disagreed with their point of view. Advice was presented to me. That advice was that the cull was necessary; not just desirable, but necessary.

I am pleased that within the ACT public service we have public servants who feel that they have the capacity and the freedom to disagree. It would indeed be a sad situation if we had a public service in which those experts and those servants who serve us through the public service felt that they could not give frank and fearless advice and express their viewpoint. At the end of the day some advice is accepted; some advice is not accepted. Some viewpoints gain prevalence; other viewpoints do not. I am pleased to know that the processes within Environment ACT have that degree and level of vigour, but I do not in

any way, think it is appropriate or plausible to suggest that, yes, two people disagreed with the decision ultimately taken; therefore, in some way, the decision was wrong.

Policing—failed prosecutions

MRS DUNNE: My question is to the Minister for Police and Emergency Services. I refer to page 5.75 of the 2005 Productivity Commission report into the efficiency of government services. It shows that the ACT has the highest costs per person awarded against the police in the nation at 66c per person. In simple terms, minister, "costs awarded against the police" is a measure of failed prosecutions. The rate of 66c per person is twice as high as that of the next highest jurisdiction, Victoria, and 2½ times the national average, which is 25c per person. Minister, why are the costs per person awarded against the police so much higher in the ACT than anywhere else in Australia?

MR HARGREAVES: As I understand it, Mrs Dunne is asking me to give an opinion on the reasons that the judiciary might award costs against the police. There is a range of reasons that that might be so.

Mrs Dunne: I take a point of order, Mr Speaker. Mr Hargreaves needs clarification of the question. The question was about why so many prosecutions fail, not why the judiciary awards costs against the police.

Mr Quinlan: Do they, or is it that they are just more expensive?

Mrs Dunne: No, it is a measure of failure of prosecutions.

MR SPEAKER: That is not a point of order, Mrs Dunne.

Mrs Dunne: No, it is a point of assistance, Mr Speaker.

MR SPEAKER: Thanks for your help.

MR HARGREAVES: I thank Mrs Dunne for her assistance, because her original question had nothing to do with the piece of assistance that she has just given to me. I will attempt to answer both of her questions. With respect to the amounts of money, my answer is that I have no capacity to read the minds of the judiciary and I do not propose to try here. With respect to why it is that prosecutions are not successful, I think that there is a variety of reasons. It should be remembered that the Productivity Commission report talks about the performance quite some time ago. In fact, I would suggest that the full effects of intelligence-led policing have not been felt throughout the prosecution system and in the judicial system.

As Mrs Dunne probably would know, because she is an expert in almost everything, the reasons for lack of success within the court process go down to the extent to which evidence is provided, the extent to which evidence is collected, the veracity of the evidence and the credibility of witnesses. In fact, I would suggest that she have a bit of a quiet chat with Mr Stefaniak over a Bex and a good lie down, because Mr Stefaniak probably knows better than most of us around here, being a former police prosecutor, of the—

Mr Stefaniak: I can answer the question.

MR HARGREAVES: You could have, Mr Stefaniak. I am surprised that you would flick it across to Mrs Dunne. Heavens above! The fact is that intelligence-led and driven policing was aimed at just that process. In fact, the police will now act on verified evidence. We will collect the evidence together and present it to the courts.

The success of an action in court depends on effective policing, as we know, but it also depends heavily on the amount of information given to police by people who have experienced crime in the community at large. The partnership between the community and the police, particularly through the information collected on Crimestoppers, goes to the collection of a body of evidence, which means that the police will act with a considerably greater degree of certainty to compile sufficient evidence so that once a person is charged there will be a more successful outcome in court. The simple fact is that we are doing it better at the moment. Just watch this space a little later.

MR SPEAKER: Do you have a supplementary question, Mrs Dunne?

MRS DUNNE: Yes. My supplementary question, Mr Speaker, is: has the Labor Party policy of reducing resources for criminal investigations from $90 per person to $54 per person caused the ACT to have the country's highest rate of failed prosecutions?

MR SPEAKER: Order! The minister is not responsible for Labor Party policy.

Mr Hargreaves: Thank you very much, Mr Speaker. I was going to say that I am not responsible for Labor Party policy.

MR SPEAKER: Just sit down.

MRS DUNNE: I would like to rephrase the question, Mr Speaker.

MR SPEAKER: You can rephrase the question.

MRS DUNNE: Thank you. Sorry, I misheard you, Mr Speaker.

MR SPEAKER: You have been here long enough to get it right most times.

MRS DUNNE: Has the reduction in criminal investigations from $90 per person to $54 per person caused the ACT to have the country's highest level of failed prosecutions?

MR HARGREAVES: No.

Bushfires—rebuilding

MRS BURKE: My question is to the Minister for Disability, Housing and Community Services. When will ACT Housing commence construction of the 12 houses destroyed at Pierces Creek in the bushfires?

MR HARGREAVES: When other matters surrounding the whole issue of the settlement of Pierces Creek are completed.

MRS BURKE: I have a supplementary question. Is funding from our insurance still available to rebuild these houses?

MR STANHOPE: I will take that question. Under the administrative arrangements, responsibility for Pierces Creek is mine.

Mr Smyth: Stepping in to cover Mr Hargreaves.

MR STANHOPE: No, I am not. Mr Smyth knows very well that issues about Pierces Creek and rural settlements are my responsibility under the administrative arrangements order. It is a concern to me that after two years the Liberal Party has not understood that the administrative responsibility for bushfire-related reconstruction is mine. It is mine pursuant to the administrative arrangements order. It is not a responsibility of the Minister for Disability, Housing and Community Services.

Mr Smyth: So he is not responsible for public housing?

MR STANHOPE: No, he is not responsible for the reconstruction of Stromlo, Uriarra or Pierces Creek. The answer to the question about Pierces Creek is when the Liberal commonwealth government makes the decision.

Workplace relations

MS MacDONALD: My question is to the Minister for Industrial Relations, Ms Gallagher. Minister, are you aware of the comments made by the federal minister for workplace relations recently, supporting a recently released Business Council of Australia report entitled *Workplace relations—the way forward*? Could you please outline for the assembly what this report and the federal minister's comments might mean for the ACT?

MS GALLAGHER: I thank Ms MacDonald for the question. The Business Council of Australia released earlier this week a report entitled *Workplace relations—the way forward,* arguing the case for dismantling the industrial relations system underpinned by the Industrial Relations Commission. The BCA released simultaneously its action plan for this document and, for anyone who has an interest in industrial relations, what a scary read it is. Aside from the obtuse debate on what constitutes fairness in industrial relations, the BCA makes some very strong and startling recommendations. Here are just a few of them: a new approach to industrial relations focusing purely on productivity and disregarding fairness; and changes to the way we set minimum wages. The BCA wants this done to ensure that our minimum wages policies are based on those nations with the lowest unemployment. In reality this means adopting a sort of low wages US economic model. I quote the report:

> If the range of minimum wages available under legislation was reduced … it would be best to set it at the lower end of the minimum wages presently available.

This means that the minimum wage would stop being a living wage in Australia.

The report also recommends slashing the number of allowable matters within awards. For anyone who has followed that, already we have slashed the awards down to 20 allowable matters. But this report recommends slashing it down further to only six allowable matters. This would include minimum hourly rates of pay, ordinary time hours of work, superannuation, annual leave, personal carers leave, parental leave, public holidays and a dispute settling procedure.

The report recommends radical reform to the AIRC, vesting the Employment Advocate with jurisdiction to review enterprise agreements. It says, "This proposal would remove perceptions that there are different standards applied to AWAs and certified agreements and increase the contestability of the AIRC's service delivery function."

It also recommends reforming unfair dismissal laws. Allegedly, Australia ranks 13th in the world "difficulty of firing index". I was not aware that we had a difficulty of firing index, but there you go. Reforms in this sector will lead to lower job security and a hire and fire approach to workplace disputes. The report stresses the benefits of casual jobs and argues against having them demonised—making underemployment and family stress a reality for many more workers. The report also suggests harmonising state and federal workplace systems and states that this should be done in the same way as happened with the national rail gauge.

It will not surprise many in this chamber that the federal minister, Mr Kevin Andrews, was broadly supportive of the thrust of this document. In reply to questions from his backbench colleagues during question time this week, Mr Andrews provided the House of Representatives on Monday with some fine quotes from the BCA document to support his case for so-called workplace reform. If Mr Andrews is broadly supportive of the broad thrust of this report, one has to wonder whether he is broadly supportive of any of the detail. Are any features of the BCA report likely to make it into the workplace relations bill currently being touted around federal parliament?

As a federal territory, we have an expectation that the commonwealth will talk to us on matters that affect our jurisdiction and, certainly, the workers who reside and work in this town. It is a great disappointment to me, as the local Minister for Industrial Relations, that the federal minister, despite repeated requests from me and from many of my industrial relations minister colleagues around the country, has not consulted with me on any significant piece of legislation that he has presented to the House of Representatives. That is despite repeated requests that the commonwealth negotiate—not even negotiate, but just talk to the ACT government about the workplace relations reform that they intend to impose on the ACT. In fact, the rumour is going around that federal ministers spend more time talking to their Liberal colleagues from this chamber than they spend consulting with the ACT government over important industrial relations issues.

Certainly, if you read the media release from the opposition spokesperson for industrial relations, it seems that Mr Mulcahy goes speeding off up the hill to get constitutional advice from the federal territories minister and the federal workplace relations minister on some of the government's policy agendas here.

Opposition members interjecting—

MR SPEAKER: Order!

MS GALLAGHER: Thank you, Mr Speaker. It is getting a little loud in here. I wondered what Mr Mulcahy had to say. Did he just listen, did he have something to say or did he just take instructions from up at the big house? It is time that the Liberal opposition here came clean.

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

MS MacDONALD: I have a supplementary question, Mr Speaker. Minister, could you provide detail on the impact that these proposed reforms will have on workers in the ACT?

MS GALLAGHER: Well, if any of the recommendations in the BCA report were to be adopted, they would have significant impact on the ACT, as we do work within and under the federal workplace relations system. For example, the slashing of allowable matters from the common rule awards in the ACT would see a drastic reduction in the conditions of workers in the ACT covered by these awards and it would inevitably erode conditions in certified agreements. If these proposals are implemented, ACT workers would lose from their awards long service leave, loading for overtime and casual rates, penalty rates, redundancy pay, notice of termination provisions, stand-down provisions, pay and conditions for outworkers, classifications of employees, and incentive based payments. And, of course, considering that a large proportion of our work force is employed under certified agreements, any weakening of certified agreement conditions would have a massive impact on working people and their families in the ACT.

So questions need to be asked, as Mr Mulcahy trots up to the house to have a general discussion on workplace relations reform. He did not actually include in his media release any of the details. He just said that he was going to talk about "various other issues affecting workplace relations". He needs to come clean on what he intends to do to stand up for working families in the ACT. Is he going to just accept the federal government's line? Is he going to accept—

Ms MacDonald: On a point of order, Mr Speaker: contrary to standing order 39, members on the other side continually interrupt the minister as she is answering the question. I am interested in what she is saying and I would like to hear what she has to say. Could they please desist from breaking standing order 39?

MR SPEAKER: They shall.

MS GALLAGHER: Thank you, Mr Speaker. I will just finish up here. Perhaps the most disturbing aspect of the reforms suggested, aside from the comprehensive award stripping, is the attack on state jurisdictions and their ability to regulate and legislate in this very important area. The measure promises to have a huge impact on the ability of workers to seek industrial justice under state and territory industrial systems. The proposed reforms, strenuously presented by the BCA and welcomed by Mr Andrews, are a challenge to the industrial relations system that has served Australia very well. Time

will tell whether the opposition has the guts to stand up for the rights of working people in the ACT—

Opposition members interjecting—

Mr Quinlan interjecting—

MS GALLAGHER: or whether they will be the foot soldiers for a regressive, ideological federal government—

MR SPEAKER: Order! Mr Quinlan, order! To the rest of you, order as well, please, or I will begin by warning you.

MS GALLAGHER: So time will tell whether the opposition will stand up for working people in the ACT or whether they will just implement and be party to the regressive federal government agenda which, if successful—and this is something that everyone should consider—would ensure that our generation of workers will hand the next generation of workers a worse industrial relations system, worse working conditions, worse employment conditions, than we received when we started working, and that will be the first time in Australia's history.

Dragway

MR STEFANIAK: My question is to the Chief Minister. Yesterday, in response to my question to Mr Quinlan asking him to confirm your promise to build a dragway within 18 months, he replied:

> No, I will not.

He went on to claim:

> We have not said, in black and white, in exactly 18 months there will be a dragway.

Chief Minister, you promised on 14 October last year that the Labor Party would build a dragway by mid-2006 on either block 51 or block 52 in the Majura Valley if re-elected to government. After the election you confirmed this promise in a media release on 7 December 2004, saying:

> We will build a dragway within 18 months.

What new information has the government received between 7 December and today that has led to your not being able to meet your commitments to build a dragway within 18 months?

MR STANHOPE: Thank you, Mr Stefaniak. The government is committed to the construction of a dragway. Our expectation is that, subject to the final outcome of some testing and further consultation in relation to the Majura Valley, it will be built in the Majura Valley. This is a project that we are giving a high priority to. The project is being managed by the major projects group within the Chief Minister's Department, headed up by Mr George Tomlins.

Negotiations on a range of fronts are proceeding. My hope and my expectation—hope always springs eternal—are that yes, we will construct a dragway in the Majura Valley within the next 18 months.

MR STEFANIAK: I notice that you said you hope. My supplementary question is: why, then, Chief Minister, did you make a promise that you couldn't keep to supporters of the dragway? In doing so, did you mislead the people of Canberra on this issue?

MR STANHOPE: Mr Stefaniak, I just answered your question. I said that it was the government's intention to build a dragway. It is our expectation that it will be built in the Majura Valley. It is my hope and expectation that it will be built within the next 18 months.

As I say, I can't stand here now and say, definitively and absolutely, "Yes, it will be delivered in the Majura Valley in that timeframe." That's what we're working towards. We are working constructively; we are working with motor sports interests. As I say, the matter has been given the highest priority within the Chief Minister's Department. I have established a group which we have called the major projects group. The chief executive of the major projects group within the Chief Minister's Department is Mr George Tomlins. The deputy chief executive of that group is Mr Philip Mitchell, the ex-ACT Government Solicitor. Mr Mitchell, I know, has been holding consultations and negotiations with landholders within the Majura Valley. A whole range of new tests in relation to noise and noise-related issues are being undertaken.

There is a dragway meeting either this Saturday or on Saturday week at Eastern Creek at which a range of officials from Environment ACT and, I believe, two or three members of the major projects group are attending, along with Mr Develin.

Tests are being undertaken. There are serious issues in relation to noise. Mr Quinlan went to these yesterday. Of course, we are going to look at those; we are going to assess the impacts; we are going to look at the site; we are going to do a range of ordinary sorts of studies, investigations and consultations that all governments do in relation to any major project such as this.

It is our firm intention to proceed, and we are proceeding, with the decision to construct the dragway. As I say, at this stage, subject of course to calamitous outcomes from some of the consultations or some of the further scientific investigation that will be undertaken, there will be a dragway in the Majura Valley.

Of course it does have to be said—and it will be to the Liberal Party's eternal embarrassment, and certainly that of some of your supporters and, indeed, very many dragway supporters—I haven't seen that bus with the dirty big great sign "A vote for the Liberals is a vote for the dragway" driving around since the day of the election. Do you know where the bus is, Mr Stefaniak? What has happened to "A vote for the Liberals is a vote for the dragway" bus?

I must say, I have seen an awful lot of those little stickers on the back of windows "A vote for the Liberals is a vote for the dragway". I know from past experience—

Mrs Dunne: The people—

Mr Stefaniak: Watch this space.

MR SPEAKER: I warn you, Mrs Dunne and Mr Stefaniak. You both stand warned.

MR STANHOPE: I have noticed many of those stickers. I think we all know from our own experience how hard the blessed things are to get off once you have got them on, particularly if they have been out in the sun for a while. I have seen lots and lots of those "A vote for the Liberals is a vote for the dragway" stickers hurriedly trying to be ripped off, scraped off and scratched with chisels. But the mark is still there.

I do ponder the irony of this. I suppose it is a continuing issue for many supporters of the dragway and many motor sports fans within the ACT that they campaigned long and hard against this government; they campaigned actively for the Liberal Party on the motto "Vote Liberal and we'll get a dragway".

Of course it does beg the question—they didn't vote Liberal; we all know that; we know they went to enormous lengths not to vote Liberal—and it did cross my mind, in the context of the responsibility of government and the extent to which one in government, having received a major endorsement, needs to have some regard to what the community is saying: if a party, the opposition, campaigns that if you vote for the Liberals you are voting for the dragway—

MR SPEAKER: Come to the point of the supplementary.

MR STANHOPE: And the people of Canberra go to enormous lengths not to vote for the Liberals; what does that mean?

MR SPEAKER: Chief Minister, come to the point of the supplementary question.

Mr Stefaniak: I raise a point of order under standing order 118.

MR SPEAKER: I will deal with this. Just come to the point of the supplementary question.

MR STANHOPE: I think I have made the point.

Canberra Hospital—staff

MR SESELJA: My question is to the Chief Minister. In response to a question from Mr Smyth today regarding the Canberra Hospital memorandum asking staff to work harder and through breaks, he stated that the deputy director general denied approval for ambulance bypass at Canberra Hospital, "because the deputy director general was not satisfied that other measures had been taken at that stage to redistribute workloads, to increase deployment of staff and to admit those patients waiting for admission." Does the term "other measures" include directing staff to work harder and mobilising staff who are on breaks?

MR STANHOPE: I am advised by the Chief Executive Officer of ACT Health that the deputy general manager declined on this occasion to approve ambulance bypass because he was not satisfied that other appropriate measures had been taken within emergency by those then responsible for its management. This was in a number of areas, such as the redistribution of workload, the increased deployment of staff and admitting those patients waiting for admission. That is the advice I have been provided with by the Chief Executive Officer of ACT Health, and I stand by it.

MR SESELJA: I ask a supplementary question. Is it acceptable to breach public sector standards and certified agreements relating to breaks in order to avoid ambulance bypass at the Canberra Hospital?

MR STANHOPE: It is never acceptable to breach those standards in that way. There is no suggestion that they have been. I restate what I said before: there is no memorandum to staff. There was essentially confirmation of a direction by a senior officer to a less senior officer in relation to a request he made to institute ambulance bypass. The request was denied. There is a question to which I have no answer and on which I have not been advised, that is: why the recipient of this private email, which was replying to the request he made, would then distribute it. We can ponder that, but I do not have advice on it and I will not speculate further.

This was not a memorandum. This was not a staff circular. This was not a direction to staff. This was a response by the deputy general manager of the Canberra Hospital to an officer who had made a request of him to institute ambulance bypass, and in the context of refusing that request the deputy general manager made certain comments in relation to his decision. One might say that the nature of the refusal of the request was inelegant. Perhaps it was not as well expressed as he might now, in the light of the public glare that has been brought to his personal communication, wish. But one needs to understand it was a personal communication; it was not meant for broad distribution.

Perhaps all of us can plead guilty from time to time in hurried personal communications to expressing ourselves inelegantly, in a way that the message we are seeking to transmit is subject to some ambiguity. Remember, this note was sent a couple of minutes after a telephone call. It was supplementary to a telephone call in which the deputy general manager had explained his position, had explained the reasons for declining the request to bypass and was simply confirming in writing a conversation that had occurred a matter of moments before. Let us not give this overblown status. It is a private letter confirming a telephone conversation. It was not meant for distribution. It should not have been distributed.

Mr Smyth: That makes it better?

MR STANHOPE: It renders the overblown response to some extent most regrettable. This was a personal communication, and it should be viewed in that light.

Treasurer—Dubai visit

MR MULCAHY: My question is directed to the Treasurer. I refer to plans by the Treasurer to visit Dubai with a business delegation. Will the Treasurer inform the

Assembly about the details of this visit, those participating, the cost to the ACT taxpayer, and the anticipated benefits to flow to the Canberra community from this visit?

MR QUINLAN: Given the level of detail that would be necessary in that answer, I am very happy to take it on notice. Mr Mulcahy can rest assured that I will be back in this place to tell him all about it.

MR MULCAHY: Mr Speaker, I have a supplementary question. As this visit appears to coincide with the major golf and tennis events in Dubai—namely the Dubai Desert Classic and the Dubai Tennis Championships—has the Treasurer contemplated rescheduling this visit to ensure that appropriate officials and business leaders in Dubai will be available for meetings during his visit?

MR QUINLAN: Thanks for that information Mr Mulcahy. Let me assure you that I will look into that.

Springboard program

MS PORTER: My question is directed to the Minister for Economic Development. Last week the minister launched the business springboard program. Minister, can you explain the concept behind the program? What has been the reaction of the ACT business community to the launch of the springboard program?

MR QUINLAN: Last week I launched the business springboard program. I advise the house of how that concept fits within our vision—the vision that you have seen in our economic white paper—that started in the pursuit of an innovative knowledge-based economy, the setting up of a knowledge fund, a knowledge bank, so that we could invest in and assist R&D within the territory. Since then, the implementation of the vision has grown. We now have a commercialisation fund to ensure that there is a pool of venture capital so that good ideas can be built into good product.

Of course, we then need to take the further step: to take that good product and turn it into a good enterprise overall. In previous times I have advised this Assembly of the Canberra-California bridge program, which some of our businesses have gone through so that they can go through the process of preparation for descending upon or attacking a market that is world class—a process that has been implemented in many places, particularly on the West Coast of the United States. We now have close relationships with major business promotion organisations, particularly in San Francisco and San Diego.

A number of our businesses have been through this style of program. Part of that program is to call upon the experience of other businesses that have developed, and have been down the road and done the hard yards in terms of establishment: raising venture capital, promoting a product and building partnerships if their product happens to lend itself to becoming a component of a bigger system of process.

Under that umbrella and within that process, during the Canberra end of the Canberra-California bridge program, we found that the exchange of experience—export experience, marketing experience and distribution experience—was of great assistance to embryonic companies. It seemed to us to be commonsense to build that process and to do

whatever we could—virtually broker a meeting between new enterprises and those enterprises that had already been down the road.

That is what the springboard program is about. We set up and invited the experienced businesses of the ACT to come along and hear a presentation on what this process is about and possibly to become panel members and provide their experience to those just setting out on the path of enterprise building, export or overseas distribution.

The reaction of the business community was phenomenal. I have been to a number of launches and events over the time I have held this portfolio, but I have to say that more than 150 of Canberra's leading business people, entrepreneurs and innovators turned up to the launch of the springboard program and it was probably the nearest thing I have seen to the total A list of business in the ACT in one room.

Arising out of that, we now have a growing number of very successful businesses in the ACT signing on to the panels that will provide the benefit of their experience and knowledge to businesses as they grow. I am very happy to see that happening and to be part of that process.

Of all the businesses that we are assisting and have assisted, some will not make it. But this program makes sure that everyone gets the maximum chance to succeed, to grow in the ACT and grow into exporters from the ACT, and to build the economy and reputation of Canberra.

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

Supplementary answers to questions without notice

Bushfires—coronial inquest

MR STANHOPE: Mr Speaker, I took a question on notice from Mr Mulcahy in relation to legal costs. Indeed, Mr Seselja asked supplementary questions in relation to the same issue. The answer that I now have responds to the question of Mr Mulcahy and to a question asked by Mr Seselja in relation to the extent to which legal costs incurred in the inquest have been reimbursed under our insurance arrangements. For the information of members, I present the following paper:

> Coronial Inquest—Legal costs—Answer to questions without notice —
>
> Asked of Mr Stanhope by Mr Mulcahy and taken on notice on 7 December 2004.
>
> Asked of Mr Quinlan by Mr Seselja and taken on notice on 16 February 2005.

To date, $7.4 million has been incurred in costs and just under $5 million of the $7.4 million has been recouped in insurance payments. To date, of the $7.4 million paid, $4.925 million has been recouped. Included in the moneys recouped under our insurance policies, I am advised, are almost all of the costs incurred in relation to the applications that have been made by the ACT government in the most recent Supreme Court actions. But there are details and an explanation in the document I have tabled for the information of members.

Vehicle fleet operations

MR QUINLAN: Yesterday, I took a question from Mr Mulcahy in relation to the financing of government vehicle fleet operations. I can advise that the situation is still being reviewed, that the situation is still being worked through. If we have one financier wanting to drop out, the first thing we have to ask is whether there are other financiers still in the game or whether it is an area that merchant banks collectively are pulling away from.

We are aware that in recent days a number of jurisdictions around Australia have implemented self-funded or in-house financing arrangements for their fleet management. We will consider all options, as I think I said in the answer to the supplementary question. We will also consider the possible use of the government enterprise, Rhodium, within the panel of possible replacements for the current financial arrangement. But there does not seem to be any haste or panic. I have not had people from Treasury knocking down my door and saying that the sky is falling.

Housing

MR HARGREAVES: Yesterday, Mrs Burke asked what process tenants must go through to purchase ACT Housing property, public housing property, in which they reside. Housing ACT tenants of more than five years continuous tenancy currently living in a separately titled property are able to apply for purchase of the property they are living in.

Consistent with the government's policies of security of tenure, sustainable tenancies and sustainable communities, the government encourages tenants who can afford to purchase to do so. Purchasing a house where the tenant is already living has financial and community advantages because the tenant does not have to organise to move, pay for reconnection of utilities or change schooling arrangements for children.

However, it is important that the scheme not impair the department's ability to house people in need. Accordingly, the government proceeds with sales only where properties are not needed for redevelopment or other needs, because tenants who can afford to buy have the same options as anyone else in the private market.

Similarly, properties are sold at market value, determined for the property by an independent valuer on the basis of sales of comparable properties in the same or adjacent suburbs in the past three months. The price may be reduced if the valuer assesses that some part of the property's value reflects improvements—for example curtains or painting—carried out by the tenant, or increased if there has been major maintenance on the property in the last three years and the cost is greater than the increase in the market value.

Except for properties rebuilt after the 18 January 2003 bushfire, newly constructed or purchased properties are not available for sale until at least five years after they are acquired. These arrangements are designed to recognise the significant costs in acquiring and disposing of properties and to ensure that newer, high-quality assets are retained for ongoing clients.

Finally, only properties with separate titles are available for sale. The application form and kit set out the process and the form reflects the policies outlined by me just now. I understand that a copy of the kit has been provided to Mrs Burke's office today.

Public Accounts—Standing Committee
Report 13—government response

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

> 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*—Government response.

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

Leave granted.

MR STANHOPE: Mr Speaker, the Standing Committee on Public Accounts made two recommendations and the government has adopted some aspects of each recommendation. In response to the first recommendation, the government agrees that the Public Sector Management Act 1994 will be amended to incorporate a specific statement about fraud and corruption prevention, including a definition of "values and ethical standards". More detailed requirements for conducting fraud risk assessments and prevention treatments will be contained in subordinate legislation.

In relation to the second recommendation, the government agrees that the state of the service report will report on the extent and cost of fraud and corruption in the public service and the reporting on the cost of fraud will reflect those costs that are readily identifiable.

Papers

Mr Stanhope presented the following paper:

> Ministerial Travel Report—1 October to 31 December 2004.

Mr Quinlan presented the following papers:

> Financial Management Act—
>
> > Pursuant to section 16—Instrument directing a transfer of appropriations relating to the Administrative Arrangements Order of 4 November 2004, including a statement of reasons, dated 16 February 2005.
> >
> > Pursuant to section 18—Authorisation of Expenditure from the Treasurer's Advance, including a statement of reasons, dated 19 January 2005.

> Territory Owned Corporations Act—Notification of the establishment of Territory owned corporation—Rhodium Asset Solutions Limited, dated February 2005.

Leases
Paper and statement by minister

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services): On behalf of Mr Corbell and for the information of members, I present the following papers:

> Land (Planning and Environment) Act, pursuant to section 216A—Schedules—Leases granted, together with lease variations and change of use charges for the period 1 October to 31 December 2004.

I seek leave to make a statement in relation to the papers.

Leave granted.

MR HARGREAVES: Mr Speaker, section 216A of the Land (Planning and Environment) Act 1991 specifies that a statement be tabled in the Legislative Assembly outlining details of leases granted by direct grant, leases granted to community organisations, leases granted for less than market value and leases granted over public land.

The first schedule I have tabled covers leases granted for the period 1 October 2004 to 31 December 2004. During the quarter, 24 leases were issued by direct grant. Of these, three were granted using disallowable instrument 220 of 2003—DI220-2003.

The first lease was granted over blocks 32, 33 and 34 section 1 city to Pontians Pty Ltd and Efkar Pty Ltd to enable the construction of two waste enclosures and to provide additional car parking for the building located at block 31 section 1 city.

The second lease was granted over blocks 22 and 23 section 62 Curtin to Leo Kordis, Betty Kordis, Tasos Totos, Maria Totos, Bill Mihalopoulos and Sophie Mihalopoulos to enable the expansion of the existing Coles supermarket located on block 5 section 62 Curtin.

The third lease was granted over block 4 section 75 Fyshwick to U-Stow-It Pty Ltd to enable the expansion of the existing self-storage facility located on block 2 section 75 Fyshwick.

For the information of members, I have also tabled two schedules relating to approved lease variations and change of use charge payments received for the same period.

Exercise of call-in powers
Paper and statement by minister

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community

Services, Minister for Urban Services and Minister for Police and Emergency Services): On behalf of the Minister for Planning and for the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to subsection 229B(7)—Statement regarding exercise of call-in powers—Development application No. 200310406—Block 13, section 58, Turner, dated 17 December 2004.

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

Leave granted.

MR HARGREAVES: On 23 November 2004, Mr Corbell directed under section 229A of the Land (Planning and Environment) Act 1991—the land act—the ACT Planning and Land Authority to refer to him development application 200310406. This notifiable instrument was notified on the ACT legislation register. On 17 December 2004, he approved the application using his powers under section 229B of the land act.

The application sought approval for the construction of an eight-storey building containing 64 apartments and two three-storey buildings containing 10 dwellings on block 13 section 58 Turner. The application also sought approval to vary the lease purpose clause to permit 74 dwellings and vary the development conditions and associated planning control plan attached to the crown lease to allow setbacks to the northern boundary of five metres for 25-metre high buildings and setbacks in accordance with the B11 area building envelope for buildings12 metres high.

In deciding the application, Mr Corbell gave careful consideration to the provision of tree protection measures for those trees to be retained and the achievement of sustainability initiatives. He imposed conditions on the approval that required the provision of protection measures for the two mature eucalypt trees within the site, the revision of landscaping to Northbourne Avenue, and the provision of additional details of the integration of stormwater retention and reuse within the site. This proposal is consistent with the requirements of the territory plan.

Mr Corbell used his call-in powers in this instance because he considered the proposal to have a substantial effect on the achievement of objectives of the territory plan in respect of the Northbourne Avenue corridor. The particular criterion in the land act, subsection 229B (2), provides that the minister may consider the application if, in the minister's opinion, the application seeks approval for a development that may have a substantial effect on the achievement or development of objectives of the territory plan. The proposal significantly contributes to the provision of a range of accommodation types in proximity to the facilities of the Northbourne Avenue corridor.

Section 229B of the land act specifies that, if the minister decides on an application, he must table a statement in the Legislative Assembly within three sitting days of the decision. As required by the act, and for the benefit of members, I have tabled on behalf of Mr Corbell a statement providing a description of the development, details of the land where the development is proposed to take place, the name of the applicant, details of his decision and grounds for the decision. With the statement, I have also tabled the comments of the ACT Planning and Land Council on this matter.

Community Services and Social Equity—Standing Committee
Report 7—government response

MS GALLAGHER (Molonglo—Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations): For the information of members, I present the following paper:

> Community Services and Social Equity—Standing Committee—Report 7—*One-way roads out of Quamby: Transition options for young people exiting juvenile detention in the ACT (presented 17 August 2004)*—Government response.

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

Leave granted.

MS GALLAGHER: I am pleased to present the government's response to report 7 of the Standing Committee on Community Services and Social Equity. Report 7 was tabled in the Legislative Assembly on 17 August 2004.

The government is committed to improving the provision of services to our most at-risk children and young people. The standing committee highlighted the fact that children and young people in Quamby are some of the most disadvantaged members of our community. It noted that many of these people have complex needs and are often caught in a cycle of moving in and out of Quamby. They confront innumerable difficulties in reengaging with the community. The report concluded that they require more support.

Against this background, the committee made 10 recommendations. The government supports in full five of those recommendations. A further two are agreed in principle, two are agreed in part and one has been noted. The government concurs that children and young people in Quamby are some of the most disadvantaged citizens. It is seeking significantly improved outcomes for them.

The measures set out in the government response to the committee's recommendations give effect to the rights of children and young people in detention under the Human Rights Act 2004. Specifically, subsection 11 (2) provides for the right of every child to the protection needed by the child because of being a child, section 10 provides for the humane treatment of people when deprived of liberty, and section 20 relates to the rights of children and young people in the criminal process.

There is a clear need to break the cycle of juvenile detention. The key to achieving this is through the provision of early intervention and prevention programs; stronger transitioning and diversionary practices, such as youth conferencing; and circle sentencing.

A number of initiatives have recently been canvassed in the ACT young people's plan 2004-08 and in the government's response to the *Territory as parent* report. Actions have also been identified in the blueprint for young people 'at risk' 2004-08, including the youth at risk skills development program and a best practice framework for involving young people in the development of services provided for them. It is essential that the

support provided to children and young people subject to both care and protection, and justice orders is better coordinated.

Strategies are being established to improve communication and cooperation across government and with non-government agencies, to ensure that these young people are given the best possible opportunity to reengage with the general community and remain out of the criminal justice system.

The inclusion of the Office for Children, Youth and Family Support within the Department of Disability, Housing and Community Services will ensure greater collaboration on service provision. The finalisation of a memorandum of understanding with both ACT Health and the Department of Education and Training will also assist in ensuring services are provided in a more coherent fashion.

The government supports the need for expanded accommodation options for people exiting Quamby. These options will be assisted by the redevelopment of Isabella Hostel for indigenous male youth and actions arising from the homelessness strategy.

Mr Speaker, we have established very effective partnerships with many community organisations, providing a diverse range of support services for Quamby residents to assist in their transition from custody. These organisations include Gugan Gulwan Youth Aboriginal Corporation, Winnunga Nimmityjah Aboriginal Health Service, the Salvation Army, Relationships Australia, RecLINK, and the job placement employment and training program.

Fully accredited educational vocational programs are an integral element of the case plans for the residents of Quamby. These are designed to address offending behaviour and enhance educational or vocational opportunities.

In regard to Quamby itself, the government is committed to the development of a new juvenile justice facility that will replace Quamby. Feasibility work is scheduled for completion early this year. The government is actioning a range of new and improved support systems and processes to assist young people moving from the juvenile detention system back into the community.

In conclusion, I would like to acknowledge the dedication and commitment of all the staff working at Quamby. Their work is crucial to achieving positive outcomes for young people at risk.

Review of the safety of children in the care of the ACT and of ACT child protection management

Papers and statement by minister

MS GALLAGHER (Molonglo—Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (3.38): For the information of members, I present the following papers:

The Territory as Parent—

> Review of the safety of children in the care of the ACT and of ACT child protection management—First six month status report, dated February 2005.
>
> The Territory's Children—Ensuring safety and quality care for children and young people—Report on the audit and case review—First six month status report, dated February 2005.

I seek leave to make a statement in relation to the papers.

Leave granted.

MS GALLAGHER: Mr Speaker, I am pleased to table the first six-month progress reports on the implementation of the agreed recommendations of the reports into child safety and protection in the ACT—*The territory as parent* and *The territory's children*. Members will recall that in May 2004, the government released *The territory as parent*, the report of the Commissioner for Public Administration, Cheryl Vardon. We also released the government's response to the recommendations in this report.

The commissioner found that the ACT required a new vision for the most vulnerable children and young people in the community. The commissioner said this required a new system, new practices and the building of quality relationships. The commissioner also recommended a new oversight agency, a children's commissioner, to be the voice for children and young people in the ACT.

Subsequently, in August 2004, I tabled *The territory's children*, known as the Murray report, as well as the government's response. The Murray report involved an audit of files of 150 children and young people who had been in the care of the territory. The report provided detailed information about those children and young people, and the circumstances of their families and carers. Both reports show the overrepresentation of children and young people in care from Aboriginal and Torres Strait Islander families or parents with dependencies.

On the same day, in my ministerial statement on the Vardon report implementation strategy, I announced that the government would release progress reports every six months on the implementation of the agreed recommendations of the report. We have embarked on a far-reaching and complex task, and we are meeting our responsibilities. Working with the community sector, we are committed to delivering a quality protection system for children and young people in care in the ACT. This commitment is consistent with the strategies expressed in the Canberra plan, the social plan, the children's plan and the young people's plan.

Today, I can report encouraging progress in the implementation of both the Vardon and the Murray reports. The initial actions we have taken reflect the partnership approach between the government and non-government sectors that underpins the child protection reform process. To deliver meaningful reform, we established a dedicated Office for Children, Youth and Family Support, with an operational budget of $59.5 million in 2005. Moreover, the office is now under the umbrella of the Department of Disability, Housing and Community Services—a step that will further strengthen partnerships between government and non-government human services organisations.

Ms Lou Denley, an experienced leader in child protection reform in South Australia, has commenced in the position of Executive Director in the Office for Children, Youth and Family Support. A new office structure that aligns functions and client groups has been established. It includes an Aboriginal and Torres Strait Islander unit, as well as an early intervention and prevention group.

Mr Speaker, we have been able to recruit, and more significantly perhaps retain, more child protection workers, with staff numbers increasing from 51 in April 2004 to 88 in January 2005. There is a caveat to this, however, which I will explain shortly. In September 2004, I launched a revised care and protection manual and a further revision of the manual will be released later this month. There has also been continuing legislative reform with the review of the Children and Young People Act.

Consultation has occurred with children, young people and the community to inform the role and functions of the ACT Commissioner for Children and Young People. The *Emerging themes* report, on the outcomes of the consultation with children and young people, will be released in March this year. A MOU has been implemented between the office and ACT Health to formalise their partnership as direct service providers for children and young people at risk or in care.

Last month the Institute for Child Protection Studies was established as a partnership between the office and the Australian Catholic University to promote best practice in the care and protection of children and young people in the ACT. Most importantly, on 5 July last year the Community Advocate informed members of the previous Assembly that there was compliance with section 162 (2) of the Children and Young People Act. This section requires the chief executive to provide the Community Advocate with a copy of all child protection reports concerning each child or young person in the care of the territory.

It was the territory's lack of action about providing these child protection reports that initiated the Vardon review into child protection. Workloads have increased substantially and impacted on some responsibilities, such as the timely presentation of section 267 reports, or annual anniversary review reports about children and young people in care.

Mr Speaker, the annual anniversary review process is extremely involved. The section 267 reports represent a history for each child or young person of their year in care. It is a comprehensive assessment of their circumstances—circumstances which are often complex and involve the relationship between the individual, the family and the care arrangements. The office is working hard to ensure that all section 267 reports are completed on time. In the meantime, the office is putting into place new arrangements that will improve quality assurance and will be accompanied by future changes of contractual arrangements with out-of-home care providers.

Mr Speaker, we are also operating in a period of increased activity and greater complexity in the case management of children, young people and their families. This is evident from the increased number of child protection reports and numbers of children and young people who are subject to a report. The number of child protection workers has grown from 46 at the time I initiated the Vardon review to the present number of 88,

with around 30 new overseas recruited workers expected to arrive between March and July this year. Increasing demand for services is also impacting upon the capacity of non-government service providers, foster carers and kinship carers to provide out-of-home care for children and young people.

In response to these resourcing priorities, the government has tabled Appropriation Bill (No 2), which seeks to appropriate an estimated $6.2 million in the current year towards child protection reform, and continuing into the forward years. Those priorities are to further build service capacity by investing in the child protection work force and to invest in the business systems critical to direct service delivery. This funding is in addition to the $6 million made to the operational budget of the office in 2004-05 for child protection reform. The remainder of that funding is committed to the next six months.

Mr Speaker, in implementing the recommendations of the Vardon and Murray reports, we have a number of immediate priorities. These include the introduction of an amending bill arising from the review of the Children and Young People Act 1999, as well as a bill to establish the Commissioner for Children and Young People. Contracts are also being renegotiated with the out-of-home care sector, as these community-based agencies are critical in providing children and young people in care with supportive home environments.

Recruitment of foster carers and their training, as well as support for kinship carers, are among a raft of other priorities we are working diligently to deliver. I assure members we will continue the collaborative approach to child protection reform. This will involve the continuation of the Vardon report implementation steering committee and the active participation of non-government and government representatives on reference groups.

This collaborative approach certainly demonstrated its strength through the bushfire recovery task force and the disability reform program. I will provide the Assembly with a further progress report on the implementation of the Vardon and Murray reports in 2005. It is a very important accountability measure, informing members and the community about actions taken and challenges ahead.

Mr Speaker, it is important to reiterate the point I made earlier about the complexity of the challenges we face. There are certainly no quick fixes or simple solutions. We are, however, looking at best practice models and drawing on evidence-based policy and practice to establish a solid foundation for future reform.

The government would like to put on the record again its gratitude and admiration of the people who work with children and young people at risk in our city. It is a role that is extremely demanding and constant. Our thanks also to the child protection workers—the frontline workers from the Office for Children, Youth and Family Support—for their continued commitment in caring for and protecting children and young people, and supporting their families.

W also acknowledge foster carers, kinship carers, child protection workers from Barnardos, Marymead, Galilee, Richmond Fellowship and Life Without Barriers. They are supported in their work by the Foster Care Association of the ACT, the CREATE Foundation and the Youth Coalition of the ACT. I know I am speaking for every

member of this Assembly in recognising the personal and collective commitment by all of those individuals and organisations to children and young people.

Mr Speaker, I commend to the Assembly the first six-month status report on the implementation of the Vardon and Murray reports. I move:

> That the Assembly takes note of the papers.

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

Papers

Mr Hargreaves, on behalf of **Mr Corbell**, presented the following paper:

> Financial Management Act, pursuant to section 30A—Quarterly departmental performance report—December quarter 2004-2005—Arts, Heritage and Environment Portfolio within Urban Services.

Organ donor awareness week
Discussion of matter of public importance

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

> The need to recognise the important role Australian Organ Donor Awareness Week plays in promoting organ and tissue donations and encouraging Canberrans to become organ donors.

MS MacDONALD (Brindabella) (3.49): Mr Speaker, in 2004 organ donor rates across Australia increased by 21 per cent, with more than five million Australians now being registered donors. Proudly, the ACT leads the way with the highest donor rate in the country. While this increase is fantastic, still only about one quarter of the Australian population are registered donors, making ours one of the lowest donor rates in the developed world. But our transplant waiting lists are continuing to grow. As at January 2005, there were 1,663 Australians on the organ donor transplant waiting list. These people are playing the waiting game and, sadly, about 20 per cent will die before receiving their life-saving transplant.

The need to raise awareness and educate the community on becoming an organ donor is great as many more lives could be saved or improved if more were to become organ and tissue donors. While nobody likes to discuss death, it is important to talk about organ donation with our friends and family so that they know our intentions, should anything happen. Australian Organ Donor Awareness Week gives us all the opportunity to think about what becoming an organ donor means and discuss this with family and friends. Organised by the Organ Donation Network, the theme of this year's Organ Donor Awareness Week is "Organ donors save lives" and it will be held nationally from 18 to 25 February.

Organ Donor Week is a reminder of our capacity to help others. It tries to alert every single Australian to his or her ability to give life itself. In fact, one organ donor can save or improve the lives of up to 10 other people. While we would wish that no one be cut down in the prime of their life, sadly it does happen. But I would hope that the loss of life could lead to saving others. With only about a quarter of all Australians on the national organ donation register, the challenge for organ donor week is to encourage the remaining three-quarters of the population to register to become a donor.

In 2003, there were 619 successful transplants from 179 donors, but 140 people on the waiting list died. In 2004, there were 782 successful transplants from 218 donors. With the average waiting time for a heart transplant being two years and for a liver, four years, about a quarter of the people on heart and liver waiting lists die before they receive a donation. Sadly, three people in Australia die every week waiting for an organ transplant. While Australia's organ donation rate rose from 9.4 donors per million people in 2003 to 11 donors per million people in 2004, compared with the donation rates of 13 in the UK, 22 in America and 34 in Spain, we still have one of the lowest rates in the developed world. We have one of the world's best transplant records, but one of the world's worst donation records. That is what organ donation week aims to change.

Although more than five million Australians are registered as donors, the number of successful transplants performed each year is low. Unfortunately, not everyone who is a registered donor will be able to donate their organs when they die. Organs need a continued circulation of blood to keep working and when someone experiences a cardiac death, the blood stops flowing, damaging the organs and making them unfit for transplant. When a person experiences brain death, the heart keeps the blood flowing with the support of a machine so the organs are not damaged and are fit for donation.

Every year, about 1,300 Australians are potential organ donors because they die on life support in hospital. At least half the suitable cases are not on organ donation registers and in about half the cases where emergency department staff ask for permission, relatives say no. It is not surprising that hard-pressed emergency staff do not ask and that grieving relatives do not agree. But it means that we need a change of culture to give more meaningful hope to the hundreds of Australians currently on organ donation lists whose lives hang in the balance. This matter of public importance is about getting people to actually plan ahead so that, if they do have an accident and end up in hospital, it is not left to their relatives to make that hard decision; it has already been made.

Organ donor awareness week helps to educate our community about what being an organ donor actually means and what happens in the event an organ donor dies while on life support in hospital. There are a number of myths surrounding organ donation, but all are completely unfounded. The removal of organs and tissues is treated like any other surgical operation and is performed by highly skilled surgeons. The donor's body is treated with respect and dignity at all times and is in no way altered physically. However, organ transplantation is a life-changing event for all involved. The donor's family and friends are coming to terms with the death of a loved one, while recognising that through their death they have given life to several donor recipients. There are many support services available for a donor's family, including the donor family branch of Transplant Australia, which provides information on social events and activities and professional support and assistance.

Australians have been receiving life-giving organ transplants such as heart, lung, liver, kidney and pancreas, as well as tissue transplants, including corneas—eye tissue—heart valve, skin and bone tissue since 1965. In fact, every year, the sight of more than 500 people is restored due to corneal transplants. To date, more than 30,000 men, women and children have received life-saving or life-enhancing transplants. I urge everyone to discuss organ donation with their friends and family. It is a very personal decision, but one that should be thought about seriously and discussed openly.

I thought it would be fitting to end today with two short extracts, one from an organ donor's family and one from an organ recipient's family. The first is an extract from Michelle's story, as told by her sister Marnie on the organ donation network website.

> My sister Michelle was beautiful and so full of life that I know she would have wanted to donate her organs to enable others to experience just a small amount of what she loved so much. Although it was a difficult time for us as a family, we knew that we would support her wish to become a donor.
>
> Michelle was an experienced skydiver who had made almost 400 jumps, but everything changed when she was caught in a crosswind whilst trying to land. She was taken to the hospital where tests showed the extent of her injuries and she passed away as a result. Michelle was 33 years old.
>
> I believe her becoming an organ donor helped me with the grieving process because it keeps her spirit alive. When I tell people about her donation, it inspires them. Everyone who can should register as a donor and make sure their family knows their wishes. As I say to my friends, if you would accept an organ to save your life, you should be prepared to donate one.

The second is an extract from Sophie's story, as told by her mother:

> After an enjoyable and uneventful pregnancy, I gave birth to our little princess Sophie Victoria in August 2001. At six weeks of age they discovered she had a condition known as biliary atresia, where the bile ducts become blocked, leading to cirrhosis of the liver and, ultimately, death. She was officially listed for transplant at the age of five months.
>
> What followed was six months of pain and uncertainty, watching helplessly as our little angel became sicker by the day. During this time she was admitted to hospital 17 times. As the months crept by and as she came closer to her first birthday, our family started to panic as we had been told she was unlikely to live past her first year.
>
> Finally, just weeks short of her first birthday, our prayers were answered. Her transplant operation lasted nine hours, after which she spent four days in ICU. From that day on our lives have been a whirlwind as Sophie went from strength to strength. After just three weeks in total in hospital, she was allowed to go home. Now life couldn't be better. Sophie has gone from a cranky and sick little girl who never smiled and couldn't even roll over to a happy, vibrant, cheeky toddler who refuses to walk when she can run. She's absolutely bursting with life and energy to the point that strangers are often floored to discover her past when they meet her.

> Every day we thank God for the miraculous second chance at life our princess has been given. Not a day goes by where we don't think about her donor family and silently thank them for their most wonderful, selfless gift. What better gift could there ever be than the gift of life?

These are just two families, from the hundreds across Australia, whose lives have been changed forever by organ donation. Both demonstrate how significant the simple act of registering as an organ and tissue donor is. I urge everyone in the community to support Australian Organ Donor Awareness Week next week. It actually starts tomorrow. As I said at the commencement of my remarks, it is not a subject that many people want to talk about. Talking about death is taboo in our western society, but I think it is an important subject for us to raise in the community.

MR SMYTH (Brindabella—Leader of the Opposition) (3.59): I thank Ms MacDonald for putting this matter on the notice paper. I guess it is not just about supporting Australian Organ Donor Awareness Week; it is also actually about supporting the system by registering as an organ donor. I assume that Ms MacDonald, through her interest, is signed up as an organ donor. That is a great thing, because I certainly am. I have my card here. Assembly members, and those public servants who are no doubt listening in today, should dial 1800 777 203 to sign up.

It is actually about the action; it is not about supporting the week. I think we all support the week and we all support the notion, but more important is actually taking the step to go out and do it. A lot of us think we should but we never get around to it. That is a shame. Part of the problem also with the system at the moment is that under the old system you were given a nice little sticker that you put on the back of your drivers licence. It is a little D. It wears off and you can hardly read it. A lot of people actually think that that also indicates legal consent. I am told that it does not. It is an indication to medicos at the place where you might be taken after an accident or an illness that you would like to donate your organs, but it is not actually consent. So if you really are interested and you want to support the week, the best thing you can do is to dial that number and make sure you join up because you are actually then put on the register. You will sign a form that gives your legal consent for them to take your organs. That is the important thing.

The other important thing is to have the conversation with your family. It would be confronting enough to be faced with the death or possible death of a loved one or to have a loved one on a life support system with no hope of recovery without then having to have a discussion about whether or not your husband, brother, son, lover, mate or friend actually wanted to donate his or her organs. It is really important that you have that conversation. I have had the conversation with my wife, Robyn. I have said, "You can take the lot. I don't care. I won't need them." If I am going to go that way, it would be great to have the ability to spread some joy through something that will obviously be very sad. So the important thing is, firstly, sign up, folks. Secondly, make sure that your family, friends and loved ones know. I suspect that often the medical staff at a hospital, particularly in an emergency room, are not going to pressure a bereaved family to hand over the rights to vital organs. In most cases, at that stage it is beyond your ken or your ability to do it yourself, so it is really important that you have that discussion with your family.

Ms MacDonald mentioned situations where one person can bring hope and joy to five, six, seven or eight families. I see that Mr Temporary Deputy Speaker is holding up his donor card, and that is a fantastic thing. It would be good if, on this day next year, 17 members stood and held up their cards. This is not just about politicians talking; it is about politicians acting. The real power and message of this matter is that there is a challenge for all 17 of us. I say to my colleagues: get your licences out of your wallets and check that you have your card with you for next time. If we, as an Assembly, all 17 of us, assuming we are all capable of doing it, could actually stand together and say, "We've signed up; have you?" that would be a powerful incentive to the public to actually listen to what we say. Indeed, it is worth reminding members that a former member, Harold Hird, had an enormous role in setting up the Organ Donor Network in the ACT. I think Harold may still be either the patron or president here in the ACT. Again, that is the influence we can exert, either as current members or former members, in saying to our city, our society, our friends, our families, that this is really important.

I remember the old slogan they used to use: "Don't take your organs to heaven. God knows we need them here." How true is that? As medical technology has progressed and the skill of our surgeons has developed, there is an incredible ability to transplant many different organs. We should take every opportunity we can to extend life, to save life and to give new life to those who suffer. Of course, some people, for medical reasons, cannot donate. Perhaps their role is to encourage others to donate. They might not want my mechanical knee and perhaps they would not want Mr Stanhope's spleen, but most of us, individually or through our families, can give organs or encourage others to do so. I think that is a wonderful thing.

Awareness week is next week. Perhaps Ms MacDonald would like to take the opportunity to distribute forms to all of us. Perhaps at the end of the week we will get a press release from her saying that all 17 members of the ACT Assembly have signed. Then, when Assembly members have all signed up, we can start working on the staff. There are far more staff here than there are members and there are a lot of valuable organs floating around this building. Heaven forbid that any of us die early or die young, but unfortunately it does happen and we have an opportunity to give something precious to another family. It is leadership by example. So, well done, Ms MacDonald. We look forward to seeing the outcomes of Australian Organ Donor Awareness Week over the coming week.

DR FOSKEY (Molonglo) (4.05): I am happy to support Ms MacDonald and Mr Smyth in seeking to promote the importance of Australian Organ Donor Awareness Week. I am sure there are quite a few healthy organs in this Assembly. Certainly some of the vocal organs are very healthy, anyway.

As we have heard, Australian Organ Donor Awareness Week begins tomorrow. There will be a range of events in Canberra to promote the message that organ donors save lives. The last organ donor week prompted almost 13,000 enquiries to the donor register and 4,945 online registrations. I believe that this was a record response and can only hope that the coming week will have the same or even greater success in encouraging people to think about whether organ donation is right for them. So, clearly, having a special week raises public awareness enormously.

There are some interesting statistics that I have come across which provide an important backdrop to the decision. Last year, during the marketing of Australian Organ Donor Awareness Week, Joanna Gash told us that people are 20 times more likely to need an organ themselves than they are to donate one. More than 60,000 Australians have received transplants in the last 60 years. While over 90 per cent of Australians support organ donation in principle, only 54 per cent of people who suffer brain death become donors. This is largely because the families who must make the decision to donate are not aware of the potential donor's wishes and are, of course, reluctant to make such a decision without this knowledge. The message here, as Mr Smyth emphasised, is to tell your family if you are happy for your organs to be donated. However, only one per cent of deaths occur in circumstances where organ donations can be considered. But then, as has already been mentioned, one donor can help save, potentially, up to nine lives. Unfortunately, almost 2,000 Australians are currently waiting for an organ or tissue donation and some will die before a suitable donor becomes available. In 2003, 140 people died while waiting for an organ transplant.

While these issues are important ones for people to consider when making their decision, I have a couple of concerns worth putting on the record. First of all, it is vital to recognise that each person makes these decisions in a particular cultural and personal context. Australia is a multicultural community and all members of our community must be confident that their cultural, ethical, spiritual and religious views are respected. No pressure should be brought to bear on individuals or their families to agree to organ donation; nor should financial inducements be offered. Any donation should be seen as an act of giving by the departing person and the feelings of the recently bereaved family are vitally important and must be acknowledged and respected. There may well be need for counselling.

My second concern is that it is absolutely essential that the transfer of organs remains within the "gift" economy. We are already seeing a growth in the international trade in organs. As with other such trafficking, as I mentioned yesterday in respect of the trafficking of girls and women, the trade in organs is based on unequal conditions, where poor people, either voluntarily or involuntarily, give up an organ because a wealthy person is prepared to pay for it. Too easily this leads to breaches of human rights. In China, there are accusations that, following execution, bodies of condemned prisoners are transferred to hospitals for the harvesting of organs.

In India it is well known that there is an underground market in organs involving organised crime gangs with wealthy visitors from other countries prepared to pay middlemen. There are stories of families unable to raise a dowry for their daughter being asked, "But hasn't your daughter got a spare kidney?" Most of us do not think of our second kidney as spare. In Brazil, the market for transplanted organs is fuelled by what is called "compensated gifting". We need to make sure that we do not take the path being considered by the American Medical Association of offering financial incentives to encourage people to bequeath their organs after death.

While endorsing the aims of this organ donor awareness week, I want to suggest that members envisage organ donation as a social exchange. We must take care that we do not allow organs to become a market commodity in this country, where the ability to buy organs becomes another market differentiating rich from poor. Extending the lives of one

class of people at the expense of another is not something that this Assembly would endorse, I am sure.

One of the great values of Australian Organ Donor Awareness Week is that it encourages people to give thought to the issues involved for them and their loved ones prior to any death which might give rise to the question of donation. If the decision about donation has already been made and registered, the family of a potential donor is relieved of the additional burden of making this decision at an often serious, stressful and difficult time. I urge all to use this week to think about this matter and to talk with their families and loved ones about their views.

MS PORTER (Ginninderra) (4.12): I rise in support of the matter raised by Ms MacDonald. I commend her for seeking to increase the level of awareness of the importance of promoting organ and tissue donations during Australian Organ Donation Awareness Week and I urge all who can to consider becoming organ and tissue donors. It is indeed sad that, if organ donor rates are not increased, one person in every five on the waiting list will die while awaiting a transplant. The average waiting time to receive a transplant is now three to five years. However, this depends on factors such as the nature of the illness, blood group and weight, and obviously not every donor organ is suitable to be transplanted into every recipient.

The average age of a person waiting for a transplant is 43. However, of those waiting for a liver, 15 per cent are under the age of 20. The only way we are able to reduce this waiting list is to dramatically increase the number of donors registered. Whilst over 90 per cent of all Australians say they support the principle of organ and tissue donation, as we have heard, not everybody is actually enthusiastic enough to come to the party and actually register. In 2004, six ACT residents became organ donors. In the period from January to October 2004, two ACT residents received kidney transplants and about 20 other transplantations resulted from these donations.

The quality of life of those agonisingly awaiting a transplant is invariably poor, as is that of their families. As they wait they have the realisation that, with each passing day, the prospect of living a normal life is fading. Transplantation is able to overcome a wide range of threatening and debilitating illnesses, such as heart, kidney and liver disease, diabetes, cystic fibrosis, loss of sight and leukaemia. If the number of donors available for the program were to increase, then obviously the waiting times would be reduced, the quality of life for the recipients and their families immeasurably enhanced and the numbers who die waiting for transplants would also be lower, if not eliminated entirely.

Sadly, as speakers before me have mentioned, even though some potential donors have made the decision to make their organs available and recorded their intentions on the Australian Organ Donor Register, they fail to advise their families. The main reason for families refusing to allow the donation to proceed is that they were unaware of their relative's decision. So, as has been mentioned before, it is vital that a decision to donate be discussed with the family and the intention of the donor made clear. Almost half the families of all registered donors declined to allow the transplant to occur.

The major reason given is that they were unaware of the donor's intention, as it had never been discussed with them. This results in the donor's wishes not being carried out and a potential recipient being denied the opportunity of receiving the lifesaving

transplant. Clinical guidelines are now being developed to ensure that the register is routinely consulted. These measures will help to increase Australia's organ and tissue donation and transplantation rates.

The organs and tissues of one donor have the potential to save up to 10 lives, giving the donor's family the opportunity to give the gift of life to many others. I have a personal story to relate to the Assembly about organ transplant. I am a personal friend of a person who was diagnosed with terminal heart disease a number of years ago. The only prospect this person had of living more than a couple of years was a heart transplant. Following the diagnosis and assessment as being suitable for a heart transplant, the person was flown to Sydney on emergency charter flights on two occasions to be prepared for transplant surgery, only to be told that the donor heart was not suitable and another person was to receive it. As you can imagine, the stress on the patient and their family was immense, as was the letdown when the transplant did not go ahead. On the third occasion, the transplant was successfully performed and for a number of years now the person has been living a relatively normal and productive life. Had it not been for the transplanted heart, this person would no longer be alive.

Transplants began in Australia in 1941 when the first corneal transplants were performed, resulting in the restoration of sight. The first successful kidney transplants took place in 1965. It is now, of course, also possible for donors to provide their organs while they are still living—hopefully not actually having them removed for payment! The largest number of people awaiting organ transplants at any time is those requiring kidneys. Over 30 per cent of kidney transplants carried out in Australia now are as a result of donations from families and friends. Since the initial procedure, some 30,000 people have had their quality of life enhanced and prolonged because of a decision made by one of their fellow Australians to become a transplant donor.

In such a complex matter, as Ms MacDonald has already alluded to, there are, of course, a number of misconceptions surrounding organ and tissue donations. It is important for potential donors to know that their organs and tissues will only be used for transplant purposes and will not be used for research. Research may only be undertaken with explicit written permission of the donor. Age is less of a factor than the donor's health. Organs have been successfully transplanted from donors aged up to 90. Children as young as 12 may register, although their parents or guardian must also give their consent.

I ask all Canberrans to use the opportunity that organ donor awareness week presents to us to think about the benefits that becoming a registered donor would bring to those in our community whose only prospect for a full and healthy life is to be the recipient of a transplant. Take time this week to discuss this with all your family members and, most importantly, once a decision to become a donor has been made, make your decision known immediately to your family. To those whose family members have been considering the decision to become a donor, please ensure their wishes are respected in death and provide the opportunity for the members of another family to receive the gift of life that these organs and tissues, once donated, may bring.

Finally, I would like to acknowledge the ACT organ donation coordinators and the staff of the ACT hospital for their dedication, commitment and professionalism in the work they undertake. I also wish to acknowledge the ACT Organ Donation Awareness Foundation and many others in the community for their support.

MR TEMPORARY DEPUTY SPEAKER: The discussion is concluded.

Order of the day—postponement

Ordered that order of the day No 3, executive business, be postponed until a later hour.

Justice and Community Safety Legislation Amendment Bill 2004 (No 2)

Debate resumed from 9 December 2004, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra) (4.20): The opposition will be supporting the Justice and Community Safety Legislation Amendment Bill 2004 (No 2) and the government amendments to it. I thank departmental officers, as well as Mr Stanhope's staff, for the briefing that I had some time ago.

As is common with these sorts of bills, the bill makes a number of technical amendments, a number of amendments suggested by departments and some other fairly minor amendments. For example, going through the bill, there is a typo in respect of the Agents Act. This bill will allow banks 10 days to get interest to the territory, rather than one. That is quite important, even though it is just correcting a typo. There are some other amendments, for example, to the Bail Act in relation to a reference to a single judge. I always worry when people try to amend the Bail Act. I think they might try to weaken it, but that is not the case here. It is simply a reference to a single judge designed to ensure commonality between what occurs in the Supreme Court and the Magistrates Court. Again, it is a minor amendment.

The law society has proposed a number of amendments to the Civil Law (Wrongs) Act that have been accepted by the government. The government has forewarned me of a further proposed amendment to clause 51(3)(b) of the bill to substitute "instruct" for "consult", relating to when a claimant first goes to a lawyer. The crucial time, then, is not so much consulting but instructing, because things flow from that. It is the formal giving of instructions that actually starts the clock ticking and that is the date from which the normal six-year period will apply.

There is a good amendment suggested by the law society that ensures that a client does not have to pay twice for filing. Again, that is something that is obviously good for the consumer. There is a fairly minor amendment to the Confiscation of Criminal Assets Act to bring it into line with the Crimes Act and the Legislation Act. "Indictment" can be read as "information" and vice versa. That is important in terms of prosecutions. I am happy to see an amendment to clause 16 of the Confiscation of Criminal Assets Act. Currently, the police have to prove that the property is tainted. They have to elicit enough evidence to say that the property is tainted, rather than what is more normal, that is, that they suspect it is tainted. For the police to get to the stage where they can bring someone before a court, the word "suspect" makes it far better for police operations, obviously far better for the community and brings the legislation into line with similar standards elsewhere in the criminal law. So it is quite a sensible amendment.

There is a procedural amendment to the Drugs of Dependence Act to make it more user friendly. Effectively, there will be one list, rather than two. That is a very good thing, too. There are some amendments to the Legislation Act, basically to ensure a more efficient operation of the act, and an amendment in relation to fine and penalty to bring it into line with what it should have been to start with.

The DPP also now will be able to have reference appeals from the Magistrates Court. A reference appeal is basically on a point of law. It does not affect the verdict, but if a court gets a point of law completely wrong and establishes a bad precedent, at present the prosecution can appeal to the Court of Appeal in the Supreme Court and ask for a reference appeal on a point of law. There was one case not long ago where a defendant got off by trial direction because the police warrant was incorrect. Actually, the defendant tried to kill the police officer by shooting him when he entered his home, but because of that technicality, the charge of attempted murder was taken away by the judge. The court of appeal, the Federal Court, then said, "No, the judge got it wrong." It did not affect the acquittal, which I think is a pity. However, the point was made and basically the precedent was established, so something as silly as that will not happen again. It is not going to be used very often. At the moment an appeal can be taken from the Supreme Court, but not the Magistrates Court, so that might be of some assistance

A decision on a reference appeal does not invalidate or affect any verdict or decision given at the trial. During the last Assembly, I introduced a bill, which I think lapsed, which we may bring back. That was a bill to enable the Crown, where a judge makes an absolute stuff-up and misdirects the jury or takes the trial away from the jury or, on some spurious point, actually directs the acquittal of an accused, to go to the Court of Appeal and seek a retrial. Now, that has nothing to do with the double jeopardy principle. It is where proceedings simply go off on a tangent and lead to a wrongful acquittal. It can be picked up by a superior court saying, "No, go away. Have a fresh trial." That cannot happen at present and certainly will not happen as a result of this bill. Still, the reference appeal from the Magistrates Court to the Supreme Court will be of some use, although I do not expect we would see it often.

The security industry has requested some amendments to the Security Industry Act that have been accepted. One point that the Scrutiny of Bills Committee did review was smoking in public places. There was a double penalty that could be imposed here, and I think that is very unfair. It has been picked up, which is good. There are penalties already for people, certainly for establishments, who allow people to smoke or do not police it properly and certain things flow from that, ranging from warnings to fines, through to the cancellation of licence. The legislation, unfortunately, also imposed a double penalty in terms of an automatic cancellation of licence, which is a draconian penalty on top of an existing range of penalties at the higher end of the scale. This would mean that any establishment where someone was actually smoking, even if it snuck in under the radar of the establishment, would not only face the normal penalties, which might not be very much in the instance I give, but also an automatic cancellation as well. Quite clearly, that is not desirable; it not fair. It is not in the interests of justice. This amendment ensures that there is not a double penalty and there is no automatic cancellation of licence. Rather, the normal penalty scales will apply. So, all in all, the bill is worthy of support. The opposition supports the bill.

DR FOSKEY (Molonglo) (4.28): I do not want to say very much. The purpose of the Justice and Community Safety Legislation Amendment Bill 2004 (No 2) is to correct errors, remove uncertainty and to make some minor legislative and technical changes. The Greens have examined the legislation. We have not discovered anything that would lead to us to have any concerns; nor have we been advised of any community concerns about the proposed changes. So we will be supporting the legislation.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for Environment and Minister for Arts, Heritage and Indigenous Affairs) (4.29), in reply: This Justice and Community Safety Legislation Amendment Bill (No 2) is the eleventh bill in a series of bills dealing with legislation within the justice and community safety portfolio. As the shadow attorney has indicated, the bill makes a number of minor and technical amendments to portfolio legislation. The bill amends the Agents Act, the Bail Act, the Civil Law (Wrongs) Act, the Confiscation of Criminal Assets Act, the Drugs of Dependence Act, the Legislation Act, the Magistrates Court Act, the Security Industry Act and regulations in the Smoking (Prohibition in Enclosed Public Places) Act 2003.

In response to the Scrutiny of Bills Committee's comments concerning the amendment to the Smoking (Prohibition in Enclosed Public Places) Act, I wish to clarify that the amendment in clause 41 prevents the automatic cancellation of a liquor licence by the court in circumstances where the cancellation may not be proportionate to the severity of the offence. For example, the court may be required to find a licensee guilty on the facts before it, but the automatic cancellation of the liquor licence may not be proportionate to the severity of the offence. In these circumstances, the licensee should not be denied natural justice in terms of stating their case against cancellation before the Liquor Licensing Board.

The board may, for example, issue enforceable directions to the licensee that may better serve the public interest and I thank the Scrutiny of Bills Committee for its comments on clause 41. In addition, I foreshadow that I will be moving five government amendments to this bill. These are consequential amendments to the amendments to the Drugs of Dependence Act and are just references to the Drugs of Dependence Regulations, the Periodic Detention Act, the Road Transport (Alcohol and Drugs) Act, the Smoke-free Areas (Enclosed Public Places) Act and the Tobacco Act.

There is also a government amendment to the provisions amending the Civil Law (Wrongs) Act 2002 that corrects a drafting error in the bill. The bill was meant to change the time period for claimants to give a written notice of a claim for damages to a respondent, making it one month from when a claimant instructs, rather than consults, a lawyer to act on their behalf. This amendment prevents claimants from inadvertently setting off the time period by receiving informal advice on their claim. The government has responded to representations from the law society in making that amendment. I thank members for their contribution to the debate and for supporting these minor and technical amendments.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1 agreed to.

Clause 2.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for Environment and Minister for Arts, Heritage and Indigenous Affairs) (4.31): I move amendment No 1 circulated in my name and table a supplementary explanatory statement to the amendments *[see schedule 1 at page 632]*.

This clause amends the commencement clause of the bill to commence Part 6, 8A, 8B, 10A, and 12 on the same day as the Criminal Code (Serious Drug Offences) Amendment Act 2004 commences.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clauses 3 to 9, by leave, taken together and agreed to.

Clause 10.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for Environment and Minister for Arts, Heritage and Indigenous Affairs) (4.32): I move amendment No 2 circulated in my name *[see schedule 1 at page 632]*.

Mr Speaker, this amendment omits the subparagraph and substitutes a new subparagraph relating to the issue I raised in relation to the Civil Law (Wrongs) Act to provide that the time period runs from when the claimant first instructs a lawyer to provide advice about seeking damages for personal injury to a physician when they first consult.

Amendment agreed to.

Clause 10, as amended, agreed to.

Clauses 11 to 34, by leave, taken together and agreed to.

Remainder of bill, by leave, taken as a whole.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for Environment and Minister for Arts, Heritage and Indigenous Affairs) (4.34): I seek leave to move amendments Nos 3, 4 and 5 circulated in my name together.

Leave granted.

MR STANHOPE: I move amendments Nos 3, 4 and 5 circulated in my name *[see schedule 1 at page 632]*.

Amendments 3, 4 and 5 are consequential amendments complementing the amendment to the Drugs of Dependence Act 1989, part 6 of the bill. These amendments were identified during the development of regulations for the Criminal Code (Serious Drug Offences) Amendment Act 2004 as need be made. These amendments amend references to the Drugs of Dependence Regulations 1993 and the Periodic Detention Act, the Road Transport (Alcohol and Drugs) Act, the Smoke-free Areas (Enclosed Public Places) Act and the Tobacco Act to now refer to a controlled drug in the Criminal Code.

Amendments agreed to.

Remainder of bill, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

Smoking (Prohibition in Enclosed Public Places) Amendment Bill 2004

Debate resumed from 9 December 2004, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR SMYTH (Brindabella—Leader of the Opposition) (4.36): Mr Speaker, this bill follows on from the decision taken by the Assembly last year to establish 1 December 2006 as the point for the removal of exemptions for smoking in enclosed places in the ACT. The bill clarifies the definition of "enclosed space" and closes a loophole that may have allowed people to avoid the law in this regard. It also places an obligation on occupiers to ensure that reasonable steps are taken to prevent smoke penetrating non-smoking areas of the premises.

The interesting thing will then be that the regulations that follow on from this bill—and the government in its presentation speech said that it will immediately put in place regulations that will allow the bill to be operable—will be just as important because they establish the definition of what is an enclosed space in terms of 25 per cent of it being open. Mr Speaker, there is some concern in the community about this regulation and the 75:25 per cent rule. Some say it is too little; some say it is too much; some say we are moving too fast; others are saying that we are moving too slowly.

In this regard, the opposition will be supporting the bill. We believe that we need to move forward together, that we need to move forward with certainty and that, as businesses and organisations—clubs, et cetera—change their way of operating, they do have the opportunity to gain the benefit of having made changes and not being put to undue expenditure. That being said, it will still need to be monitored to make sure that it works and that organisations are not rorting the new regulations to avoid the need to protect their staff and their patrons.

Mr Speaker, while it is in some ways an area of serious discussion out in the community, what is put in place here is quite simple and the opposition, like I said, will be supporting

it. What we will do, however, is monitor the effectiveness of the changes and we will be monitoring the way about which the government goes in ensuring that the new legislation, when it is passed, is adhered to. We are certainly aware of discussions that are going on around the country; we are certainly aware of the interest in this legislation of many groups. But at this stage we believe that it is a reasonable path forward.

We will support the bill and will certainly monitor the progress of the act when it comes into being; in particular, the effectiveness of the regulations when they are put in place.

DR FOSKEY (Molonglo) (4.39): The key issue in this debate is almost irrelevant to the legislation. The case has been made fairly clearly that the definition of a public space where it would be acceptable for cigarette smoking to be permitted is better defined more tightly than the present legislation allows. The government has been using a guideline until now to indicate what an unenclosed public space would be. The intent of the legislation, however, was to be able to enforce smoke-free areas and, for those reasons, to be able to define in legal terms such a place.

The government plans to define an unenclosed public space by regulation. While regulations are disallowable in the Assembly, it is facile and deceptive to argue that such a process is as rigorous or as transparent as a bill or a schedule to a bill. As I argued in debating the Government Procurement Bill, there are consequences to this tendency to invest wide-ranging powers in regulation without the level of scrutiny that comes with bills advanced in the Assembly; that, in practice, regulation-making powers, while vested in the minister, rest in fact more with the public servants than does the introduction of bills; that the lines of control and responsibility between ministers and public servants are blurred; and that the democratic mechanisms in the territory are not as robust as we might hope, particularly in situations where ministers are not particularly vigorous in their pursuit of policy or in oversight of their agencies, of course understanding that the ministers in this Assembly are particularly burdened with a number of ministries and therefore unable perhaps to give such vigorous oversight as they might wish.

Of course, it is particularly offensive to introduce a bill, the effect of which hinges entirely on a regulation, without presenting the regulation as a schedule to the act. The debate over this bill is not so urgent that it cannot wait for the matching regulation. I fear that we are slipping quickly down the slope of truth in the Assembly with disregard, if not contempt. I am not sure if this approach is being driven by the officers of the department or by the government itself but, either way, it is unnecessary and in the long term damaging. Ministers in this place need to take a more principled approach.

The real issue underlying this debate on smoking in public places is the understood but invisible definition of an unenclosed public place. I do not want to spend long in this debate talking about the health impacts of passive cigarette smoking; they are well known. Suffice it to say that there is an avalanche of evidence demonstrating links between environmental tobacco smoke and illness and disease; that the Assembly and the community are in accord in wanting to rule out environmental tobacco smoke in enclosed public spaces; and that, having made that shift, any decisions made by government to permit cigarette smoking in public places should be primarily guided by health imperatives rather than commercial imperatives.

It is extraordinary, then, that the government proposes a regulation that will define an unenclosed space as any space with just a quarter or more of its wall and ceiling surfaces open and can provide no scientific or health analysis to support that definition as safe or even a reasonably safe environment where people can smoke in the company of others, including workers and patrons.

One argument that has been put by government is that the regulation is based on the legal interpretation of words within the original legislation. I would have thought that, if the health interests of the Canberra community were paramount in government thinking, the intent of the original act would have been pursued rather than simply a legalistic analysis of the original drafting. The intent of the original bill and, I would have thought, this amendment was to ensure that smoking in public places only occurs in a safe and open environment.

I would like to draw members' attention to a regulatory impact statement prepared for the government by Allen Consulting Group to address the proposed changes to the act. The government has had this analysis before it since June last year. However, it was released only last week. It is available on the health department web site under "publications" and makes a very clear argument that a mostly enclosed space is particularly unhealthy and that it is only in completely or very largely open spaces where the health impact is minimised. To quote from page 26 of the report:

> The degree of enclosure is slight before there may be an ETS-related problem.

The regulatory impact statement also quotes extensively an analysis of comparative risk, taking the view that there are prima facie grounds for reducing public risk, placing the burden of proof on the person wishing to produce industry risk, and that public risk should be minimised as a first option. A recent Californian Air Resources Board report on environmental tobacco smoke makes it clear that you can have a very significant and harmful exposure in crowded outdoor spaces, the only difference being the smoke clears faster after smoking stops. And it has proposed to list this as toxic air contaminant.

All the evidence, then, would suggest that the 75 per cent rule does not minimise public risk. For the health department, nonetheless, to support such an approach is an extraordinary abrogation of responsibility.

Of course, we do need to recognise that there is a lot of pressure coming from clubs and hotels in the public smoking debate. The arguments coming from those businesses are that, somehow, anything that restricts tobacco smoking will be bad for the drinking and pokie business. I can recall the heated arguments about the introduction of smoke-free restaurants not so long ago. Now we are appalled when we enter a smoke-filled atmosphere in a restaurant and we regard that as the norm. It seems clear to me that the restaurant trade is now booming.

In regard to clubs and taverns, New York provides a case in point. In 2002, James McBratney, president of the Staten Island Restaurant and Tavern Association, was fiercely outspoken in his opposition to the elimination of smoking indoors in New York. A fortnight ago he was reported as admitting that he has seen no fall-off in business. He added that, not only did customers actually like it, so did he. The courage of this man in

coming out and saying that he was wrong should be commended, by the way. The Associated Press report in which he was quoted also referred to a review of New York city statistics and interviews with bar patrons that found that employment and activity in restaurants and bars had increased.

I would like also to alert members to a research paper on the economic impact of smoke-free legislation on sales turnover in restaurants and pubs in Tasmania, published towards the end of last year, which found no overall negative economic impact on clubs, pubs and restaurants from the introduction of smoke-free policies.

Much is made of Canberra's weather as opposed to Queensland's, for example, which has taken a more enlightened view towards keeping tobacco smoke away from food and drink indoors and out—something that I appreciated in my recent visit there—with the suggestion that Canberra needs to have mostly enclosed spaces for smoking due to its colder weather. It would seem that the evidence from New York and Tasmania contradicts that stance.

Finally, I would like to address the issues of poker machines. There is an article in the December edition of *Clubs Action*, which describes a domino effect of smoking bans, incorporating a graph showing Victorian gaming revenue falling. That article also included the comment that the ACT, in common with other states, had not thought sufficiently far ahead to define an unenclosed public space. The article went on to say that considerable interaction since then had seen them arrive at an agreement with government for a definition that the clubs can work and live with.

It seems clear to me that, if the clubs believe that they can work and live by the 75 per cent rule, then they are aiming to maintain their poker machine revenue under the new scheme. Whether that will involve poker machines in large rooms with 25.1 per cent open space walls or ceilings or verandas with transparent windows outside the gaming room, so that poker machine players can at least stay in eye contact with their machines, is not quite clear. The unchanging presumption that maintaining poker machine revenue is the right of every club remains.

On the other side of the fence, however, I would like to remind the Assembly that problem gambling services have long advocated for entirely smoke-free gaming rooms. Most people who suffer from problem gambling do the damage on poker machines, and there are very many of those people who are addicted to pokies and who are also addicted to cigarettes. Those smokers are known to smoke even more intensively when on their machines.

Furthermore, people who really have a problem playing pokies are often entirely surprised by the passage of time. A key harm minimisation strategy with problem gambling is to ensure regular breaks away from the machines, which gives people a moment to consider their actions and offers an opportunity for people to go home or get on with the rest of their lives. Who knows, they might even go over and buy a drink.

If, through the strict imposition of smoke-free gaming places which required players to lose touch with their machines when they were smoking, we lessen the destructive impact of problem gambling and limit their consumption of cigarettes, surely that would be a good thing. I do not believe that this government should accept the argument that a

reduction in gaming revenue is in itself a bad thing if that reduction also reflected less problem gambling and less consumption of tobacco. This would make it a very good thing.

I will be supporting the passage of this bill because at least it will clarify the position. I look forward to seeing the regulation that defines an unenclosed place when government sees fit to bring it forward. I challenge the government and its agencies to provide the public with the scientific health information that underpins its policy decision.

MR QUINLAN (Molonglo—Treasurer and Minister for Economic Development) (4.51), in reply: I thank the opposition for their support and I thank the Greens for their support. I will not make too many comments overall.

Let me just say in responding to the pokie regime, for the benefit of Dr Foskey, I think it is reasonably well recognised that the ACT has the best code of practice in Australia in relation to poker machines. We have been through a process of doing that in concert with the industry and we will continue to work with the industry. We will not become totally autocratic in relation to the industry in regard to smoking.

Australia is recognised as probably one of the leading nations in terms of the prohibitions on smoking. The ACT has previously led the states and territories on smoking prohibitions introduced by a previous Labor government years ago and we will continue to move with the times. At the same time, we do not intend to be totally prohibitive overnight. All we want to do is to protect the public from smoking. At this point in time, we have not entered into the process of totally protecting individuals from themselves. I am certain that one day smoking, effectively, unless you are in your own bubble at home, will be banned anyway. But that will be a matter of progress, just like the changes that have taken place so far.

In terms of setting regulations—and regulations being bad and legislation being good—I don't quite follow the logic of that and how somehow a regulation that has to be signed by a minister confers far more power on administrators than does the compilation of legislation. We do not actually write all the legislation ourselves; we do have the administration writing it, advising us and compiling it. The process of regulation means that you have a workable piece of legislation that can be adapted from time to time and probably will be.

The regulations are generally disallowable instruments and will come before the parliament. This government happens to have a majority, so it is highly probable that, if we write a regulation, it will actually get through the parliament. But that is going to be the case with any government with a majority. So I fail to see that logic at all.

Dr Foskey says that it is not urgent, but I have to say that there is a certain degree of urgency involved in this. There are businesses, particularly clubs, that are now taking a quite significant hit under the poker machine code of practice and legislation that I mentioned earlier, particularly in relation to note acceptors. Poker machine takings are down. Clubs do not have a god-given right to unlimited poker machine revenue in perpetuity but, on the other hand, I think they do have a right not to be wiped out overnight. The experience with smoking has been that there is a dip in gaming machine

takings for a period and then, in the main, there is a bounce and the poker machine playing returns pretty well to normal.

As I have said, we have strong legislation and a code of practice in place. It will continue to remain under review, but at this stage the government has not moved to the point of banning smoking outright. Therefore, we do need to accommodate those enterprises that actually want to provide for smokers. It is urgent in as much as it is probably our own fault. We do have quite complex planning regimes, which are criticised for delaying from time to time, but they are generally regimes that most Canberrans want in place—consultation processes, review processes and challenge processes that most of the residents want. They do lay governments open to criticism from time to time because they do cause delay. Nevertheless, there are clubs and other enterprises that do want to get on with providing for the particular structures and they do need legislation in place and they do need the regulations.

Up in the gallery we have officers from the department of health who are, I am sure, working flat out and making sure that the regulations will come forward to this place as soon as is humanly possible, so that everybody knows where we stand and we can get on with effectively banning smoking within pubs and clubs, providing a giant step forward for public health, without being totally dictatorial over every individual. I thank the house for its support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Crimes Amendment Bill 2004 (No 4)

Debate resumed from 9 December 2004, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra) (4.58): Mr Speaker, as the Attorney-General said in his introductory speech, Australian criminal law requires that the test of criminal responsibility must involve an element of fault based on a sane mind. Likewise, our law presumes that an accused person is mentally fit to plead to a charge. Of course, there are two fundamental elements in proving a criminal offence: the physical element, namely, the result, conduct or circumstances caused by the act, for example, the death of a person; and the fault element of an offence, namely, the intention, the knowledge, recklessness or other attribute of the mind of the accused person.

Fitness to plead and mental health issues go back in criminal law to the 1840s—the McNaughton rule that first established whether someone basically was insane. If they did not have any idea of what they were doing, did not have the ability or the mens rea, as it was then called, to form a criminal intent whilst they had committed the crime, they could not be convicted of it. Usually, in that case, people were then detained at her

majesty's pleasure, which meant they were in those days locked up in an asylum until such time as perhaps they recovered or, if they did not recover, such time as the executive decided they should stay there.

Times certainly have changed. In the ACT we have had over the last 10 years a Mental Health Tribunal actually assessing persons' fitness to plead. Whilst I think the Mental Health Tribunal has obviously done a very good job in many areas, there is an elementary clash between the therapeutic responsibilities of the tribunal and the criminal justice responsibilities, the need for openness and the need to ensure that the various parties—people who are giving evidence—are able, for example, to simply be cross-examined, the normal, basic things which we see in our criminal justice system.

There has been a lot of angst in the ACT, too, from victims in relation to the current system having the potential for significant abuse—unwitting abuse but simply abuse. The King case, I think, was a case in point. Representatives of the family of the deceased spoke to me, spoke to the attorney and probably spoke to a number of people in this place. Indeed, there were some significant concerns raised there that every time the accused was due to go to court he basically got the wobblies and was assessed as perhaps not being able to continue because the thought of going to court induced some mental state in him.

I suppose that happens to lots of defendants going to court. Maybe that is not exactly enough to say that there are significant mental problems there. In cases like that, if a person's mental state was actually assessed in the way it was before 1994 and the way it should be now, I think that would be a far better thing for the administration of justice.

It is interesting that in the last decade we have had a significant increase in the number of persons suffering from mental illness, and that trend does not seem likely to go away. I think it is even all the more important that we balance everyone's rights—the rights of victims, the rights of society, the rights of an accused—to ensure as best we can that justice is done.

The opposition feels that justice is certainly best done by having the issue of fitness to plead to a criminal charge assessed by a court; so fundamentally what is proposed here by the Attorney-General, which I think brings us into line with every other jurisdiction in Australia, is a very sensible move.

Having indicated that, I must say that the route we find ourselves on here today is open to some significant and reasonable criticism. The bill was before the last Assembly. We found out in August—we were all set to debate it, or getting pretty close to debating it because it was brought on fairly quickly—that the mental health groups actually had received little, if any, consultation.

There was great consternation then as a result of that and certainly the opposition, the Greens, the Democrats and Mrs Cross then were very concerned to see that people were actually consulted. Accordingly, the government did not finalise it in August. I do not think, though, that we should have been in that situation. It would have been sensible if the consultation had actually occurred then.

I am aware that there has been consultation since then. I do not think everyone is happy—for example, one of the consumer groups contacted me and said they certainly would have appreciated some further education and some further consultation—but groups have been contacted in the six months from August to now. I would certainly expect that to have happened. It would have been a lot handier, however, if all that had been done beforehand. I commend to the government and impress upon them, even though they are now a majority government, that there is still that need for proper community consultation and thorough community consultation on such important issues.

That being said, what will this bill actually do? Until now, fitness to plead has been determined by advice to the court from the Mental Health Tribunal. The attorney has said that, just as culpability is tested by a court, he believes that fitness to plead also should be tested by a court. I agree. He went on to say that the evidence presented before the tribunal was not subject to cross-examination by the prosecution and the tribunal was not bound by the laws of evidence, as a court is bound.

The Mental Health Act did not require the prosecution or the defence to make representations to the tribunal when an accused person's mental fitness was tested, and expert witnesses before a tribunal were not subject to cross-examination, nor could the prosecution or defence call witnesses to testify on the issue of an accused person's fitness to plead.

I think it is absolutely essential that those persons should be able to give evidence, should be cross-examined; that the defence and prosecution should be able to call witnesses to testify on the issue of a person's fitness to plead; that they should be subject to rigorous cross-examination so that a competent tribunal, which will now be the court, will be able to assess whether they are fit to plead. Accordingly, I think this is very much a step forward there.

I think it is ludicrous that the prosecution really did not have a say and that the defence had its hands tied as well. Now all the relevant parties will be able to give evidence in court before a judge or a magistrate. They will be subject to rigorous cross-examination and the court will then decide at the appropriate level of proof. In this case it is not beyond reasonable doubt; it is on the balance of probabilities—it is a sensible standard of proof and I think the normal one applied everywhere else in Australia, which it has been for decades—whether a person is actually fit to plead. Obviously, if a person is not, the rules will apply from there. But if a person is, then the matter will proceed as a normal criminal matter. It has the necessary rigour; it has the necessary fairness; it has the necessary openness, too.

Regardless of the excellent job the Mental Health Tribunal did, the Mental Health Tribunal probably was not the appropriate body for these legal and criminal law essential issues—the essential issue of not only whether the offence was committed but also whether the person had the mental intention, including recklessness, to be held criminally liable for that offence.

Those things, for probably 150 years, have been decided by courts. The experiment, I suppose, over the last 10 years has indicated it is far more preferable if that still occurs because I think the community are very concerned about persons who use the excuse of

mental illness and who normally would be quite fit to plead getting off wrongfully because there was not enough rigour in the system. Justice is not done.

Having spoken to a number of victims, I know that it is so traumatic for a family, especially when the crimes are serious ones, to see someone, potentially, cleverly abusing the system. The potential, I think, was there far more in the way the system has been working for 10 years than it will be now that these matters will go back before a court.

Accordingly, the opposition is happy to support this bill. We are pleased to see it has actually come forward. I think lots of groups—both lawyers and victims—were very keen to see this occur. I think it will lead to basically a lot more fairness all round and, accordingly, we support it.

DR FOSKEY (Molonglo) (5.07): Earlier this week the government was notified of my concerns that the members of the community most affected by this legislation had not been properly consulted about its content and implication. To the government's credit, I understand that a range of meetings and information sharing has since taken place and that many in the mental health community now feel much better informed about the government's intentions and motivations. There is also, as I understand it, a greater acceptance that the proposed changes will provide some benefits over the present system.

At the same time, I remain concerned that this legislation only seeks to address the problems with our current system identified by the bureaucrats and lawyers and does nothing to address the issues within the current system that are of concern to the mental health community. Nor is it clear that the elements of the current system which are of benefit to people with mental dysfunction have been retained in the new arrangements. Hence we have before us today a piece of legislation which is second best.

Surely, if we are going to the trouble of creating a new process, we should be certain that the new process does not fix one set of problems by creating another. We should instead be taking the opportunity to implement the best possible system for the delivery of justice in the ACT for those before the courts with mental health issues and for the community as a whole.

I would like to take this opportunity to draw the government's attention to its own consultation protocol, which, if it had been implemented in this case, would probably have led to a better outcome in terms of best practice legislation. We have in the ACT a very informed and articulate mental health community, which, if properly engaged in the debate, would undoubtedly have suggested some useful improvements to the proposed legislative framework.

We know, for example, that there is another Australian model that provides some of the benefits of the court processes in terms of openness and accountability while at the same time changing the process from the usual adversarial court approach to one of inquiry. Perhaps a proper consultation process would have opened the way for some of the positive aspects of this model to be incorporated into ours.

If the government is, however, determined to push this legislation through, it needs to put some safeguards in place to make the process work better for people with mental health

issues. It must ensure that magistrates, judges and defence counsel are well trained to recognise and understand the complexities of mental dysfunction. It must ensure that people before the court have the resources to present a thorough case about their fitness to plead and it must also ensure that the privacy of the individuals before the court is not needlessly infringed and sensationalised in the media.

The first two matters can be addressed through procedural means but require considerable and ongoing commitment by government. It is not enough to set up the legislation and then leave people with mental dysfunction to negotiate the court system on their own, unless they happen to fulfil the stringent criteria for access to legal aid. Nor is it enough to request that mental health training occur for magistrates and judges. Rather, the government must make clear the importance it attaches to this occurring and it must allocate funding and expertise to carry it out.

Our final issue with privacy can reasonably be addressed by an amendment to the legislation and we will be seeking to do this when dealing with the detail of the bill.

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (5.12): The purpose of this bill is to ensure that the question of an accused person's mental fitness to plead in a criminal trial is dealt with by the courts.

The bill makes a number of important changes to the Crimes Act 1900 and the Mental Health (Treatment and Care) Act 1994 and minor amendments to the Magistrates Court Act 1930 and the Community Advocate Act 1991. These changes will enable the Supreme Court to decide by judge alone if a person accused of a crime is mentally fit to plead before the court. The judge will also determine whether or not the person will become fit to plead within 12 months. The Mental Health Tribunal will retain the task of reviewing the ongoing mental fitness of an accused person.

The bill also retains the current arrangements for special hearings of the court. An accused person who is not mentally fit to plead is entitled to have a special hearing of the court which examines the conduct of the accused person without determining the person's culpability.

In our criminal justice system there is a range of criminal offences that are tried in the Magistrates Court only. Trials of these offences are known as summary proceedings. There are also a number of serious offences, traditionally known as indictable offences, that can be tried in the Magistrates Court. This bill will enable the Magistrates Court to determine the question of fitness to plead in summary proceedings and proceedings for indictable offences that can be tried summarily.

If the Magistrates Court decides an accused person is mentally unfit to plead, it must also determine whether or not the person will become fit within 12 months. As a consequence of the Magistrates Court's new functions, the bill includes amendments to the Magistrates Court Act 1930 to allow for appeals to the Supreme Court.

The Magistrates Court has an important function in determining whether charges for indictable offences should be committed to the Supreme Court for trial. The bill ensures that in committal proceedings the Magistrates Court must reserve the question of fitness

to plead for the trial judge, in the event that the matter is committed for trial in the Supreme Court.

This bill re-establishes an important distinction between determining the mental fitness of a person facing a criminal trial and the issue of treating a mentally unfit person. Currently, our law requires the Mental Health Tribunal to address two very different tasks in relation to mental illness: to determine fitness to plead in a criminal trial, and to make orders for the involuntary treatment of people who have a mental impairment. The current means of determining the mental health of a person accused of a crime is inconsistent with the standards of a criminal trial.

This bill upholds the high standards of proof required for criminal trials, without altering any existing law or arrangements that provide for the treatment of people with a mental illness or dysfunction. The bill only intends to make this minor change and does not address the whole question of the definitions used in mental health law and criminal law and all major structural changes based on other jurisdictions, such as Queensland and South Australia, and other models. These questions will form part of the major work that is currently being done in the area of forensic mental health law and will require close consultation and community participation.

I look forward to further debate and discussion of future reforms, as does, of course, the Attorney-General. I also foreshadow that I will be introducing some government amendments which will provide for transitional provisions.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 6, by leave, taken together and agreed to.

Clause 7.

DR FOSKEY (Molonglo) (5.16): I move amendment No 1 circulated in my name. *[see schedule 2 at page 633]*.

I am moving this amendment because of privacy concerns raised with me by the mental health community. When the tribunal made decisions about fitness to plead, there was no need for the details of the defendant's life to be made public. With the decision to be made be the court, it is possible that the life experiences of the person before the court will be presented in such a way that, while relevant to the decision at hand, would be very prejudicial to them continuing to function in the community in the ordinary way to which anyone else is entitled. This may occur even though there is no public interest to be served by the rest of the world being privy to the information.

The amendment asks that this matter be given consideration by the court before hearing evidence and submissions, with a view to the court being closed in circumstances where there are privacy concerns. Nothing in this amendment prevents proper testing of evidence put before the court. It simply prevents the details of the defendant's life being

unnecessarily splattered across the media for its own purposes or talked about in situations where the person would not benefit.

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (5.17): The government will be supporting Dr Foskey's amendment and thanks her very much for it. This amendment requires a presiding judicial officer to consider closing the court while the defendant's mental fitness to plead is being considered. It is not an absolute direction to close the court. The hearings under the present system are heard in closed session before the Mental Health Tribunal. This amendment allows the court at its discretion to continue that practice. The government supports it.

MR STEFANIAK (Ginninderra) (5.18): I know that the amendment will go through, but I note firstly that it really is unnecessary in that courts have wide-ranging discretions to, if asked, close the court for a defendant's privacy, for a witness' privacy or for any other reason and to do any other number of things in what they think is in the interests of justice. I will tell you a little story about that later which shows just how complete that discretion is for a court. Remember that courts invariably will do their utmost to ensure that the rights of an accused are protected. In fact, in the ACT they probably bend over backwards and go a bit too far sometimes in doing that, but one can never accuse them of not having primary regard to doing the right thing and ensuring that the rights of any person accused are adequately looked after.

I have a slight concern with the word "must". I am concerned that a court will feel that, because of this provision in the legislation, whenever this is simply raised they must, having no regard for anything else, close the court. I note what the attorney said in his speech, which would indicate one of the main reasons we are actually passing this legislation today:

> Our system of government designates the judiciary as the institution that applies the law equally, impartially and openly.

"Openly" is very important. Also, when talking about the Mental Health Tribunal and why it is no longer the appropriate body, he said:

> Fitness to plead is determined by advice to the court from the Mental Health Tribunal. Just as culpability is tested by the court, I believe fitness to plead also should be tested by the court.
>
> Although there are mechanisms to enable the Mental Health Tribunal to hold open hearings, it is rare for the process to be open. Closed proceedings are the right process for people in need of treatment but the wrong process to determine an important procedural matter in a criminal trial, namely, fitness to plead.

He also said:

> I believe that most of our community has confidence in the impartiality of our magistrates and judges. The judiciary's impartiality is there for all to see because the trial process is open and the judiciary has demonstrated its strength to judge impartially.

So I think we have the ability already for a court to be closed, and that happens on quite a regular basis. By having a special clause now put in that the court must consider, I fear that that really does put pressure on a court to use that, over and above its normal discretion. I am sure and I have every confidence that a court will use it where the interests of the defendant, the defendant's privacy, when taken in balance against the interests of society and openness of the court, would indicate that on that occasion the court should be closed. So I do have some concerns. Let us see how it goes, but I would be much happier if that was "may".

I will now tell a little story about how sensible courts can be. I tell it simply because it was before Chief Magistrate Ron Cahill. The defence counsel was the now Chief Justice of the Supreme Court, one Terence Higgins, and I was the prosecutor. You might even recognise a couple of the main police witnesses, although I will not tell you who the defendant was, even though it was an open court, because the defendant is now dead but I think he still has family in Canberra and it is out of respect for them, in case anyone ever reported it. They probably would not want to be identified—

MR SPEAKER: This is all relevant, isn't it?

MR STEFANIAK: It is all relevant. Ron Cahill as magistrate exercised his discretion in rather extraordinary circumstances. Basically, the accused, in a committal—

Mr Hargreaves: We are not reflecting on the courts now, are we? We are not reflecting on the judiciary?

MR STEFANIAK: No, no, I am not. I am actually praising the judiciary—and you can do that. The accused took offence at something that then Detective Senior Sergeant Ric Ninness said in terms of his evidence. It was lucky that there were five police there because the accused was a big boy and he decided he was going to run through the police, over my back and try to throttle the good detective. Luckily, the police restrained him. He took great offence at what had been said and was carrying on a fair bit.

Both the Chief Magistrate and the learned counsel, one Terence Higgins, decided that the best thing for all would be if his client were down in the cells so we could conduct the committal. That was a fairly extraordinary step. You normally have the accused there for the full hearing. But the Chief Magistrate had a discretion, it was okay with counsel for the accused and the committal proceeded, with occasional roars from the cells, without the accused, who then calmed down and was brought back.

It is perhaps a bit of a funny story but I use it to show the extent—and correctly so—of the court's discretion to do a number of things that would not normally happen. A normal proceeding is all in open court and the defendant always stays there; courts are not normally closed. But courts do regularly get closed for various reasons. I just hark back and make the point that the courts will do this anyway. I just wonder whether we might be putting a bit of unnecessary pressure on them.

Another issue that has been raised with me relates to section 311 (1), which has been lifted from section 68 (3) of the Mental Health Tribunal Act. One of the practitioners I have spoken to who was experienced in this area said that, whilst there may be a better

way of doing it and it is okay at present, there may be some problems that crop up with that. I suppose it is a matter of watch this space and let us see how it goes. But, generally, apart from the problems I indicated earlier in terms of the consultation, this legislation is a very good step forward. Let us see how it all pans out.

Amendment agreed to.

Clause 7, as amended, agreed to.

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

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (5.25): I seek leave to move amendments Nos 1 to 3 together.

Leave granted.

MR HARGREAVES: I move amendments Nos 1 to 3 together *[see schedule 3 at page 634]*.

I want to be absolutely sure that everybody knows what we are doing in these amendments and that our intention is to omit clause 19. Government amendments 1, 2 and 3 are traditional amendments that will allow fitness to plead hearings that have been referred to the Mental Health Tribunal prior to the commencement of the bill to continue under the existing act's provisions. If, prior to the commencement of the bill, the Supreme Court or the Magistrates Court has made an order referring the matter to the Mental Health Tribunal and the tribunal has not made a final determination about a person's fitness to plead, then existing part 8 continues to apply.

A transitional amendment is also necessary to ensure that a decision made by the Mental Health Tribunal that a person is unfit to plead will be deemed to be a decision of the Magistrates Court to allow the Mental Health Tribunal to review that decision under new section 68 of the act. Under the proposed new act, the review functions of the tribunal under existing section 69A are preserved and the provision is renumbered section 68 as a consequence.

Amendments agreed to.

Remainder of bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Adjournment

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

> That the Assembly do now adjourn.

Expenditure estimates

MR SMYTH (Brindabella—Leader of the Opposition) (5.27): I noted today that the Treasurer, in his speech when introducing the second appropriation bill, said, adopting some bizarre twisted logic, that it proved that the additional expenditure that the Liberals had promised during the lead-up to the election was unaffordable. I fail to see how that works, given that the government have promised an additional swag of expenditure roughly equivalent to what we were promising.

I was also most interested to read in the December 2004 quarterly management report that the government has amended the estimate for the quantum of revenue expected to be raised in the financial year 2004-05. Rather than $2.592 billion, the government now estimates that $2.707 billion will be raised during this year, which is an increase of around $116 million. The revision is significant for two reasons. First, it shows how imprecise is the art of estimating the financial aggregates. There are so many variables that coming up with reasonable estimates in some situations can be quite difficult.

The Treasurer said in this place on Tuesday that a change of $100 million—I think he said it quite lightly, and I am surprised—in a budget of nearly $3 billion is largely insignificant. I am sure the voters do not think $100 million is insignificant. Of course, that does not excuse the ridiculous estimate that was included by the government in the 2004-05 ACT budget for changes in the value of the territory's superannuation assets. For this government, this Treasurer, to suggest that the value of these assets would only increase by $61 million over 2004-05 was absolutely absurd, and, as the latest quarterly management report shows, the value of the superannuation asset has increased by more than $60 million already in the first half of the year.

The second reason why the revision to the revenue estimates is significant is that, as I have said, it accords precisely with the statements made by the Liberal Party in the lead-up to the 2004 ACT election. I am sure members will recall that the Liberal Party released a most detailed document prior to the election which costed all the commitments we made during the campaign and set out how we would fund those commitments. Indeed, amongst the funding information was a comprehensive analysis of how the Liberal Party assessed the prospects for additional unanticipated revenue to be generated for the ACT.

I remind members that in undertaking this analysis we were extremely conservative in our costing paper. We estimated additional unanticipated revenue for 2004-05, that is this year, at $20 million, for 2005-06 at $85 million, for 2006-07 at $85.2 million and for 2007-08 at $92.75 million. Were we conservative? I believe we were extremely conservative with our estimates, although I believe that is the prudent course to adopt.

We estimated an additional $20 million for the whole year and yet this government is already factoring in an increase of $116 million for the whole of this year. So, as far as I am concerned, the evidence from the latest management report simply confirms the validity of our approach to costing our policy commitments.

There is, however, perhaps a more sinister aspect in this matter. Some members may also recall that during last year's election campaign the ACT Treasurer, Mr Quinlan, accused

the Liberal Party of what were described in news reports attributed to the Treasurer as fraudulent policy costings. I am absolutely confident about the veracity of our costing analysis, I consider it most inappropriate for the Treasurer to have used the word "fraud" in this context, and we propose to pursue this issue at a later date. It is sufficient for me at this time to reiterate that the latest quarterly management report has confirmed the basis of a key element of the Liberal Party's election campaign strategy. Our approach has been vindicated and for that I thank the Treasurer for his support for our position in a document released under his name.

Breast cancer awareness

MS PORTER (Ginninderra) (5.32): I would like to draw the attention of the Assembly to the importance of breast cancer awareness. I, along with Mr Smyth, the Leader of the Opposition, and Dr Foskey, attended a breakfast this morning to receive a report on breast cancer awareness.

Each year 11,000 women in Australia are diagnosed with breast cancer, with 2,500 deaths, according to the information we were provided with this morning. These are very unsettling statistics, I think you would all agree. I would assume this means that each of us in this room has been affected in some way by knowing someone—a friend or a family member—who has breast cancer. In fact, at the breakfast it was pointed out to us that at each table probably one member would be at some time affected in some way and perhaps suffer breast cancer.

This disease is not yet well understood and, even though much research has been undertaken and still goes on, the risk factors of family history, smoking, alcohol consumption, lack of exercise and proper diet, plus other factors regarding hormonal influences and breast density, have been identified. However, regular breast checks and awareness of the risk factors are extremely important.

Whilst research goes on in Australia and, of course, worldwide and treatment options have improved and promise to continue to improve on the back of that research, it is the responsibility of all of us to ensure that women are supported to take appropriate steps. Regular breast self-examination and appropriate screening can save many lives and prevent the enormous stress and uncertainty that this illness can place on the individual woman in question and her family and friends. I call on all members to recognise the importance of breast cancer awareness.

Animal cruelty—penalties

MR STEFANIAK (Ginninderra) (5.34): I want to clarify some incorrect statements I heard the Chief Minister make about my animal cruelty bill. He said that the penalties for animal cruelty would be higher than the penalties for assaults and acts of cruelty on humans. Under the Crimes Act there is a range of penalties for violent acts against humans. For example, murder brings a sentence of life imprisonment, which probably means, effectively, a non-parole period of 14 years or so. However, the sentence is life imprisonment. The maximum sentence for manslaughter is 20 years. Intentionally inflicting grievous bodily harm brings 15 years and recklessly inflicting grievous bodily harm brings 10 years.

Someone who intentionally wounds another faces five years and for inflicting actual bodily harm the sentence is five years, as it is for assault occasioning actual bodily harm. Remember, assault occasioning actual bodily harm can be something as simple as punching someone. Basically it means drawing blood, like a split lip. For common assault—which can be anything from a push to a slap across the face, something that does not draw blood—the maximum sentence is two years. There is one summary common assault offence that the police wanted brought in for six months. That is something akin to the old fight in a public place, a very minor type of assault.

At present the animal penalties stand at one year. The bill I brought in will raise some of them to five years. It will increase the fine and increase some other penalties to two years. For the more serious offences it will increase the sentence from one year to five years. That is hardly more than acts of cruelty to people.

Mr Hargreaves: Excuse me, Mr Stefaniak, I want a ruling on this for my own education. Is this anticipating debate on a bill before the house and therefore is it okay?

MR STEFANIAK: Not really.

Mr Hargreaves: I am sorry, I am not trying to cut you down.

MR STEFANIAK: No, I know. I am trying to make sure it does not.

MR SPEAKER: There is always some latitude in the adjournment debate, Mr Hargreaves, but at the same time Mr Stefaniak should not enter into debate about a matter that is before the house.

MR STEFANIAK: I am not going to go into detail to do that. I wanted to correct something the Chief Minister said in the media. Therefore, I think you can see quite clearly that a maximum penalty of five years is at the lower end of the scale compared to penalties under the Crimes Act for offences against the person. I reiterate something I said yesterday. I notice the government suggested a penalty of two years, so I am more than happy to amend my five years to two years, and I will send members details of that later. But I put on the record the fact that the Chief Minister was quite wrong in saying that the penalties proposed would be higher than penalties for acts of cruelty against humans. The sections of the Crimes Act I have read out bear that out.

Bushfires—fuel reduction

DR FOSKEY (Molonglo) (5.37): This afternoon I want to address the issue of fuel reduction, which has seen the removal of large quantities of native vegetation from behind the houses of Canberra residents who live on the edge of nature parks and reserves. While fuel reduction has been carried out to protect our urban fringe from fire, it has occurred in a way that has distressed many community members. In many cases it has damaged their sense of connection with nature and removed the reason they purchased their home in that location in the first place. A number of these people undertook quite intensive management of those areas, removing rubbish, fallen branches and bark from them, and keeping them reasonably well mowed. So it could be argued that they did not present a fire hazard at all.

It is now incumbent upon the government to assist those residents to recreate the urban amenity that they first chose—not by allowing fuel loads to build up again but by identifying fire retardant plants that may be planted and grown on the urban fringe. A number of native species, some of which are native to this area, serve the function of stopping fire. Most of our eucalypts are by their nature very incendiary but a number of evergreen trees, such as the blackwood and some of the acacias, at least resist fire. We would like to see the government provide real support for the revegetation of these areas by providing, or at least giving advice about, the appropriate plants and gardening, and giving residents a role to play in caring for subsequent plantings.

It appears the government is suggesting that this very large fringe that circles our urban areas is meant to remain largely shrub and tree free into infinity. Therefore, the government has taken on the responsibility of regularly mowing these areas. We are all aware of residents' complaints in earlier times about existing urban areas not being mowed and the danger of grassfires they feel this poses to their amenity. With these new fuel reduction zones, we do not believe the government will be able to carry out the quantity of mowing needed with the regularity many residents will reasonably require.

It is unreasonable to say that residents of these areas should be satisfied to have weeds and trees where once they had abundant trees and shrubs. Trees provide other amenities. They have a cooling effect. They operate as windbreaks and they provide habitats for birds, which a lot of people really appreciate. If someone buys or builds a house on the edge of a nature park, it is reasonable to assume they chose to do that in the full knowledge that they would need to be prepared to be fire alert and fire ready and that they might be involved in the management of that nature park and other areas close to them. I am concerned that this approach was taken in such a wholesale way by government.

Masculinity

MR SESELJA (Molonglo) (5.42): Yesterday in this place Dr Foskey, referring to my inaugural speech, claimed that by talking of a crisis in masculinity I was implying that this was the result of women's games. I challenge Dr Foskey to point out to me the parts of my speech from which such an implication may be drawn. No doubt she will be unable to do so. Unfortunately, this is typical of the radical left agenda which Dr Foskey and the Greens are associated with. Never let the facts get in the way of a good rant. Many identifiable problems are particular to young men, such as a high youth suicide rate and falling levels of education. To state this does not suggest that there are not significant issues that affect women, nor does it suggest that women are somehow to blame.

There are many reasons for the crisis of masculinity to which I referred. If Dr Foskey had bothered to talk to me about it, she may have discovered that I believe that one of the primary reasons for the crisis in masculinity is the failure by many men to take responsibility for their children. Therefore, Dr Foskey's claim is completely false. Dr Foskey also stated that traditional masculine and feminine roles are no longer appropriate. Whether Dr Foskey likes it or not, men and women are different. Recently the head of Harvard received significant criticism for daring to suggest that there may be

biological reasons for differing levels of achievement between men and women in science.

Mr Hargreaves: He also apologised.

MR SESELJA: He was forced to apologise, unfortunately. These kinds of hysterics in response to reasonable statements stifle debate in our society, and Dr Foskey's claims in relation to my inaugural speech are just another example of this. Science is quickly catching up to common sense on the issue of gender differences.

Dr Foskey also claims that having a minister for men would be divisive. I just want to follow the logic of that. A minister for women who is responsible for addressing issues particular to women is a good thing, but a minister for men charged with addressing issues that particularly affect men is divisive. I do not quite understand the logic in that argument. The issues I raised in my inaugural speech are real. Dr Foskey may wish to downplay them, but issues such as the shocking levels of male youth suicide and falling educational standards of boys are significant and need to be addressed. I will continue to advocate for government action in these areas.

Bullying at schools

MRS DUNNE (Ginninderra) (5.44): I had hoped to speak today in the matter of public importance debate about the increasingly serious problems with bullying in ACT schools. On occasions I have brought to the attention of the Assembly the problem of bullying of teachers by other teachers, and I am becoming increasingly aware of the problem of teachers being bullied by students. I am personally acquainted with a youngish teacher who is on extended Comcare-approved leave after incidents of bullying by students at a Canberra high school.

Today I want to draw to the Assembly's attention the increasing incidence of unacceptable bullying. This is not low-level bullying; this is systematic bullying that appears to be occurring in a number of schools. It is important to bring this to the attention of the Assembly.

During the annual reports hearings a week or so ago we discussed with officials from the Department of Education and Training what they were doing to address the issues of bullying that were occurring. They said they had signed up to a national framework. I asked, "Is everyone signed up to the national framework?" They said, "Yes, Mrs Dunne, everyone has signed up to the national framework." I asked, "Are there any instances of bullying? Can I be guaranteed that everyone has signed up and therefore there are no instances of bullying and bullying is not a problem in ACT schools?" They said, "Bullying is not a problem in ACT schools; everything is fine in the garden."

Because I raised this issue, I have been inundated with problems relating to bullying. I will not name any people or schools, but I received the following comments:

> I recently took my daughter out of the high school where she completed Year 7 last year. During the year she had a knife pulled on her, was attacked with rocks and verbally harassed constantly. She had things thrown at her in class and could not ever go to the toilets as they were places where drugs and cigarettes were sold. There were often fights.

It goes on at some length. Further comments were:

> I am aware of at least one year 7 girl who was taken out of school permanently. She is an extremely bright girl but is now under medical treatment for severe depression and suicidal desires.
>
> I am a single parent and cannot afford to send my child to a private school yet now I cannot afford not to.

The parent has said that she had eventually decided to take her child out of school. This is what she says is the result of that:

> Since I told my daughter that she was leaving this school she has been a different child. The sullen depressed teen has gone to be replaced with the bubbly, happy girl I knew before. She is no longer singing and writing songs about death. My daughter is safe now.

This is endemic across a range of schools. At one school I know of four separate unrelated and major incidents of bullying which have not been satisfactorily addressed by teachers and the school, including a stabbing where a child in year 3 took a screwdriver to school and held it to the throat of another year 3 student. When a year 5 student intervened and broke up this potentially life-threatening situation he was stabbed in the leg. His younger sister was later threatened that both she and her older brother would be done in by the child. This child was put on a one-day internal suspension. This is probably the most alarming comment. This is from a separate, different primary school:

> Last Wednesday [this was in term 4 last year] my daughter was attacked. My daughter was walking with a friend at lunch …

They inadvertently walked through a group of boys who harassed them and chased them. Both girls ran to the toilets thinking that they would be safe but one of the boys went into the toilets and bashed both of them. I will read a description of the injuries because I think it is worth knowing. This girl was taken to see a doctor that night. The parents did not find out until 5.00 pm that something had happened at 11.00 am. She has a swollen and badly bruised vagina where the boy kicked her. She was also kicked in the stomach and legs and has bruises all over those. They have now been photographed and referred to a solicitor.

This is not the sanguine picture that was painted by officials of the Department of Education and Training in the annual report hearings last week. The minister knows about all of these cases I have read out and many others. Nothing seems to be done. It is time the minister did something about it.

Question resolved in the affirmative.

The Assembly adjourned at 5.50 pm until Tuesday, 8 March 2005, at 10.30 am.

Schedules of amendments

Schedule 1

Justice and Community Safety Legislation Amendment Bill 2004 (No 2)

Amendments moved by the Attorney-General

1
Clause 2
Page 2, line 5—

omit the clause, substitute

2 Commencement

(1) The following provisions commence on the commencement of the *Criminal Code (Serious Drug Offences) Amendment Act 2004*:

- part 6 (Drugs of Dependence Act 1989)
- part 8A (Periodic Detention Act 1995)
- part 8B (Road Transport (Alcohol and Drugs) Act 1977)
- part 10A (Smoke-free Areas (Enclosed Public Places) Act 1994)
- part 12 (Tobacco Act 1927).

(2) The remaining provisions commence on the day after this Act's notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

(3) To remove any doubt, the Legislation Act, section 79A (Commencement of amendment of uncommenced law) does not apply to the amendment made by part 11.

2
Clause 10
Proposed new section 51 (3) (b) (i)
Page 6, line 8—

omit the subparagraph, substitute

(i) the day the claimant first instructs a lawyer to provide advice about seeking damages for the personal injury;

3
Proposed new parts 8A and 8B
Page 15, line 15—

insert

Part 8A Periodic Detention Act 1995

34A Legislation amended—pt 8A

This part amends the *Periodic Detention Act 1995.*

34B Meaning of *drug*
Section 12, definition of *drug*, paragraph (b)

substitute

(b) a controlled drug within the meaning of the Criminal Code, chapter 6 (Serious drug offences).

Part 8B Road Transport (Alcohol and Drugs) Act 1977

34C Legislation amended—pt 8B

This part amends the *Road Transport (Alcohol and Drugs) Act 1977*.

34D Dictionary, definition of *drug*, paragraph (b)

substitute

(b) a controlled drug within the meaning of the Criminal Code, chapter 6 (Serious drug offences); or

4
Proposed new part 10A
Page 18, line 18—

insert

Part 10A Smoke-free Areas (Enclosed Public Places) Act 1994

39A Legislation amended—pt 10A

This part amends the *Smoke-free Areas (Enclosed Public Places) Act 1994*.

39B Definitions for Act
Section 2, definition of *drug*

substitute

drug means a controlled drug within the meaning of the Criminal Code, chapter 6 (Serious drug offences).

5
Proposed new part 12
Page 19, line 10—

insert

Part 12 Tobacco Act 1927

42 Legislation amended—pt 12

This part amends the *Tobacco Act 1927*.

43 Dictionary, definition of *drug*

substitute

drug means a controlled drug within the meaning of the Criminal Code, chapter 6 (Serious drug offences).

Schedule 2

Crimes Amendment Bill 2004 (No 4)

Amendment moved by Dr Foskey

1
Clause 7
Proposed new section 315A (1A)
Page 7, line 16—

insert

(1A) Before hearing any evidence or submissions, the court must consider whether, for the protection of the defendant's privacy, the court should be closed to the public while all or part of the evidence or submissions are heard.

Schedule 3

Crimes Amendment Bill 2004 (No 4)

Amendments moved by the Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services)

1
Clause 16
Page 12, line 4—

omit

Appeals to which div 11.2 applies

substitute

Appeals to which div 3.10.2 applies

2
Clause 19
Page 13, line 4—

[oppose the clause]

3
New clause 28
Page 17, line 7—

insert

28 New part 14

insert

Part 14 Transitional

148 Application of amendments made by Crimes Amendment Act 2005

(1) This section applies if, before the commencement of the *Crimes Amendment Act 2005 (*the ***amending Act)***—

(a) the Supreme Court or Magistrates Court makes an order under the Crimes Act, part 13 requiring a person to submit to the jurisdiction of the tribunal to enable the tribunal to determine whether or not the person is fit to plead to a charge; and

(b) the tribunal has not made a final determination about the person's fitness to plead.

(2) Part 8, as in force immediately before the commencement of the amending Act, continues to apply in relation to the matter until the tribunal makes its final determination about the person's fitness to plead.

(3) After the tribunal makes its final determination about the persons' fitness to plead, the Crimes Act, part 13 applies in relation to the matter as if the question of the person's fitness to plead had been decided by the court.

(4) For the application of this Act, section 68 as amended by the amending Act, a determination by the tribunal that a person is unfit to plead in relation to a charge (whether the determination is made before or after the commencement of the amending Act), is taken to be a decision of the Magistrates Court under the Crimes Act, section 315D (7) that the person is unfit to plead in relation to the charge.

(5) In this section:

final determination about a person's fitness to plead means—

(a) a determination under section 68 that the person is unfit to plead and is unlikely to become fit within 12 months; or

(b) a determination under section 68, or on a review under section 69, that the person is fit to plead; or

(c) if the tribunal first determines under section 68 that the person is unfit to plead but is likely to become fit within 12 months after the determination is made—a determination under section 69 after the end of the 12□month period that the person is unfit to plead.

149 Expiry of pt 14

(1) This part expires 3 months after the day it commences.

(2) This part is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

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Answers to questions

Public service—senior executive service (Question No 1)

Mr Smyth asked the Chief Minister, upon notice, on 7 December 2004:

(1) What was the total number of senior executive service (SES) officers employed in the A.C.T. Public Service at the end of the (a) 2003-04, (b) 2002-03 and (c) 2001-02 financial years and (d) to date this financial year;

(2) What was the figure, broken down by each Government agency, for the years above;

(3) How many (a) males and (b) females held an SES position in the years above.

Mr Quinlan: The answer to the member's question is as follows:

Information about staffing numbers in the ACT Public Service, including Executive employment at 30 June each year, is provided in the Commissioner for Public Administration's annual State of the Service Report. A significant amount of the material sort by the Member is readily available in the Reports but I have presented the following tables for completeness and to aid in fully understanding the material.

(1) The total number of Executive officers employed in the ACT Public Service:

At 10 Dec 2004	20 June 2004	30 June 2003	30 June 2002
142	139	127	110

(2) Number of Executives by agency#:

Government Agency	10 Dec 2004	30 June 2004	30 June 2003	30 June 2002
Chief Minister's Department	21	22	22	15
Office of Children, Youth & Family Support	-	4	-	-
Department of Treasury	15	19	19	12
InTACT	-	-	-	3
Department of Education & Training	15	17	16	14
Department of Justice & Community Safety	17	20	17	15
Director of Public Prosecutions	3	3	2	-
Department of Urban Services	13	16	21	26
ACT Health – Department of Health	20	19	13	7
The Canberra Hospital	-	-	6	7
Department of Disability, Housing & Community Services	16	11	9	-

ACT Community Care	-	-	-	4
Land Development Agency	3	2	-	-
Planning & Land Authority	5	4	-	-
Emergency Services Authority	7	-	-	-
Department of Economic Development	5	-	-	-
Auditor General's Office	2	2	2	2
Government Business Enterprises	-	-	-	4
Canberra Institute of Technology	-	-	-	1

Table reflects changes to administrative arrangements and reporting methodologies, in particular:

The Office of Children, Youth and Family Support now incorporated with the Department of Disability, Housing and Community Services.
InTACT now shown with Department of Treasury.
The Canberra Hospital has been incorporated with ACT Health.
ACT Community Care has been incorporated with ACT Health.
Government Business Enterprises includes a number of Executives now shown in the Department of Treasury and Department of Economic Development.
Canberra Institute of Technology now included as part of Department of Education and Training

(3) Males and females holding an Executive position for financial years (a) 2003-04, (b) 2002-03 and (c) 2001-02 and (d) to date this financial year:

	At 10 Dec 2004	**2003-04**	**2002-03**	**2001-02**
Males	92	91	84	74
Females	50	48	43	36

Crime—domestic violence (Question No 5)

Mrs Burke asked the Attorney-General, upon notice, on 7 December 2004:

(1) What is the current process in regard to lodging domestic violence claims for (a) men and (b) women;

(2) Do children have power to defend their own essential interests in regard to being removed from Domestic Violence Protection Orders; if so, (a) what is the process and (b) who acts for the child, excluding third party representation by the Family Court; if not, why is this not possible.

Mr Stanhope: The answer to the member's question is as follows:

(1) An aggrieved person (man or woman), or a police officer may apply for a Domestic Violence Protection Order. If the aggrieved person is under a legal disability they may

apply for an order by next friend. However, a child may apply for a Domestic Violence Protection Order in the child's own right even thought the child is a person with a legal disability.

Commencement of a claim occurs when an aggrieved person (man or woman), or a police officer on behalf of the aggrieved person fills out an application form in the Magistrates Court. On receiving an application for a protection order, the registrar must enter the application into the record of the court and set a date for the application to be returned before the court.

(2) A Domestic Violence Protection Order may be revoked if the Magistrates Court is satisfied that the order is no longer necessary for the protection of the person it protects; or the applicant for the original order applies for a revocation.

The legislation does give children the power, with the leave of the court, to amend or revoke an order either as a party to the order or as someone with sufficient interest in the proceedings. Legal representation is available to a child through agencies such as the Office of the Community Advocate or Legal Aid.

Aborigines and Torres Strait Islanders—shared responsibility (Question No 6)

Mrs Burke asked the Minister for Arts, Heritage and Indigenous Affairs, upon notice, on 7 December 2004:

(1) What work has been undertaken by the A.C.T. Government as part of 'Shared Responsibility Agreement' to boost indigenous wellbeing;

(2) What evidence does the Government have to show that the work undertaken so far has in fact improved indigenous wellbeing.

Mr Quinlan: The answer to the member's question is as follows:

(1) The Shared Responsibility Agreement signifies the commitment of the Partners to the Agreement to explore a range of measures aimed at tackling Indigenous disadvantage.

The Key priorities identified include:

a) Social, spiritual, physical and emotional well-being;
b) Culture and learning; and
c) Capacity building for all.

As a starting point, and in response to issue raised during the initial consultation process, the Partners are working to identify and develop culturally appropriate strategies aimed to:

a) Assist people to address trauma, regain confidence, build self-esteem and strengthen cultural identity;
b) Address the deleterious effects of substance abuse;
c) Address the many factors contributing to the over representation of Indigenous people in the criminal justice system; and
d) Address the many factors contributing to the disparity between the educational outcomes of Indigenous people (particularly children and youth), with those of the wider society.

(2) Under the framework of the ACT COAG trial, a Community Leaders Workshop held last year was the first time in the ACT that representatives from all Indigenous focused organisations came together as a group to identify key outcomes and priorities for action. This approach led to broad community interest and participation at the workshop and a high level of ownership of the process.

The process has produced a clear statement of priorities and desired outcomes that has, and will continue to assist government in directing existing and new funding. The 2004-05 ACT Budget funded a new community controlled Justice Centre and provided funds for a feasibility study into establishing an indigenous Healing farm, both priorities identified through the Trial.

The ACT Government and the Australian Government now meet on a regular basis with the Chair of the Indigenous Working Group to monitor developments on the outcomes identified in the *Shared Responsibility Agreement*. This has improved communication between the two levels of government and the community.

Children—consulting fees (Question No 7)

Mrs Burke asked the Minister for Children, Youth and Family Support, upon notice, on 7 December 2004:

(1) How many companies were paid consulting fees out of the $55 519.36 allocated to consultants to develop the A.C.T. Children's Plan;

(2) Was there a tender process or were expressions of interest sought from suitable consultants in relation to the development of the A.C.T. Children's Plan;

(3) If so, (a) what did the tender process consist of, (b) how many organisations tendered for the work and (c) who were the companies that tendered.

Ms Gallagher: The answer to the member's question is as follows:

(1) Two

(2) Single select tender process

(3) a) both consultants were tendered for using a single select tender process due to the specialised nature of the consultancy work, their specific experience and expertise in the style of consultation work and their ability to meet the tight time frames required.
b) two
c) the companies engaged as consultants were: Morgan Disney & Associates (community consultation) and the Centre for Equity and Innovation, University of Melbourne (specialised project to engage young children).

Finance—capital expenditure (Question No 13)

Mr Mulcahy asked the Treasurer, upon notice, on 7 December 2004:

(1) In relation to capital expenditure (a) directly from annual A.C.T. budgets and (b) by public sector authorities and corporations, what has been the amount of expenditure on capital items in (i) 2000-01, (ii) 2001-02, (iii) 2002-03 and (iv) 2003-04;

(2) What is the expected amount of capital expenditure in 2004-05;

(3) What is total capital expenditure as a proportion of Gross State Product in (a) 2000-01, (b) 2001-02, (c) 2002-03, (d) 2003-04 and (e) 2004-05;

(4) How much was spent on (a) maintenance of existing and (b) new infrastructure in (i) 2000-01, (ii) 2001-02, (iii) 2002-03 and (iv) 2003-04;

(5) How much is expected to be spent on (a) maintenance of existing and (b) new infrastructure in 2004-05;

(6) How much was or will be spent on (a) roads, (b) cycle paths, (c) bridges, (d) water reticulation system, (e) stormwater systems, (f) sewerage system, (g) public lighting, (h) gas reticulation system and (i) electricity distribution system in (i) 2000-01, (ii) 2001-02, (iii) 2002-03, (iv) 2003-04 and (v) 2004-05.

Mr Quinlan: The answer to the member's question is as follows:

(1) The following amounts were spent on capital expenditure:

	2000-01 $m	**2001-02 $m**	**2002-03 $m**	**2003-04 $m**
Agencies (other than PTE or TOC)	114.9	148.1	131.4	172.8
Territory Owned Corporations and PTEs	81.1	54.4	78.3	135.8
Total	**196.0**	**202.5**	**209.7**	**308.6**

(2) The expected amount of capital expenditure in 2004-05 is available in the financial statements forming part of the 2004-05 Budget Papers, as well as the Pre-Election Budget Update tabled in the Legislative Assembly during September 2004. These publications are available on the Department of Treasury website;

(3) Total capital expenditure as a proportion of Gross State Product was:

	2000-01	**2001-02**	**2002-03**	**2003-04**	**2004-05 (forecast)**
Total Capital Expenditure as a proportion of GSP	**1.5%**	**1.5%**	**1.4%**	**1.9%**	**2.5%**

(4) In relation to maintenance of existing infrastructure these details are available in the Whole of Government Consolidated Financial Statements as published by the Department of Treasury. Repairs and maintenance expenditure can be found in the break-up of administration costs.

In relation to the creation of new infrastructure it is my opinion that unreasonable resources would need to be devoted in order to provide a split between new infrastructure and other items;

(5) New construction expenditure forms the largest component of total capital expenditure as reported in the 2004-05 Budget Papers (see answer to Question 2). It is my opinion that unreasonable resources would need to be devoted in order to provide a split between new

infrastructure and other items, and also to provide an estimate of total repairs and maintenance for 2004-05;

(6) The answer to the Member's question is provided at Attachment A.

Attachment A

	2000-01 $m		2001-02 $m		2002-03 $m		2003-04 $m		2004-05 $m	
	Total Capital Exp	**Total Recurent R&M**	**Total Capital Exp**	**Total Recurent R&M**	**Total Capital Exp**	**Total Recurent R&M**	**Total Capital xp**	**Total Recurent R&M**	**Total Capital Exp**	**Total Recurent R&M**
Roads	15.5	11.6	15.5	10.0	42.2	7.4	23.1	11.3	36.4	13.5
Cycle paths	0.7	1.4	1.9	1.5	0.4	2.0	2.5	2.3	2.5	2.5
Bridges	1.0	1.0	2.6	1.1	0.3	0.8	1.2	1.5	1.8	1.3
Water reticulation	6.3	5.5	10.7	9.3	10.7	9.5	41.6	10.0	41.0	10.8
Stormwater	1.4	3.6	2.2	2.8	0.7	2.8	0.5	2.9	1.3	3.0
Sewerage	9.5	5.1	8.4	8.6	10.3	8.1	9.7	9.3	19.1	12.6
Public lighting	0.4	3.5	0.7	3.7	0.2	3.3	0.0	3.5	1.2	3.6
Gas reticulation*	14.2	-	11.7	-	9.8	-	7.4	-	8.5	-
Electricity distribution system*	15.8	-	17.8	-	21.7	-	19.5	-	28.2	-
Total	**64.8**	**31.8**	**71.5**	**37.0**	**96.3**	**34.0**	**105.6**	**40.7**	**140.1**	**47.3**

* ActewAGL advised that information regarding Recurrent R&M for gas reticulation and electricity distribution system is commercial-in-confidence.

Human rights—racism in schools (Question No 17)

Mr Pratt asked the Minister for Education and Training, upon notice, on 7 December 2004:

(1) Is it the responsibility of the Department of Education and Training to implement aims to reduce issues of racism in schools as outlined on page 8 of the report titled *Facing up to racism: A strategic plan addressing racism and unfair discrimination* which was tabled in the Assembly in June 2004; if so, when will these aims be implemented by the Department;

(2) What key performance indicators will be put in place to ensure that these aims are achieved or to ensure that they are being satisfactorily progressed by the Department;

(3) What funding has been made available in the Department to implement these aims;

(4) What evaluation and reporting mechanisms will be implemented to ensure that the aims are properly evaluated and those results are reported back to the Assembly.

Mr Corbell: The answer to the member's question is as follows:

(1) The Department of Education and Training (DET) has contributed to the development of *Facing up to Racism: A strategic plan for addressing racism and unfair discrimination* and therefore acknowledges the department's role in continuing to aim to reduce issues of racism in schools.

The *Within Reach Of Us All* suite of plans for ACT government schools provide the context for the department's commitment to reduce incidents of racism in schools. The *Aboriginal and Torres Strait Islander and Multicultural Education Across Curriculum Perspectives, Racism No Way!* and the *Mind Matters* program referred to in *Facing up to Racism* are already being implemented. Each ACT government school has an anti-racism contact officer for students and the department's Indigenous Education Section also plays a key role in addressing issues of racism in schools.

(2) The *Within Reach Of Us All* plans outline the department's actions and indicators to evaluate the progress of this aim. In particular, all formal complaints or allegations of racism are recorded on the department's database. The number of allegations of racism in schools or the workplace recorded on this database will thus form a key performance indicator for the department.

The recently released *National Safe Schools Framework* also includes key performance indicators related to student safety and welfare.

(3) DET provides an executive officer (School Leader C) and administrative support to deliver training for anti-harassment and anti-racism contact officers in schools, to maintain a network of contact officers and support for schools on discrimination issues.

DET contributed $4,000 to the provision of *Racism: No Way!* printed materials to all government schools and continues to contribute to the funding for the *Bullying: No Way!* website. Additional support is provided through the implementation of the *National Safe Schools Framework,* as well as staff Indigenous and multicultural awareness training. The department also funds 13 Indigenous home/school liaison officers whose work includes addressing issues of racism in schools. The *Inclusivity Challenge: A discussion paper for school communities* publication was produced and distributed to schools in 2003 to support the DET professional learning priority of Inclusivity.

(4) The department reports to the Legislative Assembly on progress in meeting the commitments to Indigenous young people on a regular basis in the *Performance In Indigenous Education* report. This includes commitments to overcoming racism and valuing diversity, and creating safe, supportive, welcoming and culturally inclusive educational environments. The Eighth Report was tabled in the August sitting period of the Assembly.

Schools report on their achievements and programs against the commitments in the department's ACT Government Schools Plan in their annual School Board Report. The School Development process requires schools to regularly review their progress on a range of areas, including harassment.

Data about complaints will be summarised and reported in the department's Annual Report.

Fireworks—reports (Question No 18)

Mr Pratt asked the Minister for Industrial Relations, upon notice, on 7 December 2004:

(1) Have there been any reports to date to A.C.T. Workcover about illegal explosives or

fireworks in the A.C.T. since the *Dangerous Substances Act 2004* came into effect on 31 March;

(2) If so, (a) how many reports and (b) what steps has A.C.T. Workcover taken to investigate them;

(3) If there have been reports made to A.C.T. Workcover about any illegal explosives or fireworks in the A.C.T. how many (a) calls/reports were received, (b) explosives or fireworks seized, (c) referrals made to the Bomb Squad and (d) warnings issued.

Mr Corbell: The answer to the member's question is as follows:

(1) There have been a number of reports to ACT WorkCover regarding fireworks for the period between 5 April 2004 (commencement of the *Dangerous Substances Act 2004*) and 7 December 2004. ACT WorkCover has not received any reports regarding illegal explosives for that period.

(2) (a) There have been 31 reports to ACT WorkCover regarding fireworks for the period between 5 April 2004 and 7 December 2004 (not including reports received over the Queen's Birthday weekend, 11 - 14 June 2004).

(b) ACT WorkCover reviewed the information in relation to each report and launched a detailed investigation into two of them. In relation to one of the reports, a brief of evidence has been prepared and forwarded to the Director of Public Prosecutions.

(3) (a) See answer 2 (a) above.

(b) Unauthorised fireworks seized include one box of mixed fireworks and three boxes of prohibited fireworks (match crackers).

(c) No referrals were made to the Australian Federal Police Bomb Squad during this period.

(d) One warning was issued.

Emergency procedures (Question No 19)

Mr Pratt asked the Minister for Industrial Relations, upon notice, on 7 December 2004:

(1) Is the Minister aware of a report by the National Occupational Health and Safety Commission (NOHSC) saying that most Australian States are failing to ensure that people who live and work near dangerous industries know what to do in emergencies;

(2) Is the A.C.T. failing to ensure that people who live and work near dangerous industries know what to do in emergencies;

(3) What steps is the Government taking, if any, to address the concerns of the NOHSC.

Mr Corbell: The answer to the member's question is as follows:

(1) Yes.

(2) No. There are no major hazard facilities in the ACT as defined in the NOHSC *Control of Major Hazard Facilities National Standard.*

(3) All jurisdictions, including the ACT, have agreed to adopt the national standard as the basis for regulations. The OHS Commissioner released guidance material in October 2000 entitled *Guidance on the Control of Major Hazard Facilities in the ACT*. NOHSC recognises that as there are no major hazard facilities in the ACT at present, the implementation of the national standard is not immediately relevant to the ACT.

In 2004, the ACT enacted the *Dangerous Substances Act 2004* which will allow for future development of major hazard facility regulations consistent with the national standard. The Dangerous Substances (General) Regulation 2004 (SL2004-56) was notified on 15 December 2004 and comes into effect on 31 March 2005. Part 2.8 deals with premises where there is a manifest quantity of dangerous substances present (or likely to be present). Section 275 provides that a person in control of such a premises must ensure that an emergency plan is made and a copy is provided to neighboring premises. Section 267 provides that persons in control must also ensure that neighboring premises are given instructions about the operation of the emergency plan and any procedures and equipment that may be needed for use if there is a dangerous occurrence.

Compensation—stress leave claims (Question No 20)

Mr Pratt asked the Minister for Industrial Relations, upon notice, on 7 December 2004:

(1) Given recent advice by the Federal Government's workers compensation agency that it expected stress claims in the public service to rise dramatically this financial year (ABC Online, 11 November 2004), are there any similar concerns about stress claims in the A.C.T. from A.C.T. Workcover's perspective;

(2) If so, (a) is there any estimated bill and (b) why is it assumed stress claims will rise;

(3) Have any stress claims been lodged to date this financial year; if so, how many.

Mr Corbell: The answer to the member's question is as follows:

In the ACT, there are two separate workers compensation jurisdictions.

ACT private sector workers are covered by the *Workers Compensation Act 1951*, which is administered by ACT WorkCover.

ACT public sector workers are covered by the Comcare scheme (the Federal Government's workers compensation agency), which was the subject of the ABC Online article referred to in the Member's question.

Private sector

(1) In the ACT private sector, claims for psychological injury are declining, so there are not similar concerns about stress claims from ACT WorkCover's perspective at this time.

(2) Not applicable.

(3) As at 14 December 2004, 14 claims for psychological injury had been lodged.

Public sector

(1) In the ACT public sector, claims for psychological injury are expected to rise, but not to the same extent as claims made by federal Government agencies covered by the Comcare scheme.

(2) (a) There is no estimated bill at this stage. This will be received from Comcare towards the end of the current financial year.

(2) (b) There is a trend of increasing incidence of psychological injury observable across all public sectors in Australia. To date, the ACT public sector has experienced a lower rate of growth for these claims than the rest of the Comcare jurisdiction (federal Government public sector agencies).

(3) As at 30 November 2004, 24 claims for psychological injury had been lodged.

WorkCover—education presentations (Question No 21)

Mr Pratt asked the Minister for Industrial Relations, upon notice, on 7 December 2004:

(1) Did the Operation of the *Occupational Health and Safety Act 1989* and associated laws quarterly report for the March Quarter 2004 state that 909 people attended A.C.T. Workcover education presentations; if so, how many education presentations were conducted in total;

(2) At which locations around Canberra were these education presentations conducted;

(3) Who conducted these education presentations;

(4) What issues did these education presentations address and/or cover;

(5) What was the average number of education presentations made by A.C.T. Workcover in (a) 2002-2003 and (b) 2003-2004.

Mr Corbell: The answer to the member's question is as follows:

(1) Yes. ACT WorkCover conducted a total of 13 education presentations to various industry groups and a number of lectures to students at the Canberra Institute of Technology.

(2) One or more presentations were provided for members or clients of the National Safety Council of Australia (Mitchell), Discount Tyres (Braddon), Master Floorers Association (Lyneham), WorkWatch (Dickson), Master Painters Association (Woden), ClubsACT (Canberra City), BusinessACT (Tuggeranong, Canberra City and Belconnen), ACT and Region Chamber of Commerce and Industry (Barton), UnionsACT (Dickson), Insurance Brokers (Canberra City) and the Canberra Institute of Technology (Fyshwick).

(3) These education presentations were conducted by the OHS Commissioner and various ACT WorkCover inspectors.

(4) The issues addressed/covered in the education presentations were industrial manslaughter, workers compensation, occupational health and safety, the Gas Appliance Worker Scheme, the *Gas Safety Act 2000* and the *Dangerous Substances Act 2004*.

(5) (a) Data on the number of ACT WorkCover presentations in 2002-2003 is not readily accessible, but 807 people attended presentations in that year.

(b) ACT WorkCover delivered 60 education presentations in 2003-2004 with 2193 attendees.

Environment and conservation—energy efficiency measures (Question No 25)

Mrs Dunne asked the Minister for Environment, upon notice, on 7 December 2004:

(1) How has the Government been promoting the 'Energise Your Home Program' across the A.C.T.;

(2) How do residents access this program;

(3) How many energy efficiency audits have been undertaken on existing homes;

(4) How many people have applied for financial assistance to install approved energy efficiency measures;

(5) How many people have been approved to receive financial assistance to implement approved energy efficiency measures;

(6) How many homes in total have had energy efficiency measures installed as part of this program;

(7) What energy efficiency improvements have been made to homes through this program;

(8) How much has this scheme cost the Government to date.

Mr Quinlan: The answer to the member's question is as follows:

(1) *ACT Energy Wise* was launched on 15 December 2004. The launch was widely publicised in the local press, radio and television. Prior to the launch the program was promoted at the Canberra Home and Leisure Show. The Home Energy Advice Team has been engaged to promote and administer the program on behalf of ACT Government.

(2) ACT residents can access the program through the Home Energy Advice Team on telephone 62606165 or via the Internet at www.heat.net.au

(3) As at 15 December 2004, 2 energy audits had been undertaken on existing homes and another 49 householders have registered an interest in the program.

(4) No householders have applied for financial assistance at this early stage.

(5) No householder rebate applications have been approved at this early stage in the program.

(6) No homes have had energy efficiency measures installed at this stage.

(7) No energy efficiency improvements have been recorded at this stage.

(8) $20,000 has the spent on the program to date

Education—student enrolments (Question No 26)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 7 December 2004:

(1) How many students are currently enrolled in each A.C.T. Government (a) primary school, (b) high school and (c) college;

(2) How many students were enrolled in each A.C.T. Government (a) primary school, (b) high school and (c) college in (i) 2000, (ii) 2001, (iii) 2002 and (iv) 2003.

Ms Gallagher: The answer to the member's question is as follows:

(1) The numbers of students enrolled in ACT Government primary schools, high schools and colleges are available at http://www.decs.act.gov.au/publicat/publicat.htm#census_sch

(2) The numbers of students enrolled in ACT Government primary schools, high schools and colleges in previous years are available at http://www.decs.act.gov.au/publicat/publicat.htm#census_sch

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Education—home schooling (Question No 27)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 7 December 2004:

(1) What process must a person undertake if they wish for a child to be legally recognised as being home schooled;

(2) How many children are home schooled in the A.C.T.;

(3) How many of those children home schooled in the A.C.T. are indigenous students.

Ms Gallagher: The answer to the member's question is as follows:

(1) The process for registration for schooling under the current legislation is outlined in the Department of Education and Training (DET) Registration of Home Schooling in the ACT policy that is available from the DET website.

(2) Currently forty three students are registered to be home educated in the ACT.

(3) The current registration form does not request information of the child's Indigenous or non Indigenous status. Departmental officers are only aware of one family that has identified as Indigenous.

Aborigines and Torres Strait Islanders—education (Question No 28)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 7 December 2004:

(1) Is the Indigenous Education Consultative Body (IECB) still in operation;

(2) How often is the IECB utilised by the Government;

(3) What work has been completed by the IECB in the last three years to assist Government in regards to indigenous education.

Mr Corbell: The answer to the member's question is as follows:

(1) The Indigenous Education Consultative Body (IECB) is still in operation.

(2) In relation to education and training, the Government consults with the IECB whenever plans, initiatives or programs are being developed or proposed that will impact on Indigenous students. During the past three years, the IECB has provided advice in a number of areas. These include:

- the redevelopment of Birrigai and ongoing consultations regarding Indigenous curriculum in Birrigai programs
- the Curriculum Renewal Project
- the Council of Australian Governments (COAG) trial regarding a whole-of-government and community approach to Indigenous youth and education
- consultation regarding staffing in the Indigenous Education Section
- consultation on the *Services to Indigenous People Action Plan 2002 –2004*
- consultation on the *Literacy and Numeracy Action Plan 2003 –2005*, and
- the development of the Indigenous Education Strategic Initiatives Program (IESIP) Monitoring agreement.

In addition, representatives of the IECB have met regularly with the Minister for Education and Training.

(3) The following projects have been completed by the IECB in the past three years to assist Government in regards to Indigenous education:

- The *Indigenous Education Compact* (2002) between the Indigenous community and DET.
- NAIDOC Student of the Year Awards for Indigenous students in government and non-government schools.
- *ACT Indigenous Education Consultative Body Strategic Plan 2002–2004*.

Aborigines and Torres Strait Islanders—scholarships (Question No 29)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 7 December 2004:

(1) Is the indigenous scholarships program for Year 12 indigenous students, which first started in late 2000, still in operation;

(2) If so, how many scholarships have been awarded each calendar year since the program's inception;

(3) If not, (a) why is this program not still in operation and (b) how many scholarships were awarded each calendar year during the time it was in operation;

(4) What other incentive programs are on offer for indigenous students in our education system.

Mr Corbell: The answer to the member's question is as follows:

(1) The Indigenous Scholarship Program, offered to year 12 Indigenous students in 2000, was reviewed in 2001. From 2002, the *Charles Perkins Scholarships for Undergraduate Indigenous Students* replaced the original Indigenous Scholarship Program. The Charles Perkins scholarship program operates as a joint partnership between the ACT Department of Education and Training and the University of Canberra. The annual scholarship, valued at $4000, is co-sponsored by the partners and awarded each year to two Indigenous students undertaking studies at the University of Canberra.

(2) The number of scholarships awarded under the two programs are:

Year	Number of recipients
2000/2001	6
2002	2
2003	2
2004	2

(3) N/A

(4) The University of Canberra operates the Ngunnawal Centre, a focal point for Indigenous students studying at the University. In addition to the Charles Perkins scholarships, The Centre offers The Foundation Program that is a pathway to tertiary studies for Indigenous students without a year 12 certificate.

Similarly, the Australian National University operates the Jabal Centre through which a range of scholarships and cadetships are available specifically for Indigenous students.

The Canberra Institute of Technology (CIT) operates the Yurana Centre as a support for Indigenous students. CIT offers the CIT Indigenous Scholarships that cover program fees.

Aborigines and Torres Strait Islanders—teachers (Question No 30)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 7 December 2004:

(1) How many indigenous teachers are currently employed in the government school system;

(2) Of those indigenous teachers, how many are (a) male and (b) female.

Ms Gallagher: The answer to the member's question is as follows:

(1) Fifteen

(2) (a) Three

(b) Twelve

NOTE: These figures include five female indigenous teachers registered as casual teachers.

Children—childcare services (Question No 31)

Mrs Dunne asked the Minister for Children, Youth and Family Support, upon notice, on 7 December 2004:

(1) What is the licensing regime to provide childcare services, including family day care, after school care and centre-based care;

(2) How often are spot checks on these facilities made;

(3) Are facilities given warning of checks being made;

(4) What action is taken if the facility is found not to meet the standards set.

Mr Corbell: The answer to the member's question is as follows:

(1) The *Children and Young People Act 1999* (the Act) requires all childcare services and family day care schemes in the ACT to be licensed. The licensing process is detailed in the Act. Refer to http://www.legislation.act.gov.au/a/1999-63/default.asp. For relevant licensing conditions, refer to http://www.det.act.gov.au/services/OCYFS_Childrens_Services.htm

(2) Refer to above information.

(3) Refer to above information.

(4) Refer to above information.

Graffiti—removal (Question No 32)

Mrs Dunne asked the Minister for Urban Services, upon notice, on 7 December 2004:

(1) What is the general policy regarding the removal of graffiti, and in particular, offensive graffiti, from schools and surrounding areas;

(2) When was your office notified of the offensive graffiti on the children's crossing on Wisdom Street, outside Sts Peter and Paul's School, Garran and when was the graffiti removed.

Mr Hargreaves: The answer to the member's question is as follows:

(1) The service standard for the removal of offensive graffiti is within 24 hours of receiving a report. All other graffiti is removed within three days. The Department of Urban Services does not remove graffiti from schools. Generally the maintenance of these buildings is the responsibility of the Department of Education. I have been advised that the Education Department works to the same graffiti removal schedule as Urban Services.

(2) DUS was notified of the graffiti on Wisdom Street on 29 November 2004. Unfortunately, the graffiti was not removed until 7 December 2004 due to a failure in the reporting process. This problem has now been addressed.

Housing—tenant behaviour (Question No 35)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice, on 8 December 2004:

(1) Is there a continuing and uncontrolled problem of illegal activities occurring in many multi-unit public housing complexes in the A.C.T. when under the Residential Tenancy Act the conduct of illegal activities from rental premises is prohibited; if so, why;

(2) What is the Minister doing to ensure that this illegal behaviour is better policed in order to not only protect tenants and private residents but to offer assistance to the individual involved in the illegal activity.

Mr Hargreaves: The answer to the member's question is as follows:

(1) Some people in the community will carry out illegal activities and some of these people may well be public housing tenants, residents living in public housing complexes or visitors to the complexes.

(2) Housing and Community Services has committed to a number of approaches designed to enhance safety and security at public housing complexes. This includes, provision of a Community Guardian service at some flat complexes and working as a member of the AFP Crime Partnership Group that targets volume crime in the community.

Education—school assessments (Question No 43)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 8 December 2004:

(1) How many years has the A.C.T. Assessment Program (ACTAP) been operating across A.C.T. schools;

(2) For each year of ACTAP testing, how many students
(a) were included in the ACTAP,
(b) in A.C.T. Government schools had a diagnosis of autism spectrum disorder (ASD),
(c) with ASD were placed in mainstream settings in the A.C.T. education system,
(d) with ASD were eligible for ACTAP testing,
(e) of those tested with ASD achieved the national benchmark level in literacy and numeracy;

(3) If any students with ASD were not tested, what was the reason;

(4) Are there any other formal measures of progress for students who were not included in benchmark testing;

(5) What progress or achievement level was measured among all students with ASD;

(6) Where are education outcomes for students with ASD reported.

Mr Corbell: The answer to the member's question is as follows:

(1) Seven years.

(2) (a) In 1998, 6,109 students in Years 3 and 5 in ACT Government schools were assessed in ACTAP. Years 3, 5, 7 and 9 in ACT Government schools participated in 1999 and 2000, with 10,766 students assessed in 1999 and 10,599 students in 2000. In 2001, Years 3, 5, 7 and 9 students in ACT Government schools, and Years 3 and 5 and some Year 7 students in Catholic schools participated in ACTAP, with 13,943 students assessed. Since 2002, all ACT Government and Catholic schools and some independent schools have participated in ACTAP, with 16,126 students assessed in 2002, 16,792 students in 2003 and 16,806 students in 2004.

(b) The department uses the Pervasive Developmental Disorder (PDD) heading in the student disability criteria to cover students with a range of disorders along the autism spectrum. Across ACT Government schools data is collected at this level rather than the specific diagnosis level. The total number of students in ACT Government schools that met the student disability criteria for PDD is: 2004 – 323, 2003 – 201, 2002 – 196, 2001 – 182 and 2000 – 130. Data is not available for 1998 and 1999.

(c) There were 245 PDD students in mainstream school settings in 2004, 70 were in Learning Support Units specifically for students with PDD (LSU/PDD), 15 were in generic LSUs and 16 were in Learning Support Centres (LSC). The majority (144) were in mainstream classes. In 2003 there were 184 PDD students in mainstream school settings, 41 were in LSU/PDD, 9 in generic LSUs, 11 in LSCs and 123 in mainstream classes. In 2002 there were 130 PDD students in mainstream school

settings, 44 students in LSU/PDD, 25 in generic LSUs/LSCs and 61 in mainstream classes. A breakdown is not available for 2001 and 2000.

(d) All students with PDD are eligible to participate in ACTAP. Parents have the option to exempt or withdraw their child from the testing program.

(e) Students in mainstream classes and LSCs who have PDD are not identified for ACTAP purposes. Data is available only for 2003 and 2004 for students in LSU/PDD.

In 2003, seven students in LSU/PDD were assessed in Reading, Writing and Numeracy with all above the national benchmark in each strand.

In 2004, four students in LSU/PDD were assessed in Reading and Numeracy and five were assessed in Writing. Three students were at or above the national benchmark in each strand.

(3) Students not participating in ACTAP did so by parent choice to exempt or withdraw their child from testing, or they were absent from school during the assessment period.

(4) No.

(5) The achievements of students with PDD are assessed and reported on within the bounds of school reporting.

(6) Education outcomes are reported to parents/carers through school reporting.

Justice and Community Safety, Department—chief executive officer (Question No 45)

Mr Stefaniak asked the Attorney-General, upon notice, on 9 December 2004:

(1) How much additional cost will the Department of Justice and Community Safety incur for the remainder of the 2004-05 financial year as a result of the creation of the new position of Deputy Chief Executive Officer;

(2) Why was this position created when in other areas of the Department there have been some significant budget cuts.

Mr Stanhope: The answer to the member's question is as follows:

The position of Deputy Chief Executive has been established initially for a period of six months from 12 July 2004 to 12 January 2005 and will be continued. It is funded from within the Legal Policy Budget. The Department of Justice and Community Safety will seek no additional funds as a result of the creation of this position.

The position of Deputy Chief Executive was established to respond to both structural limitations and emerging operational needs within the Department. A primary focus is responsibility for representing the ACT in national fora such as the National Counter Terrorism Committee established to deal with national security issues and for the Department's Security Coordination Unit. This function is headed in all other jurisdictions at the deputy secretary level and it is important that the ACT's interests be appropriately managed in what is now a very significant and active area since the recent emergencies of

national security threats to Australian interests. The position is also responsible for financial management and will continue with reform to corporate services and development of a strategic planning framework for the department.

Education—Athletes in schools program (Question No 46)

Mr Stefaniak asked the Minister for Education and Training, upon notice, on 9 December 2004:

(1) Do all Government schools participate in the Athletes in Schools Program offered by the A.C.T. Academy of Sport; if not, why not;

(2) How many schools have participated in the Athletes in Schools program to date this calendar year;

(3) Would the Government consider making it compulsory for all Government schools to participate in this program, provided free to schools, in an effort to reduce childhood obesity; if not, why not.

Ms Gallagher: The answer to the member's question is as follows:

(1) No, not all schools participate in the Athletes in Schools Program offered by the ACT Academy of Sport. Schools use a variety of approaches and programs to deliver health and physical education outcomes.

(2) In 2004, 41 primary schools and two high schools have participated in the Athletes in Schools Program.

(3) No, the ACT Government would not consider making the Athletes in Schools Program compulsory. ACT Government schools have mandated times for health and physical education from kindergarten to year ten. Under school-based curriculum in the ACT, schools select programs appropriate to their particular needs, in conjunction with their school communities. Through the ACT Department of Education and Training, Health and PE unit, schools are made aware of a variety of programs to address health and physical activity. The Promoting Healthy Students budget initiative also addresses the issue of childhood obesity by providing schools with programs and professional development in nutrition and physical activity.

Computers—digital divide (Question No 47)

Mrs Burke asked the Chief Minister, upon notice, on 9 December 2004:

(1) Is there widespread community support for and appreciation of the Government's Digital Divide Roving Tutor scheme; if not, why not; if so, how does he receive this information;

(2) Were community organisations forced to cancel existing Roving Tutor client bookings in June 2004 when the scheme was suspended on 21 June with less than two weeks warning;

(3) Did those organisations discover (a) they were receiving around half the previous level of Roving Tutor services or (b) that their services had stopped completely, when the service resumed three weeks later;

(4) Why was the Roving Tutor service cut so abruptly without adequate notice to the host organisations or the tutors themselves;

(5) If the cuts were related to funds, and given the previously allocated funding has been public knowledge for several years, why was this reduction not managed and notified well in advance;

(6) Who advised the community organisations of the impending permanent or temporary cessation of their Roving Tutor services last June;

(7) Is the Roving Tutor service planned to be cut again so that delivery levels in the second half of the 2004-05 financial year will be less than a third of that applying a year ago; if so, please provide details of funds (a) allocated and (b) spent on the Roving Tutor scheme in the 2003-04 and 2004-05 financial years and (c) the total service delivery hours for each of those years;

(8) Has the Government measured the success of the Roving Tutor Program; if not, why not; if so, please provide details of the findings;

(9) Why has the initial expansion of the scheme in the 2002-03 financial year been reversed to its current level of less than a third of the recommended expanded level given (a) the government initiated report entitled *Bridging the Digital Divide: a study into connectivity issues for disadvantaged people* recommended expansion of the Roving Tutor scheme, (b) the popularity of the scheme, (c) its success as measured by the community and (d) the obvious continuing demand;

(10) Was the level of service provided in the 2001-02 and 2002-03 financial years justified; if so, what has changed to justify the current reductions;

(11) What extra funding in financial year 2004-05 would have been required to enable the Roving Tutor scheme to continue at the same level as the previous year;

(12) Is the significant previously unspent funds planned to be expended this year on the provision of second hand computers to community organisations; if so, can he state what cost/benefit studies have been done to justify this expenditure versus maintaining the Roving Tutor scheme at previous levels and/or providing much needed IT support and assistance to many of the same community organisations;

(13) What is the breakdown of actual and planned expenditure on Digital Divide programs for the current financial year;

(14) Why are schools not currently being used as venues for Roving Tutor training given that they have existing IT infrastructure, IT maintenance support services and administration facilities and do not require provision of new IT equipment to be effective;

(15) What is the breakdown, to individual programmes or initiatives, of funds that have been spent on providing Digital Divide services through A.C.T. schools;

(16) Has the previously mentioned report recommending expansion of a Roving Tutor style scheme to include at-home training for people incapable of travelling been implemented; if so, how;

(17) How was the current membership of the Community IT Advisory Group (CITAG), which advises on Digital Divide policy, selected;

(18) What are the (a) occupations and relevant experience of members and (b) criteria for membership to the group;

(19) Are there any Roving Trainers who are members of the CITAG; if not, why not; if so, who are they;

(20) When will the ABS Report on the Digital Divide be finalised after being delivered to A.C.T. Government more than two months ago;

(21) Will this report be made public; if so, when; if not, why not.

Mr Quinlan: The answer to the member's question is as follows:

(1) There is no available evidence of widespread community support for the Roving Tutor scheme. Information from those directly involved with the scheme, for example community organisations and the CIT, suggests that there is general support from participants of the scheme.

(2) No. Pre-booked commitments by organisations to clients were honoured.

(3) Not all organisations had their tutor hours reduced. Reductions were based on assessed needs and demand and were not an across the board 50% reduction.
Four organisations had their services cancelled; two on the basis they had access to alternative funding for their IT training and two as they no longer required the sessions.

(4) The reduction in tutor hours was not 'abrupt', but was part of a strategy that had been public knowledge for at least 18 months. The change to hours was managed jointly by the Chief Minister's Department and the CIT. Chief Minister's Department staff contacted the host organisations and CIT, who employ the tutors, notified the tutors.

(5) Changes to tutor hours were managed in consultation with CIT. Notification of the changes was in accordance with the information provided in answer to question 4 above.

(6) Chief Minister's Department staff discussed the change to tutor hours with all participating organisations.

(7) A further reduction to approximately 38 hours per week for the period to 30 June 2005 will occur. Funds expended on the Roving Tutor scheme in 2003-04 totalled $278,772. This purchased 4,668 hours of training. Funds expended to date in financial year 2004-05 are $79,492 for 1,224 hours of training. Total expected expenditure for 2004-05 is $125,711.

(8) No. Ongoing monitoring of the program is in place. CIT provides regular reports on how the scheme has been operating, including tutor reports, community organisation feedback and anecdotal stories from clients regarding the personal impact of the scheme.

(9) The scheme has been expanded from its original level. It was expanded from an initial one-year program with $100,000 in funding to a four-year program with total funding of $600,000.

(10) The initial level of servicing was to provide training through the 19 community groups that received grants to purchase IT equipment. The scheme was subsequently expanded to include other community organisations and ACT Libraries. The scheme was not intended to provide free on-going IT training but to provide a basic level of awareness of IT and some basic skills for members of the community, in particular those in key target groups. The current reductions were planned as outlined in the Community IT Access Plan.

(11) The scheme would have required approximately an additional $150,000 to continue to provide the same tutor hours as 2003-04.

(12) No. It is planned to establish a number of Community Technology Centres in the ACT with the bulk of the unexpended funds.

(13) Actual expenditure for the program year-to-date is $86,709. Planned expenditure is $436,000.

(14) Nine digital divide programs have been conducted in six schools. The programs require ongoing funding to cover costs associated with teacher salaries, security, consumables and cleaning and are not considered as cost effective as other training options.

(15) Initial allocation in 2001-02 of $80,000 was expended on programs in three schools, Ginninderra District High School, Erindale College, Palmerston Primary School.

In 2002-03 funding of $107,700 was provided. This funding was allocated to conduct programs during 2003-04 in the following 6 schools: Erindale College, Richardson Primary School, Evatt Primary School, Ginninderra High School, Palmerston Primary School and North Ainslie Primary School.

(16) No.

(17) Membership is open to all members of the community. Applicants are required to address, and are assessed against, set selection criteria. These criteria are advised to potential applicants at the time that applications for memberships are called.

(18) The current membership represent, have an interest in and/or experience with digital divide target groups, community organisations, the IT industry and academia. Criteria for membership of the groups are provided to applicants at the time that applications for memberships are called.

(19) No. Applications for membership have been advertised in the Canberra Times on two previous occasions. On the most recent occasion the ACT Women's Register was consulted exclusively, due to the requirement to maintain the gender balance of the committee. No applications were received from Roving Tutors.

(20) The ABS Report was finalised on 2 December 2004. ABS is currently printing the report for distribution to Government and the Community IT Advisory Group.

(21) The report is an internal working document. The possible future public release of the document has not as yet been considered.

Housing—Red Hill
(Question No 48)

Mrs Burke asked the Minister for Planning, upon notice, on 9 December 2004:

What community consultations have occurred to date with Housing A.C.T. tenants into the future of the Red Hill precinct under the A10 Residential Land Use Policy namely Housing A.C.T. properties in Block 1, Section 25 and Block 1, Section 26, Red Hill.

Mr Corbell: The answer to the member's question is as follows:

(1) The Neighbourhood Planning Program consultations were open to all those who lived, worked, learned, played and invested in the specific neighbourhoods. Thus all tenants of Housing ACT were welcome to attend the sessions as members of the public. Consultation events were well advertised through letterboxed newsletters, the Canberra Times and Chronicles, and posters at the local shops. There was also a special letterbox drop organised for the public housing development following a request from tenants for additional information. The Neighbourhood Planning Team conducted an ACT Government stakeholder workshop midway through the process, in which a representative from ACT Housing attended to provide input.

(2) For information regarding any consultations undertaken directly by the Department of Disability, Housing and Community Services, please contact the Minister for Housing.

Water—dams risk management plan
(Question No 50)

Mrs Dunne asked the Minister for Environment, upon notice, on 9 December 2004:

(1) Has a risk assessment been conducted to assess the ability of the Territory's dams to withstand higher than planned for flood peaks given that the NSW Premier has identified, that as a result of climate change, the A.C.T. and region can expect more frequent and intense storm events;

(2) Has the A.C.T. developed a risk management plan to upgrade its dams to withstand the reported climate change storm events.

Mr Stanhope: The answer to the member's question is as follows:

(1) Yes

(2) Yes

Water—climate change
(Question No 51)

Mrs Dunne asked the Minister for Environment, upon notice, on 9 December 2004:

(1) What work has been undertaken by A.C.T. authorities following the release by the NSW Government of the report entitled *Climate Change in New South Wales* to determine the

(a) rainfall loss and changes in rainfall patterns in areas affecting A.C.T. water catchments, (b) amount of loss in our water storage caused by increased evaporation and wind caused by climate change and (c) population capacity of existing and mooted water storage as a result of rainfall loss and evaporation loss due to climate change;

(2) When will the Government announce a mitigation strategy or strategies to address this significant threat to the A.C.T.'s water security given an expected loss of water supply and increasing drought and climate change.

Mr Stanhope: The answer to the member's question is as follows:

(1) In October 2003 the CSIRO released a report, commissioned by ACTEW, entitled *Climate change projections and the effects on water demand for the Australian Capital Territory*. The report is publicly available on the ACT Government *Think water, act water* website. I am advised that ACTEW have taken into account the CSIRO's findings on climate change in their assessment of the ACT's need for an augmented water supply.

(2) The Government's April 2004 *Think water, act water* strategy incorporates variables for long-term climate change. It provides for consumption targets and water saving measures to offset, among other factors, the anticipated effects of climate change and prolonged drought.

Water—sprinkling systems (Question No 52)

Mrs Dunne asked the Treasurer, upon notice, on 9 December 2004:

(1) Will the Government put in place the same program over Christmas that it did last year that allowed those travelling away from Christmas to program electronic sprinkling systems to come on while they were away;

(2) If so, when will this program come into effect and conclude; if not, why not.

Mr Quinlan: The answer to the member's question is as follows:

I am responding to this question in my capacity as the acting Chief Minister as this matter now falls under this portfolio of responsibilities.

(1) ACTEW, as the utility responsible for administering the water restrictions scheme, have issued a general exemption to allow the limited use of automated sprinkler systems over the Christmas period.

(2) The general exemption commenced on 18 December 2004 and will continue until 30 January 2005, subject to water supply conditions.

Education—therapy services (Question No 53)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 9 December 2004:

(1) Does the Government expect teachers in special settings to provide clinical treatment for autism and related disorders given that in 2004 the Government cut therapy services (visits from specialist professionals) for children in special school settings leaving teachers to treat and manage children with these clinical disorders;

(2) Since therapy services for children in special schools cut in the 2004 school year, how were the funds from this budget initiative spent on clinical services for children with autism in special schools in the 2004 school year;

(3) Does the Government ensure that teachers of students with autism in A.C.T. special education settings have specialised knowledge and experience of autism and related disorders that is equivalent to that of a clinical psychologist and speech pathologist; if not, why not.

Ms Gallagher: The answer to the member's question is as follows:

(1) No.

(2) There were no cuts to therapy services provided to special schools. Therapy ACT has experienced some difficulty in recruiting appropriately qualified staff to fill vacancies and this may have affected service delivery.

(3) Teachers are not required to have specialised knowledge equivalent to that of a clinical psychologist and speech pathologist. Teachers are encouraged and supported to enhance their knowledge and gain qualifications through participation in a range of professional learning activities relating to the education of students with special needs. Teachers are responsible for the delivery of the educational program not the delivery of therapeutic programs such as those provided by psychologists and speech pathologists, however teachers work in collaboration with the specialist professionals.

Education—school cleaning contracts (Question No 54)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 9 December 2004:

(1) What is the process of prequalification as a cleaning contractor in a Government school;

(2) Do companies or individuals who prequalify have to be parties to any kind of industry code of practice;

(3) Which company or individual held the cleaning contract for each Government school in (a) 2004, (b) 2003, (c) 2002 and (d) 2001.

Mr Corbell: The answer to the member's question is as follows:

(1) Cleaning contractors wishing to be prequalified for cleaning in Government schools are assessed as per the criteria outlined in the Call for Applications and Granting of Prequalifications Status of Cleaning Contractors DEYFS 3327.

(2) No.

(3) (a) See list attached.

(b) Contract details for these years are held at individual school level. A consolidated list is not available.

(c) Refer (b) above.

(d) Refer (b) above.

SCHOOL		CONTRACTOR AS AT 2004
Ainslie Primary School	P	VNT Cleaning Services
Alfred Deakin High School	H	Phillips Cleaning Services
Aranda Primary School	P	VNT Cleaning Services
Arawang Primary School	P	Rose Cleaning
Belconnen High School	H	Hygiene Plus
Black Mountain School	H	VNT Cleaning Services
Bonython Primary School	P	VNT Cleaning Services
Calwell High School	H	VNT Cleaning Services
Calwell Primary School	P	National Cleaning Services Australia Pty Ltd
Campbell High School	H	VNT Cleaning Services
Campbell Primary School	P	Dynuse Pty Ltd
Canberra High School	H	Phillips Cleaning Services
Caroline Chisholm High School	H	Clearglass Building Maintenance Co Pty Ltd
Chapman Primary School	P	VNT Cleaning Services
Charles Conder Primary School	P	Tempo Services Ltd
Charnwood Primary School	P	City & Town Civil Cleaning services
Chisholm Primary School	P	Profile Cleaning
Cook Primary School	P	Fred's Express Cleaning
Co-operative School (The)	P	Simply Suds Cleaning Services

SCHOOL		CONTRACTOR AS AT 2004
Copland College	C	National Cleaning Services Australia
Cranleigh School	P	Hygiene Plus Cleaning Co Pty Ltd
Curtin Primary School	P	S&M Cleaning
Dickson College	C	Rose Cleaning
Duffy Primary School	P	M&V Cleaning Services
Erindale College (includes Library-Urban Services	P	VNT Cleaning Services
Evatt Primary	P	Hygiene Plus
Fadden Primary	P	M&M Rolfe Cleaning Co Pty Ltd
Farrer Primary	P	Alpha Cleaning
Florey Primary	P	VNT Cleaning Services
Flynn Primary School	P	Salloum Cleaning Contractors
Forrest Primary School	P	Phillips Cleaning Services
Fraser Primary School	P	Kada Cleaning Services
Garran Primary	P	S&M Riteway Cleaning
Gilmore Primary	P	VNT Cleaning Services
Ginninderra District High	H	Faraj Cleaning Services
Giralang Primary School	P	MDF Cleaning Services
Gold Creek School – Primary Site	P	VIP Cleaning Services
Gold Creek School – Senior Site	C	Well Done Cleaning

SCHOOL		CONTRACTOR AS AT 2004
Gordon Primary	P	Tempo Services Ltd
Gowrie Primary	P	National Cleaning Services Australia Pty Ltd
Hall Primary	P	VIP Cleaning Services
Hawker College	C	Well Done Cleaning
Hawker Primary	P	Well Done Cleaning
Higgins Primary	P	Hygiene Plus
Higgins Primary	O	M&M Rolfe Cleaning
Holt Primary	P	Korab Cleaning
Hughes Primary	P	S&M Riteway Cleaning Services
Isabella Plains Primary	P	National Cleaning Services Australia Pty Ltd
Jervis Bay Primary School	P	Lingard & Meech
Kaleen High School	H	Saviour Cleaning
Kaleen Primary School	P	National Cleaning Services Pty Ltd
Kambah High School	H	VNT Cleaning Services
Lake Ginninderra C	C	Hygiene Plus
Lake Tuggeranong College	C	Rose Cleaning
Lanyon High School	H	VNT Cleaning Services
Lathan Primary School	P	Menzies Property Services
Lyneham Primary	P	Phillips Cleaning Services

SCHOOL		CONTRACTOR AS AT 2004
Macgregor Primary School	P	VNT Cleaning Services
Macquarie Primary School	P	VNT Cleaning Services
Majura Primary School	P	Simon Cleaning
Malkara School	S	Fred's Express Cleaning Services
Maribyrnong Primary School	P	National Cleaning Services
Mawson Primary School	P	24/7 Facility Services
Melba High School	H	Phillips Cleaning Services
Melrose High	H	Enterprise Cleaning Services
Melrose Primary	P	Celeski Cleaning Services
Miles Franklin Primary School	P	ANH Cleaning
Monash Primary School	P	Kada Cleaning
Mt Neighbour Primary School	P	National Cleaning Services Australia Pty Ltd
Mt Rogers Community School –Melba	P	M&M Rolfe Cleaning Services
Narrabundah College	C	Broadlex Cleaning Services P/l
Ngunnawal Primary School	P	VNT Cleaning Services

SCHOOL		CONTRACTOR AS AT 2004
Lyneham High School	H	Menzies Property Group
Nicholls Joint Facilities	P	Tempo Services Ltd
North Ainslie Primary School	P	M&C Cleaners
Palmerston District Primary School	P	City & Town Civil Cleaning Services
Red Hill Primary School	P	VNT Cleaning Services
Richardson Primary School	P	National Cleaning Services Australia Pty Ltd
Rivett Primary School	P	National Cleaning Services Australia Pty Ltd
Southern Cross Primary School	P	S&M Cleaning
Stromlo High School	H	Clearglass Building Maintenance
Taylor Primary School	P	Fred's Express Cleaning Service
Telopea Park School (High & Primary)	H & P	Dynuse Pty Ltd
Tharwa Primary School	P	Kerry Prutti
The Canberra College (Weston Campus	C	National Cleaning Services Australia Pty Ltd
The Canberra College (Woden Campus)	C	Rose Cleaning
The Woden School	H	Alpha Cleaning Sercvies
Theodore Primary School	P	M&M Rolfe Cleaning Services

SCHOOL		CONTRACTOR AS AT 2004
Lyons Primary School	P	Celeski Cleaning
Torrens Primary School	P	VNT Cleaning Services
Turner School	P	Empire Cleaning Services
Urambi Primary	P	Celeski Cleaning Services
Village Creek Primary School	P	National Cleaning Services Australia Pty Ltd
Wanniassa School _Senior Campus	H	Quad Cleaning Services
Wanniassa School – Junior Campus	P	Abdo's Cleaning Services
Weetangera Primary School	P	National Cleaning Services
Weston Creek Primary School	P	VNT Cleaning Services
Yarralumla Primary School	P	National Cleaning Services Australia Pty Ltd
Wanniassa Hills Primary School	P	Abdo's Cleaning Services

Children—childcare (Question No 55)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 9 December 2004:

When will I receive a reply to my representation on behalf of parents and children who attend Baringa Childcare and who have been unable to enrol their children at Spence Preschool.

Ms Gallagher: The answer to the member's question is as follows:

(1) The reply was signed and forwarded from my office on Thursday 9 December 2004.

Education—computer access for teachers (Question No 56)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 9 December 2004:

(1) Do all full time teachers in Government schools have access to a dedicated computer at work as indicated by the Department of Education and Training website; if not, why not;

(2) Do full time teachers in Government schools receive a computer when they begin teaching full time at a school;

(3) If they are required to wait, what is the average waiting time for teachers to be provided a computer for use at work;

(4) What is the breakdown, by each school in the A.C.T., of the number of full-time teachers in Government schools who currently do not have their own computer.

Ms Gallagher: The answer to the member's question is as follows:

(1) Funding for a desktop PC or laptop computer is provided to schools for each full time equivalent (FTE) teaching position.

(2) As stated above, each school is allocated a number of computers based on FTE teaching positions.

(3) Schools are able to purchase new computers should there be an increase in FTE teaching positions.

(4) N/A

Education—indigenous students (Question No 57)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 9 December 2004:

(1) Did the response to Question on notice No 1706 (Fifth Assembly) indicate that the Department of Education and Training would undertake an analysis of the reasons given by schools for suspending indigenous students and that the results of the analysis would be used to develop strategies to address the issue of indigenous student suspensions; if so, has that analysis been completed;

(2) If the analysis has been completed, what (a) are the results of that analysis and (b) action will the Government take; if not, when will (a) that analysis be completed and (b) the Government take action.

Mr Corbell: The answer to the member's question is as follows:

(1) Yes. The analysis has been completed.

(2) (a) The analysis provides useful information about the suspension of Indigenous students. Key findings are:

- The majority of the problems that lead to suspension result from conflict between students and were found not to be racially motivated.
- The event or situation that triggers the conflict often happens outside the school.
- Behaviours that are likely to lead to suspension of Indigenous students may be indicative of conflicting socialisation, ie there are differing expectations of students in the home/community and the school.

(b) The Government has provided significant increased support for Indigenous young people and their families, including:

- an increase in the number of Indigenous Home School Liaison Officers,
- implementation of a leadership and mentoring program for Indigenous students, and
- a Community Inclusion Grant to conduct a program at Birrigai, providing Indigenous students with opportunities to learn and develop self-identity in a positive, supportive outdoor environment.

Schools have been provided with the findings of the analysis and further research will be undertaken to assist schools in providing supportive learning environments for Indigenous students. The successes achieved by some schools indicate the importance of individualising student management procedures.

Children, Youth and Family Support, Office—recruitment (Question No 58)

Mrs Dunne asked the Minister for Children, Youth and Family Support, upon notice, on 9 December 2004:

(1) What budget has been allocated in the 2004-2005 financial year for the recruitment of overseas and interstate workers for the Office of Children, Youth and Family Support;

(2) How much of this budget is dedicated to relocation expenses;

(3) What payments for relocation expenses are made to people coming from (a) intersate and (b) overseas;

(4) What cultural and other orientation programs are conducted to allow officers coming from overseas who join the Office of Children, Youth and Family Support to more easily fit into an Australian working environment;

(5) What training is provided to ensure that these officers are fully cognisant of their responsibilities under Australian and A.C.T. law.

Ms Gallagher: The answer to the member's question is as follows:

(1) The Government announced on 25 May 2004 the allocation of recurrent funding for the recruitment of suitable child protection staff. The allocation of funds was $2.9M. These funds will include recruitment drives from overseas, interstate and the Territory.

(2) Reimbursement of relocation expenses for both interstate and overseas recruits is made in accordance with the provisions of the *Office for Children, Youth and Family Support Certified Agreement 2004 – 2007*. The range of expenses that may be reimbursed is set out in the Public Sector Management Standards.

(3) Refer to information above.

(4) Overseas recruits have case management support during their relocation to Canberra and have been receiving regular information packages about the immigration process, social, cultural, educational information relating to Canberra and detailed information on the Office's roles, structure and operations. In addition, current Office staff, who have migrated to Australia, are assisting with the development of a host family program, and community support/social activities to assist new workers and their families to settle into Canberra.

(5) All new staff will receive training in relation to relevant legislation, related court processes and child protection policies and procedures as part of core training. A range of experts will deliver this training.

All other core training links practice to relevant legislation and compliance as necessary. Workplace supervision and support is also provided to further develop legislative knowledge and its application to practice in the ACT.

Development—dual occupancies (Question No 63)

Mr Seselja asked the Minister for Planning, upon notice, on 9 December 2004:

How many (a) development applications were lodged for dual occupancy development and (b) dual occupancies were approved for development, and in what suburbs, in (i) 2001-02, (ii) 2002-03, (iii) 2003-04 and (iv) to date in 2004-05.

Mr Corbell: The answer to the member's question is as follows:

(a)

Year	2001-02	2002-03	2003-04	2004-05
Total (A)	111	97	54	37

Note (A): All Dual Occupancy Applications relating to the construction of a new Dual Occupancy, lodged in the FY period. (see detailed Table A attached).

(b)

Year	2001-02	2002-03	2003-04	2004-05
Total (B)	87	120	49	27

Note (B): All Dual Occupancy Applications relating to the construction of a new Dual Occupancy, approved in the FY period. (see detailed Table B attached).

Attachment A

Table A: All Dual Occupancy Applications relating to the construction of new Dual Occupancy, lodged in the FY period.

	2001-2002 FY	**2002-2003 FY**	**2003 – 2004FY**	**2004 –2005 FY**
Suburb	**Lodged**	**Lodged**	**Lodged**	**Lodged**
Ainslie	13	5		1
Aranda	1	1		2
Barton	1			
Braddon	5	2		
Calwell			1	1
Campbell	4	1		
Chapman		2	2	
Chifley	4	3	2	1
Chisholm	1	1		
Condor	1			
Cook	1	1		
Curtin	3	1	1	2
Deakin			2	1
Dickson		2	1	
Downer	2	2	1	1
Duffy		1	4	
Dunlop				
Evatt	1	1	2	
Farrer	1	1	1	
Florey		1		1
Flynn	2		1	
Forrest			1	1
Fraser			3	
Garran	4	3	3	
Giralang		1		
Gowrie			1	1
Griffith	4	1		2
Gungahlin	2	20	8	3
Hackett	1		1	
Hawker	1	1		
Higgins				1
Holder	4			
Holt		1		
Hughes	4	2		
Isaacs	2			
Isabella Plains		2	1	1

Kaleen	1	2	1	2
Kambah	2	2	3	1
Latham		1		
Lyons	3	3	2	1
Macarthur			1	
Macquarie	4			1
Mawson	4	3		1
McKellar		1		
Melba		1	1	
Monash		1	2	
Narrabundah	5	3		2
O'Connor	5	2		3
O'Malley	1			
Page	2			
Pearce	2	3	1	
Red Hill	7	3		2
Reid	1			
Richardson	1	1	1	
Rivett	1	2		
Scullin			1	
Stirling	1			
Theodore				1
Torrens		2	2	1
Turner	3	1		
Wanniassa	1	4		
Waramanga	1	1		
Watson	1	3	1	
Weetangera	2		1	
Weston				1
Yarralumla	1	2	1	2
TOTAL	**111**	**97**	**54**	**37**

Table B: All Dual Occupancy Applications relating to the construction of new Dual Occupancy, approved in the FY period.

	2001-2002FY	**2002 – 2003 FY**	**2003 –2004 FY**	**2004-2005 FY**
Suburb	**Approved**	**Approved**	**Approved**	**Approved**
Ainslie	13	9		1
Aranda		2		1
Barton	1			
Braddon	3	4		
Calwell			1	1
Campbell	3	3		
Chapman			4	
Chifley	4	3	1	1
Chisholm	1	1		
Condor	1			
Cook		2		
Curtin	2	2	2	1
Deakin	2		2	
Dickson		1	1	

Downer	1	3	1	1
Duffy		1	4	
Dunlop				
Evatt	1	1	2	
Farrer	1	2		
Florey		1		
Flynn	2		1	
Forrest	1			1
Fraser			2	1
Garran	2	5	3	
Gowrie				2
Griffith	3	1		
Gungahlin		21	9	3
Hackett	1	1	1	
Hawker	2	1		
Holder	1			
Holt		1		
Hughes	4	4		
Isaacs		1		
Isabella Plains		2	1	1
Kaleen	1	2		1
Kambah	1	3	3	1
Latham		1		
Lyneham				
Lyons		5	1	1
Macarthur			1	
Macquarie	4			
Mawson	2	4	1	
McKellar		1		
Melba		1	1	
Monash		1		2
Narrabundah	7	3		2
O'Connor	5	2		2
Page	1	1		
Pearce	3	3	2	
Red Hill	3	5		
Reid	1			
Richardson	1	1		1
Rivett		3		
Scullin			1	
Stirling	1			
Thoedore				1
Torrens	1	2	2	1
Turner	2	3		
Wanniassa	1	3		
Waramanga	1		1	
Watson		2	1	
Weetangera	1	1		
Weston				
Yarralumla	2	1		1
TOTAL	**87**	**120**	**49**	**27**

Development—dual occupancies (Question No 64)

Mr Seselja asked the Minister for Planning, upon notice, on 9 December 2004:

(1) How is it that a fourth house out of five in Cox Street, Block 17, Section 22, Ainslie is about to undergo dual occupancy development when you made a commitment to reduce the number of dual occupancies approved.

(2) Is this a high number of homes in one area to be approved for dual occupancy development;

(3) How are you ensuring that (a) neighbourhood amenity is not impacted in light of these developments and (b) the heritage precinct of the area for example around Wakefield Gardens / Corroboree Park is being preserved.

Mr Corbell: The answer to the member's question is as follows:

(1) In response to a Government election commitment Draft Variation (DV) 192, released in December 2001 put a limit of 5% on the number of dual occupancies in any one section as an interim measure whilst a more comprehensive policy framework was developed. The more comprehensive policy was delivered by way of DV 200 that was gazetted in August 2003. DV 200 was introduced as a further response to the Government's commitment to put in place policies to protect the unique character of Canberra's suburbs and to better manage the process of residential development and change. It establishes the concept of Suburban Areas where dual occupancy development is much more tightly controlled than in the Residential Core areas that are principally around commercial centres. The controls in Suburban Areas include restrictions on consolidation or subdivision, including the unit title of blocks, and stricter height and plot ratio controls. Section 22 Ainslie is located within a Suburban Area. The development application for Block 17 Section 22 Ainslie was submitted on 13 February 2004 and complied with the new policies.

(2) The Government's policy has significantly reduced the number of dual occupancy approvals from ten (10) in 2000/01 to one (1) in 2004/05 to date in Ainslie. DV 200 established a strategic framework for managing residential redevelopment focusing on the opportunities for providing more housing close to shopping centres. The policy provides greater opportunity for redevelopment within the Residential Core Areas (A10), however it does not prohibit dual occupancy development in those areas provided the more stringent controls of the Territory Plan are satisfied. These controls ensure that redevelopment is sympathetic to and protects the residential amenity of surrounding areas.

(3) (a) All dual occupancy Developments Applications in Residential Areas are assessed against the requirements of Residential Land Use Policy and Appendix III.2, Design and Siting Code for Multi-Dwelling Developments of the Territory Plan. Proposals must also meet the requirements of the pre-lodgement validation process including a Design Response Report that outlines how the proposed development relates to the existing streetscape and neighbourhood character. Each proposal is considered on its merits and against the site specific considerations as part of a performance based assessment;

(b) DAs for redevelopment on blocks listed under the Heritage Places Register or Interim Heritage Places Register are assessed against a specific Heritage Citation for the area,

and also referred to the Heritage Council for their consideration and comment as required by Part A3 of the Territory Plan.

Roads—Horse Park Drive (Question No 65)

Mr Seselja asked the Minister for Urban Services, upon notice, on 9 December 2004:

(1) When will the extension of Horse Park Drive from Amaroo to Ngunnawal/Nicholls be completed;

(2) Is this project behind schedule; if not, why did the sign now removed where the road currently ends when entering from Gungahlin Drive say that the extension would be completed in 2003;

(3) What has been the delay with this project.

Mr Hargreaves: The answer to the member's question is as follows:

(1) The road extension will be constructed to meet the requirements of the land release program. With the earlier release than originally planned of Crace and the need to provide water supply infrastructure to service Casey and the balance of Ngunnawal, it is likely that the road extension would be constructed in two stages with the first stage to service future stages of Ngunnawal expected to be required for construction at the earliest in 2008/9.

(2) There is no current project included in the Capital Works program to extend Horse Park Drive from Amaroo to Ngunnawal/Nicholls. An officer from Roads ACT inspected the site and confirmed that no sign exists in the location specified. The officer also traveled to the other end of Horsepark Drive to check whether a sign, as described was at this location, but none was identified.

(3) There is no delay as there is no current project to extend Horse Park Drive from Amaroo to Ngunnawal/Nicholls.
