Debates

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Legislative Assembly for the ACT

SIXTH ASSEMBLY

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Thursday, 17 August 2006

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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.

Petition

The following petition was lodged for presentation, by **Dr Foskey**, *from 233 residents*:

Transport—initiatives

> To the speaker and members of the Legislative Assembly for the Australian Capital Territory:
>
> This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly the following matters:
>
> - The proposed relocation of the present Civic bus interchange;
> - The Light Rail Transport system for Central Canberra as suggested in a briefing paper circulated by the Conservation Council of the ACT;
> - A forthcoming revised Canberra bus time table; and
> - The intensive development of Canberra with design, enlargement and increased traffic movement for more cars, with encroachment onto and decrease of parks, gardens and trees.
>
> Your petitioners therefore request the Assembly to delay implementation of the above matters until a wide range of public consultations be held with all citizens affected by these changes.

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

DR FOSKEY (Molonglo) (10.31): I seek leave to make a brief statement in relation to this petition.

Leave granted.

DR FOSKEY: This petition is probably reflective of the concern that a number of residents have in the face of as yet unknown changes to ACTION bus services and the fact that there is no longer a community advisory board, which used to be made up of quite a broad range of users of ACTION bus services. So this petition asks the government to look at, and draws the attention of the Assembly to, the proposed relocation of the present Civic bus interchange. It asks the Assembly to look at the light rail transport system proposed by the conservation council of the ACT. Members will be aware that I have suggested that an excellent project for the centenary of Canberra would be collaboration between the airport, the National Capital Authority and the ACT government to set in train a light rail transport system from the airport through Russell,

through Barton and Parkes to Civic. I believe that is another way of overcoming the taxi crisis that we are continually being informed about and which seems to be very much related to traffic from the airport.

People are concerned that bus services will be reduced as a result of budget cuts. They are especially concerned about the wait of one and a half hours on the weekends and evening bus services, should that go ahead. They are concerned that there is more emphasis on developing Canberra as a car city and that this encroaches onto parks, gardens and trees. So these are concerns felt by many of our voters and for this reason I am happy to present this petition and to draw those issues to the Assembly's attention.

Tobacco (Compliance Testing) Amendment Bill 2006

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

Title read by Clerk.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Disability and Community Services and Minister for Women) (10.34): I move:

> That this bill be agreed to in principle.

I present today the Tobacco (Compliance Testing) Amendment Bill 2006. Cabinet agreed in principle to the preparation of legislation to enable the conduct of control purchase operations for compliance monitoring and enforcement of the prohibition of the sale of smoking products to persons under the age of 18. Cabinet also agreed that the Cigarette Sales to Minors Enforcement Protocol published by the Victorian Department of Human Services be used as a basis for the drafting of an ACT protocol.

The ACT Tobacco Act 1927 prohibits the sale of smoking to persons under the age of 18. Monitoring and enforcement of this prohibition currently consists of investigating complaints and conducting discreet surveillance of tobacco retail outlets. These strategies have not proved to be effective in detecting offences or in preventing tobacco sales to young people. There is concern over the number of young people smoking in the ACT. Teenage smoking rates in the ACT are particularly high, with 17 per cent of teenagers aged 16 to 17 smoking regularly. The ACT government is concerned about these smoking levels as today's teenage smokers will become the next generation of adult smokers. The younger these teenagers are when they start smoking the more likely they are to be heavier, more addicted to smoking, with a higher probability of succumbing to smoking-related diseases.

The Smoking Behaviours of Australian Secondary Students 2002 report commissioned by the Australian government Department of Health and Ageing, reported that nearly one in five underage smokers purchased their last cigarette from a shop. Fewer than one in five report they are frequently asked to show proof of age when buying cigarettes and more than one in three say they have never been asked to provide proof of age. Studies conducted in both Australia and overseas show that increased retail compliance reduces young people's access to smoking products, therefore being an effective strategy in reducing smoking by young people.

Compliance testing is a strategy that involves test purchases of cigarettes by trained young persons under the supervision of an authorised officer. In Australia, compliance tests are used in New South Wales, Victoria, South Australia and Tasmania and will soon be undertaken in Western Australia. Recent results from South Australia and New South Wales highlight there have been significant decreases in the sale of smoking products to minors since the introduction of these tests. New Zealand, the USA and the UK also conduct compliance tests.

The purpose of the bill is to amend the Tobacco Act to enable the conduct of compliance testing for compliance monitoring and enforcement of the prohibition on the sale of tobacco to persons under the age of 18. The bill creates a legislative framework that enables compliance testing using test purchases of tobacco products to be undertaken legally and lawfully. Compliance testing is undertaken in accordance with an approved program and a number of safeguards have been incorporated in the bill to ensure that it is appropriately conducted and not misused. For example, a program must specify areas where compliance testing will be undertaken. It may operate for a maximum of three months and there must be a need to conduct a program of compliance testing in a particular area.

The bill provides the minister with the power to approve procedures with compliance testing. The procedures must protect the welfare, health and safety of young people who assist in compliance tests and ensure that it could not be alleged that the tobacco seller was misled into selling the tobacco product, by considering the welfare, health and safety of purchase assistants; allowing a purchase assistant to withdraw from a compliance test at any time; protecting the anonymity of a purchase assistant; making certain that a purchase assistant is indistinguishable from other young purchasers; and requiring a purchase assistant not to lie about their age.

There is no evidence in the literature on compliance testing or from other jurisdictions to suggest that participating in compliance testing results in physical, emotional or moral harm to the youth volunteering as the purchase assistant. We need to balance our responsibilities to the young people doing compliance testing with our responsibilities to the young people who smoke. I assure members of the Legislative Assembly that every effort will be made to stop any harm befalling the young people who act as purchase assistants, but I am convinced that we need to establish this scheme to reduce the harm from smoking amongst young people in Canberra. I commend the bill to the Assembly.

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

Carers Recognition Legislation Amendment Bill 2006

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (10.40): I move:

> That this bill be agreed to in principle.

It gives me great pleasure to introduce the Carers Recognition Legislation Amendment Bill 2006 to the Assembly today. It is essential that we acknowledge and support carers, not least because they make up some 14 per cent of the population and provide a service that the government alone could never address. The majority of the estimated 43,000 carers in the ACT are female. We also have a growing number of young carers. In this regard, it is estimated that some 7,600 carers are under the age of 25 years.

In recognition of the unique needs of carers for support, a key commitment in *Building Our Community—the Canberra Social Plan* was to articulate a number of goals to build a safe, strong and cohesive community, one of which is to promote and support the work of carers. To implement this goal, the government developed the Caring for Carers policy. This was tabled in the Assembly in 2003. The policy aims are simple: to provide a basis for improving supports for carers that enhance their health and wellbeing and that of the people they care for. Above all, the policy recognises the social, economic and health risks that confront carers. Further, we seek to progress the objectives of the Caring for Carers policy through further input from the community and stakeholders to develop an action plan to address these risks.

On 26 August 2004, the *Caring for Carers in the ACT— A plan for action 2004 to 2007* was released. This document outlines the actions that were being taken over a three-year period to meet defined objectives. This action plan is structured around the principles outlined in the Caring for Carers policy and reflects the key messages arising from the extensive consultations with carers and the people who receive care. The messages heard from this consultation include the need for public recognition of the role and contribution made by unpaid, informal carers; assurance that the person being cared for is provided with quality, adequate and accessible support; and that carers be regarded as partners with government. The Carers Recognition Legislation Amendment Bill, which has been tabled today, will implement recommendations that flow from the report on the Review of Carers Legislation in the ACT released in November 2004.

In late 2004, the Department of Disability, Housing and Community Services engaged Minter Ellison Consulting to review, in consultation with the community, whether there was a need for new or improved legislation to support carers in the ACT. The report found that there was no broad-based support, nor a demonstrated need, for a standalone Carers Act in the ACT. However, the report recommended the development of an amendment bill, to amend some existing acts so that they better support carers, as well as a range of non-legislative actions to facilitate greater use by carers of relevant legislative rights. The report was released in January 2005 for public comment on its findings and recommendations. Fifteen written submissions were received from individual carers, community and government agencies. Overall, submissions supported the recommendations of the report.

In November 2005, the government agreed to a response to the report, and agreed in principle to the preparation of legislation to give effect to amendments consistent with that response. In its response, the government agreed to consider whether amendments could be made to the definition of carer in the Discrimination Act 1991 and the Guardianship and Management of Property Act 1991 to allow for, and to recognise, the various caring responsibilities by a number of people for a person in need of care. This bill inserts new definitions that remove references to primary carer and clarifies the fact

that it is possible to have multiple carers providing assistance to a single person. The definition also recognises that a significant level of commitment is required to qualify as a carer.

Further to increasing the recognition of the role of carers under the Guardianship Act, amendments have also been suggested in clause 14 to support rights of appearance for carers before the Guardianship and Management of Property Tribunal. In its response to the report, the government gave a commitment to recognise a carer's relationship with a potential guardian or manager of a dependent person when appointing a guardian or manager for that person under the Guardianship Act. Clause 12 of the bill amends the Guardianship Act to implement this recommendation. The bill also amends the Human Rights Commission Act 2005 to ensure that a person is not precluded from acting as an agent for the purpose of making a complaint just because the person is under a legal disability, so as to allow children and young people who are carers to lodge a complaint.

The bill also includes an amendment to increase recognition of carers, on an equal basis with near relatives, under section 26 of the Discrimination Act 1991. This provision provides a limited exemption to discrimination in rental accommodation, where the resident and/or near relatives also live on the premises. This amendment will recognise the close relationship between a carer and a dependent person for this purpose, noting that a carer relationship is much like a family relationship. These are important reforms consistent with the direction widely supported by carers and others who have an interest in this area. I commend the bill to the Assembly.

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

Justice and Community Safety Legislation Amendment Bill 2006

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (10.47): I move:

> That this bill be agreed to in principle.

The Justice and Community Safety Legislation Amendment Bill 2006 is the 15th bill in a series of bills dealing with legislation within the justice and community safety portfolio. These bills make minor and technical amendments to portfolio legislation. The bill I am introducing today makes the following amendments. Firstly, the bill amends part 15.2 of the Civil Law (Wrongs) Act 2002, which sets out the general reporting requirements for insurance companies in the ACT. Currently the act requires insurers to provide me with particular information on insurance claims, a report on which is then tabled in this Assembly. The bill adds new provisions that allow me to issue directions to insurance companies about how to compile the data, or to request additional information after an insurer has already lodged a report. In addition, a technical amendment to chapter 9 of the Civil Law (Wrongs) Act 2002 will ensure that the definition of "Australian

jurisdiction" is consistent with the definition used in the national model defamation provisions.

Amendments to the Consumer Credit Regulation 1996 are included in this bill to further clarify the terms relating to the maximum annual percentage rate for credit contracts. The amendments will insert a mathematical formula for calculating the maximum annual percentage rate of a credit contract, define the term "temporary credit facility" and provide further clarification for calculating the maximum annual percentage rate of a continuing credit contract.

The bill will amend the Court Procedures Act 2004 to clarify the status of matters that can take place in a criminal trial prior to the empanelling of a jury. Recently, the Supreme Court had cause to consider whether matters of an interlocutory nature, such as pre-trial matters, could be dealt with by that court prior to the empanelling of a jury, which typically marks the commencement of a trial. During the discussion, it was contemplated that a judicial discretion can only be exercised after a trial has commenced. To remove this confusion, an amendment to the Court Procedures Act 2004 is required to ensure that matters conducted prior to the empanelling of the jury are still within the relevant trial. The amendment replicates a similar provision made in New South Wales.

The Domestic Violence and Protection Orders Act 2001 will be amended to include the crime of common assault, which is provided for under section 26A of the Crimes Act, in a list of offences that are classed as domestic violence offences for the purposes of the act. The amendment to the Land Titles Act 1925 will clarify that when the ACT Planning and Land Authority lodges a crown lease variation with the Registrar-General, the variation takes legal effect from the time it is entered into the register. The bill will amend the Mental Health (Treatment and Care) Act 1994 to clarify that the mandatory three-day notification period for an order from the Mental Health Tribunal does not apply to tribunal proceedings concerning emergency electroconvulsive therapy orders.

The bill will repeal a section in the Residential Tenancies Act 1997 that is currently causing certain people to be excluded from accessing the Residential Tenancies Tribunal, such as tenancies at common law. The provision's original purpose was to distinguish residential tenancies from occupancies. However, as the tenants advice service and the tribunal no longer see the provision as necessary, repealing the subsection will allow some currently excluded parties to have access to the tribunal. The bill also extends the jurisdiction of the Residential Tenancies Tribunal. Currently the tribunal cannot make an order for the payment of an amount, or for work of a value, of more than $10,000. This limit will be raised to $25,000, or as high as $50,000 with the consent of both parties. The change will allow the tribunal to make orders in relation to higher-rent premises, or for cases where the tenant seriously damages the premises. It will also prevent some residential tenancy disputes from ending up in the Magistrates Court due to the larger sums of money involved.

The bill will amend the Security Industry Act 2003 to change the requirements for particular members of the industry to wear their security industry licence when carrying out a security function. Instead, these members of the industry will only be required to carry and produce their licences. This amendment was requested by members of the security industry who install and repair security equipment. Often members of this industry work in building sites, construction sites, roof spaces and under buildings where

the wearing of a licence is likely to be an inconvenience and likely to result in the licence being damaged, dirtied or lost. It is important to note that this amendment does not affect the requirements for bouncers or crowd controllers.

Minor amendments to the wording in the Security Industry Regulation 2003 clarify that a crowd controller's ID number is unique to that person—rather than to the licensee who employs that person for crowd control activities. This clarifies that members of the security industry may work for more than one employer at more than one location, but do not need more than one ID number to carry out the same activity. There are also consequential amendments in this bill of a number of acts following the recent repeal of section 230 (2) of the Legislation Act 2001. The repealed provision stated that wherever a statutory authority existed, it came with an implied power to delegate that authority. The subsection was repealed because it was deemed unnecessary, as most acts now expressly include the power of delegation. Consequently, the bill reinstates the power of delegation for various statutory positions, including the Commissioner for Fair Trading, the Registrar of Liquor Licences, the Registrar of Motor Vehicles, the Registrar of the Residential Tenancies Tribunal, and some human rights commissioners.

Finally, there are consequential amendments to the Court Procedures Act 2005. The bill includes amendments to a range of legislation to make ancillary or consequential amendments necessary as part of the harmonisation of court rules project. The bill makes many minor amendments to ensure consistency of language and concepts between acts, as well as amendments to account for provisions that have been moved from one act to the other. I commend the bill to the Assembly.

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

Supreme Court (Judges Pensions) Amendment Bill 2006

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (10.55): I move:

> That this bill be agreed to in principle.

The Supreme Court (Judges Pensions) Amendment Bill removes uncertainty and inequality in the operation of the law that governs superannuation entitlements and allowances for ACT judges, and reaffirms the longstanding principle, enshrined in legislation, that places the remuneration and entitlements of ACT judges in lock step with Federal Court judges. Both ACT and commonwealth legislation give ACT judges a statutory entitlement to the same remuneration entitlements and allowances, including pension entitlements, as judges of the Federal Court. However, as a consequence of the commonwealth's superannuation surcharge scheme for judges being placed in two pieces of commonwealth legislation, there exists a theoretical possibility that ACT judges could be subject to double taxation because of problems arising from the legislation. There is also some uncertainty about the application of the surcharge tax to the President of the

Supreme Court, who should not be subject to a superannuation surcharge because he was appointed before the surcharge tax was introduced in December 1997.

These amendments to the Supreme Court Act 1933 will remove any lingering doubts or uncertainty in relation to an ACT judge's entitlements under the Judicial Pensions Act 1968, a commonwealth law that applies in the territory and treats ACT judges the same as Federal Court judges in relation to superannuation entitlements. Federal Court and ACT judges appointed after 5 June 1997 but before 7 December 1997 were not subject to a superannuation surcharge levy. Federal Court and ACT judges appointed on or after 7 December 1997, but before 1 July 2005 when the surcharge levy was abolished, were required to pay the superannuation surcharge. However, the commonwealth has now indicated that it will not apply the surcharge levy to this group of people.

Even though the commonwealth has now taken the view that judges will not be liable to the superannuation surcharge levy, it is important that the government puts beyond doubt any future possibility that ACT judges might be subject to double taxation or discrimination between the remuneration of an ACT judge and an identical officeholder in the commonwealth judiciary. These amendments will keep the judges indemnified from any surcharge demand, on the basis that a Federal Court judge will not be subject to the surcharge levy and will indemnify resident judges against the risk of double taxation. The bill will provide certainty and independent determination of judicial remuneration and superannuation entitlements, an important plank of judicial independence. I commend the bill to the Assembly

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

Subordinate law SL2006-13
Proposed disallowance

DR FOSKEY (Molonglo) (10.59): I move:

> That Subordinate Law SL2006-13 being the Land (Planning and Environment) Amendment Regulation 2006 (No 2) be disallowed.

The explanatory statement to this disallowance motion contains a detailed discussion of the effect of the proposed regulation without giving any justification for it. The explanatory statement also discusses why, based on case law, the government feels that the regulation will not be in breach of the Human Rights Act. Again, there is no justification for this, merely an argument why the diminution of rights is not enough to constitute a breach. Thirdly, the explanatory statement argues that the limitation on rights is justified proportional because the regulation will increase certainty, reduce delays and costs and facilitate development, especially in Civic.

Of course, developers would like to have more certainty, lower costs and reduced delays. But this is a democratic system and certainly the Labor Party's platform recognises the interests and views of the community as still being important. This means that some constraints on development are desirable to enable community interests and views to be expressed and incorporated into the planning process. The reason I moved this disallowance motion in the first place was that I was concerned that this regulation was

too broad in its impact and reduced the ability for community interests, which were already lacking channels, to be heard.

It is possible that ministers and ACTPLA executives could forget, from removal from the streets of Canberra, that the government's perspective on urban planning and development projects should be one of seeking to maximise the fulfilment of community needs and interests. After all, this is what we are building Canberra for. Dealing with developers all day and seeing less of the community it could be easy to forget the aim of the job. Yes, it is really important that developers' interests should be represented and heard, because they are the people who bring the capital to develop, to put the buildings up, but they should be buildings and developments that the community wants.

If there are complementarities between community and developer interest, that is a good thing and such synergies should be pursued and nurtured. We know that is not necessarily an easy thing because those of us who watched the redevelopment of the Griffin Centre will be aware that it is not always easy to get people who are used to building office blocks to be able to build buildings that suit the needs of community organisations. So this area needs a lot more work as well. But we need to be sure that we do not introduce broad-based regulations that have one aim but have another impact along the way.

The voices of those who have only a marginal financial or personal interest but perhaps a large philosophical interest in the form of urban development need to be heard. They might have other than financial expertise, such as ecological expertise or social expertise, and concerns that are often not taken into account by the developers who are looking at their bottom line. We know planners are busy. We know a streamlined development approval process is coming up and we are not yet sure that it is going to take into account all these multitudes of things that the community is interested in.

People in the community, especially the Canberra community, have a passionate interest in urban planning. A lot of people have expertise, and a lot of people are aware of the architectural implications of buildings in a heritage area—of impacts on street crime, for instance. There is a whole area of research out there that looks at planning from the point of view of whether it makes it easier or more difficult to commit crimes, to hide, to make it unsafe for women and children, and of course health problems. These are issues that should be sought out and represented by ACTPLA and the government, but they are not always. That is where the community comes in.

This is especially important when consultation processes have narrowed down, so we do not have for every town centre to which this regulation applies a consultation process by which ordinary people can be involved. Community councils have a role but they are not adequate conduits and, of course, they are run by volunteers. This work requires us to hear them not just when people get in touch with us and complain or want a say. We need more active mechanisms at the front end of development but we should not be cutting out mechanisms at the back end.

I believe that allowing for opportunities for such interests to be represented in the planning process is a sign of good governance. I know there is a point beyond which excessive community appeal rights and review processes can become impractical, counterproductive and wasteful. But this amendment appears to represent a shift in

priorities, or could even be an admission of defeat. Perhaps it means a downgrading of the value of community participation, and certainly it could have a very deleterious impact on participatory democracy.

I was fortunate to be briefed on this amendment and I thank the minister's office for arranging that. In the briefing I was told that the regulation is a response to two problems. One problem is that developers have been using or abusing the review process to try to hold up or stymie their competitors. I am sure that this problem has created great angst for ACTPLA and certainly for the government a number of times. The result has been that the minister has used his call-in powers on a number of occasions. The other problem is that people are using the appeals mechanism to fight battles on policy issues rather than on the merits of any particular development project. The officer who gave me the briefing believes these disputes are more properly fought in other venues where it does not impact adversely on developers whose projects are unfairly held up.

Of course, in developing our city we are in a symbiotic relationship with developers who we rely upon to put in the capital, to organise the labour and to create the buildings. We are also in competition with other jurisdictions to attract investment capital and projects. But we need to make sure that we do not shift the balance too far towards the developers. In this case it is favouring the successful developer over adjoining developers or other developers. Of course, legal costs are tax deductible for companies and directors and they can have financial motivations for using whatever avenues they can get away with to pursue their personal or corporate interests. They are also used to operating within a system where the ethos is that if there is an arguable case that you will not be found to have been aware that it might have been illegal, then it is okay.

One problem with operating under the rule of law is that society at large does not hold our business community accountable to any particular meaningful standard of moral behaviour. We saw this to some extent in the debate around the Narrabundah long stay park. We were told repeatedly that the developer concerned was just acting as a developer does, to maximise profits. There was no requirement upon that developer or any other developer to consider the social or other impacts of his work. I am interested to see that the federal government is developing a corporate code of conduct and a lot of corporations and other business groups are adopting their own codes of conduct. This is something that we should be encouraging. Of course, it is a sideline from the argument that I am putting here but I think we are aware it is an issue.

Triple bottom line accounting is still struggling to find corporate acceptance or adoption by governments. While there is much fine rhetoric, it has not yet been embedded in our systems. At least there is a tacit recognition that economic performance indicators are not the absolute guiding light. My objection to this disallowable instrument is that it takes away third-party appeal rights without maintaining that capacity for community groups and concerned individuals, including legitimately aggrieved business people, to challenge government planning decisions. It fixes the problem of improper use of the appeal system by unscrupulous business people, but it kills off an important avenue for public participation in the process as though that public participation has no value at all.

As the Assembly knows, I have introduced a bill to protect public participation precisely because my constituency has been on the receiving end of the dirty tactics of corporations in the ACT—though we do not have many instances, I think developers

would fit into that mode—of slap suits. Of course, the Greens believe strongly in the institution of participatory democracy. By removing the capacity for all third-party appeals, rather than devising a method by which bogus commercial or political appellants can be discouraged and weeded out, the government has abrogated its duty to represent the community interest. I have already said I recognise that the problems identified by ACTPLA and the government are real and need addressing. But we need to recognise the rights of both developers and community activists and seek to drive the balance in them. That is where my anti-slap bill will be useful in time, if it is passed by this Assembly.

My concern is that we have here a broad-based regulation that does not distinguish between non-vexatious complaints and those complaints of commercial interests who have their own ends only in mind. So while it might make it easier for the bureaucracy to work and to make sure developments will go ahead, and it might reduce the use of the minister's call-in powers, it removes that independent voice. Mr Savery told me during the briefing that he does not think that people need an independent arbiter because ACTPLA is independent from the government. He was very strong about this. But this misses the point that what is needed is a source of view that is independent of the delegated decision maker. Our system works well largely because of checks and balances, and by making ACTPLA both the decision maker and ultimate legal arbiter the regulation destroys one of those balances. That is the reason I am moving this disallowance motion. It just needed that broader discussion, which I hope we are going to have now.

MR SESELJA (Molonglo) (11.14): The opposition will not be supporting this disallowance motion. When the minister announced these changes, I looked very closely at them. Some of the criticisms that Dr Foskey has raised are probably valid in the sense that this instrument has fairly broad application as it applies to the town centres, Civic and industrial areas. It is a reasonably blunt instrument, I suppose, for attacking a problem which is of significant concern. It is of significant concern not just to the development community in this town but also, at times, to owner-builders and others. I know they are not going to be affected by these changes.

I want to look at where we are at currently with the current third party appeals process and whether it is serving the community well. I know that, as part of the broader reforms, there will be some changes in these areas, changes which we are looking at very closely as well, but I think we do need to take a broader look at the purpose of merit review of development applications. Everyone has a different view about developments. For any given office block, block of units or home extension, there will be widely differing views in the community from neighbours, residents' groups and others.

I think that one of the challenges posed by merit review is that it is, essentially, coming down to an opinion about whether a development is good or what impacts there may be on some potentially affected residents and, in other cases, people who are not particularly close to the development. I think that is one of the fundamental problems, one of the bigger problems and one of the bigger challenges that this government is going to face. We will support them if they look at some really good reforms which do not take away totally any prospect of appeal but certainly do not allow the kind of open slather that we have at the moment.

I want to look at some of the issues with the current system. I could name a number of individual cases, but in relation to, say, the Space apartments, which ended up being called in by the minister, which I believe was supported by the opposition at the time, I know that we had a fantastic development, a quality development on Northbourne Avenue of the kind of density that we want to be having along Northbourne Avenue and in the Civic area, which was almost scuttled by a residents' association which had to do no more than put up $150 and argue its case.

That is one of the fundamental concerns of people who wish to put their money into developments which are a positive for the ACT. This is where the Greens, I think, need to start having a think about their policies. I know they do not like urban sprawl. The alternative to urban sprawl is increased density, especially around our town centres and in Civic, yet the Greens would, I suppose, allow those kinds of appeals, the often spurious appeals against good developments, to delay and sometimes potentially scuttle those developments.

The end result of that is that people can go broke, that people are less inclined to invest in these kinds of developments. Of course, when they do eventually get them through after there has been significant delay, the cost has been driven up. Developers are going to pass that on to buyers. We have a situation in the ACT where we have virtually the highest rents in the country. They are certainly right up there with those of all the other major cities. The ACT has amongst the highest rents in the country and the kinds of arrangements that have been in place have contributed to that.

I think the Greens need to think about that as well in terms of the fact that lots of people cannot afford to buy, as Dr Foskey would acknowledge, and the only alternative is to rent. If we allow all sorts of delays and if we allow all sorts of extra cost burdens as a result of having a poor planning system and a poor appeals process, the ones who will suffer in the end will be the renters right across the ACT. So I have a real concern to ensure that this area is properly reformed. I think this is one step. It certainly is not the whole answer, even for these particular areas. I think there might need to be further reform, but I think that at this stage it is certainly better than nothing.

Dr Foskey referred to those with a philosophical interest. That is where I have real concern. That is why we have a democratically elected Assembly. These are the kinds of things that are put to governments and oppositions in various ways and to other members of the Assembly. We as a city have philosophical concerns about protecting the environment and about urban form and urban design. Those are all issues that are looked at, I think, at various levels. I do not know that the best forum for that is always a disgruntled resident or a particular association.

We had the example of the Save the Ridge objections which ended up in the courts. There is no doubt that that delay caused significant damage to the ACT, to the taxpayers in the end. I do not think the government was free of blame there, but obviously that delay led to significant increases in costs. At the very least in that circumstance, Save the Ridge had to front up with some money, had to put up some surety. The problem, I think, with a lot of the AAT reviews is that the sum is $150. There is no risk, which invites more spurious claims. It invites those kinds of things to occur. That is why we cannot support this motion.

I think the next area of reform in this regard is in relation to how the system operates outside these areas. We do need to take a comprehensive look at finding that balance. I am constantly approached by people, not just developers, not just builders, but sometimes owner-builders, looking to put on minor extensions, make minor changes to their homes, and the kind of angst that is sometimes experienced when neighbours appeal or when other third parties appeal is significant. Sometimes it adds to the costs, but sometimes there is just a lot of angst in getting what should be fairly simple things through. I think that is going to be the next thing.

Dr Foskey categorises this situation by saying that corporations can get tax deductions when they have legal costs. That is all well and good, but that does not justify adding $50,000, $100,000 or $150,000 to the cost of a development, potentially scuttling it and therefore adding to the cost to the buyers and to renters. That applies just as much to small builders. It applies also to people looking to do minor changes to their homes, extensions and the like. So it affects the big end of town, it affects medium-size enterprises and it affects the small end of town. I think that needs to be taken into account. This regulation goes some way to changing things. I do not think it is the whole answer. I think it may need to be amended much more in the future. But we certainly cannot support this disallowance for all of the reasons that I have put.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (11.23): Mr Speaker, the government will be, of course, standing by its regulation today and opposing Dr Foskey's proposal to disallow it. This regulation was made because the government saw an emerging and very worrying trend in the way developments in our commercial centre, Civic, our town centres and our industrial areas were increasingly being obstructed by commercial rivals.

Dr Foskey and, indeed, other members are critical in this place from time to time—not always, but from time to time—of decisions that I make to exercise my powers under the act to determine or call in a development application. I can say very clearly that in the overwhelming majority of cases over 90 per cent of all of the cases, where I have exercised a call in—it has been done on 15 to 18 occasions; I cannot recall the exact number—it has been in response to requests from a development proponent who was facing opposition to their commercial development from commercial rivals.

That, I think, says a lot about how the development industry sometimes has a double-faced argument. It argues for certainty and consistency with the rules, but at least some parts of the development community are equally happy to use the opportunities available to them under planning law to frustrate commercial rivals. That is something which I think is quite unacceptable.

If a development proponent comes forward and lodges a development application which is consistent with the planning controls that we as a community, we the Assembly, have agreed to through the territory plan and through the provisions of the Land Act, which is consistent with those controls, why should a commercial rival seek to hinder or delay the commencement of that project through third party appeal? If it is only $150 for a residents' association, it is not a lot of money for them: $150 is nothing for a development company, for a large property-owning organisation, to go to the AAT and

achieve a six or nine-month delay in a decision on whether a development proposal should be agreed to. That is what occurred.

The particular example I would like to give, which really focused my attention on this, was the decision by the Australian Taxation Office to award its very large tenancy agreement to Queensland Investment Corporation with the section 84 development. It was one of the single largest commonwealth tenancy agreements ever entered into in the ACT, to accommodate over 5,000 ATO staff in new buildings in section 84. The developer came forward with a development application to accommodate their prospective tenant, the Australian Taxation Office.

The objectors to that development proposal were overwhelmingly the other parties which were unsuccessful in gaining the ATO tenancy. They were either the owner of the building currently occupied by the ATO, which obviously was fairly reluctant to lose such a significant tenant, or the owners of other existing buildings or potential new buildings which had been unsuccessful in securing the ATO tenancy. They sought to prolong their commercial battle through the development application process. That was, in my view, completely inappropriate. It is not for the planning system to adjudicate on where a particular tenant goes, but that is what those development proponents were seeking to do. So for that reason, and for a range of other examples similar to that example, the government decided to make the change to this regulation.

I need to stress that, whilst opportunity for review to the Administrative Appeals Tribunal has been removed by this regulation, it does not remove all avenues of review. For example, review is still possible by the Supreme Court. Traditional review under the Administrative Decisions (Judicial Review) Act is still available. That is, I think, an appropriate check. The advice given to Dr Foskey in her briefing by Mr Savery, the chief planning executive, was entirely accurate. The reasons for the regulation that he gave to her were also entirely accurate.

The ACT Planning and Land Authority, under law, is the decision maker for a development application unless the minister exercises his or her power to call in and determine an application himself or herself. It is not a delegated power from me to the chief planner. It is a power held by the chief planner in his or her own right and he or she delegates that power to officers of the authority. So it is an independent statutory decision; it is not a decision taken by the government, unless the minister exercises the call-in power, which is a very rare occurrence.

The other issue that Mr Savery raised in his advice to Dr Foskey is also worth elaborating on. He made it clear that issues around what planning policy should be and issues around what the territory plan does or does not permit should be dealt with in the forums where those decisions are made—that is, here in the Assembly when variations to the territory plan are debated; in the planning and environment committee, where variations to the territory plan are considered; and through the public consultation mechanisms occurring around the planning and environment committee's consideration or occurring around ACTPLA's own consultation processes on territory plan variations—because that is where those policy decisions are made. But the consideration of a development application should not be an opportunity to revisit a fundamental disagreement with a policy decision in the territory plan. Unfortunately, that is one of the issues that occur, particularly in our town centres, in Civic and in our industrial areas.

The government thinks this is an important regulation to make. It streamlines decision making in our industrial areas, in our town centres and in Civic. These are the places where large buildings can be built in our city. These are the places where large developments are permitted to occur. That is what our territory plan says. There should not be a fundamental problem with that occurring as long as it occurs consistent with the planning controls that are in place and we have an independent decision maker to assess whether a development application is consistent with those controls.

Mr Seselja raised the issue of further reform. The government has already put on the table comprehensive reform in its draft planning and development bill that addresses the issue of third party appeals and assessment of development applications. I just want to quickly mention those. The first is the issue of standing for third party appeal. We will require and we will be arguing when the bill is presented to the Assembly later this year that, to have standing to make an appeal, first of all you need to demonstrate material detriment. You must be potentially materially affected by a decision to approve or not approve a development application. That provision is in wide use in other jurisdictions but has not been applied previously in the ACT. Demonstration of material detriment means that if you live three suburbs away and you just do not happen to like the look of a building, it is not a ground to object to it. But if this building is going to cause you material detriment—it might be overshadowing or it might be loss of amenity; those sorts of issues—then you certainly do have grounds.

The second is that third party appeals will be focused on those areas and on those types of development applications which seek to push the boundaries in terms of what is permitted under the planning controls, and the use of development assessment tracks will seek to address that. I have run out of time to address those issues this morning, but the government is conscious that broader reform is needed in this area as well as tackling the immediate issues that we face in our town centres, in Civic and in our industrial areas, and that is what this regulation seeks to do.

DR FOSKEY (Molonglo) (11.33), in reply: I want briefly to close the debate. First of all, I thank Mr Seselja and Mr Corbell for their contributions, which I appreciated. This subject came up as a disallowable instrument and would not have been discussed here today if I had not moved a motion of disallowance. I do keep my eye on the disallowable instruments and other regulations because I think some of them do deserve a broader airing, and I thought this was one of them.

I want to respond to some of the things that were said in the debate. I felt that Mr Seselja was perhaps segueing the Turner Residents Association and the Greens. I want to say that—

Mr Seselja: I am not saying that you are the same organisation.

DR FOSKEY: We are not the same people. We have had our own issues with the Turner Residents Association. The Greens' policy, as I think people know, is about urban consolidation and so on. That is not to say that we think everyone should live in an apartment, by the way. I am not sure that putting up lots of apartments would solve the rent problem for people who want to live in houses with yards. It should be remembered that prior to the last election the Save Our Suburbs group—not Save Our Schools; SOS is

a very handy little acronym—were very active at meetings. They had a good go at the Greens because of our policies about urban consolidation, our tempered support for the government's garden city regulation, as it has become called, and I think that residents would have felt that they were supported in that by quite a few Liberal candidates. So I am not sure that we have a really clear picture here of where the Liberals do stand on the issue of urban consolidation.

Also, Mr Seselja said that ACTPLA had the expertise and we did not need community organisations to have standing on these issues.

Mr Seselja: Are you confusing me with Mr Corbell?

DR FOSKEY: No. I may have heard Mr Seselja incorrectly, but one of the questions I asked during the estimates process was about the level of expertise on things related to environmental and social impacts and the answer was that there was not a great deal, so that they are still seeking that expertise outside. I think that a lot of the community organisations recognise that those impact studies have not been done and that they want that view put somehow and somewhere.

Turning to Mr Corbell's comments, yes, it is a worrying trend. I was interested to hear that 90 per cent of your call-ins have been in response to requests from the development proponents. I figured that was probably the case. I agree that $150 for a residents' association or a developer does not seem a really fair impost if it goes across the board regardless of the income, but if it achieves a six-month delay it does make it a worthwhile investment if the strong sense of objection is there, does it not? I was interested to hear who were the opponents to the new tax building. I am sure that there was a period of great angst there.

Almost finally, as to ACTPLA being an independent decision maker, that may indeed be the case, but I would still just note that Mr Savery came to my office with a member—even though I always enjoy having Gina in for a cup of tea—of the minister's staff. We will see how the regulation works. I will listen to residents' organisations and find out how it impacts on them. I think that there is a huge level of community concern about development of our town centres. We saw with the City Hill proposals and the Griffin legacy that people do want to have a say and ideally those mechanisms should be up there at the front end.

That is one thing we will be watching with the planning reform legislation, one thing that I am a little bit concerned about. We need to be aware that often some community organisations have a particular agenda in regard to planning, but they do have a legitimate right to be heard and there does need to be a way that they can lodge their objections, that they can be heard. I still say that at the moment this disallowable instrument is reducing that. As Mr Seselja said and I have said, the approach is too broad and a bit more nuance is needed.

Question resolved in the negative.

Executive business—precedence

Ordered that executive business be called on forthwith.

Revenue Legislation Amendment Bill 2006

Debate resumed from 11 May 2006, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MRS DUNNE (Ginninderra) (11.41): Mr Speaker, on behalf of Mr Mulcahy, I begin by thanking the Treasurer for his cooperation and assistance in providing Mr Mulcahy and his staff with briefings on the bill by three staff of the ACT Treasury. I am informed that Mr Mulcahy's staff found their contributions highly informative and useful.

The amendments proposed in the Revenue Legislation Amendment Bill are, as far as the opposition is concerned, fair and reasonable in the context of the changes to the legislative and regulatory landscape which this bill was originally intended to cover. By examining the specific changes that are to be made through this bill, namely, amendments to the Duties Act 1999, the Payroll Tax Act 1987 and the Taxation Administration Act 1999, it becomes apparent that such changes are required, are indeed sensible and do correctly bring the relevant legislation up to date.

The bill makes appropriate changes to the Duties Act to reflect the altered circumstances in which self-managed superannuation trusts have been placed following recent commonwealth legislative amendments. Changes to commonwealth law have opened the potential for anomalies to occur within trusts that are self-managed, particularly with regard to cases in which trustees are removed or changed. Access to concessional duty treatment in these cases was not readily defined in the Duties Act 1999 in its original form and therefore there is a need to update the legislation.

It should also be noted with reference to this component of the bill that retrospective legislation is not required, as existing cases that have been affected by commonwealth changes have been appropriately compensated on an ad hoc basis. This bill marks the first stage in closing the loopholes in this outdated legislation.

The bill also adjusts the Payroll Tax Act 1987 to reflect the changes in business practice since the act's inception to include the use of electronic funds transfer, EFT, to pay employees. Until now, the act has not expressly recognised the prevalence of EFT usage by businesses in the payment of their employees. Whilst this, in itself, has not caused any legislative difficulties, it should be considered appropriate to reflect such changes to modern business practice in a piece of legislation whose purpose is to cover any and all interpretations of the act. Again, this part of the amendment should be regarded as closing another technical loophole in legislation that occasionally loses relevance as time passes and conventions change.

Finally, the bill amends the Taxation Administration Act 1999 to remove any ambiguity that may currently exist over the release of information collected for taxation purposes. By clarifying the provisions by which such information is to be disclosed, the act serves to fully define what protected information is for tax officers and the public. It should be stressed that in no way does this piece of legislation adversely impact on the capacity of police and law enforcement officials to obtain this type of information as part of their investigations into criminal activities. Instead, its focus is on civil action at the

ACT Magistrates Court level, placing the appropriate constraints on litigants to prevent any unwarranted exploitation with respect to the disclosure or the release of information for taxation purposes in legal proceedings.

As far as any financial impacts go, the government believes that this bill may result in a minor negative revenue impact, if at all, as excess duties from self-managed superannuation funds may be forgone. The benefits of updating the relevant legislation, however, outweigh this potential adverse financial impact which would, in practice, be a relatively insignificant amount of money.

In summary, the Revenue Legislation Amendment Bill introduces sensible and necessary amendments to existing legislation that reflect changes to the commonwealth regulatory environment, modern business practices and established protocols for taxation information disclosure. It is in this context that the opposition believes that the bill is a positive move and therefore supports it.

DR FOSKEY (Molonglo) (11.46): The Revenue Legislation Amendment Bill 2006 is pretty straightforward and does not require much comment. The changes to the Duties Act and the Payroll Tax Act clear up some anomalies and seem fair. However, I hope the superannuation changes do not cause the possible loss of income foreshadowed in the explanatory statement because the ACT's environment and the weakest members of our community cannot afford to bear the brunt of this government's response to any further loss of income.

My main concerns with this bill relate to the taxation amendments, as there are major discrepancies between the views of the Treasurer and the scrutiny of bills committee. The central question is: is it fair for all taxation information to be withheld from the courts unless the Commissioner of Taxation decides, in his or her almost absolute discretion, that it is appropriate to do so? This seems to be the intended effect of these amendments.

The explanatory statement talks about ensuring clarity and certainty, which was missing in the definition of "confidential". But this amendment goes far beyond merely ensuring clarity or certainty. It expands the category of exempt documents and information to be far wider than what is presently encompassed within the existing definition of confidential information. Perhaps the truth of the matter lies in the third justification given in the explanatory statement, which is the avoidance of litigation.

I am sure that all government agencies would like a special get out of court free provision to save them having to expend resources on answering troublesome subpoenas and summonses. But such pesky inconveniences are a consequence of living in a system that still operates largely under the rule of law. While these amendments may save the taxation office some money, there are wider implications that do not seem to have been addressed or possibly observed by the government or the department or, seemingly, by the human rights commissioner or whoever gave the compatibility statement.

The explanatory statement talks about the need to balance the right to privacy against the right to access all the information necessary for a fair trial. But as far as I can see there is no balance whatsoever if the matter in question is not related to the administration of a tax law. In these non-tax matters, the right to privacy has trumped the right to a fair trial,

and this amendment will mean that no document or information held by the tax office need be released to a court, even if the effect of withholding such information leads to a person being wrongly convicted of a serious criminal offence. This is unacceptable, and I would have thought that it was a breach of section 21 of our Human Rights Act. Section 21 states:

> Everyone has the right to have criminal charges, and rights and obligations recognised by law, decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

How can a hearing be fair if crucial documents are withheld from production at least to the court? Surely the default position should be that one person's right to a fair trial trumps another person's right to a total prohibition on even a limited disclosure of the details regarding their financial affairs.

There is already a number of existing privacy protections in the form of the standard prohibitions on secondary disclosure of information gained through criminal discovery processes. As noted in scrutiny report No 26, there is no general rule that excludes private information from being admissible or compellable as evidence in a criminal or civil proceeding. In most other areas of life people have to rely on these existing safeguards and I am not convinced by any arguments put forward by this government that tax records deserve special attention.

Under existing legislation, if one party does not think that it is fair that their personal information be disclosed in a court proceeding, they can apply for restricted disclosure orders so that only the court or only the parties' legal representatives have access to the information. Alternatively, they can apply to the court for closed hearings when that information is disclosed.

These existing safeguards go a long way towards striking an appropriate balance between the right to privacy and the right to a fair trial. My amendment would further enhance this balance, by enabling the Commissioner of Taxation to disclose protected information where it is in the public interest to do so. It would also ensure that tax office documents that contain no confidential information could only be withheld from the court if it is in the public interest to do so.

Section 96 of the taxation act gives the commissioner the power to disclose statistical information only in a very narrow range of circumstances if he or she considers that it is in the public interest to do so. Section 97 gives any tax officer the power to release any information to the commissioner of police for the purposes of merely investigating an offence, but does not allow such disclosure to the court when it is dealing with a serious criminal offence.

The explanatory statement asserts that the right to a fair trial will be protected in criminal proceedings through the special disclosure obligations of the Director of Public Prosecutions. But the DPP is not listed under section 97 of the Taxation Administration Act as a person authorised to receive protected information. I also note that the chief executive is the only person to have been prescribed under section 97 (d) of the Taxation Administration Regulations to have the authority to access taxation information. This makes the claim of the explanatory statement that the DPP can release

information a bit problematic. Unless the matter concerned the administration of a tax act, how would the DPP come into possession of the information? There is no mechanism that ensures that the prosecution or the defence or the court will ever see information held by the tax office that is relevant to the case before them.

The Assembly has heard me say many times that the thinking that goes into the bare bones compatibility statement should be made available for public scrutiny. Even if it is only in the form of back of the envelope dot points, some justification for the commissioner's opinion as to human rights compatibility should be made publicly available. This bill is another instance where the reasoning on which a human rights compatibility statement is based should have been released for public edification and scrutiny. A bland assertion of compatibility without any detailed justification shows contempt for the public and does nothing to nurture greater public understanding and acceptance of our human rights framework. Robust debate on human rights is essential. Indeed, without it our Human Rights Act is somewhat hollow, providing ticks for the government without any self-examination.

Section 99 currently gives a tax officer the power to resist disclosure of a document unless the court considers that it is necessary to do so for the purposes of the administration or execution of a tax law. The explanatory statement makes no mention of the fact that the amendment proposes to remove this decision-making power from the court and give it to the Commissioner of Taxation.

This amendment changes the legal status of taxation documents by making them non-compellable. This takes power away from one branch of governance, the judiciary, and gives it to another branch, the executive. This is not a minor or an inconsequential thing and it should have been discussed in the explanatory statement. I do not know whether it was intentional in this case or if it is merely an administrative oversight, but again we see this government giving itself the power to withhold information that could be politically damaging.

This amendment potentially covers information concerning the financial affairs of the government and attempts to remove that information from public or court scrutiny. It expands the definition of confidential documents to include documents created by the tax office itself for its own purposes and it makes the taxation commissioner the final arbiter of whether or not to release taxation information by taking his function away from the court. This amendment expands the existing category of confidential information to cover documents that contain no personal or confidential information. These are documents that could never breach confidentially or trigger the provisions of the Privacy Act. It is misleading to assert that this amendment merely clarifies the position regarding the release of confidential information.

It may well be that this amendment will be held to be inconsistent with the broadly defined definitions of compellable evidence found in the commonwealth Evidence Act. The scrutiny report comments on this possibility and the argument made in that report is not satisfactorily answered by the Treasurer's response. As well as urging the government to release its reasoning behind its human rights compatibility statement, I also urge it to release as many of its legal advices as is practicable. It would be useful if the government made available its own legal reasoning on this matter, as there is some ambiguity about the interpretation of section 8 of the commonwealth Evidence Act.

There is no legal requirement to keep government legal advice secret. Indeed, there are often strong arguments for making it public. It is part of open and transparent governance. It may also expose weaknesses in the government's position that can be identified by outside parties and rectified by the government before it becomes a messy and expensive legal action. There are some circumstances where it is appropriate to withhold government legal advices, but this is not one of those cases. The government may argue that the advice is subject to legal professional privilege, but legal professional privilege is no bar to releasing information voluntarily and it is arguable that legal professional privilege in this legal advice has been waived now that the government has disclosed the substance of that advice.

Governments also do not release legal advices when they know that the advices are wrong in law and would never be upheld by any court, but which serve a political purpose and enable them to say, "We have legal advice that supports our position." I am sure that most Labor supporters share the Greens' contempt for the federal government's refusal to release their legal advice regarding the human rights compatibility of the commonwealth's terror legislation and also the commonwealth's legal advice that the Guantanamo Bay military commissions are compatible with international legal standards. The bill before us today is far removed from the seriousness of those acts; nonetheless, I believe that this criticism applies. For the reasons I have detailed, I cannot support this bill in its current form.

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts) (11.58), in reply: I thank members for their contributions to the debate. As members have said, the Revenue Legislation Amendment Bill amends three acts. The amendments to the Duties Act 1999 improve equity of the trustees of self-managed superannuation funds. The language in relation to payment methods in the Payroll Tax Act is modernised. The Taxation Administration Act amendment protects taxpayers' information and clarifies the administration of the secrecy provisions.

The bill amends the Duties Act to provide a duty concession for self-managed superannuation funds when a trustee retires or a new trustee is appointed. Larger superannuation funds can structure their affairs to take advantage of an existing duty concession provided in the Duties Act when a trustee of a trust retires or a new trustee is appointed. This concession applies only if none of the trustees of the trust after the appointment of a new trustee is, or can become, a beneficiary under the trust. This concession is currently not available to self-managed superannuation funds, as commonwealth legislation requires a member or beneficiary also to be a trustee of the fund. It was never intended to charge ad valorem duty for these changes in trustees for self-managed superannuation funds while other superannuation funds qualify for the duty.

Another provision of the bill modernises the Payroll Tax Act by including wages paid into an account by electronic means as wages to which the Payroll Tax Act applies. The current provision includes, as wages, a bill of exchange, promissory note, money order or postal order, as well as payments made by other instruments. The majority of employers nowadays pay wages by means of an electronic transfer of funds to an employee's account, so there is no doubt about what constitutes wages. This amendment clarifies that

wages paid by means of instruction, which includes the electronic transfer, are included as wages for payroll tax purposes.

The amendment essentially extends the existing section of the Payroll Tax Act that determines where, and when, wages are paid for ACT payroll tax purposes. The provision simply updates the terminology to include wages paid by means of an instruction and it determines that wages are taken to be paid at the place where the account is credited and at the time when the account is credited.

The final amendment in the bill amends the Taxation Administration Act to provide greater protection of taxpayer information and certainty for tax officers administering the secrecy provisions contained in the act. The Standing Committee on Legal Affairs has made extensive comment on this amendment in scrutiny report No 26 of 5 June. I have responded to the committee in some detail, addressing its concerns in relation to rights issues and also purported inconsistencies between the ACT and the commonwealth.

Firstly I will address the rights issue. The existing section 99 of the Taxation Administration Act seeks to prevent a tax officer from producing confidential information to a court unless it is related to the administration or execution of a tax law. However, as this act does not define the term "confidential", the tax officer is reliant on the common law definition to determine whether information required is confidential or otherwise. This can, and does, give rise to uncertainty. A tax officer may refuse to provide information that is later found to be not confidential; conversely, a tax officer may release information that a court or a taxpayer may consider in fact was confidential.

It is desirable to prevent the inappropriate release of taxpayers' information in the first instance. It is also desirable to provide certainty and clarity to tax officers who administer the tax laws and prevent any litigation that may arise, should so-called confidential information be provided inappropriately.

The original policy intention to restrict disclosure to where it is necessary to do so for the purposes of the administration or execution of tax law has not been changed. The amendments strengthen the secrecy provisions by replacing the term "confidential" with the defined terms "protected document" and "protected information" and impose specific restrictions on disclosures to courts and tribunals. Protected information and documents are defined in the act to mean documents and information obtained or created, in the case of documents, in the administration or execution of a tax law.

I am aware that providing immunity to a tax officer in the circumstances specified in the amendment does engage the right to privacy and the right to a fair trial under the Human Rights Act, and this has been considered in the preparation of the legislation. A human rights compatibility statement has been provided, and the explanatory statement does address these issues. The committee explicitly acknowledges in scrutiny report No 26 that a territory law extending the occasions on which a person may refuse to disclose evidence to a court may avoid incompatibility with the Human Rights Act, either because the law is not incompatible with a fair trial or, if it is, the derogation is justifiable under the act.

The restrictions on disclosure by a tax officer to a court or a tribunal are considered to be a reasonable limitation of both the right to privacy and the right to a fair trial. The right

to privacy must be balanced against the right of a party to a civil or criminal proceeding to access relevant information. The limitations imposed ensure that the protected information must be for a proceeding relating to the administration or execution of a tax law. Information will still be available to all parties involved in other matters not related to tax laws through the subpoena process, thus ensuring the right to a fair trial.

Secondary disclosure may be made through the discovery and inspection processes in civil and criminal proceedings and through the special disclosure obligations of the Director of Public Prosecutions in criminal proceedings. The government believes, in the context of these avenues of access, through subpoenas, through disclosure, through discovery and through the special disclosure obligation of the Director of Public Prosecutions, that the concerns that Dr Foskey has expressed in her remarks are met. Accordingly, the committee has left it to the Assembly to consider whether the ability of a party to adduce relevant evidence at a trial to prove their case or disprove their opponent's case should be restricted.

There are other secrecy provisions in the Taxation Administration Act that are not impacted by this bill. They allow for protected information to be disclosed for other proceedings if it does not contain personal information or if it is with the taxpayer's consent or in accordance with a statutory requirement or the commissioner of police for a criminal investigation. As far as possible, the existing disclosures are, and will continue to be, exercised consistent with the Human Rights Act.

The committee identified a second issue in the scrutiny report. This was an alleged inconsistency between proposed section 99 of the Taxation Administration Act and the commonwealth Evidence Act. The committee's comment was based upon the decision by the master in Pappas v Noble. I have been advised that the master appears to have been unaware of section 8 (4) of the commonwealth Evidence Act, which preserves the operation of otherwise inconsistent ACT evidence laws. As a result, the master had regard only to section 56 of the commonwealth Evidence Act, which states:

> Except as otherwise provided by this act, evidence that is relevant to proceedings is admissible in the proceedings.

The ACT government therefore respectfully believes that the master erroneously concluded that any territory act that makes any of these classes of evidence inadmissible or even simply imposes barriers to the admission of the evidence is inconsistent with the commonwealth act and therefore fails. The decision in Pappas v Noble is generally considered by the profession, and is specifically considered by the ACT government, to be wrong in law. As a result of accepting Pappas v Noble as authoritative, the committee's conclusion with regard to proposed section 99 of the Taxation Administration Act is, in the government's view, respectfully, in error.

This bill provides equity for self-managed superannuation fund beneficiaries, clarity to payroll taxpayers in relation to what constitutes wages, greater protection of taxpayer information and increased certainty for tax officers administering the secrecy provisions applying to tax law. I thank members for their contribution and commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to principle.

Detail stage

Bill, by leave, taken as a whole.

DR FOSKEY (Molonglo) (12.07): I move amendment No 1 circulated in my name *[see schedule 1 at page 2383]*.

My office sought and received a briefing on this bill, and I thank the government for its cooperation in this regard and the officers who attended. It was a very good discussion and it certainly made it easier for me to talk about this bill today. The reasons why I felt it necessary to propose the amendments that were circulated on Tuesday are well set out in my speech at the in-principle stage and there is no need to repeat them now.

Clause 1A of my proposed amendment, while a bit wordy, does provide that any document or information that does not contain confidential or personal information is exempt from disclosure to the court only if the release of that information is not in the public interest. Clause 1B of the proposed amendment provides that the proposed section 99 (1) does not apply when the court matter is a criminal hearing. This reflects my belief that, in a criminal hearing where a person's liberty is possibly at stake, the right to a fair hearing should predominate over a person's so-called right to privacy, especially when that right to privacy does not benefit that individual.

Clause 1C of my proposed amendment provides for a regulation-making power specifically related to assisting the Commissioner of Taxation in making his or her decision as to whether the release of a document or information is in the public interest. Such guidelines would identify that relevant considerations for a decision whether or not to provide documents or information would include such things as the length of any potential jail sentence which a defendant faces, the extent to which the parties are able to obtain all relevant documents through the subpoena and discovery process, any awareness that the commissioner has that an injustice is likely to occur, the extent to which the documents contain what could properly be called confidential information, the probable culpability of the parties involved and the public interest in a broader public understanding of the matters contained in the documents.

If the government sees fit to reject the first two clauses of this amendment, I urge it to give serious consideration to supporting clause 1C. This is an uncontentious proposal which merely seeks to give the government the power to issue guidelines for specifying the kinds of circumstances in which the taxation commissioner should consider exercising his or her new power to release documents or information to the court. It keeps in place the government's desire to remove the decision-making power from the court and it also keeps in place the government's desire to expand the category of confidential documents to encompass all documents held or created by the taxation office. I commend these amendments to the Assembly.

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts) (12.10): The government will not support the proposals for the reasons that I outlined

during my closing speech. I respect Dr Foskey's concern around the right to a fair trial. It is a right that should not be trammelled and, I submit, has not been trammelled by the amendments, which include a clarification of what is a confidential document by the incorporation within the Taxation Administration Act of a definition to protect the information.

I think it has to be said—I made this point earlier and I will just repeat it in response to this particular amendment—that section 97 of the act allows information to be disclosed to the commissioner for police for the purpose of investigating an offence against the law of the territory, the commonwealth, the state or another territory. It would cover all documents received and created by the ACT Revenue Office. In addition, all information so created by the revenue office or in its possession can be produced under section 97, amongst a range of others, for any purpose in accordance with the act, to the Ombudsman and to the Auditor-General. I indicated earlier the issues with respect to subpoenas, discovery and other avenues available to the Director of Public Prosecutions.

The government's position is that Dr Foskey's concerns are indeed addressed and met in the legislation. The amendment that she proposes is simply not necessary. Dr Foskey has made a suggestion that if the Assembly were not minded to support clauses 1A and 1B, it should agree at least to the capacity to make regulations and prescribe guidelines, but in the current wording of the amendment that Dr Foskey moves it is not possible to deal with the issues seriatim. The government's position at this stage is to oppose the amendment.

MRS DUNNE (Ginninderra) (12.13): The opposition will not be supporting Dr Foskey's amendment. Although there is some superficial merit in the arguments that she puts forward, the case has not been made that the law is deficient in the ways that she says.

I take the Chief Minister and Treasurer's advice in relation to how the Evidence Act applies in the ACT. There are a few elements that are not entirely clear to me in relation to inquiries or investigations that might be taken by other commonwealth agencies; for instance, the Child Support Agency. But I think that Dr Foskey's amendment does not sufficiently address that issue and if problems arise, that might be a matter that we can return to on another occasion.

Amendment negatived.

Bill, as a whole, agreed to.

Bill agreed to.

Radiation Protection Bill 2006

Debate resumed from 30 March 2006, on motion by Ms Gallagher:

> That this bill be agreed to in principle.

MR SMYTH (Brindabella) (12.14): Mr Speaker, the Radiation Protection Bill 2006 is a bill that could possibly shine. One could say that it is positively incandescent. The opposition will be supporting the bill. The bill is in fact part of the national process that

was agreed some time ago and it follows work that has recently been done in the Northern Territory, Victoria, and Tasmania. I thank the office of the Minister for Health for a most useful briefing on the bill and its impact on the ACT. I thank the Chief Health Officer, Paul Dugdale, in particular for the very useful science lesson in positively charged ions and also their effect on individuals and their effect on this bill.

The bill has been a long time in coming. The process started in July 1998, when the then health ministers conference endorsed a new model national radiation and protection regulatory framework. It was done under the auspices of the Australian Radiation Protection and Nuclear Safety Agency, or ARPANSA as it is known. The key issue to overcome was the implementation of a uniform regulatory regime across Australia to facilitate working with radioactive sources and radiation equipment.

The purpose of the bill and the purpose of the reform are to minimise costs for all user industries, but at the same time to update international guidelines for health and safety matters. So it was the best of both worlds for the community and for industries involved. Subsequent actions included review by all jurisdictions. There was extensive consultation and competition policy review, as well as a cost-benefit analysis of the regulatory impact of the legislation.

In the ACT, I was concerned to appreciate the involvement of the interested parties and the impact on our particular industries and organisations. I have been assured by the minister's office that there was extensive consultation, particularly through the ACT Radiation Council, which includes the CSIRO, the ANU, professional radiologists and the Canberra Hospital. There was also a range of consultations with peak industry and professional bodies; that is, doctors and radiologists, amongst others.

It is interesting to note that the bill also includes non-ionising sources of radiation; that is, things like the sun. It is great to see that the Stanhope governments feel that they can bring the sun to heel. When the regulations come out and are tabled by the minister I will be interested to see whether she intends to be the King Canute of the outer reaches of the universe, as opposed to just the ocean.

The previous regime covered ionising sources of radiation. That is that end of the spectrum that includes gamma radiation and X-rays, as well as radioactive substances. The bill will extend this to non-ionising sources, including the siting of microwave towers, and that is an area that we are currently debating. Non-ionising sources of radiation include those generated by microwaves, ultraviolet radiation—that is, the sun and other sources that generate heat—and radio frequency radiation. Again I note the very special effort that will be required to do with the largest source of non-ionising radiation, the sun.

Our briefing from the government showed that the bureaucracy is most concerned to minimise any impost from the regulatory regime, while recognising at the same time that the bill deals with matters that can be the cause of considerable health and safety issues. We are certainly encouraged by that attitude and we are satisfied that the bill will serve a useful purpose.

There are amendments from the minister to clarify what appear to be inconsistencies in three of the proposed subsections. The liability appears to apply only to paragraph (a) of

each proposed subsection. The amendments make sure that it is quite clear that the strict liability applies also to paragraph (b) in each case. Given the seriousness of the equipment and the sources of radioactive radiation, I think it is something we should all take very, very seriously and we will be agreeing to the amendments. We support the passage of the bill.

DR FOSKEY (Molonglo) (12.19): The ACT Greens support the Radiation Protection Bill. By all accounts it is high time that this legislation was updated and made nationally uniform.

Protecting our public from harm caused by radiation is, of course, an important matter. There are, however, a couple of points I would like to make about the bill. First, unfortunately, it appears that the bill does surprisingly little to ensure protection from radiation. The only thing compelling users of radiation sources to follow safety guidelines is the threat of charges for committing an offence. Severe as the charges may be, the bill therefore provides no real reassurance that persons dealing with radiation sources are doing so responsibly until after enactment. As I understand it, this leaves a full onus on each individual practitioner to comply with the safety duties set out in the act.

My second concern is based upon the support given to practitioners affected by this piece of legislation. There has been some concern raised surrounding fees and report writing expectations. As this bill covers the licensing and registering of radiation sources by all organisations, from nuclear medicine research institutions to private dental surgeries, it is possible that the fees and levels of reporting expected may overburden the little guys whilst being, of course, entirely appropriate for the larger organisations.

I think it is important to recognise the limit of resources available to all groups of people who need to comply with this legislation and we need to ensure that our expectations are realistic. Otherwise, we might end up with the situation where some people do not comply with the law simply because it would stretch their resources too far to do so. I note that the government's amendment that would apply strict liability might not be quite fair.

I have also noted that the bill states little about the disposal of waste radiation sources, aside from the specific situation of dealing with a prohibited radiation source. Surely if we are designing a safer regime for dealing with radiation sources, this should include disposal. While the bill defines "to dispose of a radiation source" as burying it or releasing it if it is gas or liquid, it does not mention where, by whom and, more important, how. I think the public of the ACT ought to know that radiation sources here are being disposed of safely.

It would seem that protection from radiation, disposal of waste and general radiation source safety are presumed rather than specified. There are other legislation and codes of practice in place that are intended to ensure appropriate safety. Nonetheless, I would be more comfortable if these safety procedures had been linked to this regime in a more overt manner.

Next, I would like to comment on the evaluation of this bill. I see a monitoring process as integral to the effective introduction of new legislation. As with any untested system,

it is impossible to work out all the kinks until after implementation. The bill contains only one mention of a review, in clause 125, which merely states that the minister must present a report to the Assembly in 10 years. I am concerned that, without any monitoring over the next decade, issues such as those that I have raised might be slipped into the cracks and not mended in a timely manner.

Finally, I would like to speak briefly on the three amendments to the bill pertaining to strict liability. These amendments might be fair, but I am concerned about the application of strict liability; for instance, in the case I mentioned where a practitioner might slip up due to some oversight or lack of resources. I remind the Assembly that the legal affairs committee is looking into the application of strict liability offences and their penalties under the Criminal Code Harmonisation Bill 2005. I note that the amendments, being amendments, did not come to the scrutiny of bills committee. The scrutiny of bills committee has expressed concern time and time again about the broad-scale application of strict liability offences. But this is a new national regime. As I have said, in general I support its implementation but I would like the concerns that I have mentioned to be noted and addressed.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Disability and Community Services and Minister for Women) (12.24), in reply: The Radiation Protection Bill 2006 is designed to protect the health and safety of people and the environment from the harmful affects of ionising and non-ionising radiation. It achieves this objective by regulating the manufacture, possession, use, transportation and disposal of radioactive materials and irradiating apparatus.

This legislation originated out of the National Competition Policy Review of Radiation Protection Legislation in all Australian jurisdictions. The NCP review was carried out by the radiation health committee of the Australian Radiation Protection and Nuclear Safety Agency. The NCP review concluded in 2001 that there should be a national standard for radiation protection in order to achieve uniformity in radiation protection practices and legislation between all Australian jurisdictions.

The radiation health committee, which included representatives from all states and territories, set about developing the national standard known as the National Directory for Radiation Protection, or the directory, for short. A national regulatory impact statement, which the ACT has accepted, was developed to assess the impact of the regulatory regime proposed by the national directory and the legislation in each jurisdiction, including the bill we are currently considering.

In assessing the impact, many companies, industry groups and professional associations were consulted, including the AMA, learned medical, dental and nursing colleges, the Australian Academy of Science and the ACT Radiation Council. Following this consultation, the directory was approved for uniform introduction across all jurisdictions by the Australian Health Ministers Conference in July 2004. In August 2004 the first edition of the directory was published.

The bill before the Assembly for debate today implements the principles set out in the directory, and the bill is consistent with the recommendations of the NCP review. The bill also maintains a number of aspects of radiation protection legislation presently contained in the Radiation Act 1983. The bill re-establishes the radiation council, which

has served the territory well for over 20 years. The bill assigns to the radiation council the functions of making a range of decisions concerning the registration of regulated radiation sources and licensing of their users. Critically, the radiation council will continue to have the function of providing advice to me on matters of radiation safety.

The bill maintains the overall registration and licensing arrangements for the ownership and use of regulated radiation sources in the territory. Those dealing with radiation sources will be required to be licensed and those with radiation sources will still be required to register them. Through these mechanisms the bill ensures a high level of accountability for licensees and for owners of registered sources.

A key difference between the bill and the Radiation Act 1983, which the bill will repeal, is that the bill takes a more outcomes-based approach, in contrast to the largely proscriptive approach in the existing legislation. There is also improved flexibility for the radiation council in terms of arrangements and procedures in conducting its business. An example is the ability of the council to add members with expertise in areas that may later be regulated under this legislation.

References to national standards for a range of matters relevant to licensing the use of radiation sources have been included in the bill, including contemporary standards and safe levels of radiation exposure. This is yet another way in which the bill provides outcomes-based approaches to radiation regulatory control. Accordingly, an activity will be licensed if the applicant can meet the national standard to which it relates, and a radiation source will be registered if it is set up and stored in a way that meets the national standard.

Ionising radiation, such as X-rays and the radiation emitted from radioactive materials, is regulated by the bill. The bill also provides for the range of regulated matters to be expanded by regulation. The NCP review recommended that non-ionising radiation, which includes things such as ultraviolet radiation, laser radiation and radio frequency radiation, also be regulated. However, the provisions in the directory for regulating non-ionising radiation have not yet been finalised. For this reason, the ability for those sources to be added into the scheme by way of regulation is critical in order to appropriately and effectively regulate non-ionising radiation sources at a later stage.

Contemporary radiation protection has a role beyond the radiation safety arena and now also incorporates the notion of physical security of radiation sources. Consequently, the bill explicitly prohibits abandoning a regulated radiation source, as well as prescribing procedures in case a regulated radiation source has been abandoned. Furthermore, the bill introduces the notion of a prohibited radiation source and makes a serious offence if a person intentionally deals with such a source.

The bill gives authorised officers extensive powers to enforce the legislation through the exercise of powers of entry, search, seizure and allied powers. These powers are comparable to those contained in a variety of territory laws and are appropriately measured in their impact on personal rights and liberties. To this end care has been taken to ensure that the bill is consistent with the Human Rights Act 2004.

In accordance with contemporary regulatory approaches that have also been employed in ACT legislation regarding occupational health and safety and dangerous substances, the

bill protects people and the environment through the imposition of safety duties. For the purpose of this bill, a safety duty means a duty under any of clauses 12, 13 and 14.

Clause 12 creates a general duty to ensure no harm. This requires that a person who deals with a regulated radiation source must take all reasonable steps to ensure that no harm results to the health or safety of people, property or the environment from radiation emitted from such source.

Clause 13 pertains to radiation exposure. This provision requires a person who deals with a regulated radiation source to take all reasonable steps to ensure that the dose received by a person, other than in a diagnostic or therapeutic procedure, is not higher than the dose limit for that person for a stated period.

The third safety duty is contained in clause 14 and concerns diagnostic or therapeutic procedures. This duty requires a person who uses a regulated radiation source for such procedures to ensure that a person treated at the request of a doctor does not receive a dose of radiation from the procedure that is not in accordance with the doctor's request.

The bill contains a broad range of offences. There are offences relating to the failure to comply with certain aspects of a safety duty; failure to comply with conditions of a licence; conditions of registration and dealing with a regulated radiation source without a licence. Owning an unregistered regulated radiation source and dealing with prohibited radiation sources are also key offences, as is a failure to notify the radiation council of dangerous events.

The safety duty offences in clause 53 to 56 of the bill are the most important offences in the bill. A review of the offences recently identified an oversight in the drafting of the offences. Accordingly, the government proposes three amendments to clarify the offences. Clause 53 is the base offence. Under this provision a person commits an offence if the person fails to comply with a safety duty. Absolute liability applies to the existence of the safety duty, the effect of which is that a person owes the safety duty irrespective of whether or not they are aware they must comply with the duty. Strict liability applies to their failure to comply.

Absolute liability also applies to the first element of the more serious offences established in clauses 54, 55, 56 containing paragraph 1 (a) of each clause. In this regard the high level offences are consistent with the base level offence in clause 53. However, unlike the base level offence in clause 53, clauses 54, 55 and 56 do not apply strict liabilities to other elements of the offence, particularly in regard to the element contained in paragraph (b) that the person failed to comply with the safety duty. The effect of this is that section 22 of the Criminal Code supplies a fault element, obliging the prosecution to prove that the person intentionally failed to comply with the safety duty. This creates an inconsistency with clause 53, and it was not intended to require the prosecution to prove intentional failure to comply.

I will speak to the amendments when we have the opportunity to move them later today. I thank members for their contributions and their support today. I thank staff from the Department of Health for their work on this bill. Overall, the bill represents a sensible, workable scheme for regulating the use of radiation in the territory in accordance with national standards. I thank members for their contribution to the debate.

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

Sitting suspended from 12.33 to 2.30 pm.

Ministerial arrangements

MR STANHOPE: For the information of members, the Minister for Education and Training, Minister for Tourism, Sport and Recreation and Minister for Industrial Relations is absent from the Assembly this afternoon on ministerial business. If there are questions for Mr Barr, I will be pleased to receive them.

Questions without notice

Dragway

MR STEFANIAK: My question is to the Chief Minister. Probably Mr Barr now has responsibility for this, so it is appropriate. On Saturday 12 August the *Canberra Times* reported the Chief Executive of the Department of Territories and Municipal Services, Mike Zissler, as saying he understood why people would not want to live next to a dragway. He said, according to the paper:

> I wouldn't and I wouldn't choose to move to one. I do sympathise with people who may live next to the one proposed for construction. I sympathise enormously.

The article then continued about an environmental impact study being conducted by his department, saying that it was important to understand what the real impact of a dragway would be, and Mr Zissler saying, "Once we know that, we can take recommendations to Government." How do these comments in relation to not wanting to live next to a dragway, made by the head of the department now responsible for the dragway, reconcile with the government's stated commitment to build the dragway?

MR STANHOPE: I am aware of the comments the head of the department made in relation to his personal view about living adjacent to a dragway. As members are aware, the government has engaged in a process that seeks to determine whether or not a dragway might be provided within Majura Valley for those dragway enthusiasts resident in the territory and, indeed, within the region. As members are aware, as a result of the size and configuration of the Australian Capital Territory, attempts by the government to identify a range of possible sites for a dragway that was suitable, in the context particularly of geography, location and configuration, have been severely constrained.

The site identified by officials as almost the only remaining site that might potentially be available for construction of a dragway is a site within Majura Valley. Over an extensive period officials of the ACT government investigated numerous sites throughout the territory and in the end to some extent, to my frustration and that of my colleagues within the government, the only site that has been identified that might possibly permit the construction of a dragway is the site that is currently being investigated in Majura Valley. We would have wished that to be otherwise.

We have made a commitment to seek to establish a dragway within Majura Valley, and I hold firm to that commitment. However, it behoves us to follow a range of appropriate processes—most particularly that the Environment Protection Authority assume some of the issues around the impact on the environment and amenity. It assumes those issues through the preparation of a draft motor sport noise environment protection policy and its application to that site. The public consultative process has already received 200 submissions, which are currently being assessed by the Environment Protection Authority. When that assessment process has been completed the environment protection policy can be submitted to the Minister for Education and Training with a view to him, on the basis of that process, coming to a conclusion and making appropriate recommendations to cabinet.

In the context of the comment the chief executive made, I think we are all aware, as we raised this in earlier discussions, that there are a number of issues about amenity. Perhaps there are three issues that might be categorised. One is the impact on the environment of the area in the context of the natural environment, the implications for flora and fauna. Second is the implications for residents in Majura Valley. As members will be aware, a number of houses are located quite close to—indeed, one house located essentially on—the site of the proposed dragway, and a number of other houses or residences established within a very close radius. The third consideration is the impact on the broader community. I think we are all aware that the residents of some of the suburbs of north Canberra are concerned. The purpose of the work being undertaken by the Environment Protection Authority is to deal with the whole range of issues I have broadly categorised—implications for the natural environment, implications for the residents of the valley and implications for other residents.

No decisions have been made but I can understand, if one goes to the site and sees how close one of the residences is to the proposed site, life might not be particularly pleasant at all. For anybody living in that house, which is located, as I understand it, within 100 to 200 metres of the end of the proposed dragway, that is a major consideration. Perhaps the most significant difficult issue for the government in coming to a final conclusion will be the implications for the residents who live within such a close radius. We perhaps would have preferred if the chief executive had expressed himself a little more elegantly, but there is a resident who lives within 100 metres, and I do not think many of us would want to live there.

MR STEFANIAK: I ask the Chief Minister a supplementary question. Why has the chief executive made these comments, which contradict your election commitment to build a dragway, and is it further evidence that you intend to cancel the dragway?

MR STANHOPE: Not at all. I state quite categorically the comments the chief executive made in relation to the dragway, so far as I am aware, were made without any discussion or consultation with his minister. Certainly I was unaware of them, and I would be surprised if the minister was aware of them. I have some indication that the minister was not aware of them. The comments were made in the context of "Would you like to live on the site?" As I say, to the extent that it raises some concern in Mr Stefaniak's mind, I would prefer it had not done that. To the extent that it raises concerns in the minds of anybody else with a significant interest in the dragway, let me put those

to rest. The government is going through a considered, rigorous, scientific evaluation of the potential for the construction of a dragway.

I am committed to this project. I now see the dragway held up almost as a point of extravagant expenditure. I overheard that comment this morning in the representations being made by the Australian Education Union in relation to its pay claim—on what basis can the government afford something as frivolous as a dragway but will not fund, without productivity savings, a four per cent pay rise for teachers? There is a whole range of issues around why people pick on a major and significant piece of infrastructure for a significant group of Canberrans. There really is an element of significant middle-class snobbery in this looking down the nose at a dragway.

I do not receive the same sorts of comments about suggestions by the ACT government to spend money on the Canberra Theatre instead of on teachers. I do not hear this same group of white-collar, middle-class professionals say why are you spending money on a glassworks and not on teachers' salaries? When I hear a group of white-collar, middle-class professionals—and I see it in relation to the dragway from the AEU and the P&C council; white-collar professionals—say that we should just dispense with this facility for those that they do not associate with but, perhaps, who are, with great respect to them, broadly representative of blue-collar, more working-class representatives or members of our community, I find it offensive. "Let us dispense with their facility. Let us look down our noses at their recreation. Let us not as a community be inclusive and embrace the recreational pursuit and interest of one class of Canberra citizen". I do find it offensive.

The issue in relation to the dragway and its future should be considered on its merits and dealt with on its merits. This notion that there is a hierarchy of government support for infrastructure that is determined by one's social status, and certain groups within society think that their pursuit or interest is worthy of government support, needs to be treated with caution. I see in the constant scorn being poured on the dragway a very distinct element of superiority and snobbery, and I find it offensive. The dragway will succeed or fail on its merits, on the basis of whether or not the rigorous environmental assessment allows it to proceed, and whether or not it can be done within the funding boundaries determined by the government. This is an $8 million project. They are the parameters. It must be built at the price and it must satisfy the Environment Protection Authority in the context of its report and its recommendations to government.

Housing affordability

DR FOSKEY: My question, which is to the Chief Minister, is in regard to his recent announcement of a cross-government steering group to advise the government on initiatives to increase the supply of affordable housing in the ACT. Members of the Assembly would be aware that the ACT government chose not to develop an implementation plan in response to the recommendations it accepted of the 2002 Affordable Housing Taskforce. Clearly, this has been a matter of some frustration to those concerned with increasing the supply of affordable housing. Does the Chief Minister intend to produce an implementation plan, with specific targets and time lines for agencies, for initiatives proposed by the steering group? If not, how will the government and the ACT community be assured of concrete outcomes?

MR STANHOPE: I thank Dr Foskey for the question. It is an important and timely question. I think that it is not necessarily fair to suggest that the government has not responded to earlier work and inquiries that have been undertaken in relation to affordability and affordable housing within the territory. That is not the case. Significant planning and thought, particularly the work of ACTPLA and the LDA, have been involved in and around and directed at ensuring, to the extent that government has some capacity to influence the levers in relation to affordability, precisely that.

Both ACTPLA in its planning and the LDA in the execution of its land selling responsibilities are very mindful of affordability and we have quite specific policies and proposals in place in relation to that. But affordability is, quite obviously, a very complex mix. There is a whole range of factors and there is a whole range of players. For instance, one theory that has over time achieved particular popularity is that the granting of stamp duty holidays or a reduction of stamp duty under certain thresholds is a sure and certain way of achieving some affordability outcomes.

I think that all of the evidence, much of it anecdotal, available in relation to that is that, in fact, reductions in stamp had the complete reverse effect from that which was hoped for or expected. In other words, investors taking advantage of reductions in stamp simply entered the market more vigorously and pushed up prices. There is significant anecdotal evidence now that some of the levers that governments have attempted to manipulate in the past have not just not worked but that they have been counterproductive.

It is complex and it is something which every jurisdiction round Australia is dealing with. There are different measures of affordability. At one level—in relation to the capacity to pay as a measure of affordability, which I think is the most rigorous—the ACT is the most affordable jurisdiction in Australia. We have the lowest ratio of household disposable income going to housing of any place in Australia by far. Almost half the level of average disposable income in the ACT is expended on housing as opposed to New South Wales, which is significantly different. House prices are higher in Sydney, compounded by far lower average disposable incomes. The double whammy is experienced there.

Housing affordability in the ACT is at about half of the rate or level of affordability within New South Wales and round Australia. So it is not right to say that we have not responded and we do not continue to respond, noting the level of affordability, the highest rate of affordability in Australia. Nevertheless, a significant tranche or proportion of the community in the ACT is truly battling. I have children of my own and I know through their experience the significant distress that house prices now cause for first home buyers and people seeking to enter the market. This is a genuine issue of enormous import for those of us that grew up never doubting for a minute that we would buy our own home and do so without difficulty. It is to that that the government is responding. I do believe that every jurisdiction round Australia is battling with that. The task force that I have initiated is across government.

Dr Foskey, I want, essentially, precisely what you have asked whether we will deliver. The terms of reference are not that specific, but what you ask in terms of time lines and specific ideas, specific directions and specific initiatives is, essentially, what I am looking for ideas on. I do want specific ideas. I want a better understanding of the

practice round Australia, things that have been done on which there is clear, concrete evidence that results have been achieved. I am looking for, almost as a second order response or issue, a better understanding of the levers that have led to the price increase which we have seen.

The issue is incredibly complex. It goes to the availability of public housing. It goes to the use and utility of community housing and the implications of its availability for affordability and the entry of people, particularly first home owners, into the market. I want action. That is what I am asking for. I am more than happy to report back to the Assembly before the end of the year in relation to decisions that we hope to take between now and then.

DR FOSKEY: I have a supplementary question. Could the Chief Minister please advise the Assembly of the membership of the steering group and who are the relevant industry and community bodies that it will consult with?

MR STANHOPE: At this stage I cannot as details of the membership have not yet been completed. The task group will be chaired by a senior officer of the Chief Minister's Department, namely, Mr George Tomlins. I am happy to take on notice the question that you asked in relation to other membership, but it will be a cross-government committee chaired by Mr George Tomlins, a senior officer within the Chief Minister's Department.

Taxis—services

MR PRATT: My question is to the minister for transport. On Tuesday, you said that there was nothing you could do to fix the difficulties with taxi services in Canberra. That is not right, is it?

Firstly, why could you have not met formally with Canberra Cabs, which you have refused to do for 12 months, to work through difficulties with them as they seek to modernise and improve services? Secondly, could you not have refrained from pressuring Canberra Cabs, which forced them to rush their reforms, causing the problems we see now? Thirdly, could you have agreed to introduce regulations that would have tightened the driver compliance requirements? Why have you failed to take fundamental actions which could have improved the service, and why have you, on the other hand, interfered with Canberra Cabs' attempts to modernise their service?

MR HARGREAVES: Sometimes I have my faith in the Good Lord restored. Let us address some of the questions that Mr Pratt puts on the table, in order.

Mr Pratt: That will be a first.

MR HARGREAVES: Through you, Mr Speaker: sit back, Mr Pratt, and enjoy the show. Firstly, I have met with Mr Bramston, I have met with the board and I have met with the drivers association.

Mr Stanhope: Your wit is definitely improving, Steve.

MR HARGREAVES: You are only half right, Chief Minister. The fact is that I asked one of my senior advisers to meet specifically with Mr Bramston of Canberra Cabs on

17 July. I was at a function recently and sat next to the chairman of the board, who did not speak to me about the problems at all. He had an opportunity to raise it and did not. However, cards were exchanged with my chief of staff. The chairman of the board said, "I must ring you up. Can we come in and have a chat?" The answer was "most definitely". We have not heard from him since. That was a couple of weeks ago.

On radio this morning I said that. I said that my senior staff have met with these people. We have met with their lobbyist, we have met with them and we have met with the taxi drivers association. The former Leader of the Opposition said that he met with Canberra Cabs last night. That is what he said. My information is that he did indeed. It happens that Mr Bramston of Canberra Cabs ran into Mr Smyth at a Liberal Party function last night. I do not call that a meeting; I call that a convenience. Cop this: they ran into each other at a Liberal Party function.

Mr Smyth: You have got to tell the truth, John.

MR HARGREAVES: You have got a lot of credibility left, haven't you, Mr Smyth? Why did you not say it on radio this morning? It is because you are a practitioner of the art of psuedology.

Mr Smyth: On a point of order, Mr Speaker: Mr Hargreaves misleads the house when he said I met them at a meeting. I did not say that. I said I had a conversation at a function.

MR SPEAKER: Withdraw your comments about misleading.

Mr Smyth: I withdraw.

Mrs Dunne: On a point of order: I would like Mr Hargreaves to withdraw the word "psuedology" because it is an attempt to get in under the standing orders and call Mr Smyth a liar. I would like it withdrawn.

MR SPEAKER: Withdraw.

MR HARGREAVES: I am happy to withdraw it. I thank Mrs Dunne for the definition. With respect to pressure, if there has been any pressure on Canberra Cabs to lift their game, it has come out of the community. They have put pressure on to deliver. So far they have not. The pressure came out of the federal parliament, those well-known practitioners in the art of Canberra bashing. What has happened? Canberra Cabs, through the system not delivering, have given them a golden punch. And I am supposed to sit back and let that happen? I do not think so.

Mr Pratt says why don't I introduce regulations to stick it to the drivers. The reason for that is that the arrangement with the drivers is a contractual arrangement between Canberra Cabs and the drivers. They have got sanctions within their own contractual arrangements and it is up to Canberra Cabs to do that. The contractual arrangement between the Canberra community and the network is through the network and through the accreditation process that appends itself to that.

I only wish that Mr Smyth would come clean: tell the people of Canberra on air that he

saw Mr Bramston at a Liberal Party function last night and stop putting about the myth that he is seeking out these people to talk to them when that is clearly not the case.

MR PRATT: Thank you, minister, for yet another civilised answer. Why did you tell us there was nothing that you could do when in fact you have a number of options?

MR HARGREAVES: I sincerely thank Mr Pratt for this particular question because I can clear up the record. These folks here obviously misunderstand things. Let us understand a number of issues, though, before I kick this off and give you the substantive answer.

The booking system was introduced in April. It was in parallel with the pre-existing system where you got a human being on the other end of the phone. It went live on 19 July. Today's date is 17 August. It is not one month. Natural justice would have us judge these people on the sustainability of any improvement after a period of at least three months. It is as simple as that.

The satisfaction survey, which is an annual one, which applies to Canberra Cabs' performance, which is only one of the measures employed and is the one which I am hoping to be able to release in a couple of days, when I have given the cab company an opportunity to read it—that is why it has been delayed—applies to the system prior to the introduction of the new system. Therefore, it would be inappropriate for me to judge their performance on something which pre-existed the new system.

The other thing is this: when I said that I do not have the powers to do things, I was quite correct. At law, the Road Transport Authority has the power to do this. The minister is precluded from doing something specifically. I cannot direct the Road Traffic Authority to do this.

Mr Pratt: Rubbish!

MR HARGREAVES: Mr Pratt sits there and says, "Rubbish!" He is a practitioner of it, so he ought to know what it looks like. He is a practitioner of it, so he would know what it is. I have made it crystal clear to the people of Canberra that their representatives do not accept this as viable. Mr Pratt earlier today asked why I don't introduce regulations to get the drivers to do something. This character over there is trying to blame the drivers when, in fact, there are two reasons why people are not getting a satisfactory service in this town.

Mr Smyth: On a point of order, Mr Speaker: under standing order 118 (b) the minister cannot debate the subject; he must answer the question.

MR HARGREAVES: Filibustering; here we go!

Mr Smyth: You would know about filibustering, sport.

MR HARGREAVES: Yes; I learnt it from you. There were two reasons why people were not receiving a satisfactory service in this town. The first one is that the booking system is not efficacious at this point. We are hoping—everybody is hoping—it will be. We will find out whether it is in November, when we do a bit of a judgment on it. The

second one is that there are not enough cabs in this town. The reason why there are not enough cabs in this town is that, between 1995 and 1998, Mr Smyth, as a former transport minister, would not issue any further licences in this town.

Mr Smyth: On a point of order, Mr Speaker: he cannot mislead. I was not a minister between 1995 and 1998.

MR SPEAKER: Mr Smyth, I warn you. If you try that again, I will name you. Withdraw that.

Mr Smyth: I was not a minister between 1995 and 1998.

MR SPEAKER: Withdraw what you just said.

Mr Smyth: I withdraw. He must apologise and withdraw what he said earlier. He must report to the Assembly truthfully.

MR HARGREAVES: Thanks very much, Mr Speaker. What happened was that there were no taxi licences issued between 1995 and 1998. There were none issued between 1995 and now. What happened was that this government has said, "No more to perpetual plates; we are going to go with the leased arrangements." We have released 20. There are at least 20 more on the road. That means that there are going to be 20 more at the airport. There are going to be 20 more outside the nightspots so that, when people want to do the responsible thing and go home by cab, there are cabs available to do so. We will be releasing another 20 next year.

That is our side of the bargain delivered. We introduced, in June of this year, regulatory increases. We now have the fining regime available. We can now do anything between a reprimand and a maximum fine of $500 per standard per month, up to withdrawal of accreditation. We now have that power vested in the RTA if people do not satisfy accreditation standards.

We have been out there trying to make sure there is more competition in the industry. We have been up-front. I have been out there in the media telling people this ad nauseam. These folks opposite are left floundering. They do not know what they are talking about. Mr Pratt surprises me. He does not know what he is talking about. All he has to do is ring my office, ask for a briefing on this—he is the shadow minister—and we will give him one on it. No; he decided to take the lazy option.

Employment

MR GENTLEMAN: My question is directed to the Chief Minister and Treasurer. Can the Treasurer outline for the Assembly the measures that the ACT government has put in place to address skills shortages and the importance of a strong labour market and confident business sector?

MR STANHOPE: Mr Gentleman has asked an important question about an important issue. Earlier this week I informed members that last week ACT labour force data revealed that the ACT had the lowest unemployment rate on record in Australia, with a trend unemployment rate of 2.8 per cent. It is interesting to reflect on the fact that the last

time any jurisdiction in Australia had unemployment below three per cent was in 1980 when the Northern Territory recorded a rate of 2.9 per cent.

Since coming into office five years ago this government has seen the creation of 17,000 jobs in the ACT—800 jobs in July alone. Importantly, we can also say that 186,900 Canberrans are now employed, with employment having grown by six per cent under this government. We still have the highest wages in the nation with average weekly earnings in the ACT significantly higher than anywhere else in Australia.

Wage price index data from yesterday scotches some of the opposition's scaremongering on growth rates and skills shortages. In the last quarter the wage price index for the ACT rose by 0.6 per cent against a national increase of 0.8 per cent. In short, that means that our economy is not only growing; it is growing sustainably. We have a strong private sector base, a confident and dynamic business sector and an economy in which consumer and business confidence are the highest in Australia.

In the last measure, business confidence in small and medium business enterprises is running at eight per cent above the national level, which is some indication of business perceptions of the strength of the ACT economy and its future. Business expectations and confidence in the ACT, as measured in May, are running at eight per cent higher than the percentage throughout Australia. All these indicators are significant as they reflect the strength of the ACT economy.

It is also interesting to compare gross state product figures for the ACT with those around the nation. The ACT recorded a growth of three per cent last year compared to a national average in gross state product of 2.3 per cent. Essentially, because of the strength of the ACT economy, this government is continuing to work with the business community to deal with issues that essentially are a result of our successful economy, that is, labour force and skills shortages. With a record unemployment rate of 2.8 per cent it is no wonder that businesses are finding it difficult to recruit.

We are working hard with the business community to do even more to boost labour supply in the ACT. Last year the skilled migration program brought 207 skilled workers to the capital. It is not just that there are an additional 207 people to fill available jobs; their salaries, of course, are worth well in excess of $1 million. Population growth is turning around. A pleasing aspect in the range of statistics available over the last year is that population growth in the ACT, whilst lagging as the lowest in Australia over the past few years at 0.4 per cent, has jumped by 0.8 per cent. So ACT population growth is now greater than population growth in Tasmania, South Australia and New South Wales.

The business migration program, which this government reinitiated and reinvigorated, is set to bring 34 business people to the ACT. Collectively, businesses have undertaken to invest $21 million in the ACT economy. In the budget we announced the establishment of the ACT Skills Commission. Through that we hope for better communication channels with business and the education sector as to how best to boost skills. We are in the process of establishing the commission's terms of reference and shortly we will establish its membership.

We arranged with Qantas for the establishment of a pilot and crew base in the territory, which resulted in the immediate creation of 30 new jobs and the arrival of a significant

number of families into the ACT. That will result in a significant boost in the capacity of Qantas along the Canberra to Sydney route. In the last budget we invested $111 million in vocational education and training in the territory. We also signed the COAG human capital agreements.

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

MR GENTLEMAN: I ask a supplementary question. Could the Chief Minister outline the success of the government's Live in Canberra campaign and its importance in addressing skills shortages in the ACT?

MR STANHOPE: The Live in Canberra campaign has been a significant and important initiative for a number of reasons. Most significantly, the Live in Canberra campaign has been a tremendous partnership between this government and a number of business representative organisations throughout the ACT. One of the reasons that members of the Liberal Party continue to talk down the Live in Canberra campaign is that it was a joint and legal partnership between the ACT Labor government and a number of constituent organisations and businesses that they regard as rusted-on supporters of the Liberal Party.

The Liberal Party is jealous about any cooperation or partnership between business representative organisations and this government. I know that members of the Liberal Party wince every time they see business expectation surveys that record quite explicitly the level of confidence that business in the ACT has in our economy and in this government. I know that neo-conservative Liberals like Mr Mulcahy, hard right-wing ideologues, are most unforgiving of any relationship between a successful ACT business community and this very successful ACT Labor government.

We see the hurt in their eyes every time and we see a feeling of betrayal. How could the chamber of commerce possibly support the work that the ACT government is doing? I cannot imagine some of the private conversations that Liberal members have with Chris Peters about their scorned dismissal and the inferiority they feel that their own constituency has abandoned them and crossed over to the Labor Party.

Mr Smyth: Point of order, Mr Speaker. Standing order 118 (b) states that the minister cannot debate the issue. The member's question related to the Live in Canberra campaign.

MR SPEAKER: Order! If everybody ceased interjecting it would make life in this place a little easier.

MR STANHOPE: We constantly hear in this place scornful references by opposition members to the Live in Canberra campaign. Why are they scornful of it and why do they talk it down? Why do they talk down Canberra? Why is it that they do not want a partnership between a number of business organisations and significant businesses in the ACT to succeed? Why do they constantly talk it down? Why did Mr Mulcahy, who attempted to interject earlier, reflect his scorn at the Live in Canberra campaign? Is it because it is successful? Is it because it is a partnership between the ACT government and every one of the representative organisations that members of the Liberal Party claim as their own?

The Live in Canberra campaign, which is a successful program, has given an enormous breadth of exposure to the ACT, to the extent that we have been able to create, particularly in Sydney and certainly throughout New South Wales, a significant awareness of Canberra, the opportunities in Canberra, the lifestyle, what this city has to offer, the fact that our economy is far stronger than economies in the rest of Australia, and that opportunities in Canberra are far superior to those in other places in Australia, most particularly Sydney.

There was a tremendous response, as recently as last week, with 200 families expressing interest in the ACT and the prospect of working in the ACT. Business has invested strongly and heavily in this significant partnership. In my time in government—and I think this would apply also to the previous government—no ACT government-industry initiative has been funded by industry to the extent that this one has. In that context one wonders about the scorn and derision that members of the Liberal Party pour on this campaign.

That is not the attitude and view of the Business Council or the chamber of commerce. That is not the attitude and view of the educational institutions that have funded the campaign. That is not the attitude and view of the Master Builders Association, which has fully supported the campaign and actively participates in it. In other words, this talking down of the Live in Canberra campaign is at odds with what every representative business organisation in the ACT believes and thinks. They put their hands in their pockets and they put their money where their mouths were. They must be as disappointed as I am that members of the Liberal Party continue to undermine this fantastic joint partnership.

MR SPEAKER: Order! The minister's time has expired. Members, when directing questions to Mr Hargreaves, there is no point in referring to him as the minister for transport because that does not exist.

Mr Pratt: I stand corrected.

Planning—EpiCentre lease

MR SESELJA: My question is to the planning minister. Minister, yesterday you stated that you were not aware of a letter from ACTPLA to the LDA regarding potential pre-auction issues over the EpiCentre site. Minister, have you investigated the existence of the letter? If not, will you investigate if such correspondence exists and table it in the Assembly? If not, why not?

MR CORBELL: If I recall correctly—and I will check the *Hansard*—I think Mr Seselja's question yesterday was: was I aware of any correspondence raising concerns or criticisms of the process. The answer to that question was no. That remains my position.

MR SPEAKER: Mr Seselja, is there a supplementary question?

MR SESELJA: The minister has misrepresented what he said yesterday. Nonetheless,

minister, given the serious concerns raised about the EpiCentre process, what steps have you taken to satisfy yourself as to the probity of this process?

MR CORBELL: There is no reason to question the probity of the process.

Planning—EpiCentre lease

MR SMYTH: My question is to the Minister for Planning. Minister, documents released to the planning and environment committee clearly show that ING made a written inquiry of ACTPLA in relation to discount outlet retailing. The letter states:

> We formally request that you please confirm whether or not discount outlet retailing is to be a permitted use under the territory plan.

The draft correspondence suggests that the reply came from the Land Development Agency, rather than from ACTPLA. This is in contrast with later correspondence from Austexx, which was responded to by ACTPLA. Minister, can you confirm whether the LDA did in fact reply to ING? What did the response say with regard to the request from ING and will you table this correspondence to the Assembly?

MR CORBELL: I will take the question on notice, Mr Speaker.

MR SMYTH: I ask a supplementary question. Minister, why did ACTPLA's reply to Austexx provide clear indications as to permissible uses, yet the LDA reply was simply to leave ING to work it out for themselves?

MR CORBELL: Mr Speaker, I do not accept Mr Smyth's version of events. As is often the case with questions from the opposition, they present scenarios that are quite misleading and out of context. I will take the question on notice in relation to LDA's reply to ING. That is what I will do.

Schools—maintenance

MRS DUNNE: My question is directed to the Minister for the Territory and Municipal Services. There will be up to 39 schools transferred to the control of your department once an announcement is made about their closure in December, yet there does not seem to be any money in the territory and municipal services budget to cover the ongoing maintenance of these schools. How much will you spend on maintaining the schools closed as part of the 2020 process this financial year? What action will your department take once the schools are transferred to your control?

MR HARGREAVES: My colleague, Mr Barr, actually indicated repeatedly and ad nauseam recently that the consultation process is to take six months. I will talk to him at the conclusion of that six months.

MRS DUNNE: How much do you anticipate raising from land sales from these schools in this financial year and subsequent financial years? Do you anticipate using the Treasurer's advance to cover the costs of maintaining the schools in your care?

MR HARGREAVES: I thank Mrs Dunne for the question, but I just answered it a minute ago. We will talk about that when the consultation process is over.

Water—abstraction charge

MR MULCAHY: My question is to the Treasurer. In estimates on 22 June, Mr Michael Costello of the Actew Corporation stated:

> The WAC—

water abstraction charge—

> in 2006-07 will be $137 per household.

On the same day, Mr Roger Broughton of ACT Treasury stated:

> … the water abstraction charge on a typical household bill would be around $84.

Mr Costello also stated on 22 June that the impact of the utilities land use permit will be $15, yet you stated in response to a question on notice that if the utilities land use permit costs were passed through to the consumer the impact would be $137. Treasurer, how do you reconcile the significant disparities between these figures provided by senior sources within the ACT government?

MR STANHOPE: In relation to the issue of the differences in quantum provided in estimates by Mr Costello and Mr Broughton, my advice in relation to the differences is on the basis of the question asked or at least, as I understand it, the interpretation which each of Mr Costello and Mr Broughton took of the question. Mr Costello, in referring to a figure of $137 as the impact of the WAC, was responding in the context of the total cost to a household, averaged, of the water abstraction charge of $137—accepting, of course, that a water abstraction charge already applies.

There is already in place a water abstraction charge. In the recent budget the water abstraction charge was increased. Mr Costello's response was a response as to what the new total average water abstraction charge across Canberra will be, namely, $137. Mr Broughton was answering a question on the basis that the question being asked was about the anticipated average cost of the increase in the water abstraction charge and he answered, to the best of his ability: $84.

Mr Mulcahy, the answer to your question as to the discrepancy is simply that Mr Costello, I presume, took your question or the question of the member of the committee to be what the water abstraction charge will be post-budget. The answer, I believe, would be in the order of $137. Mr Broughton was asked a question about the water abstraction charge. He understood the question to be about the quantum of the increase per year and he said $84. I think that if you work out the difference between $137 and $84 you will find that it is the difference between the old water abstraction charge and the new water abstraction charge. So there is no misunderstanding, there is no discrepancy.

Mr Corbell: And he wants to be the Treasurer!

MR STANHOPE: That is a good point, but I am in a light-hearted mood and I did not want to be particularly personal about it. Mr Mulcahy, it is a very simple mistake that was made. There is a total figure and there is a new figure and, if you take one away from the other, you will get the difference. I would have thought, Mr Mulcahy—

Ms Gallagher: Maths 101.

Mr Hargreaves: Do we want an Irish calculator coming in?

MR STANHOPE: Actually, an element of doubt has been thrown into the minds of my colleagues in relation to the leadership challenge arranged for December of this year, an Australian record: the only member of any parliament of Australia to come into the parliament at an election and within two years knock off his leader and then, within the next two years, knock off his successor.

MR SPEAKER: Order! Come back to the subject matter of the question.

MR STANHOPE: The only impediment, of course, to that possibility is that when you are launching a leadership challenge you need to be able to count and when you want to be Treasurer you need to be able to count.

Mrs Dunne: I take a point of order, Mr Speaker. Standing order 118 (a) requires the Chief Minister to come to the point and he has not actually answered the point about the utilities land use permit.

MR SPEAKER: Chief Minister, stay with the subject matter of the question.

MR STANHOPE: It is all about numbers, Mr Speaker.

MR SPEAKER: It was not a question about numbers.

MR STANHOPE: I respect your ruling, Mr Speaker, but I do see in the manoeuvrings of Mr Smyth over the last week, and the energy and activity, the prospect of a comeback. I can see Mr Smyth has not ruled it out.

MR SPEAKER: Order!

MR STANHOPE: Do you have a supplementary question, Mr Mulcahy? I can get to the utilities charge on that.

Mr Mulcahy: It depends on whether I will get an answer that is clear.

MR STANHOPE: Okay. In answering questions at the estimates hearing, Mr Costello also referred to the impact of the utilities charge as being $15 per household, while I as Treasurer, in answering a question on notice, referred to an amount of $37 for water, $22 for sewerage, $35 for gas, $15 for telecommunications and $28 for electricity. The values referred to by Mr Costello and me were for two different reasons. The

$37 estimate represents a full-year effect. The $15 estimate represents a half-year effect as in 2006-07 the charge will be only for a half-year impact, given that it will apply from 1 January 2007. The estimates also differ because of differences in the assumed number of households the charge is likely to be passed on to. The exact number is not known at this stage because the decision on when and how these charges are passed on is a matter for independent regulators such as the ICRC.

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

MR MULCAHY: Treasurer, you raced through the end of your reply, but I ask as a supplementary question: could you clarify what you estimate the cost to households will be of the utilities land use permit?

MR STANHOPE: Yes, I am happy to clarify that. Perhaps it will be more useful for Mr Mulcahy to give that in a detailed response and take the question on notice. Just broadly now, but I will follow up with a written response, the response that I gave in estimates was based on amounts of $37 for water, estimated, averaged, $22 for sewerage, $35 for gas, $15 for telecommunications and $28 for electricity, but I will take the detail on notice, Mr Mulcahy, and get back to you.

Health—CALMS model

MS PORTER: My question is to the Minister for Health. Minister, the new CALMS model of after-hours general practice service was launched last year. Could you update the Assembly on the outcome of this model?

MS GALLAGHER: I thank Ms Porter for my first question for the week and for showing interest in the ACT Health portfolio.

Mrs Dunne: Attention deprivation syndrome!

MS GALLAGHER: No, I am not deprived of attention. I was just thinking that the health system might have been of some interest to the opposition during this week of sittings. Maybe next week.

Mrs Dunne: We will do you slowly later.

MS GALLAGHER: I look forward to that, Mrs Dunne. I thank Ms Porter for the question. As you know, the CALMS model of after-hours general practice was launched last year. Some of the figures we are seeing now are showing what a success this initiative has been.

The new Canberra Afterhours Locum Medical Service, or CALMS as it is known, launched in May 2005, provides a new model of accessible care delivery for families who need to consult a GP after hours. It was made possible through the ACT government's commitment to address demand in the community, with budget funding of around $1.5 million.

The most recent CALMS figures available for 2005-06 indicate that the service is providing considerable additional consultations under the new model. For the period

1 July to 30 April for the 2005-06 year, so three-quarters of that year, CALMS have delivered almost 13,000 consultations, representing an additional 864 consultations when compared with the number they delivered in the 2004-05 year. If these numbers continue, we expect a 30 per cent increase in the end-of-year figure, with an expected 3,500 additional consultations for the 2005-06 period. Consultations at all three clinics—that is, at Tuggeranong, Calvary and Canberra hospitals—have risen.

As members would know, the previous Minister for Health launched the initiative. GP services are available at the hospital-based clinics from 6 pm to 8.30 am from Monday to Friday and over the weekend from 6 pm Friday to 8.30 am Monday. The Tuggeranong clinic operates on weekend afternoons, with all three clinics operating on public holidays.

Previously CALMS provided after-hours GP services only to patients whose GP was a member of CALMS, but under the new model and under the new funding that was provided, CALMS has extended access to all members of the ACT community. So it is available to all residents. We made an election commitment to establish these clinics and we have provided funding to support them. It is particularly pleasing to see the success of this policy, given the derision it received from the opposition when it was introduced. In a press release issued when this policy was introduced, Mr Smyth said:

> The Stanhope government has no idea where to turn at present and is itself in internal disaster mode.

I think these figures have proved that statement well and truly wrong. Coupled with the access improvement program, policies like CALMS will continue to take pressure off emergency departments and ensure that all Canberrans have access to quality health care in a timely fashion.

Our decision to fund this model came because of our commitment to address increasing demand for health services in the ACT. Our GP services are facing increasing demand, but it is not just GP services facing pressure. Our hospitals are busier than ever and we are continuing to see that demand for hospital services grow. We have seen for the first time in excess of 9,000 patients accessing elective surgery in one year. That is a record number for the ACT. Never before have 9,000 operations been performed in one year, and we have delivered that in the last financial year. We are also seeing significant increases in demand for outpatient services, mental health and community health services. We will continue to do all that we can to develop robust, innovative and successful initiatives such as CALMS to address the continuing demand for health services in the ACT.

MS PORTER: I seek to ask the minister a supplementary question. I thank the minister for her answer. I was very pleased to ask her the first question.

Mrs Dunne: Preamble, Mr Speaker.

MS PORTER: I am getting to it. You mentioned increased demand for GP services in the ACT.

Mrs Dunne: We still have preamble, Mr Speaker.

MR SPEAKER: Ms Porter, you have to come to the question.

MS PORTER: Can more be done to increase the number of GPs in the ACT?

MS GALLAGHER: I think more can be done. I have recently written to the Prime Minister and ACT Liberal Senator Gary Humphries to lobby them about the shortage of GPs in the ACT. I particularly wanted to point out the ACT's disappointment that we did not receive any additional medical school places allocated to the ACT at the recent COAG meeting. There are strong arguments why we should see an increase in medical school placements in the ACT. The Canberra Hospital is the only tertiary-level referral hospital between Melbourne and Sydney. Medical students and junior doctors from the ACT are not merely Canberra based. They provide a full range of services to the New South Wales greater southern area, and with expanding populations in Queanbeyan and the south-eastern region of New South Wales the ACT expects demands for medical services to increase.

Also, the ACT has the lowest bulk-billing rates in the country and a chronic shortage of GPs. The last point is particularly important. Statistics published by Medicare Australia for the March quarter of 2006 show the bulk-billing rate in the ACT for GP services was 44.3 per cent, while the national average was 75.2 per cent. In the 2005 calendar year the three electorates with the lowest bulk-billing rates in the nation were Eden-Monaro, Fraser and Canberra. Increasing student numbers at ANU medical school will result in more clinical placements for each of these electorates.

The demographics of the ACT's medical work force also provide powerful argument for additional medical student places. After the Northern Territory, the ACT has the second-highest percentage of female medical practitioners, at 36 per cent, compared with the national figure of 31 per cent. This has an impact, as female medical practitioners traditionally work fewer hours than their male colleagues. Nationally, the majority of medical practitioners are working fewer hours, with the average weekly number of hours dropping from 45.5 to 44.4 between 2000 and 2003. Also, medical practitioners in the ACT are the second-oldest in Australia next to Western Australian doctors—almost a year older than the Australian average—and 16 per cent of ACT's visiting medical officers have indicated an intention to retire within the next five years.

The ANU medical school already has existing infrastructure, with the first graduates being available as interns in 2008. Without any increase in that infrastructure, the medical school could take an additional 10 students immediately. Another benefit for the medical students is ACT Health's interprofessional learning program amongst its health professionals. This program allows health professionals—allied health, nursing and medical—to develop common competencies, undertake studies in certain subjects together and undertake clinical training as part of a team.

Mr Mulcahy: What about parking at Canberra Hospital for the poor students?

MR SPEAKER: Order, Mr Mulcahy!

MS GALLAGHER: Interprofessional learning allows each profession to understand the roles and skills of their professional colleagues, leading to better outcomes for their

patients and greater team satisfaction of the health professionals. If Mr Mulcahy wanted to ask me a question on the health portfolio, he had every opportunity this week, including one on paid parking. I have been waiting for it, because I wanted to go through some of the promises Mr Pratt has made about paid parking—but maybe next week. Members should save up their interjections, write them down, and ask me in question time about parking at the hospitals for students.

It is worth noting that during the COAG meeting the Prime Minister was able to find an additional five places for Tasmania, and now the University of Tasmania's medical school, which services a similar population to that of the ACT and surrounding region, has 26 more medical school places than the ANU. I welcome the response I received yesterday from Senator Humphries to my letter, indicating that he is taking the matter seriously and that he will lobby the Prime Minister for these places. So we look forward to that. We are simply asking for the commonwealth to reconsider its position about our medical school places and join with us in health investment to provide a work force that is sustainable for the future.

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

Standing orders—suspension

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

> That so much of the standing orders be suspended as would prevent the Minister for Health from making a statement on the introduction of paid parking at hospitals.

Hospitals—pay parking
Statement by minister

MS GALLAGHER (Molonglo—Minister for Health, Minister for Disability and Community Services and Minister for Women): I thank the Assembly for the opportunity to talk about paid parking at hospitals. As members would be aware, the government decided to introduce paid parking at the hospitals as a means of enhancing the revenue base of the public health system and in acknowledgement that paid parking has been introduced at every metropolitan hospital across Australia, bar the one in Darwin. This initiative will assist us with traffic management at our hospital campuses and, hopefully, will encourage the use of public transport. Paid parking will apply to visitors, patients and other users of hospital car parks on a sliding scale, from 50c for half an hour rising to $5 per day—24 hours car parking for $5, which is probably the cheapest in the country.

A range of exemptions will apply. A range of exemptions were negotiated with Minister Corbell when he had the Health portfolio and with me once I took over the Health portfolio. A range of exemptions will apply to staff employed by ACT Health, Calvary Health Care ACT, Little Company of Mary Health Care, ACT government visiting medical officers, InTACT staff based at the Canberra Hospital, ANU medical school staff, contract cleaners and kitchen staff and those who provide an essential service to the patients and staff at the hospital or an ACT Health co-located facility, and have the Canberra Hospital, Calvary Health Care or Brian Hennessy House as their primary place of employment.

There will be exemptions for patients and visitors who are holders of a health care card and are required to attend multiple times per week, as determined by the clinical area, or renal dialysis patients, hospital volunteers who are registered through the appropriate hospital mechanism and rostered to provide a service determined by the hospital or its delegate and for which the person receives no monetary benefit. Blood donors and Red Cross volunteers will be exempt from parking fees on the Canberra Hospital site. So if Mr Pratt can just pocket that away: blood donors and volunteers at Red Cross are already exempt. Some amendments were made a couple of weeks prior to the introduction of this.

Mrs Dunne: After you made a fuss.

MS GALLAGHER: No. Mr Pratt made a statement in the house on Tuesday that he was concerned that volunteers at the Blood Bank and the Red Cross were not exempt. They are exempt. Medical nursing and other health students will be required to pay for parking. I met with a number of students to talk through the exemptions regime with them. They were originally going to pay the full cost. Of course, you can pay $4 if you want to prepay for those tickets. I met with students. I talked with them about their concerns. I looked at what happens around the country. It varies. There are hospitals that do not allow students to park on their sites at all. There are hospitals where there is no parking at all on the hospital grounds.

Mr Smyth: So what? Dare to be different.

MS GALLAGHER: You have given me leave to talk about paid parking.

MR SPEAKER: Order!

Mr Smyth: I am just questioning what you are saying.

MR SPEAKER: Order!

MS GALLAGHER: Well, "So what? So what?" is not really showing me the courtesy that you should give me after requesting that I make a statement to the house about paid parking.

After listening to the students' concerns we negotiated an outcome that they get a 50 per cent reduction in the daily rate, so they pay $2.50 per day, which is less than a return bus ticket. I think it is a quite reasonable way of addressing the concerns that the students had. As I said, there are various arrangements for students at teaching hospitals across Australia. Fees vary from around $2.50 a day to $11 per day. Some students are paying $11 per day. Students are already paying for parking when they are doing placements at the Tuggeranong Health Centre and the Belconnen Health Centre.

Mr Corbell: And at ANU.

MS GALLAGHER: And at ANU. So students in the health care system are already paying for parking. This is not a new model. We are also building, as you know, a new car park across the road, which will provide around an additional 500 car spots to deal

with some of the pressure that is being experienced at the hospital. As you know, paid parking commenced at TCH on 14 August and it will come in at Calvary on 4 September. I have taken notice of the concerns about access to public transport to the hospital. I have done a bit of research. There is quite considerable public transport going from various locations. I can list the suburbs if members are interested. I am sure they are.

We have buses going from Ainslie, ANU, Barton, Braddon, Bonython, Calvary Hospital, Calwell, Canberra Hospital, Causeway, Chisholm, Deakin, Dickson, Fadden, Farrer, Forrest, Fyshwick, Garran, Gilmore, Gowrie, Hackett, Hughes, Isaacs, John James Hospital, Kingston, Macarthur, Manuka, Mawson, Narrabundah, O'Connor, O'Malley, Phillip, Reid, Richardson, Symonston, Turner, Wanniassa and Yarralumla. All of those suburbs have buses going on direct routes to the Canberra Hospital on a half-hourly basis. Also, a number of buses leaving from the city, from Belconnen, from Woden and from Tuggeranong go past both of the hospitals.

If I can just give you an update of how it went on the day. There was a bit of a rush between 8.30 and 9.30 on the first morning. Things did settle down after that. There was no problem at shift changeover time, which was an area I was concerned about. The morning staff do not go home until 4.00 but the evening staff come on at 1.00. But I was concerned that there may be pressure in the allocation of visitors to staff parking, but that has gone very smoothly.

There has been visitor parking very close to the hospital at all times this week, because of the changed arrangements. Some feedback coming to me has been that people have been able to park, and park close to the hospital. As you know, there has been a criticism of parking at the hospital. Visitors have not been able to get car parks close to the hospital. There have been comments that the staff who have been providing support to people to understand the system—I think we have had 10 people working at the Canberra Hospital all week—have been really well received and have been very helpful. As you know, the car park near emergency is visitor car parking. It was always only two hours visitor car parking. With the pressure, emergency bays have been established for emergencies where people can pull over, drop off and then go and find a car park, which is what they were doing beforehand. People were not able to just park at emergency, leave their car and not return.

Overall, paid parking has gone very smoothly this week. A lot of work has been put in—advertising in the paper, information to staff and visitors to the hospital. When constituents have contacted me with concerns or wanted further information about how they access the exemptions regime, we have been able to provide that information. We are still to roll it out in Calvary in a couple of weeks, but overall I am confident the work has been done to ensure that it will be implemented in a very seamless fashion. Of course, we are expecting a revenue of $800,000-plus. That will depend on the usage of the car parks and the time the new car park opens which we are hoping will be—

Mr Mulcahy: It was $500,000 before, now $820,000.

Mr Smyth: $720,000, $800,000.

Mrs Dunne: And then it was a million.

Mr Mulcahy: A million.

Mr Smyth: More than $800,000.

MS GALLAGHER: No. The estimates have always been an estimate. I have always said it is around $800,000, but with the new car park coming on next year, it is obviously going to be more than that.

Mr Smyth: No, you said it was less 10 per cent. You said the reduction was less 10 per cent, which is $720,000. Now it is over a million.

MS GALLAGHER: That is a rough estimate of what we are expecting. That is the way it has been phrased. You cannot try to trip me up on that, Mr Smyth. It is a bit boring.

MR SPEAKER: Order, Mr Smyth.

MS GALLAGHER: It is a bit boring. I have been asked how much are we expecting this to rise. I should not be speaking to you.

MR SPEAKER: Take no notice of him.

MS GALLAGHER: I know I should not. The estimate, as best as it can be provided to me, is around $800,000. That is not a full-year effect because we were not able to bring it in on 1 July. That is not counting the extra car parking that is going to come on line, hopefully, early next year. So it is an estimate, but I expect it will be above $800,000 and that will be the money you guys will need to find if you win government one day, and you abolish the system that we have been putting in place, which is entirely responsible. It is a responsible way of managing the traffic problems at Canberra Hospital and it is raising valuable money for our health system. We have to look at some way of funding our health system, which is growing at 10 per cent per annum. We have to bring that back down. We have to look at other ways to find money to support the health system, and this is an obvious way where the government has been in a position to raise some revenue and to plough that revenue back into the health system.

Obviously, those opposite are not interested in my presentation on paid parking. They have moved a motion asking me to give a presentation on paid parking at Canberra Hospital and the Calvary Hospital. I am attempting to do that and they are constantly interjecting. So I will finish there. They are obviously not interested in it. It is a bit of a joke for them that we are looking at responsible ways to raise money for the health system and to ensure that some of the traffic pressures that we have been experiencing at our hospital, and particularly pressures where visitors want to visit people at the hospital, are being alleviated in a responsible fashion.

Personal explanation

MR SMYTH: Under standing order 46, I have some explanations I would like to make.

MR SPEAKER: Have you been misrepresented, Mr Smyth?

MR SMYTH: I have indeed, Mr Speaker. Yesterday just after midday Mr Corbell said:

> Let us not forget Mr Smyth going to Westminster to enjoy the pleasures of Westminster.

This was in a debate about business on behalf of the Assembly. I have never been to Westminster on behalf of the Assembly. I ask Mr Corbell to correct the record.

The second matter is more serious. Yesterday afternoon after question time, the Chief Minister said, "There was absolutely no justification or basis on which Ms MacDonald was refused a pair". I refer to some advice we have from the manager of committees.

MR SPEAKER: This is not a personal matter.

Mr Corbell: On a point of order: this is not a personal explanation. Mr Smyth is debating—

MR SMYTH: It is a personal explanation. The Chief Minister has said there is absolutely not justice or basis for which this was done.

MR SPEAKER: Order! That is not a personal matter and you know it.

MR SMYTH: I have been misrepresented. There is a perfect justification and I have the details from the manager of the committee—

Mr Corbell: On a point of order, Mr Speaker: Mr Smyth knows the forms of this place. The forms of this place are that he can seek to make a personal explanation if he claims to have been misrepresented. His explanation is limited to explaining where he has been misrepresented, not to debate or enter into argument over a matter.

MR SMYTH: On the point of order: the Chief Minister said that there was absolutely no justification or basis.

MR SPEAKER: He never said anything about you, by the sound of it, though.

MR SMYTH: Mr Speaker, I was one of the two people that supposedly refused the pair.

MR SPEAKER: I am sorry, Mr Smyth, it is not a personal matter. Resume your seat.

MR SMYTH: I seek leave to make a statement.

Leave not granted.

Standing orders—suspension

MR SMYTH (Brindabella) (3.47): I move:

> That so much of the standing orders be suspended as would prevent Mr Smyth from making a statement concerning pairing arrangements and committees.

Much information needs to be put to the house. Part of the information that I want to put to the house comes from the manager of committees. The manager of committees said, "I confirm that a pair system does not operate in committees and has never operated either here or federally."

Mr Corbell: On a point of order, Mr Speaker: Mr Smyth is just abusing the forms of this place. Mr Smyth has moved a motion to suspend standing orders. It is not open to him to enter into the question he wants to talk about if standing orders are suspended. It is open to him to explain why standing orders should be suspended but not to abuse the forms of this place and seek to use it as a vehicle to make the explanation for which he has already been refused leave.

MR SMYTH: On the point of order: what was said was that there is no justification or basis. I have asked leave to prove that there is a justification and a basis for what was done.

MR SPEAKER: The question before the house is that the standing orders be suspended.

MR SMYTH: So that I may make an explanation about what was said in relation to the refusal of the pair—the supposed pair.

MR SPEAKER: You should confine your comments to the reasons for the suspension of standing orders and not go into the matter that you are seeking to debate.

MR SMYTH: This is the reason for the suspension, Mr Speaker. You seek the reason they should be suspended and I have to give you that reason. That reason is that we have advice that what Mr Stanhope said is not true.

MR SPEAKER: The question is that the standing orders be suspended. You can either address it or not address it.

MR SMYTH: Members are entitled to have time in the house to make explanations where they believe they have been misrepresented. If it does not come under standing order 46—

MR SPEAKER: Are you going to address the question before the house?

MR SMYTH: Yes, I am coming to that.

MR SPEAKER: No, you are going to come to it straightaway.

MR SMYTH: I am coming to it straightaway, Mr Speaker. Once one has not been extended the courtesy of standing order 46 one then seeks leave. I would like the leave because I think I can correct what has been said on the record, which is not true.

MR SPEAKER: Leave has been denied. The question is that the standing orders be suspended.

MR SMYTH: That is why I am asking for the standing orders to be suspended, so I can put on the record—

MR SPEAKER: Address the question.

MR SMYTH: I am addressing the question. I would like to put on the record the reasons—whether by tradition, through a standing order, through agreement or through legislation—that pairs are not given in committees. I think it is reasonable, when the Chief Minister makes a statement that I can prove not to be true, that I be given the opportunity to put that on the record. I am sure those opposite would not like to hear this, and that is why they are attempting to deny this leave. But the whole purpose of making the statement is to correct the record. Mr Speaker, you often give us guidance in this place that we should put on the record things that have happened and do it through the proper forms. One of the forms is to seek leave, and that is what I am attempting to do now.

MRS DUNNE (Ginninderra) (3.50): It is important that—

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (3.50): I move:

> That the question be now put.

Question resolved in the affirmative.

Motion negatived.

Papers

Mr Speaker presented the following paper:

> United Nations' Second Optional Protocol to the International Covenant on Civil and Political Rights—Letter from the President of the Senate, dated 9 August 2006, detailing the Senate's resolution of 9 August 2006.

Ms Gallagher presented the following paper:

> Public Health Act, pursuant to subsection 10(3)—ACT Chief Health Officer's Report for the period 1 July 2002 to 30 June 2004, dated 27 June 2006.

Mr Corbell presented the following paper:

> ACT Property Crime Reduction Strategy 2004-2007—"*Building a safer community*": Second progress report.

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

> Occupational Health and Safety Act, pursuant to section 228—Operation of the *Occupational Health and Safety Act 1989* and its associated law—Fourth quarterly report for the period 1 April to 30 June 2006.

Planning system reform
Ministerial statement

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (3.52): I seek leave of the Assembly to make a ministerial statement concerning planning system reform.

Leave granted.

MR CORBELL: The reform of the ACT's planning system is continuing under a process that began with the Planning and Land Act and the establishment of the ACT Planning and Land Authority and the Land Development Agency by the Stanhope Labor Government. To briefly summarise for the benefit of members, the reform agenda, as outlined in my statement of planning intent of 2003, addressed a number of significant planning and development issues. These included streamlining the development assessment system; maintaining and promoting a single integrated development assessment path; management of the leasehold estate, with an emphasis on more effective and more transparent administration and compliance; amendments to environmental impact assessments to ensure assessments align with the level of impact; overhauling the Land Act and the territory plan; elevating the status and role of strategic planning and policy instruments and guiding decision making and engaging the public early in the planning process; and providing appropriate safeguards for members of the community most directly affected by policy change on development applications.

Industry and the community are already benefiting from a number of short-term reforms that have been implemented as part of the planning system reform project. These include streamlining and refining the development approval process; rationalising the requirement and process for preliminary assessments; and removing the pre-application and validation process. The government has a commitment to broader legislative reform in pursuit of a planning system that would set new benchmarks of best practice. When I launched the planning system reform project in May last year, I highlighted the need to make the planning system in Canberra simpler, more consistent and faster for residents and industry. Consultation on the reform package has provided valuable input and I thank those people—industry, environmental organisations and government agencies—who participated in the consultations for their time and invaluable input. The government's consideration of this input set the final reform directions, and the preparation of new planning legislation.

The exposure draft of the Planning and Development Bill 2006, which I released a number of weeks ago, proposes to deliver on a key government election commitment in what has been the most comprehensive review of the ACT's entire planning and land administration system since self-government. This draft legislation will place the ACT at the leading edge of planning reform nationally. In particular, the ACT will be the first jurisdiction to substantially adopt the nationally recognised leading practice model for development assessment developed by the intergovernmental development assessment forum and supported by all state, territory and commonwealth local government and planning ministers. The exposure draft bill is the outcome of a comprehensive and systematic review of the ACT planning system. The change will streamline the

development assessment process, improve transparency and add certainty to the rules and procedures applying to each development application.

Key changes to the planning system include the following: the level of impact assessment will be more closely matched to the potential environmental impact of a development; simplification of the assessment process will also reduce duplication and improve clarity and certainty; development applications will only be referred to other government agencies that have a statutory role relevant to the development proposal—the allowed response time will be 15 working days; and the consolidated territory plan would be the primary instrument for regulating the use of land and its development. A more flexible and responsive territory plan will ensure the government's policies and its intended objectives remain relevant, consistent and effectively administered. Leasehold reforms have been designed to aim at developing a clearer, more streamlined process for granting leases and administering concessional leases. Finally, the electronic lodgment and approval of development applications will be facilitated, a procedure the authority has already put in place and will further expand in due course.

With the release of the exposure draft bill for public consultation last month, the planning system reform project has moved into the implementation phase. The consultation is focusing on stakeholder groups and negotiations with them on the detailed content, wording and operation of the legislation. Consultation of the new territory plan structure is directed towards a wider audience, as this is the first time the community will have been exposed to the proposed new territory plan structure. To facilitate consultation on the draft legislation, a quick guide to the bill was developed and made available to the public and stakeholder groups. The quick guide is an easy-to-read guide to the new legislation that explains in plain English how the legislation works, key changes and how those changes affect industry, business and the broader community.

I will now turn in some detail to specific areas of change. The new planning legislation provides for the executive to prepare a long-term planning strategy for the ACT. This planning strategy will aim to promote the orderly and sustainable development of the ACT and inform the strategic directions of the territory plan. The Minister for Planning will retain the ability to give the ACT Planning and Land Authority shorter term statements of planning intent that set out the main principles governing planning and land development in the territory. The new planning legislation, in combination with the consolidated territory plan, seeks to enhance the transparency and clarity of the urban land release process. Among the changes to the land release process, the territory plan will identify areas that may be subject to future urban development and include a structured plan for areas such as the Molonglo Valley.

The strategic environmental assessment process will assess the impacts of land-use change. The principles and policies and the new zoning structure for future urban areas will be implemented through a planned variation process that provides opportunities for agency and community consultation. Detailed planning for new suburbs will be through a concept planning process that will develop precinct codes for the purposes of development assessment. The development of precinct codes will involve both agency and community consultation, and, where the proposed precinct code provisions are consistent with principles and policies for the future development of an area, the code would be incorporated into the territory plan by a notifiable instrument. A notifiable

instrument will establish the final zone boundaries once an estate development plan or subdivision plan consistent with relevant precinct codes has been approved.

Leases will continue to provide a clear statement of tenure rights and obligations. There will be a single streamlined process for granting leases and transparent criteria for granting and administering concessional leases. Important changes to lease administration will include reform options for infrastructure charging and for a codified change-of-use charge system, which is still being investigated. Separate consultation will be undertaken later in the year on this aspect of the reform package. On commencement of the new planning legislation, a new definition of development, which includes use and change of use, will apply to all existing and new leases. New development, such as commencing a new use, may require assessment and approval. In some cases, exemptions will apply; for example, if a new use can commence without involving other new development or building works and alterations. A use of land as specified on a lease is not, in itself, an assessable activity, but the territory plan would regulate the impacts of commencing a use.

The time limit that applies to development approval for the commencement of construction will also apply to development approval that authorises a commencement of use or change of use. If the use does not commence within the prescribed period, the approval lapses. Existing-use rights for uses in operation prior to commencement of the legislation are protected. The continued operation of a use authorised on a lease, or the continued operation of a use permitted on a lease and authorised by a development approval post-commencement, will remain lawful and will not require further development approval to continue operating.

The new territory plan structure consolidates the many planning documents that currently make up the ACT planning system, such as neighbourhood plans, section master plans and planning guidelines. It also introduces changes in terminology and reflects a suite of new development assessment tracks. Under the new territory plan structure all land in the ACT, except designated land which is administered by the National Capital Authority, will be included in a zone, and each zone will have a development table identifying the type of development that may be exempt, prohibited, or require a development application that will be subject to code, merit or impact assessment. Codes will regulate code-assessable and merit-assessable development applications, with greater flexibility for merit development applications. For example, codes have been created for development types, precincts and areas that involve infrastructure provisions.

Code-assessable developments that comply with the requirements of the relevant code will be approved within 20 working days. Code assessment does not involve public notification or agency referral, although individual codes may require evidence that agency requirements have been met. Decisions on code-assessable applications will not be open to third-party appeal. Merit-assessable developments are assessed against codes but allow greater flexibility in satisfying the code criteria. Merit-assessable applications involve public notification and may require referral to another government agency for advice. Time frames are incorporated into the assessment tracks to give the authority, the applicant and referral entities specific time frames to comply with for each stage of the assessment process. For example, the authority has 10 working days to send a request notice asking for further information, the applicant has 28 working days to respond to a

request to provide further information, and a referral entity must give advice on the application within 15 working days.

Decisions on certain types of development in the merit track may not be open to third-party appeals. Only merit-assessable applications that undergo major public notification accrue third-party appeal rights. Only request notices sent within 10 working days have the effect of stopping and extending the decision-making time frame. Development applications that must be referred to the relevant referral entity and the jurisdiction will be clearly detailed through regulation.

I turn to the area of impact-assessable development. The level of impact assessment will be more closely matched to the potential environmental impact of a development and the process will be integrated with the assessment tracks. An environmental impact statement, or an EIS, will only relate to impact-assessable developments and will cover matters listed in schedule 4 to the legislation and types of development not anticipated by the territory plan. Schedule 4 will list developments for which an EIS is required based on the likely impacts of construction, impacts on sensitive areas or environmental processes. Decisions on merit and impact-assessable applications must be made within 30 working days, or 45 working days where representations are received. The decision time is only extended by the time it takes an applicant to respond to a request notice for further information, if the request notice is sent within 10 working days of lodgment. For some merit and all impact-assessable development applications, any person who makes a representation and may suffer material detriment because of an application's approval accrues a right to appeal against the decision.

I turn to the issue of territory plan variations. The territory plan will have a statement of strategic directions to guide plan variations. The strategic directions may cover matters of national, regional and territory interest, contain sustainability principles and should promote the planning strategy. The National Capital Authority has recently publicised its intention to update the national capital plan, in particular to enshrine the Griffin legacy propositions into the national capital plan so that work on the ground can begin. The ACT Planning and Land Authority is working closely with the NCA to promote a consistent structure in both the national capital plan and the territory plan.

In the interests of efficiency and certainty, the new planning legislation will introduce new time frames for the draft plan variation process. In future the ACT Planning and Land Authority will be required to make a decision on submitting a draft plan variation to the Minister for Planning for approval within 12 months, and it must be approved by the Minister within 12 months. If the time limits are not met, the draft plan variation lapses. The new planning legislation provides the Minister for Planning with discretion not to refer a draft plan variation to relevant Assembly committees before making a decision, and also to make a decision on the draft plan variation if the committee fails to report within six months of the referral. The Assembly retains the right to direct a referral itself. The ability of the ACT Planning and Land Authority to amend the territory plan without requiring public consultation is being expanded to include changes to codes where the change is consistent with the code's purpose and the policy framework. These amendments to the territory plan will take effect by a notifiable instrument.

The new planning legislation also introduces the requirement for the ACT Planning and

Land Authority to consider at least once every five years whether a review of the territory plan is necessary. In examining this, the authority will have to consider the plan's currency against community expectations, the planning strategy, objects of the legislation and the plan itself. If a review is considered necessary, the ACT Planning and Land Authority will prepare a strategic environmental assessment in relation to the review and make public the findings of the review. The proposed reforms also implement an increased range of exempt development that will not require development approval, and an increased range of exempt developments that do not require development approval, building approval or a licensed builder to construct the structures. As an example of this, new houses that qualify under certain thresholds in new estates will be exempt from development approval. Building certifiers will instead check development compliance against the house code prior to issuing a building approval for the house. The proposal to extend this exemption to new houses on previously unleased and undeveloped land in established residential areas is still being investigated.

The new range of exempt developments includes non-habitable structures that can be built by a homeowner—for example, buildings and structures behind the building line and not closer than three metres to a boundary and/or with a maximum height of three metres, or a roof structure no greater than 36 square metres, or decks not greater than one metre in height. The proposal to exempt an increased range of buildings and structures from building approval will be implemented by way of consequential amendments to the Building Act 2004 and various regulations.

There has already been considerable public involvement in the reform process. Stakeholder groups and the community are currently providing further support and comment as we enter the implementation phase with the release of the exposure draft Planning and Development Bill and the exhibition of the draft structure of the territory plan. As part of this process the planning and environment committee has commenced its own inquiry and will be reporting to the Assembly in due course. The next steps in this important process are for the government to consider the input from the current community consultation processes being undertaken by the ACT Planning and Land Authority's planning system reform project team, and the report of the planning and environment committee. The government will review the exposure draft bill in the light of the comments and advice that it has received, and anticipates that it will be in a position to table its legislation in the Assembly by the end of this calendar year. As I have already noted, further work on the territory plan will continue to meet the target implementation date for the new planning system of 1 July 2007.

The planning system reform project is a significant government reform agenda and, accordingly, involves a broad cross-section of stakeholders and the community. Implementing the planning reforms is a critical phase of the project for the government and it is important that our stakeholders and the community continue their involvement, thereby ensuring strong planning outcomes for the ACT. I encourage members to consider the reform proposals and provide their inputs as early as possible so that we can have a considered piece of legislation to debate later in this Assembly. I move:

> That the Assembly take note of the paper.

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

Junk food advertising—impact on young Canberrans
Discussion of matter of public importance

MR DEPUTY SPEAKER: Mr Speaker has received letters from Dr Foskey, Mr Gentleman and Ms Porter proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, Mr Speaker has determined that the matter proposed by Ms Porter be submitted to the Assembly, namely:

> The impact on young Canberrans of the Federal Government's refusal to act on junk food advertising.

MS PORTER (Ginninderra) (4.12): This afternoon I am pleased to speak in debate on this matter because of my strong interest in health. It is estimated that more than 12 per cent of the children in our community are overweight or obese and that figure continues to grow. Australia is now one of the leading nations in rates of childhood obesity, a problem that poses a significant threat to the future health of our nation.

In the past 20 years the number of obese Australians has doubled, with 60 per cent of the population now considered either overweight or obese. The number of young people presenting as overweight or obese is increasing at an alarming rate and has more than doubled in the past 15 years, making it more important than ever before that we educate our youth about healthy eating habits.

Current figures show that obese children have a 25 to 50 per cent chance of progressing to adult obesity. This risk can increase to almost 80 per cent for older obese adolescents. Obesity is now in epidemic proportions and is putting the lives of more than one million Australian children in danger. The livers of obese children start to degenerate sooner than the livers of other children. There are instances of artery blockage, they often have difficulty breathing when they are awake, and sometimes they suffer from sleep apnoea.

If left untreated, obesity places an immense stress on the heart, which could lead to stroke and heart attack. There can be severe impairment of mobility and it may lead to type two diabetes, blindness, cardiovascular disease, some cancers, arthritis and kidney failure, not only reducing the enjoyment of life but also possibly leading to death. There are a number of causes of obesity but an obvious one is the decline in physical activity in children and an increase in unhealthy eating habits.

Television viewing has been identified as a major factor in contributing to the problem of increasing overweight and obesity in young people, as it promotes sedentary behaviour and influences general food consumption patterns and increased consumption of snack foods. On average, Australian children watch about 23 hours of television a week. Of that time about 240 minutes are advertisements. That equates to approximately four hours of advertisements per week and 208 hours per year.

Research provided by The Parents Jury shows that Australian television airs the highest number of food advertisements per hour in the world during children's programs, being 12 per cent, in comparison to the United States of America showing 11 per cent, the United Kingdom 10 per cent, and Austria just one food advertisement per hour.

Over 75 per cent of food advertisements shown during children's viewing time are for unhealthy foods of lower nutritional values, such as confectionary, sweetened breakfast cereals and fast food. We all know how impressionable children are and the evidence shows that food advertising can adversely influence the food preferences of children between the ages of two and 11.

Despite this evidence the federal government has still refused to ban junk food advertising during children's programs. Advertisements directed at children often use sophisticated marketing techniques such as giveaways, competitions, celebrity endorsements, animation and jingles to increase a child's desire to purchase the product. Food advertisements often give a distorted message and advertisements are often misleading and do not provide clear nutritional information. Evidence shows that a child less than eight years of age does not have the cognitive ability to be aware that he or she is being manipulated.

It is obvious that television food advertisements influence children's food choices and increase the tendency for them to pressure their parents for particular products. That undermines the attempts of parents to provide children with a healthy diet. The eating habits of Australian children show that they are consuming a high percentage of energy dense, high fat, high sugar and low fibre foods. This is consistent with the majority of food advertised during children's television viewing times.

An argument that federal health minister Tony Abbott and Prime Minister John Howard have used repeatedly in this debate is that parents are responsible for what their children eat. Parents ultimately have a say over what ends up in the shopping trolley and what is eaten during and between meals. They believe it should be up to parents as to what their children eat and what commercials they are free to watch. That, of course, all sounds very reasonable.

However, parents do not necessarily have a choice over the commercials to which their children are exposed. They may give permission for their children to watch a program on a commercial station, but they have no knowledge necessarily of what advertisements will be aired during that program unless they sit right through the program with their children. As I have previously said, it is more likely that advertisements during those programs will be advertising unhealthy, fattening junk food.

Mr Abbott and Mr Howard fail to acknowledge the endless pressures that face the modern family. Many families now stick to limited and familiar meals. They increasingly eat in front of the television and find it more difficult to find time to cook a meal. Unfortunately, we cannot expect to return to the 1950s household where a cooked family meal was the norm. More and more families, for example, are pressed for time in the afternoons and therefore often turn to pre-prepared meals after a long day's work rather than the more healthy choice of a meal including fresh fruit and vegetables.

From our own experiences I am sure we all know that children are exceptionally skilled at pestering parents and whittling them down to get what they want. How many of us have either witnessed or experienced ourselves the nagging of a child in a supermarket where the child asks again and again for a certain treat in an increasingly agitated and demanding way? All of us in this place, like many of our constituents, work long hours

and balance many competing demands. How many of us have not caved in to a child constantly pestering us for a certain food?

The federal government has a clear responsibility to the parents and the children of Australia. Control over what advertisements can be shown during children's programs should be implemented and that control would make the lives of parents, and children for that matter, a lot easier. But the federal government is unwilling to implement bans on junk food advertising during children's programs despite the ever-mounting evidence that such a ban would greatly benefit the health of Australian children.

The need for government legislation limiting advertising to children is not a new concept and has been introduced in a number of countries such as Sweden, Norway and in the Canadian province of Quebec. The United Kingdom is also currently considering television restrictions regarding high fat, sugar and salt products. Regulations exist in Ireland, including the ban of cartoon characters and celebrities in food promotion, while in the United States congress has recently introduced mandatory food advertising regulations for both commercial and cable television following ineffective self-regulation efforts by food marketers.

In 2006, in a recent survey conducted by the Australian Consumers Association, 82 per cent of people supported enhanced government regulation of food advertising to children. The need for greater regulation on advertising unhealthy food is an issue for the community. It is essential that we, the Assembly, take a strong stance and advocate on this matter to the commonwealth government.

There are a number of reasons why Canberrans, Australians and the worldwide population are getting more overweight and obese. This trend can be attributed, of course, to genetics but also to the environment in which we live. Our dietary behaviours, exercise habits and family and social structures all influence us and contribute to how healthy we are. Obviously, a range of measures must be implemented to combat this epidemic.

The ACT government has clearly shown its commitment to the implementation of programs that encourage healthy and active children in the ACT. It has put in place a package of initiatives to promote good health in children and young people. However, programs alone will not reduce the high level of obesity. If children continue to see these foods advertised in a fun, light-hearted and sometimes deceptive manner, they will continue to demand them.

It is the role of governments faced with this situation to promote a more family-friendly environment, to develop lifelong skills, knowledge and habits especially for our children so that they will not be obese in their youth or obese and unhealthy in their adult life. It also involves making life easier for families by banning unhealthy food advertisements during children's programs, reducing the pressure on parents when deciding what they will allow their children to eat.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (4.23): This is an interesting and timely motion. Quite a few things could be improved in the territory over which we have control. When this matter was first raised I thought there was some merit

in the proposals to get the federal government to act, but that at best is only part of the problem. There is a lot that we can do.

When this matter was first raised several weeks ago I looked at my own two kids. Because of our job commitments we do not get to see our children watching television during peak viewing times. I suspect that whatever is advertised does not have a huge effect on them. My kids like McDonald's but that appears to be more of a peer pressure thing, unless there are lots of advertisements on television.

Ms Porter was quite right when she said that obesity is a significant problem in this country. Australia is one of the leading nations in the rates of childhood obesity. It is second after the United States, which has the dubious honour of having the most obese population. Obesity is a real problem. I said earlier that there is much we can do in the territory. I commend the government for introducing a healthy food program in schools. That is a positive step but we must do more to ensure that our children are physically active.

Let me give members a bit of a history lesson. ACTSport was keen to see more done in schools. In 1994 I recall it making a number of representations to the then Labor government. Minister David Lamont was fairly receptive to its suggestions but the education department and bureaucrats resisted them. When the Liberal Party was elected to government in 1995 one of the first things I tried to implement was greater physical activity in schools.

Ms Gallagher: It is still in place.

MR STEFANIAK: I am glad to hear that. I hear a few things from time to time. At that time there was extensive consultation. Ms Tucker and Roberta McRae were members of a 35-person committee that came up with a good 150-minute program of compulsory physical activity for children from kindergarten to year 10.

Due to some industrial trouble the program did not commence in 1996 but it commenced towards the end of that year. It was a particularly effective program and in the end all sides somewhat reluctantly agreed to it. Teachers were trained to conduct physical activity lessons and some were really enthusiastic. Some schools had programs that ran for more than 200 minutes, which was fantastic.

When I was minister I received reports that some schools had not implemented the program. In about 2000-01 we cracked down on those schools. I still receive feedback on that program. As the Deputy Chief Minister no longer has responsibility for this area I ask her to remind her colleague of the need to ensure that schools maintain that program. I accept the Deputy Chief Minister's statement that the program is still operational but there is some resistance to it. Schools must be made to enforce this important program.

We commenced assessing the physical fitness of primary students and during the change of government in 2001 we put out a tender. I was disappointed when the then education minister discontinued that tender. It might have been done for ideological or misconstrued reasons but it was a good program that I commend to the government. It does not matter who runs that program. I think de Castella ran one program and there was a possibility of the CIT running another.

The government should activate that important program that will test students, inform their parents of those tests and provide for students to be tested every 12 months to monitor their fitness. I am concerned about the increasing level of obesity. We need these important programs in our school system. Schools cannot do everything but there is a lot that they can do. We must build on the benefits of mandating compulsory physical activity, but a lot more must be done. Physical assessment programs are used very effectively in some non-government schools. The state school system in Queensland is now starting to use these important programs.

I am concerned about a couple of other disturbing things that have occurred over the past few years in the term of this government. The former government introduced an oval maintenance program that was carried out in conjunction with school communities. I know we have had a drought but in 2003 only one hectare of the 55 hectares of category four low-maintenance ovals located largely near primary schools were maintained. This government ceased watering all those ovals and a number of the category three neighbourhood ovals where junior football and cricket teams trained and played.

In areas like Gungahlin it led to a number of teams not having ovals on which to play matches, which is a real problem. To recommence watering those ovals and to bring them back would cost about $10,000 a hectare. I was pleased to see in this budget that at least 40 hectares were to be brought back. Experts like Keith McIntyre said that if those ovals had been watered, even with stage 3 water restrictions in place, more of them might have been saved for use by children, thus assisting in the combating of obesity.

That was something the government did not do, despite warnings by ACTSport, by me and by a number of other people, and despite a lot of good advice from renowned experts, ranging from Keith McIntyre to other horticulturalists in the area, who showed the government how it could be done. At least the government will not do that again. When those ovals are brought back they should be planted with available grasses that do not require as much water. I commend that option to the government.

The decision to discontinue the watering of ovals was a particularly bad one, as was the decision to take away the tender for physical fitness testing in schools. This government has a big problem with its budget. I have made a few suggestions about how the government can cut its funding in a few areas. In question time Mr Smyth rattled off a whole swag of areas where the government can save money. However, it would be counterproductive for the government to cut back funding in the sports area.

An amount of $300,000 is to be taken out of a pretty small grants program. The budget reveals that funding will go from $2.4 million down to $2.1 million. It is interesting that the sports budget is only $2.4 million because it was $2.392 million in 2001-02, the last sports budget that was delivered when I was minister. I do not think the sports budget has benefited from any consumer price index increases.

That grants program allocates funding for about 240 programs and provides essential money for many of the major sporting groups. Most sporting groups are not terribly wealthy. Apart from big corporations like the Raiders and the Brumbies most of them run on the smell of an oil rag. There is much consternation in the sporting community about the $300,000 to be cut from the sports budget of $2.4 million. It will reduce the

sports budget to $2.1 million but we have heard that it could be reduced to $1.8 million, the lowest it has been since 1997.

A reduction of $300,000 in funding would have a major impact on junior sport and on smaller organisations. Many organisations receive triennial funding or the odd grant here or there for a bit of equipment. If their funding is cut it will place a lot of pressure on volunteers. In many instances it means that fees will have to rise, thus reducing the participation of children in sporting activities.

With all the other pressures, for example, a $400 rate hike, a quarter of a per cent increase in home loan interest rates and various other pressures that families are having to face, some of it imposed by the government and some of it imposed by outside factors, it means less disposable income for families. Many families simply will not be able to afford any increase in registration fees for their children, which will result in their non-participation in good, healthy activities. The government's proposal to cut grants by $300,000 is very short sighted.

Children must have good role models if they are to become active in sport. Over the past five or six years Lauren Jackson, Lucille Bailey and the girls from the Capitals have done a wonderful job raising the profile of women's sport and women's basketball, which has led to many girls joining that sport and wanting to be active. The same could be said about all other sports, for example, the Lakers and the Strikers in hockey, Eclipse in women's soccer, the Comets in cricket, the Dolphins in water polo and the Raiders and Brumbies in the major football codes. All those sporting groups encourage young people to become active.

The Brumbies and Raiders national teams will still receive their $100,000 in funding every year but sports grants will go down by $120,000, which will leave only $250,000 for the other 12 teams. The following teams run on the smell of an oil rag: the Capitals and Gunners; the Lakers and Strikers; Eclipse; the Comets; the Rams; the Dolphins—I used to play with them—the Cockatoos; the Knights; and Heat.

Ms Porter: Point of order. I find this very interesting but I am wondering what it has to do with food advertising. Could the member be asked to return to the debate on food advertising?

MR STEFANIAK: This matter of public importance relates to childhood obesity. I was suggesting a few ways in which to combat childhood obesity. I am sure Minister Barr is aware that the government must fund all these sporting organisations. The government is allocating only $250,000 instead of $370,000 and that funding has to be spread across all those groups which, as I said, are running on the smell of an oil rag. If children are to engage in good, healthy physical activity they must have great role models in their respective sports.

Kids learn a lot by being active and, of course, it is a lot of fun. They learn a lot in team environments in any sport. It helps them become good citizens, it presents them with challenges and, if they have good role models who are inspiring to young people, it ensures that they extend themselves. Sport is healthy not just for the physical development of young people; it is also healthy for their mental development.

As I said earlier, a lot more can be done at a local level. The government must rethink its sporting budget. Now that sport and recreation comes under the larger umbrella of a big new department perhaps some additional steps could be taken. The government must do a number of things in an area where it has dropped the ball.

We will combat childhood obesity by ensuring that young Canberrans become physically active, are encouraged not to eat junk food and do not constantly sit in front of the television or play with computers, which they tend to have a habit of doing. We must improve our system and ensure that children have an opportunity to participate in sporting activities. The 150-minutes of compulsory physical activity that I introduced did not cost much money to run. We are not talking about big money items; we are talking about exercising a bit of common sense and doing a lot more in our own community.

I deliberately focused on the important physical side of the equation, as that is something that we as a community can do. We must ensure that our kids become more active, thus combating the scourge of obesity that if left unchecked will add many millions of dollars to our health bill. We require a holistic approach to this problem. The federal government can do a number of things but we can do a lot more at the local level. Parents as well as the government can do a lot more in this area. Obesity, one of the biggest problems facing our society, is a problem that must be addressed. This motion is timely as it enables us to reflect on what we can do to overcome childhood obesity.

DR FOSKEY (Molonglo) (4.37): This topic is dear to the Greens' heart. I am not sure whether Ms Porter is aware that Senator Bob Brown has tabled an amendment to the Broadcasting Legislation Amendment Bill (No 1) 2005 that seeks to add the following paragraph on page 8, after line 20, to schedule 2, which relates to children's television standards:

> (e) advertise food or beverages unless the Minister for Health, having determined that such an advertisement is beneficial to the health of children, allows such an advertisement.

I will give a bit of background to that. Working in the Greens' Senate office now is a person who used to work for the Australia Institute, Richard Dennis. He did quite a lot of research on this issue and put together a couple of papers. I do not know whether Ms Porter's office had access to those papers, but some of the data that she used certainly is a little similar.

There are a couple of approaches here. One is the relationship between the amount of time people spend watching TV and their eating habits and the other is just to look at issues round the world. One of the papers was based on an analysis of data coming from a poll conducted by Roy Morgan Research which provided detailed information on more than 3,500 children 14 to 17 years old. Information was obtained and correlated on their television viewing habits, their attitudes to advertising and their consumption of junk food. The data ended up showing that nearly 20 per cent of children aged 14 to 17 are watching four or more hours of television a day, which does not surprise me as I know how hard it is sometimes to get children away from TV.

If you look at the diets of the children who are watching more TV you will see that there is a strong link between the amount of TV they watch and their attitudes to diet and behaviour. I think that it is relevant—Ms Porter touched on a few of these things—that children, particularly younger children, do not distinguish between advertising and the program they are watching. In fact, often the advertisements are much more interesting than the program. As members would be aware, if you get a bunch of kids together in a car, for instance, and they start singing they will sing TV food jingles.

Thirty-eight per cent of the children who watched more than four hours of TV a day agreed that they find TV advertisements interesting, compared with 28 per cent for the children who watch less than two hours of TV a day. It is also true that children are susceptible to other forms of advertising, not just TV advertising. That includes billboard advertisements and advertisements placed on buses, interestingly enough. It has also been found that the children who watch the most TV are the most likely to agree with the statement that taste is more important than the ingredients and are least likely to agree with the statement that they like to eat healthy snacks.

We all know that, along with attitudes, there is the food that is consumed while watching TV, and that is more likely to be potato chips, twisties and similar snacks and is also likely to include sweet drinks such as lemonade and cola. Of course, those are things that do not require any preparation; they just require going to a cupboard to get them and then sitting them on a little table next to the couch.

That is to do with the material about the correlation between watching TV and eating junk food, but how about the advertisements themselves and their impact on children's diets? It is interesting, by the way, that Bob Brown has been told that the government will not vote for his amendment. I would be interested to know how the Labor Party plans to vote on that.

Ms Porter: We would be very interested.

DR FOSKEY: Maybe this will all help. The Family First senator cares about the health of families—he certainly seems to care about their moral health; perhaps he also cares about their physical health—and might become active on this one. There is always Barnaby Joyce, who likes to tease everyone with the possibility of his crossing the floor, get lots of media attention and then often does something else. It is a really important issue because the data shows there is a correlation.

I read this morning in the *Sydney Morning Herald* that something like half of the children under six already have cavities in their teeth. Children are put in front of a TV from an early age. Their parents are now products of a generation that spent a lifetime in front of a TV and do not really see the difference between an unhealthy drink and a healthy drink. But when 1,600 Australians were surveyed recently, 86 per cent of them agreed that there should be more limits on advertising to children. I think that is a fairly definitive figure and, for a populist government like the Howard government, you would think it would be influential.

Advertising is a very cynical art. It is aimed primarily at increasing product sales. The argument usually put by the advertising industry is that it is about informing people

about the range of products that are available so that people can make an informed choice, but a president of an American advertising company has observed that advertising, at its best, is making people feel that without their product you are a loser. Kids are very sensitive to that. If you tell them to buy something, they are resistant; but if you tell them that they will be a dork if they do not, you have their attention. You open up emotional vulnerabilities, and it is easier to do that with kids because they are the most vulnerable. Of course, you set in train eating habits in children early in life and they are going to be yet another of those addictions, like smoking, that they find hard to shake later.

The supporters of the ban on TV advertising of food, especially junk food, include bodies such the Australian Consumers Association, the Australian Dental Association, the Australian Medical Association and the Public Health Association; as you would expect, nearly all the organisations that care about children's health. Mr Abbott stated recently—I guess this exemplifies the federal government's approach—that if parents are foolish enough to feed their kids on a diet of Coca-Cola and lollies, they should lift their game and lift it urgently.

That is, of course, the nature of a government that is so focused on families that it actually expects families to do everything, ignoring the context in which families have to operate. Parents, as I think most of us know, do not actually have a lot of sway after a certain age when their children consider them to be dorks and are very unlikely to take any notice of them. The only influence parents have is the food that they put on the table, and many of them do not have the time to put the right food on the table, however much they try. Also, they cannot prescribe what a child does with his or her pocket money.

I reject utterly Mr Howard's statement that it is nannyism to put a ban on junk food advertising. We have banned tobacco advertising. We have banned alcohol advertising during certain hours of the day, but not totally. That is nannyism, too, but we know it has worked. That is why we should do it in relation to junk food in children's viewing hours.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Disability and Community Services and Minister for Women) (4.47): I will be brief in adding a few comments in support of the comments of my colleague Ms Porter and the other contributions from around the Assembly today. This has been an area of concern for me for some time. One of the first motions I moved in this place after being elected in 2002 called on the federal government to restrict the amount of television advertising, particularly of junk food, aimed at children and to review the amount. That was over four years ago.

The thing that all of us have spoken about here today is that, as a community, the health of our children should be and is very important to us and that if we spot a problem developing in the health of our children we should respond to that problem, treat that problem and try to prevent further problems. We do with every other aspect of child health.

We know that 27 per cent of the children in Australia are currently overweight or obese. The position in the ACT is no better. The 2003 kindergarten screening survey showed that 14.4 per cent of boys and 18.3 per cent of girls—five-year-olds, children of kindergarten age—were obese or overweight. That has been confirmed by the ACT chief

health officer's report. That is the position before children are even getting to school; they are coming to school with their weight presenting challenges for them.

Whilst I think all of us here would acknowledge that there is not one single cause or one single solution to this problem, I believe that links can be made between TV advertising of junk food and the increasing levels of childhood obesity, as with restricting the amount of physical activity children are participating in. Also, as Dr Foskey has spoken about, there is peer pressure on children to consume products that are constantly being foisted upon them by supermarkets, on TV, on the internet or by friends. The pressure is constant. Any parent would know that and needs to respond to that, but it is hard work to do so. It is hard work when you have worked a full day, whatever that may be, and you come home tired and need to deal with tired children and make ends meet. It is a very difficult job and the difficulty should not be underestimated. That is why it is not as simple as blaming parents or saying that parents need to lift their game, as Mr Abbott has said.

A child who watches an average of 2½ hours of television each day will, over a year, watch around 22,000 advertisements and, on average, around 34 per cent of those will be for food, mainly junk food. So we do need to look at TV advertising of food and the truthfulness of that advertising. There is always going to be advertising. We need to look at the content of that advertising and some of the claims that are being made, such as that the product is 97 per cent fat free or that it will give nutritional values in certain areas. We know that some of those things can give misleading advice to parents. Saying that something is 97 per cent fat free is one thing, but you need to look at the sugar content, which is the actual problem, and the calories being consumed.

TV is very crafty in the way that it does get into children's heads. One of my daughter's favourite TV shows at the moment, one which I am having a battle with, is about the bad diet of other children and their need to lift their game to improve their health. I do not know what it is called, but it is a one-hour program during children's TV time, around 7.30 pm, which encourages families to sit down and watch other families which are struggling with diet and bad food choices. I guess you just sit there and eat your dinner while you are watching someone else eat a bad dinner. That is something that was brought home to me last night when it was on.

The health ministers had discussions with Minister Abbott at their meeting in July of this year on the need to look at this problem. I do not think that the answer is as simple as just saying that we should have a ban on TV advertising of junk food. I think more work needs to be done and the content of that advertising needs to be looked at, but we cannot restrict any ban to TV advertising because the majority of the advertising and the place where a lot of the major junk food retailers are going now is on the internet, where a ribbon comes across the screen over and over again. It is not just the short, sharp ad that you get on TV; it is on constantly time. You can actually play games on the internet in which you can win nuggets and take those nuggets to wherever you want to go to redeem them.

The extent to which the internet is getting into targeting of and marketing for children is quite amazing. I was told recently about an SMS capacity through the internet whereby you can sign up for some competition by putting in your mobile phone number and a week later walk down the road and get an SMS saying, "Do you feel like a chocolate bar

today?" Those are ways that marketing is going whereby advertisers can infiltrate huge markets and there is an enormous capacity to influence people's decisions.

I do not think that the answer is as simple as just looking at TV advertising. I think it is a much bigger issue. I think it needs to be about truthfulness in advertising and the amount of advertising that can be relayed to children of an impressionable age. At that time the commonwealth would not agree to the resolution that the health ministers put. We did have interesting presentations from the food and grocery council and the Australian advertisers association. I have to say that both organisations have done quite a bit of work on how to improve the information getting to children and families on the content of food and to encourage children to make other choices.

The commonwealth did not agree to the resolution at this meeting, but the states and territories agreed to work together to review marketing and advertising practices concerning food and drink for children so we can broaden the situation beyond TV advertising, which I think is a good thing. We do a range of things here. I do not have time to go through it today, but we have a comprehensive program to address childhood obesity and associated health problems and the targeting of that is done between the department of education and the department of health.

The program covers a range of areas, including doing a physical activity and nutrition study, which the federal government has also decided is a good idea, whereby we have looked at 1,200 year 6 children in the ACT through a self-report questionnaire on activity, nutrition, attitudes and outcomes for those children. We will repeat that in three years time. I think it will give us some really interesting data to match up with the data that we get at kindergarten when they commence school. I have whole pages of material on all the different programs that are being run in ACT schools particularly, targeted at children in the ACT, to ensure that as a government we are addressing our responsibility to deal with some of the issue we are seeing with the obesity epidemic in the ACT.

MR GENTLEMAN (Brindabella) (4.56): I stand to support the words of my colleagues and thank Ms Porter for raising this matter of public importance. As we have heard, the advertising of nutritionally poor foods during the times that children are watching television is a clever ploy by most fast food chains to entice children to want their products. I applaud the actions of the states and territories in lobbying the Prime Minister to regulate the advertising of junk food prior to 8.30 pm. As my colleagues have already stated, there are high levels of links with childhood obesity and adult obesity. Fast food outlets such as McDonalds also sponsor many children's sporting teams. For the Tuggeranong junior cricket teams, the player of the day receives a voucher to McDonalds. This is a direct advertising ploy to entice children to eat their food.

Many members of the opposition probably have the same view as Minister Abbott and Prime Minister Howard that it is the responsibility of parents to exercise diplomacy when it comes to what their children eat. Mr Deputy Speaker, I am a father of three. I understand that you are also a father and that many members of the opposition are parents. When your child wins a prize to have a meal at a child-friendly fast food outlet, how are you going to handle that?

MR DEPUTY SPEAKER: I face that challenge every day.

MR GENTLEMAN: Many of the larger fast food chains specifically aim their advertising at children. They hope that the bright packaging and offer of a free toy will draw them in. For some of us, that could go back as far as Aeroplane Jelly. Children are very impressionable and it does not take much for them to be enticed. As Ms Porter stated earlier, there is much evidence showing that children less than eight years of age generally do not have the critical literacy skills to recognise the persuasive intention of advertisers. As a father, there are often times when you do not know what sort of advertising is on during the shows that are rated G or PG. Like many people, I use the time for ads to get up and go to the bathroom, get a drink or fix a healthy snack for the children, so how is a parent supposed to know what ads their children are watching then?

When my children were young, I spent far too many hours running from one sport to another. These days, with the introduction of the WorkChoices legislation, many parents are working longer hours and weekends just to earn a living. There are many effects of the new IR laws. Some are apparent, such as the loss of jobs; but some are subtle, such as the loss of being able to spend time with your children. On 666 ABC radio last week there was a report that the results of studies had shown that most working mothers feel stressed and cannot cope. As the hours of work get longer, the stress levels will rise and many parents will give their children whatever food is the easiest. It is not always the most nutritious or the best, but it is the quickest. We all agree that that is not the best way to go, but sometimes it is the easiest.

With the changing lifestyles, television becomes a friend, and fast food advertisements give parents an idea of what foods to give to their children for meals and snacks. All of a sudden, the health of our children begins to decline and the rates of childhood obesity begin to incline, all because of easy advertising. I applaud Minister Gallagher and her state and territory counterparts for taking the step of requesting the restriction of advertising nutritionally poor food during the peak times children are watching television.

MR DEPUTY SPEAKER: The discussion is concluded.

Radiation Protection Bill 2006

Debate resumed.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Disability and Community Services and Minister for Women) (5.02): I seek leave to move amendments Nos 1 to 3 circulated in my name together *[see schedule 2 at page 2383]*.

Leave granted.

MS GALLAGHER: I move amendments Nos 1 to 3 circulated in my name together and table a supplementary explanatory statement to the amendments.

The three government amendments I move are to clauses 54, 55 and 56 of the bill. The amendments insert a third subsection into clauses 54, 55 and 56. The new subsections expressly apply strict liability to paragraphs (1) (b) of each clause, which will correct the identified oversight. The effect of the amendments is that the prosecution is required to prove that a person either recklessly or negligently breached the safety duty that resulted in the final element of the offences.

For clause 54 the last element is that the breach exposed a person to substantial risk of death or serious harm; whereas for clause 55, that the breach caused the death or serious harm of a person. For clause 56 the final element is that the breach exposed property or the environment to substantial risk of substantial damage.

Amendments agreed to.

Bill, as amended, agreed to.

Electoral Amendment Bill 2006

Debate resumed from 30 March 2006, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (5.05): The opposition supports the government's broad objective of the bill, aimed at widening the field of people who could be appointed as chairperson of the electoral commission, which is an independent statutory authority with responsibility for the conduct of elections and referendums of this Assembly. It carries out a vital role on behalf of the ACT community. Therefore, we need to make sure we get legislative changes absolutely right, as they strike at the very core of one of the key bodies that underpins our democratic system here in Canberra.

There is one area where we would seek to amend this bill. We think it is vital that the electoral commission be seen to be doing its job without anything that smacks of any political appointment, such as the appointment of someone who would possibly potentially seek to undermine the magnificent credibility of the commission.

Accordingly, we have just one amendment in relation to ensuring that no new member should be appointed who has ever been a member of any party or political organisation. Apart from that, we are very happy to support the bill. I will of course be proposing that amendment when we consider the bill at the detail stage.

DR FOSKEY (Molonglo) (17.06): The electoral commission is an independent statutory authority committed to providing services for the community which ensure free, fair and democratic elections. It is vital that members of the electoral commission, including the

chairperson, appreciate their responsibility to the community by remaining apolitical so far as is possible.

While this might not be possible in practice, since I would argue that it is not possible in any organisation, from family to parliament, for an individual to be completely apolitical, it is important that the public perceives the electoral commission's members and chairperson to be non-party political.

The Electoral Amendment Bill 2006 seeks to widen the eligibility criteria for the appointment of an electoral commission member and chairperson. While I agree with most of the proposed amendments, I fear the bill has gone too far in some aspects, as it allows a member of the electoral commission to be someone who has previously been a member of the ACT Legislative Assembly, commonwealth parliament or another state or territory legislature.

While they may not have held this role in the last five years, the fact that anyone who has been an elected political representative of this nature mocks the apolitical values required of the electoral commission and does not reflect the open and fair services the commission should provide to ensure democratic processes. The government's amendment would allow, for example, anyone who was a member of this Legislative Assembly prior to 2001 to be a member of the electoral commission. I doubt whether over the last five years these people have necessarily cut all ties and devotions to their political allegiance.

It is possible that this may not be the public's perception. I will therefore be moving an amendment to ensure that a member of the electoral commission cannot be someone who has ever been a member of the ACT Legislative Assembly, commonwealth parliament or another state or territory legislature.

The Electoral Amendment Bill 2006 maintains the previous Electoral Act requirement that, before a member is appointed, the minister must consult the leader of each political party represented in the legislative Assembly and each member who is not a member of a political party.

I appreciate this clause, for it provides some level of transparency in the appointment process. But a problem remains because there is no way the opposition and the crossbench can know if the government has found the best person for the job. Furthermore, an objection by the leader of another party can only be expressed as an opinion which the minister does not have to take account of.

My office asked the ACT government, regarding the recruitment process, what requirements there were for advertising the position to be filled, where it must be advertised, membership of the selection panel, the development of selection criteria, merit selection and appeals against employment decisions. These are all important processes that ensure the electoral commission chairperson is appointed in a transparent and accountable manner. The government responded, and I quote:

> There are now no set requirements regarding the selection process to be adopted with these statutory offices. Appointments are made by the Executive and any selection process is a matter for the Executive to decide on a case by case basis.

This was a surprise to my office, as last year both government and opposition agreed to my motion that called on the ACT government to commit to a transparent, merit-based selection process in appointing and in principle re-appointing all commissioners and statutory office holders.

In response to the motion Ms Gallagher stated the following:

> This government is committed to a process of selecting people for statutory positions that delivers the best outcome for the community.

Mr Stefaniak stated as follows:

> There is an expectation in the community of a transparent and merit-based selection process—that people are simply not getting jobs for the boys or girls—and a rigour that has applied traditionally, certainly in my experience. It is generally accepted in Australia that with public service jobs there is and always has been a certain amount of rigour and transparency. People certainly expect that in any area of government, and I think it is crucially important.

In the government's closing speech on the Electoral Amendment Bill 2006 I ask that it reaffirm its commitment to a transparent merit-based selection process in appointing and in principle re-appointing all commissioners and statutory office holders, and that the Attorney-General commit to notifying the relevant government organisations and statutory officers of this commitment. I have an amendment which you will soon be voting on.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (5.12), in reply: I thank members for their contributions to the debate. The intention of this legislation is to expand the range of people who are qualified for appointment as chairperson of the three-person electoral commission. We have heard in comments from both Mr Stefaniak and Dr Foskey this evening that they have some concerns about the criteria that will be applied. Can I first put very clearly on the record that it is not the government's intention in any way to provide for criteria that will lead to the politicisation of the commission. I want to make that very clear and up front. The Labor government considers the impartiality and independence of the electoral commission to be fundamental to the provision of free, open, transparent and democratic elections here in the ACT.

I have to say that some of the comments made by members are of concern to me because they seem to miss some fairly fundamental points. The first and most significant of these is that members have not had regard for the fact that the appointment of the other two ordinary members of the commission is not subject to any restriction whatsoever. There is no requirement on not being a member of a political party, there is no requirement to not have participated in other political activities, yet the fact that there is an absence of such a restriction has not in any way led to the politicisation of the electoral commission since self-government.

I draw that issue to the attention of both Mr Stefaniak and Dr Foskey. The two ordinary members of the commission are not subject to the same restrictions as the chairperson of

the commission; in fact, they are not subject to any eligibility criteria whatsoever, but that has not led to the politicisation of the commission.

The government is not proposing a complete absence of criteria for the appointment of the chairperson of the commission. Instead, we are simply seeking to expand the criteria because the existing criteria make it extremely difficult to find a suitable candidate. The existing criteria state that it can only be a judge, someone who has been a judge, a chief executive in the ACT public service, the secretary of a commonwealth department—or a member of another electoral commission who can be appointed as chairperson.

There are of course some contradictions in this. For example, eligibility for the Commonwealth Electoral Commission is not as restrictive; in fact, they simply indicate that a person of good standing should be appointed as the chairperson of the Australian Electoral Commission. Even though they do not have the same eligibility criteria that we have, if someone has served as chair of the Australian Electoral Commission they could be chair of the ACT electoral commission even though, in their previous appointment, they may have been a member of a political party at some distant point in their past when they were a student, or something like that.

I am not going to proceed to the detail stage today. I am going to ask members to reflect again on this issue. I do not want to push this legislation throughout without a reasonable level of consensus in this place. It is too important for that.

The other issue I want to raise, which I do not think Mr Stefaniak and Dr Foskey have had regard for, is that there is a clear requirement in the ACT Electoral Act that the executive or the responsible minister—the Attorney-General usually—must consult with the leader of each political party before making a decision on appointments to the committee.

That safeguard makes it very clear that, in practice, it is impossible for the executive to sustain an appointment to the commission that does not have the agreement of the opposition parties and other parties represented in this place. That I think is a very important safeguard and one which the government has every intention of retaining.

I would put it to members that the existing criteria are extremely narrow and make it in practice difficult to find somebody to take up an appointment as chairperson of the commission. Ordinary members of the commission do not have any restriction on their eligibility, and that has not led to the politicisation of the commission to date.

The government is seeking not to have the same requirements for the chairperson as already exist for ordinary members of the commission, but is instead simply trying to broaden the provisions in a way that allows the government to have an effective field of candidates from which to select an appointment which is satisfactory to all members and all parties in this place.

The provisions are similar to those which exist for other important statutory officers where independence is required; for example, the President of the Administrative Appeals Tribunal. These are not radical departures or departures meant to undermine the independence and integrity of the electoral commission.

The simple proposition is that we need greater capacity to have regard for the ability to find people willing to take appointment as chairperson of the commission. The criteria the government has outlined in its bill include a member of the legal profession with at least five years experience who has held a senior position, or a former chief executive of a territory instrumentality. We already provide the ability to have been chief executive of a commonwealth instrumentality, so why not a territory instrumentality.

The criteria also include a former statutory office holder. We have a range of office holders who have some political background but have demonstrated quite capably their ability to exercise impartiality and independence. For example, a judge of the Supreme Court is a former Labor member of this place. No-one questions his impartiality or independence in exercising his judicial functions appropriately.

A former Labor member of this place has held independent positions as the human rights commissioner. No-one has questioned her capacity to exercise her powers independently and impartially, even when it comes to making judgments against an executive, which is a Labor executive at this time.

I see no reason why someone who has held a senior position in academia should not be eligible to undertake the role of the chairperson. People in academia have significant theoretical and often practical experience of the operation of electoral systems. There is no reason why people of that character should not be eligible for appointment. At the moment they are excluded.

In a city such as Canberra in the ACT, where the number of senior people available for such appointments is limited for a range of reasons, to rule out the whole realm of academia is, I think, extreme. Those are the propositions that I think are reasonable. I understand that members are raising the issue of whether or not someone has been a member of a political party at any time.

I think Dr Foskey's proposition has a time limit on it. Mr Stefaniak has indicated that, if they have ever been a member of a political party, even for one day when they were 18, that rules them out. I think these are issues that warrant further discussion. I indicate to members that we agree to this bill in principle today but we will adjourn it to allow some further discussion to occur.

Bill agreed to in principle.

Detail stage

Clauses 1 to 3, by leave, taken together.

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

Seminar on parliamentary practice and procedure, Westminster

Statement by minister

MR CORBELL (Molonglo—Attorney-General, Minister for Police and emergency services and Minister for Planning) (17.22): I seek leave to make a brief statement.

Leave granted.

MR CORBELL: Yesterday during a vigorous debate I indicated that Mr Smyth had attended a seminar at Westminster. I apologise to Mr Smyth. He is quite correct, he has never attended a seminar at Westminster on behalf of this Assembly. I should have said Mr Seselja.

Adjournment

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

> That the Assembly do now adjourn.

Battle of Long Tan

MR STEFANIAK (Ginninderra—Leader of the Opposition) (5.23): This afternoon Mr Stanhope, my colleague Mr Smyth and I attended a commemoration to honour a number of veterans from the famous Battle of Long Tan. The Chief Minister laid a wreath and made a good speech. It was good to take part in a local commemoration of a famous battle that I think in time will become even more famous.

Over the past 40 years the Battle of Long Tan has not been given due credit. Forty years ago tomorrow the Battle of Long Tan took place in a rubber plantation. D Company of 6th Battalion Royal Australian Regiment, not long in Vietnam, went out on patrol. About five miles out of base it bumped into a huge concentration, about 2,500, of Vietcong and some North Vietnamese regulars. Eighteen Australians lost their lives on that day.

The Battle of Long Tan saw a magnificent effort by all concerned, by D Company specifically, but also by the support elements: the rescue mission from the battalion, the armoured personnel carriers that broke up a North Vietnamese advance into Australian positions, and a battery of Kiwi artillery that played a crucial role in turning the battle in favour of the Australian forces.

Tonight and also tomorrow I hope that a number of outstanding issues relating to that battle are resolved. Many of the diggers who came home are still alive. I look forward to seeing Tony Sharp, an old friend of mine, who was present at the last football reunion at Muswellbrook rugby club. Tony's younger brother, Gordon, a platoon commander and national service officer, was a television cameraman before he was called up. He completed his officer training at Skyville and was platoon commander of 11 Platoon, the platoon that pushed out into the plantation.

Gordon raised his head and was shot at an early stage in the battle and his platoon sergeant, Bob Buick, who was given a military medal, managed to extradite the platoon back to the company area in a magnificent display of leadership after his boss had been killed. A decade ago I vividly remember attending another football reunion in Muswellbrook and staying with Tony Sharp, or Sharpie, as he is known. At the time he had only recently been married at Long Tan. I remember seeing some letters that Gordon had sent on 11 and 12 August, less than a week before the battle, telling Tony and his

sister-in-law, Tony's wife Lynn, about his experiences. It was particularly moving for me to have a close friend whose brother was killed at the Battle of Long Tan.

I hope that several outstanding issues are resolved relating to two platoon commanders, Sabben and Kendall, who received a mention in dispatches when I think everyone conceded they should have received military crosses. I hope something can be done about that. It is an issue that I have raised with the Prime Minister and I am sure he will do all he can to address it. Many of the young diggers or national servicemen who participated in the Battle of Long Tan were in their early twenties. Bob Buick, a regular army soldier and platoon sergeant of 11 Platoon was only 27 at the time.

It was a magnificent effort by 108 young Australians against 2,500 Vietnamese. At the conclusion of the battle 18 Australians were dead and more than 250 Vietnamese were dead. At one stage Bob Buick called down to re-fire on his own position, something that is done only when one is absolutely desperate. To the eternal gratitude of the Kiwi battery commander he did an add 50, the most minor adjustment that one can make. So the artillery came down 50 metres in front of the Australian position and broke up a determined North Vietnamese attack.

As I said earlier, a lot of people played an important part in that battle. The rescue company from the battalion task force and the APCs hosed off Vietnamese attackers and interrupted a major assault on the Australian position. The Battle of Long Tan is one of the most significant battles in Australian history. Courage and mateship were two of the elements that were present when those soldiers were faced with overwhelming opposition. The skill and courage of all concerned ensured a victory for Australian diggers.

I was delighted when Bob Buick and Dave Sabben, one of the platoon commanders, met two old adversaries, vice-commanders of the North Vietnamese force, who admitted that tactically the Australians had won the battle. That meant a lot to the Australian diggers. We all concede that strategically they won the war but it was great to see two old foes reunite after so many years. We should all be very proud of what our troops did in a most significant battle that will be commemorated tomorrow.

Industrial relations

MR GENTLEMAN (Brindabella) (5.28): Tonight I bring to the attention of members yet another attack on working families in the ACT. Waste workers employed by SITA Environmental Solutions in Hume have been left with no option but to call a peaceful protest when they were locked out of the yard and locked out of negotiations. Employees at SITA have called on the multinational company to give them a fair wage rise in line with inflation on their new contract.

Workers began picketing outside SITA in Hume at 2.00 this morning while most of us were tucked up in our beds. The contract under which employees at SITA were working came to an end almost 12 months ago and they were happy to roll over the same agreement that they had, but management needed to think about it. After numerous calls for the contract to be re-signed it was only after the introduction of the Howard government's new WorkChoices legislation that management decided to negotiate with workers.

Workers were presented with a new enterprise bargaining agreement but all of a sudden the 40-page contract was slashed to a seven-page document. WorkChoices allowed management to cut workers entitlements. WorkChoices has left 14 employees at SITA and their families with an uncertain future. WorkChoices has left 14 employees and their families with the stress of not knowing when negotiations may resume.

SITA is claiming that it cannot afford to give its waste workers a fair rise, a claim that seems questionable when the company made a global profit of $US1.554 billion last financial year. This morning I went to the SITA yard to offer support to these workers and I was there again at lunchtime to give the 14 workers an opportunity to talk to someone.

It is appalling that workers can be treated as poorly as this. Those 14 workers are being punished unfairly because of the WorkChoices legislation. WorkChoices has given management the tools and the opportunity to treat its workers like slaves. WorkChoices has taken away the rights of the independent umpire within the Australian Industrial Relations Commission. If this were to have occurred 12 months ago, an appointment would have been made with the Australian Industrial Relations Commission and an agreement probably would have been imminent.

While I am on the subject of arbitration I would like to read some notes from Justice Rothman at a presentation last Thursday. Justice Rothman is one of the justices that attended the High Court hearing. He states:

> Now that the new system has destroyed the capacity to hold down wages—

and he is talking about arbitration loss—

> it is just as likely that wages at the unskilled level will, over time, fall, but that wages at the skilled and professional level will rise at rates far greater than has ever been the situation in the past.
>
> Further the Federal government proposals, while weakening unions that depend upon the arbitration system to survive, strengthen the capacity of those unions that have significant support amongst their members and the capacity to negotiate on their behalf.
>
> The history of arbitration has been to create a society in which the wages gap is far less than in other Western democracies. This is at least one of the bases for the egalitarian nature of Australian society and our general relative cohesiveness. In 1983 and 1988 the reforms widened the wage gap significantly. These current reforms will take that process even further.
>
> Such reforms will create a society more like that which we see in the USA and UK. I suppose this is the result of globalisation. Ultimately it is a choice as to the kind of society that is desired. It would certainly mean that lawyers, doctors, engineers and others, probably teachers, would earn far more, relatively, than they have in the past. But these are choices that governments are elected to make. You as professionals—

he was addressing a crowd of lawyers—

> need to understand the changes that are occurring and the reactions that may arise both in the development of the law and the structure of the society in which we live.

He indicated that we were moving towards the working class poor that we see in the United States of America.

ACT Planning and Land Authority—independence

DR FOSKEY (Molonglo) (5.33): I take this opportunity to clarify a few points and to address a few issues that have arisen in this house over the last couple of days. This morning in debate on the disallowance of the Land (Planning and Environment) Regulation I referred to a briefing with a ministerial adviser and an officer from the ACT Planning and Land Authority. It was suggested that this demonstrated that ACTPLA was not as independent as it ought be and that suggestion reflected poorly on the staff involved.

Aside from the issue of the independence of ACTPLA, I think it ought to be clear to all members that such a suggestion was unfounded. As the regulation was made by the minister, the joint briefing by a ministerial adviser and an officer of the agency was appropriate and desirable. I regret any imputation that anyone in the Assembly might have made that any party behaved improperly or inappropriately.

I wish to clarify another issue. If decisions taken yesterday by government members to play around with the expected pattern of private members' business was in retaliation to a perceived attempt by me, as indicated in the *Canberra Times* and perhaps implied yesterday in this place, to ambush the estimates committee at the end of last week, I would like to set the record straight and make it clear that I did nothing of the sort. That was not my intention, although it is quite a compliment to be told that I did.

I do not believe I did anything of the sort. On Friday, the last scheduled day for committee deliberations, I advised all the members of the committee who were in Canberra of my intentions to move a recommendation later that day at a further, unscheduled meeting that was required because some members of the committee could not agree to some hastily prepared words that I had put together to replace the final draft recommendation, which was opposed by the majority of members of the committee.

As I said, I had put some words together to the effect that the budget would not be passed if the functional review was not publicly released. I gave to every member of the committee a copy of the wording of the draft recommendation. I gave advance notice of my intentions and I then did exactly what I said I would do, so I do not see how that amounts to an ambush. If there was an ambush I believe it occurred on Friday afternoon when Mr Gentleman threw a fit and caused the meeting to be abandoned.

Perhaps it is no surprise that yesterday I became aggrieved when I thought I was being accused of trying to manipulate the committee process. I then responded by interjecting in a fairly boisterous manner. When these sorts of things are happening one often does not realise how unseemly they are. Perhaps the televising of the Assembly would improve the behaviour of all members. Last night I saw myself on television caught in

the act of interjecting and I have to say that it did not look particularly nice. I was not happy that I had allowed myself to become so antagonised.

That kind of squabbling does us all a disservice. I hope I do not do that again even when, as I fully expect, my equanimity is sorely tested in the future. However, I am not promising that I will not do it again. I feel passionately about a number of issues; so I cannot guarantee constant decorum, though I would like to behave in an ideal way.

Misrepresentations and high school debating tactics, like asserting that if someone praises the attributes of small schools it automatically implies that he or she thinks the opposite about large schools, is a shallow and opportunistic form of argument that does not improve debate in this Assembly and does nothing to keep interjections to a minimum. I thank members for giving me leave yesterday to table my bill calling for a moratorium, despite the fact that due to those events and others I was not in the chamber at the appropriate time.

Members—pairs

MRS DUNNE (Ginninderra) (5.38): Once again I would like to inform members of the Liberal opposition's policy on pairs. On 7 December 2004 in the adjournment debate I made a statement relating to pairs. At that time I wrote to the government whip and I followed that up in June 2005 with another letter to the government whip about the operation of pairs and the way in which this opposition believes they should operate.

I have never received a formal acknowledgment or reply to either of those letters. However, the government whip seems to understand the opposition's policy because from time to time when I remind her of it she acknowledges its existence. Let me remind members of what I said on 7 December 2004:

> I want to place on the record that the Liberal opposition will not be going down that path.

I was referring to the path down which other oppositions have gone by not providing pairs. I also said:

> We will continue to provide for the gentlemen's agreement about maintaining voting ratios and will always provide pairs in the case of illness of a member or close family member, for other personal needs that members may have and for ministers to attend ministerial councils and other related business, and their reasonable travel. Just because you are going to a ministerial council—I want it put on the record—you do not get an early pass to go shopping in Sydney or Melbourne beforehand.

Perhaps now we have to add Wellington to that list. I then said:

> There is often business before ministerial councils and we would allow for that, but it has to be reasonable.

I talked about some changes to the higher need for pairs that we experienced in the last Assembly because we were now bundying off at 6 o'clock, and I went on to say:

> The opposition will not provide pairs unless we are given a satisfactory explanation. From time to time there are important reasons why the explanation needs to be kept confidential, but the opposition will not provide pairs if at least the whip is not acquainted with the reason for the pair. Sometimes it is important to keep that confidentiality, and we will maintain that confidentiality, but I would like to put on the record that we will, for the most part, observe the niceties of pairs and will not go down the path of the Labor opposition in Queensland in the late 1990s.

Government became almost impossible for ministers because they could not get pairs to go to ministerial councils and the like. Last week, when there was discussion about pairs—the usual arrangement is that the government whip comes to me, the opposition whip, and asks for a pair in advance of someone going away or making himself or herself absent—the government whip did not approach me for a pair. As Mr Smyth said at length, it is unprecedented that pairs are provided in committees. If a pair were provided in most committees in this place they would be inquorate and not able to meet.

Pairs are unprecedented in committees. Those who have experience here, in the House of Representatives and in the Senate will tell anyone who lacks a cursory knowledge of how this system works that pairs are unprecedented in committees. In addition, no-one on my side of politics would countenance providing a pair for someone who just decided to leave town. If somebody had been rushed to hospital we would have provided a pair. I do not know where the member went, whether she went to New Zealand or to Brisbane, as I have heard several stories, but either way she was not on Assembly business on Friday when she should have been here. There was no Assembly business for her to maintain in Wellington, or wherever she was.

No pair was requested and no pair would have been provided if a proper request had been made. Yesterday the Chief Minister said that this was the fault of the opposition because it did not do the gentlemanly thing. The government called Ms MacDonald back. I am sorry if Ms MacDonald incurred expense as a result of her return to the Assembly but that was the government's doing. It was Ms MacDonald's fault for going ahead of time when the business of the committee was not concluded and the Chief Minister's was responsible for calling her back.

It was not necessary to call her back. Surely a grown-up government could cop a few adverse comments in an estimate's committee report. I have been on estimates committees and I have served in governments that have received adverse estimate committee reports and recommendations that they did not like. Those recommendations were addressed appropriately. There was no need for anyone to call Ms MacDonald back, other than the hubris of the Chief Minister.

Planning–EpiCentre lease
Industrial relations

MR SESELJA (Molonglo) (5.43): I raise an issue that occurred in question time today and seek clarification from the minister. Yesterday I asked the planning minister:

> Did the CEO or any senior representative of ACTPLA write to the CEO of the LDA prior to the auction expressing concern over any aspects of the pre-auction process?

Mr Corbell's response was, "Not that I am aware of." Today I asked the minister:

> Minister, yesterday you stated that you were not aware of the letter from ACTPLA to the LDA regarding potential pre-auction issues over the EpiCentre site. Minister, have you investigated the existence of the letter and, if not, will you investigate if such correspondence exists and table it in the Assembly? If not, why not?

Today Mr Corbell's response was:

> Mr Speaker, I think Mr Seselja's question yesterday, if I recall correctly and I will check the *Hansard*, but if I recall correctly Mr Seselja's question yesterday was, "Are you aware of any correspondence raising concerns of criticisms of the process?" The answer to that is no and that remains my position.

Clearly, that was not the answer that was given yesterday. I will give the minister the benefit of the doubt that that was inadvertent. At the end of this adjournment debate or at the first opportunity after that could the minister clarify whether he is now saying, "No, that document did not exist", or whether it is still the case, as he said yesterday, that he was not aware of its existence, in which case the confusion resulting from the different answers led to confusion over the status of the document. I request Mr Corbell to come back as soon as possible and clarify what he meant. Clearly, what he said today was not exactly what he said yesterday in his answer. I ask the minister to clarify that issue for the Assembly and I accept that it was inadvertent.

I wish to respond to Mr Gentleman's earlier contribution. Mr Gentleman just gave us one of his stories, which may or may not be true, but we always take his industrial relations stories and the stories that have been put up by the union movement in recent times with a grain of salt. I say that for a number of reasons. Mr Gentleman must be very distressed. Yesterday the Chief Minister talked about record low unemployment in the ACT. Currently the national unemployment rate is 4.8 per cent, the lowest it has been in 30 years.

WorkChoices legislation has now been in place for three months. At the time the legislation was going through I believe Mr Gentleman, his mates in the union movement and his mates in the Labor Party were talking about the mass sackings that would occur as a result of this legislation. Today the opposite is the truth. In the first three months we have seen record jobs growth and the unemployment rate has dropped to 4.8 per cent—figures that have not been seen since the 1970s. Clearly, we have not had the predicted mass sackings.

If there were to have been mass sackings there would have had to have been mass hiring. We have had such a massive growth in employment that over the past few days the Chief Minister has been going on about how vibrant the employment market is and how great things are. We have not seen any mass sackings either in the ACT or nationally. Every time Mr Gentleman comes into this chamber and tells us a story we remember that it is a story and we take it with a grain of salt. Remember the comments of Sharyn Burrows on *Lateline* who suggested words to the effect, "Would it not be great if we could come back and highlight a death as a result of these laws?"

That disgraceful comment shows the level to which the union movement has sunk in bringing forward these debates and in seeking to push its case. In 1995 and 1996 when the Howard government first came into office and was reforming the industrial relations system, the doomsayers in the Labor Party said, "We will all be rooned. There will be mass sackings and massive unemployment."

Unemployment has been steadily falling and real wages have gone up by around 16 per cent over the past 10 years. In the three months since the introduction of the WorkChoices legislation a massive number of new jobs has been created in this country and unemployment is at a record low. Is that not a wonderful thing? It is time that Mr Gentleman, instead of whinging about it, said, "Is it not great that the Howard government is contributing to a massive growth in employment?"

Members—pairs

MR SMYTH (Brindabella) (5.48): I take up with where I left off after question time when I was refused leave by the Assembly to move a motion. Yesterday Mr Stanhope said, "There is no justification or basis on which Ms MacDonald was refused a pair." It is interesting that Mr Stanhope said that. I sought written advice on what we were told last week and I was lucky enough to receive a copy of an email from the manager, committees, Legislative Assembly of the ACT, which states:

> I confirm that a pairs system does not operate in committees and has never operated in committees either here or federally. Notwithstanding the small size of Assembly committees, a pairs convention would make committees unworkable if one member of either major party was absent and required a pair, as all committees except Estimates comprise 3 members. Federally, where committees are much larger, typically 6 members in Senate committees and 10 or more in Reps committees, more in joint committees, no pairs system operates.

That is interesting because the Chief Minister said there was no justification or basis on which Ms MacDonald was refused a pair. Who in this place has the most experience of federal committees? It is not me; I was on a committee for a year but that is all. Which individual serving in this place has the most experience and knowledge of federal committees? According to the "Find your ACT Labor representative printable page", it is Jon Stanhope, secretary of the House of Representative Standing Committee on Legal and Constitutional Affairs.

Jon Stanhope initiated and managed a parliamentary inquiry resulting in the *Half Way to Equal* report, the most detailed analysis of issues related to equality for women. Who knows, who knew and who should have known? The Chief Minister should have known that what he said yesterday was not true. He said there was no justification or basis on which Ms MacDonald was refused a pair. Yes there is a justification; there is no pairs system. There is no law, no legislation, no regulation, no standing order and no convention to cover pairs in committees.

Mrs Dunne: There is no gentleman's agreement.

MR SMYTH: Indeed, there is no gentleman's agreement. In the last Assembly we endeavoured to set up a system to accommodate a member who was interstate or

overseas and not able to attend a deliberative system. We said, "Isn't technology good stuff? We have video conferencing and telephone hook-ups. Someone can be in Namibia and talk in the ACT if we have a quorum here." Ms Tucker moved a motion and we were happy to vote for it.

Who stood in the way of holding deliberative meetings by way of electronic communication, which meant that Ms Macdonald would not have had to return? The Labor Party voted against that motion. On 28 August 2002 Mr Hargreaves said:

> For example, if I decide to go to the Gold Coast for a holiday, and I still want to participate in deliberative sessions of this chamber I don't think that should be on. I have a choice—I have a choice about whether I go or whether I don't.

He went on to say:

> I know when I went to London on the CPA trip not long ago it was bad luck. I can recall when my chairman of the Legal Affairs Committee said that he was going overseas on a holiday. If we required deliberative meetings, we were to make a phone call to him …

There is more. Who else jumped to the defence of the Luddites? Who else jumped up and said, "Let us not use electronic means?" It was none other than Minister Corbell, who said:

> Equally, I think we do have to debate the issues between when a member is not able to attend and when they, through their own volition, choose not to be present. If a member chooses not to be present because they prefer to travel, then that is a different matter from being not able to be in a committee meeting, and I think that distinction has to be made. If you choose to travel, if you choose to take certain responsibilities that take you outside the Assembly, you should take those matters into account, in terms of what that means and the responsibilities as a committee member. But I think it is important to draw the distinction between discretionary activity—

that is, trips to Brisbane—

> and activity which is your responsibility as a member.

And that means staying for deliberative sessions. Prior to that Mr Corbell said:

> Secondly, I have a concern about the perception of how this place conducts its business. In a city where people expect their members to come to this place to do their business, and to be seen to be doing their business—either in this chamber or in public hearings—I am concerned about a provision of the standing orders that allows members to potentially not have to come to the Assembly to do their work, to not be in the city to do that. And I think we have to be cautious about a change to that situation.

Thank you, Minister Corbell!

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

Members—pairs

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (5.53): I am delighted that Mr Smyth raised this issue, as I was hoping to address it in the adjournment debate.

MR SPEAKER: Order! The time for debate has expired.

The Assembly adjourned at 5.53 pm.

Schedules of amendments

Schedule 1

Revenue Legislation Amendment Bill 2006

Amendment moved by Dr Foskey

1
Clause 8
Proposed new section 99 (1A), (1B) and (1C)
Page 5, line 11—

insert

(1A) However, subsection (1) applies to a protected document or protected information that does not contain confidential information or disclose matters about the personal affairs of a particular taxpayer only if the production of the document, or the divulging of the information, to a court is not in the public interest.

(1B) Further, subsection (1) does not apply to a protected document or protected information if the production of the document, or the divulging of the information, to a court is for the purposes of a criminal proceeding.

(1C) For subsection (1A), regulations may prescribe guidelines about when the production of a protected document, or the divulging of protected information, to a court is, or is not, in the public interest.

Schedule 2

Radiation Protection Bill 2006

Amendments moved by the Minister for Health

1
Proposed new clause 54 (3)
Page 34, line 8—

insert

(3) Strict liability applies to subsection (1) (b).

2
Proposed new clause 55 (3)
Page 34, line 22—

insert

(3) Strict liability applies to subsection (1) (b).

3
Proposed new clause 56 (3)
Page 35, line 17—

insert

(3) Strict liability applies to subsection (1) (b).

Answers to questions

Hospitals—interstate patients (Question No 433) (Revised answer)

Mr Smyth asked the Minister for Health, upon notice, on 29 June 2005:

(1) Has a further review of the Interstate Patients Travel Assistance Scheme started to review the eligibility criteria, payment categories and levels of assistance under the scheme; if so, when did this further review begin and when will it be finalised; if not, why has it not started yet and when will the review begin;

(2) Will the results of this review be made available to (a) Members of the Assembly and (b) the public; if not, why not.

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

(1) An initial review of the Interstate Patients Travel Assistance Scheme (IPTAS) was undertaken in 2003. A further review of IPTAS has not yet commenced. The review will be undertaken during 2005-06 in the context of developing a radiation oncology services plan.

(2) A decision on how the results will be published is yet to be made.

Roads—disabled parking places (Question No 1077)

Mr Pratt asked the Minister for the Territory and Municipal Services, upon notice, on 3 May 2006:

(1) Further to a letter to the editor in the *Canberra Times* on 5 April 2006 entitled "Parking Pleas", what requirements does the ACT Government place on shopping centre operators regarding the provision of (a) disabled parking places and (b) disabled parking spaces specifically for the use of wheelchair-dependant drivers;

(2) Are Westfield centres in the ACT required to adhere to these guidelines as outlined in part (1); if so, have they adhered to the guidelines; if not, why not;

(3) How many wheelchair-dependant parking spaces in addition to general parking spaces must the Westfield centres at Woden and Belconnen have installed and how many do they have installed;

(4) Is the Canberra Centre in Civic required to adhere to these guidelines as outlined in part (1); if so, have they adhered to the guidelines; if not, why not;

(5) How many wheelchair-dependant parking spaces must the Canberra Centre have installed and how many do they have installed;

(6) Are all local neighbourhood shopping centres in the ACT required to adhere to the guidelines as outlined in part (1);

(7) Are the requirements for local neighbourhood shopping centres similar to those placed on larger shopping centres such as those operated by Westfield; if not, how do they differ;

(8) Are any local shopping centres in breach of these guidelines; if so, which ones and why;

(9) If any local shopping centres are in breach of disabled parking guidelines, what action has the ACT Government taken to ensure that the shopping centres adhere to the guidelines.

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

(1) (a) Parking spaces for disabled drivers in the ACT are provided in accordance with requirements in Australian Standard AS2890.1 - 2004 and with the relevant provisions of the Building Code of Australia (BCA), which is a requirement included in the ACT *Parking and Vehicular Access Guidelines* (the *Guidelines*) under the Territory Plan.

Prior to the introduction of AS2890.1 in 1986, the ACT Building Manual set out requirements for wheel-chair dependent people. Prior to 1986, the former National Capital Development Commission's "Planning Policies for Local Centres" also specified requirements for parking, but did not specify particular requirements for people with disabilities.

(b) There is no difference in the requirements for wheel-chair dependent people and other classes of people with disabilities, however, the Australian Standard is being revised and the new draft makes special mention of parking provisions for wheel-chair dependent people.

(2) Westfield centres in the ACT are subject to the parking provision requirements set out in the *Guidelines*.

(3) Westfield Woden has 2,526 spaces in total, including 35 spaces for disabled parking. Westfield Belconnen has 1,993 parking, including 33 disabled parking spaces. As stated above there is no difference in the requirements for wheel-chair dependent drivers and other classes of people with disabilities.

(4) The Canberra Centre is required to adhere to the same guidelines that apply to all developers in the Territory.

(5) There are currently 41 marked disabled car parks.

(6) Yes.

(7) Parking for local or neighbourhood shopping centres is provided by surface car parking. Under AS2890.1, a minimum of one (1) space per 100 car parking spaces (or part thereof) is required for people with disabilities.

(8) Most local shopping centres provide more than the minimum disabled parking spaces required by AS2890.1. The ACT Planning and Land Authority does not undertake formal audits on the provision of parking on completion of development.

(9) The Department of Territory and Municipal Services responds to requests by members of the public to address any deficiency in the provision of disabled parking spaces at neighbourhood and local centres as the opportunity arises.

Health—dental program (Question No 1113)

Mr Smyth asked the Minister for Health, upon notice, on 10 May 2006:

(1) What proportion of the $278,000 allocated in the 2005-06 budget for Dental Services has been expended to date;

(2) Will all funds for this purpose be expended by the end of the current financial year; if so, when; if not, why not;

(3) Has the denture and general anaesthetic waiting list in the Dental Health Program been reduced, as promised, as a result of this additional funding; if so, by how many patients has the list been reduced; if not (a) why not and (b) what is the Minister doing to ensure the list is reduced;

(4) Has the restorative waiting list been maintained, as promised, as a result of this additional funding; if so, how many patients are currently on the list and what was the list total at the same time last year; if not, why not, what is the total number of people on the list currently compared to this time last year, and what are you doing to ensure the list is reduced;

(5) How much funding has the Dental Services program used specifically to refer additional clients on the Centralised Waiting and Recall List to private providers under the Restorative and Denture Referral Schemes, and how many clients have been referred to private providers as a result of this program;

(6) Have dental teams in the Dental Health Program been increased since the introduction of this program; if so, by how many; if not, why not, and what is the Government doing to fulfil this commitment;

(7) Have waiting times for general anaesthetic been reduced by providing treatment at Lidia Perin to provide more frequent access to dental services for higher risk and special needs groups; if so, how many clients have been referred to Lidia Perin, how has this improved the wait times and at what cost; if not, why not and has this had any detrimental impact on the waiting times for general anaesthetic;

(8) Will the $285,000 allocated for Dental Services in 2006-07 be spent for this purpose as forecast in the 2005-06 budget; if not, why not.

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

(1) As at 31 May 2006, all funding allocated for external referrals to private providers and the provision of General Anaesthetic (GA's) has been expended, the remaining funding allocated for additional dental staff salaries will be fully expended on salaries in May/June 2006.

(2) Yes, all funds are currently allocated for expenditure in this financial year 2005/06.

(3) Yes, the waiting list has been reduced proportionally to the amount of funds allocated. Of the $278,000, $35,000 was allocated to the denture waiting list on average allowing an additional 38 clients to be removed from the denture waiting list. $45,000 was allocated

to removing an additional 35 clients from the General Anaesthetic (GA) waiting list to receive treatment.

(4) The mean waiting time for clients on the centralised waiting list has steadily increased over the past 12 months from just under 8 months in July 2005 to 12 months at the end of April 2006. This is due to the increased demand for dental services. The total number of clients on the restorative waiting list in May 2006 totalled 2847; in May 2005 there were 1923 clients.

(5) The Dental Health Program allocated a total of $70,000 for the additional referral of clients to private providers under the restorative and denture schemes YTD this has equated to 42 extra restorative clients and 38 extra denture clients.

(6) The Dental Health Program allocated $163,000 of the $278,000 to internal staffing and has recruited an additional dentist and assistant as a result.

(7) Yes, the waiting list has been reduced proportionally to the amount of funds allocated ($45,000) the funding has allowed on average an additional 35 clients to received general anaesthetic who would not have received treatment if not for the additional funding. The average cost for the provision of general anaesthetic services is $1600 per client.

(8) Yes, it is the intention of the Dental Health Program to allocate these funds to reduce overall waiting lists based on timely access based on need.

Hospitals—elective surgery (Question No 1114)

Mr Smyth asked the Minister for Health, upon notice, on 10 May 2006:

(1) What proportion of the $2 million allocated in the 2005-06 budget to elective surgery in the 2005-06 financial year has been expended to date;

(2) How many additional surgeries have been provided for this expenditure;

(3) Will the additional 300 elective surgery episodes promised with the expenditure of this funding be achieved in the 2005-06 financial year; if so, when; if not, why not.

(4) Will the forecast $2.05 million allocated for the 2006-07 financial year for elective surgery still be spent for this purpose and is the Government on target to achieve an additional 400 elective surgery episodes in 2006-07;

(5) What initiatives have been implemented as part of the Elective Surgery Reform Program and how have you monitored the success of such initiatives;

(6) Have such initiatives improved the elective surgery process for (a) patients and (b) staff; if so, what improvements have been made; if not, why not, and are you now reviewing those initiatives to ensure improvements are made.

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

(1) To the end of May 2006 $1.833 million has been expended.

(2) An additional 400 elective surgery procedures have been provided for the period YTD April 2006 compared to the same period in 2004-05.

(3) The government is on target to exceed our commitment of 300 more procedures in 2005-06 than in 2004-05.

(4) Yes, the additional 400 procedures (above 2004-05 outcome) planned for 2006-07 will be delivered.

(5) Initiatives implemented to improve access to elective surgery are managed by the Access Improvement Program (AIP). Following a review of the Elective Surgery Reform Program it was decided to include elective surgery reforms into the broader AIP. Initiatives include increasing theatre capacity to improve patient flow and reduce elective surgery postponements. Elective surgery activity is monitored internally and reported on the web in the ACT Health Public Services Performance Report each quarter.

(6) Yes, 400 more people have accessed elective surgery. The AIP will achieve further improvements to patient access and care by implementing solutions that are developed by staff and consumers for elective surgery and these solutions will be regularly reviewed.

Hospitals—equipment purchases (Question No 1115)

Mr Smyth asked the Minister for Health, upon notice, on 10 May 2006:

(1) What proportion of the $2 million allocated in the 2005-06 budget for Equipment for Hospitals has been expended to date;

(2) Will all funds for this initiative be expended by the end of the financial year; if so, when; if not, why not;

(3) What equipment has been purchased for that expenditure;

(4) What equipment still needs to be purchased;

(5) What were the products identified in the highest risk category that needed replacing;

(6) What products in the highest risk category still need to be replaced and will they be replaced by the end of the current financial year; if not, why not.

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

(1) Approximately 71.5% ($1.43M) has been expended or under financial commitment. The table attached gives details.

(2) The full amount of the $2M has been committed with some payments expected early in the new financial year. The table attached provides details and indicative timeframes for expenditure.

(3) The table attached provides this information.

(4) The table attached provides this information and is identified by the payment status of "Under Procurement'.

(5) Products identified were Medical, Surgical and OH&S equipment that has been procured or under procurement. The individual items are identified in the table attached.

(6) As items in the highest risk category are replaced other items continue to move into the highest risk category on an annual basis. Funding for replacement and new items is limited and the program is managed annually based on condition assessments, risk methodology and replacement prioritisation.

(A copy of the attachment is available at the Chamber Support Office).

Public service—rental payments (Question No 1117)

Mrs Dunne asked the Minister for Health, upon notice, on 10 May 2006:

(1) What agencies and units of ACT Government departments falling within your portfolio(s) currently rent space in ACT Government schools;

(2) How much rent is paid per annum by the agencies and units referred to in part (1).

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

(1) ACT Health does not rent space in ACT Government schools. ACT Health does, however, have a memorandum of understanding with the Department of Education to utilise space within 10 primary schools for use as child health clinics. These are listed in the attachment. *(A copy of the attachment is available at the Chamber Support Office).*

(2) ACT Health does not pay for leasing these areas but it is responsible for all outgoings i.e. electricity, fit outs and repairs and maintenance within the relevant area of the facilities.

Aboriginals and Torres Strait Islanders—dental health (Question No 1144)

Mr Smyth asked the Minister for Health, upon notice, on 11 May 2006:

(1) What proportion has been expended to date this financial year of the $222,000 allocated for the Aboriginal and Torres Strait Islander Dental Health Program in the 2005-06 Budget;

(2) What has been delivered for this expenditure to date this financial year on the Aboriginal and Torres Strait Islander Dental Health Program;

(3) Is the Dental Health Program now being operated by the Winnunga Nimmityjah Aboriginal Health Service; if so, (a) when did Winnunga take over operations and (b) how many indigenous people in Canberra have accessed this new service; if not, why not, and when will Winnunga take over operations.

(4) Has an appropriate and culturally sensitive service been implemented; if so, how are you monitoring the success of this program; if not, why not, and what are you doing to ensure this does occur;

(5) How does this appropriate and culturally sensitive differ from mainstream services;

(6) Will the forecast $228,000 allocated for the 2006-07 financial year for the Aboriginal and Torres Strait Islander Dental Health Program still be spent for this purpose; if not, why not.

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

(1) $222,000.

(2) The Dental clinic performs dental procedures, including check ups, examinations, treatment for dental caries, dental fillings, dental fissure sealing, dental prophylaxis, extractions, x-rays, root canals, a dental health poster and two Aboriginal and Torres Strait Islander dental information pamphlets.

(3) Yes.

(a) 1 August 2005.

(b) Aboriginal and Torres Strait Islander Clients have accessed 921 occasions of service.

(4) Yes. The success of the program is monitored by review of 6 monthly reports provided by Winnunga Nimmityjah Aboriginal Health Service that contain information on baseline data to inform the assessment of the oral health status of Aboriginal and Torres Strait Islander children, youth and adults who live in the ACT.

(5) Winnunga Nimmityjah differs from mainstream services in that it is an Aboriginal community controlled primary health care service. It is an incorporated Aboriginal organisation, initiated by the Aboriginal community and governed by an Aboriginal body, which is elected by the local Aboriginal community and delivers a holistic and culturally appropriate service to the community.

(6) The Appropriation Bill 2006-2007 is presently before the ACT Legislative Assembly.

Health—project funding (Question No 1145)

Mr Smyth asked the Minister for Health, upon notice, on 11 May 2006:

(1) What proportion of funds allocated to the following health projects, funded through agency growth funds and listed in the 2005-06 budget, have been expended to date and what has been delivered for that expenditure (a) Calvary Obstetrics and Gynaecology Register, (b) Calvary Maintenance of Surgery Activity, (c) Calvary Discharge Lounge, (d) TCH Discharge Lounge, (e) Pharmaceutical Cost Growth, (f) Medical Oncology, (g) Additional Hospital Beds, (h) Home and Community Care Growth;

(2) Will funding committed to each of the projects listed from (a) to (h) above for the 2006-07 financial year, as listed in the budget papers, still be forthcoming for each of these projects; if not, why not.

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

(1) (a) Calvary Obstetrics and Gynaecology Register, ($210k) – This initiative is implemented with registrars performing rostered hours at Calvary Hospital each month. To the end of May 2006 $193k has been expended.

(b) Calvary Maintenance of Surgery Activity, ($900k) – Additional surgical activity has been incorporated into 2005-06 targets. To the end of May 2006 $825K has been expended.

(c) Calvary Discharge Lounge, ($80k) – The Discharge Lounge at Calvary Hospital is in operation. To the end of May 2006 $73k has been expended. This has enabled the timely transfer of patients awaiting discharge from their beds to a dedicated area that provides suitable support and supervision prior to the patients being collected by relatives.

(d) TCH Discharge Lounge, ($170k) – The Discharge Lounge at the Canberra Hospital is in operation. To the end of May 2006 $156k has been expended. This has enabled the timely transfer of patients awaiting discharge from their beds to a dedicated area that provides suitable support and supervision prior to the patients being collected by relatives.

(e) Pharmaceutical Cost Growth, ($1 700k) – This initiative is allowing the hospitals to provide for the increasing cost of pharmaceuticals and increasing use of high cost drugs. To the end of May 2006 $1 560k has been expended.

(f) Medical Oncology, ($750k) – This initiative is implemented with the appointment of a Haematologist and the appointment of intake and care co-ordinators in the Capital Region Cancer Service. This has increased the capacity of the service to meet increased demand. For the period YTD April 06 inpatient activity at TCH for Medical Oncology was 12% above target and 35% for Radiation oncology. To the end of May 2006 $688k has been expended.

(2) Funds are allocated recurrently as per the budget papers.
Matters relating to the 2006-2007 budget will be tabled in the Assembly on 6 June 2006.

Arts and letters—funding (Question No 1150)

Mr Mulcahy asked the Minister for the Arts, upon notice, on 6 June 2006:

(1) On what date were applications for the following arts funding opportunities announced: (a) projects taking place in 2007, (b) multiyear funding from 2007, (c) 2006 Artists Fellowships and (d) 2006 Poetry and Book of the Year Awards;

(2) When was the ArtsACT funding handbook for 2007 issued and, if it has not been, when will it be available;

(3) What are the closing dates for project and multi-year funding applications for 2007, and when will the successful funding recipients be announced;

(4) What level of funding was granted to MusicACT by ArtsACT in (a) 2005 and (b) 2006;

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

(1) All categories of the 2007 ACT Arts Fund – Key Arts Organisation Funding, Community Arts Funding, Project Funding, Creative Arts Fellowships, the 2006 Poetry Prize, and the 2006 ACT Book of the Year – were opened on 1 May 2006.

(2) On 1 May 2006 the funding booklet was made available on artsACT's website. Copies were also distributed to approximately 1,200 artists, groups and organisations on artsACT's funding database. Additionally, copies were distributed through the ACT Library Service. Advertisements were placed in *The Canberra Times* on 6, 13, and 20 May 2006, as well as the Koori Mail on 3 May 2006. Two public information sessions were held at the new Griffin Centre in Civic on 9 May 2006, at 12 noon and 6pm.

(3) The closing date for all categories was 9 June 2006. It is anticipated that in September an announcement will be made about successful applications to the Key Arts Organisation category, with remaining categories to be announced in the months afterwards.

(4) MusicACT was not successful in its 2005 or 2006 applications to the ACT Arts Funding Program.

Waste disposal—building sites (Question No 1151)

Mr Seselja asked the Minister for the Territory and Municipal Services, upon notice, on 6 June 2006:

(1) What legal responsibility do developers and builders have to contain rubbish accruing at development and building sites;

(2) Who is responsible for clearing building and related rubbish from public places;

(3) What measures are being taken to control the distribution by wind of rubbish in Horsepark Drive and Flemington Road from Wells Station to Palmerston;

(4) What action is going to be taken to clear the existing rubbish.

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

(1) Responsibility for regulating builders within the Building Code of Australia rests with ACT Planning and Land Authority, who administer the Building Act 2004. That Code's ACT Appendix requires builders to provide suitable enclosures to retain construction related material that can be wind-blown. The code only applies during construction of building work. Private sector building surveyors inspect building sites for compliance with the Building Code. The Authority audits the work of licensed building surveyors, which includes the litter requirements of the code.

In addition to this, Territory and Municipal Services Department City Rangers are authorised under the Litter Act 2004, to issue infringements for littering where proof beyond reasonable doubt exists.

(2) When it is not possible to positively identify which building site caused the litter to be on public land, officers of Territory and Municipal Services will remove it.

(3) To minimise the likelihood of further such incidents the ACT Planning and Land Authority will be undertaking audits of the sites in question as well as contacting the private sector building surveyors to ensure that Building Code compliance checks include control of litter on sites.

In addition, City Rangers will patrol the site on a regular basis in an effort to immediately identify any incident and establish the offender. To assist in the immediate identification of a littering incident, members of the public are encouraged to report sightings on 132281.

(4) If it is not possible to positively identify which building site caused the litter to be on public land, officers of Territory and Municipal Services will remove it.

Freedom of information requests (Question No 1152)

Mr Smyth asked the Chief Minister, upon notice, on 6 June 2006 *(redirected to the Attorney-General)*:

(1) In relation to an article entitled "FOI delays highlighted" published on page 36 of the Australian Financial Review on 2 June 2006, are there any similar concerns about delays with Freedom of Information (FOI) requests in the ACT;

(2) What is the average length of time to meet a FOI request;

(3) What has been the shortest time and longest time taken to provide a FOI request in this term in office.

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

(1) The article referred to concerns in a recent report on government transparency by Victoria's Ombudsman. According to the article, almost half of the FOI requests in Victoria take longer than the required 45 days to process.

The ACT *Freedom of Information Act 1989* has similar statutory timeframes for the completion of requests made under the legislation. This government is very conscientious in upholding these timeframes and I am pleased to report that, based on statistics published in the previous four Department of Justice and Community Safety annual reports (years 2001/02 to 2004/05), 71% of all requests were processed within the 30 day timeframe.

It should be noted that the ACT timeframe, at 30 days, is considerably more rigorous than the timeframe of 45 days which is prescribed under the Victorian FOI Act. In considering the compliance of Government Agencies and Departments with the 30 day

time-frame, it should also be noted that a significant number of requests which are received are 'high-volume' requests demanding high resources and corresponding time extensions. For example, a recent request will potentially involve the processing of 30,000 pages.

(2) In fulfilling its reporting obligations under the *Freedom of Information Act 1989*, all ACT Government Departments and Agencies keep statistics regarding the amount of time taken to meet freedom of information requests. These statistics are published as part of the annual report of the Department of Justice and Community Safety.

The statistics collected do not always provide precise processing times for each freedom of information request. Rather, the information collected is often in the form of 'time bands', which are set out in section 79 of the FOI Act:

- 30 days or less;
- 31 - 45 days;
- 46 - 60 days;
- 61 - 90 days;
- 91 days or more.

As a result of this manner of reporting by agencies, it is not possible to provide the average processing time to meet an FOI request.

However, the Department is able to advise that over the last five years, 71% of FOI requests were processed within the 30 day statutory time period. 1182 requests were finalised punctually, from a total of 1665 applications finalised.

(3) 2004/05 was the financial year which coincided with the beginning of this Government's current term of office. As mentioned previously, precise times for finalising each FOI request are not available, so it is not possible to state shortest and longest FOI processing times. However, statistics from the Department of Justice and Community Safety annual report for that year show that 345 of the 508 applications finalised that year were processed within the statutory timeframe. There were 25 requests in the period which took 91 days or more to finalise. One of the key determinants of the speed of processing an FOI application is the quantity of papers which need to be processed. For example, a recent request will potentially involve the processing of 30,000 pages.

Advertising
(Question No 1153)

Mr Smyth asked the Chief Minister, upon notice, on 6 June 2006:

(1) What was the cost of the full page advertisement about superannuation on page 6 of The Canberra Times of Wednesday, 31 May 2006;

(2) Given that the Government has not yet confirmed that the superannuation cuts will go ahead, why was this advertisement necessary;

(3) What was the cost of the advertisement about the future of the Canberra community, on page 5 of The Canberra Times of Wednesday, 31 May 2006;

(4) In this advertisement does the Government talk about putting its money where it's most needed; if so, considering the message of this ad, was the cost of the ad money well spent.

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

(1) $5,698

(2) This advertisement was necessary to provide the community with detailed information about the challenges of funding ACT public sector superannuation, in order to give some context to decisions that were under consideration as part of the ACT's most significant budget in 16 years.

(3) $1,978.20

(4) Yes, the text of the advertisement states that it is 'important to put our efforts, and our money, where they're most needed'. Yes, this money was well spent. It is important that governments take the extra step to communicate with the people they represent.

Hospitals—staff qualifications (Question No 1154)

Mr Smyth asked the Minister for Health, upon notice, on 6 June 2006:

In relation to an article entitled "Regional hospital chemo threat to cancer patients" which appeared on page 6 of *The Canberra Times* on Monday, 5 June, are there any such incidents occurring within public hospitals in the ACT where unqualified medical staff are administering chemotherapy to cancer patients; if so, (a) when have these incidents occurred and (b) what is the Government doing to fix it.

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

ACT Health does not have any unqualified medical staff administering chemotherapy to cancer patients in the ACT.

Radiation oncology services (Question No 1155)

Mr Smyth asked the Minister for Health, upon notice, on 6 June 2006:

Further to the answer to question on notice No 433, has the review of the Interstate Patients Travel Assistance Scheme, in the context of developing a radiation oncology services plan, been completed; if so, can a copy of the review be provided to me; if not, (a) when will the review be completed, (b) will the results of the review be made available to (i) Members of the Assembly and (ii) the public and (c) how will it be published.

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

The review of the Interstate patient's Travel Assistance Scheme has not been completed.

(a) The review will be undertaken following the completion of the Radiation Oncology Services Plan.

(b) A decision on how the results will be published is yet to be made.

Telecommunications—3G phone towers (Question No 1156)

Dr Foskey asked the Minister for Planning, upon notice, on 7 June 2006:

(1) Does the ACT Government provide telecommunications companies with a map of acceptable areas in which 3G towers can be placed, or do the companies submit a draft plan for the network for the ACT Government to approve;

(2) Why does Canberra need a higher concentration of 3G towers as compared to other regions, noting that it is proposed Canberra will have 100 of the 350 Telstra 3G phone towers in Australia;

(3) Does this large number of towers reflect a higher need for 3G phone technology from the various levels of Federal Government agencies needing higher security;

(4) Is the Minister able to say whether any of the 60 existing Telstra facilities have already been upgraded to support 3G technology;

(5) Can the Minister advise of any plan Optus and Vodafone have to roll out their own supplementary shared 3G network; if so, how many additional towers will this involve;

(6) What advice has the Minister received about how many towers the ACT needs and how far apart these towers need to be to provide sufficient services;

(7) Given that the North Fadden tower proposal was withdrawn, does this mean that there is flexibility to withdraw more;

(8) How strictly does ACT Planning and Land Authority (ACTPLA) follow its 'Guideline 1/05 for Telecommunications (Mobile Phone) Networks';

(9) What is the legal force of this Guideline;

(10) How often is the Guideline updated;

(11) Does ACTPLA provide companies with a map marked out to assist with tower placement planning which includes sensitive sites such as schools, childcare centres, hospitals, medical centres, aged care facilities and high density residential areas;

(12) Has there been or will there be any public consultation on the rollout of 3G phone towers as a whole, as compared to the current consultation process, which only notifies the public of one 3G tower proposal at a time;

(13) Can the ACT Government provide the results and mapping of the cumulative electromagnetic radiation (EMR) investigations for the rollout of 3G towers in Canberra;

(14) How has the ACT Government responded to the recent reports from a Royal Melbourne Institute of Technology office beneath a 3G tower where a number of staff have suffered brain tumours;

(15) Given that the ACT Government has taken the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) EMR acceptable levels as the ACT standard, is the ACT Government aware that EMR limits were relaxed by ARPANSA before 3G technology was introduced to Australia;

(16) How did the ACT Government respond to this move;

(17) Is the ACT Government satisfied with how Australian, and therefore ACT, EMR emission levels compare internationally, noting that some reports suggest China, for example, has emission levels set at 10 times lower than ARPANSA and Switzerland has the emission levels set 8 times lower;

(18) Would the ACT Government consider adopting a more precautionary approach by setting much lower minimum EMR emission levels, especially given the high concentration of proposed towers in the ACT.

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

(1) The potential areas are considered by the carriers on the basis of acceptable radio frequency modelling. From their analysis of suitable sites they submit a plan for consideration.

(2) 3G technology requires more towers than 2G because the nature of the technology and because the amount of data (video phones and down-loads of emails to your phone) to be carried requires the towers to be closer together. Canberra is one of the first locations for this technology to be rolled out.

(3) No.

(4) Telstra has started the upgrade of the existing 60 or so 2G sites under the Commonwealth's Low Impact Determination.

(5) I understand that Optus and Vodafone are concentrating their 3G network on the City and Parliamentary Triangle at present and will expand the network to other areas of the ACT based on market demand. About 10 existing 2G sites are being upgraded using the Low Impact Determination to effect this roll out. I have no information regarding the future network.

(6) The 3GIS (Telstra/Hutchison) requirement is as indicated in their Network Plan, plus a site near Fadden, and the upgraded 60 or so low impact sites. Optus and Vodafone have also been encouraged to do a plan of their intended network rather than individual site applications.

(7) The Fadden site was withdrawn from the Network Plan to permit further investigation for a site that was able to provide coverage as well as other siting considerations. The network plan has been approved.

(8) The assessment of the 3GIS Network Plan by the Authority has been documented and the assessment based upon the "Guideline 1/05 for Telecommunications (Mobile Phone) Networks".

(9) This Guideline is given effect under Schedule 2 of the Land (Planning and Environment) Regulations.

(10) The "Guideline 1/05 for Telecommunications (Mobile Phone) Networks" is dated 28 November 2005 and is still current. Guidelines are reviewed on an as needs basis.

(11) The Authority provides telecommunications agencies with all the necessary information including deposited plans, air photos and associated data to permit detailed investigation of proposed possible sites.

(12) The ACT Planning and Land Authority (ACTPLA) have pursued a Network plan approach to be upfront with everyone about the entire 3G rollout by 3GIS. This Network plan shows all sites in the network, including those outside ACTPLA jurisdiction (NSW and National Capital Authority). The notification to local residents of each installation is to satisfy the minimum notification process.

(13) The EME information is provided in the 3GIS Network Plan and anyone may apply to the National Association of Testing Authorities to have sites tested.

(14) Electromagnetic emission (EME) is regulated by the Commonwealth Government through the Australian Communications and Media Authority (ACMA). Through the ACMA the Department of Health can remain informed of new studies which relate to EME. The 3GIS network meets Australian health standards.

(15) The ACT Government has not taken the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) acceptable EME levels as the ACT standard. The ACT cannot regulate above the Commonwealth standard.

(16) ACT Government cannot modify Commonwealth standards as it has no jurisdiction over them.

(17) I understand that Australia has an approximate 50 fold safety margin beyond the international standards.

(18) The ACT Government cannot modify Commonwealth standards.

Advertising
(Question No 1157)

Mr Stefaniak asked the Chief Minister, upon notice, on 8 June 2006:

(1) How much money has the ACT Government spent on promoting its positions on public sector superannuation changes and teachers' pay negotiations;

(2) Which media organisations did the ACT Government use in these campaigns and how much did it pay to each organisation;

(3) Who approved these advertising campaigns.

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

(1) $11,396

(2) The Canberra Times. $11,396.

(3) Chief Minister.

Consumer protection (Question No 1158)

Mr Stefaniak asked the Attorney-General, upon notice, on 8 June 2006:

(1) What progress has been made in the review and consolidation of consumer laws;

(2) When will this review and consolidation process be completed;

(3) When will the associated review and consolidation of business licensing procedures to reduce the paperwork associated with these processes be completed;

(4) What have been the outcomes of this process.

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

(1) The ACT has a considerable body of legislation dealing with consumer protection and business licensing/registration. For a number of years, it has been recognised that this legislation is fragmented and a considerable amount of work has been put into examining ways in which this legislation might be reconstructed and consolidated to streamline and simplify the provision of services to both consumers and businesses. During the course of this review process, departmental officers developed a comprehensive model law process for the application of inspectorate search and seizure powers across the whole of ACT Government agencies within a human rights framework.

(2) A single regulatory body to administer regulatory services for the whole of government has now been created. The Office of Regulatory Services will provide simplified and streamlined licensing and registration processes across a broad range of ACT regulatory schemes. It is expected that proposals reflecting these changed circumstances will be provided to government later this year. It might be expected that once government has had an opportunity to consider this advice that various legislative amendments will be prepared.

(3) The review and consolidation of business licensing/registration procedures has been integral to the general review of consumer protection and fair trading laws. Officers are now working to determine appropriate changes to legislation to support the Office of Regulatory Services.

(4) The restructuring and consolidation of ACT fair trading/consumer protection and occupational licensing laws will create a simplified, accessible and user-friendly body of law, delivering a range of positive outcomes for consumers and businesses. The consolidation will deliver improved accessibility by consumers, businesses, lawyers and other users of the applicable laws, better compliance outcomes delivering higher levels of consumer satisfaction, and a reduction in regulatory red tape for ACT businesses.

Legal fees
(Question No 1159)

Mr Stefaniak asked the Attorney-General, upon notice, on 8 June 2006:

(1) Has the Government undertaken a public review of legal fees as promised in the 2004 ACT election; if so, what was the outcome of this review;

(2) If the review is underway, when will it be completed;

(3) If the review has not started, when will it start or has the Government abandoned this promise.

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

(1) This review of legal fees was subsumed within the national reform of the legal market, which led recently to the passage of the *Legal Profession Act 2006*. As such, the government is very much involved in a review of legal costs at this time, not as a stand-alone jurisdiction, but as a signatory to an agreement between all jurisdictions to review and reform the governance and regulation of the Australian legal profession.

The *Legal Profession Act 2006* was passed by the Assembly on 6 June 2006, and commenced on 1 July 2006. The passage of that Act represents the first major phase of implementation of the national legal profession model law.

The model law incorporates a series of mandatory provisions relating to the obligations of practitioners in making clients aware of costing rates and methods, and the process for pursuing recovery and review of assessed legal costs. The provisions require more effective disclosure to clients, and install clear processes for agreeing on, challenging and recovering legal costs.

The Standing Committee of Attorneys General was very strongly of the view that legal costing processes should be nationally uniform, and each jurisdiction has agreed to adopt the mandatory provisions of the national model law.

The model law was widely available for comment during 2004, and the new ACT legislation was developed in close consultation with the Law Society of the ACT and the ACT Bar Association.

(2) While the *Legal Profession Act 2006* commenced on 1 July 2006, the provisions relating to costs disclosure and review will not commence until 1 January 2007, to enable members of the legal profession to prepare for the new requirements.

In the meantime, the National Legal Profession Joint Working Party, on which the ACT is represented, has reviewed the national model law – particularly in relation to costs – and discussions are underway with the profession in relation to necessary amendments to the new Act. This second wave of review, to be completed later in the year, will bring all of the jurisdictions into line with the agreed model.

During the next few months, the Joint Working Party will also be considering the NSW Legal Fees Review Panel Report, with a view to reaching agreement on further uniform changes to legal costing and recovery processes.

(3) See answers to questions (1) and (2).

Magistrates Court
(Question No 1160)

Mr Stefaniak asked the Attorney-General, upon notice, on 8 June 2006:

(1) What progress has been made on examining the creation of a separate administration for all of the tribunals currently administered by the Magistrates Court as promised in the 2004 election;

(2) If an examination has been completed, what was the outcome;

(3) If an examination is underway, when will it be completed;

(4) If an examination has not started yet, when will it start or has the Government changed its mind.

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

The Government is committed to reviewing tribunal structures, with a view to increasing efficiency and cost-effectiveness. My department is currently examining options for tribunal structures, including the option of consolidating tribunal registries. I anticipate that stakeholder consultation on the options will occur by the end of this year.

Schools—restorative justice
(Question No 1161)

Mr Stefaniak asked the Minister for Education and Training, upon notice, on 8 June 2006:

(1) What steps has the Government taken to extend the use of restorative justice in schools as promised in the 2004 ACT election;

(2) What training and support has been given to schools to introduce restorative justice to schools;

(3) Have any studies been undertaken to the effectiveness of restorative justice as compared to other forms of discipline in ACT schools; if so, what was the outcome.

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

(1) Schools implement the principles of restorative justice and use the term restorative practices. A number of schools are implementing restorative practices to build positive relationships. The focus is on early intervention and the development of a whole school approach to countering all forms of bullying, harassment and other harmful behaviour. Safe school practices, including restorative practices, are a significant priority for the Department of Education and Training.

(2) From 2004 – 2006 training and support to schools consisted of:

1. Peta Blood, Consultant, Circle Speak Sydney provided:
   - Fifteen one-day courses on restorative practices, combining theory and practice. Five hundred and forty classroom and executive teachers attended these workshops.
   - Five, two-day (Circle Time) workshops to which a total of 120 classroom teachers attended. Circle Time is the preventive aspect of restorative practices that aims to build relationships between students and students/teachers.
   - Training in conference facilitation for 17 Student Management Consultants in order for them to work alongside teachers in schools and provide additional support. Each year all new Student Management Consultants are provided with this training.

2. Officers from the Student Support Services Section provided:
   - Circle Time training for experienced classroom practitioners in order to build the capacity within the system and provide sustainability. Four Circle Time workshops have been scheduled during 2006 to provide training for up to 100 teachers.
   - Support and guidance for school implementation teams, assisting them in creating plans, processes and timelines for implementation.
   - Professional learning activities at four high schools and ten primary schools in 2005 and 2006 for approximately 380 teaching staff.

(3) An evaluation of restorative practices will be actioned in semester 2, 2006.

Sport—code of conduct (Question No 1162)

Mr Stefaniak asked the Minister for Tourism, Sport and Recreation, upon notice, on 8 June 2006:

(1) What has been the progress of the development of a code of conduct for players, coaches, officials, administrators and parents;

(2) When will this code of conduct be fully implemented;

(3) What has been the progress of developing "yellow cards" for people behaving inappropriately at sports events;

(4) When will this policy be fully implemented;

(5) What has been the progress of developing awards for positive behaviour and positive attitudes;

(6) When will this policy be fully implemented;

(7) What has been the progress of implementing coach meetings before events to outline the standard of behaviour.

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

(1) Nationally, codes of conduct for players, coaches, officials, administrators and parents were developed by the Australian Sports Commission (ASC), in consultation with State and Territory Departments of Sport and Recreation and National Sporting Organisations in 1996. The Codes were again revised in 2002 and became part of the Member Protection Policy for sports.

The ASC is currently reviewing and revising the Codes of Conduct it advocates to all sports with the aim of developing one set of Codes that will be consistent and applicable to all roles and levels within all sports and organisations. The updated codes will be available by 1 October 2006.

(2) Locally, adoption and abidance of these revised Codes by ACT sporting organisations and participants is recommended as part of the Good Sports Territory Program with codes of conduct currently in place with all sports committed to the program.

(3) The concept of "Yellow Cards" was one of many strategies suggested to sporting organisations are part of the Good Sports Territory program to assist the prevention of inappropriate behaviour at sporting events. The concept has been trialled by One Basketball Canberra and is being considered by other organisations.

(4) The implementation of the "Yellow Card" concept is at the discretion of sporting organisations.

(5) Awards for positive behaviour and positive attitudes have been a key strategy of the Good Sports Territory program since inception in July 2004. Various organisations, including Capital Football for the Kanga Cup, have also developed their own Goods Sports Territory awards.

(6) The distribution of these awards will be ongoing as part of the Good Sports Territory program.

(7) The implementation of meetings with coaches and other personnel as an event management strategy was also a recommendation to sports as part of the Good Sports Territory Program and will be reinforced within the Good Sports Territory resource. Several sports now include these meetings as common event management practice.

Seniors—Actively Ageing program (Question No 1163)

Mr Stefaniak asked the Minister for Tourism, Sport and Recreation, upon notice, on 8 June 2006:

(1) What has been the progress in expanding the Actively Ageing program since October 2004;

(2) Has any assessment been made of the effectiveness of the program; if so, what was the outcome.

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

(1) Since 2004, the Actively Ageing program has been expanded through the implementation of the Canberra Active Living Model (CALM) program and the Canberra Senior Sports Carnival (CSSC).

In the last 18 months, five CALM centres have become operational with an average of five classes at each venue per week. Operational centres include Kippax, Hackett, Curtin, Weston and Kaleen.

The YMCA of Canberra PrYme Movers program (Physical Activity Program for Older Adults) has been successful in obtaining $20,000 via the Sport and Recreation ACT Grants program since 2004. Currently the PrYme Movers program operates in 25 locations throughout Canberra, conducting 88 classes per week with an average of around 550 attendees per week.

(2) The effectiveness of the CALM programs is assessed using the Fullerton Seniors Fitness Test at baseline and post program. Currently Kippax and Hackett have completed this phase. Findings from the Kippax program included:

- Increase in lower body strength;
- Increase in upper body strength;
- Increase in aerobic capacity;
- Increase in lower body flexibility;
- Decrease in reaction time for dynamic balance; and
- Decrease in systolic blood pressure.

A Physiotherapist from ACT Community Health conducted pre and additional testing using the Falls Screen protocol. Out of 44 people tested, 31 participants improved their Falls Risk scores.

In response to participant evaluation questionnaires:

- 84% of people rated the program activities as excellent;
- 74% of people rated the opportunity for social interaction as being excellent;
- 95% rated the program as meeting their expectations; and
- 95% intended to undertake physical activity in the future.

Schools—bullying
(Question No 1164)

Dr Foskey asked the Minister for Education and Training, upon notice, on 8 June 2006:

(1) What are the protocols for handling a report that staff in the education system have been bullied;

(2) Are there any protocols stating that staff should not discuss complaints against other staff in front of students and parents;

(3) What are the possible consequences for the staff person that initiated or conducted the bullying if the complaint is substantiated;

(4) What are the possible consequences for the teacher breaking the Teacher's Code of Conduct;

(5) How many reports have there been of staff bullying in the education system in (a) 2002-03, (b) 2003-04 and (c) 2004-05;

(6) How many mediations were conducted as a result of the reports outlined in part (5) in (a) 2002-03, (b) 2003-04 and (c) 2004-05;

(7) What efforts are made to have an independent person mediate the situation;

(8) How many education staff have been reprimanded or dismissed as a result of substantiated complaints regarding bullying in (a) 2002-03, (b) 2003-04 and (c) 2004-05;

(9) Are substantiated reports of bullying kept on a staff person's record and are they normally considered during interviews for other positions within the Department of Education and Training;

(10) When was the last time the student management policy was reviewed and updated.

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

(1) The Department manages situations involving behaviours that could be considered 'bullying' through various mechanisms depending on the nature of each situation. Some matters are resolved at a local level, other matters are resolved by accessing the Department's Staff Equity Contact Officers (SECO) and/or Employee Assistance Program (EAP), and other matters are referred for a more formal investigation and resolution.

(2) Section 9 of the *Public Sector Management Act 1994* outlines the general obligations of public employees. It requires staff to treat members of the public and other employees with courtesy and sensitivity to their rights and duties and in all performance of their duties to exercise reasonable care and skill.

(3) Disciplinary actions that may be taken in response to proven breaches of the code of conduct include:

- counselling
- a written admonishment
- a financial penalty
- transfer to other duties (at or below current salary)
- reduction in incremental point
- a temporary or permanent reduction in classification/salary
- termination of employment.

These outcomes may be in addition to any penalty imposed by a court for a breach of legislative provisions.

(4) The *Teachers' Code of Professional Practice* is a document that clarifies professional expectations, provides guidance to teachers on appropriate responses to different situations and assists school leaders to advise their staff. It is structured to contextualise Section 9 of the *Public Sector Management Act 1994* specifically for our teaching

workforce. Disciplinary action is taken under Section 9 of the *Public Sector Management Act 1994* and in accordance with the current certified agreement.

(5) The Department does not have aggregated data on complaints of 'bullying' of staff by staff, however the following are the recorded investigations into claims of conduct that may be considered as 'bullying' (both teaching and administrative staff):

- 2002-2003 – 6
- 2003-2004 – nil
- 2004-2005 – 6

(6) The following are numbers of mediations conducted as a result of reports outlined in part (5):

- 2002-2003 – nil
- 2003-2004 – nil
- 2004-2005 – 1

This figure does not represent the numbers of mediations that were offered to employees as an option for resolving their complaint.

(7) Mediation by an experienced and independent person is considered as an option for resolution for most matters relating to claims of bullying. The *Teaching Staff Certified Agreement 2004-2006 and Staff Certified Agreement 2004-2007* provide that for an internal review, where appropriate, and agreed by the employee who made the application or their representative, the Chief Executive must consider mediation as an option before arranging for a full investigation. The mediator will be agreed between the employee and the Chief Executive.

(8) The following are numbers of staff reprimanded or dismissed as a result of substantiated complaints regarding behaviours that could be considered 'bullying':

- 2002-2003 – 2
- 2003-2004 – nil
- 2004-2005 – 1

(9) Records of matters regarding behaviours that could be considered 'bullying' are maintained by the individual line area and/or the Department's Employee Relations Section and are not kept on individual employee personnel files.

In accordance with the principles of natural justice and procedural fairness a matter of this nature, having been dealt with through the discipline procedures, would not normally be considered as part of the process of an employee applying for another position, unless the matter was specifically relevant to the assessment of the employee's suitability for a particular position.

(10) The Safe Schools Policy Framework has been developed and is currently in the consultation process. This framework consists of revised and new policies under the following areas:

- student management and well being/suspension transfer and exclusion
- bullying, harassment and violence
- racial harassment
- sexual harassment
- young carers, young parents.

Advertising
(Question No 1165)

Mr Smyth asked the Chief Minister, upon notice, on 8 June 2006:

(1) What was the cost of the full page advertisement about the 2006-07 budget on page 13 of The Canberra Times of Wednesday, 7 June 2006;

(2) Given that the Government has presented a budget designed to save money, why is money being spent on advertisements for the budget.

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

(1) $5,698.00

(2) It is important that governments take the extra step to communicate with the people they represent. This was the most significant budget that has been delivered in the territory in the last 16 years and contains significant initiatives and changes in the delivery of government services in the territory.

Drugs—education programs
(Question No 1166)

Mr Smyth asked the Attorney-General, upon notice, on 8 June 2006 *(redirected to the Minister for Health)*:

(1) Following an article in *The Canberra Times* on Tuesday, 6 June about drug education, how much is the Government spending on delivering drug education programs to ACT schools and the community;

(2) Where are these education programs being delivered in the community and at which ACT schools;

(3) What are the key topic focuses in the drug education programs;

(4) How many Canberrans have been admitted to an ACT hospital because of a drug related incident in (a) 2001-02, (b) 2002-03, (c) 2003-04, (d) 2004-05 and 2005-06 to date;

(5) How many deaths have occurred in the ACT because of a drug related incident to date in (a) 2001-02, (b) 2002-03, (c) 2003-04, (d) 2004-05 and 2005-06 to date.

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

(1) The Government funded the following drug education initiatives in schools and the community in 2005/2006:

- Directions ACT received $67,000 to provide programs to secondary colleges and to the community.
- Toora Women Incorporated received $18,000 to provide community education and training.

- ACT Department of Education and Training received $42,180 to provide professional development to primary and secondary school teachers.
- Nine primary and secondary schools across ACT government, non-government and independent sectors received a total of $110,760 for peer education projects.

(2) Drug education programs have been delivered to:

- All ACT Government secondary colleges.
- Government and non-government services including the Canberra Institute of Technology, ACT Dental Health Clinic, Department of Housing and Community Services, Canberra Sexual Health Clinic, ACTION Buses and Galilee Youth Service.
- Community organisations such as Family and Friends for Drug Law Reform and staff from government services such as Children, Youth and Family Services.
- ACT primary and secondary school teachers from across the ACT government, non-government and independent sectors.

(3) Key topic focuses for the drug education programs:

- Education was delivered on a wide range of issues relating to drug use. Topics were tailored to the specific requests and covered areas such as: overview of alcohol and drug trends – cause and effect; types of drugs; common drug terms; harm minimization; who uses drugs; why do people use drugs; how are people who use drugs portrayed; drug effects; communication skills; parenting strategies; laws about drugs; drug and alcohol issues in culturally and linguistically diverse communities; drug and alcohol generational issues; and child protection.
- Professional development of teachers was based on Department of Education, Science and Training (DEST) Drug Education principles. The principles are organised around four key themes for effective drug education. They are:
  1. **Comprehensive and Evidence Based Practice**: focusing on the overall approach and outcomes for effective school drug education and links to the National Drug Strategy goal of harm minimisation.
  2. **Positive School Climate and Relationship**: focusing on schools providing supportive and nurturing environments and relationships as part of effective school drug education.
  3. **Targeted to Needs and Context**: focusing on schools identifying and responding to local community needs and priorities for school drug education policies and practices.
  4. **Effective Pedagogy**: focusing on schools planning and delivering drug education programs and activities within a curriculum framework and ensuring use of appropriate learning and teaching strategies.
- The peer education projects aim to target priority areas for preventing and reducing harm for our children and young people.

(4) Canberrans admitted to an ACT hospital because of a drug related incident in (a) 2001-02, (b) 2002-03, (c) 2003-04, (d) 2004-05 and 2005-06 to date.

Year	**Total mental and behavioural disorders due to Psychoactive substance use OR intentional overdose**. Admitted patients only (emergency department presentations are not included)
2001-02 Pubic & Private Hospitals	1450
2002-03 Public & Private Hospitals	1345
2003-04 Public & Private Hospitals	1697
2004-05 Public & Private Hospitals	1992
2005-06 Public hospitals only to 31.05.06	1794
Total	**8278**

Source: ACT Health Information Management Branch

(5) Deaths in the ACT because of a drug related incident in
(a) 2001-02, (b) 2002-03, (c) 2003-04, (d) 2004-05 and 2005-06 to date.

Year	**Drug related death notifications in the ACT** (Drugs including Alcohol and Pharmaceuticals)
2001-02	31
2002-03	27
2003-04	24
2004-05	24
2005-06	6
Total	**119**

Source: National Coroners Information System

Note: *some cases identified in the above table are still open on the National Coroners Information System, and as such, numbers may change over time. In addition, the 2005-06 data (to 30 June 2006) is incomplete and hence the total number is likely to increase once all data has been included.*
