Debates

WEEKLY HANSARD

Legislative Assembly for the ACT

SIXTH ASSEMBLY

21 AUGUST 2007

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Tuesday, 21 August 2007

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

Petition

*The following petition was lodged for presentation, by **Mr Pratt**, from 425 residents:*

Tharwa bridge

> **To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory**
>
> This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that the public safety and security of residents of Tharwa has unduly been put at risk by the closure of the Tharwa Bridge.
>
> Your petitioners therefore request that the Assembly act to ensure that a formal request is made immediately to the Commonwealth Government for assistance in the installation of a temporary low level crossing at Tharwa.

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.

Privilege
Statement by Speaker

MR SPEAKER: Members, on 29 June and 3 July 2007, Mr Pratt gave written notice of a possible breach of privilege concerning certain aspects of the conduct of Mr Hargreaves, the Minister for Territory and Municipal Services, when he appeared before the Select Committee on Estimates 2007-08 on the afternoon of 26 June 2007, as well as the minister's practice of only following up on matters raised by Mr Pratt if the names and addresses of constituents are provided. I present a copy of Mr Pratt's two letters for the information of members, along with my interim response.

Under the provisions of standing order 71, I must determine as soon as practicable whether or not the matter merits precedence over other business. If, in my opinion, the matter does merit precedence, I must inform the Assembly of the decision and the member who raised the matter may move a motion without notice and forthwith to refer the matter to a select committee appointed by the Assembly for that purpose. If, in my opinion, the matter does not merit precedence, I must inform the member in writing and may also inform the Assembly of the decision. I am not required to judge whether there has been a breach of privilege or a contempt of the Assembly. I can only judge whether the matter merits precedence.

In accordance with the practice of the House of Representatives, I decided to write, on 24 July 2007, to the Chair of the Select Committee on Estimates 2007-08 in order to

ascertain from that committee whether the alleged actions of Mr Hargreaves substantially interfered with the work of the committee and whether the committee intended to take any action in relation to the matter.

On 8 August, I received a response from the chair of the committee indicating that, in the opinion of the committee, the behaviour of the Minister for Territory and Municipal Services substantially interfered with the work of the committee during the public hearings process, that the behaviour was intimidatory and disrespectful to members of the committee and that the committee was inhibited from pursuing lines of questioning as a result. I table a copy of the committee's letter for the information of members, along with the letter I wrote to the committee chair.

I have considered the matter and have come to the view that the matter does merit precedence over other business. In accordance with the provisions of standing order 71, Mr Pratt may, if he so chooses, move an appropriate motion to refer the matter to a select committee on privileges.

Privilege—Select Committee
Establishment

MR PRATT (Brindabella) (10.35): I move:

(1) pursuant to Standing order 71, a Privileges Committee be appointed to examine the evidence given by and the behaviour of Minister Hargreaves at hearings of the Select Committee on Estimates 2007-2008 and whether that evidence and behaviour:

(a) in any manner breached the standing orders of the Legislative Assembly of the ACT; or

(b) in any manner was in contempt of the Legislative Assembly of the ACT;

(2) the Committee be composed of:

(a) one Member to be nominated by the Government; and

(b) two Members to be nominated by the Opposition;

to be notified in writing to the Speaker by 4 p.m. today;

(3) the Committee be chaired by an Opposition Member;

(4) the Committee report by 25 September 2007;

(5) if the Assembly is not sitting when the Committee has completed its inquiry the Committee may send its report to the Speaker, who is authorised to give directions for its printing, publishing and circulation; and

(6) the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

I have moved this motion under the authority of standing order 71, which states:

> (e) if, in the opinion of the Speaker, the matter merits precedence, the Speaker will inform the Assembly of the decision, and the Member who raised the matter may move a motion without notice forthwith to refer the matter to a select committee appointed by the Assembly for that purpose.

Mr Speaker, on the basis of your ruling, that is exactly what I have done here this morning. The behaviour of Mr Hargreaves during the 2007-08 estimates committee hearings is not an isolated issue. This is not a frivolous matter. Consequently, the behaviour of Mr Hargreaves in this estimates period is simply the culmination of a couple of years of bad behaviour by Mr Hargreaves in this place, in the committee process and, generally speaking, in his performance as a minister, having regard to the way he treats the processes here with some contempt and to the way that he treats the public. Consequently, Mr Speaker, I have had no choice other than to take the action that I have taken in writing to you about this issue.

As I was saying, this motion is based on contemptuous behaviour which we have seen on many occasions. Consequently, I would put it to you, Mr Speaker, that this is a serial-offence issue. It is important to look at the history of Mr Hargreaves's contemptuous behaviour in order to set the background against which his behaviour during the estimates hearings in 2007-08 can be seen. I will refer briefly to the performance and behaviour of the minister during the 2006-07 estimates process. In relation to last year's estimates committee process, Mr Gentleman, who chaired the committee, in that instance did not believe that Mr Hargreaves had behaved badly during those hearings, even though the evidence from the transcripts certainly contradicted that misguided view.

In the estimates process last year, the minister's inappropriate comments about members of the committee included phrases such as: "Silly question from a silly person," "Mr Smyth does not know anything," "I am not going to answer any more questions from Mr Pratt on the subject," "Grow up," et cetera. A further instance of completely inappropriate comments from the minister was when he said that an official was overseas "searching for some way of dealing sensibly with Mr Pratt". He went on to say:

> Unfortunately, I think she has gone a long way to try to find out how to do that, I have to tell you.

Looking at each of those examples of Mr Hargreaves's 2006 estimates performance, individually they are not particularly offensive. We are all pretty tough types in this place. MLAs have to rock and roll in the rough and tumble of debate. Those sorts of issues which I have just mentioned are mere ripples. But when you put them all together, as we have done with last year's estimates hearings, you see that they amounted to a collapse of the scrutiny process. That is the point we are coming from when we deal with what we might call the tier 3 level of behaviour, where we get this diatribe: "Silly old fella," "Silly old goat," "Well, he wouldn't know, would he?" et cetera.

They are not offensive remarks, and on their own they do not need to be dealt with. But when you put them all together you find a litany of examples in the performance of this minister of these things being said to use up time, or to throw MLAs, as members of committees, opposition members and members of the cross-bench—the people who are put here by the people of the ACT to scrutinise processes—off balance in scrutinising those processes.

When we look at the history of the 2006 hearings, we see that Mr Hargreaves was a serial offender. There was some pretty offensive behaviour during those hearings. I refer to Mr Hargreaves's comment that a question warranted the "dickhead comment of the week" award. So we are now beginning to move to the tier 2 level of behaviour, where the remarks do become offensive, very unparliamentary and reflect poorly on this place.

What do the public servants who sit behind the minister during the committee process think of this place when they hear their minister using that sort of language? Of course, it is language which is designed to throw people off-guard, to distract from the scrutiny process, to buy time, to use up the oxygen in a debate and perhaps to throw a scrutinising MLA off balance. It does not really work but it represents a lot of wasted time. In fact, it probably works to the extent that other very important questions that need to be asked have never been asked. That is the point. It is not simply about the offensive behaviour of personal attack; it is about the fact that the time that could be taken to ask follow-up or supplementary questions, to drill down on and scrutinise government and departmental performance, is lost, because we have to deal with the ridiculous behaviour of Mr Hargreaves.

I will prove here today to all members of this Assembly that Mr Hargreaves is a habitual offender on these matters, culminating in his rather disgraceful behaviour in this year's estimates process. That is why this matter warrants being referred to a privileges committee pursuant to standing order 71. If this Assembly is a mature parliament that we can all be proud of, as it should be under the Westminster system, it will take the matter seriously. If members opposite are fair dinkum, they will surely vote in support of the motion I have moved today.

I will now give some examples of behaviour that occurred during the 2007 estimates process. After last year's light rap over the knuckles for his serial performance—his obfuscation, distraction, diversion, giving offence and having a jolly good time at the expense of the Westminster process—this year Mr Hargreaves ramped up his behaviour to yet another level. I will point out a couple of examples to you now, Mr Speaker. Let us look at a couple of comments. In the first example, Mr Hargreaves said:

> Thank you very much, Mr Chairman. I thank you for the warm welcome. I would also like to say good afternoon to fellow committee members. I bid a very good afternoon to those members of the fourth estate who are interrupting their sleep this afternoon and listening in to their television sets. I also bid a good afternoon to the chief grumbler, Mr Pratt.

That is all pretty amusing stuff, and I had a bit of a giggle, too. It is not particularly offensive, but there was then a cranking up to what became a totally disruptive

process in the scrutiny of urban services and later the transport system. Again, it was hardly offensive, and even a little funny. But, as will be seen, this long-winded, mild stirring went on and on. It was designed to deflect attention from matters needing to be scrutinised and formed part of the niggling process.

Mr Hargreaves's behaviour then graduated to truly contemptuous and obfuscating behaviour, as we will now see. Let us talk about the accusation of lying from Mr Hargreaves regarding constituent issues. I refer specifically to the range of questions on Point Hut Road signage and incidents which have occurred this year. Mr Hargreaves said:

> And I need to respond very, very, very briefly. Firstly, I have sprung Mr Pratt on this occasion before ...

Forgive me if this sounds like it is all about me, Mr Speaker; it is not. It is all about Mr Hargreaves, and it is about other people who have been hurt by Mr Hargreaves. He continued:

> … and it comes down to this. I am not accusing Mr Pratt of lying. I am just suggesting that I do not believe a thing from Mr Pratt until I have been able to verify it independently.

Of course, we now know that the issue raised by me about the dangerous corner signage on Point Hut Road—a very dangerous case pointed out by the community, who had a very good idea of what had happened along the Point Hut Road—proved to be true. We know, for example, as a consequence of the response to my question on notice, that the department of municipal services had re-erected a dangerous corner sign on the Monday following a very serious accident on Point Hut Road. That was an issue raised by the Tharwa community. They did not raise the issue lightly. It is a very important issue regarding competence and safety. As a consequence, it was our duty to pursue that line of questioning on behalf of the community. But it was treated lightly and dismissed by Mr Hargreaves, with an implication that perhaps Mr Pratt or members of the Tharwa community were lying. So now we know what the truth is.

I will now talk about the impugning of character. In response to a question going to the heart of Mr Hargreaves's deliberate action in not answering the question about road signage, Mrs Burke, in questioning Mr Hargreaves, said:

> So you believe Dr Foskey but not Mr Pratt. I see ... different rules apply ...

In response, Mr Hargreaves said:

> Yes—and, Mr Chairman, there is a really good reason for that, and that is because Dr Foskey conducts herself with integrity.

By extrapolation, the message is that Mr Hargreaves believes Mr Pratt to be lacking in integrity. Again, I do not take that too personally, but it is an observation about serious misconduct.

What about his disrespectful attitudes towards a constituent? In response to a question asked by Mrs Burke about the closure of Griffith library, the minister disrespectfully

referred to a constituent—a constituent who was well known to Mrs Burke, to me and, indeed, to the minister, as a person who had well and honourably represented her community over the Griffith library closure. This woman has fought hard for her community and is well respected. Mr Hargreaves said:

> I haven't been listening for example to the lady who was cranking up your good selves on such things when she herself, purporting to be a library member, had not been a library member for two years prior to the event.

He impugned the woman's character by indicating that she was a false representative on a serious community matter. Everybody else, including the media, knows that this woman was a very genuine activist on behalf of the Griffith library community.

Where do we go from there? What about the obstruction of an MLA and abuse of staff? In refusing to answer my question about why the government was not moving to resolve matters to allow the take-up of approximately $71 million of commonwealth funding identified in the budget for road enhancements, Mr Hargreaves responded:

> … once again we hear from Mr Pratt the loaded question: why is your government not doing so and so? … he is talking rubbish ... Furthermore, it just goes to the laziness of Mr Pratt and/or his advisers.

I do not want to be particularly precious about me or my advisers, but my staff do the best that they possibly can. Mr Hargreaves has no idea about how my staff perform. They do a damn good job. There is no need for MLAs to abuse members' staff. We do not criticise ministers' staff; they should be exempt from this sort of behaviour. But there we have it, by way of an example. The ministerial code of conduct states:

> Ministers will treat other members of the Legislative Assembly, members of the public or other officials honestly and fairly, with proper regard for their personal dignity, rights, entitlements, duties and obligations, and should at all times act responsibly in their performance of their public duties.

I put it to the Assembly that this minister has broken all of those codes. He has broken the standing orders and he has breached the ministerial code; therefore this matter must be referred to a privileges committee.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10.52): The establishment of a privileges committee is a serious step for the Assembly to take, and it needs to be done in the context of what could be potentially serious infringements of a member's ability to undertake his or her role as an elected representative. The arguments we have just heard from Mr Pratt, in the government's view, do not substantiate the establishment of a privileges committee.

First of all, we heard a whole series of allegations made by Mr Pratt, who seems to have been miffed by the behaviour of the minister. We are all miffed from time to time in this place by the behaviour of those who oppose us in this chamber or, indeed, in other ways, but that is not a reason to establish a privileges committee. Just because you are a little bit upset that another member has impugned your motives in some way is not an argument for saying, "Well, the whole matter needs to be sent to a privileges committee."

Mr Pratt makes the argument that he has a thick skin, but the evidence shows otherwise. Indeed, what we heard from Mr Pratt was a whole litany of minor asides and assertions made by the minister that he has taken offence to. Because he has taken offence, he has decided that referring the matter to a privileges committee is the only way to deal with it. He has not made an argument showing how his ability as a member to do his work has been obstructed or hindered by Mr Hargreaves. So it is a very poor argument in terms of justification for establishing a privileges committee.

There is another matter which is more serious, in the government's mind, than the very poor claims that have been made by Mr Pratt—that is, the assertion made by Mr Pratt that Mr Hargreaves's behaviour has been truly contemptuous. It seems to me that the Liberal Party have already decided what the verdict is going to be in relation to this privileges committee, if it is established. I think it is a case of verdict first and then the process. That is backed up by the fact that they have indicated they wish to have a majority on this committee and they wish to chair it.

When you link that with the assertion by Mr Pratt that he considers Mr Hargreaves's behaviour to be "truly contemptuous", you see that he has already made the decision, as have the Liberal party room. They want a majority, they want to chair the committee and, as Mr Pratt has indicated, they have decided that Mr Hargreaves's behaviour is truly contemptuous. Game, set and match: they have already made their decision. Again, that really brings into question the motives of the Liberal Party in this regard.

Privileges committees are for serious matters, where the Assembly as a whole decides that a member's activities as an elected member have been unduly hindered or obstructed by another member of this place. Mr Pratt has not made that argument. He has simply put together a whole litany of asides and affronts that he feels he does not like; therefore he wants these matters looked at. But he has not actually indicated where he has been unable to do his work. He has not indicated where, as an elected representative, he has been obstructed. He has not indicated how he has been unable to pursue his responsibilities as an elected representative because of the actions of Mr Hargreaves. He has done none of those things. All he has said is, "I'm offended." Well, gee! We all get offended in this place from time to time but that is not a reason for establishing a privileges committee. The government does not support the motion.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (10.57): I will correct the Attorney-General and advise him of a few things he has totally missed here. Firstly, with respect to the motion itself and why the committee would be comprised of one member of the government and two members of the opposition, it is because of a simple mathematical equation in terms of conflict of interest. There are a number of people who cannot serve on the committee. Firstly, there is Mr Pratt; he is the complainant. Secondly, there are the members of the estimates committee, who had to put up with Mr Hargreaves's appalling behaviour and who took the action they did. They took the action with some reluctance; nevertheless they took the action because of the quite extraordinary behaviour on that particular day, 26 June. I will come to that in a moment.

Dr Foskey, Mr Gentleman, Ms Porter, Mrs Burke and I cannot sit on this privileges committee. A privileges committee comprises members of the Assembly who are not members of the executive. The Speaker does not sit on these committees. So there you go; it is a process of elimination. One government member and four members of my party are available. That is the normal situation; hence this motion.

Mr Corbell: Ted Quinlan sat on a privileges committee which looked into me.

MR STEFANIAK: He might have. We have taken advice on this. You might want to bastardise it, attorney, but this would be the appropriate composition just in terms of how this place works. So that is the basis for the composition.

It is interesting that the Speaker has got involved in this matter. He has outlined exactly what his role in the proceedings were, from the time Mr Pratt wrote to him on 29 June to the time the committee did. He has given this matter precedence over anything else, which should indicate the seriousness of the matter. Is the government going to go against, effectively, its own Speaker in relation to this matter? This is a serious matter.

The relevant parts of the transcript of 26 June are from about page 680 to page 704. Had I, as a minister in the previous government, not answered questions and behaved like Mr Hargreaves did, I would not have been a minister. We were a minority government and I would have been out on my ear. I might have been out on my ear, anyway, because the Chief Minister might not have been particularly impressed with such behaviour. The whole idea of an estimates committee is to go through the budget and to get answers. We did not get any answers that afternoon. In all my time in the Assembly, I have never seen such antics by a minister. Just because you are in a majority government it does not mean you can behave with that sort of arrogance and show such contempt for the committee process.

This place, since its inception, has prided itself on having a good committee process in which members work together. This estimates committee was no different. Although we had our differences of opinion, it was done in a very civilised way and we have come up with a majority report containing a number of recommendations. There are dissenting comments from both sides; that is normal. But the work of the Assembly and that committee was impeded. All you have to do is read through that transcript to see how few questions the minister answered. I do not know why he behaved in that way. Maybe that is a matter for him to talk to a privileges committee about. From where I sat, I saw public servants squirming in their seats, clearly embarrassed by the antics that were going on—the lack of answers and the baiting of Mr Pratt.

As Mr Pratt said, we have a bit of banter across the chamber; a bit of baiting is part of the game. But on this occasion it went a couple of steps further, it got quite vicious and quite repetitious. It did start to interfere quite significantly with the work of the estimates committee because we were not getting the answers that we wanted.

Mr Hargreaves: That is correct.

MR STEFANIAK: You miss the point, minister: we were entitled to them. No-one is telling you exactly how to answer questions but the idea of an estimates committee is to elicit some information and not just to have this absolutely vicious banter towards the end and implications about not only Mr Pratt but also Dr Foskey. She came in for a bit of a caning as well. As I said, a little bit of friendly repartee and having a go at each other is fine, but on this occasion it was totally over the top. In terms of the work of that committee, it was very much a wasted afternoon when it came to eliciting information.

We might have finally got somewhere in relation to the sign at Point Hut Crossing—a very simple matter but one on which Mr Hargreaves seemed to go off on a tangent, to the extent that he effectively called Mr Pratt a liar. It just got completely out of hand. What is more, I think it actually continued off-transcript for a little while as well. So it was all very unedifying, very regrettable and very wrong in terms of how ministers should behave. People who were there were, I think, quite appalled, and the matter is worthy of being referred to a privileges committee. If we do not take some sort of stand and send this matter to a privileges committee, what sort of standards do we have?

Mr Hargreaves complained, over a number of pages of the transcript, about Mr Pratt basically doing his job—"bombarding my department with whole heaps of requests for information purporting to come from constituents". He seemed to have a real problem with how Mr Pratt dealt with requests from constituents and made an imputation about those requests. On page 694, for example, when he was accused of calling Mr Pratt a liar, he said: "This is a very serious thing." Mrs Burke said: "It is a very serious thing." Mr Hargreaves continued:

> … and I need to respond very, very, very briefly. Firstly, I have sprung Mr Pratt on this occasion before, and it comes down to this. I am not accusing Mr Pratt of lying. I am just saying that I do not believe a thing from Mr Pratt until I have been able to verify it independently.

He said that, when he had verified it independently, he would respond. He continued:

> His behaviour over the last few days and its impact on other people has been so despicable that I will attempt to verify everything that I get from him.

That is not particularly ministerial behaviour, I would submit, even if a member had given you some cause. In a public hearing like that, with significant numbers of bureaucrats and possibly members of the public and members of the media present, it is incredibly stupid and appalling behaviour.

He also baited Dr Foskey by saying that he was not going to subsidise her roller skates. That may be quite innocuous as a once-off, but there are any number of examples in the course of this amazing diatribe during this incredible hearing of the estimates committee on that particular afternoon.

It contrasted with the behaviour of a number of other ministers. Some of them certainly were not angels, and I have referred to that in my comments in the report. I would urge all of you to be a little more civil, but at the end of the day a lot of that is

part of the process here. It is something that we do not necessarily like but we accept it. But there comes a time when it goes completely over the top. Unfortunately, this was an occasion when that happened. He went on to accuse Mr Pratt of laziness. He said, "He is just a lazy, lazy shadow." On a number of occasions he called him "pathetic" and "despicable". He said:

> Short person you are. You're despicable.

There is a litany of examples of Mr Hargreaves's behaviour over quite a few pages of the transcript. It was most unfortunate behaviour. I would hope that he sincerely regrets it, and I certainly hope that it does not happen again. Quite clearly, having sat there, I noted that the work of the committee was impeded. We felt we were getting nowhere. The behaviour was completely unreasonable and it should be referred to a privileges committee to sort out. What will come out of that? I do not know; it is not for me to say.

Clearly, this matter should be referred to a privileges committee. The government should not use the numbers that it obviously has in this place to abuse due process. It does need to be accountable. We do need to have at least minimum standards here in terms of ministers doing their job and providing answers to properly constituted committees. In this case, it was a most important committee which was scrutinising the government's budget. I commend the motion to the Assembly.

DR FOSKEY (Molonglo) (11.07): It is often difficult to be a crossbencher in this place as I have to be careful that I do not get caught up in the ploys of the opposition or the government. As I have to vote with either one side or the other, I am open to being called a stooge by the side that I do not support. I have given quite a lot of thought to the matter that Mr Pratt first raised a couple of weeks ago in the Select Committee on Estimates. That committee reflected on some of those issues, wrote back to the Speaker and referred in its report to Mr Hargreaves's behaviour, which everyone is waiting intently to receive.

A number of members have referred to this issue and I have been the target of Mr Hargreaves's sense of humour, to use the most benign phrasing. I have asked members of the government, as colleagues of Mr Hargreaves, to speak to him about the way in which he speaks to me. People might have noticed that when Mr Hargreaves is having a go at me I feel it is necessary to leave the room as I do not voluntarily want to put myself in a position where someone is continually verbally abusing me.

I have not taken this matter personally because Mr Hargreaves does not know me very well, but there is a real difference between the way in which Mr Hargreaves speaks to me and the way in which he and Mr Pratt interact. The way in which Mr Pratt and Mr Hargreaves interact across the Assembly floor and sometimes in committee meetings can be compared with the behaviour of children in the schoolyard. People generally tend to say, "That is just the way in which Mr Pratt and Mr Hargreaves talk to one another", but I constantly have to remind myself that this is not a schoolyard; it is the ACT Assembly.

This might be only a little Assembly that is not taken as seriously as we might like it to be by our constituents, but I do not think Mr Hargreaves's behaviour assists us in any way. I also note that that sort of behaviour requires two participants and not just one. Assembly members seem to believe that it is okay, that it is de rigueur, to behave like that, to shout abuse at one another, to insult one another and to be rude. Sometimes it is humorous and we laugh, and sometimes it is not and we do not laugh. We try to say to ourselves, "I will not take this personally because that person does not really know me."

However, I believe that committees are a different matter; they are the strength of this Assembly. On the whole I enjoy working on the Select Committee on Estimates even though I groan when it begins every year because it is such an arduous process. What matters a great deal is how committee members relate to one another and to the committee secretary. What also matters is how ministers behave when they come into the room with their officials whom I would have thought they would be trying to impress or at least convince that they had authority and good knowledge of the areas in which they work.

It should also be remembered that those hearings are televised and that members of the community read the transcripts. So it is not a series of meetings in a private little room; it is this Assembly's way of scrutinising the budget in a major way. On the whole ministers who appear before the Select Committee on Estimates seem to be quite relaxed and enter into the spirit of the committee, having previously served as members of committees. They disclose information when they are asked questions and when they are not able to do so they refer matters to their officials, who turn out to have more information.

It was downright pleasant to be in estimates committee hearings with Mr Corbell and Ms Gallagher. On those days we got information, not always as much as we wanted, and the atmosphere was generally cordial, which I think is a good thing. But why do we have to steel ourselves, which is what I tend to have to do, because a particular minister is appearing? I am never sure what Mr Hargreaves will say to me or to the organisations from whom the Greens seek advice or whose policies we agree with. That is what occurred in the estimate committee hearings. I am sure that the committee report contains extracts of transcripts in which some of the usual things were said.

When Mr Hargreaves appears before the Select Committee on Estimates he should shed the schoolboy image that he adopts to impress his mates. I am not sure what goes on but, as a teacher, I have seen this behaviour many times. When he comes into the committee room he should shed that schoolboy image and appear as a minister in charge of his portfolios. Ministers appear before the committee to give it information and, when they cannot do so, they must find that information and provide it later to the committee.

Ministers in a majority government should not be bully boys. I do not know what it feels like but I am sure it is good to be in a majority government. However, that does not give ministers licence to whip those who are not in majority government and who cannot be in this session of the Assembly. As a witness Mr Hargreaves should be

compelled to answer questions. It is Mr Hargreaves's duty, as a minister, to answer questions but that did not occur. There is no harm in saying, "I do not know; I will refer the matter to my officials."

In conclusion, we are dealing with two issues. Mr Pratt, when reading extracts from the transcript, referred to the minister's behaviour and rudeness and to his schoolyard antics. We can close our eyes to that because sometimes it is funny and we need a laugh. In general, I think we have closed our eyes to that in the Assembly over the years, but there is also the lack of cooperation, the failure to answer questions and the failure to cooperate with the committee. I support Mr Pratt's motion.

MRS BURKE (Molonglo) (11:15): In many ways this is a disappointing day for the Assembly. After the winter break we are debating the behaviour of a member who has been here long enough to uphold the tenets of this chamber. I, like Mr Stefaniak, wondered what was the issue concerning Mr Hargreaves. During the course of the estimates committee hearings I, like Dr Foskey, was on edge as I did not know what he was going to come out with next. I do not know what happened or what caused his outburst but there is no excuse for behaviour such as that from a minister.

Ministerial codes of conduct must be upheld in this place if we are to be held in high regard by the community—something with which we often battle. Disappointingly, even today some government members are smirking and scoffing. I take this matter and what we are doing today very seriously. I do not particularly like what we are doing today but the time has come for us to take responsibility for our actions.

It is no good for members to make excuses and to say, "It was just banter", or for Mr Corbell to dismiss the issue and to say that somebody was offended because that simply is not the case. Dr Foskey made a couple of good points about that issue. As Mr Corbell said, the establishment of a select committee, a privileges committee, is a very serious issue. The opposition is dealing only with the agenda of the Select Committee on Estimates, which found:

> The committee considers that the behaviour of the Minister for Territory and Municipal Services substantially interfered with the work of the committee during the public hearings process. The committee considers that his behaviour could amount to a contempt, given that it was intimidatory and disrespectful to members of the committee, as a result of which the committee was inhibited from pursuing lines of questioning.

At these hearings it was Mr Hargreaves's intention to have a go. I could tell from his demeanour and his manner that he was ready to have a go. Sadly, this is not the first time that this has occurred. Sometimes we have a laugh in this place when we engage in banter and when schoolyard tactics are employed, but when a minister appears before the Select Committee on Estimates—a minister who is to be held accountable for $3 billion of taxpayers' money—the general public do not expect an arrogant minister to treat the committee with disdain and contempt and to embarrass departmental officials.

Mr Hargreaves could not see that departmental officials were embarrassed but we saw them casting their eyes downwards and shaking their heads. We could say that the opposition's motion is a furphy and that we should not be debating such a motion. I

wish we were not debating such a motion. Mr Hargreaves, on his own admission, said he was disappointed that he and I had words during that process, so clearly he is aware that he was out of order. He should stand up in this chamber and say, "Yes, I was out of order", and cop it sweet. If we continue to push bad behaviour under the carpet it will never be resolved and we will never move forward. Every time this happens we will become less important in the public's eye.

Today's proceedings should not have been hampered by this motion but it is serious enough to warrant us taking it further. Let this be a lesson to every one of us. When we are in government and we occupy the government benches the same thing could happen to us. This motion raises the bar for all members in this place. Mr Corbell should be reminded that it is the Select Committee on Estimates, and not the opposition, that found Mr Hargreaves wanting.

Mr Corbell said that Mr Quinlan was placed on a committee that was investigating a matter in which he was involved. Again, it simply comes down to numbers; a matter with which we struggle and wrestle in this place, so that should not be an issue. We must proceed with this motion for the sake of the future of this Assembly and what we stand for in the eyes of the public. We cannot treat the estimates committee process and this place with the disdain that we do from time to time. Normally Mr Hargreaves and I get on very well.

It will not raise the level of our profile in the community if government members continue to laugh about issues such as this. Members of the community expect more from us. I include myself in these comments because sometimes I tend to get carried away. This place is like a pressure cooker, but Mr Hargreaves must start taking responsibility for his continual bad behaviour. We cannot allow that and should no longer countenance behaviour such as that in this place.

Motion (by **Mr Gentleman**) agreed to:

> That the question be now put.

Question put:

> That **Mr Pratt's** motion be agreed to.

The Assembly voted—

Ayes 8		Noes 9	
Mrs Burke	Mr Seselja	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Smyth	Mr Berry	Ms MacDonald
Dr Foskey	Mr Stefaniak	Mr Corbell	Ms Porter
Mr Mulcahy		Ms Gallagher	Mr Stanhope
Mr Pratt		Mr Gentleman	

Question so resolved in the negative.

Estimates 2007-2008—Select Committee
Report

MR GENTLEMAN (Brindabella) (11.25): I present the following report:

> Estimates 2007-2008—Select Committee—Report (2 volumes)—*Appropriation Bill 2007-2008*, dated 20 August 2007, including additional comments *(Dr Foskey)* and a dissenting report *(Mr Stefaniak, Mrs Burke)*, together with a copy of the relevant minutes of proceedings and answers to questions on notice.

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

Leave granted.

MR GENTLEMAN: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR GENTLEMAN: I move:

> That the report be noted.

This year the Select Committee on Estimates had the task of reviewing a budget described by the Treasurer as one that does not deal with short-term fiscal imperatives but that looks to the future, into the next decade and the one after that. Taking the territory forward is the commitment promised by the ACT government. While the committee's role was to scrutinise this 12-month budget, it was important for it to take into consideration the comments made by the Treasurer when undertaking such a task.

I draw the Assembly's focus to last year, the year when the ACT government delivered a budget that constrained spending and introduced necessary structural form not previously seen in the ACT under self-government. These measures, again mentioned by the Treasurer, were essential to create a stable, sustainable economic future for the ACT. I reiterate the importance of considering previous budgets when dealing with the present budget.

This year the Treasurer continued that reform process by delivering a budget that maps out a future for the ACT and ensures the economic security of this city state. The ACT economy is moving forward. That has been demonstrated by the expenditure proposals outlined in this budget, which include significant investment in infrastructure and economic planning for our future.

It takes a very confident parliamentarian to announce that his or her budget will ensure the economic security of the region which he or she represents. These are strong statements to make and ones that should be made only if they are backed up with relevant evidence. It is with confidence that I inform the Assembly that the committee believes the budget that the Treasurer has delivered has the capacity to deliver those promises to the ACT community.

Oppositions are often critical of budgets produced by any government in Australia; it is the nature of their business. They have a job to hold governments to account, and so must attempt to pick apart faults that may lie within budget papers and estimates. The makeup of this year's committee was well balanced, comprising two government members, two opposition members and a crossbench member. This allowed for a fair and impartial committee process without the risk of accusations of suggested stacking or bias amongst it.

At this point I wish to thank my fellow committee members for their hard work and efforts throughout these proceedings. This year the committee sat for 12 days with a total of 22 hours of deliberative meetings. At the cessation of the hearings my committee colleagues commented that it was a far smoother process than the process last year. Last year the committee sat for a record number of 14 days and approximately 24 hours of deliberation.

It is important to inform the Assembly that on several occasions this year meetings often closed earlier than anticipated. Ministers were not recalled to the allocated spill-over times after their first appearances, as the committee agreed that all matters and output classes regarding their relevant portfolios were dealt with in a respectable timeframe. I am also pleased to inform the Assembly that the conduct of participants improved from last year. I congratulate every member of the committee and those non-committee members who lent their time to put ministers and their departmental staff under such expert scrutiny.

Only one issue of contention was raised by Mr Pratt through the Speaker, that being the issue that was dealt with this morning. I congratulate the ministers and their staff for their conduct throughout the proceedings. If it were not for their cooperation and forthcoming approach, these public hearings and deliberative meetings could have proved to have been an unnecessarily drawn out process.

I can also inform the Assembly that all 441 questions on notice have been answered. I commend the work done by ministers and their departmental staff and thank them for their efforts. This is a positive outcome as I have been advised that questions on notice in the Senate might remain unanswered for a considerable time. I also thank the many interest groups and relevant stakeholders who found the time to address the committee through their submissions and appearances at public hearings. In total there were 32 written submissions with 14 community groups and associations fronting the committee at public hearings.

On 15 and 25 June the committee met with peak organisations, community groups and other relevant stakeholders. While these groups represented a broad cross-section of the community, common concerns regarding the viability of the community sector, housing issues for low income and marginalised groups, and mental health issues were raised with the committee. In the area of community sector viability the ACT government has a stated commitment in the social plan and social compact to assist the disadvantaged members of our community.

This year no issue gained as much attention as last year's *Towards 2020* budget initiative. It was encouraging to see the committee and the community sector allowing

for equal distribution of attention across a broad range of issues. I will briefly outline some of the issues and recommendations arising in the committee's report. In the Treasurer's portfolio there were several recommendations surrounding the reporting of the budget, in particular, triple bottom line principles and budgeting. There were also recommendations regarding cross-jurisdictional travel card concessions, superannuation investment policy and funding towards MusicACT.

The education portfolio was a little less robust than it was last year. When the minister was questioned about how the largest investment in capital works funding by an ACT government would address the gaps and achievement between high and low achieving students from high and low socioeconomic status backgrounds, the minister responded with the following statement:

> Investment in quality infrastructure and quality learning environments had a positive impact on the quality of teaching and learning.

In response the minister also stated:

> A number of researchers—for example, Professor Brian Caldwell and Greg Whitby from the Catholic Education Office—had called for greater investment in school infrastructure to make schools more suitable for teaching and learning in the 21st century.

This is just one example of the many positive responses received by the committee when questioning the minister for education. I believe that this budget has delivered quite well on education. After the committee's inquiries into short-term outcomes from the 2020 initiative, the committee made one recommendation that the Auditor-General investigate whole-of-government economic cost and gains incurred by school closures and amalgamations.

The committee found that the health portfolio warranted only five recommendations. While it is important that the government consider each of these recommendations, it is encouraging to see such a large portfolio as health, under incredible scrutiny, receive so few recommendations. This again demonstrates what a positive budget this is. The affordable housing package gained much interest both from the community and the committee. The community sector welcomed the initiative but also said that the full effects of the affordable housing package would not be felt for some time.

Several recommendations were made in relation to housing and, in particular, security of tenure. The committee recommended that the minister for housing clarify the meaning of the term "security of tenure" and communicate clearly to tenants its implications for their tenancies, ensuring that all tenants are consulted in regard to the changes and no tenant is disadvantaged by that change. This was followed by a recommendation that the government make public any cost-benefit analysis that informed its proposed changes to security of tenure. The committee also recommended that the minister for housing table in the Assembly a biannual report on the progress of major housing projects.

Planning, something about which I believe the Assembly will hear a lot in the next two weeks, was well discussed by the committee. It was pleasing to see Minister Barr, when questioned on planning, providing a high level of detailed responses, having

been appointed only recently. Several recommendations were made. Most notably the committee recommended that the government table in the Assembly a progress report on the processes and timelines leading to the draft variation to the territory plan.

The recommendations that I have mentioned today and the others that are contained in the report are well thought-out, relevant points that the ACT government must consider seriously. I was honoured to have been assigned the task of chairing the Select Committee on Estimates this year and I encourage the government to respond accordingly to the recommendations. In conclusion I thank the committee secretariat. If it were not for their hard work, dedication and patience when dealing with members, ministers and relevant stakeholders this process might well have been extended. Thank you again, Grace Concannon, Sandra Lilburn, Hanna Jaireth, Robina Jaffray and Lydia Chung.

I also thank the staff of Hansard and Communications and the Clerk's office for their guidance and advice throughout the proceedings. A special mention must go to our Assembly attendants who, once again, provided sweet sustenance for afternoon tea and just enough sugar to keep us going into the evening. I commend the report to the Assembly.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (11.36): I also thank fellow members of the committee, committe staff and attendants for what I think was a pretty reasonable effort. Estimates committee hearings are generally a long and laborious process but I think it ran reasonably smoothly apart from a few incidents such as those that were discussed earlier today. I think the committee functioned well. There were a few issues but generally it was a pretty reasonable effort. I commend the chair and my fellow committee members for their dedication and hard work.

The committee's report contains some good recommendations. We would like the government to take into account an additional 100 recommendations, but the report contains some recommendations that the government must act on promptly. Unfortunately, the Committee not only was subjected to what we heard this morning relating to the matter involving Mr Hargreaves; it was also subjected to some other rather bad performances from ministers. I agree with Dr Foskey who said earlier that Mr Corbell and Ms Gallagher did not engage in such tactics.

I believe that ministers need to lift their game. I will refer to a few statements made by the Chief Minister when he was talking about the property council, pretty much on the first day that government ministers attended estimates committee hearings. He said:

> That is extreme and really adds to the lack of credibility which has become a hallmark of the property council. This is a mob with almost nil credibility. The property council, whilst ever they continue to act and behave as a daytime branch of the Liberal Party, have no credibility.

He also said:

> Look, Mr Chair, I am incredibly busy. This is just puerile. This is the usual puerile nonsense from the standing puerile member.

The doozy of all statements is as follows:

> But I find it a bit rich and completely and totally lacking in credibility for any business representative organisation in the ACT, having regard to the strength of this economy and all of the indicators, to whinge about tax rates or levels or its capacity to do business.
>
> The people that have whinged most have been the property council, on behalf of the property sector and business—whinge, whinge, whinge. As soon as the results have been achieved, "Oh, look, now that you have achieved this great result—grab, grab, grab—can we have it? Well, no. You can't.

I find appalling the comments made by the Chief Minister about respected members of our community—organisations that are just doing their job. It shows the Chief Minister's complete arrogance, disdain and bias towards certain areas of our community, which is quite unnacceptable behaviour. These people have a right to put forward their point of view and they should not be abused. I refer, next, to the statements made by Mr Hargreaves. I will not quote some of the statements that have been referred to today, but additional statements come to mind, for example, "Now I can rip into anybody I like." He also said:

> I have been looking forward to it, I have to say, through you Mr Chairman to Dr Foskey, for about two weeks. I have been so looking forward to this I have had sleepless nights.

He also said to my colleague Mrs Burke:

> We don't seem to be speaking the same brand of English. Perhaps you and I could go and have a chat with them about accents.

I will not go into other issues that were dealt with today as they have already been dealt with adequately. But comments like that from government ministers were the unfortunate hallmark of estimates committee hearings this year—clear and unequivocal evidence of the arrogance, hypocrisy, and smug cynicism of this government. People in this city increasingly have come to expect that cynicism and smugness from this government. It is about time that it lifted its game.

The Stanhope government uses smug cynicism to cover up its ineptitude in economic and financial management, its obvious unwillingness, which we again saw today, to be open and accountable, and its abrogation of ministerial responsibility. By doing so it is losing touch with the people of Canberra and it regards them with disdain. This government is a government of waste and wrong priorities.

This year's estimates committee process did much to highlight these failings. I think the estimates committee process has shown people the true colours of this government. What member of this place would treat fellow members in the way in which Mr Hargreaves treated Mrs Burke, Dr Foskey and Mr Pratt? What Chief Minister would accuse the business sector of whinging and grabbing?

What Chief Minister would forget that the business community gives us innovative products and services, gives us employment, and gives the ACT its prosperous

economic base? Through the government's money-grabbing taxes it pays for the government's waste, philosophical whims and wrong priorities. What Chief Minister would accuse the business community of having no credibility when it cannot manage its own finances, when its revenue forecasts are so wrong year after year, when it cries poor and then it is surprised by operating surpluses? That is amazing!

Operating surpluses for 2006-07 were about $200 million more than was forecast some 12 months ago. The government regularly gets its operating surpluses wrong, which is also amazing. That is akin to federal treasurer Peter Costello stating, "I have an extra $12 billion. I did not anticipate that. How about that?" on top of the $10 billion surplus he correctly forecast. The federal treasurer just would not do that and I suspect that governments of any persuasion would not do that.

There is no credibility in a government that does not recognise that the community has given it its operating surpluses—a government that will not then give those surpluses back to the community. This government should know all about whinging and grabbing; it is an expert in both. Last year the government bleated and whinged about Canberra living beyond its means; so it closed schools, shopfronts and libraries and it cut services to the community.

The people of Canberra were rewarded with a statue and a road that blew out the budget fourfold or fivefold and that still is only a single lane. God forbid if a truck broke down on one of those bridges. We have a rock on a post next to the bridge, which is nice, we have a half-baked arboretum and we have a prison that clearly will not deliver budgeted value for the dollar. During the estimates committee process a lot of questions were asked about that. We are now getting an arch or something similar over Northbourne Avenue. This whingeing and grabbing government put up taxes.

Mrs Dunne: It is a $1 million arch. It will be a golden arch.

Mr Mulcahy: It is $1 million arch; it will not be a cheap one.

MR STEFANIAK: It will not be a cheap arch, Richard, it will be a very expensive one. Instead of CPI we found ourselves funding the government's excesses through the wage price index. We even found ourselves funding the government indirectly through increased utility prices due to its utilities tax. We even have a $10 tax on road traffic fines, which at least is going to victims. People have to do something wrong to start with, which is some consolation.

Is it any wonder that the people of Canberra are so frustrated? Even the estimates committee found that the government lacked credibility. What happened earlier today was most unfortunate. I would have liked government members to vote in favour of Mr Pratt's motion. The estimates committee report contains some recommendations on which the whole commitee agreed. It told the government to do certain things and to get its act together. On the first day of sittings the Treasurer attended only after pressure was brought to bear upon him. The committee recommended that in future the Treasurer, whoever that might be, should ensure that he or she attends on the first day of sittings.

The government, on a whim, will change the budget paper presentation format and disclosures so that it is difficult for anyone to make any reasonable comparisons one year to the next. Public servants had difficulty understanding the budget papers. The committee recommended that the budget papers be indexed and that more detailed information be provided in a number of areas. Opposition members made some further recommendations for a basic budget that would enable them to compare one budget with another. In the past we were able to do that with the budget papers but this year everyone experienced some sort of difficulty. It was a bit disconcerting to see that even public servants found it difficult to fathom the budget papers.

This government simply cannot get its revenue forecasting right. The committee recommended that the government give the Assembly regular reports on unbudgeted revenue receipts. That is not a particularly arduous task but it is essential if we are to keep people informed. This government must realise that it cannot keep underestimating its revenue forever; it simply has to get it right.

A bit of flexibility is needed but there really is no excuse for a $200 million surplus that simply was not forecasted 12 months ago. Even a moderately competent government should be able to forecast reasonably what surplus it is likely to get. Despite the government's election promise to implement triple bottom-line reporting, we are still yet to see that. The committee recommended that this be articulated in future and that the Auditor-General review the progress of its implementation.

It appears as though the government has all but abandoned its economic white paper. The committee recommended that the government outline its plans for the major industry groups identified in the paper as being the industries best suited to future business opportunities in the ACT. As I said earlier, I think the committee was very sceptical about the government's claims that the prison will come in on budget. Will it really? Will it deliver the value for the dollar that was anticipated at the time cabinet gave the project the tick? Will we have the budgeted number of beds? Will we have the other facilities, services and resources that were proposed in the original plan?

The committee recommended that the government provide the Assembly with a full report. We need to keep tabs on this and we must hold the government accountable. The government must keep the Assembly and the community informed on this very expensive project, which most people in our communmity believe is unnecessary. The government abandoned tourism for the ACT, which poses real problems. The committee recommended that the government look at re-establishing ACT Tourism as a statutory authority. It is certainly something that the opposition will do if it is returned to government at the end of next year.

I am pleased to see some recommendations relating to sport and recreation. Any government that is moderately serious about trying to counter obesity and a number of other social problems in our community—keeping kids active, keeping kids positively engaged, providing necessary disciplines as people grow up, which is what sport does—must properly fund sport and recreation. The committee made a number of recommendations relating to sportsgrounds and to funding. I will read out those worthwhile recommendations:

> Recommendation 54. The committee recommends that the government agrees to implement strategies jointly with the community to ensure the maintenance of sportsgrounds.
>
> Recommendation 55. The committee recommends that the ACT government provides details of the criteria by which applications for particular sportsgrouds for exemption from stage 4 water restrictions will be assessed.

That is crucial if we are to ensure the watering of as many sportsgrounds as possible. Most importantly, the committee stated:

> Given such problems as obesity and the early onset of diabetes in young people, the commitee is concerned that some grants have been reduced unnecessarily with potentially negative consequences and reduced participation in healthy activity.

The commitee also recommended that the ACT government should agree to reinstate grants for sporting and recreational organisations to the quantum of grants provided in 2005. In other words, the grants are down to about $1.9 million and they should be increased to at least $2.4 million or $2.5 million. Not much money is involved but it will give you a big bang for your buck and make all the difference for hundreds of sporting organisations that provide healthy activity for tens of thousands of Canberrans, and especially young people. If the government wants to save on expenses down the track, investing a little money now in simple things like that will go a long way towards achieving that.

Finally, we also recommended that the government agree to provide a level of financial assistance to Academy of Sport athletes that is appropriate to the circumstance of each athlete. Whilst many of those important recommendations were developed by Liberal committee members, they represent the views of the committee as a whole. I am pleased about that as there are some sensible recommendations. I think even government members of the committee support the recommendations that I read out, in particular those relating to sports. They are commonsense recommendations on which the government should act.

Liberal committee members brought down an additional and dissenting report in which there are about another 100 recommendations. We covered things such as having definable, measurable and benchmark accountability indicators and we recommended that the government table the quarterly capital works report, something that it has refused to do. Other recommendations include reporting to the Assembly on the progress and outcomes of the Shared Services Centre; improving the information made available publicly on environmental flows; providing a clear timetable for the expansion of the ACT's economic base; reporting on the costs of arts grants programs, including the amounts given to artists; more transparency in sponsorship programs for territory-owned corporations; and more positive action in relation to CCTV networks and general security at bus interchanges, which is crucial for public safety.

Other important recommendations include restructuring the ESA; setting up an independent inquiry into FireLink; reporting on school violence and bullying; reporting on the impact of school closures; more transparency for the funding of

non-government schools; better management of public housing debt; restoration and refurbishment of the Albert Hall; reporting on waste in relation to the Belconnen to Civic busway; and releasing documents relating to the indigenous healing farm proposal at Kama where the Chief Minister stepped in very late in the process and about which there are a number of concerns. I will have more to say about that later.

Another important recommendation is that the government table the functional review. It has consistently and belligerently refused to release that report on the spurious grounds that it was a report to cabinet. We made some other sensible recommendations, for example, no longer taxing the club industry as it is really struggling, and giving a commitment that it will not increase taxes for four years, which is sensible. The club industry provides entertainment for tens of thousands of Canberrans at moderate and reasonable rates, and it is an essential part of our community. I commend the report and especially the opposition's dissenting and additional comments.

DR FOSKEY (Molonglo) (11.51): As the member on the estimates committee who does not belong to the opposition or the government, I start by saying that on the whole I found the estimates process this year to be quite a useful process and, general speaking, especially when we got to the deliberative meetings, quite a consensual approach was taken by members. While, of course, the additional comments indicate that quite a lot of recommendations did not get a guernsey, there was still a rather large amount of agreement—something like 66 recommendations agreed to by three different parties and five members.

I want to make some general comments about my approach to this budget and the conclusions that I come to after the estimates process, which gave me and the other members a chance to explore particular issues and details that we were interested in. First of all, I think it is impossible to talk about this year's budget without reference to last year's budget. Last year's budget really dealt a blow to our community and also a blow to trust and faith in a majority Labor government to deliver what people had elected that government to do. It is very clear that last year's budget dealt a lot of blows. I would have thought that the government would have been interested in monitoring the impact of the funding cuts and other decisions that came with last year's budget, and would use this year's budget as a correction, to fix it, to tweak around the edges.

What we know is pretty much anecdotal. As members we hear from constituents or from community organisations. I particularly commend the estimates process this year which, as usual, heard evidence and received the submissions that government took from community organisations prior to the development of the budget. But this year that was included in the estimates report. Normally those things inform members and help us frame our questions, but this year a whole chapter is devoted to the community sector's evidence and submissions. I hope that will be a continuing practice.

It is partly from the evidence from the community organisations that I have come to make my specific recommendations. Remember that a lot of the decisions forecasted by last year's budget did not take place until after the budget, so it was appropriate to monitor them at this year's estimates hearing to see how last year's budget was

tracking. Issues that we looked at included the 2010 education strategy. We know that the decision that was made in December was somewhat different from the plans that were announced in June. However, we never really found out on what basis the decisions were made. The evidence that was presented by the minister last year—and again this year when he was questioned on it—did not go to the heart of the issues that the community and members wanted to know. So we still do not know exactly what are the impacts of those closures.

The Griffith library closure was not even mentioned in last year's budget, though it was obvious that something was afoot with libraries. So that came out of the blue and really devastated a community. I do not think people realise how, in a town like Canberra, things like libraries and schools are so central to our sense of who we are as a community. We have pride in being a community that is interested in learning. We are a highly educated community. Perhaps we will not be if we do not have good, accessible schools and libraries.

The closure of Civic and other shopfronts was another blow that reduced service delivery of the ACT government. Again it is hard to monitor these things when there has been no follow-up research. I ask questions about them, but I would have thought the government would be doing that work anyway. The changes to SAP services indicate reduced service delivery. We were told the changes were intended to make administration more efficient but inevitably there have been reductions in service delivery.

Some advocacy groups on housing have had their funding cut. CHOACT, the community housing organisation of the ACT, does not exist any longer because it could not survive on its funding. Perhaps there were changes to the community housing sector that might have made that organisation less viable. But where is the work that tells us this? The government has accepted that the changes to the bus services were painful for the community so now we are seeing a bit of tightening around the edges, but in the same year that the government produces a climate change strategy, indicating that the problem is so serious it requires government action, I do not know how we can countenance having a bus service that is less than excellent.

So my recommendations are, first of all, I concur with the Liberal opposition that we absolutely must see the report of that function review. How can we measure where we are going if we do not know what was anticipated. What were the objectives of last year's budget cuts? How are we tracking? How does this year's budget address those things? I want to see the work that the government does to measure the impact of the decisions it makes. Spending decisions are the biggest decisions and the most direct way that the government implements what happens in a community. So my second recommendation was that the government conduct a valuation of last year's budget impact on education, government service delivery, SAP services, advocacy and public transport use and release these evaluations publicly so that next year's budget takes them into account.

I said at the outset that I would be looking at this budget from the perspective of how it addresses climate change concerns. I have to say that it failed on that measure. Perhaps most disappointingly, given the rhetoric of the government for the past eight to 10 years now since the government nominally adopted a triple bottom line

approach to government spending, on questioning the officials from Treasury we were not able to inform the committee as to how we would find evidence that a triple bottom line framework had been applied to this budget. We were told it was there but the fact that we could not find it was apparently something to do with our eyes. I do not know.

So the committee as a whole recommended that the framework by which triple bottom line was applied be published in the budget next year. But I go further and say that the ACT government should look at efforts in New Zealand—which is much further on this track than we are—in other countries, and no doubt other states and territories to see how they have developed a bottom line approach, so that we have a proper framework for next year's budget, and so there is evidence that the government takes it seriously. At the moment there is no indication of that whatsoever.

Also, we need an indicator that requires an assessment of the climate change impact of spending allocations—for instance, the school closures. How did that impact on car use, for instance? Did people have to pull out their cars more often? Did bus services respond to funding? I do not know. Does the government know? Climate change is an important thing. We need more than just a strategy. We need to make sure it goes right across government. That is part of a triple bottom line approach.

MRS BURKE (Molonglo) (12.01): Firstly I thank the committee secretariat for all its dedication, commitment and hard work; for the ever-smiling Grace Concannon and the absolute, total diplomacy of Robina Jaffray, ably assisted by Lydia Chung, and of course to other secretariat staff who were involved. I note that Lydia took ill during the process. I hope she is feeling better now. I also thank the community groups and business organisations that not only appeared but spent their time putting forward submissions which, for organisations who are small, does take some effort. So thank you.

We have heard the overview of the estimates committee process from the perspective of the chair, Mr Gentleman. I make one comment at the beginning because it is a curious thing I find. Given this is the government's budget, I find it curious in hindsight that the chair, a Labor MLA, did not recommend that his government's budget be passed. Checking back, I found that it is the second year in a row where this has occurred. I will leave Mr Gentleman to explain that one away.

The deliberative stage of the proceedings saw the committee work professionally yet robustly, as other members have said, to produce the main report. Despite this, of course, there were some areas of disagreement and differing views. Hence the additional and dissenting report from Mr Stefaniak and me. Mr Stefaniak has now given an overview of our dissenting and additional comments along with some 120 recommendations.

As one member of the 2007-08 estimates committee, I was fully engaged with a team of my peers from this place to provide a measure of governance scrutiny on top of the complex process of financial appropriation for the territory. I listened intently to all the evidence presented to the committee. I posed questions and Mr Gentleman was keeping score. I think I must have asked the most, apparently. I do not know if that is still true. I posed many questions to aid my understanding of the facts. Whether I received full and frank answers to my questions was debatable in itself.

However, I also had a team of very dedicated staff conduct a critical analysis of the budgets in my three portfolio areas, particularly, but in others generally, map the forecast benefits of each expenditure line and attempt to find all the new services, benefits and programs that my constituents could plan for from later in 2007. Sadly though, I can report that all this effort has but come to nought. As the member for Molonglo, I am not convinced from the findings of the estimates hearings that the government has the financial credentials to benefit the economy of the ACT. While I would not be so naive as to drop my guard and expect those opposite to admit to sundry economic or political failings and weakness, the clear fact is that the appropriation process is now well out in the public domain. It will be the people of Canberra who will ultimately make up their minds as to the success or failure of the budget which, of course, we will be debating next week.

Also, I found it quite strange and interesting, and I raised this in the committee, that the chair chose not to include certain sections covered in the budget such as a strong emphasis on business and economic development, tourism, sport—things that one would think the government, with a huge fat surplus that we have now, would be forecasting that it would be putting back into the community. But obviously the government is still not keen on focusing on business and economic management.

A year ago Ms Porter, who was then chair, in tabling the 2006-07 estimates report, said things like "Strong and visionary budget", "Permits the government to deliver excellence", "Ongoing commitments to health" and so on. Members on this side of the chamber drew attention to members' incompetence, breach of procedures, ministerial performance, errors in budget papers, lack of key performance indicators and ever-changing budget formats. I repeat that I am talking about last year, but sadly again, despite Ms Porter's undying loyalty to her party and to her leader, I have to ask: what has changed in the past 12 months?

The Westminster conventions that guide this place have clear foundations outlining ministerial conduct, effective performance and probity. Each of us is charged on oath with attending to our duties with diligence. It is this area of ministerial behaviour and conduct which proved to be a major cause for concern in our hearings. It was disappointing that some ministers treated the whole process with arrogant disdain, with one minister going beyond the pale with his unacceptable behaviour. Sadly, that was a repeat performance. It is not something that has just cropped up this year. A couple of ministers refused to answer questions despite the attendance of departmental officials who were very keen and eager to provide any information and advice needed. While some took questions on notice, to date I believe—and we have raised this in our report and I stand corrected—we still do not have the answers or information promised by some ministers. Perhaps they are in the mail.

The estimates hearings reveal that there has been an absence of discernable progress in open and accountable reporting, quality management or strategic planning promised from the members opposite. We will have to go as far back as 2001 when Mr Stanhope made very strong stances on this, as he did in May this year. Openness and accountability do not seem to be gaining much momentum with the Stanhope government. Did the estimates process reveal that this budget will carry the Australian Capital Territory's financial and economic credibility forward to meet the visions and

needs of our community? We will see, will we not? We will turn our attention to the finer details of that next week. Of course, my colleagues and in particular the shadow treasurer will be expanding on these.

As the member for Molonglo and as a committee member, I have not seen from the government and its advisers—and I am not convinced of it—any evidence that an integrated and structured management-directed economic plan exists for the next five years. It seems to be devoid of details for the outyears. I cannot see that members of the government have done anything significant to improve the quality of the business management process attached to the appropriation for financial year 2007-08. I am concerned what effect this failure to lead and manage will have on the reputation of this territory. Regardless of the interjections and protestations of those opposite, I say that the underlying ministerial government leadership to achieve the government outcomes is not evident. The key performance indicators that must be in place to measure the success of the budget are at best significantly flawed or, at worst, simply jargon to mask incompetence.

Lastly there is no evidence that this budget unveils a new vision for the ACT. It seems to reek of a patchwork of dated and failed programs that have been sliced and diced together as a crude attempt to portray this as this government's economic direction. Disappointingly, when the government ran out of hot air it resorted to verbal bullying of committee members and visitors to the committee that any of our electors would regard as shameful schoolyard bully-boy tactics. Of course, it is only due to the government having the numbers that Mr Hargreaves has been let off today, as we have seen in that motion. I have made numerous attempts on the public record to inquire of ministers and advisers—

MR SPEAKER: Order! You should not reflect on a vote of the Assembly.

MRS BURKE: I withdraw the comments, Mr Speaker. I have made numerous attempts on the public record to inquire of ministers and advisers whether the committee could be informed of management actions, measures and plans that demonstrate this government's credentials. At every turn ministers took the easier way out—bluster, denial, outrage, filibuster, and often there was not a plain and direct answer to be had. Not at all helpful! While I acknowledge those contributors who tried to support the estimates process, our dissenting report is a shame file on the capability of this government to act responsibly and honourably.

Our report says it all. We outline how the government failed to hear from ministers how they measure performance and manage it properly; failed to make budgets transparent—the further principles of good governance; failed to provide sufficient fiscal and program detail to permit any, or effective, form of scrutiny; and failed to address high-need and demand issues. Overall the estimates process proved that this government despises having to be held accountable for spending taxpayers' money. That is the bottom line. We commend our additional report to the Assembly along with some 120 recommendations and hope that the government will give a good response to those and to the other recommendations made in the main body of the report.

MR GENTLEMAN (Brindabella) (12.10), in reply: I will just respond quickly to comments from members of the committee. I thank them for their comments today and look forward to the debate next week. But I will comment on the level of submissions by the opposition today. I draw members' attention to page 30 of the additional comments and dissenting report. In discussion of a pool gymnasium the total of the recommendation is that we see the main report. I would like to comment on Mrs Burke's remarks that the chair made no mention of economic management in the report. From page 23 there are nine pages of discussion on economic management. So it is hard to believe that we were in the same room. With that, I thank everybody for their input, especially, as I said at the beginning, the assistance from the secretariat, and look forward to the debate next week.

Question resolved in the affirmative.

Legal Affairs—Standing Committee
Scrutiny report

MR SESELJA (Molonglo): I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 43, dated 13 August 2007, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR SESELJA: Scrutiny Report 43 contains the committee's recommendations on nine bills, nine pieces of subordinate legislation and eight government responses. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Planning and Environment—Standing Committee
Report 28

MR GENTLEMAN (Brindabella) (12.13): I present the following report:

> Planning and Environment—Standing Committee—Report 28—*Variation to the Territory Plan No 276—ANU City West Precinct "The ANU Exchange"*, dated 19 June 2007, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

The city centre is undergoing significant rejuvenation on the back of economic growth, with construction and redevelopment moving forward in leaps and bounds. It is important that City West, in particular the ANU exchange, be involved in this

development while maintaining its cultural, historic and rather diverse nature. This DV 276, if implemented, will enable the development of sites such as cultural centres, shops, eateries, et cetera, within the precinct, consistent with the ANU exchange master plan and implementation plan, the precinct deed between the ACT government and the ANU, and other regulatory requirements.

It is with this in mind that the committee recommends that this proposal, draft variation to the territory plan, proceed. I wish to note several of the recommendations to the Assembly. The committee recommends that the development of section 20 include high-quality landscaping with native trees and plants, which complement those around some ANU buildings on McCoy Circuit and Ellery Crescent, to reinforce the southern gateway to the university.

The committee recommends that the heritage and cultural significance of the ROCKS area be recognised and commemorated in the new development. I should say, I had the opportunity to visit with some of the ROCKS residents in their temporary accommodation just the other week. They all seemed very happy with that temporary accommodation. The committee recommends that the ACT Planning and Land Authority place particular importance on the achievement of active street frontages in the ANU exchange area, with particular reference to University Avenue as the centrepiece of the redevelopment in City West.

The committee recommends that the landscape character of University Avenue be enhanced, forming an extended avenue merging into the main Childers Street entrance to the ANU. In closing, I thank my fellow committee members, Mary Porter and Mr Zed Seselja, and the committee secretary, Hanna Jaireth, for their work on this inquiry. I commend the report to the Assembly.

Question resolved in the affirmative.

Justice and Community Safety Legislation Amendment Bill 2007

Debate resumed from 31 May 2007 on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (12.15): The opposition will be supporting this bill. This is, I think, the 16th in a series started by the previous government to make minor legislative and other non-contentious changes. It is amazing what non-contentious little inaccuracies are picked up in our legislation. We would be hoping to have smaller and smaller JACS bills, but we are not; so there are probably a few more to come yet. The bill introduces a couple of very minor initiatives. The bill amends the Agents Act, the classifications regulations, the Community Title Act, the Crimes Act, the Criminal Code, the Criminal Code regulation, the Human Rights Commission Act, the Victims of Crime (Financial Assistance) Act and other acts with minor amendments which are not contentious.

There are some non-contentious new provisions for the Civil Law (Wrongs) Act enabling the estate of a deceased person who dies from an asbestos-related disease to

claim damages if the claim had been initiated prior to death. That is fair enough. Other provisions will enable an expert, other than an agreed or appointed expert, who has provided a health service for a claimant to give expert medial evidence in the proceeding. Again, that is sensible. Obviously that person would know better than anyone else the health of the claimant.

The provisions will also enable rebuttal of contributory negligence in cases where a person not wearing a seatbelt at the time of a motor vehicle accident was incapable of fastening the seatbelt without assistance. In other words, some person who was disabled could not fasten the seatbelt and obviously could not have contributed to the accident, the accident being no fault of their own. Also, consistent with a national initiative, the provisions set up a scheme that limits the liability of members of trade or professional associations, if the practitioner holds an occupational liability insurance policy that provides at least a minimum of cover set by the scheme. Provisions under the Discrimination Act will allow a discrimination tribunal to refuse to hear, or further hear, a complaint where the applicant has not abided by reasonable tribunal directions, such as attending mediation. Again, that is fair enough.

There are amendments to the Domestic Violence Agencies Act—again non-contentious—to strengthen the skills base of the Domestic Violence Prevention Council, to extend the term of employment of counsellors from two years to three years and to make other minor technical amendments such as the ability for the Attorney-General to get rid of people from it who have criminal records, which I think in the circumstances seems highly desirable. That is, criminal records in relation to indictable offences.

Also, a non-contentious amendment to the Judicial Commissions Act makes proceedings before a commission a proceeding of public concern for the Civil Law (Wrongs) Act and which enables the defence of fair report of proceedings. There are some non-contentious amendments to the Powers of Attorney Act as well as a couple of amendments to the Utilities Act to enable the Essential Services Consumer Council to direct a utility to reduce a charge where there is a complaint that a capital contribution charge imposed by the utility is excessive. The amendment limits the threshold to amounts of up to $10,000. That is deliberately to bring it in line with the small claims jurisdiction. Again that seems quite logical.

So the bill is basically an efficient method of tidying up legislation that requires clarification, correction or consequential amendment. These are relatively minor amendments. Whilst a few do several specific things which are a bit more than we often see in these bills, they are non-contentious. The opposition will be supporting the bill and also a couple of government amendments which again are very minor, fixing up a few words.

To show how people miss these things, I was rather amazed that the standard penalty unit was not described where it should have been, in section 441 of the Crimes Act. The standard penalty unit equals $100. I thought that would have been fairly basic, but I suppose that shows the need for bills like this, to pick up those minor amendments that somehow might get lost in the process. I commend Parliamentary Counsel for its work in relation to this bill, the 16th in the series, and no doubt look forward to No 17 in the not too distant future.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (12.20), in reply: This is the 16th bill in the series of bills dealing with legislation within the justice and community safety portfolio. The bill makes a number of minor and technical amendments to the portfolio legislation. I have circulated four minor technical amendments to the bill which I propose to move in the detail stage.

The bill makes amendments to the Agents Act 2003, Civil Law (Wrongs) Act 2002, Classification (Publications, Films and Computer Games) (Enforcement) Regulation 1995, Community Title Act 2001, Crimes Act 1900, Criminal Code 2002, Criminal Code Regulation 2005, Discrimination Act 1991, Domestic Violence Agencies Act 1986, Human Rights Commission Act 2005, Judicial Commissions Act 1994, Powers of Attorney Act 2006, Utilities Act 2000, Victims of Crimes Act 1994 and Victims of Crime (Financial Assistance) Act 1983. It also repeals the Powers of Attorney Regulation 2007.

Of particular note, as Mr Stefaniak has highlighted, are the amendments to the Civil Law (Wrongs) Act 2002 which provide the courts with the power to award damages for pain and suffering or any physical or mental harm or for the loss of expectation of life, for injuries caused by exposure to asbestos where the person dies after a claim is made but before an award is made. The current law of the ACT excludes the awarding of these types of damages with the result that, where a claimant dies prior to judgement being given, their claim for general damages ceases without any benefit to their estate. This leads the relatives of the person who has died having to seek compensation, which in some circumstances can lead to only modest damages being awarded. The law has caused significant additional anxiety and expense for those who choose to pursue an action in the hope that an award is made before death. In one case in the ACT the final hearing of the court occurred at the claimant's death bed, a circumstance that would have been both intrusive and distressing to all concerned. It is for this reason that the law is being amended.

I have noted the scrutiny committee's comments relating to minor areas in the explanatory statements of the bill. I thank the committee for its response and its comments. The comments have now been addressed in a revised explanatory statement that my department has prepared and I present a copy of the revised explanatory statement.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (12.23): I seek leave to move amendments 1 to 4 circulated in my name together.

Leave granted.

MR CORBELL: I move amendments 1 to 4 circulated in my name together and table a supplementary explanatory statement relating to the amendments *[see schedule 1 at page 1810]*.

I will speak to all four amendments. Clause 1.35 of the Justice and Community Safety Legislation Amendment Bill 2007 removes example 2 from section 12 of the Powers of Attorney Act 2006. Example 2, as it is currently drafted, is inconsistent with another section of the Powers of Attorney Act 2006. However, it has become apparent that it is more appropriate to replace the inconsistent example with a consistent example, rather than removing it altogether. Government amendment 1 will ensure that guidance continues to be provided on the types of health care matters, which a power of attorney may deal with.

Amendment 2 is a consequential amendment complementing government amendment 1. A temporary modification to the Powers of Attorney Act 2006 to replace example 2 in section 12 was achieved by section 4 of the Powers of Attorney Regulation 2007, (No 2). Government amendment 1 makes this temporary modification obsolete. Accordingly, this amendment removes the temporary modification made by the Powers of Attorney Regulation 2007 (No 2) to the Act.

In relation to amendment 3, clause 1.51 of the Justice and Community Safety Legislation Amendment Bill 2007 inserts a new section 206(1) (d) into the Utilities Act 2000. The new section empowers the Essential Services Consumer Council, the ESCC, to make a decision under division 12.3 of the Utilities Act 2000 in relation to a capital contribution charge imposed by a utility which the ESCC is satisfied is excessive. However, it was always intended that the ESCC would only have jurisdiction to issue a direction to reduce the capital contribution charge if the charge was of an amount of not more than $10,000. Accordingly, government amendment 3 clarifies that the ESCC can only make a decision in relation to complaints about an excessive capital contribution charge that is of an amount of not more than $10,000.

Finally, in relation to amendment 4, clause 1.53 of the Justice and Community Safety Legislation Amendment Bill, inserts a new section 209A in the Utilities Act 2000. The new section empowers the ESCC, if satisfied that a capital contribution charge of any amount imposed by a utility is excessive, to give a utility a written direction to reduce the charge to an amount stated in the direction. Again, as it was always only ever intended that the ESCC would have jurisdiction in relation to capital charges of not more than $10,000, the government amendment clarifies the jurisdiction of the ESCC to only issue a direction to reduce the charge where a charge is of an amount of not more than $10,000. I commend the amendments to the Assembly.

Amendments agreed to.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Sitting suspended from 12.27 to 2.30 pm.

Questions without notice
Ministerial code of conduct

MR STEFANIAK: Mr Speaker, my question is to the Chief Minister. Chief Minister, your ministerial code of conduct states:

> All Ministers are to recognise the importance of full and true disclosure and accountability to the Parliament. Under the ACT's Westminster-style system, the Executive Government of the ACT is answerable to the Legislative Assembly and, through it, to the people.

Last year, the estimates committee report stated that "the committee found many of Mr Hargreaves's responses unhelpful to its deliberations in the areas of housing, environment, sustainability and ACTION bus services". This year page 6 of the estimates committee report stated:

> During the hearings of 26 June 2007, the Committee considers that the Minister for Territory and Municipal Services, Mr Hargreaves, failed to act in accordance with the Code of Conduct in his dealings with the Estimates Committee.

Chief Minister, what actions will you take against Mr Hargreaves, under your code of conduct, for his continued failure to meet his responsibilities as a minister?

MR STANHOPE: I thank the Leader of the Opposition for the question. Indeed, the behaviour of all members of the Assembly—as measured against not just necessarily the code of conduct but also indeed other standards that both the Assembly and the community might aspire to or desire—is something that I am sure each of us from time to time reflects upon.

I would suggest that there is not a single member of this Assembly who has not, at some time or stage in their membership, had cause to reflect on his or her particular behaviour—whether in relation to a question answered or a position put, a speech made, a challenge hurled or an accusation made—and has not reflected on whether they might not have done it differently, better or otherwise. That goes for me. I am sure it goes for each of my colleagues and, most assuredly, for the Leader of the Opposition and for each of his colleagues.

We could go through a detailed consideration or assessment of the behaviour of each of us at different times in relation to different incidents. We could each point the finger. We could each cast a stone. We could, of course, reflect on the Leader of the Opposition's brush with the law: his abject journey to the police station to confess to his particular breach of the law in relation to his use of a telephone whilst driving his car. We could do that. We could go through all members of this place one by one if we chose.

In relation to the issue of standards, in relation to the issue of behaviour of each of us, there is occasion from time to time for each of us to reflect on our own behaviour—on the way in which we answer a question or the allegations that we hurl in the hurly-burly, in the heat of the moment, in the cut and thrust of what is essentially at times a hard and emotionally charged business that we are engaged in.

I have spoken with the Minister for Territory and Municipal Services in relation to some of the issues that have been raised. I do have expectations, as does each of us, in relation to codes of conduct and standards of behaviour. But in the context of the performance by Mr Hargreaves as a minister, I stand by him. I stand by his performance as a minister. Indeed, the people of Canberra and in his electorate do in the context of his approval rating—the significant vote that he attracts. I have absolutely no doubt that Mr Hargreaves stands ready to present himself again to the people of Tuggeranong as a candidate for the Legislative Assembly.

I have no doubt that Mr Hargreaves will again—as he has in each of the three elections that he has contested as he put himself before the people of Tuggeranong—receive the same significant level of support that he has received on every occasion he has done the same. That is a test that I have absolutely no doubt that Mr Hargreaves is willing to face: a test in relation to his performance and the assessment by the people of Canberra and the ultimate test of that performance that. Mr Hargreaves is willing to take.

We all from time to time do not achieve in a way that on quiet reflection we would perhaps wish we had. I have had many such moments myself. I do reflect on them. I always seek to do better. I am sure my colleague Mr Hargreaves—and each of my colleagues, indeed—aspires to the same.

MR STEFANIAK: Mr Speaker, I have a supplementary question. I am pleased that you have spoken to Mr Hargreaves, Chief Minister. What further action will you take against him if he continues this performance?

MR STANHOPE: Mr Hargreaves is a very solid and high-performing minister with the strong support of his constituents, his community. I support him and will continue to do so.

Ministerial code of conduct

MR PRATT: My question is to the Minister for Territory and Municipal Services. Minister, the ministerial code of conduct states:

> All Ministers are to recognise the importance of full and true disclosure and accountability to the Parliament. Under the ACT's Westminster-style system, the Executive Government of the ACT is answerable to the Legislative Assembly and, through it, to the people.

Last year the estimates committee report stated:

> The Committee found many of Mr Hargreaves' responses unhelpful to its deliberations in the areas of housing, environment, sustainability and ACTION bus services.

This year, the estimates committee report stated on page 6:

> During the hearings of 26 June 2007, the Committee considers that the Minister for Territory and Municipal Services, Mr Hargreaves, failed to act in accordance with the Code of Conduct in his dealings with the Estimates Committee.

Minister, why have you consistently failed to meet your responsibilities as a minister during hearings of the estimates committee of the Assembly as required by the ministerial code of conduct?

MR HARGREAVES: I think it is timely that a couple of numbers were put on the record. Mr Pratt asserts that I did not answer questions. In fact, the truth of the matter is that there were 44 questions or 44 subjects given to me, and I directly responded to about 36 of them. I took a number of them on notice. All of those questions on notice have been provided to the committee—all of them. It is also worth reporting to the Assembly that in the course of—what was it?—two hours worth of hearings, there were 160 interjections by either Mrs Burke or Mr Pratt.

Mr Stanhope: One hundred and sixty?

MR HARGREAVES: A hundred and sixty. Mr Speaker, it also is worth noting that Mrs Burke, in the course of the hearing, asked me whether I would confirm or deny that I or one of my officers had in fact breached the commonwealth Workplace Relations Act. There was no evidence. I asked her to provide such evidence or withdraw, and neither happened.

That is a breach of standing orders. That is a crystal-clear breach of standing orders. So we looked back at the other transgressions of these two members I have just spoken about—to find that they breached a number of other standing orders in the course of that particular afternoon.

We talk about behaviour, Mr Speaker. I refer members to the transcript where I said:

> I will not put up with badgering of my officers.

That did not come out of the blue. That was in response to badgering. What was the response from the Leader of the Opposition? He referred me to the Senate to get a good idea of how badgering really went on. "Don't be stupid," he said. That was fairly early on in the piece, I should say. But you do not see me coming in here and making a big hullabaloo about it—as indeed with Mr Pratt.

Also, Mr Pratt is saying that he is talking about standards. I have looked at the dissenting report. There is something in there that I think is worth checking. And I will be checking it, Mr Pratt: make no mistake about this. Mr Stefaniak and Mrs Burke have asserted in that dissenting report that the ACT government has not taken up the commonwealth's offer of assistance to put in a low-level bridge at Tharwa. Mr Speaker, no such offer has been received.

You have to ask yourself if there is some part of the parliament that is being misled—and by who? I do not know the answer to that, but let me assure you that I will be checking it. And if I find that members opposite have perhaps suggested something that is totally untrue, I will seek your advice on the next step, Mr Speaker.

I do not believe that what Mr Pratt has to say has any substance to it at all. He suggested earlier on that I refused to provide him with responses in terms of

constituents. Not so, Mr Speaker. I have tabled a letter. I can also table my response to Mr Pratt, which indicates that I required extra information because it was a serious issue—full stop. His assertion is not true at all. If the members so desire, I am very happy to table that letter later today.

Indeed, since that day—which was not all that long ago—I have received correspondence from Mr Pratt. And would you believe it, Mr Speaker: I have responded. I will say this: once he got sprung for actually leading people to certain conclusions, all of a sudden the avalanche of correspondence to my office dried up.

MR PRATT: I have a supplementary question. Minister, why don't you resign for your repeated breaches of the code of conduct and save the Chief Minister the embarrassment of having to sack you?

MR HARGREAVES: I do not think Mr Pratt heard my response to his first question, because he has had his assertions debunked. He does not have a case. What we are seeing here, I am afraid to say, is hysteria instead of substance. In fact, there may be some relevance to the article by Graham Downie in yesterday's *Canberra Times.* I had so much fun reading it. It mentioned those three people who are tired; they are past their use-by date. Maybe this is just a matter of Mr Pratt saying: "Well, I can't do anything about the substance of the estimates, so I'll have a go at the man. I'll take Johnno out of the game." Perhaps that is what it is. I had not realised that Mr Pratt had these sorts of sensitivities, but I will expect them from here on.

If you have a very good look at the transcripts of the estimates committee, you will find that the actual questions asked on budgetary issues were lacking quite substantially. In fact, there was one department which came forth and was questioned, but not one question related to the budget—not one.

Mr Gentleman: Some of mine did.

MR HARGREAVES: I beg your pardon, Mr Gentleman, with the exception of yours. The opposition asked not one question on the budget. When you look at the actual questions that were asked of me in these hearings, you will find that we talked about the Point Hutt Crossing road sign—a very important road safety issue, I recognise. It is also the subject of questions on notice and questions asked in here. But one should have a good look at the actual questions asked. One will see that they lacked substance and any real degree of research. Quite frankly, Mr Pratt, as a visitor to the estimates committee, did not do himself, the committee or this Assembly any favours by attending.

Hospitals—performance

MS MacDONALD: My question is to the Deputy Chief Minister in her capacity as Minister for Health. Minister, could you please update the Assembly on the level of demand being experienced through the health system over the past year, particularly during the recent winter months?

MS GALLAGHER: I thank Ms MacDonald for the question. I am sure that all of us here are aware of the increasing pressures that are being experienced across health

systems, not only in Australia but across the world. Here we are no different. In fact, some of the preliminary figures that we are seeing for the end of the financial year 2006-07 indicate a very clear message, and that is that our hospitals are very busy and are seeing more people than ever but that our system is coping with the demand and that because of injections of funding and strategic planning by the government it has had the capacity to meet that demand. This is particularly so when we look at the last year, but it has certainly been highlighted during this financial year with the increases that we have seen in terms of the winter activity.

Some of the final figures which have been coming out for the last financial year show that our hospitals exceeded inpatient cost weighted separation targets by four per cent, which had already factored in a growth component of three per cent; that removals for elective surgery exceeded the target and resulted in 9,326 people being removed from the elective surgery list—the fourth record year in a row—and that ED presentations were up, to around 100,000 per year.

At the same time some of those key performance measures were heading in the right direction. Access block was down to 29 per cent, which is a decline of four per cent from the previous financial year and a decline of 12 per cent from the year before. The Capital Region Cancer Service, which is also seeing an increased demand for service, saw an 11.5 per cent increase in access to radiation therapy services in the last financial year. In terms of aged care and rehab, inpatient activity is estimated to be five per cent above target.

Another measure of how a health system, particularly in a hospital, is performing is the hospital occupancy rate. In 2006-07, for the fourth quarter, it was down to 91 per cent compared with 97 per cent for the same quarter the previous year, and our ambulance off-stretcher times continue to improve. Mr Speaker, this paints the picture that demand is increasing, certainly ahead of the growth that has been predicted, particularly in acute services, but that the planning that is being done is ensuring that we are able to meet some of that demand.

In terms of the winter pressures that we are seeing, the emergency department, and we will take The Canberra Hospital as example, often sees in excess of 150 presentations every 24 hours. It is a very busy emergency department and certainly the staff there are pulling out all stops to see people in a timely fashion. Winter planning is done each year, and that was certainly in place this year, but I do not think any person who works in the health system across Australia who experiences the same pressures could have anticipated the increased outbreak of particularly influenza and the impact that has had on the hospital.

In relation to staffing issues, our staff are not immune from illnesses and we have seen very high levels of personal leave—sick leave—not only for nurses themselves but also to care for family members who have been sick. That has placed extra pressure on the health system. I am hopeful that we are through the worst of that. It was particularly high during the school holiday period, but we are seeing some slight improvement in that area.

I think the best example of how the hospital is coping was seen on the day that a number of Queensland residents who had fallen ill in Canberra attended our

hospital—on top of the normal workload. We saw an additional 46 people who were managed very well. Sixteen of them were eventually admitted to the paediatric ward at the Canberra Hospital. It was a large and complex exercise in terms of managing a highly infectious illness in a large group of people who were away from their parents—these were 11- and 12-year-olds. I really congratulate the staff, particularly the chief health officer and the deputy chief health officer and their teams, but also the hospital staff who managed that situation and saw those children looked after in a very timely and efficient but very caring way. This was all on top of what was already a very busy day in the hospital.

MR SPEAKER: Do you have a supplementary question, Ms MacDonald?

MS MacDONALD: My supplementary question is: Minister, given this increased demand, will you inform the Assembly what will be the government's priorities in health over the next three years to meet these pressures?

MS GALLAGHER: I thank Ms MacDonald for the question. There is no doubt that this government has made health care a priority. In the last budget of the Liberal government, in 2001-02, the health spending was $480 million—this year's budget will see that investment nearly double—cutting 114 beds. Let's keep going about your performance in health.

Mrs Burke: You wanted him back a minute ago.

MR SPEAKER: Order, Mrs Burke!

MS GALLAGHER: This expenditure will go to over $800 million. This money has been targeted into increasing the capacity of the health system, which was so savagely attacked by those opposite—114 beds removed from the health system between 1996 and 2001-02. We have had to replace all of those beds, and we anticipate by the end of 2008-09 the additional funding provided to the government will provide at least 800 hospital beds.

But ensuring our commitment to quality and service does not end there. It is important that we plan for the future, which is why I recently launched access health, a plan that will help guide us in our planning for future demand increase. Access health is the second ACT government health plan.

Mrs Burke: You have that wrong.

MS GALLAGHER: No, Mrs Burke, you get everything wrong.

MR SPEAKER: I warn you, Mrs Burke.

MS GALLAGHER: You can get on the radio and say this is the sixth or seventh plan, but nobody takes it to the next level. Can you name them all, Mrs Burke? There are none. There are two plans: the health action plan, which was done when the Chief Minister was Minister for Health, and now there is the access health plan. This access health plan focuses on six priority areas which have been identified through public consultation and stakeholder feedback. These priority areas—and those opposite are

not interested in knowing what they are; they do not have a plan for health, they just snipe from the sidelines—are timely access to care, aged care, mental health, chronic disease management, early childhood and vulnerable families, and Aboriginal and Torres Strait Islander health.

One of the first priority areas is improving timely access to care. That is around improving access to elective surgery, which, as I said, we are in our fourth year of record access to, and removals from the elective surgery waiting list. Also, access to cancer treatment; our linear accelerator project is on time, and again that will provide increased capacity and reduce waiting times for those who, in the next few years, are going to need access to radiation treatment.

These priority areas were issues I have taken to the community, that I have had public meetings on. I have engaged with health professionals and stakeholder groups in extensive consultations around these and I have taken all the feedback provided through those to make sure that the access health document reflects what the community is seeking. Further detail sits under the access health document, so people can see what the priority areas are, what we have done and what the plans are for the future, to make sure we are going to be in a position in the next, say, 10 to 15 years to deal with the increases in demand that we are predicting.

This is particularly relevant to aged care, mental health and chronic disease management, because the numbers that are being seen in planning documents will not be able to be managed in a system built as we have now. These are issues we have to have extensive plans around to be able to meet that demand for service.

These are things we will stand by, things we will deliver on, but they are six key priority areas. In all of my consultations with people about access health, I do not think there was any disagreement about these being the key ones that ACT Health needs to plan for. So I look forward to working with health stakeholders, as I do on a number of areas, to implement access health and to make sure that we report against it and that our public reporting of health performance is in line with what access health is seeking to do.

ACTION bus service—security

MR SESELJA: My question is to the minister for transport, Mr Hargreaves. Minister, in May 2007 you agreed that there were serious problems with security at bus interchanges and you stated that you would be moving with urgency to address this, with significant improvements promised by July 2007. Today there are still very few, if any, new CCTV passenger security cameras at all interchanges and there are not—

MR SPEAKER: Mr Seselja, we do not have a minister for transport.

MR SESELJA: I am sorry. My question is to the Minister for Territory and Municipal Services. It relates to transport. Mr Speaker, would you like me to start again?

MR SPEAKER: If you wish.

MR SESELJA: Minister, in May 2007 you agreed that there were serious problems with security at bus interchanges and you stated that you would be moving with urgency to address this, with significant improvements promised by July 2007. Today there are still very few, if any, new CCTV passenger security cameras at all interchanges and there are not sufficient new transport officers added to the evening shifts at all interchanges to improve evening security for staff. Minister, why have you failed in your promise to make significant improvements by July 2007?

MR HARGREAVES: In part, in response to Mr Seselja's question, $445,000 has been provided in the 2007-08 budget to complete the fitting of closed-circuit televisions on all ACTION buses. The matter of closed-circuit televisions is part of the purview of my colleague Mr Corbell and I congratulate him on the things that he has been doing. But I will just go back. We know that CCTV will help to deter violent and criminal activity, provide evidence for the police when incidents occur, and provide ACTION with footage of accidents the front of ACTION buses.

Only today I received an email—I responded to Mrs Dunne's email to me today about a constituent's representations—about a very ugly incident on a bus. I will need to see whether the camera images are sufficient to mount a prosecution. We will be talking to the police to see what action has occurred as a result of that. I did not know at the time I responded to you but I will be taking the matter very seriously.

Mr Pratt: How many cameras did you put in interchanges by July, John?

MR HARGREAVES: Mr Speaker, I am attempting to respond to Mr Seselja. The 54 new Scania buses acquired between 2001 and 2006 are currently fitted with digital CCTV systems. Prior to that, under the original CCTV contract, some 33 buses were fitted with analogue tape CCTV recorders, but they have proven unreliable and need to be replaced. The average cost of the installation is around $5,500 a bus. When we have finished rolling out this program, 342 buses will be equipped with CCTV digital video recorders.

Mr Smyth: Point of order. Under standing order 118A the answer must be concise and confined to the subject matter. The subject was security at interchanges, not CCTV on buses. The minister is avoiding the question. He might stop mumbling so that you can hear him more clearly as well.

MR SPEAKER: Order! There seems to have been a bit of a drift to the right down there—

Mr Seselja: There is nothing wrong with that, Mr Speaker.

MR SPEAKER: away from the microphones. It probably needs correction. It might be helpful for members to position themselves as close as they can to the microphones so that people can hear.

MR HARGREAVES: Okay, Mr Speaker. The buses equipped with the CCTV cameras also show the exterior of the buses. We know that a lot of the incidents happen in and around the buses themselves. I indicated earlier that there were two

parts to this question. The second part is the government's approach to the security at interchanges. We have partnership arrangements with the police, we have beefed up the security at ACTION interchanges with the presence of security officers, and we will—

Mr Pratt: What about your promise to significantly improve security by July?

MR SPEAKER: Order, Mr Pratt! We are having enough difficulty hearing without interjections.

MR HARGREAVES: The security at interchanges is something we are working on together with transport officers, the union, bus drivers and the police. The program is being rolled out. I believe that as at 1 July there was significant improvement in the security at interchanges. I really think we are seeing yet again opposition members pulling out an incident or referring to a particular aspect and asking, "Why haven't you done that by this date?"

A bit of research will reveal that we have. In fact, on many occasions I have stood up in this place and I have indicated the relationships around security at interchanges with the Transport Workers Union and transport officers. But it would appear that those members opposite have not bothered to check the *Hansard*.

Multiculturalism

DR FOSKEY: My question is to the Minister for Multicultural Affairs. It is in regard to the range of activities that go on within the Theo Notaras centre. Could the minister please advise the Assembly why the director of multicultural Aboriginal and Torres Strait Islander affairs has moved into the Theo Notaras Multicultural Centre, the rooms that he and his staff are occupying and the activities that are no longer possible given this reconfiguration in the centre?

MR HARGREAVES: I thank Dr Foskey for the question. You will appreciate, Dr Foskey, that we do not have absolute micro details on these things. But I can tell you this. The Office of Multicultural Affairs was located over in the Rudd Street-Alinga Street area of town. You might recall that; No 12, I think, was the address. It was a fair way from the constituency that it was created to serve, that is, the multicultural community. Its predominant activities are now around the Theo Notaras Multicultural Centre. There are some organisations in the old Griffin Centre, but predominantly it is in the Theo Notaras centre.

I concurred with the proposal to move the director and staff into the centre because I wanted to have those officers that provide the services to the multicultural community to be walking and talking within the community they serve. I was not satisfied that we had optimum consultation and optimum connection with the community.

In relation to what activities will not go on, I really have got no idea because they are there. There was not somebody removed forcibly and thrown onto the street so that this could happen. My understanding—and I could be subject to correction, but I do not think so—is that there were actually some people in the centre who were occupying more space than they actually needed who were quite happy for that change to happen.

I do know that there are some individuals who do not like the idea of the Office of Multicultural Affairs being right there in the centre. Whatever reason they may have, they have not shared it with me.

Mr Mulcahy: Methinks you know.

MR HARGREAVES: They have not shared it with me.

Mr Smyth: Have you asked them?

MR HARGREAVES: I do not know how I could possibly ask. I really do not. I have to say that when it comes to conversations with the multicultural community, I actually have done an enormous amount of that with the forums that I regularly have with the communities. I move within those communities quite regularly and I speak to the leaders of those communities quite regularly.

Indeed, it was just the other day that we had the multicultural youth forum, and an incredibly successful event that was. Where was that? It was in the Theo Notaras Multicultural Centre. I spoke to the next generation of multicultural leaders. Did they express any concern about that? No, they did not say a thing.

By way of letting folks know, Mr Pratt talks about multicultural affairs in his capacity as opposition spokesman. I have not heard back yet, and it may not have crossed Dr Foskey's desk, but I have extended an invitation to both Mr Pratt and Dr Foskey to co-host the breaking of Ramadan during the next wee while. We wanted to have a tripartisan approach to multicultural affairs. Last year Mr Pratt hosted one. I did some work—

Mr Mulcahy: I think he has already got one underway.

MR HARGREAVES: If he has, I wish him all the success in the world with it. That is fantastic. When it comes to multicultural affairs, we are not going to play politics. That is why I have issued the invitation. I will be paying for the event. There will be no charge levied on my fellow Assembly members, but I would seek their acceptance of the invitation to join me in breaking Ramadan with the Islamic community and anyone else that wants to celebrate it.

I am happy to talk to Dr Foskey about this issue if she has specific concerns, but at the moment I can do no more than to tell her that the reason is that I want to have greater connectivity with the multicultural community.

MR SPEAKER: Do you have a supplementary question, Dr Foskey?

DR FOSKEY: Yes, Mr Speaker. How were the views of other occupants of that building sought—for instance, in regard to the loss of the children's room—before the decision to move was made?

MR HARGREAVES: I do not have the details of that process about my person. I am only too pleased to seek that information from the department and bring it back to the chamber as soon as I have it.

Footpaths

MR MULCAHY: My question is to the Minister for Territory and Municipal Services. Minister, as you would be aware, I have received, and subsequently referred to you with a request for action, numerous requests for the installation of footpaths in older, established suburbs of Canberra like Campbell. Although you have considered and replied to my representations, many streets in these suburbs are still without footpaths. How can the government justify prioritising a $1 million iconic gateway over infrastructure of this nature in the ACT's established suburbs?

MR HARGREAVES: There are two parts to that question. I can certainly answer one of them. The government has a priority program for the provision of footpaths. It does technical investigations in areas for which we have received requests to have footpaths installed. We look at them; then we look at the ongoing budget provided to do that.

It is interesting that Mr Mulcahy does not say that it was this government that actually built those suburbs without the footpath in them. I have a funny feeling that that was a bit before the Stanhope government came to power. However, we have a program of footpath maintenance and all that sort of thing. We also look at requests to put in footpaths where they have not been provided before and where they can be justified on a priority basis. With the areas that Mr Mulcahy has indicated to me so far—unless I am very badly mistaken, and I do not think so—we have had those areas checked out and where they are justified in the view of our traffic engineers we have said, "Okay, but they will have to go on the list." They are on the list, and they will get done when eventually the funds become available.

What Mr Mulcahy has done, however, is draw an interesting parallel: why don't you take money for this project and put it into that project? All that really does is indicate to me that Mr Mulcahy, as the shadow Treasury spokesman, is prepared to hypothecate certain funds for certain issues. He is indicating his priorities to us. He is saying that his priority is to take money from here and put it over there. He does not acknowledge the fact that if one project does not go ahead the money goes into consolidated revenue and then is used on the priorities of the government of the day.

You could easily ask, "Why don't you use that money for a teacher or a nurse?" You could easily ask that question. That would be just as silly as the first one. There is no relationship. What we are seeing from the shadow minister for the arts, I believe—are you still that?

Mr Mulcahy: Yes, I've still got that one.

MR HARGREAVES: Good. What he is doing is denigrating the provision of public art in this town. What he is saying is: "Let's not go down to have some iconic public art; let's just forget it. Let's forget it." The arts spokesman is saying, "Chief Minister, you have an intention to provide a piece of iconic public art but the Liberal Party does not agree with that." They would rather have nothing. They would rather have nothing. Where were the congratulations from those opposite with the Chief Minister's per cent for public art program? Where were they? One is tempted to think that perhaps it was spray-painted by Mr Pratt on a graffiti wall somewhere. No? I cannot find it.

Mr Pratt: It might just match the Grassby statue.

MR SPEAKER: Order, Mr Pratt!

MR HARGREAVES: Try as hard as I can, I cannot find the congratulations on the Chief Minister's per cent for art. I cannot find any statements from the arts spokesman over there about the provision of public art. I do not see any congratulations from those opposite on the panel who will choose the public art—illustrious members of our community, Sir William Deane amongst them.

Mrs Dunne: Did you choose the rock on the stick, Johnno?

MR SPEAKER: Order, Mrs Dunne!

Mr Stefaniak: I thought the builders put it up.

MR SPEAKER: Order, Mr Stefaniak!

MR HARGREAVES: I am trying not to respond to interjections, as you well know, Mr Speaker, but this is the reason why Mr Mulcahy is the shadow arts person—because Mrs Dunne cannot tell the difference between a rock and a pear. I have to ask you, Mr Speaker: do they have pears in their heads? No, they do not have pears in their heads.

Members interjecting—

MR SPEAKER: Order! Come back to the subject matter of the question. Members of the opposition, cease interjecting.

MR HARGREAVES: Mr Speaker, there is no connection between the two.

MR SPEAKER: Is there a supplementary question?

MR MULCAHY: Yes, Mr Speaker. Let us go back to basics, minister. When, for example, can the residents of Rosenthal Street, Campbell, expect to see a footpath in their street?

MR HARGREAVES: When their turn comes on the priority list.

Library services

MRS DUNNE: My question is to the Minister for Territory and Municipal Services and relates to an answer that he gave during estimates in relation to the Griffith library. In the course of that answer, Mr Hargreaves said, in relation to a constituent:

> I haven't been listening for example to the lady who was cranking up our good selves on such things—

that is, the Griffith library—

> when she herself, purporting to be a library member, had not been a library member for two years prior to the event.

Minister, how did you find out about this lady's membership status in the library and why did you decide to make it public knowledge during the estimates process? Did you breach the Privacy Act in finding out the lady's membership status and making it public?

MR HARGREAVES: No, I did not. The information came to me from a member of the public who was also a member of the library. Mr Speaker, you will notice that I did not name that particular person in the answer I gave to the question asked during estimates. That would have been, I believe, a breach of privacy. There were probably three or four people in the demonstration outside the Griffith library who were assisting Mr Pratt and Mrs Burke at the time and it could have been any one of those three or four. But I did not disclose which one it was.

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

MRS DUNNE: Minister, can you guarantee to this place that no member of the library service interrogated this person's library status and passed that information on to you or that you did not check after this so-called tip-off from a member of the public?

MR HARGREAVES: To the best of my recollection, no.

Planning—sustainability

MR GENTLEMAN: My question is directed to the Minister for Planning. Minister, can you advise the Assembly on how the partnership between the ACT government and CSIRO will promote sustainability?

MR BARR: I thank Mr Gentleman for his longstanding interest in sustainability issues. I particularly note Mr Gentleman's interest in matters of sustainability and his commitment to working here in the Assembly to further sustainability issues in our community.

It is clear that sustainability is crucial to Canberra's future and is, indeed, integral to the government's vision for the territory. Because the government is committed to sustainability, we are embarking on an exciting partnership with the CSIRO to develop the East Lake precinct. This project will involve leading edge science, innovative thinking and partnerships with nationally recognised organisations. For the benefit of those opposite, I believe that this project will be an example to the rest of Australia about best practice in sustainable development.

The Canberra spatial plan identified the East Lake precinct as an area for urban renewal and intensification. Members would be aware that the precinct includes parts of Griffith, Kingston and Fyshwick. This area was identified because of its strategic

location within inner urban Canberra, its proximity to employment and to major transport routes, and, of course, the ecologically significant Jerrabomberra wetlands. It is also an area with a strong sense of history and connection to Canberra's past.

The government believes that the East Lake precinct provides many opportunities for innovation. We have backed up this belief with funding in this year's budget. This funding will establish a partnership with the CSIRO to make East Lake a national example of sustainable urban development. The planning and land authority, the office of sustainability and the CSIRO are currently formalising this partnership. As a national leader in sustainability and innovation, the CSIRO will contribute to the achievement of the government's overall vision of a sustainable national capital.

The East Lake project will embrace social, economic and environmental sustainability principles, techniques and practices. It will make use of national and local expertise to realise a showcase sustainability project. The project will improve our understandings about sustainable development in the ACT. However, its impact will be much wider than that. The knowledge generated through this project will be applied across the country. It will lead to new technologies and techniques being applied to other such precincts not only in the ACT but elsewhere in the country. I believe it will set new standards for integrating our urban environment with our natural environment.

ACTPLA has completed a number of studies to prepare for the development of the East Lake precinct. These studies confirm that there is considerable potential for increased residential and mixed use development. The East Lake draft planning report will be released for public consultation in the coming months. The report represents a summary of the site investigations and studies carried out to date.

The report identifies a number of key planning issues. These include the future of rail infrastructure, the protection and enhancement of the Jerrabomberra wetlands, and the potential impacts on the residents and businesses of the Causeway. I note the recommendations of the estimates committee in relation to this development. I thank the committee for its interest and consideration in the project.

The report also sets out a vision for incremental development in the area, including opportunities for new residential, commercial and clean industrial activities. It is anticipated that about 9,000 people could eventually live in the East Lake area. The government believes that the precinct can become a lively high-density urban community and an Australian showcase for sustainable development incorporating public housing and community housing as well as private housing.

The government is committed to fostering the social, environmental and economic sustainability of the territory. Projects such as that proposed for East Lake serve as examples of what is possible in setting new benchmarks for urban development. The East Lake precinct will be an example to the rest of the country. The commitment of all the parties involved and their willingness to innovate will deliver social, economic and environmental benefits to the current generation of Canberrans and the generations that will follow us.

Taxis—services

MR SMYTH: My question is also to the Minister for Territory and Municipal Services, Mr Hargreaves. Minister, you backed the formation of a new taxi company in an attempt to create another competitive player in the ACT taxi industry in support of your stated vision to deregulate this industry. The situation in the ACT now, for residents and visitors alike, is that taxi services have deteriorated even further, with 30 per cent of new leased plate owners having returned their plates and ACT residents, particularly those who are confined to wheelchairs, having been further disadvantaged. Minister, on what basis and with what advice did you decide to introduce a new taxi operator to the ACT?

MR HARGREAVES: Sometimes I wish Mr Smyth would actually quote his sources because I do not recall saying that I wanted a totally deregulated industry.

Mrs Dunne: We can't hear you.

MR HARGREAVES: I will say it again.

Mr Smyth: Don't be shy.

MR HARGREAVES: You know how sensitive I am.

Mr Corbell: A wilting violet.

MR HARGREAVES: A wilting violet; not shrinking but wilting. I do not recall ever saying that I wanted to totally deregulate the taxi industry. However, Mr Smyth is quite happy to ascribe that comment to me without sourcing it and without verifying it. Therefore, as such, you need to suspect every other assertion he has in his question.

Mr Smyth: Point of order. Standing order 118B states that the minister cannot argue the answer. I did not use the word "totally" and he cannot put it in my mouth. He must answer the question.

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

MR HARGREAVES: He talks about 30 per cent of the plates being put back. I do not believe that 30 per cent of the plates are being surrendered.

Mr Pratt: Go and talk to the taxi industry leaders for a change.

MR SPEAKER: Order, Mr Pratt!

MR HARGREAVES: This government did not introduce a voice-operated booking system that so badly failed the people of Canberra. This government did not split the taxi service into three different parts to put three different classes of traveller into the taxi industry. But it was this government that was sensitive to the needs of the disabled travelling public, having its taskforce chaired by Mr Wallace, chairman of the Disability Advisory Council.

If my memory serves me correctly, that resulted in 47 recommendations. The government accepted all 47 recommendations and offered Aerial Consolidated taxis $100,000 to micro-manage the system. It rejected the government's offer of $100,000 for the system and nothing happened. I am accused, somehow, of manufacturing a second taxi network.

There has never been a barrier in this town for another network to set up. It was the choice of the drivers—it was not my choice—and the people who accredited themselves with that network. I am pleased to see two taxi systems in Canberra. They need to do a bit of extra work to get some more taxis on the road; otherwise I will put out more plates. I will. We are now hearing them say, "Oh dear, there are not enough drivers." If they paid them a decent wage they might find that people were more likely to take up that profession.

Mr Smyth asked me a question about a system involving two private companies in a private marketplace. The government's role is only that of regulation; it does not run taxi services and it never has. If the health of the taxi industry in this town is not good it behoves those people in that marketplace to fix their own outcome. They should not expect me to have to fix it for them.

Mr Pratt: Why don't you listen to the taxi industry leaders?

MR SPEAKER: Order, Mr Pratt.

MR SMYTH: I ask a supplementary question. Given the minister's answer, I ask again: On what basis and with what advice did you decide to introduce a new taxi operator to the ACT? What contingency planning have you undertaken to respond to the continued problems with the new taxi operator?

MR HARGREAVES: It was not my decision to introduce a new taxi network; it was the decision of Cab Express to become accredited with the RTA. It became accredited with the RTA. I am at a bit of a loss to second-guess Mr Smyth on what he wants us to do by way of a contingency plan. Presumably he wants us to take up a government taxi service. Somehow I do not think we will do that. Earlier Mr Pratt interjected and asked me why I did not talk to taxi industry leaders. He went to the newspapers—

MR SPEAKER: Never mind that. Just deal with Mr Smyth's question.

MR HARGREAVES: This is relevant to Mr Smyth's point because it relates to contingency planning. He stated in the newspapers that I have not spoken with the taxi companies.

Mr Pratt: Correct.

MR HARGREAVES: On the 12th of this month, or thereabouts, I had a meeting in my office with the principal—

Mr Smyth: What date—12 July?

MR HARGREAVES: I will get the dates if people want them. I had a meeting with Mr Bramston, Mr Tam and Mr Wassell and we talked about two issues. The first issue related to wheelchair accessible taxis and the second issue related to how to go forward on general taxis. Mr Pratt is giggling away but he falsely accused me of not meeting with the industry. In fact, I put out a press release indicating the times and the dates of that meeting.

The contingency plan is that the government will make sure that nothing in the legislation or the regulations gets in the way of a healthy taxi industry. I will not go around baling people out if they go down.

Mr Pratt: Nobody is asking you to.

MR HARGREAVES: There are plenty of opportunities out there. But again, it is not up to us to do anything other than regulate this industry. Let me respond to Mr Smyth's question about a contingency plan. I have had discussions in my office with Mr Tam, Mr Bramston and Mr Wassell in my office.

Mr Pratt interjecting—

MR SPEAKER: Order, Mr Pratt!

MR HARGREAVES: Mr Pratt is interjecting possibly because he was not invited to the meeting.

Mr Barr: He should quit and run a taxi company.

MR HARGREAVES: Go and run a taxi company!

Minister for Territory and Municipal Services

MRS BURKE: My question is to the Minister for Territory and Municipal Services. His career as a minister has been a litany of failure and poor decisions. For example, he has had responsibility for the inordinate delay of Tharwa bridge, cycle lanes, GDE, poor maintenance of roads, poor maintenance of infrastructure such as drains, bus and bus interchange security, the FireLink fiasco, cuts to bus services, the closure of the Griffith library, the closure of the Civic shopfront, his appalling performance at estimates, the end of MACMA, slow progress in housing developments, a lack of consultation with the community and the decline in affordable housing. Minister, why does everything you touch turn into a management disaster?

MR HARGREAVES: It is very difficult to know how to answer that question. The reason I am having difficult is that I was waiting to find out that I was responsible for the drought, for the stock market going down and perhaps there will be a tsunami next week for which I am responsible. I reject all of those assertions of Mrs Burke.

One that comes to mind is slow progress in housing. We have completely revitalised the whole of the social housing system in the ACT. We have put millions of dollars into the sector. We have cut the waiting times down now to embarrassingly low

figures for Mrs Burke, and she has the temerity to talk about behaviour. An examination of the estimates committee transcript reveals some pretty nasty pieces of work from Mrs Burke.

Mrs Burke: Point of order, Mr Speaker. Mr Hargraves can wax lyrical about this. My question was why does everything he touches turn into a management disaster?

MR HARGREAVES: I do not see the management disaster with the GDE, which will be delivered on time and on budget. I do not see the issue with the Tharwa bridge. I do not see that at all. That work proceeds. I do not see any difficulty around that. It is really difficult. I just think that what Mrs Burke says has absolutely no ring of truth about it. It is a waste of time talking to her.

MR SPEAKER: A supplementary question, Mrs Burke?

MRS BURKE: Minister, why have you failed to learn from your mistakes?

MR HARGREAVES: When I saw the chortling of those opposite I was reminded of a carnival and I was reminded of those little clowns that go like this with their mouths open, wishing to heavens I had a bunch of table tennis balls to pop in them.

MR SPEAKER: Order! The minister will come to the subject matter of the question.

MR HARGREAVES: If I have one failing I confess to now, I have not learned from the mistakes that Mrs Burke has pointed out because so far she has not indicated to me any failings that we have had.

Public housing

MS PORTER: My question is to the Minister for Housing. Minister, housing affordability is recognised by all Australian governments as a major issue throughout the country. What is the role of social housing in addressing the current problems with housing affordability in the ACT?

MR HARGREAVES: I thank Ms Porter for the question. I was wondering when I was going to get asked a question.

The government's affordable housing strategy has moved to substantially strengthen the provision of community housing in the ACT. In particular, Community Housing Canberra has been identified to play a central role in the delivery of affordable housing in the ACT. This could be a response to Mrs Burke's previous question, couldn't it?

CHC, which was first established in 1998, has a strong track record in delivering housing projects in greenfields and urban redevelopment areas. They currently provide housing and tenancy management for a mixture of rebated renters and people on moderate to low incomes who do not meet public housing eligibility criteria. These changes, anticipated in the affordable housing strategy, will see CHC continuing to provide for rebated renters, but also significantly expand their role in the provision of affordable housing, both for purchase and rental.

The key provisions of the strategy in this regard include an injection of equity of $40 million through the transfer of title of 135 properties, 132 of which are already under CHC's control by way of a 20-year lease; the provision of land at market prices to enable CHC to increase the supply of dwellings; a revolving $50 million loan facility at government borrowing rates to support growth in the sector; the provision of $3.2 million capital to forward future developments and joint ventures; and transitional payments of up to $250,000 per year for three years. It does not sound like we are not doing much, does it? Mrs Burke has gone awfully quiet. Perhaps she is taking notes.

In addition to this, as I indicated, Housing ACT has transferred the titles of 132 properties to CHC under the 20-year lease. The transfer of these titles enables CHC to use them as equity or to trade the stock in order to meet growth targets established by government. Community Housing Canberra will use the equity, access to land and access to funds to develop 500 affordable dwellings over the next five years, increasing to more than 1,100 over the next 10 years. Those figures are worth repeating. There will be 500 affordable dwellings over the next five years, increasing to more than 1,100 over the next 10 years. Of these, Community Housing Canberra will retain around 250 dwellings for rental over five years, increasing to 470 over 10 years. The remaining dwellings will be sold to fund future developments by Community Housing Canberra and will add to the overall stock of affordable housing.

The governance of CHC and the achievements of these targets will be managed by a range of mechanisms that the government will move to introduce over the next six months. They include a regulatory framework in the form of legislation consistent with the national regulatory framework being developed under the auspices of national housing ministers; the appointment of three government members to the CHC board for an initial period; the loan agreement for the revolving finance facility through ACT Treasury; a deed for the transfer of the 132 properties; and the contract for the provision of the transitional funding.

Mr Speaker, you can see from these initiatives that the government is taking vigorous and groundbreaking steps to broaden community housing's contribution to housing affordability in the ACT.

MR SPEAKER: Is there a supplementary question?

MS PORTER: Minister, do these changes meet the ACT's obligations under the commonwealth-state housing agreement?

MR HARGREAVES: I thank Ms Porter for the supplementary question. Principle 11 of the commonwealth-state housing agreement explicitly calls for a comprehensive approach to the provision of affordable housing across all levels of government. The agreement also makes specific provision for the establishment and maintenance of viable community housing providers, such as in the case of the ACT, Community Housing Canberra, and the provision of funds or the transfer of assets to non-government organisations and local government for the purpose of providing housing assistance.

The ACT government's initiatives relating to CHC are entirely consistent with the current CSHA. Moreover, the approach being taken by the government reflects the work that has been done on a national basis, with the agreement of all housing ministers—and, incidentally, the commonwealth does not have a housing minister—

Mr Corbell: Shame!

MR HARGREAVES: Yes, more is the pity. As I was saying, there has been agreement of all housing ministers to implement a framework for affordable housing in the lead-up to the renegotiation of a new national housing agreement. In doing so, this government, unlike the commonwealth, recognises the balance between the social priorities and the bricks and mortar outcomes of social housing in the community.

The Stanhope Labor government has demonstrated its unwavering commitment to public and community housing through the investment of significant funds and the implementation of a series of reforms to public housing which ensure that public housing is directed to those people in our community who are most in need. We have invested $30 million over three years to increase public housing stock; as was mentioned earlier, we have transferred $40 million to Community Housing Canberra in head leases to show confidence in the community housing sector; and we have provided $50 million in revolving credit to grow the community housing sector by nearly 100 per cent.

Our commitment stands in stark contrast to that of the commonwealth government, which has shown nothing but disdain for the delivery of public housing across Australia. This is demonstrated by the announcement by the commonwealth minister for families and community services, Mal Brough, in July 2007 that tenders would be invited from the private sector, the not-for-profit sector and builders to compete for the commonwealth-state housing agreement funds that are currently paid to state and territory governments for the provision of social housing.

This announcement flies in the face of the undertaking by Mr Brough's junior minister, Nigel Scullion, at the meeting of all housing ministers in Darwin in early July that he would work with the states and territories on a new agreement. Indeed, negotiations for the new 2008 CSHA had already commenced in good faith between the states and territories and the Australian government to determine the future directions for the agreement.

The states and territories have developed a six-point plan as the basis for negotiating the 2008 CSHA. The six-point plan included proposals to increase the supply of social housing and affordable housing and also to ensure the sustainability of the existing social housing system.

If the commonwealth is going to focus simply on the issue of increasing stock numbers, there is a real risk to the capacity of states and territories to support public housing. Whilst it is true that the Australian government provides a significant amount to fund public housing—17 per cent or just over $18 million—through its grants under the CSHA, most of the funding for public housing comes from the rent from public housing tenants—64 per cent of it.

Our capacity to raise funds from rents is curtailed because most of our tenants are on very low incomes, largely confined to Centrelink benefits, which means that the rebates are high and therefore less rent is generated to sustain our public housing. The commonwealth government knows this because an objective of the CSHA is to ensure that public housing support is provided to our most needy.

During the last 12 months we have introduced new measures to strengthen our targeting to tenants with high and complex needs. This means that tenancy management and support costs to manage and sustain these tenancies are high and increasing, whilst at the same time tenants with high and complex needs and with low incomes are less able to maintain their property; therefore costs are expected to increase in future.

Clearly, the loss of all or part of the CSHA funding would impact upon service delivery of social housing in the territory because the combination of higher costs and lower rents, particularly from the effects of tighter targeting, has constrained the ability of public housing to grow organically without further injections of funding from government.

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

Speaker's ruling

MR PRATT (Brindabella): Mr Speaker, I seek your advice on a particular matter, and that is the convention of ministers and MLAs, indeed, all of us, not wishing to mislead the Assembly. Could I seek your advice on the answer provided by Mr Hargreaves to the effect that the Gungahlin Drive extension is well managed, et cetera? In fact, it was two years late and $76 million over budget. Would you like to advise him that he might wish to withdraw that statement?

MR SPEAKER: Order! I think you are trying to start a debate on a particular matter. You do not need my advice on that matter.

MR PRATT: I am just seeking your advice, Mr Speaker.

MR SPEAKER: You do not need my advice. It is a matter for the Assembly to deal with, if it so wishes.

MR PRATT: Thank you, Mr Speaker.

MR SPEAKER: It would need, therefore, to be pursued with a motion of some sort.

Papers

Mr Speaker presented the following papers:

Auditor-General Act—Auditor-General's Reports—

No 2/2007—Agency Implementation of Audit Recommendations—

Report, dated 14 June 2007, including a corrigendum.

Corrigendum.

No 3/2007—Collection of fees and fines, dated 25 June 2007.

No 4/2007—Regulation of ACT Liquor Licences, dated 28 June 2007.

Workplace laws and possible breach of the Building and Construction National Code—Resolution of the Assembly of 7 March 2007—

Letter to the Speaker from the Chief Minister, dated 16 April 2007.

Letter to the Australian Building and Construction Commissioner from the Chief Minister, dated 16 April 2007.

Letter to the Chief Minister from the Acting Australian Building and Construction Commissioner, dated 24 April 2007.

Letter to the Chief Minister from the Deputy Commissioner, Australian Building and Construction Commissioner, dated 14 May 2007.

Letter to the Speaker from the Chief Minister, dated 7 June 2007.

Study trips—Reports by—

Dr Foskey MLA—Governments and Communities in Partnership Conference—Melbourne, 25-27 September 2006.

Dr Foskey MLA—New Zealand Government's sustainability policy and its implementation and discussions with New Zealand Greens—Wellington, 27 to 30 July 2007.

Mr Gentleman MLA—Germany, Greece and Turkey, 13-29 April 2007.

Mr Mulcahy MLA—The Menzies Research Centre State Policy Conference—Sydney, 1 June 2007.

Mr Pratt MLA—United States of America, United Kingdom and United Arab Emirates, 15 December 2006 to 13 January 2007.

Committee reports—Schedule of Government responses, dated August 2007.

Executive contracts
Papers and statement by minister

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts): For the information of members, I present the following papers:

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

Contract variations:

Anne Glover (3), dated 24 and 27 April, 31 May and 5 June and 22 and 29 June 2007.
Anthony Gill, dated 10 July 2007.
Anthony Polinelli, dated 21 June 2007.
Conrad Barr, dated 29 June 2007.
David Dutton, dated 24 April and 1 May 2007.
Derek Jory (2), dated 31 May and 5 June and 22 and 26 June 2007.
Floyd Matthew Kennedy (2), dated 14 and 15 June and 10 July 2007.
Grant Carey-Ide, dated 5 and 7 June 2007.
Greg Kent, dated 29 June 2007.
Hamish Murray McNulty, dated 28 June 2007.
Ian Hickson, dated 9 and 11 July 2007.
Ian Hill.

Irene McKinnon (2), dated 25 May and 26 June 2007.
John Stanwell, dated 9 July 2007.
Kenneth Douglas, dated 28 July 2007.
Linda Trompf, dated 5 June 2007.
Lisa Holmes, dated 20 June 2007.
Maxine Cooper, dated 13 July 2007.
Megan Smithies, dated 19 June 2007.
Michael Vanderheide, dated 14 June 2007.
Neil Brian Bulless, dated 14 June 2007.
Nina Churchward, dated 28 June 2007.
Pamela Davoren (2), dated 21 June and 5 July 2007.
Philip Dorling, dated 21 and 22 June 2007.
Philip Mitchell, dated 18 July 2007.
Robert Wayne Neil, dated 8 June 2007.
Rosemary Kennedy (2), dated 21 June and 4 and 6 July 2007.

Long-term contracts:

Adam Stankevicius, dated 13 July 2007.
Jeremy Lasek, dated 28 June 2007.
Paul Ayers, dated 11 May and 11 July 2007.
Renee Leon, dated 19 July 2007.
Tony Sadler, dated 10 May 2007.

Short-term contracts:

Anthony Gill, dated 14 and 16 May 2007.
Beverley Gow-Wilson, dated 5 June 2007.
Conrad Barr, dated 9 March 2007.
Craig John Simmons, dated June 2007.
Danielle Krajina (2), dated 3 April and 6 and 8 June 2007.
David Dawes, dated 30 April 2007.
Edith Margaret Hunt, dated 28 June 2007.
Ian Cox, dated 28 June 2007.
Ian Kenneth Hickson, dated 14 and 16 May 2007.
Jocelyn Vasey, dated 27 May 2007.
John Paget, dated 29 June 2007.
Jon Quiggin, dated 14 June 2007.
Kenneth Douglas, dated 14 May 2007.
Maxine Cooper, dated 31 May 2007.
Neale Guthrie, dated 21 June 2007.
Phillip Tardif, dated 21 June 2007.
Ronald Edward Foster, dated 16 May 2007.
Russell Watkinson, dated 21 and 22 June 2007.
Stuart Friend, dated 10 July 2007.
Tracy Hicks, dated 21 June 2007.

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

Leave granted.

MR STANHOPE: Mr Speaker, I present another set of executive contracts. These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. The contracts were previously tabled on 29 May 2007. Today I present five

long-term contracts, 21 short-term contracts and 34 contract variations. The details will be circulated to members.

Papers

Mr Stanhope presented the following papers:

Remuneration Tribunal Act, pursuant to subsection 12 (2)—Determinations, together with statements for:

Chief Executives and Executives—Determination 5 of 2007, dated 8 June 2007.

Chief Magistrate, Magistrates and Special Magistrates—Determination 8 of 2007, dated 8 June 2007.

Children and Young People Official Visitor—Determination 14 of 2007, dated 31 July 2007.

Clerk of the Legislative Assembly—Determination 12 of 2007, dated 7 August 2007.

Full-time Holders of Public Office—Determination 6 of 2007, dated 8 June 2007.

Master of the Supreme Court—Determination 7 of 2007, dated 8 June 2007.

Members of the ACT Legislative Assembly—

Determination 4 of 2007, dated 8 June 2007.

Determination 13 of 2007, dated 7 August 2007.

Part-time Holders of Public Office—

Commissioner for Surveys—Determination 11 of 2007, dated 8 June 2007.

Determination 10 of 2007, dated 8 June 2007.

President of the Administrative Appeals Tribunal—Determination 9 of 2007, dated 8 June 2007.

Annual report directions
Papers and statement by minister

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts): For the information of members, I present the following papers:

Annual Reports (Government Agencies) Act—Annual Report (Government Agencies) Notice 2007—Notifiable Instrument NI2007-206, dated 12 July 2007, including a copy of the Chief Minister's 2006-2007 Annual Report Directions, a Declaration of Minister for a public authority and a Declaration of public authority.

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

Leave granted.

MR STANHOPE: This instrument is issued in accordance with the Annual Reports (Government Agencies) Act 2004 and provides the framework for the preparation of 2006-07 annual reports. The instrument includes the annual reports directions for this reporting year. Under the act, this instrument must be tabled, although it is not disallowable. The instrument is notifiable under the Legislation Act 2001.

The annual reports directions were provided to the Standing Committee on Public Accounts for consultation. The chair advised on 26 June 2006 that the committee had considered the draft directions and that it had no comments. I have written to the committee thanking them for their advice.

The annual reports directions require responsible ministers to provide reports to the Speaker, who in turn is required under the act to provide them to the members of the Legislative Assembly. This must occur before the end of September. Annual reports will also be made publicly available at this stage.

Under the act, I may declare a day before the end of September on which reports are to be presented to the ministers by reporting entities. To facilitate provision of reports, I propose to declare the date of 25 September 2007 by which reports must be provided to ministers. All reports must include audited financial statements and performance statements when presented.

Paper

Mr Stanhope presented the following paper:

> Financial Management Act, pursuant to section 26—Consolidated Financial Report for the financial quarter and year-to-date ending 30 June 2007.

Financial Management Act—Treasurer's advance
Papers and statement by minister

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts): For the information of members, I present the following papers:

> Pursuant to section 18A—
>
> Instruments authorising expenditure from the Treasurer's Advance, including statements of reasons, to:
>
> ACT Health, dated 26 June 2007.
>
> Chief Minister's Department, dated 29 June 2007.
>
> Department of Justice and Community Safety, dated—
>
> 26 June 2007.
> 26 June 2007.
> 26 June 2007.
> 26 June 2007.
> 27 June 2007.

Department of Territory and Municipal Services, dated—

20 June 2007.
26 June 2007.
26 June 2007.
26 June 2007.
26 June 2007.

Department of Treasury, dated 25 June 2007.

Legislative Assembly Secretariat, dated 25 June 2007.

Territory Banking Account, dated 25 June 2007.

Summary of authorisation of expenditure from the Treasurer's Advance in 2006-2007.

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

Leave granted.

MR STANHOPE: As required by the Financial Management Act 1996, I table a copy of authorisations in relation to the Treasurer's advance. Section 18 of the act allows the Treasurer to authorise expenditure from the Treasurer's advance. The authorisation may provide for expenditure in excess of an amount already specifically appropriated or expenditure for which there is no appropriation.

Section 18A of the act requires that within three sitting days after the day the authorisation was given the Treasurer present to the Legislative Assembly a copy of the authorisation, a statement of the reasons for giving it and a summary of the total expenditure authorised under section 18 for the financial year.

This package includes 15 instruments signed under section 18, which was signed in the final days of the 2006-07 financial year, some of which were highlighted in the 2006-07 budget midyear review as possible calls on the Treasurer's advance.

Mr Speaker, a Treasurer's advance of $9.908 million was provided to the Department of Territory and Municipal Services to cover the following projects, most of which were flagged in the midyear review: $500,000 for design works relating to the replacement of Tharwa bridge; $8.648 million to assist in cost increases relating to several maintenance contracts related to recreational and city assets and for costs associated with the ongoing impact of the drought; $160,000 to fund the purchase of two brake testing machines; $100,000 to Canberra Off-Road Cyclists to assist with their bid to host the 2009 international cycling and mountain bike world championship at Stromlo Forest Park and $500,000 to cover the cost of constructing permanent and temporary pay parking at Phillip oval in Woden.

A Treasurer's advance of $4.520 million was allocated to ACT Health to cover a commitment in the ACT Health portfolio medical officers certified agreement. This was also identified as a cost pressure in the midyear review.

Treasurer's advances totalling $4.343 million were also authorised for the Department of Justice and Community Safety for the following purposes: $340,000 assigned as compensation payment for the surrender of a flare gun collection under the 2003

handgun buyback scheme; funding of $1.160 million for criminal injuries compensation payments; $108,000 for additional payments due in 2006-07 following the annual ACT Remuneration Tribunal Review of remuneration and entitlements for judiciary and part-time public officeholders; $835,000 to JACS to manage expenditure associated with legal expenses and criminal injuries compensation payments and $2.9 million to fund emergency services related to cost pressures.

The Department of Justice and Community Safety, however, did not draw $2.9 million Treasurer's advance authorised to fund emergency services-related cost pressures as this was able to be managed by the department. The authority for the Treasurer's advance subsequently lapsed as the additional appropriation was not drawn on by the department.

Due to the increase in interest costs, an additional $196,000 was allocated to the territory banking account for 2006-07. A Treasurer's Advance of $34,000 was provided to the Legislative Assembly Secretariat for unforeseen travel costs resulting from higher than average use of travel entitlements by members of the Assembly during 2006-07.

A Treasurer's advance of $134,000 was provided to the ACT Department of Treasury to meet the final GST administration payment of 2006-07 due as advised by the Australian government. The increase in the required payment is due, in part, to an increase in the ACT's relative share of the Australian population.

Finally, $270,000 was provided to the Chief Minister's Department to manage cost pressures relating to information campaign on the affordable housing action plan and implementation of affordable housing initiatives.

The Financial Management Act also requires that I table a summary of expenditure under section 18 of the act. Section 18A of the Financial Management Act requires that, where the Treasurer has authorised expenditure under section 18, within three sitting days after the end of the financial year the Treasurer must present to the Assembly a summary of the total expenditure authorised for that financial year.

The 2006-07 Appropriation Act provided $26.9 million for the Treasurer's advance. The final expenditure against the Treasurer's advance for 2006-07 was $18.080 million, leaving a balance of $8.820 million to return to the 2006-07 budget.

Mr Speaker, I commend these papers to the Assembly.

Financial Management Act—instruments
Papers and statement by minister

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts): For the information of members, I present the following papers:

> Pursuant to section 14—Instruments directing a transfer of funds, including statements of reasons, within:

ACT Planning and Land Authority, dated 29 June 2007.
ACT Planning and Land Authority, dated 29 June 2007.
Chief Minister's Department, dated 29 June 2007.

Pursuant to section 15—Instruments directing a transfer of funds between output classes, including statements of reasons, within:

Chief Minister's Department, dated 29 June 2007.
Department of Education and Training, dated 29 June 2007.
Department of Justice and Community Safety, dated 29 June 2007.

Pursuant to section 16—Instruments directing a transfer of appropriations, including statements of reasons, from:

ACT Planning and Land Authority to the Department of Territory and Municipal Services, dated—

29 June 2007.
29 June 2007.

Chief Minister's Department to the Department of Territory and Municipal Services, dated 29 June 2007.

Department of Territory and Municipal Services to the Department of Justice and Community Safety, dated 29 June 2007.

Pursuant to section 17—Instruments varying appropriations relating to Commonwealth funding, including statements of reasons, to:

ACT Health, dated 29 June 2007.

Department of Disability, Housing and Community Services, dated 29 June 2007.

Department of Education and Training, dated—

29 June 2007.
29 June 2007.

Department of Territory and Municipal Services, dated 29 June 2007.

Pursuant to section 17A—Instrument varying appropriations relating to certain payments to the Commonwealth from the Department of Justice and Community Safety, including a statement of reasons, dated 29 June 2007.

I ask leave to make a statement in relation to the instruments.

Leave granted.

MR STANHOPE: As required by the Financial Management Act 1996, I table instruments issued under sections 14, 15, 16, 17 and 17A of the act. The direction and a statement of reasons for the above instruments must be tabled in the Assembly within three sitting days after it is given. These instruments for the 2006-07 financial year and were signed in the final days of June 2007.

A copy of the instruments and statements of reasons for all the variations tabled will be issued to all members of the Assembly and, as such, I draw members' attention to those explanations. I commend the papers to the Assembly.

Greenhouse gas abatement scheme
Paper and statement by minister

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts): For the information of members, I present the following paper:

> ACT Greenhouse Gas Abatement Scheme—Compliance and operation of the scheme 2006, dated May 2007, prepared by the Independent Competition and Regulatory Commission.

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

Leave granted.

MR STANHOPE: Mr Speaker, I bring to the Assembly today the second annual report of the operation of the ACT greenhouse gas abatement scheme. The challenges posed by climate change affect everyone around the world and require concerted action if we are to avoid critical environmental, economic and social consequences. Rising greenhouse emissions pose a significant threat to the social, environmental and economic welfare of citizens, present and future.

The ACT is a small contributor to the global greenhouse gas emissions. We create about one per cent of Australia's emissions, and Australia contributes about one per cent of global emissions. However, we have one of the highest per capita emissions from residential electricity use in the world. Tackling our emissions from electricity use is key to reducing the ACT's greenhouse gas emissions.

The greenhouse gas abatement scheme was established in the ACT under the Electricity (Greenhouse Gas Emissions) Act 2004 and commenced on 1 January 2005. Under the Electricity (Greenhouse Gas Emissions) Act, the Independent Competition and Regulatory Commission is the scheme regulator in the ACT. One of the commission's functions as regulator is to determine the greenhouse gas reduction target or benchmark for the ACT in any given year.

The scheme is designed to reduce or offset greenhouse gas emissions associated with the production of electricity. It requires retailers of electricity in the ACT to procure an increasing component of their product from cleaner and greener means, thereby effecting large reductions in associated greenhouse gases. The compliance of these retailers in 2005 achieved greenhouse gas emissions abatement of 316,362 tonnes. This is the equivalent of the annual emissions produced by around 73,570 cars. In 2006, there were 14 licensed electricity retailers in the ACT. The report confirms that all ACT electricity retailers have met their obligations under the scheme for the 2006 compliance year.

In 2006, the Independent Competition and Regulatory Commission recalculated the ACT's percentage of the NSW-ACT market. The result was a lower percentage than previously calculated, which in turn affects the benchmark level. In addition, the

population has grown by less than expected, which has also affected the benchmark level as it is based upon emissions per capita. Consequently, there has been a reduction in emissions savings in 2006.

A total of 207,379 abatement certificates were surrendered in 2006 under the ACT scheme. This is the equivalent to removing about 48,000 cars from the roads for a year. The greenhouse gas abatement scheme remains the single most effective greenhouse gas abatement measure currently available to the territory. It is supported by the climate change strategy and demonstrates how an interjurisdictional emissions trading scheme can work to reduce emissions. I commend the report to the Assembly and move:

> That the Assembly takes note of the paper.

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

Human rights audit
Paper and statement by minister

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (3.59): For the information of members, I present the following paper:

> Human Rights Act, pursuant to subsection 41 (2)—Human Rights Audit—Operation of ACT Correctional Facilities under Corrections Legislation, dated 31 July 2007.

I move:

> That the Assembly takes note of the paper.

The ACT Human Rights Office began an audit of ACT remand facilities in August 2006. The government welcomed the opportunity to have an independent audit of its remand centres during preparation for the commissioning of the Alexander Maconochie Centre, or AMC, Australia's first prison to be operated and designed on human rights principles. The report provides an important analysis of the current state of our remand facilities and highlights many inadequacies, particularly in terms of infrastructure and space. The report provides further proof of the urgent need to replace these facilities.

While it was originally intended that the audit would be completed within six months, it in fact extended to over 12 months, demonstrating a commendable commitment by the Human Rights Commission to produce a comprehensive document. Those parts of the report dealing with identifying international best practice in the area of human rights were well researched and will provide a solid framework for consideration of future correctional issues.

Some of the findings in the report will contribute to the reframing of current policies and procedures, as well as those currently being developed for the AMC. One positive aspect of the report is that if the audit is considered as a potential checklist of factors to ensure compliance with human rights principles the planned AMC measures up

admirably. A follow-up audit 12 months after the AMC is opened for operation may be appropriate and the government would welcome this work on the part of the commission.

The government will respond to the audit formally in due course and within three months. In the interim, I would like to place on the record my thanks to the commissioner for human rights, Dr Helen Watchirs, her staff who were involved in the development of this audit and also the prisoners, remandees, corrections office staff and others involved in the remand and correction system in the ACT for their cooperation. Their contributions have been significant in providing a detailed and systematic audit of the issues facing our corrections staff and our corrections system as we move towards the establishment of the first ACT prison. The government will be drawing closely and heavily on the audit's functions in considering the future operations of the AMC.

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

Paper

Mr Corbell presented the following paper:

> Administration of Justice—ACT Criminal Justice—Statistical Profile—March quarter 2007.

Territory plan—variation No 263
Papers and statement by minister

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations): For the information of members, I present the following papers:

> Land (Planning and Environment) Act, pursuant to subsection 29 (1)—Approval of Variation No 263 to the Territory Plan—Change of Land Use Policy for Block 23 Section 117 Kaleen and Minor Amendments to Community Facility Land Use Policy, dated 2 July 2007, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.
>
> Planning and Environment—Standing Committee—Report 27—*Draft Variation to the Territory Plan No 263: Block 23 Section 117 Kaleen and Minor Amendments to Community Facility Land Use Policies*—Government response.

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

Leave granted.

MR BARR: Draft variation No 263 to the territory plan proposes to change the land use policy for block 23 section 117 Kaleen, the former Bocce club site, from restricted access recreation to community facility to provide for supportive housing. Draft variation No 263 was released for public comment on 14 July 2006 and attracted 13 submissions during the consultation period. The original draft variation included changes to the territory plan map for the site to community facility and minor amendments to the written statement for community facility land use policies.

The draft variation included the proposed changes in the land use policies to permit supportive housing on the site, which is in line with the ACT government's ageing in place strategy. The planning study which informed the draft variation demonstrated that the change would not adversely affect the provision of uses that are permissible under the restricted access recreation land use policies. The current building on the site could not be readily reused for another type of recreation facility.

The main issues raised in the public submissions were related to design issues such as the generation of additional traffic impacting on the surrounding residential developments, particularly the Huntington apartments and Kaleen high school. The comments also included design elements such as height, setbacks and amenity issues related to traffic noise for the residents of the area and safety in access to facilities for residents, pedestrians and cyclists.

The Standing Committee on Planning and Environment in its report released in May of 2007 made 10 recommendations, including a recommendation that the proposed variation proceed. The committee recommended that the ACT Planning and Land Authority ensure that all buildings comply with Australian standards for noise attenuation.

The recommendation also included safety and amenity issues such as overshadowing pedestrian and cyclist movement around Kaleen and the proposed suburb of Lawson. Recommendations were also made on developing a partnership between Kaleen high school, the new development and other residents. I understand that the Department of Disability, Housing and Community Services, through the schools as communities program, which involves community outreach work to enhance social and educational outcomes amongst children and young people, will take up this option. There is an allocated worker for Kaleen high school who will be available to facilitate such a partnership, and this is strengthened by the agreement of the proponent to secure the services of a social planner.

In addition, the committee recommended that the disruption to the residents of Huntington apartments and the school community be minimised during and after construction. The committee also recommended that the authority consider amending the Planning and Development Bill 2006 to include the requirement for a planning report for any proposal that would deplete community and recreational land. It is in situations like this under section 417 of the bill that I, as planning minister, have discretionary powers to require a planning report.

The bill also includes a mandatory trigger of an EIS when applications are lodged to vary a concessional lease. There is provision under section 257 to restrict the transfer of a concessional lease only to a transferee who meets the criteria of a concessional lease.

The recommendations also included that a planning report be prepared for concessional leases, direct grant land, any development application for a community facility use in areas other than the community facility zone and any proposal to vary the community facility zone. The committee also recommended that all planning reports and community needs assessments be publicly available and be referred to an interdepartmental committee upon completion.

All recommendations relating to the design stage will be addressed through a design response at the development stage. A detailed government response has been prepared to all the recommendations made by the committee. I am very pleased to table variation No 263 to the territory plan.

Territory plan—variation No 276
Papers and statement by minister

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (4.07): For the information of members, I present the following papers:

> Land (Planning and Environment) Act, pursuant to subsection 29 (1)—Approval of Variation No 276 to the Territory Plan—ANU City West Precinct—"The ANU Exchange", dated 27 July 2007, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.
>
> Planning and Environment—Standing Committee—Report 28—*Variation to the Territory Plan No 276—ANU City West Precinct "The ANU Exchange"*—Government response.

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

Leave granted.

MR BARR: Draft variation No 276 to the territory plan proposes to formalise the implementation of the precinct deed agreed to between the ACT government and the Australian National University and the subsequent ANU Exchange master plan. Some changes to the land use policies contained within the territory plan are needed to implement the master plan; hence the requirement for a variation.

The ANU Exchange master plan was endorsed by the Chief Planning Executive of the ACT Planning and Land Authority and the Chief Executive of the Chief Minister's Department in December 2005. The major changes the variation proposes include: replacing the entertainment accommodation and leisure land use policy with commercial for block 2 section 30 City; realigning the intertown public transport route from the corner of Barry Drive and Marcus Clarke Street to link to Rudd Street through Section 21 City and amending building height controls on blocks west of Marcus Clarke Street and north of University Avenue and section 20 City to allow for increased building heights.

Draft variation 276 was released for public comment in November 2006 and attracted three public submissions. The main issues were: the context of the proposal within the national capital plan provisions and consistency with the plan's principle on the hierarchy of centres; the realignment of the intertown public transport route and indicative built form; car parking requirements, standards and strategy for adequate car parking provision; heritage issues relating to section 21 and section 20 and, finally, urban design and architectural issues relating to the buildings fronting Marcus Clarke Street and Barry Drive.

The Standing Committee on Planning and Environment considered the consultation report prepared by the ACT Planning and Land Authority addressing the issues arising from consultation and the resultant recommended final variation. In its report released in June 2007, the committee made 10 recommendations in relation to the draft variation, among which was a recommendation that the variation proceed. The government has considered the issues raised and a government response that provides a detailed response to the committee's recommendations has been prepared. I will now provide a brief outline of the government's response to the committee report.

The committee's first recommendation is that the proposed variation to the territory plan proceeds. The committee's second recommendation that the development of section 20 include high quality landscaping with native trees and plants which complement those around some ANU buildings on McCoy Circuit and Ellery Crescent to reinforce the southern gateway to the university is supported. This landscaping requirement would be incorporated into the lease and development conditions and development control plans prepared for section 20.

The government agrees to the committee's third recommendation that the heritage and cultural significance of the ROCKS area be recognised and commemorated in the new development on section 21. The developer has been advised of the committee's recommendation and supports the recognition of the heritage and cultural significance the ROCKS area in the redevelopment of section 21. The proponent is willing to make a suitable reference through the provision of a commemorative plaque or similar feature.

The committee's fourth recommendation is that it endorses the stipulation in the City West master plan that when substantial and important trees are removed double the number of those trees must be replaced, either on the site or in the public domain with mature trees of the same species to the satisfaction of the territory. Adequate space must be set aside to allow for the normal growth and development of trees, including large trees. The committee recommends that this commitment apply throughout the ANU Exchange area, and this recommendation is supported. The requirement for trees would apply in the entire ANU Exchange area.

The committee's fifth recommendation that the ACT Planning and Land Authority place particular importance on the achievement of active street frontages in the ANU Exchange area with particular reference to University Avenue as the centrepiece of the redevelopment in City West is supported. The intent of the City West master plan and the ANU Exchange master plan and implementation plan is for active street frontages.

The committee's sixth recommendation that a design competition for public artworks be considered for the ANU Exchange is noted; however it is not supported. The "arts heart" of Childers Street between Hutton Street and University Avenue was upgraded in 2006-07. The design intent of these infrastructure works, completed in February of this year, was to provide an integrated design approach to the artwork with other street architecture elements, including street furniture, lighting and so on.

The current 2007-08 infrastructure works are for roads adjoining Childers Street and a community park at the northern end of Childers Street that connect the "arts heart" to the surrounding areas of the city and the ANU. These areas will include some elements of the "arts heart" but will generally be more modest in the level of finishes provided. It would be appropriate to incorporate public art into the design of these works, rather than through a separate design competition that may not necessarily result in integrated artwork.

The committee's seventh recommendation is that cycling infrastructure development in City West should be a priority in the implementation of the 10-year master plan for trunk cycling and walking path infrastructure 2004-14. This recommendation is supported and the ACT government will seek to encourage cycling to work by ensuring that the City West area is a priority for trunk cycling and walking path infrastructure.

The committee's eighth recommendation is that the Minister for Planning encourages the extension of the Lindsay Pryor Walk on the ANU campus and/or the construction of other high quality signed walks and pedestrian corridors to better link the ANU with the city, the Australian National Botanic Gardens, the CSIRO, Canberra Nature Park and Lake Burley Griffin.

This recommendation is agreed to in part. A large proportion of the Australian National University is designated land, under the planning control of the National Capital Authority. I have written to the Vice-Chancellor of the ANU alerting him to the committee's recommendation and encouraging him, through consultation with the NCA, to explore opportunities to extend the Lindsay Pryor Walk through the university campus and/or the construction of other high quality signed walks and pedestrian corridors to better link the ANU with the city, the botanic gardens, the CSIRO, Canberra Nature Park and the lake. The ACT government would seek to coordinate with the ANU in regard to any proposed or existing pathways on territory land that are linked to pathways on the ANU campus.

The government agrees with the committee's ninth recommendation that the landscape character of University Avenue be enhanced, forming an extended avenue merging into the main Childers Street entrance to the ANU.

Mr Mulcahy: You could call it David Lamont Drive!

MR BARR: The ACT Planning and Land Authority has capital works funding in 2007-08 for the upgrading of the public realm for the side streets adjacent to Childers Street, including University Avenue, Mr Mulcahy. The landscape character of University Avenue would be considered as part of this capital works project.

Finally, the committee's tenth recommendation is that the ACT Planning and Land Authority ensure that the City West area realises its aim of having active ground level street frontages, public art, wide footpaths and planting zones with good permeability to ameliorate the closed-in nature of the proposed built environment.

This final recommendation is agreed to. The requirement for active ground level frontages will be written into the lease and development conditions and the development control plans for sites within the precinct. Issues of public art, footpath wides, planting zones and good permeability were addressed in the 2006-07 capital works program for upgrading the "arts heart" of Childers Street. These issues will be further addressed in the City West area through the capital works program in this financial year for upgrades of the public realm adjacent to Childers Street.

I now table the approved variation and the response to the planning and environment committee's report on draft variation to the territory plan territory plan No 276. I would like particularly to thank the committee for considering the draft variation and acknowledging the formalisation of the outcomes of the master planning process that has been undertaken for this area. I move:

> That the Assembly takes note of the government response.

Debate (on motion by **Dr Foskey**) adjourned to the next sitting.

Papers

Mr Corbell presented the following papers:

> **Subordinate legislation (including explanatory statements unless otherwise stated)**
>
> Legislation Act, pursuant to section 64—
>
> Agents Act, Associations Incorporation Act, Births, Deaths and Marriages Registration Act, Business Names Act, Classification (Publications, Films and Computer Games) (Enforcement) Act, Consumer Credit (Administration) Act, Cooperatives Act, Court Procedures Act, Dangerous Substances Act, Emergencies Act, Guardianship and Management of property Act, Instruments Act, Land Titles Act, Liquor Act, Machinery Act, Occupational Health and Safety Act, Partnership Act, Pawnbrokers Act, Prostitution Act, Public Trustee Act, Registration of Deeds Act, Sale of Motor Vehicles Act, Scaffolding and Lifts Act, Second-hand Dealers Act, Security Industry Act, Trade Measurement (Administration) Act, Workers Compensation Act—Attorney General (Fees) Determination 2007—Disallowable Instrument DI2007-131 (without explanatory statement) (LR, 28 June 2007).
>
> Animal Diseases Act—Animal Diseases (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-137 (LR, 27 June 2007).
>
> Animal Welfare Act—Animal Welfare (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-138 (LR, 27 June 2007).
>
> Architects Act—Architects (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-145 (LR, 29 June 2007).
>
> Building Act—Building (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-146 (LR, 29 June 2007).
>
> Canberra Institute of Technology Act—
>
> Canberra Institute of Technology Advisory Council Appointment 2007 (No 1)—
>
> Disallowable Instrument DI2007-171 (LR, 12 July 2007).

Canberra Institute of Technology Advisory Council Appointment 2007 (No 2)—Disallowable Instrument DI2007-172 (LR, 12 July 2007).

Canberra Institute of Technology Advisory Council Appointment 2007 (N 3)—Disallowable Instrument DI2007-173 (LR, 12 July 2007).

Casino Control Act—Casino Control (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-123 (LR, 12 June 2007).

Cemeteries and Crematoria Act—Cemeteries and Crematoria (Public Cemetery Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-160 (LR, 29 June 2007).

Civil Law (Wrongs) Act—Civil Law (Wrongs) Professional Standards Council Appointment 2007 (No 2)—Disallowable Instrument DI2007-120 (LR, 7 June 2007).

Clinical Waste Act—Clinical Waste (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-139 (LR, 27 June 2007).

Community Title Act—Community Title (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-148 (LR, 29 June 2007).

Construction Occupations (Licensing) Act—Construction Occupations Licensing (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-147 (LR, 29 June 2007).

Court Procedures Act—Court Procedures Amendment Rules 2007 (No 1)—Subordinate Law SL2007-16 (LR, 25 June 2007).

Crimes (Sentence Administration) Act—Crimes (Sentence Administration) Amendment Regulation 2007 (No 1)—Subordinate Law SL2007-13 (LR, 31 May 2007).

Domestic Animals Act—Domestic Animals (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-157 (LR, 29 June 2007).

Education Act—

Education (Government Schools Education Council) Appointment 2007 (No 3)—Disallowable Instrument DI2007-168 (LR, 6 July 2007).

Education (Non-government Schools Education Council) Appointment 2007 (No 2)—Disallowable Instrument DI2007-116 (LR, 31 May 2007).

Electoral Act—Electoral (Fees) Determination 2007—Disallowable Instrument DI2007-124 (LR, 29 June 2007).

Electricity Safety Act—Electricity Safety (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-149 (LR, 29 June 2007).

Environment Protection Act—Environment Protection (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-164 (LR, 29 June 2007).

Financial Management Act—Financial Management (Departments) Guidelines 2007—Disallowable Instrument DI2007-114 (LR, 31 May 2007).

Fisheries Act—Fisheries (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-140 (LR, 27 June 2007).

Food Act—Food (Safety Programs) Amendment Regulation 2007 (No 1)—Subordinate Law SL2007-14 (LR, 31 May 2007).

Gaming Machine Act—Gaming Machine (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-121 (LR, 12 June 2007).

Gas Safety Act—Gas Safety (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-150 (LR, 29 June 2007).

Hawkers Act—Hawkers (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-158 (LR, 29 June 2007).

Health Act—Health (Fees) Determination 2007 (No 2)—Disallowable Instrument DI2007-161 (LR, 29 June 2007).

Heritage Act—

Heritage (Blandfordia 4 Precinct Forrest) Guidelines 2007 (No 1)—Disallowable Instrument DI2007-174 (LR, 19 July 2007).

Heritage (Register Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-141 (LR, 27 June 2007).

Independent Competition and Regulatory Commission Act—Independent Competition and Regulatory Commission (Regulated Industry) Revocation 2007—Disallowable Instrument DI2007-117 (LR, 31 May 2007).

Land (Planning and Environment) Act—

Land (Planning and Environment) (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-151 (LR, 29 June 2007).

Land (Planning and Environment) Criteria for Direct Grant Lease to Community Organisation (Educational Establishment—Forde) Determination 2007—Disallowable Instrument DI2007-186 (LR, 30 July 2007).

Legal Profession Act—Legal Profession (Bar Association Council Fees) Determination 2007 (No 2)—Disallowable Instrument DI2007-112 (LR, 29 May 2007).

Legislative Assembly (Members' Staff) Act—

Legislative Assembly (Members' Staff) Members' Salary Cap Determination 2007 (No 1)—Disallowable Instrument DI2007-165 (LR, 29 June 2007).

Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2007 (No 1)—Disallowable Instrument DI2007-166 (LR, 29 June 2007).

Liquor Act—Liquor Amendment Regulation 2007 (No 1)—Subordinate Law SL2007-17 (LR, 21 June 2007).

Long Service Leave (Building and Construction Industry) Act—Long Service Leave (Building and Construction Industry) Amendment Regulation 2007 (No 1)—Subordinate Law SL2007-15 (LR, 28 June 2007).

Lotteries Act—Lotteries (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-119 (LR, 7 June 2007).

Nature Conservation Act—Nature Conservation (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-142 (LR, 27 June 2007).

Planning and Land Act—

Planning and Land (Land Development Agency Board) Appointment 2007 (No 1)—Disallowable Instrument DI2007-188 (LR, 2 August 2007).

Planning and Land (Land Development Agency Board) Appointment 2007 (No 2)—Disallowable Instrument DI2007-189 (LR, 2 August 2007).

Planning and Land (Land Development Agency Board) Appointment 2007 (No 3)—Disallowable Instrument DI2007-190 (LR, 2 August 2007).

Powers of Attorney Act—Powers of Attorney Amendment Regulation 2007 (No 1)—Subordinate Law SL2007-12 (LR, 29 May 2007).

Public Baths and Public Bathing Act—Public Baths and Public Bathing (Active Leisure Centre) (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-163 (LR, 29 June 2007).

Public Place Names Act—

Public Place Names (Ainslie) Determination 2007 (No 1)—Disallowable Instrument DI2007-155 (LR, 28 June 2007).

Public Place Names (Dunlop) Determination 2007 (No 1)—Disallowable Instrument DI2007-185 (LR, 26 July 2007).

Public Place Names (Phillip) Determination 2007 (No 1)—Disallowable Instrument DI2007-156 (LR, 28 June 2007).

Public Sector Management Act—

Public Sector Management Amendment Standards 2007 (No 4)—Disallowable Instrument DI2007-125 (LR, 21 June 2007).

Public Sector Management Amendment Standards 2007 (No 5)—Disallowable Instrument DI2007-187 (LR, 30 July 2007).

Race and Sports Bookmaking Act—

Race and Sports Bookmaking (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-122 (LR, 12 June 2007).

Race and Sports Bookmaking (Rules for Sports Bookmaking) Determination 2007 (No 1)—Disallowable Instrument DI2007-182 (LR, 20 July 2007).

Race and Sports Bookmaking (Sports Bookmaking Events) Determination 2007 (No 1)—Disallowable Instrument DI2007-183 (LR, 20 July 2007).

Race and Sports Bookmaking (Sports Bookmaking Venue) Determination 2007 (No 3)—Disallowable Instrument DI2007-115 (LR, 7 June 2007).

Race and Sports Bookmaking (Tax Rates) Determination 2007 (No 1)—Disallowable Instrument DI2007-129 (LR, 27 June 2007).

Racing Act—Racing Appeals Tribunal (Rules of the Tribunal) 2007 (No 1)—Disallowable Instrument DI2007-184 (LR, 23 July 2007).

Rates Act—Rates (City Centre Marketing and Improvements Levy—Collection Areas) Determination 2007 (No 1)—Disallowable Instrument DI2007-136 (LR, 27 June 2007).

Road Transport (General) Act—

Road Transport (General) (Driver Licence and Related Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-176 (LR, 18 July 2007).

Road Transport (General) (Hire Car) Exemption Revocation 2007—

Disallowable Instrument DI2007-118 (LR, 7 June 2007).

Road Transport (General) (Numberplate Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-177 (LR, 18 July 2007).

Road Transport (General) (Parking Permit Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-178 (LR, 18 July 2007).

Road Transport (General) (Refund Fee and Dishonoured Cheque Fee) Determination 2007 (No 1)—Disallowable Instrument DI2007-179 (LR, 18 July 2007).

Road Transport (General) (Vehicle Registration and Related Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-175 (LR, 18 July 2007).

Road Transport (Public Passenger Services) Act—Road Transport (Public Passenger Services) Maximum Fares for Taxi Services) Determination 2007 (No 1)—Disallowable Instrument DI2007-130 (LR, 26 June 2007).

Road Transport (Public Passenger Services) Regulation—Road Transport (Public Passenger Services) (Minimum Service Standards—Taxi Network) Approval 2007 (No 1)—Disallowable Instrument DI2007-170 (LR, 9 July 2007).

Roads and Public Places Act—Roads and Public Places (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-159 (LR, 29 June 2007).

Stock Act—Stock (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-143 (LR, 27 June 2007).

Surveyors Act—Surveyors (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-152 (LR, 29 June 2007).

Taxation Administration Act—

Taxation Administration (Amounts Payable—Duty) Determination 2007 (No 1)—Disallowable Instrument DI2007-167 (LR, 5 July 2007).

Taxation Administration (Amounts Payable—Home Buyer Concession Scheme) Determination 2007 (No 1)—Disallowable Instrument DI2007-113 (LR, 29 May 2007).

Taxation Administration (Rates) Determination 2007 (No 1)—Disallowable Instrument DI2007-132 (LR, 27 June 2007).

Taxation Administration (Rates—City Centre Marketing and Improvements Levy) Determination 2007 (No 1)—Disallowable Instrument DI2007-135 (LR, 27 June 2007).

Taxation Administration (Rates—Fire and Emergency Services Levy) Determination 2007 (No 1)—Disallowable Instrument DI2007-134 (LR, 27 June 2007).

Taxation Administration (Rates—Rebate Cap) Determination 2007 (No 1)—Disallowable Instrument DI2007-133 (LR, 27 June 2007).

Training and Tertiary Education Act—Training and Tertiary Education (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-162 (LR, 29 June 2007).

Unit Titles Act—Unit Titles (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-153 (LR, 29 June 2007).

Utilities Act—

Utilities (Essential Services Consumer Council) Appointment 2007 (No 1)—Disallowable Instrument DI2007-126 (LR, 28 June 2007).

Utilities (Essential Services Consumer Council) Appointment 2007 (No 2)—Disallowable Instrument DI2007-127 (LR, 29 June 2007).

Utilities (Essential Services Consumer Council) Appointment 2007 (No 3)—Disallowable Instrument DI2007-128 (LR, 29 June 2007).

Utilities Exemption 2007 (No 1)—Disallowable Instrument DI2007-169 (LR, 9 July 2007).

Waste Minimisation Act—Waste Minimisation (Landfill Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-144 (LR, 27 June 2007).

Water and Sewerage Act—Water and Sewerage (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-154 (LR, 29 June 2007).

Water Resources Act—

Water Resources (Amounts of water reasonable for uses guidelines) Determination 2007 (No 1)—Disallowable Instrument DI2007-194 (LR, 31 July 2007).

Water Resources (Fees) Determination 2007 (No 1)—Disallowable Instrument DI2007-192 (LR, 31 July 2007).

Water Resources (Water available from areas) Determination 2007 (No 1)—Disallowable Instrument DI2007-191 (LR, 31 July 2007).

Water Resources (Water management areas) Determination 2007 (No 1)—Disallowable Instrument DI2007-193 (LR, 31 July 2007).

Open and accountable government
Discussion of matter of public importance

MR SPEAKER: I have received letters from Mrs Burke, Mrs Dunne, Mr Gentleman, Mr Mulcahy, Ms Porter, Mr Pratt, Mr Seselja, Mr Smyth and Mr Stefaniak proposing that matters of public importance be submitted to the Assembly for discussion. In accordance with standing order 79, I have determined that the matter proposed by Mrs Dunne be submitted to the Assembly, namely:

> The failure of the ACT Government to be open and accountable to the Canberra community.

MRS DUNNE (Ginninderra) (4.18): The failure of the ACT government to be open and accountable to the Canberra community is an important issue. It is very important that we bring it forward at this stage of the Assembly sitting: this morning, we have had discussion on the estimates process and some conspicuous failures by members of the Assembly before estimates committees to be open and accountable to the committee and, through the committee, to the people of the ACT.

I would like to concentrate my comments mainly on my experiences as a member of this Legislative Assembly—particularly, in my role as the shadow minister for education, my experiences in attempting to draw out from the department of education documentation that relates to the department of education and the minister's *Towards 2020* proposal. We have known about that since 6 June last year, and even a little before that. This was an extraordinarily contentious move on the part of the government. There were all sorts of assurances from the minister that the government would be open and accountable, that every piece of documentation would be on the table for the community to draw their own conclusions. Those commitments were made in this place by the minister for education even before he announced the policy on 6 June.

When the policy was announced on 6 June and the information started to dribble out as to how the government came to be in the situation it was in, and as to the process it went through to put together its *Towards 2020* proposal, it was interesting to see the quality and the paucity of the information that was originally made available and how, through a fair amount of badgering at public meetings, some of that information was improved. For example, most of the space and classroom audits had to be redone because they were incorrect and out of date, and much of the information about the occupancy was incorrect and out of date. There were many more instances where important information was either incorrect or out of date—some of which was corrected, some of which the minister made undertakings to correct and did not correct, and some of which was never corrected and where the minister made no undertakings in that regard.

What we saw from the outset was a community seeking answers. Despite the assurances of this government, those answers were not forthcoming and the information that would allow people to draw their own inferences was not forthcoming. I, along with other members of the community, started a rather fruitless process under freedom of information provisions. We should look at what this government has said in the past about freedom of information, including, most importantly, the very grand statements made by the then Leader of the Opposition in a series of speeches in relation to good governance. I will quote just one of them. On 11 December 2001, just after the election, the Chief Minister said:

> One thing is certain: my government's commitments will be delivered by accountable government that is conducted in the most open manner possible.

He continued:

> As part of my government's strong commitment to the principles of openness and accountability, we will ensure that key accountability laws, such as the Freedom of Information Act and the Administrative Appeals Act, give effect to those principles. Not only will we ensure that we have the right legislative framework; we will also ensure that those tasked with implementing and managing the legislation do so in a way which gives effect to its spirit.

This Chief Minister made undertakings that not only would they change the laws to make government open and accountable but also that they would legislate for the hearts and minds of the implementers to make them open and accountable.

Through the passage of the Human Rights Act, the ACT government was the first government in Australia to introduce a human rights act and to confer upon the citizens of the ACT, amongst other things, at sections 16 and 17, "the freedom to seek, receive and impart information of all kinds" and the right to "take part in the conduct of public affairs, directly or through freely chosen representatives".

The principles of openness set down in the Human Rights Act and the capacity of freely chosen representatives to exercise that freedom on behalf of other citizens have been substantially, progressively and consistently stymied by this government in relation to the *Towards 2020* closures.

First and foremost, we have audacious comments in relation to the Costello report, repeated as recently as last Friday by the Chief Minister on ABC radio. With the functional review, we have had a secret document, a document that this Chief Minister and this government are not prepared to put into the public domain. In relation to decisions made in the budget context, the underlying, underpinning impetus for those decisions, which seem to have been contained in the functional review, is not available for public scrutiny.

I would like to take us back to a previous government which undertook a similar functional review under the alliance government. The first major initiative of the alliance government was that the then Chief Minister instituted a review of finances, the state of finances and the operations of departments in the ACT. As a result of that, a number of substantial—and often unpopular—decisions were made and carried out.

The difference between the Kaine alliance government and the Stanhope Labor government a few years on is that Mr Kaine made available his review of the territory's finances, the state of the territory's operations and the state of the territory's public service. It was out there clearly for everyone to see. The underlying work done by former Justice Rae Else-Mitchell in that review was there for people to see. They could agree or disagree, but they at least knew where the alliance government was coming from when they made decisions, some of which were very unpopular.

That is not the case with the government here today. We still have them hiding behind "It is a cabinet document; it is dreadfully secret." My experience, especially in the past six to eight months, has been one of obfuscation, with every opportunity taken to try and stymie attempts to obtain information from a government that was elected on a platform of being open and accountable.

As you know, Mr Deputy Speaker, I have been in the Administrative Appeals Tribunal. This has been a long road for me. I will not discuss the issues at length because these are questions still being considered by the tribunal. But I do want to draw to the Assembly's attention that I have now been subjected to the issuing of three separate lots of conclusive certificates, the third lot of conclusive certificates issued as recently as the Friday before last in response to my counsel's comments and summation to the tribunal about the failings in the territory's case.

Obviously the territory has looked at it and said, "We really did mess that up." It had to issue a third lot of conclusive certificates to cover itself. It seems now that the Chief Minister's Department has washed its hands of the whole matter and has passed it entirely over to the department of education because of their appallingly inappropriate and hopeless handling of the whole issue. The other day my solicitor said to me, "I am not a great expert in what is going on with school closures but there must be some heinous secrets here because they are trying extraordinarily hard to cover them up and to stymie things." They were his words to me.

What we see here is an affront to the rights of ACT citizens. It is an affront to any notion or expectation of transparency. In addition to that, it is bungling incompetence of the highest order when we see three attempts to issue conclusive certificates—and even now we think that they have not got it right.

I do not know what it is that the Stanhope government is trying to hide—we do know that it is heinous—but in the light of this behaviour it must be pretty shocking. I strongly suspect that, whatever it is, it is due simply to the fact that *Towards 2020* was a poorly thought out, rush job. We know, for instance, that the final presentation that went to cabinet was a PowerPoint presentation and that the PowerPoint presentation is being very closely guarded. We know that if we actually looked at it we would find that the decisions made were extraordinarily faulty indeed.

When we look at the issue of the extraordinarily faulty process that this government went through and its attempts to cover up after the fact, we have to look at the heroic efforts of the Flynn community. The Flynn community, the former school community and the neighbours of Flynn have been extraordinarily courageous in their attempts to

obtain redress under the Administrative Decisions (Judicial Review) Act. That has not occurred without considerable interference from the government—firstly in seeking a quite high security order to the tune of $50,000. The government hoped that by asking them for $50,000 they would fall by the wayside—as was the case with the Cook community, which found that they could not raise that sum of money; their case in the Supreme Court has fallen by the wayside. At the last moment the money for Flynn was brought together. Last Friday's attempt by the Stanhope government to strike out the Flynn community's matter failed. For the time being at least, there is some hope that the matter is still alive.

But we now get to the terrible issue of discovery, which is not a right in these sorts of civil cases. The community has been told in no uncertain terms that the territory will be engaging and retaining senior counsel to manage the matter and to resist all attempts for discovery by the Flynn community. That means that, for the Flynn community to be on an equal footing, they themselves are going to have to go out and find senior counsel to confront the government senior counsel.

What we have here is the government using its relatively limitless resources to grind down a community group that only wants answers. It only wants answers. The relentless pursuit of the Flynn community is a disgrace—a complete disgrace—and shows the lengths to which this government will go to obfuscate, to avoid openness, to avoid accountability and to avoid taking to the people of the ACT the reasoning for its decisions.

As a consequence, we have to look at some other fairly pathetic actions by the department of education. The most recent was the attempt by the council for civil liberties just to put some of this out in the public domain. The council for civil liberties approached me and said, "Mrs Dunne, this is a very interesting case that you have. Can we put on our web page your statement of facts and contentions given to the AAT after it became a public document in open court?" I said yes. They asked the other respondent, Ms Barden, whether that was all right with her. They said yes. They thought they had better ask the department of education, for the sake of completeness. The department of education's statement of facts and contentions is a full page and half, but to this day the department has refused to release to the council of civil liberties a document which has been released in open court.

Why is the council of civil liberties now in the situation where it cannot obtain this document under the Freedom of Information Act because of legal professional privilege—a document released in open court? It is now itself at the Administrative Appeals Tribunal, trying to obtain this document, which I now seek to table and have incorporated in *Hansard*.

Leave granted.

MRS DUNNE: Thank you. I table the following paper:

> Respondent's revised statement of facts and contentions—copy of affidavit concerning Mrs Dunne and the ACT Department of Education and Training, dated 20 February 2007.

I also incorporate it in *Hansard.*

The incorporated document appears at attachment 1 on page 1808.

In addition to this, the most important thing that we can do is to do the job that the Stanhope government said that it would do and reform freedom of information through the Administrative Appeals Tribunal. This morning, my leader, Mr Stefaniak, announced our legislative program, which includes means to fix the Freedom of Information Act by doing away with some of the more inappropriate conclusive certificates and by making the Administrative Appeals Tribunal a place where government agencies do not resist. *(Time expired.)*

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (4.33): I thank Mrs Dunne for raising this issue; it gives me the opportunity to respond to some of the more outrageous claims in the speech that she has just given.

It is worth noting that Mrs Dunne has put in numerous FOI requests and has received some 10,000 folios of information from the Department of Education and Training, equating to over 13,000 pages of information. I am sure that Mrs Dunne has read each one of those 13,000 pages closely. My guess is that servicing Mrs Dunne's FOI requests have involved thousands of hours of staff time—time taken away from our public education system. I note, though, that the government has not imposed any of the normal administrative charges for processing Mrs Dunne's FOI requests. That is an indication that we are committed to open and accountable government. The Department of Education and Training will continue to service Mrs Dunne's FOI requests in a professional manner.

Of course, we recognise that we have a responsibility to be open and accountable with the community. Mrs Dunne raised examples in relation to the 2020 process. I cannot think of any public consultation process in the history of self-government in the ACT that involved the attendance by a minister and departmental officials at more public meetings than that—over 700 meetings in a six-month period. The process involved responding to more than 1,600 pieces of correspondence. There were 350 written submissions as part of the consultation process. It was extensive.

Mrs Dunne will make all sorts of accusations about aspects of the process, but I was very clear from the start about the criteria that I would use to make decisions under the Education Act; I was very clear about the issues that the education system was facing. No-one—not even Mrs Dunne, because I note she has said it in this place on a number of occasions—would accuse me of not fronting up to each and every one of those communities on numerous occasions to answer questions and to respond in detail to the issues, right down to giving individual dollar amounts within categories within school budgets, broken down into eight or nine different subcategories dealing with the financial implications of each and every proposal that the government put forward. We were quite up front about what we were seeking to do: to redistribute money within the education system to improve the quality of our public education system.

There is no doubting that I was up front from the start in stating that that is what we were intending to do—that we had too many schools, declining student enrolments, a declining school-age population and different demographic trends affecting different parts of the city. For example, there was a need for additional education provision in Gungahlin—a clear need. Through the appropriations in the last two budgets, the government has made money available for a new primary school at Harrison and a new secondary college in the Gungahlin town centre.

We also had to have a reasonable assessment of educational needs elsewhere in the city. Mrs Dunne has talked at length about Flynn. Yes, that community made very strong representations in relation to the ongoing viability of that school. But there is the issue of the context of a system-wide approach to education and what other education facilities were available. There was Mount Rogers community school 1,100 metres on one side of Flynn and Charnwood primary school—the now Charnwood-Dunlop primary school—about 1,800 metres from the Flynn school on the other side, not to mention Fraser just over two kilometres to the north and Latham about 2½ kilometres to the south. There was considerable education provision in north-west Belconnen.

There were similar issues in the suburb of Kambah. There, we had four schools, three with a student population of less than 200—some just over 100—and one with just over 200. That was in addition to a Catholic primary school located adjacent. So there were five primary schools in an area that lost 1,000 people between 2001 and 2006 and that has a hugely declining school-age population—and that will continue. It was not viable to continue to run that number of schools in the area. The government took the decision to reinvest in infrastructure to provide a high-quality, world-class P-10 school on the site of the old Kambah high school and maintain another primary school in the northern half of that suburb.

We did that through consultation, through engagement with the community, through an open and accountable process. In relation to Kambah, that involved at least three visits to Kambah high school—meetings with the P&C, the board representatives and the SRC—all of those organisations. It involved talking through the issues and the challenges that we faced in education provision, not only in the suburb of Kambah itself but across the entire system.

This is classic opposition stuff. Yes, you will pick a couple of areas of discontent. Yes, I acknowledge that the people of Flynn who were represented through that school community have the full right to pursue the legal action that they have. That is fine. But I have an obligation to the taxpayers of the territory to ensure that they meet the appropriate standards in providing security for costs in this legal challenge. I am not going to comment any further on it other than to say that it is the right of the Flynn P&C to pursue it but it is also the right of the government to vigorously defend its decision-making processes and to defend taxpayers' interests, because every dollar that we spend subsidising legal action is one dollar less to go into education.

Mr Mulcahy: Is that why you went to the High Court over the WorkChoices stuff?

MR BARR: If I was going to pursue that argument to its logical conclusion, Mr Mulcahy, I would turn around and talk to Mrs Dunne about it. These are the conflicts that are always there. It is one thing for people to disagree with policy; that is fine. In a robust democracy, you would expect that, if government puts forward a proposal and goes out to consult on a proposal, people are free and able to disagree. No-one could argue that there was not extensive scrutiny of this process—through this Assembly, through the various committees of this Assembly, through 700 public meetings, through 1,600 pieces of correspondence and through the formal submission process. I have been questioned on these proposals for more than 20 hours in estimate committee hearings and annual report hearings over the last 12 months.

To suggest that there is no openness and no accountability here is a ridiculous assertion. Not even Mrs Dunne, in one of her greater moments of hyperbole, would go so far as to say that there has been no response from government in regard to these issues. I note that she did raise in her speech—and acknowledge—the fact that, when further information was requested, the government complied and provided that further information.

Mrs Dunne: Sometimes.

MR BARR: You contest whether some of the further information was provided. In response, particularly in relation to the issue you raised around audits of school capacity, I would say that subsequent audits were done. There may not have been agreement with school communities around a number of audits, but the audits were done again and the original finding was reinforced. That meant that there was not a change to the publicised school capacity. Those audits were done.

From time to time there was disagreement with school communities over what constituted a classroom. In some of our schools, particularly given some of the open-plan philosophies that were at play when they were built in the 1960s and 1970s, there were some areas where people would contest whether something was a teaching space or not. There were some areas where, I acknowledge, there was disagreement. But that is not to say that there was not a reappraisal. Whenever anyone sought a reappraisal of the capacity of a school, it was done.

The point I would make overall in response to those specific allegations is that the only time that schools were contesting their capacity—this is certainly the case now—and contesting those figures with the department was when they wanted to take on additional enrolments. People were arguing all through last year that we were overstating the capacity. Our public education system, in its heyday, had schools that accommodated 700 students. Even accounting for computer labs and the fact that kids are a little bit bigger in 2007 than they were in 1967, to say that a school with 63 enrolments or 28 enrolments that used to have 700 was somehow operating anywhere near capacity is another ridiculous proposition.

All of those arguments were had. All of those arguments were had publicly. Mrs Dunne participated. For the first three or four public meetings, she went along and asked questions, thereby depriving the community of time to ask me questions. That practice ended after three meetings, because the community howled her down and said, "You have ample opportunity elsewhere to ask questions."

Mrs Dunne: That is not true.

MR BARR: You just gave up going to the meetings then, did you?

Mrs Dunne: I went to every one of those meetings, and you know it.

MR BARR: No, you did not. You were not at every meeting. I was at every meeting; I was the last person to leave the hall on every night.

Mrs Dunne: You can check my diary; I went to every one of them.

MR BARR. No, you did not. You certainly did not. I was at a number of meetings that you were not at—and you acknowledged that.

MR DEPUTY SPEAKER: Mr Barr, address your remarks to the chair. Mrs Dunne, cease interjecting.

MR BARR: Thank you, Mr Deputy Speaker. I will not labour this point, but if Mrs Dunne checks the *Hansard* from last year she will acknowledge that I attended every meeting and she did not.

Mrs Dunne: I did not, because it is not true.

MR BARR: You did not attend every meeting I attended, Mrs Dunne, and you know that.

MR DEPUTY SPEAKER: Mr Barr and Mrs Dunne, cease playing tennis and direct your remarks through the chair—either as a point of order, or, Mr Barr, in terms of your comments, to me. Cease being intimidated by Mrs Dunne.

MR BARR: Thank you, Mr Deputy Speaker. It is, indeed, a sidetrack from the main issue, which is the level of consultation that was provided and the level of transparency and accountability. No-one could claim through that process that they did not have hours with me directly, poking me in the chest at umpteen meetings—700 meetings over six months—demanding answers on each of the issues. I utterly reject the assertions from Mrs Dunne that this was some sort of closed process that was done behind closed doors. For Mrs Dunne, in receipt of 10,000 folios and 13,000 pages of information from the Department of Education and Training, to claim that there is some cover-up going on here is another ridiculous assertion.

The mind boggles at just how much staff time within the Department of Education and Training has been devoted to this. I would have to say—I would give her credit—that Mrs Dunne has probably created her own public sector employment scheme within the Department of Education and Training. There would be a number of officers whose full-time job since June 2006 has been responding to Mrs Dunne's FOI requests—requests that sometimes border on being preposterous in terms of the level of information and documentation required from the department.

I do note Mrs Dunne's goodwill in refining some of her requests when it has been put to her that it would take possibly 10 or 15 years to accumulate all of the documentation that she requires. Some of the requests bordered on facile, but that is Mrs Dunne's prerogative. The point I am making is simply that to accuse the government that has provided her with 13,000 pages of information in response to her FOI requests, requests that continue to come in—good luck to her, I suppose. She is desperate to see what it is like to be a minister, to get access to all of that information. There you go; she keeps on putting in the FOI requests. But the other side to this equation is the cost within the department in terms of staff time—the amount of time and effort that is required to turn around requests within the statutory time frames.

I would like to put on record my thanks to the department and to the staff within the department who have worked so diligently and professionally in attempting to respond to all of Mrs Dunne's FOI requests and delivering 13,000 pages of information to her to ensure that there is transparency, accountability and openness in this process.

I went for six months in this place without getting a single question from Mrs Dunne on education matters. There is ample opportunity for Mrs Dunne to ask me questions. She does not always like the answers. She puts that up as the reason she will not ask questions—because she does not like my answers. That is tough luck, Mrs Dunne; I get to choose how I answer a question. You can ask all you like, but the prerogative of the minister is to respond as he or she sees fit. That is certainly what I will do. I am always happy to take questions. I welcome interest in these areas.

There has been a robust debate within the community around how we should provide education throughout the ACT. I was particularly taken by a talkback caller on the ABC recently who noted that schools should not be treated like corner stores, and that the government was right to go through—

Mr Mulcahy: I think it was Jon Stanhope who said that.

MR BARR: No, I think you will find it was a talkback caller who rang in. I was listening intently. He did make a very valid point. As I say, for Mrs Dunne to wander through and try and pick at a couple of scabs and some areas of discontent in what has been a system-wide response— *(Time expired.)*

MR MULCAHY (Molonglo) (4.48): I welcome the opportunity to speak about what is a matter of great importance to the people of Canberra—the importance of open and accountable government in the ACT. Being open and accountable is in itself an important matter for the Assembly to discuss but, even more, today is a chance to reflect on the failure of the current government to abide by these fundamental principles.

This is not the first time that we have discussed accountability. On 1 May, we discussed a matter of public importance proposed by one of my colleagues about accountability over the use of funds in the ACT. Later that same week, we spoke about governance and its importance. It is an indictment of those opposite that since that time—when, it should be pointed out, the Chief Minister claimed, "My

government takes the question of accountability very seriously", and that is a direct quote—there has been no evident improvement, no effort by the government to be more open or accountable, and no effort to live up to the principle which should be the basis of all governments.

Indeed, in the period since the Assembly last sat, we have gone through perhaps the most extensive period of in-depth questioning the government faces under the ACT system—the estimates process. The government's performance during estimates was an embarrassment to it and a reflection of the arrogance with which government members approach their custodianship of the territory. I do not believe that performance littered with ministerial obstinacy, refusal to answer questions, filibustering on simple questions and delaying answers to questions on notice reflects a government that takes the question of accountability very seriously. Nor is a government that has forced the opposition to introduce legislation to make compulsory the tabling of quarterly reports—previously done by convention—a flagship of openness.

I will provide a couple of examples from the last few weeks that reflect the government's approach and lack of commitment to openness. This morning, my colleague Mr Stefaniak touched on some examples from the estimates process; I will provide a few others. Firstly, in relation to Albert Hall, this is an issue of significant concern amongst the community. The Albert Hall is a vital asset; people need to know the government's plans for the hall and whether or not they will protect the community's access to the facility. The government is well aware of the amount of public concern that exists about this issue. The issue has received significant coverage in the media, and public meetings have been well attended. The Chief Minister spoke about Albert Hall during estimates without providing any solid indication of his government's plans for this vital community asset.

After the Chief Minister's performance during estimates, I placed a question on notice to get further information on both the background of the current situation and the government's intentions. The government's response—remember that this is a government that, in the Chief Minister's own words, places great emphasis on accountability—was to answer just four of 20 questions placed. The excuse for not answering others was that they concerned matters still under consideration, material which is commercial in confidence or matters that should be taken up with other bodies.

If you look at the substance of the questions, this excuse does not stack up. Mr Hargreaves, in this instance, refused to answer questions about the previous use of the hall. He even refused to expand on a statement that his own Chief Minister had made during the estimates process. The uncooperative approach was repeated throughout the estimates process.

Another issue, just as important, is the presentation of this year's budget. The budget is the most important document produced by a government. It needs to be presented clearly and should allow for comparison with performance in previous years. Unfortunately—but not unexpectedly for this government—there are numerous examples of the presentation of this year's budget being changed to make comparison with prior use difficult. I will provide just a few examples.

In this year's budget the presentation of staffing profiles has been changed from the head count system used in 2006-07 to a full-time equivalent basis. I am not commenting on which presentation is more suitable, but it is virtually impossible to directly contrast the two. This difficulty is compounded by the decision of the Stanhope government to stop producing the state of the service report. The last state of the service report was for the period 2004-05. This is another example of a government that does not want to be open and accountable. It is unwilling to provide detailed information about the workings of government, and now the presentation of this year's budget has made any analysis of its staffing profile unnecessarily difficult.

There are other examples that relate to this year's budget. Some might seem rather small, but I will mention a few. Altering performance indicators tends to obscure poor performance. For example, with the hared Services Centre, indicators were changed following the inability of the centre to reach the targets set last year. One such target was the time taken for telephone service requests to be dealt with by the InTACT service desk. Following the Shared Services Centre's failure to meet the target, the government has now revised its new target to reflect existing levels of service. It is easy to go through life by just lowering the standard and saying, "Well, there you go. I meet the requirements." In effect, the government set a new, easier-to-reach target that significantly changes what was expected last year. Although this is a small example, it illustrates how the government has been less than open about its shortcomings as it seeks to obscure and bury them.

I have not gone into great detail about the government's failure to release the functional review, and I do not propose to. But it continues to be a thorn in the side of the community, because it was the basis of so many cuts to the ACT community. The government's unwillingness to make that public, while citing cabinet secrecy, flies in the face of a commitment to open and transparent government. This government, by virtue of its absolute majority, is able to utilise these mechanisms and make itself largely unaccountable. I believe that is to the detriment of governance in the territory.

In recent times we have had debate over the dramatic changes in the territory budget that occurred in the space of just nine weeks or so. I know that the Chief Minister was hoping he would get a pat on the back for the ultimate variation being in the order of $200 million from the forecast a year earlier; whilst all sorts of excuses may be rendered for that change in fortune, it travels rather less convincingly when you look at the circumstances of the ACT's financial position changing so dramatically just from June through to August. It begs the question as to whether the figures that were presented in the budget, which are still not debated, are based on a foundation that is flawed or whether the extreme conservatism in revenue is simply either incompetence or an attempt to reduce public concern about the levels of taxes that are being applied across this community.

It beggars belief that from early June to this date we can suddenly find a change in our fortunes of around $100 million. None of that sits comfortably in this community with people. First, they expect competence—and I have been very critical of poor forecasting in this territory since I was elected here. Second, it raises questions about how open the territory government has been in terms of the forecasts of revenue.

I do not know which set of scenarios this government is basing its budgets on, but the kindest interpretation would be that it took an extremely pessimistic view on revenue against what turned out to be a remarkably high scenario. That would be the kindest interpretation. The media and others have taken a much less sympathetic interpretation, and that sentiment is fairly widely held in the ACT community.

People are angry. People are angry over the fact that they are hurt by charges. I know that Mr Stanhope says, "Oh, well, what do you care about WPI? It is a few dollars here and there." But a couple of weeks ago—it was on the Friday at the end of the school holidays, whatever date that was—I heard Mr Stanhope on talkback; someone called in and said that their pension had not been adjusted at all. It is hard for people who are earning over $200,000 to properly relate to that, although I would have thought that Mr Stanhope has had enough experience of life to appreciate it. One has to understand that, for people living on very small incomes, changes imposed by governments are not as insignificant as they might be perceived to be by members in this place or people who are on six-figure incomes.

I am troubled by the basis of it. If there was a lot more transparency, openness and accountability, there might be more willingness to accept massive errors in forecasting. I do not accept that the explanations provided relating to GST and population change come even close to explaining the outcome of the revised budget figures. They all point to the deeper concerns I have with the way that the territory is run.

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (4.58): I am very pleased to be speaking on this matter of public importance today. My government has a proud record of openness and accountability, and I am very happy to discuss it at any time. It is ironic to see the Liberal Party in this place move a motion around accountability and transparency.

We all recall that just a couple of years ago the opposition criticised the government for being too consultative—for consulting too much—and actually called on us in this place to have a little less conversation. Clearly the aversion to consultation, openness and accountability reflects the opposition's record when it was in government. That was not so long ago that we, the people of Canberra, have forgotten about this Liberal Party's position in government in relation to transparency and accountability. For a start, we all have on our shelves a full set of the Auditor-General's reports on the Bruce Stadium redevelopment fiasco—the 12 reports of the Auditor-General in relation to the Bruce Stadium fiasco.

What did the auditor find? That the redevelopment did not represent value for money; that the decision to redevelop the Bruce Stadium was not based on relevant, accurate and complete information; that the management of the financing was not effective; that the financial management model was not reliable; that the actual costs of the redevelopment were not contained; that the negotiation for the stadium hiring agreements did not and would not contribute to commercial viability of the stadium's operations as claimed; and that the governance and management arrangements in place, such as they were, were not effective.

Most damningly, the Auditor-General went on to find that the "payments made for the redevelopment in excess of the amounts appropriated were not lawful"—"were not lawful". It is stunning that the party that had its actions found by the Auditor-General to be not lawful stands here today and accuses this government of not being accountable or transparent.

As we all know, there is a range of other examples. I am sure that members of the opposition have all the reports on their shelves for ready reference to remind them of their history and just how bad they were in government. Of course, the Fujitsu deal raised some very interesting questions about accountability and financial management. Then there was the secret deal in relation to Kinlyside, which raised some very interesting questions and issues around accountability and transparency—issues that, to some extent, had never been revealed because at the time the then government refused every entreaty, request or motion to reveal the details of the secret deal in relation to Kinlyside. They remain buried to this day; those details have never seen the light of day.

Like most of us in the community—I am a long-time Canberran who pays close attention to things—I do not remember a whole lot of discussion about the futsal slab, another process that was far from accountable. All we know about the futsal slab is that it was "Now you see it; you now you don't". One day it was not there; the next day it was. Of course, it is still there and it still has not been used.

In contrast, this government has acted openly, with appropriate levels of accountability and reasonable levels of accountability at all times. The 2006-07 budget—which has been much talked about, particularly in the context of the strategic and functional review—revealed very high levels of accountability.

As I have previously indicated and as every minister in this place has always indicated—and it is the position that every minister has always put, including people who were privileged to be ministers in a Liberal government—reports to cabinet attract a certain status and level of protection. To that extent, there is nothing different or unique about the strategic and functional review. As a cabinet document prepared specifically for cabinet, it attracts those same protections. In relation to cabinet in confidence documents, every minister who has stood in this place since the time of self-government has made the same claim and sought the same protection for cabinet documents for which they had a particular responsibility.

As to the decisions that the government took in relation to last year's budget and the functional review, there are copious amounts of information available. Even today, members need go only to the Treasury website to refresh their memories as to the level of information that was made available about that particular budget and about the decisions that the government took. There are significant amounts of information—indeed, a heavy load of information: the traditional budget speech, the media releases, dozens of fact sheets, and a supplementary budget paper for the future which dealt specifically with the functional review and its development.

Another issue—the shadow Treasurer touched on this again—is the rather extraordinary criticism that the government is now receiving for daring to deliver a

surplus in this last financial year. Mr Stefaniak and Mr Mulcahy make criticisms of this surplus. To some extent, a surplus is something fairly distant from the experience of members of the Liberal Party in government in this place. We never forget that, in seven years of government in the territory from 1995 on, the Liberal Party led off with four consecutive deficits—very significant deficits, large deficits.

It started off with a $300 million deficit and delivered deficits of over $100 million in each of the next three years. There were accumulated deficits of over $680 million in its first four years of government. After that, it did not make up the ground. Over the term of government, the Liberal legacy in the territory—over the span of its time in office—was essentially to leave a negative net deficit position within the territory. That is quite unique. It is distinct from this government's performance—six budgets, six surpluses. The Liberal party in government—those who would pretend to be the great money managers—led off with four straight deficits, and significant, big deficits. That will always be the history and the legacy.

We have again been treated to a chorus of complaint from Mr Mulcahy in relation to the surplus that has been delivered by the government—a surplus of $117 million, a surplus that was delivered to that extent as a result of a $70 million shift in the last quarter. This is unique. This is not the experience of other governments. It has never happened before. A sign of incompetence? I wonder whether that is what Mr Mulcahy, in one of his many friendly fireside chats with the federal Treasurer, Peter Costello, would say in terms of Peter Costello's unintended and unexpected revenue forecasts.

The 2006-07 budget is the one against which we are being so roundly castigated for a $200 million turnaround over the course of a year, with $70 million of that occurring in the last quarter. In that budget, Peter Costello delivered a pot of revenue $3.8 billion larger than he forecast 12 months previously. What do Richard Mulcahy and Bill Stefaniak say about that? In the last financial year, Peter Costello was $3.8 billion out—more than our entire budget: $1 billion more than the entire ACT budget. In the last financial year, Peter Costello underestimated revenue by $1 billion more than the entire ACT budget. He was out by $3.8 billion in 2006-07.

Let us do a little review of the last three years of Richard Mulcahy's great hero. In 2006-07, the last year, Peter Costello underestimated revenue by $3.8 billion. In 2005-06 Peter Costello underestimated revenue by $7.4 billion. That is twice as much as the ACT budget—no, more: 2½ times as much. In 2005-06 Peter Costello's revenue estimates in the financial year were out by $7.4 billion—2½ times greater than the entire ACT budget. In 2004-05, Peter Costello's revenue estimates were out by $13.4 billion. In 2004-05 Peter Costello underestimated revenue by $13.4 billion.

Bill Stefaniak and Richard Mulcahy, in their speeches on this subject—and Richard Mulcahy has just repeated it now—have said that the underestimation of revenue to this extent is a sign of gross incompetence. He levels that at me. What does he say about Peter Costello's $24 billion understatement of revenue over the last three years? *(Time expired.)*

MR PRATT (Brindabella) (5.09): I rise to speak on this MPI about the open and accountable government that we are supposed to have—the Clayton's open and accountable government. I want to draw attention to a number of examples of how this government is not open and accountable.

Let us have a look at the budget processes. Here today, we have heard of obstacles placed to inhibit scrutiny of budget papers—hard to read budget papers. There is a format that hides individual substantial project costs and some of the more substantial recurring expenditure funds and costings that make it that much more difficult for members of the community to examine what these budget papers really look like.

What about the estimates process? This morning we had discussion here about a particular minister—the elephant in the room; we will not name him. In fact, I will name him: Minister Hargreaves. Through his obstructionist behaviour, he clearly impeded the parliamentary process—the estimates process—this year by failing to be open and accountable.

Let us select an example of Mr Hargreaves's avoidance of being open and accountable. Quite seriously, one of the ways he avoids being open and accountable is to intimidate; through bullying processes with members of the public, he avoids scrutiny. Let us ask why Mr Hargreaves might wish to say to MLAs who ask him questions to scrutinise his department's performance that he will not answer those questions until the MLA provides details of the constituent's name. "I'm not going to answer the MLA; I want the details of the constituent before I respond." Is this open and accountable? I think not. This is intimidation; this is avoiding being open and accountable.

Let us look at some of the activities that this government has counselled. There has been the abolition of certain committees, such as the traffic liaison committee and MACMA. Let us have a look at the bushfire council. That has not been abolished, but it may as well have been, because its traditional powers have been emasculated. That is the way in which this government has developed in these last five years. Any one of these committees which might be a little bit pesky or might be providing forthright and firm advice is sidelined, emasculated or entirely stacked with good old comrade mates to ensure that the minister gets the advice that the minister wants.

Today, Mrs Dunne has talked at length about school closures. I want to refer briefly to the closure of Griffith library—another example of Mr Hargreaves being open and accountable! I recall Mr Hargreaves saying in a public rally outside Griffith library, "I didn't ask the community what they wanted to do; I didn't really consult with the community about this question of closing Griffith library, because I knew what they were going to say. I knew what they were going to say, so I didn't bother to ask them. I'm just standing up here today and I'm telling them I'm going to close the damn library." That is the way that piece of open and accountable consultation from this minister went.

I go to Tharwa bridge. Today, we have talked about the time it took to examine what state the old bridge was in and the failure to communicate with the Tharwa community to expedite this issue. We have talked about the Point Hut road detour issue and the "Slow down" signage—the "Dangerous corner: slow down" signage—which was missing for up to 12 months but, interestingly enough, was replaced immediately after a very serious road accident. That is not open and accountable government; that is just backside covering—indeed, an act of covering up slackness, the antithesis of being open and accountable. That one issue is a stunning illustration

of a failure by this government and its departments to be open and accountable. You move to cover your backside. God help us if we want to ever even admit that there has been a failure.

The opposition would have a lot more respect for this government if they said, "Listen, opposition; we have found weaknesses in the system that we need to address. You have alerted us to those particular issues as well, as have the community, and we are willing to move on those." There would be a lot less argy-bargy in this place—and in estimates, in hearings and in annual report hearings—if this was the attitude of this government. It is not. It is a matter of "Do not dare admit that there might be a weakness in the system; do not be open and accountable. We want to be arrogant; we want to be on top. The opposition has no role to play."

It is this culture which backgrounded this government's failure with the 2003 fires—the failure by this government to accept early responsibility for a range of issues which had gone wrong in the events leading up to the January 2003 bushfire disaster. The government would have been forgiven for its failures except for its arrogant stubbornness, a stubbornness that meant that the opportunity to move quickly to provide better protections to the community passed us by.

I refer also to a particular high school incident. Mr Barr and I have crossed swords about this on many occasions. It is an issue that I raised in 2006 in the estimates hearings. I am not going to go to the detail of that matter now, but the fact that very serious issues—very strong allegations, and I stress "allegations"—were swept beneath the carpet is another clear illustration of this government's arrogance and its failure to be open.

I go to the ESA restructure. Because the ESA—the emergency services authority, an independent authority—were expressing concern to the government that new initiatives needed to be taken quickly, their independence was taken away. Because the government's bureaucrats were jealous of the independent authority's independence in an operational sense, we saw the government move to close the ESA down.

I go to FireLink. What a project management disaster. Mr Hargreaves—as he walks out of this chamber—is one of two ex-ministers and one current minister who share the glory in covering up on the failures of the project management of FireLink, the mobile data and vehicle locating system which is still not operational. We now have no mobile data and vehicle locating system. That was a project that they said would be operational by bushfire season 2004-05.

I go to safety issues around the bus interchanges. This minister said that he would be moving in May—that he was alarmed. He was rightly alarmed. He was being pressured by the TWU—that something needed to be done. He said that they would move by July to at least take immediate steps pending longer-term budgetary initiatives to make the bus interchanges safer. As we stand here today, in August 2007, those bus interchanges are not that much safer at all. We are yet to be convinced by this minister that he has moved with the urgency that he boasted about in May.

Then there is the taxi industry. Today, Mr Hargreaves talked about the meeting that he had on 12 July. That is a meeting that he had with industry leaders. There was a very short agenda. He wanted to lay down two points, and two points only. In the previous 12 months, he had refused to meet those industry leaders to address a whole range of issues affecting the taxi industry. If ministers of this government are not going to meet these people, how is it open and accountable? *(Time expired.)*

MRS DUNNE (Ginninderra): Mr Speaker, I claim to be misrepresented and ask to make a statement under standing order 46.

MR SPEAKER: You may proceed, Mrs Dunne.

MRS DUNNE: Thank you, Mr Speaker. In the matter of public importance just concluded, Mr Barr said in his remarks that I did not attend all of the public meetings in relation to the school closure consultation last year. I want to put on the record that I did attend all of the public meetings as part of the school closure consultation. I do not know whether the minister was being cute about that; there were a lot of other meetings that I was not able to attend because they were private meetings. I will put on the record that there were probably about four people in the community who attended all of those meetings. That included one member of Mr Barr's staff, Mr Barr, me and one member of the media.

MR SPEAKER: Order! You have made your point. Resume your seat. Time for this discussion has expired.

Planning and Development Bill 2006

[Cognate bills:
Planning and Development (Consequential Amendments) Bill 2007
Building Legislation Amendment Bill 2007]

Debate resumed from 31 May 2007, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR SPEAKER: I understand it is the wish of the Assembly to debate this Bill cognately with executive business order of the day No 3—the Planning and Development (Consequential Amendments) Bill 2007—and executive business order of the day No 4—the Building Legislation Amendment Bill 2007.

That being the case I remind members that in debating order of the day No 2, Executive Business they may also address their remarks to orders of the day Nos 3 and 4.

MR SESELJA (Molonglo) (5.19): The opposition will be supporting this bill in principle. We will be moving some amendments in the detail stage which I will flag shortly. The reason we support the bill in principle is that the planning system in the ACT is broken. It has sometimes been described as the worst in Australia. Whether this is true or not, it is acknowledged by industry and many in the community who deal with the planning system that there are significant problems currently which

cause significant delays and frustrations to many. These delays have an effect on investment, and they have an effect on costs, which are inevitably passed on to home buyers in particular.

We support this bill in principle because we want to see our planning system improved in the interests of all Canberrans. From the announcement of this process, I have sought to work with the government on this issue. I made it clear from the outset that I supported the principle but that I would look to work with the government to get the detail right, and I have honoured this. I did this as a member of the planning and environment committee, which has made some very sensible suggestions to the government, some of which I understand will be taken up through government amendments. I also did this by not criticising the delay in the finalisation of the legislation and the new territory plan, as I believe it is more important that some time is taken to get this process right rather than forcing a rushed process which misses an opportunity to take steps to fix a broken planning system.

In this vein, I will also be moving amendments, which have been circulated to members, which I believe would, if agreed to, strengthen this bill and protect the fundamentals of the leasing system in the ACT, as well as honouring the stated aims of the legislation to make the planning system more efficient.

The main changes, we are told, that the bill is designed to bring about include: increasing the number of developments that do not need development approval, such as new single residences in greenfield sites and small structures, including garages, sheds and pergolas; better focused consultation, public notification and third party appeal processes; introducing clear assessment tracks for different types of development—code, impact and merit; closer integration of leasing and development assessment so that the planning system operates more efficiently; simplifying and clarifying land uses as set out in the territory plan and consolidating codes that regulate development; retaining concessional leases and making the process more accountable; and introducing a transparent environmental impact assessment process targeted at developments with significant environmental impact.

These are important goals and many of them, I believe, will be achieved through this bill once it becomes law. In particular, moving development assessments into tracks that are broadly in line with the development assessment forum model is particularly important. This change has the potential to make developments in greenfield sites in particular faster, simpler and cheaper. We are therefore supportive of it. I receive a significant amount of feedback from industry about difficulties sometimes in getting even simple DAs approved. Hopefully, this reform will make these occurrences much less common.

In terms of this part of the legislation, obviously how we regulate our private certifiers will be crucially important in making this work. I draw to the attention of the Assembly that that is something that will need a lot of work, and we will be monitoring it closely to ensure that that system works with integrity. Much will depend on the shape of the new territory plan. While this is to be debated on another day, it needs to be said that if the government does not get the territory plan right, these changes will be virtually meaningless.

For instance, one of the criticisms of the draft territory plan was that, to come within the code assessment, and therefore avoid a development application and the possibility of third party appeal, the rules were too restrictive. This included in some cases six-metre setbacks for residential blocks, and a 50 per cent site coverage provision, which includes paved areas. These provisions would not contribute to housing affordability and seem overly restrictive, limiting the amount of land which home owners can utilise.

There are numerous other examples cited by industry in relation to the draft territory plan which are too restrictive. Some of these relate to prescriptive design rules for apartments, such as in relation to balustrades and things as detailed as banning common walls for bedrooms in apartments. The initial claims of policy neutrality were rejected by industry, and this initial claim is no longer maintained by government—certainly if the website is anything to go by.

In relation to some of those issues, at the time they were raised with ACTPLA and government we were told that some of those prescriptive design rules that I have mentioned were not actually changes; they were simply bringing into line things that had already been there which perhaps were not well understood beforehand. Of course, now that policy neutrality is no longer being maintained, it becomes more difficult to maintain the argument for retaining some of those prescriptive design rules.

I will not go too much further into the territory plan but I did want to touch on that matter. As I say, this legislation is very important but it is even more important that we get the territory plan right because that is where a lot of the detail will be. It is crucial to the process and, no matter how good the legislation is, it will not be worth much if we do not get that territory plan right.

Increasing the number of developments that do not need development approvals, such as new single residences in greenfield sites and small structures, including garages, sheds and pergolas, is welcome. This should play the dual role of freeing up ACTPLA staff for more important tasks and saving Canberrans money. We therefore welcome it and support this aspect of the bill.

Just as the territory plan is critical to the success of planning system reform, so is ACTPLA. While improvements have been made, further improvements are necessary. There does need to be more of a culture of assisting the public with their needs rather than an overly prescriptive attitude to development. Those working on the territory plan and this legislation have faced a very difficult task without having the kind of resources which this task requires. But I do commend them for the work that has been done, particularly on this bill, because I think it is quite a gruelling process. I know many of them are present. It is difficult; they have not had a lot of resources and it has been a challenging process. I commend them for the work they are doing in trying to bring about these changes. Nevertheless, improvements to the efficiency of ACTPLA will be an important addition to any efficiencies which are achieved as a result of the passage of this bill.

The stated aim of better focused consultation, public notification and third party appeal processes is a good one. I am of the view that public consultation and notification in the planning process is important. However, this needs to be balanced

against the need to avoid spurious claims which unreasonably hold up developments, cause frustration and push up prices as a result.

To this end, the changes to third party appeals as a result of this bill are generally positive. However, there is one glaring anomaly which needs to be corrected, and I will be moving an amendment in this area in the detail stage. This amendment will close the loophole which allows groups to be set up in order to gain standing in the AAT to challenge development approvals. I will give more details when the amendment is debated. In summary, I think it is crucially important that we get that balance right in terms of third party appeals. It is not in the community's interest for us to have unreasonable appeals holding up developments.

Under the new legislation, that is taken care of in the code track, but in the other tracks there is still a glaring loophole, in my opinion. The concern relates to apartment complexes or other developments being held up by unreasonable claims in the AAT, with objectors not being faced with any real financial loss as a result of taking on these claims. This can cost proponents significant amounts of money. Of course, that is almost always passed on to first home buyers.

Mr Barr: Except if they are in A10 zones in Evatt.

MR SESELJA: I note that the minister is champing at the bit to contribute to my speech and I welcome his input, but perhaps he could wait until he closes the debate on the agreement in principle stage.

I emphasise that it is important that we get that balance right. The amendments that I will move later represent a good step forward. Once again, I acknowledge that this legislation is an improvement on what is now in place, but I do think that taking that extra step would be very useful and would avoid significant delays occurring in the future.

On the issue of use as development, one of the stated goals of the legislation is closer integration of leasing and development assessment so that the planning system operates more efficiently. This is one of the more controversial aspects of the bill. It is our position that this aspect of the bill undermines the leasehold system and threatens to create uncertainty. We will therefore be opposing this aspect of the bill.

Broadly, our concern is that, rather than making the planning system operate more efficiently, it undermines the leasehold system by creating uncertainty around the rights of landowners in the territory. It does this by linking use to development; that is, where a lease provides a bundle of use rights to a leaseholder, the ability to take up those use rights is subject to the need for a development approval. This undermines a leaseholder's rights and therefore undermines the leasehold system.

This part of the bill has drawn strong criticism from numerous industry groups, most noticeably the property council, as well as the law society. Indeed, the law society took the unprecedented step of saying that it could not support the bill while the concept of use as development remained. I will quote from comments made by Alfonso del Rio, representing the law society, when he appeared before the planning and environment committee some time ago. He said:

> I come to the last issue which, from the law society's point of view is probably the most important issue. The law society is faced with a very unusual position. This relates to the issue of use as development. I am sure you have heard ad nauseam about the concept.
>
> The society's position is that it is unable to support the bill if the concept of use as development remains. As I have mentioned before, I have been appearing before this committee for many years. This is the first time that statement has ever been made. It is not made without due consideration and regard.
>
> Lastly, and importantly from this point of view, is ensuring orderly planning by lease purpose clauses.

Mr del Rio goes on to quote the following passage from the report into the ACT leasehold system:

> In our opinion this reason—being the orderly planning by lease purpose clauses—also remains relevant. However, for the leasehold system to deliver orderly planning in the ACT, lease purpose clauses need to be clear and unambiguous, rigorously enforced, reviewed and amended when appropriate to encourage desired redevelopment, and not overridden by a statutory zoning plan.

Mr del Rio stated that the Law Society of the ACT for the first time would not be able to support a bill and would withdraw its support for the piece of legislation on the basis of the concept of use as development. While the government has flagged amendments to this part of the bill, I do not believe that they go far enough. I will touch on that in a moment. I do commend the government for having listened to that significant concern that has been raised. I acknowledge that it has moved, and I think that is an improvement. My contention is that the government has not moved far enough to take away that concept and to avoid the perception or the reality that the leasehold system and the rights of leaseholders would be undermined by this bill.

My understanding of the effect of the changes is that whereas in the bill as it stands use is automatically treated as development, regardless of whether a development approval would ordinarily be required, the taking up of a use will only trigger the need for a development approval if a development approval would ordinarily be required. This is an improvement, as I said. However, the problem with the proposed amendment is that, in the latter circumstances outlined, use will still be considered and assessed separately from the development application; that is, once it is triggered, both are considered—both the development application and the issue around use. That is still a significant concern for a number of industry groups in relation to this legislation, notwithstanding the flagged government amendments. It is our contention that, although this is an improvement, it would still undermine certainty and potentially take away use rights which are legitimately purchased by landholders.

The property council and the Master Builders Association remain opposed to these provisions, as well as a number of other significant industry groups. Despite the disdain shown recently by members of the government—the Chief Minister in particular—for industry groups, particularly the property council, these voices are important as they will be dealing with this system day to day. We are opposed to the concept for these reasons. Even with the amendments, the concept remains, and we will therefore oppose it.

Two other significant concerns relate to the issue of the mortgage of leasehold subject to building and development provision—consent to mortgage—and the transfer of land subject to building and development provision. Clause 291, which is replicating a clause in the current legislation, has the effect of making it unlawful for people to consolidate their credit cards into their mortgages. The former planning minister, when quizzed on this issue, and on why a clause which was not enforced was maintained, answered that perhaps it was time to start enforcing this clause. Many Canberrans would shudder at this answer. I certainly welcome the fact that the proposed government amendments will remove this. I think that is a significant step. It was a bad law, a useless law and an outdated law. I do not think we should maintain rules and laws which are not enforced and for which there is no good public policy reason. So I commend the government for having moved on that, and I certainly commend the new minister for taking a somewhat different approach from his predecessor on this issue.

Clause 292 restricts the transfer of a lease without a certificate of compliance, except in limited circumstances. The limited circumstances include where financial hardship exists. We have concerns about this clause and we will be moving an amendment during the detail stage in relation to it. Needless to say, however, we do not see the usefulness of this clause. Certainly, if the concern is around land not being developed or being held onto indefinitely, there are other ways of enforcing that. This clause is not necessary and that is why we will be opposing it.

The Liberal opposition renews its objection to the operations of the Land Development Agency. We will therefore be opposing clauses which establish the agency. I will explain our opposition to the LDA during the detail stage, but broadly it relates to the disastrous experiment of a monopoly government land developer and the terrible effects this experiment has had on many Canberra home buyers, particularly first home buyers.

Given the cognate status of this debate, I will touch briefly on the two other bills that are before the Assembly today. The opposition will be supporting the Planning and Development (Consequential Amendments) Bill 2007. As has already been mentioned, the more significant issues will be debated within the primary piece of legislation, the Planning and Development Bill. However, it should be noted that it is critical at all times to maintain consistency with other territory legislation. In the context of a completely new planning system for the territory, it is beholden on both the government and the opposition to ensure that the system is given every opportunity for success and complies with all other relevant legislation. The majority of the amendments are of a technical nature and, as stated, the opposition will support the adjustment and alteration of the other legislation generally and the bill as a whole, although I believe there will be some amendments, consequential to my proposed amendments to the main bill, which will apply to the Planning and Development (Consequential Amendments) Bill 2007.

The opposition will also be supporting the Building Legislation Amendment Bill 2007. As has already been noted, the bill will assist in the implementation of the planning system reform project, including the removal of the duplication of development approval and the building approval. While this will mean a reduction in the financial

burden placed on the applicant, it will also remove an administrative burden on ACTPLA staff. The bill will also widen the range of exempt structures not requiring building approval. The opposition supports both this change and the acknowledgement from the government that a regulatory framework is still required to maintain building standards in the ACT. The onus placed on private sector building certifiers is a further positive step in reducing the red tape involved in the planning process and is therefore supported. But as I touched on earlier, it will now be particularly incumbent on the government to regulate this area properly to ensure the integrity of this system. If this is not properly regulated then that will fundamentally undermine the code track assessments.

In concluding my comments on the main bill, notwithstanding the fairly significant concerns which I have outlined in relation to some parts of the bill and to which I will be moving amendments, the opposition will be supporting the bill in principle. It is a step forward from the system which we have now. I repeat that, regardless of what is in the bill, the territory plan and the administration of it are crucial to how this system will work in practice. I am grateful to ACTPLA staff, as I told them at our briefing, for making draft regulations available for us to consider. We have not had a chance to consider them in detail but we will certainly be considering them over the coming weeks and months. As I said to staff at the time, I think that is a good way to deal with legislation because it allows members of the Assembly to properly consider all of these things together. The regulations will make up a very important part of this legislative package.

I call on the government to improve the bill by supporting our amendments. Our amendments will plug some of the holes that are left there. I note that there are well over 100 government amendments. I welcome the fact that they have been prepared to move on a number of issues. Many of those amendments are technical and consequential. *(Extension of time granted.)* They are amendments which would significantly improve the legislation. We in the Liberal opposition do want to see this system work. We want this legislation to be good legislation. We want the new territory plan to work, and we want it to be a well-drafted territory plan.

If the government misses this opportunity, it will be quite a tragedy. There is an opportunity here to fix or significantly improve the planning system. There are still some holes in this legislation but we think it is much better than what we have at the moment, so we will be supporting the bill in principle. I look forward to debating some of the other issues that I have raised in more detail when we come to the detail of the amendments.

DR FOSKEY (Molonglo) (5.40): First of all I want to acknowledge the work done by ACTPLA officers on the huge pile of legislation and amendments that are before us. I know that over the last two years they have worked, probably beyond the call of duty, to try to explain the changes to community organisations, to stakeholders, and basically to anyone who would listen. If there are people who are surprised by this legislation, and I maintain that there will be, it will not be the fault of those officers, so I thank them.

Although this planning reform legislation has been a long time in the making, the basic parameters were set long before it became a document for public consultation.

With its model determined in the Development Assessment Forum, its aim was always going to be that of easing obstacles to development. Input through public consultations have at best allowed for changes around the edges rather than determining the basic principles which would underlie the thrust of reform.

Planning has always been an issue of intense community interest in the ACT. My theory on this is that it reflects our short history as a planned city, during which time we have seen the best and the worst of planning fashions. Because this city is still in the making and not yet a done deal, interested individuals and groups have felt that it is worth their while to try and influence planning decisions to make the city reflect their aspirations—primarily to enhance the bush capital characteristics that have made Canberra unique.

I believe that, when they wake up to the impacts of this legislation, they will be shocked to find that their efforts to safeguard their communities have no avenue for expression. They will learn that they should have made the most of their consultation opportunities before they even knew that there were such opportunities, when the direction of this legislation was already set in the minds of the governments and the bureaucrats who implement planning law.

Other approaches are possible, however, which have as their basis needs other than the continued establishment of new suburbs and which put the environment, affordable housing and other social considerations at the heart of planning decisions. One such model is the natural resources management legislation introduced in New Zealand in 1991 and tweaked and expanded a number of times since. While the resources management act has a number of problems, including the one experienced by ACT residents—that by the time they find out about a development it is often too late to affect it—it does have one major difference from the ACT planning reform legislation. It explicitly mandates the application of an environmental lens to planned developments from the beginning. In fact, in 2004 a climate change lens was added to the New Zealand act.

I believe a climate change trigger was at one time also intended to be part of the ACT legislation. With our knowledge of the likely impact of climate change on the ACT—our weather, our water resources and our vulnerability to fire—it is a great shame that this momentous legislation, being presented at a time when awareness is so strong, does not require developments to be considered in respect of their contribution to greenhouse gases and their suitability under the likely impacts of climate change. I could go into the effect of these provisions in some detail, but I will save that for a later debate. I simply make the point that this legislation represents a number of missed opportunities.

As I have previously mentioned, the government has chosen to walk away from ongoing and meaningful community engagement on planning issues. There was a view put by previous Assembly committees, and indeed by the ACT Labor Party when it was in opposition, that the planning process needed to be an ongoing dialogue between government and community and that this dialogue needed to occur at all levels of planning. That is a view that the Greens still hold. We understand that this might slow things down a bit at times, but like all collaborative processes, it has the potential to deliver much better outcomes for all parties involved.

Such a dialogue needs to be informed by a vision of how we plan to live together, how our infrastructure and resources are allocated, how our buildings work, how we relate to the physical environment around us, the impact we have on the planet, and how we can best organise ourselves to provide support for and opportunity to everyone in our society. Some of that work was done by this ACT government in developing its spatial and social plans, but in our view too much of that vision was abandoned in the planning system reform project, of which these bills are the key part. The legislation does not provide for, indeed it often excludes, that dialogue.

I acknowledge that there has been considerable opportunity for business stakeholders and community groups to feed into its development over the years. I welcome the clearer, more considered approach to environmental impact assessment reflected in this bill when required. However, all the essential thinking had been locked in place before true community consultation took place. So the priority has been to simplify the processes, cut red tape and add certainty for property developers at the expense of the city, which should be free to change its shape in response to the contemporary needs and aspirations of the people who live in it.

The ACT government has announced that it is very proud that this project is a leading-edge example of the preferred model produced by the Development Assessment Forum and supported by the Howard government and the property council. It is a model that has been opposed by local governments around Australia and in this form by local community groups across Canberra. This is a planning and development bill; it is not a planning, environment and community bill. Perhaps it should just be called the planning for development bill.

It is worth making the point that, while the reduction in duplication and the elimination of unnecessary costs and inefficiencies are worthy aims, not all red tape generates such inefficiencies. Another name for red tape is regulatory requirement. Most regulatory requirements arise because of either a perceived threat to some aspect of the public good or as a considered or knee-jerk reaction to an experience where some partial interest group has profited from damaging some aspect of the public good.

Of course, there will always be people involved in development who would like to eliminate constraints on their pursuit of profits, but they are merely one voice among many. The fact that they have large amounts of tax deductible money to throw around, combined with a financial interest in eliminating development conditions, should not elevate the development lobby's interests above those of the people who have to live with the developments that they want to make money constructing.

The New South Wales government has become corrupted from the disproportionate amount of political funding that is flowing into the New South Wales Labor Party's coffers from development interests. The most blatant payback for the so-called "donations" has been changes to state laws limiting the capacity for local councils, community groups and individuals to have input into planning decisions and to object to inappropriate development proposals.

I fear that we are seeing a similar process occurring in the ACT, where the proportion of political donations that comes from development interests is quite considerable. The donations to the ACT Labor and Liberal parties in 2004-05, visible on the Australian Electoral Commission and Elections ACT websites, are testament to that. Mr Speaker, I seek leave to table some documents from the Australian Electoral Commission and the Elections ACT websites.

MR SPEAKER: Is leave granted for the tabling of these documents?

Mr Corbell: Could Dr Foskey indicate to the Assembly what it is she is proposing to table?

DR FOSKEY: I sought leave to table documents from the AEC and the Elections ACT website in relation to donations received by political parties in the last two elections.

Leave granted.

DR FOSKEY: I table the following papers:

> Australian Electoral Commission—registered political party annual returns 2005-2006.

Unfortunately the commonwealth's new disclosure laws will make it more difficult to keep track of donations unless the political parties take it upon themselves to provide that level of transparency.

There is something of an inverse relationship between the level of political control over planning decisions and the health of a representative democracy. Planning is an area where process is extremely important and it is important that people have confidence that planning decisions are taken consistently and in accordance with predetermined rules and procedures. The Greens are not anti-development. But we do think that development should take place to further the interests of the community and minimise the adverse impacts on natural ecosystems. If this means that developments have to wait a reasonable time until any potential adverse consequences are identified and rectified, then so be it. That is not something to be ashamed of.

Governments should represent the interests of affected environments and communities with as much vigour as they exhibit in trying to smooth the way for developers and property investors. The playing field is tilted enormously anyway between the partial interests of developers and community and environmental interests. For a start, threatened and endangered species cannot apply for court injunctions. They need an altruistic champion who is willing to give up their time and money in order to defend them. Similarly, communities do not profit from opposing development applications that threaten their amenity. Again, it takes a few good people who are willing to sacrifice their own time and energy to defend the interests of those who do not necessarily have lobby groups, tax breaks and profit motives to push their own agendas.

I do not think this legislation gets the balance right. It fails by placing too much power in the hands of the minister and the planning authority, and it fails by placing too many obstacles in the way of effective community power to oppose inappropriate development. We need an independent arbiter such as a land and environment court to ensure that the high sounding objects of the act, such as sustainable development and intergenerational equity, actually get expressed in day-to-day planning decisions.

In my view, the problems start with the object of the bill. While it admirably incorporates a form of sustainable development which I have just referred to, it makes no attempt to include social equity in that definition. The ACTCOSS submission on the draft bill points out that intergenerational equity is to be considered but equity in the here and now is not, that planning to support an inclusive society is not considered and that community wellbeing in all its broader senses is not addressed. ACTCOSS also notes that key social justice principles that could be in the object provisions of the act or in the territory plan are simply not there.

The planning and land authority is not governed by a board that could be held to account on principles such as these. It is simply an entity with responsibilities to maintain relevant records of land and development and to manage the planning and building processes. As far as possible, it is required to give effect to sustainable development, but I have serious doubts as to whether there is sufficient political support to develop this concept and to make the ACT into a truly best practice jurisdiction in terms of pushing social and ecologically responsible practices.

ACTPLA does not appear to have any greater vision, and it can be directed by the minister. Codes of conduct did exist under the PALM regime and I suspect that if they had been developed upon, refined and appropriately resourced and advertised, they would have been an extremely useful component of a socially and environmentally best practice planning regime. Such codes would set minimum standards and good faith guidelines that participants in the development process would have to abide by.

Under this scheme, major changes such as variations to the territory plan require minimal public consultation, no response from government to that input and no necessity for it to be considered by an Assembly committee. It could be that this government views that level of accountability as sufficient. As a senior ACT bureaucrat has explained in a different context, consultation for the government really happens once very four years at the ballot box.

In my view, that is inadequate. The Greens are not going to propose complex amendments to the bills this week. The habits of majority government have shown us that little would be gained by enlisting significant parliamentary counsel resources to redraft this bill into something more responsive and community based. Instead, the Greens will promote some more substantial changes to the bill in the lead-up to the next election when the imperative to cooperate might result in better outcomes.

That is not to say that officers from ACTPLA and the various ministers have not been helpful and have not considered our concerns. *(Extension of time granted.)* With a bit more time at this end of the process before the main debate, I think a number of small but meaningful, and in that way substantive, amendments to the bill could have been

agreed upon and included in these legislative instruments. My office did ask in May to start that process through briefings, but the new minister's staff was unable to find us any time until 9 August. I know my staff have been frustrated, to say the least, about that process and I regret the lost opportunity to make some small and some not so small improvements on which we seem to find common ground with ACTPLA officers.

In any event, I will move a number of amendments at the detail stage, but those amendments are merely to oppose some key clauses. That will give me the opportunity to put the Greens' concerns about some of the details of this bill on the record. In some minor cases they also offer the minister an opportunity to put those concerns to rest.

But I have a number of general concerns which I will outline here rather than oppose each and every clause that contains such principles in the detailed stage. This legislation overall invests too much power in the planning minister. It constantly relies on the minister to make good decisions rather than having good equitable in-built processes.

There are a number of areas which rely on the good intentions of government and/or the minister. This is exacerbated by many areas being too weak and using words like "may", and an example of this is the consequential amendment to the Heritage Act. Another example is clause 59 of the bill. ACTPLA may be required to give the heritage council a copy of each development application for proposals in the merit or impact tracks. In previous legislation the council had to give copies of all proposals relating to heritage sites. I can understand that everything is being moved to the track-based system, but I think in this case all heritage site-related applications should legally, as a matter of course, be passed onto the council to provide appropriate scrutiny.

Clause 221 allows the minister to establish a panel to conduct an inquiry about an environmental impact statement. Again, it is completely up to the minister. There is no need to take advice from anyone on this issue, whether it be the conservator or a department, including his or her own. Worse yet, the minister can decide not to establish a panel and can choose whether or not to present the EIS to the Assembly. In this case, all the minister has to do is to give ACTPLA written notice of the decision.

The Greens think that this is woefully deficient. If there was a strong enough reason to undertake an EIS in the first place, then it cannot be too big a task to present the findings to the Assembly. Again, it is a case of relying on good intentions instead of relying on strong legislation. I should not have to point out the obvious in this place, that intentions are only as good as the government of the day, but legislation gives intentions legs to stand on. And strong legs are good legs.

In the 2005 government response to the review of leases there was a commitment to a whole-of-government approach to this legislation broadly and to a number of particular areas. Unfortunately, as well as being minister heavy, this legislation is department heavy. ACTPLA has a lot of power to make a number of planning decisions which would ideally have reference to other departments.

At 6.00 pm, in accordance with standing order 34, the debate was interrupted. The adjournment of the Assembly having been put and negatived, the debate was resumed.

DR FOSKEY: For example, decisions about which organisations should gain concessional status in terms of leases should perhaps be made in conjunction with advice from DHCS, TAMS or CMD. Much of the decision making around environmental impact statements falls completely in the hands of ACTPLA, with occasional reference to the minister but with complete disregard for consultation with, for example, the Conservator of Flora and Fauna or any other body with environmental responsibility, knowledge or decision making ability that ordinarily one would presume would have a say in environmental impact assessments. I make the point that this is the role of a beefed-up commissioner for the environment as in the New Zealand model referred to earlier.

In my introduction I brought up issues I and my office had with the lack of time and opportunity to meaningfully interact with the minister, his staff and his department on this bill. In a way this is a sad reflection of how we see public opportunities will be for people who interact with developments after this legislation has been put in place. What we find throughout this legislation is a tightened timeframe to ensure that developments are not held up at any point unnecessarily. What this means in real terms to anyone who may be affected by any development is that any concerns must be voiced within 15 days of public notice being given. This is in the regs, not the bill, and that is why I am talking about it here.

This is woefully inadequate. Fifteen days might be enough time for a well-oiled department to run an application through the decision making wheel. However, as a public consultation period without notice, it is a joke. Unfortunately, it is not the only part of the public consultation process that fails us. The constant reference throughout the bill to community consultation taking the form of a public notice in a daily newspaper is a sign that the government wants to do the bare minimum here. It is not truly committed to getting public input.

How many residents of Canberra actually buy and read the *Canberra Times* public notices section every day? Not as many as the *Canberra Times* would like and perhaps not as many as the government would like. Perhaps it is as many as the government would like because that is what we are talking about here. If you find out about a development when it is too late, they will say, "But there was a notice about it in the paper." That is just not good enough. This government has an excellent community engagement manual. It would be really great if some of the theory within that manual could be applied to this bill.

Another issue related to consultation is about tenant rights. In current legislation and also in this proposed legislation property owners and lessees are notified of a relevant development, but tenants are not. Being the last to find out, they will most likely have completely missed the short consultation period of 15 days. Tenants generally have no standing throughout this bill.

It would be really nice if this legislation could go through a process like a French election or, perhaps more relevant to here, a committee process. I understand that if

the government concurs with some of my and my office's proposals, if this week's process was slowed down, some of these could actually be taken on board before the bill commences. Nonetheless, these bills have failed to deal with the most fundamental issues that confront us in planning for the world in which we live and in addressing the social and environmental challenges that we face.

MRS DUNNE (Ginninderra) (6.04): At last, Mr Speaker, we can debate the Planning and Development Bill. The major act that this bill is doing away with is the Land (Planning and Environment) Act of 1991. Some of us, including you, Mr Speaker, were here at the time while others have learnt subsequently of the history of the passage of that piece of legislation. It was a bad piece of legislation that has been hanging around our necks ever since.

In 1995, with the arrival of the Carnell Liberal government, there was a review of the land act, known as the Stein report. As I have previously lamented in this place, it was a shame that more of the amendments to the land act recommended by the Stein report were not implemented at that time. If they had been, we would not have had the terrible hotchpotch of a planning system that we have had for the last 16 years.

Planning legislation since the beginning of self-government has been a mess, and the accounts of the passage of the Land (Planning and Environment) Act of 1991 are not edifying. When I came into this place and acquired the job of shadow minister for planning and chairman of the planning and environment committee, from time to time I went back to the legislation and said, "Why do we do it like this?" It often turned out that some of the more arcane and difficult things that arose in the current legislation came about because of an amendment that was passed, often literally written on the back of an envelope in the chamber while the debate was going on.

Occasionally there was no debate about it, and one example is the process whereby variations to the territory plan are referred to the planning and environment committee. I became the chairman of the planning and environment committee at the end of 2001 and was presented with a whole range of variations to the territory plan. So I thought, "Well, let us see how this works." Quite literally, no one knows why it worked. There was an amendment moved by a member. That member did not even speak to the amendment to justify why a variation to the territory plan should be referred to the planning and environment committee for inquiry and report. The planning and environment committee has no role of veto, no role like that at all. Another layer of bureaucracy, for want of a better word, was put into the legislation.

I am very pleased, Mr Speaker, that we are here today debating this bill. I will just say that it is probably five years and possibly 10 years too late. I will put on the record and repeat the position that I have taken since I first become a member in this place. One of the first things I did in this place was to move a motion requiring the government to review the land act. Twice in the course of 2002 I moved various motions to attempt to require the government to review the land act.

In the context of the passage of the Planning and Land Bill in 2002, I held the view—and I still hold it today—that less than half the work had been done; the most important part of the work was left undone. The passage of the Planning and Land Bill, the establishment of the planning and land authority and the land

development agency and all the bits that hung off that, the statement of planning intent, all of those things in a sense was the easy bit, the ideological bit, the bit where the previous planning minister wanted to put his stamp on it.

I repeat the warnings that I gave on the day that that piece of legislation passed. I said in this place that the test would not be whether or not the legislation passed that day, but whether the system would be any better two years down the track? We know that the planning system was not improved by that large raft of legislation passed in December 2002. Two years after the passage of the legislation we still had the problems of uncertainty about concessional leases, uncertainty about development rights, difficulty in getting development applications approved and changes in lease purpose clauses. These things had not been addressed.

We are now coming to the stage when, finally, they are being addressed, and it is an indictment of the neglect of the previous planning minister and his predecessors. No one is faultless in this. In 1996, a large raft of amendments prompted by the Stein inquiry was passed, while others were not passed. We squibbed it. The former shadow planning minister squibbed it and the former planning minister, who at the time was my boss, squibbed it.

It is a sorry indictment of the process that we have had to wait 11 years to get to this day. There were opportunities. The previous Minister for Planning in 2002 had opportunities to do it, and he passed them up. In November 2002, I moved a motion in this place calling for a law reform commission review of the operation of the land act, which at that stage was more than 10 years old. I suggested that commencement of the Planning and Land Bill should be delayed until that review was completed so that it could all be done as one body of work.

Finally, Mr Speaker, we have that one body of work. It has taken almost five years to get that one body of work. I am standing here today still extremely concerned about the passage of this bill. I have had considerable discussions with Mr Seselja and his office and I note their fairly high level of satisfaction with the process. There has been a review process through the planning and environment committee and Mr Seselja and his office have praised the openness and availability of the planning officials.

But I am still concerned that after five years of work or 11 years of work or 17 years of work, depending on how you look at it, we have in excess of 100 government amendments to this legislation. I fear that we are going to be in the same situation as was referred to in the Stein report by the former head of planning, Mr Jeff Townsend. He described the land act as "a disgrace"; the "worst piece of legislation" he had ever seen; a piece of legislation that was "amended more than 100 times on the floor". He said, "It is a mess." I hope that in five years time we are not saying that about this piece of legislation.

Tonight we are confronted with in excess of 100 amendments. Some of those are consequential and fall into particular categories, but the mere fact that we are at this stage in this situation is an indictment of the process. Once again the ministers have failed to get it right. There are some models, and I pay tribute to the previous planning minister. When we passed the Planning and Land Act there were at least two, and possibly three, occasions when all the parties and officials sat around the table and

went through the amendments. We discussed them at length, worked out which ones we could support and which ones we would not support.

The opposition and the crossbench put forward proposals. Some of those were taken on as government amendments. We went through and found inconsistencies, and the staff of the Clerk's office were extraordinarily helpful in making useful suggestions about how to get through problems. That, I understand, has not happened with this bill and as a result we are going to have a large number of contested amendments. There were contested amendments to the Planning and Land Bill. There were things that we just could not agree on, but we knew what they were beforehand. Anything else had been settled well in advance and the passage went smoothly. I am concerned that this will not happen on this occasion, but again I pay tribute to the people who have got us to this much needed place at last.

There are issues with this bill which have been generally touched on by Mr Seselja, some of which I will reinforce. I applaud Mr Seselja for his determination and I will be supporting his amendments to abolish the land development agency. It was certainly the view of the Liberal Party back when the Planning and Land Bill was passed in 2002 that the land development agency would be a disaster. We said that it was unnecessary and unneeded, and everything that we said has come true.

I will give some examples. The apparent breakdown in communication over the highly controversial EpiCentre auction and disposal of land shows that there are not the checks and balances necessary between the LDA and ACTPLA. There has been a failure to get land out at a time when the community is crying out for land. There is a housing shortfall, as a result, perhaps, of inefficiencies or the minister, perhaps, wanting to turn off the tap and drive up the price of land. The net result has been a housing affordability crisis in this place engineered effectively by the land development agency.

I will give just one example, and that is the first block of land developed by the land development agency, Yerrabi stage 2. It was developed in 2003. To this day there are still vacant blocks in that place. This is a failure of the land development process. Quite early in the piece, when all the civil works had gone in and the kerbing and guttering was there and the for sale signs were up and for months there were no houses developed on this place, a private developer said to me, "Vicki, the problem with this is that there is no risk for these people and as a result of this they can afford to let this go on."

A private developer could not afford to have land vacant for so long unsold and undeveloped. They have holding costs; they would be losing money. But they were losing ACT taxpayers' money. There are still blocks of land in Yerrabi stage 2 which are not developed, and that would be unheard of in a private development simply because the private developer could not afford to have land sitting around unsold for a long time. As a result of that, the price of that land went up and up and up. Before the 2001 election the average price of a block of land in Gungahlin was $64,000. Yerrabi stage 2 sold in the upper nineties and now we see blocks of land going for $200,000 and $300,000 in Gungahlin, all as a result of the work of the land development agency. Congratulations, ministers!

I am also particularly concerned about the problems with the leasehold system. I think that the problems that have been highlighted by Mr Seselja and the property council go to the very heart of the problems that I have with this bill, and that is a failure to understand the difference between development proposals, development rights and lease rights. I am reminded of an anecdote from the whole legislation development process early in the piece, and the previous minister might be able to tell me if this is untrue, but it has been told by a number of people.

Early in the piece there were discussions about how the taskforce in ACTPLA were going with the development of the new planning and development legislation and one of the officials, who seems to have been new to the territory, was reported to have told a group of people, "Well, we are going pretty well and if we can do away with the leasehold system, it will be a really good piece of legislation." I think that the problems brought to the attention of the minister by the property council and Mr Seselja are indicative of an attempt to do away with the leasehold system—a very ham-fisted one, a potentially disastrous one and one that must be addressed.

But most importantly, and I have to reinforce what Mr Seselja has to say, this is going to be a worthless document if we do not get the territory plan right. The territory plan is, in a sense, the important missing piece. I encourage the government to work with the community and with the opposition to ensure that when the territory plan is finalised it is done in a way that creates a coherent pathway that allows the appropriate implementation of this legislation. In short, to reinforce what Mr Seselja says, we have come a long way, but I fear that we still have a very long way to go.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (6.19): As members have acknowledged, this legislation represents the most significant reform of planning legislation in the territory since self-government. It is the culmination of over two years of hard work by the government and the ACT Planning and Land Authority, with active participation from all sectors of the ACT community.

I would like to take this opportunity to thank the representatives from community councils, community organisations, industry groups, professional associations, the conservation council, the ACT Council of Social Service and the planning and development forum for their ongoing contributions to the development of the legislation. Having heard Mrs Dunne's speech, I also need to congratulate Mr Seselja and his office for working with Mrs Dunne through this process.

I would also like to thank the many individuals who have contributed their knowledge and expertise through the expert reference group or by providing advice on particular parts of the reform project, and I acknowledge the contributions of the former planning and land council, as well as the ongoing assistance of ACT commonwealth agencies. Finally I would like to acknowledge the significant contribution of my colleague, Mr Corbell, in initiating and promoting these planning reforms, which will be implemented through this package of legislation and the new territory plan.

The main objectives of the planning reform project are well known, and they are to create a planning system that is simpler, faster and more effective. The package of

legislation now before the Assembly is a major step in achieving that goal. The key reforms include the introduction of track-based assessment for development proposals which matches assessment criteria, consultation, public notification and review rights to the complexity of the development proposal. This adapts the DAF best practice model to the ACT, and it is a first in Australia.

More development will be exempt from development assessment. In particular, people seeking to build homes in new estates will no longer require development approval provided they comply with the proposed residential zone development code. There will be a wider range of smaller structures that will no longer require a development approval.

There will be clearer processes and time frames for decision making. For example, the planning and land authority will have to make a decision on a code track development application within 20 working days. Other ACT agencies advising on merit track applications will have to provide advice to the planning and land authority within 15 working days. There will be enhanced environmental impact assessments, including the introduction of strategic environmental impact assessments for major land use policy decisions. There will be more transparent and timely planning and release of land for future urban use and other reforms that will help increase housing affordability. Leasing and development assessment decisions will be more closely integrated, and lease administration has been streamlined. There will be more accountable management of land for community facilities and other special purposes through a new statutory framework for concessional leases, and of course there will be enhanced compliance.

In developing these reforms the government has sought to balance the community's interests and the interests of various sectors such as industry groups and the professionals who advise them. While achieving this balance is always difficult, the government is confident that all sectors of the community will benefit from these reforms. While the reforms introduce restrictions on third party appeal rights, development applications in the merit and impact tracks will continue to be notified to adjoining householders and more generally, depending on the anticipated impact of the proposed development.

Opportunities remain for people who are materially affected by a proposed development to appeal to the AAT if that development is approved. Compliance is enhanced through new complaints processes, strengthened enforcement powers and higher penalties for offences.

As members are aware, the Planning and Development Bill was presented in December 2006. Since that time the bill has been subject to a report from the scrutiny of bills committee, has undergone internal and external review and has been the subject of ongoing discussions with stakeholders in the community.

The new territory plan has also been exhibited and, as a result, the government will move amendments to the bill reflecting the various events that have occurred since the bill was first presented. I should note that whilst there are a number of amendments, more than two-thirds of these are technical in nature and some amendments actually reflect one amendment although they occur multiple times in the bill.

Amendments 15 and 114 respond to the comments made by the scrutiny of bills committee. The explanatory statement, which I will table shortly, has also been revised in light of those comments and I would like to thank committee members for their contributions.

I also draw members' attention to some significant amendments. Amendments 125 and 126 provide for a further statutory consultation period for the new territory plan of a minimum of 15 working days, which may be extended by regulation. Members are aware of the extensive consultations on the territory plan that has already occurred. This consultation began on 27 May 2005 with the release for public comment of the planning system reform strategic directions paper and technical papers, which included proposals for the framework of a restructured territory plan. This process concluded on 5 August 2005.

In December 2005, the government released its response to the public consultation on these documents. On 13 July 2006, the government released an exposure draft planning and development bill, as well as a draft structure of the territory plan for public comment, which concluded on 31 August in that year.

In November 2006, focus group workshops were held involving industry, community councils and other community groups, as well as members of the general community. The proposed territory plan and key codes were released for public comment in April of this year for a public consultation that ended on 1 June.

Members will be aware that I have appointed an independent assessor to review the outcomes from this consultation and to report back to me. Today I announced that the government will release a final version of the territory plan for public comment in November for a period of four weeks, in accordance with the statutory framework provided for by the government's amendments. This final consultation period will provide adequate opportunity for the community to comment on any amendments to the plan that result from the assessment of the independent assessor, given the detailed consultation that has taken place so far.

There are a number of amendments proposed to a concept known, as speakers previously have identified, as uses development within the bill. As explained earlier in the presentation speech, the government proposes that there be a single definition of development which includes use of land. This definition will enable the territory plan and the development assessment system to properly assess the impact of proposed development and to place appropriate conditions on the continued operation of that development.

Compliance is also enhanced. Over time this change will allow for the integration of lease administration with development assessment, which will remove duplication that is inherent in the current planning system and will provide for a more efficient and effective administration. Essentially, the new definition of development will mean that development approval is required when a new building is added to land and there is no existing use approval or a new use or change of use and building work is required.

However, if the building is exempt from requiring a development approval—for example, a small deck or pergola—then a use approval will not be required. Existing use rights in leases will not be affected. Uses authorised on a lease can continue to operate. For existing and new leases, development approval may be needed so that the impact of changed use involving building work can be assessed and managed.

The government has worked closely with industry to address its concerns within this concept. There will be a single source, the land titles office, for finding out about the rights to use land. Protections for uses on new and existing leases are guaranteed in the bill. Existing rights are not lost when a development application to commence another use is refused for planning and development assessment reasons. Rights to use land do not lapse simply because there is a break in the use of the land, the use is not continuous or the lease is renewed.

There is express protection in the rare cases where a change to the territory plan prohibits a use authorised in the lease. The owner may still exercise those use rights but may need to seek development approval to do so. The reforms protect the community's interest in having an efficient and effective planning system, but it also protects the rights of individuals to develop their property.

A final significant amendment is the removal of clause 291 of the bill, which restricts mortgages over undeveloped land. This provision, which also exists in the current land act, prohibits leases of undeveloped land from being mortgaged unless funds borrowed are used to finance the purchase of the land or construction of the buildings on that land.

A companion provision, clause 292, requires leaseholders to obtain the consent of the planning and land authority to transfer undeveloped land. Consent may only be given in certain circumstances. These circumstances have been revised in light of the removal of clause 291. Collectively, these provisions have operated to prevent land speculation, which is one of the important objectives of the ACT's leaseholder system.

Stakeholders and the planning and environment committee have raised concerns that clause 291 is in conflict with current financing practices and may unwittingly put people in breach of this provision. These matters have been given careful consideration and the government now proposes to delete clause 291 of the bill whilst amending clause 292 to retain the anti-speculative objectives of clause 291 in a more flexible form.

Very quickly, Mr Speaker, before we adjourn I will just make some comments on the other bills. The Planning and Development (Consequential Amendments) Bill 2007 makes consequential amendments to other ACT legislation as a result of the Planning and Development Bill and while most of the amendments are technical in nature some amendments are more substantial. For example, the amendments to the Land Titles Act 1925 enables the Registrar-General to note administrative interests on titles such as development approvals for use, in time providing people with a single source of information about what affects their property.

Other amendments to the Public Health Act 1997 and the Environment Protection Authority Act 1997 integrate assessment processes under those pieces of legislation

with the environmental impact assessment system created under the Planning and Development Bill. Still other amendments, such as those to the Tree Protection Act 2005, align that legislation with the 15-day referral period in the Planning and Development Bill.

Government amendments to the Planning and Development (Consequential Amendments) Bill are technical in nature, either correcting errors in drafting or making sure that other legislation is amended to accord with the Planning and Development Bill.

The Building Legislation Amendment Bill facilitates one of the government's principal reforms. It allows building certifiers to give building approvals for single residences in new estates, provided those houses meet the rules of the relevant code, thereby removing the need for a development approval. Government amendments to this bill are of the following types: amendments that are necessary to ensure that the bill's provisions achieve their intended effect; amendments that make language clearer or more compatible with the respective provisions of the laws they amend; some amendments to fine-tune the administrative arrangements around the various aspects of the building construction, statutory approval, inspection and certification processes under the Building Act 2004; other amendments to take account of consultation outcomes on the bill and several amendments to resolve anomalies in the Building Act 2004.

Substantive changes to the bill by the government amendments will ensure that appointments of a certifier can be continued if they expire at the proposed five-year expiration date. This will discourage certifiers from exploiting a loophole to avoid their responsibilities as certifiers. Also, changes will ensure that certifiers do not have to notify government of matters government would already know about in relation to the certifier's appointments ending. This will avoid unnecessary paperwork.

Changes will enable a regulation to prescribe the kinds of advice referral an entity is permitted to give when building approval applications are referred to the entity for advice. That can have the effect of establishing informal terms of reference to ensure that the referral entity's veto power arising from disapproving a plan is not used beyond those terms. The changes will resolve an anomaly relating to when certifiers have to notify government about non-compliant building work; ensure that certain evidence certifiers have to give to government is adequate for the purpose for which it is provided; provide a mechanism for government to determine if it is appropriate to certify the demolition of a building or the erection of a structure and, finally, make more prominent the bill's provisions dealing with estoppel in exercising rectification order powers. I table the revised explanatory statement.

Question resolved in the affirmative.

Bill agreed to in principle.

Sitting suspended from 6.33 to 8.00 pm.

Detail stage

Clause 1 agreed to.

Clause 2.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.00): I move amendment No 1 circulated in my name and table a supplementary explanatory statement to the government amendments *[see schedule 2 at page 1811]*. This amendment substitutes a new commencement clause in the bill and specifies that the bill is to commence on 31 March 2008 or when the new territory plan commences or when notified by the minister, whichever is the latest date. The new territory plan commences in accordance with clause 423 (3) of the bill.

MR SESELJA (Molonglo) (8.01): We will be supporting this amendment. It has been a good thing that this slows down the commencement. At the same time, it begs the question why we are rushing the legislation through, so to speak, with 160-plus amendments, given that it is not going to be starting until at least the end of March and possibly some time later. That has never been made clear to the opposition. Perhaps the minister could outline what the rush is to get it through this week. Of course, we are cooperating with that, but it seems a bit curious—given we are going to have such a long lead-in to the commencement of the this act—as to why there is a sudden rush to push through 160 government amendments, plus opposition amendments, plus crossbench amendments to pass this legislation. Perhaps the minister might be able to answer that question for us.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clauses 3 to 5, by leave, taken together and agreed to.

Clause 6.

DR FOSKEY (Molonglo) (8.02): I will be opposing this clause. I give credit to the people responsible for this bill—Simon Corbell clearly being a big part of that—for building into the object of the act a commitment to considering the long-term environmental implications of development and planning decisions. I am not sure how much other ACT legislation articulates the issues of intergenerational equity and the precautionary principle. In this light, I would like to see the government revisit its fairly recent reconfirmed commitment to sustainability legislation to ensure that this thinking informs the objects of all government agencies.

However, the problem I have with this clause of the bill is that there appears to be no formal consideration of our society and our culture. One of the big sources of community tension around planning issues are divergent social and cultural expectations. While social aspirations of the people of the ACT are referred to in this clause, what they might be or how they might be discerned is not addressed. There are

social and cultural planners whose work is to consider those elements. I appreciate their work. It should be essential to the processes of planning bodies, such as this one. However, this bill, in essence, ignores it. One wonders if we would have ended up with the massive Canberra Centre shopping mall if cultural planners had been used to assess the social economic impact of privatising so much public space, and in integrating many large non-innovative, non-local, market-dominated shopping chains into one relatively massive building complex.

This bill is clearly designed to facilitate a more streamlined and transparent planning and development regime. To a considerable extent, it appears to have succeeded with that task. Sadly, it does not address the ongoing failure to consider the long-term social impact of planning decisions, which has resulted in large-scale mistakes, such as the Canberra Centre. More profoundly, the object fails to integrate equity into its goals either separately or as part of an enhanced definition of sustainable development. I remind the Assembly of the comments made by ACTCOSS in its apparently ignored submission to the Assembly committee inquiry into the bill last year. It says in relation to sustainable development:

> In 1992, the Commonwealth Government, endorsed by the Council of Australian Governments, released a foundation document on sustainability: the *National Strategy for Ecologically Sustainable Development*. Its core objectives were stated to be:
>
> - To enhance individual and community well-being and welfare by following a path of economic development that safeguards the welfare of future generations
> - To provide for equity within and between generations
> - To protect biological diversity and maintain essential ecological processes and life-support systems

It is interesting to compare this with the principles in clause 8 of the bill. While the basic concepts of environmental protection and intergenerational equity are largely the same, the idea that sustainable development incorporates the promotion of individual and community wellbeing and welfare is not present. Similarly, while the definition in the bill expressly includes the principle of equity between generations, there is no reference to equity within generations, meaning that the principle of development should help ensure that everyone has equitable access to resources has been lost.

ACTCOSS would strongly recommend that the principles of community welfare and equity within generations be reintroduced to the definition of "sustainable development". A minority government would undoubtedly have been prepared to negotiate on this matter. A majority government, unable to consult or provide briefings to members for three months due to the pressures of work, would not. But this is a matter we will be happy to return to next year or after the next election.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.06): The government will not be supporting Dr Foskey's argument. The object of the act replicates the existing object of the Planning and Land Act, one of the acts to be consolidated in the Planning and Development Bill. I understand that the Greens want

a definition of the word "orderly". However, it should be noted that this clause reflects the wording of the commonwealth's Australian Capital Territory Planning and Land Management Act. As such, the government will not be supporting Dr Foskey.

MR SESELJA (Molonglo) (8.07): The opposition will not be supporting Dr Foskey. The object of the act is quite a reasonable one, regardless of whether it is the same as what has gone before or otherwise. To have development in any other way that was not consistent with social, environmental and economic aspirations and in accordance with sound financial principles would be somewhat ludicrous. These object clauses tend to be ignored most of the time, it must be said, except for broad interpretation from certain judges. I do not think it is going to have significant impact, but we would be broadly comfortable with the wording in clause 6.

Clause 6 agreed to.

Clause 7.

MR SESELJA (Molonglo) (8.08): I move amendment No 1 circulated in my name *[see schedule 3 at page 1812]*. This is the first in a series of amendments that I have circulated. They go to one of the fundamental problems with this bill as we see it—the issue to which I alluded in my speech on the agreement in principle. Our problem with this—and we will be moving to delete several other clauses as a result of this—is this concept that the minister and I and others have spoken about in this debate already, of use as development, which is being introduced as part of this bill. I will speak, firstly, about our concerns with the bill as it stands now and, secondly, in relation to the bill after the proposed government amendments that will change the concept somewhat and change the scope and the nature of it. I would like to speak to both.

The first issue is use as development, which has been introduced. Essentially, this concept takes existing use rights in a lease. One of the fundamentals of our system is that even though we do not have freehold, we have a fair amount of certainty around the bundle of rights that are purchased when someone purchases a lease. That has been a longstanding principle. It is important in order to create certainty. So that bundle of rights has withstood the test of time. It has allowed a person to know when they purchase a piece of land or when they acquire a lease that they have certain rights to do certain things.

That is always subject to development approval, where that is necessary, where there is construction work or where there is significant altering of the structure. But the reality is that the use is protected, and that is the important principle that we see being changed here as a result of this bill. It essentially takes away some of that certainty that purchasers or leaseholders currently enjoy knowing what their rights are, knowing there are certain rights that they should be able to take up—subject, of course, to development approval, but that is to do with the impact of the development itself rather than the use as such.

The government has announced upfront, and I referred to it in my earlier speech, this concept of integrating leasing and development provisions for efficiency savings. We are not convinced that this will have the kind of significant efficiency savings that

would justify this kind of departure from the current arrangement. There have been many comments from industry on this, but I refer the Assembly to the Law Society, which appeared before the planning and environment committee on this issue, and whose representative said:

> The law society is faced with a very unusual position. It relates to the issue of "use" as development … The society's position is that it is unable to support the bill if the concept of "use" as development remains.

That is a significant problem. That is why we are seeking to amend this and many other clauses that use the terminology or are associated with use as development. That is the problem with the initial bill. In our opinion it is a fundamental undermining of the leasehold system, of the certainty that goes with the bundle of rights that are purchased by leaseholders in those circumstances.

Since this bill was introduced the government has taken seriously some of the concerns expressed from industry in relation to this issue and a number of proposed government amendments will deal with this issue. But the reason that I will be proceeding with this amendment and with further amendments to remove use as development is that we do not think the government's solution solves the problem. It is quite a complex drafting exercise. However, my understanding is that, in the circumstances where a person has a number of use rights and seeks to take up a different use and where that would not in the ordinary course involve a development application or development approval, use does not come into it. So in that first instance, part of that problem has been solved. So the government has gone some way in its amendments to fixing this issue, which is good.

But where there is the alteration of a structure or a new building, the development application comes in, as it ordinarily would. That still brings in this concept of use as development, which then applies in those circumstances. So in some circumstances it will not apply—where, in the ordinary course, you would not need a development application—but where it does, not only is the development assessed on its merits, but also the use. So persons who paid for certain uses and want to take up those uses that they feel they have a right to not only have to go through the rigmarole of the development application, which is reasonable, because they are building a structure or altering a structure significantly, but they also have to be subjected to the uncertainty of not knowing whether they are going to be able to take up that use, which is not a change of use in the way we understand it now. It is simply taking up the use which is available to them under the lease. That is why, whilst the government amendments have improved the situation, they have not improved it enough.

It is my contention, and it is the opposition's contention, that this failure to fix this will lead to uncertainty and undermine the leasehold system as we know it. The leasehold system has served the territory fairly well. It is well understood in Canberra, even though it is perhaps a bit of a mystery to outsiders and investors, but that is another debate. The reality is that it works fairly well, and industry and Canberrans are broadly comfortable with it. This bill muddies the waters around certainty in the purchase of certain rights. There are valuation issues and the like that go with that. Will we see discounted valuations to take account of the risk of these new provisions which may see a person not getting all of the rights that they thought they were

entitled to when they purchased their lease? This is still a significant concern to industry. It is a concern to us, and I think it is very important that we get this right.

We will be moving a number of further amendments as a result of this. I will not talk at length to all of them but, essentially, this is the concept, and this is where we are differing from the government. It has gone some of the way. It is an improvement, it is better than it was, but it still leaves us open to a lot of uncertainty. I still think it will undermine our leasehold system, and that is a real concern. That should be of concern to the government. That may not be the intention, I am not quite sure, but that is the fear of many experienced practitioners. It is the fear of the law society. It is the fear of the property council. It is the fear of the MBA and those who deal with these issues day to day. That is why we are moving these amendments. We will push these amendments, and seek the support of the crossbench and the government, because this would improve and fix things and prevent us from going down a path that I do not think we want to go down.

It would be a real pity if what could be a positive reform was undermined by what may be a significant limitation in this bill. It may be a significant change that we do not want and perhaps has not been canvassed in the broader sense. We have not, as part of this, taken a good look at the leasehold system. As I said, that is a different debate. We could argue about whether the leasehold system is still relevant as it is. But I do not think this is the change that is going to get us over the line. I do not think this is the change that is going to improve things. That is why we are moving this amendment, and will move several subsequent amendments. I seek the support of the Assembly for them.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.18): The government will not be supporting Mr Seselja's amendment. I understand the issues that Mr Seselja has raised. It is an interesting debate and one that goes to balance and how to balance community interests against those of the development lobby. The phrase "use as development" refers to a refined and altered definition of development. It will allow the impact of the use or change of use of land on the community to be properly assessed and considered before any development approval is granted. Applying use as development principles will mean that development approval will be required when someone wants to add a new building to land and there is no use approval already applying to that land, or when someone wants to start a new use or change a use and building work is required.

The key benefits for the ACT community that flow from this change are that it protects the community from inappropriate development on leases at some point in the future. Development approvals and lease variations will be able to be granted more quickly. It will speed the process, because the territory's leasing and development assessment systems will be better integrated. It will also allow the restructured territory plan to transparently and accountably regulate land use. This proposal does not affect use rights in leases. The government has been careful, through the amendments that I will be moving shortly, to preserve existing use rights. It will ensure for any new leases that uses authorised on a lease can continue to operate. However, for existing and new leases development approval may be needed so that the impact of changed use involving building work can be assessed and managed.

This puts into law what has been government policy since December 2005. The government has worked closely with the community and industry in developing these proposals. Officials from ACTPLA have had more than 20 meetings over two years with industry and community groups to address some of the concerns that have been raised. I welcome Mr Seselja's acknowledgement that he believes the government amendments are an improvement. It was important that we went through that process to arrive at the situation we have now.

The key things here are that by providing people with a single source, the Land Titles Office, for finding out about their rights to use land, by strengthening protections for authorised uses on both new and existing leases, guaranteeing these in the Planning and Development Bill, by ensuring that existing rights are not lost when a development application to commence another use is refused for planning and development assessment reasons, by ensuring that rights to use land do not lapse simply because there is a break in the use of the land, use is non-continuous or that the lease is renewed, and by providing express protection in the rare cases where a change to the territory plan prohibits a use authorised in a lease where the owner may still exercise those use rights but may in some cases need to seek a development approval to do so, the government considers that these reforms achieve that fair balance. They protect the community's interests in having an efficient and effective planning system, but they also protect the rights of individuals to develop their properties. So the government will not be supporting Mr Seselja's amendments, but I will be putting forward amendments of my own shortly.

MRS DUNNE (Ginninderra) (8.22): This is obviously where the government and the opposition part company. Sadly it is at the very beginning of the legislation and over such a fundamental point. Having listened to the minister, I suspect that the anecdote that I relayed before dinner is correct—the people who were devising this new legislation system have at their heart a complete lack of understanding of the leasehold system and a desire to do away with it.

Mr Stanhope: Do you mean ACTPLA?

MRS DUNNE: Yes, I do mean ACTPLA.

Mr Stanhope: What? They completely misunderstand the leasehold system?

MRS DUNNE: Who do misunderstand the purpose of the leasehold system and have a desire to do away with it. What this minister has just described is potentially the end of the leasehold system. I was joking upstairs with a couple of people about what has happened. You had the original driver of this legislation, Minister Corbell, when he was planning minister. He wanted to have controls over everything. Suddenly the eco-rat has come in but he does not understand enough about his new portfolio to understand the real implications of what he is doing here today and does not have the capacity to walk away from what is an entirely foolish notion.

You are going to end up with two classes of leases to some extent. If you exercised as much of your lease rights as possible, you will be fine, but if you have a lease with a lot of possible uses on it—and a new lease, in particular—that lease will be devalued

over time because you have not had the opportunity to exercise the maximum number of uses or maximize the number of uses in a way that does not spark the intervention of an inquiry about the change of uses. Over time, this will create two classes of leases in the same way as we have with residential leases—the old style leases that give us rights to two residences on our property and the new leases that do not. There will be a skewing of the market in favour of older leases and a devaluing of newer leases, which will have fewer uses available to them under the system. This shows a fairly basic misunderstanding or a wilful ignoring of the leasehold system and how it interacts with the land use system.

If you want to have a discussion about the leasehold system, as Mr Seselja said, by all means have a discussion. Open a discussion about the leasehold system, but this one clause—and the consequential amendments that hang off it—will, over time, fundamentally change the leasehold system in the ACT for the worse. It will skew the economics of land in the ACT in favour of older leases, because the newer leases will have fewer uses attributed to them and they will be of a lower value as a result of that.

In putting this forward, the government fails to understand that when people acquire a lease, and they acquire a suite of possible uses under it, they pay for that right. People will not be prepared to pay for a lease that may have six, eight or 10 possible uses if they cannot make the decision. For example, one might start off with a newsagency on that site, but, over time, the newsagency is no longer viable and somebody might decide that that shop would be better used as, say, a hairdresser. Because it requires substantial plumbing works, it would require a DA, and then it would automatically trigger a process whereby that use would be subject to investigation by the territory as to whether that was appropriate. Then a whole bunch of planners are making economic decisions about whether it is desirable to have a hairdresser in this place. That decision rightly rests with the person who wants to open the business, not with the planners.

There are problems with the leasehold system, but the government is making all of those problems worse. Constrained lease purpose clauses have constantly been a problem that arises in the territory. Over the past few years they have been improved. There has been less constraint, but what we are doing here is going back to the bad old days of more constraint, where bureaucrats end up making the decision about what is a legitimate business, not taking into account that we have a land use policy that will, for the most part, set out where particular sorts of businesses or particular sorts of operations can be undertaken. We all have commercial land and we have industrial land. The descriptions of land use policy is where you make those decisions about whether it is an appropriate place to have a hairdresser or a nuclear power station or a funeral parlour or a dog pound. Those decisions are made at the land use level, and then specific leases have a variety of uses.

To have this halfway house where you may acquire a right that you can never exercise because the planners, in the wisdom of their review, may decide that it is not appropriate to have a hairdresser where once there was a newsagent, means people will not be prepared to pay for a lease because they will have no certainty, as Mr Seselja said. We are taking the certainty out of the system. Decisions that are rightfully business decisions will become decisions made by bureaucrats.

This needs to be opposed. I am quite surprised that the planning minister, with his supposed understanding of how economics work, does not understand this. I sometimes feel sorry for this minister, because he spends his time being thrown in at the deep end being told, "We have a problem, mate, and you are here to fix it." He has had schools and now he has this planning legislation which takes a bit of time to get your head around. The understanding of the history and practice of the planning system in the ACT is not something that one easily acquires. As a result, I think today we are witnessing a very bad decision because this minister has not had time to get his head around what is going on.

Listening to the minister read his prepared speech does not give me any confidence that he understands what is going on. As a result, we will have bad policy, and we will rue the day that we have arrangements in legislation that will take away certainty from the leasehold system. It will mean that people, especially people who are unused to the leasehold system, will be less inclined to come here and invest. Some people see the ACT leasehold system as being less certain than the freehold system. Tonight we have signalled that if you buy a lease, you may never be able to cash in—"cash in" are not the right words—

Mr Barr: Maybe it is.

MRS DUNNE: A very Freudian slip, I do apologise—but you may never be able to retrieve the rights set out in that lease. Your business decision, your decision to spend your money or your corporation's money, will be gainsaid by the planners. This is not to say that the planners are fundamentally evil or wrong or ill-intentioned or anything like that, and the Chief Minister will be verballing me in a minute. But they are making decisions based not on whether it is viable to do it, but on the fad at the time.

The decisions about what is done on a particular lease should be constrained only by the land use and what the lease purpose clause sets out. If you want to change the lease purpose clause, by all means have this investigation, by all means charge people for a higher and better use. But my concern here is that by doing this we are artificially constraining the market in particular ways. It is a great shame that this minister cannot go the full way to just throwing this thing out. In many ways he is in quite a good position because he can just throw it out. *(Second speaking period taken.)*

Because the minister is not the original architect of this legislation he could throw it away. He could say that the use as development provisions are constraining and have the potential to skew the market and to create irrational activity in the market, and he could walk away from it. In many ways it is incumbent upon the government to prove to us why this is necessary. It has not proved why this is necessary. The government is saying it wants it like this and therefore it is having it. A large number of people experienced in how the system works, such as the property council, are saying strongly that they cannot support this legislation. This is a make or break issue for some groups in the community, the groups that make us a prosperous town. They can see the problems with this. I suspect the minister can see it but does not have the courage to throw it out.

DR FOSKEY (Molonglo) (8.33): This clause and Mr Seselja's amendment point out for me the incredible complexity of this legislation and the amendments, and the difficulty that people who are not planning professionals and have not been studying the legislation for months and years will have with the legislation. In this sense I am a community member put in a situation where I have to make a decision about something I feel ill-informed on. I am persuaded somewhat by Mr Seselja's arguments that people who have taken up the lease need to have that certainty of use for which they took up the lease in the first place. I am told that if they are going to make major material changes such as erecting new buildings on the site, and so on, they will have to seek development approval anyway. In this case, my instinct—and it is nothing more than that, because I do not feel well-informed because we have not had the briefings—is to support Mr Seselja on this one. I cannot see the community benefit of this meaning of use as proposed in the government's amendment.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.35): As I said in my initial remarks, it is about striking a balance. I can give Dr Foskey a practical example. Someone has a lease to operate a restaurant and wants to change that. The lease says they can change it to a nightclub and they want to do extensive building work as part of that. The Planning and Land Authority would assess the impact of the change of use to a nightclub, and I will give you an example.

Say it was a particular lease at the bottom of a residential development in Dickson. If it was a restaurant and it was proposed to become a nightclub, that change of use and significant building work attached with it would have an impact on the surrounding community. So I believe it is appropriate for the planning authority to have consideration. It does not mean it is automatically vetoed but it means that that change of use should be considered. To pick up on the point that Mrs Dunne raised, this does not affect rights held under existing or new leases. So this great uncertainty that you think it creates I do not see as being so.

Mrs Dunne: You really are creating two classes of lease then.

MR BARR: I think it is simply the case that a particular agenda is being pursued, and I understand why the organisations and the Liberal Party are pursuing that, but in seeking to find a balance we were going to make some amendments to what was obviously proposed. Yes, I have been lobbied intensely by the property industry and by the development lobby to support the position that they have put forward and that the Liberal Party are putting forward. However, in looking at all of the issues and having to find a balance between protecting community interests and ensuring that where there is significant building work and a change of use—and there are a couple of examples around the city where what was a restaurant has now become an active nightspot that has had impact on surrounding residents—we need to have regard to the effect of that. Major building work does not stop changes from occurring but it means we have regard to it when assessing a development application—that is all.

So the level of concern that those opposite are expressing is a bit overstated here. The balance the government is striking with the amendments I am about to put forward is fair to all parties and will provide the certainty that people need, but will also protect

community interests. These are very complex issues and we have a lot more coming up, but in the end we need to have that level of protection for the community. That is why I am not supporting these amendments and will put forward another set myself.

MR SMYTH (Brindabella) (8.38): This process has been approached by just about everybody who has been involved in the re-write of the Lands Act with a spirit of goodwill. As we sit here tonight debating these bills and passing these amendments the only great fear amongst the nine or 10 key groups that have helped in this process—I think the minister would say that they have been helpful in the main—is this change to the definition of "development" and the addition of the words "it is also using the land".

As I said, everybody worked towards this outcome with a spirit of goodwill. At the end of the process all the other groups, bar the government, have one major area of concern. I believe that the government must take another look at what it is doing. I ask the minister to tell the Assembly, for instance, how this will affect the outcomes of the DAF. Is this consistent with DAF and what is going on in other jurisdictions, or are we yet again the only group or jurisdiction in the country that will be out of step? We are already out of step because we run leasehold instead of freehold, which adds to some of the confusion.

Back in 2001 as a minister I was talking about simplifying and harmonising the process so that businesses moving from state to state and particularly into the ACT's jurisdiction were not suddenly confronted by a different process. I would appreciate the minister taking the time to tell us that this is consistent with the DAF process, that this is not out step with all other jurisdictions in the country, and that we are not yet again going out on a limb.

The minister referred tonight about the agenda that is being pursued. Over the past three years that agenda has been pursued collectively by all groups. Referring to the reform process I compliment those who have done the drafting, put it together, listened, and tried to come up with some legislation that will meet everyone's needs. I also compliment the head of ACTPLA. In the main the process has gone very well. I compliment our planning spokesman for his input and I compliment the minister for at least getting to this point.

My problem now is that we are changing definitions. When we change fundamental definitions about development and where it is to go we are confronted with a problem. I think this concept will haunt the minister. I think the minister will find that he will be back here to revisit this issue in the not too distant future. People genuinely want to balance what they can do on their blocks of lands with the rights of their neighbours. In the past we have had quite a good process.

In the last couple of weeks all those to whom I have spoken have simply asked, "Why do we have to expand the definition in this way?" We have been given only one concrete example, that is, that a restaurant is to change to a nightclub. The government cannot give us any examples to show that the current definition does not work and that a change to the definition is required. This amendment will fundamentally change how people view the ACT at a time when we are struggling to gain investment. People will now say, "There are a number of different places in which we can invest our money."

Let us face it, in the main current investment is being driven by the federal government and by federal departments expanding. I say "Well done!" to the Howard government. If members want to have that argument I have another speech that I can trot out and I can speak for 20 minutes on federal government investment. I can refer to two highway upgrades, to upgrades to the Department of Prime Minister and Cabinet, to upgrades to the Office of the Attorney-General and to upgrades to the mint. Do members want to talk about that? Let us not go there. Let us have a sensible discussion and I hope a sensible outcome from the minister.

When we finish with these bills sometime on Thursday and key groups from the property council and the law society, and other key industry building groups and groups representing business that see this legislation as fundamental end up dissatisfied, we will not have achieved what we wanted to achieve. This opposition, unlike previous oppositions that stood in the way of every reform, has been constructive. The minister appears to have some answers; so I am sure he will jump to his feet and answer my questions. People are concerned about these issues. I predict that we will have to revisit this issue because what is being done tonight is fundamental and not required.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.43): I just sought clarification on what I understood to be the case. I am advised that this happens in all other states and territories. In other jurisdictions it is more onerous. If we break the use we might, in fact, lose that use. In the ACT we always have the right to that use. This is an attempt to incorporate leasehold into the DAF model, which is entirely consistent.

Mr Smyth: Consistent with DAF?

MR BARR: Yes. The advice I have from the chief planning executive is that that is the case. I have responded, Mr Smyth, to your two issues.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (8.44): This is probably one of the most debated elements of the reform package. It has been ever since the proposals were first put out for public comments some time ago. In this debate it is important to remember that the ACT has a leasehold system. Since self-government the leasehold system has been coupled to a statutory planning system. So since self-government we have not had the notion of pure leasehold, if you like, where use is managed entirely through the lease.

Even before self-government a range of other instruments were used by the NCDC to determine uses and to regulate development activity within particular areas. For a very long time in this territory there has not been reliance solely upon leasehold to manage and to regulate use; it has been coupled with other instruments. Since self-government and since the introduction of the territory plan it has been coupled with the territory plan. So a statutory land use planning framework and a leasehold administration are occurring in unison.

It is wrong for those opposite to suggest that the lease is some sort of blank cheque that people can use and under which they have rights that should not be subject to any other form of regulation. It is quite misleading to suggest that because other elements of regulation must come into play. For example, environment protection legislation must come into play. Just because your lease states that you can use land for any industrial use it does not mean that other regulation does not come into play. It does.

If, for example, somebody wanted to build a factory and they went through the process of environment protection regulation and, as part of that process, it was determined that the factory was too polluting, too noisy, too messy, or whatever it might be, they might not be able to proceed with it. Even though they have a right in the lease to use the land for particular purposes, other regulations still come into play. Mr Seselja mentioned the nightclub example, which is a good one.

Other impacts must still be assessed and taken into account. Use as development makes it clear that it is subject to that assessment process. It is not denying that use and it is not saying that that use is not available; it is saying that it is subject to assessment. I find it disturbing that those opposite argue that once you have the use of a lease it should not be subject to some form of regulation or assessment. Of course it should.

This in no way diminishes the rights of leaseholders. Leaseholders have uses, as set out in their lease. They purchased that bundle of rights and they are entitled to use them within the broader statutory framework that regulates activity. Essentially, that is what these changes seek to reinforce. The other very important element of this proposal is to recognise that there is a relationship between the leasehold administration and the statutory planning and assessment process.

There must be an understanding of and a clear link in the legislation between those two functions. They do not exist in isolation from one another; they exist in what hopefully will be a more coordinated manner as a result of these changes. It will make it clear that there is a relationship between the two. They do not exist in isolation and they should not operate in isolation or separate from one another; they should operate in unison and in conjunction with one another. We have a dual system of statutory land use planning and leasehold administration, and lease use controlled through the lease purpose courts, and that is what these changes seek to reflect. It is wrong for those opposite to suggest otherwise.

DR FOSKEY (Molonglo) (8.49): This exercise has been a learning process for me. By the end of this debate I expect to have a much better understanding than I currently have of the planning system. It appears to me that how one stands on this issue depends on the change of use we are talking about. When I spoke earlier to Mr Seselja's adviser I was given the example of a change of use from a hairdresser to a newsagent—a fairly innocuous change of use. When an example was given of a change of use from a restaurant to a nightclub I remembered the Kingston example.

At that time I was the only person in the Assembly who put up a case for such a change of use. No doubt whoever thought of this example was intelligent enough to remember that example. I am aware that some changes of use have caused some

communities a great deal of distress. A person who bought a house near a florist would not be very happy if that shop became a gaming room or something like that.

Mrs Dunne: The land use policy would not allow it.

DR FOSKEY: All the things that opposition members say might be true but it is clear to me, in representing the community in these debates, that it is probably better for me to vote with the government.

Mrs Dunne: Knock me down with a feather! I was waiting for that one.

DR FOSKEY: As I said, Mrs Dunne, some of us have been at this for years. Some of us have even been shadow ministers for planning. I hope that such people have a good understanding of the system. I am not one of those people.

MR SESELJA (Molonglo) (8.52): For a moment I was sure that I had the support of Dr Foskey but I lost her somewhere along the line. For a moment I thought I had the support of the development lobby and the anti-development lobby all in one go. Nevertheless, let me respond to a couple of things that have been said. While we are harping on it I will go back to the nightclub example. It is interesting that the former minister is now in the chamber. The government has called on the big guns to come into the chamber and explain it to us.

It was good to hear Mr Corbell's input. However, I think it undermined what Mr Barr was saying earlier about the nightclub example. We know that there are other restraints on things like that. We question why, in a lease, someone would be able to open a nightclub in a cul-de-sac in Dickson having regard to land use policies, noise regulations and all those sort of things.

This concept adds an additional layer and gives someone a discretion, which we think adds to and is an inherent part of the uncertainty. It is well and good to have legislation that is clear and that prevents or allows certain things to occur, but it is another thing to have a fairly broad discretion in relation to land use. I think that is where we part company with the government, and it now appears also with the Greens.

Going back to the minister's comments, very little has been said about the necessity for change. My colleagues Mrs Dunne and Mr Smyth made the point that the government simply has not made out an efficiency case. We have not heard a compelling reason for going down this path even though we have heard significant arguments against it. We were given broad reasons that this is more efficient and that it will prevent undesirable uses when there are plenty of ways of doing that without going down this path.

This goes to the broader issue of leasing and the leasehold system in the territory. We could have a broad debate. Witnesses who appeared before our committee argued that we no longer needed leasehold. We have the territory plan and all the zones that are in that plan, so why have leasehold? That is a debate the community cannot have because of other restraints. The Labor Party is somewhat schizophrenic in this area and champions the virtues of the leasehold system. Mr Speaker, you would well know that when we suggested moving it from 99-year leases to 199-year leases the Labor Party vehemently opposed such a change.

It is our contention that if we go down this path it will fundamentally undermine the existing leasehold system. The negative case is strong but the positive case has not really been made out in this place or anywhere else by anyone in government. I would have loved to have heard a coherent argument about the benefits of this change. What will be the benefits to the community if we go down this path? The minister said, "The development lobby does not want to go ahead. We are balancing it between the development lobby and everyone else." That is a misunderstanding of the role of the development industry in this community and it affects everyone in Canberra.

This does not just affect big property owners; it affects all landowners and homebuyers. If we do not get this right it will affect homebuyers because all these things flow down. Any uncertainties, ambiguities or inefficiencies in the system will affect everybody. It is easy to stand in this chamber and say, "It is the development lobby and it would say that anyway, wouldn't it? We are trying to balance the needs or the wants of the development lobby with the needs of the community."

It is not that simple. We are all affected by this proposed change and we will all be affected if we get it wrong. This is not just about the development lobby; there is broader community interest and concern. Once people realise the effect of these changes I think there will be broader community concern. I am disappointed that the government will not support this amendment and, no doubt, subsequent amendments to be moved by opposition members on this issue, which is a real shame. We will have to watch this space to see how it turns out. We certainly have fundamental concerns, which is why we moved this amendment. It is particularly disappointing that the government will not be supporting it.

Question put:

> That amendment No 1 be agreed to.

The Assembly voted—

Ayes 7		Noes 10	
Mrs Burke	Mr Smyth	Mr Barr	Mr Gentleman
Mrs Dunne	Mr Stefaniak	Mr Berry	Mr Hargreaves
Mr Mulcahy		Mr Corbell	Ms MacDonald
Mr Pratt		Dr Foskey	Ms Porter
Mr Seselja		Ms Gallagher	Mr Stanhope

Question so resolved in the negative.

Amendment negatived.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.02): I seek leave to move amendments Nos 2 to 5 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 2 to 5 circulated in my name together *[see schedule 2 at page 1811]*.

Amendment No 2 omits paragraphs—

Members interjecting—

MR SPEAKER: Order! I cannot hear Mr Barr. If members want to do some lobbying they should go to the lobby.

MR BARR: Amendment No 2 omits paragraphs (e) and (f) of clause 7. Paragraph 7 (e) and (f) are no longer required because development in clause 7 includes use as defined in the new clause 7 (a) inserted by amendment No 6. Amendment No 3 substitutes new paragraphs (g) and (h) in clause 7, which amend the definition of "development". New paragraph (g) will simplify language. The reference to lease variation in this clause is not necessary. That is because lease variation is defined in the new global definition of lease variation inserted into the bill's dictionary by amendment No 160.

This definition of lease variation includes subdivision other than under the Unit Titles Act and consolidation. The terms "subdivision" and "consolidation" are defined for the purposes of this section in amendment No 5. New paragraph (h) will simplify language. It is not necessary for paragraph (h) on lease variation to refer to the surrender of the lease because this concept is incorporated into the new global definition of lease variation inserted into the bill's dictionary by amendment No 160.

Amendment No 4 omits clause 7 paragraph (i) in order to amend the definition of "development" by deleting the reference to varying a lease to lift its concessional status. This removes duplication because varying a lease is now part of the definition of development. Amendment No 160 inserts a new definition of lease variation into the dictionary.

Finally, amendment No 5 inserts a new clause 7 (2) to provide a cross-reference to the definition of consolidation in clause 226 and a definition of "subdivision" for clause 7. This amendment clarifies that the clause 7 definition of "development" includes subdivision and the subdivision includes a subdivision of land under the Unit Titles Act 2001 but does not include subletting of a lease.

It should be noted that the new definition of "variation of a lease" in the dictionary inserted by amendment No 160 includes subdivision other than subdivision under the Unit Titles Act 2001, and this is because it is not appropriate for development approval and related mechanisms in connection with the lease variations to apply to unit titling, as this is dealt with under the Unit Titles Act 2001. The construction of multi-unit developments, as opposed to unit titling, still requires development approval under the bill.

Amendments agreed to.

Clause 7, as amended, agreed to.

Proposed new clause 7A.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.05): I move amendment No 6 circulated in my name which inserts a new clause 7A *[see schedule 2 at page 1811]*.

This amendment inserts in the bill a new definition of "use land", or a building, or a structure on the land, which includes beginning, continuing or changing a use. The new definition ensures consistency of approach in the bill to the concept of use and enables other provisions to be simplified. This clause needs to be read in conjunction with new clause 132A which exempts some use from requiring development approval.

MR SESELJA (Molonglo) (9.06): We will be opposing this clause largely because of the debate we have just had relating to use development. We do not agree with the government going down this path. We will be opposing this clause for all the reasons that have been canvassed over the past hour or so.

Proposed new clause 7A agreed to.

Clauses 8 to 14, by leave, taken together and agreed to.

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

Adjournment

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

> That the Assembly do now adjourn.

Battle of Long Tan—anniversary

MR PRATT (Brindabella) (9.09): I wish to speak briefly about the commemoration on the weekend of the anniversary of the battle of Long Tan. I want not only to talk about it; more importantly, I want to refer to a number of Canberrans who were part of a commemoration that more broadly remembered all Vietnam veterans, those who died, those who were wounded, and their families and kids. As we now know, some interesting studies reveal that five times as many children of Vietnam veterans seem to suffer and complain about stress.

Against that background I refer to the debate about Long Tan medals. On 18 August we commemorated the battle of Long Tan which occurred in 1966 involving the Delta company from the Sixth Battalion of the Australian Task Force. I refer to an article in the *Canberra Times* about Battle of Long Tan medals. That article refers to Harry Smith, company commander of 100 brave men who fought against 2,500 North Vietnamese and Viet Cong colleagues. They fought over a period of four hours in the most atrocious conditions and managed to hold their line.

Sadly, 18 men were killed in action and, from memory, 16 or 17 more were wounded, though I might have to amend that figure. However, 30 per cent of that rifle company were shot in this battle. Harry Smith has been vigorously campaigning the Federal

government on a particular matter. I support the campaign being waged by Harry Smith to upgrade the medals and awards for veterans of that battle. I happen to know David Sabben particularly well, one of the three junior platoon commanders in that battle. Coincidentally, David's wife, Sue, taught me at school. I met David Sabben in 1967, about a year after that battle, when I was a citizen soldier.

David, my first platoon commander, was awarded a lowly mention in dispatches for pulling together the remnants of his platoon and his colleague's platoon as that platoon commander had been killed. That is just one example of a man who fought in a difficult battle for 4½ hours in monsoon and dark conditions. He managed to hold a lot of men together but was awarded only a very lowly award. He should have been better recognised, as should have been his fellow platoon commander, the young officers, and a couple of warrant officers who came to their rescue late in the battle—soldiers from A Company, 66th Battalion, mounted on armoured vehicles from a third cavalry squadron. Mr Smyth might like to correct me if I am wrong.

I vigorously support Harry Smith's substantial campaign and call on the Prime Minister and Minister Billson to take heed of this campaign and establish whether these medals can be upgraded. It is difficult for people to go back in history, open up old wounds and try to relive battles that occurred 20, 30, 40 or 50 years ago. It is difficult to ensure that these soldiers are adequately recognised. However, in this case the action was unique and many witnesses are still alive. Surely the commonwealth government could re-examine the battle of Long Tan, the medals, and the circumstances surrounding it. I commend and vigorously support Harry Smith's campaign. I urge the federal government to talk to local Canberrans about this issue.

ActewAGL ACT Sport Hall of Fame

MR SMYTH (Brindabella) (9.14): I bring to the attention of members the ActewAGL ACT Sport Hall of Fame induction ceremony and luncheon held on 17 August at the National Press Club. All members know that the ACT bats above its weight in many sports. Over many years now those individuals who have achieved sporting greatness, whether it be as a sportsperson or as someone who has supported a sport, have been honoured.

There are two levels of honours, that is, either as a full member or as an associate member. This year's associate members' awards went to two quite amazing administrators. The first award went to Donald Selth, a self-confessed sports freak who turned anything he touched into gold. Wherever he witnessed the lack of a facility or the lack of support he had the wonderful insight to write about it. Donald wrote *The History of the PM's Eleven, Cricket on the Limestone Plain* and *The History of the ACT Cricket Association*. Unfortunately, at the time of his death in December last year he was writing a book on sport in the ACT entitled *The First 100 Years 1854 to 1954* which, according to his son, will be published later this year.

One day Don volunteered to help out as a linesman, as a goal umpire, for the ACT Australian Football Association. It was short-staffed so he went along to help out. He not only helped out; he also became president of the ACT Australian Football Umpires Association for two years. He was responsible for two large developments: firstly, setting up the two-field umpire system and, secondly, negotiating sponsorship.

He later went on to write the book *The Art of Goal Umpiring.* This guy was serious about his sport. His untimely death in December last year was unfortunate but his family were present at the induction ceremony to see him honoured as an associate member of the ActewAGL ACT Sport Hall of Fame.

Amazing is the only way in which to describe Ray Vickers, the other gentleman who received an award. Ray Vickers is a long-time baseball fan. For 50 years he has called for baseball on weekends in the ACT. Ray is also an innovator. He introduced things like tee-ball, which is now common. He took the batting practice aid and turned it into a sport for juniors. For 50 years he worked continuously with baseball in the ACT on the development and promotion not just of the elite level but also of all levels to ensure that kids, whether or not they have talent, are all able to play baseball through the association. Ray helped to set up the Eagles baseball club and the umpires association and he helped to develop interstate matches. Those are just some of his achievements.

Two female athletes, Susan Hobson the long distance runner and Tracey Gaudry the cyclist, were honoured. If members are feeling a bit down and a bit flat, Susan Hobson took up running at the age of 27 and within two years was competing at the international level. She has attended three Olympics, the last being in Sydney at the age of 42. If members are feeling a bit flat perhaps they should look at Susan Hobson for a bit of inspiration. She tells an astounding story about how she went for a bit of a fun run one afternoon—Mr Speaker, I am sure you would appreciate the urge to go for a bit of a fun run—and ended up as one of Australia's greatest female marathon long distance runners.

The same can be said for Tracey Gaudry. Tracey took up cycling for fun, went for a ride with some mates when she was 21 or 23, got the bug and also managed to compete in three Olympics. In her time she won 36 national titles, competed in a number of Commonwealth Games and managed to have a child in between every Olympic Games. I do not know her history and whether or not she was encouraged at school, but here is a woman who went for a bike ride and became one of Australia's greatest female cycling athletes.

The stories that were told of her, in particular about the Sydney Olympics, revealed that she was leading the field but the race developed in such a way that her skills were not going to lead to her picking up the gold. She ran everybody else ragged until such time as one of her team mates made a great sprint at the end and picked up the gold medal in that race. Those qualities of sportsmanship and looking after your mates are really entrenched in the ACT Sport Hall of Fame.

Gary Kent—retirement

MR MULCAHY (Molonglo) (9.19): Tonight I take this opportunity to congratulate outgoing president Gary Kent on his seven years of service as president of the ACT division of the Liberal Party. Mr Kent, currently the longest serving president of the Liberal Party division anywhere in Australia, will leave our division well prepared for both the upcoming federal election and next year's territory election.

Whilst Gary has been a long-standing member and strong supporter of the ACT Liberal Party, his formal service to the party commenced with his election to the management committee in 1996, followed by his selection as president in 2000. The role of a divisional president is time consuming, often difficult, often thankless, as well as being heavily scrutinised. I believe that he made an extraordinary effort over the last seven years for the ACT Liberal Party.

All members in this chamber sign on for a life of public scrutiny and, on occasions, they wake up and expect to find their faces in the news, but this is not true of organisational members in any of the political parties represented here who work in a voluntary role. Gary's tender as president has not always been easy and he deserves admiration for the way in which he has carried himself. Indeed, he indicated to me that his first day on the job involved a change of chief minister when Mrs Carnell was in the role, so it was certainly a baptism of fire.

Gary's dedication to his role and his massive commitment of time and energy to the party have been a marvel and something on which he should be congratulated. He has provided substantial professional support to Liberal members of the Legislative Assembly and federal members over this period. He has worked and continues to work closely with various Liberal candidates at both territory and federal levels during election periods, partnering with the divisional director to ensure that the ACT Liberal Party is in the best possible position prior to each election.

On a personal level, I have enjoyed both a professional relationship and a close friendship with Mr Gary Kent during my time as a Liberal MLA and I find him to be a person of outstanding integrity and steadfastness, with firm values and a strong commitment to the ideals and goals of the Liberal Party and its leadership. He states that he is stepping down to allow for some fresh blood to enter the party and I respect his decision. It is pleasing to hear that he will continue as the ACT Liberal Party's past president and remain on my party's management committee. I am sure he will continue to provide a valuable contribution in his new role.

Once again I offer my congratulations to Gary Kent on his seven years of service and dedication to the ACT division of the Liberal Party and I wish him all the best in his future endeavours.

Question resolved in the affirmative.

The Assembly adjourned at 9.22 pm.

Incorporated document

Attachment 1
Document incorporated by Mrs Dunne

AUSTRALIAN CAPITAL TERRITORY ADMINISTRATIVE APPEALS TRIBUNAL AT CANBERRA **AT06/63**

BETWEEN: **VICKI DUNNE**

Applicant

AND: **ACT DEPARTMENT OF EDUCATION AND TRAINING**

Respondent

RESPONDENT'S REVISED STATEMENT OF FACTS AND CONTENTIONS

Facts

1. On 21 June 2006, under the *Freedom of Information Act 1989* ("the Act"), the Applicant, Vicki Dunne, sought "… a copy of all material provided by your department or received by your department, that related to, or prompted the Government's decision to close 39 schools and to amalgamate other schools as outlined in the document *Towards 2020* and listed on (Attachment 1) and (Attachment 2)". (T document No. 8, pages 107-110).

2. On 21 July 2006, Carol Harris, an officer of the Respondent and the primary decision-maker wrote to the Applicant granting access to certain documents and refusing access to other documents on various grounds. (T document No. 6, pages 95 – 104.

3. On 4 August 2006, Ms Harris wrote again to the Applicant providing a decision in respect of documents unable to be dealt with in the previous reply. Again, she released some documents and refused access to others, in whole or in part, on various grounds. (T document No. 5, pages 64-94).

4. On 18 August 2006, the Applicant applied for internal review of the decision (T document No. 4, pages 60-63).

   On 6 September 2006, Mr Craig Curry, the Executive Director of the Respondent and the internal reviewer, decided to release some documents, upheld Ms Harris' decision in respect of some documents and determined that some other documents (including some withheld by Ms Harris) were in fact not within the scope of the request. (T document No. 2, pages 28-49 and the schedule is at pages 13-27).

5. On 25 September 2006, the Applicant applied to the Tribunal for a review of the decision. (T document No. 1, pages 3-27).

Contentions

1. The Respondent relies upon the grounds of exemption stated in

   i) The amended and consolidated schedule of documents filed and served on 5 February 2007;

ii)

iii) The witness statement of Mr Craig Curry filed and served on 12 January 2007;

iv) The affidavit of Philip Dorling sworn on 20 February 2007.

v) The Certificate, under section 36(3) of the Act, executed by the Delegate of the Minister for Education and Training on 20 February 2007; and

vi) The Certificate, under section 35(3) of the Act, executed by the acting Chief Executive

2. The Respondent also relies upon the 'Schedule of Released Documents – 9 February 2007' which was handed up at the directions hearing on 13 February 2007.

ACT Government Solicitor
Per:

Greg O'Sullivan
Acting Principal Solicitor
Solicitor for the Respondent

20 February 2007

Schedules of amendments

Schedule 1

Justice and Community Safety Legislation Amendment Bill 2007

Amendments moved by the Attorney-General

1
Schedule 1
Amendment 1.35
Page 17, line 20—

omit amendment 1.35, substitute

[1.35] Section 12, example 2

substitute

2 donations (other than donations of non-regenerative tissue) under the *Transplantation and Anatomy Act 1978* by the principal to someone else

2
Schedule 1
Proposed new part 1.12A
Page 20, line 16—

insert

Part 1.12A Powers of Attorney Regulation 2007 (No 2)

[1.48A] Section 4 heading

substitute

4 Modification of Act, ch 20, new section 152B—Act, s 156

[1.48B] Section 4, new section 152C

omit

3
Schedule 1
Amendment 1.51
Page 21, line 5—

omit amendment 1.51, substitute

[1.51] New section 206 (1) (d)

insert

(d) a capital contribution charge, of an amount of not more than $10 000, imposed by a utility is excessive.

4
Schedule 1
Amendment 1.53
Proposed new section 209A (4)
Page 22, line 7—

omit proposed new section 209A (4), substitute

(4) The council may only give a direction under subsection (2) in relation to a capital contribution charge of not more than $10 000.

Schedule 2

Planning and Development Bill 2006

Amendments moved by the Minister for Planning

1
Clause 2
Page 2, line 4—

omit clause 2, substitute

2 Commencement

(1) This Act commences—

(a) on a day fixed by the Minister by written notice; or

(b) if not earlier commenced, on the later of the following days:

(i) 31 March 2008;

(ii) the commencement of the territory plan approved under section 423 (Transitional—territory plan).

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

(2) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to the commencement of this Act.

2
Clause 7, definition of *development*, paragraphs (e) and (f)
Page 4, line 23—

omit

3
Clause 7, definition of *development*, paragraphs (g) and (h)
Page 5, line 6—

omit paragraphs (g) and (h), substitute

(g) subdividing or consolidating the land;

(h) varying a lease relating to the land;

4
Clause 7, definition of *development*, paragraph (i)
Page 5, line 11—

omit

5
Proposed new clause 7 (2)
Page 5, line 16—

insert

(2) In this section:

consolidation—see section 226.

subdivision—

(a) means the surrender of 1 or more leases held by the same

lessee, and the grant of new leases to the lessee to subdivide the parcels of land in the surrendered leases; and

(b) includes the subdivision of land under the *Unit Titles Act 2001*; and

(c) does not include subletting a sublease.

6
Proposed new clause 7A
Page 5, line 16—

insert

7A Meaning of *use*—Act

In this Act:

use land, or a building or structure on the land, means any of the following:

(a) begin a new use of the land, building or structure;

(b) continue a use of the land, building or structure;

Note Development approval is not required for continuing use lawfully commenced (see s 195 and s 198).

(c) change a use of the land, building or structure, whether by adding a use, stopping a use and substituting another use or otherwise.

Schedule 3

Planning and Development Bill 2006

Amendments moved by Mr Seselja

1
Clause 7 (d)
Page 4, line 22—

Omit
