Debates

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Thursday, 23 August 2007

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

Electoral Legislation Amendment Bill 2007

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10.32): I move:

> That this bill be agreed to in principle.

This bill provides for a range of amendments to the Electoral Act 1992, the Referendum (Machinery Provisions) Act 1994 and the Electoral Regulation 1993. The amendments address issues raised by the ACT Electoral Commission after the conduct of the 2004 ACT Legislative Assembly election and other electoral issues that have arisen since that time.

Changes recommended by the electoral commission after the 2004 election that appear as amendments in this bill include:

- simplifying the requirements for authorisation of published electoral material;

- clarifying the application of the authorisation rules to electronic publications;

- removing the provision for non-party groups to be listed on ballot papers;

- providing that an application for registration of a political party that includes the name of a person in the party's name must include a statement signed by that person indicating their consent to the party name;

- repealing the offence of defamation of a candidate, relying instead on civil law defamation procedures; and

- making it an offence to take a photo of a person's marked ballot paper so as to violate the secrecy of the ballot.

Two amendments suggested by the electoral commission after the 2004 election are not supported by the government and so do not appear in this bill. These include reviewing the 100-metre ban on canvassing outside polling places and removing the requirement to show the town or suburb address of letters to the editor. The government considers that the current requirements for both the 100-metre ban and letters to the editor are reasonable and should not be changed.

Since the publication of its 2004 election review, the electoral commission has suggested changes to the postal voting processes. The government supports these changes as they will ensure a 21st century approach to providing postal voting services to electors at ACT Legislative Assembly elections. The changes will simplify the process of applying for postal votes by removing the need for a signature and a witness so as to allow voters to apply for postal votes by post, phone, email, internet and fax. The integrity of the postal vote process will be preserved by checking signatures on declarations accompanying postal ballots against signatures on the elector's electoral enrolment form.

To ensure that the simplification of the postal voting process does not lead to an increase in the number of electors unnecessarily applying for a postal vote, the bill modifies the grounds for applying for a postal vote. An elector will not be eligible to apply for a postal vote if the elector is able to attend a pre-poll voting centre in the ACT before polling day. This change is intended to boost attendance at pre-poll voting centres in preference to postal voting for those electors in the ACT unable to vote on polling day, as electors voting by post are more likely to have their votes rejected on a technicality compared to electors voting in a polling place or pre-poll centre.

The bill also contains significant amendments to the scheme for the disclosure of political donations and expenditure. In June last year the federal parliament amended the Commonwealth Electoral Act to raise its disclosure thresholds from $1,500 to over $10,000. At present, the ACT's disclosure scheme generally includes disclosure thresholds of $1,500. Before the commonwealth changed its thresholds, the ACT disclosure scheme was essentially the same as the commonwealth scheme.

Currently, political parties registered at both the ACT and commonwealth levels can satisfy the ACT disclosure requirements by providing the ACT Electoral Commission with a copy of their commonwealth annual disclosure return. This means that the commonwealth's $10,000 threshold effectively applies to ACT parties and associate entities that are federally represented, while those parties and other entities that are not federally represented are bound by the ACT's $1,500 threshold.

The government does not consider that a $10,000 threshold is appropriate for the ACT disclosure scheme. Adoption of this threshold in the ACT would result in little meaningful disclosure of the identity of donors. This bill, therefore, breaks the nexus with the commonwealth and retains disclosure thresholds at $1,500 in the ACT. The bill also includes changes to the disclosure scheme intended to minimise opportunities for avoiding disclosure, make publication of disclosure details more timely, extend disclosure requirements to online news publications, and reduce some of the complexity and inconsistencies in the current scheme.

Other amendments in the bill include:

- the removal of the need for MLAs to disclose funds in their annual returns that are provided to them by the Legislative Assembly;

- exemptions for bumper stickers and Legislative Assembly publications from the authorisation requirements; and

- for privacy reasons, removing the requirement to publish the residential address of a party's registered officer and replacing it with the option to publish a residential address, a business address or an address of the party.

The bill also makes arrange of other relatively minor changes that are spelt out in the explanatory statement for the bill.

This bill will further refine the ACT's electoral system to ensure that the ACT maintains its record of best practice in the conduct of its elections. The bill will also work to strengthen the basic principles of elections in the ACT so that they remain free, fair and transparent.

I commend the bill to the Assembly.

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

Variation to territory plan No 259
Motion for disallowance

DR FOSKEY (Molonglo) (10.38): I move:

> That this Assembly, in accordance with subsection 29 (4) of the Land (Planning and Environment) Act 1991, rejects Variation No 259 to the Territory Plan—Woden Town Centre: Commercial B—Changes to Precincts, Entertainment Accommodation and Leisure and Restricted Access Recreation Land Use Policies and All Town Centres—Changes to Appendix II and Commercial B Precinct "c".

This motion brings up many of the issues that have led the Greens, amongst others, to argue that the whole planning reform project and this government's emphatic shift away from community engagement on planning matters are misdirected. I remind the Assembly that the main reason I moved this disallowance motion is that the final variation, which was presented to the Assembly in our last sitting week, is significantly different from the draft variation over which there was considerable—and, I would have thought, relatively adequate—consultation. The final variation that hit the community, particularly the community that sees Woden as its centre, came as a big shock. It was not what people expected. It was not what people had put considerable time and effort into as part of the planning and environment committee process and all the other processes that used to be part of the system and that we are going to lose with the new reform legislation.

Let me expand. This government and its agency ACTPLA have abandoned all external guidance on making variations to the territory plan. After local area planning committees were shut down, no attempt was made to put the government's promised community planning forums into place. The planning and land council was abolished, probably because it did not always agree with government—not that that is what we

were told. The only community bodies that this government now formally consults on planning matters are the community councils, where they exist; even then, this debate makes crystal clear that the government is prepared to ride roughshod over them.

We can see here that there are real weaknesses in the current practice of varying the territory plan. It could be argued that the new system, which is much lighter in terms of transparency and accountability, simply reflects the reality. But that is not the case. Things will only get worse.

I have here a letter from the community council to the planning minister which was sent in July, confirming council concerns regarding this variation and debunking some of the facile reassurances that had been offered to them in a meeting. I seek leave to table this letter.

Leave granted.

DR FOSKEY: I table the following letter:

> Variation No 259 to the Territory Plan—Woden Town Centre: Commercial B—Changes to Precincts, Entertainment Accommodation and Leisure and Restricted Access Recreation Land Use Policies and All Town Centres—Changes to Appendix II and Commercial B Precinct "c"—Copy of letter to the Minister for Planning from the Chair, Woden Valley Community Council, dated 22 July 2007.

As Woden community council points out, the reassurances offered by the planning minister that there is scope to consider community need in the future will vanish once the new system is in place. I will come back to the Woden community council letter and read some of the detailed points, as they express the matters clearly and succinctly.

However, I will remind the Assembly once again that this final variation is significantly different from the draft variation over which there was considerable consultation. These matters have been raised more broadly only since I submitted my motion to reject the variation. Let it be clear that, if I had not moved to disallow this motion, the community of Woden would have been hit by these changes totally out of the blue. There has not been any reason given as to why the final variation is different from that over which the community was consulted. The very minimum requirement of community consultation is that you report to those people with whom you consulted in good faith and tell them why you have not taken their opinions into account.

So this final variation came as a surprise to the community council, and it still continues to surprise people in Woden who hear about it. It fails to provide protection to a number of land uses that were identified through the collaboratively developed and agreed Woden-Phillip master plan.

The big problem is not just the specific and inevitable loss of the bowling greens, the tennis courts, the gymnasium, the outdoor recreation area around the pool and the childcare centre—although these are big problems in the community when we are becoming increasingly concerned about obesity and when we are continually worried about people's involvement in sport—but also the loss of land to cater for those

existing uses and for future recreation, entertainment, arts and community facilities in the Woden centre.

Existing pressure, as we know, is for commercial offices and high-end residential development. Rezoning the land from entertainment, accommodation and leisure to commercial, as this variation does, will result in these blocks being developed to the maximum permitted level. We should have no doubt about that. One day, the Burnie Court site nearby will be developed. Already east Woden is being filled in with substantial accommodation; nearby, the southern parts of Molonglo will be developed very soon. There will be more and more people using the Woden centre as their town centre. There is no community centre at Woden and there is no arts centre—or even plans for an arts centre. This variation to the territory plan will rule out the community development strategy including appropriate activities and facilities from now on.

Woden residents feel as though they have been treated as the poor relations in Molonglo; this variation ensures that they remain so. It would not be too great a problem for the government to withdraw this variation, to do some specific consultation on the framework for future provisions and to demonstrate that the stripped back community engagement strategy inherent in the new planning legislation might be able to deliver something that is fair for all. Underpinning any notion of partnership in development has to be respectful relationships.

The actual process is described by the Woden community council—the only community group that has been given status in consultation on planning issues in Woden but that has been ignored in this case—in its letter to the minister. Let me read some of these points. There is no doubt that the Woden Valley Community Council is a very well run community council and one that previously the government has praised. The council wrote this letter addressed to Mr Barr after the representatives of the council met with him to discuss this final recommended variation. As always, the council appreciated that opportunity; they wanted to suggest some possible ways forward. This is not a community council that is in the business of embarrassing the government; this is a community council that has always worked with government to the best of its ability. The letter says:

> Woden Valley Community Council has been involved in the development of the Woden Town Centre (WTC) Master Planning Process for some six years and very considerable community voluntary time and effort has been invested in attempting to achieve a balanced and liveable town centre. WVCC has been supportive of the rejuvenation of the Phillip Mixed Services area, the continued office development, the new high rise residential development—

yes, they even approved Sky Plaza—

> and of major residential developments in Woden East and on the former Burnie Court site.
>
> While being supportive of commercial, office and residential development in WTC, WVCC has also attempted to ensure a balanced community outcome for our WTC by also keeping the need for an upgrade of community facilities and for a Community/Cultural/ Arts Centre on the agenda.

> In the WTC Master Plan the Northern Entertainment, Accommodation and Leisure (EA&L) Precinct—

this is the area we are talking about here—

> only received conceptual treatment with statements like "a greater mix of uses in the area that retains entertainment and leisure activities at ground level but permits other activities at first floor levels and above will help attract reinvestment in the northern entertainment precinct". … WVCC supported that concept then and still supports that concept now. Unfortunately the FRV 259 provides no mechanism for retention of these amenities at ground level.
>
> In our submission re DV 259 which impacted very significantly on this Northern EA&L Precinct—ie changing most of the land use to commercial, WVCC requested that this EA&L Precinct be taken out of DV 259 and that a Section Master Plan be undertaken for this area prior to any changes to land use in the area north of Launceston Street ...
>
> Council considered that a Section Master Plan could protect the existing recreation facilities in the area—as indicated in the Master Plan—while also allowing commercial opportunities at levels other than ground level …

The council received no communication; they were not told that their proposal was not being considered. Now they find that the FRV has been tabled in the Assembly, apparently without consideration of options to retain EA&L amenities at ground level. The letter continues:

> To finalise this change in land use from recreational to commercial, without a Section Master plan which protects recreational facilities, is unacceptable to our Council. The Woden Master Plan … identified sites for a possible new community facility, a gymnasium and fitness club, lawn bowls and indoor sports hall as well as retention and upgrade of the pools and rink—

the ice-skating rink—

> without commercial development on that site. Council therefore understandably expected these amenities to be protected in any Variation to the Territory Plan ...
>
> In your correspondence of 18 June 2007—

that is, the minister's correspondence—

> you also advised that the rezoning to Commercial B does not preclude Entertainment Accommodation and Leisure type activities.

Here, the council quotes from Mr Barr's letter to the council:

> In accordance with Schedule II.1 of Appendix II to the Territory Plan any proposals resulting in the Depletion of Community and Recreational Uses in Commercial Land Use Policy Areas are subject to a mandatory Preliminary Assessment. This process will ensure that community needs are properly assessed as part of any redevelopment application.

The council's letter continues:

> While this currently may be the case, WVCC understands that mandatory Preliminary Assessments will not be required under either the FRV 259 or under the imminent new structure for the Territory Plan. Concomitant with this there will, as we understand it, be no mandatory requirement to assess any DA against any community needs assessment. If this is in fact the situation, WVCC considers your advice above—

the advice I quoted—

> to be misleading. Your further urgent advice on this would be much appreciated.

I look forward to hearing the further advice that the minister has given the council. The letter continues:

> WVCC is also of the view that, while recreational and community developments may be allowed in commercial zones, that it is logical to assume that lessees will actually pursue developments which have the highest commercial return.

What we are seeing here is the loss of probably the only piece of ground that is actually used—that is actually available. I think this is why the Woden Valley Community Council is so concerned. They are very desirous of having community facilities to use. Each time there is a new variation—the loss of a building, the loss of a bit of park—that becomes less likely, in their opinion, because they have never been reassured that the government has any plans to provide them with their community facilities.

We must realise, too, that the Phillip pool and ice-skating rink are used by people from all over Canberra. In the north of Canberra Dickson pool is probably the equivalent of the Phillip pool. I believe that the variation will replace the Phillip pool with just a pool, with absolutely no requirement for there to be any grounds outside it. We could end up with just a lap pool, when the Phillip pool has grass and is a place where a family can go and sit all day. There is a child's pool; it is a safe place. I am concerned that, as we are looking at severe water restrictions, we are downgrading our public pools. Of course, the more we do that the more people are going to be inclined to install private pools, which I think is absolutely the wrong way to go.

But the main point here is this, and I will refer to it again. I will remind people again because I can see that they easily get distracted and caught up in their own wit. The issue is that the Woden Valley Community Council was consulted on one thing and thought that their work in the master plan was leading somewhere, and suddenly they were landed with another thing that the government apparently did not even want them to know about. It was quietly tabled in our last week of sitting and, unless we had this disallowance motion, we would not be discussing it today. That is why it is really important that we have that ability—that we maintain that ability for community councils to have a voice in the Assembly.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.53):

The government will not be supporting the disallowance motion. As Dr Foskey has outlined, draft variation No 259 to the territory plan proposes to change the land use policies and precinct boundaries for the Woden town centre in accordance with the recommendations contained in the Woden town centre master plan. The draft variation also proposes to delete the existing plot ratio controls for precinct (c) for all town centres. The variation was released for public comment in August 2005 and attracted 12 written comments. Minor revisions to the exhibited draft variation in response to public submissions and refining of land use controls were made.

The Standing Committee on Planning and Environment, in its report released in October 2006, made 10 recommendations in relation to the draft variation, among which was a recommendation that the government proceed with its implementation. The government considered the issues raised, and a government response providing a detailed response to the committee's recommendations was prepared. The committee recommended that the variation to the territory plan proceed subject to recommendations contained within its report.

This draft variation has resulted from extensive consultation work undertaken with the development of the Woden town centre master plan and has itself been subject to a further round of public consultation and review by the Assembly's planning and environment committee. Dr Foskey has an issue, seemingly, because neither the planning and environment committee's recommendations nor the final version of the variation have been the subject of public consultation.

But the planning and environment committee's report is not a secret document. It is a publicly available report by a committee of democratically elected members of this Assembly about a document that has already been the subject of substantial consultation. The committee conducted its own inquiry into the proposed changes contained in DV 259 and the Woden Valley Community Council responded to the planning and environment committee's call for submissions and provided written comment.

I am sure that, in the preparation of the recommendations that were contained within the committee's report, the planning and environment committee would have taken due account of the concerns and issues raised in the Woden Valley Community Council's submission. The view that the Woden community council, the Woden public, are not aware that the entire leisure and recreation precinct north of Launceston Street is to become commercial, with the exception of the Phillip oval area, simply cannot be sustained. Except for the Phillip pool site, this change was one of the major elements of the original draft variation that was subject to significant public consultation.

The subsequent proposal to include the pool site in the precinct was in response to the committee's report. The committee concluded that it was essential to retain and refurbish the Phillip pool and ice-skating rink to provide ongoing public access to the facilities and recommended that including the site in the commercial precinct with specific provisions relating to the retention of both the pool and the ice-skating rink was the best way of facilitating this outcome.

The Woden town centre master plan, which underwent considerable consultation with local stakeholders, including the Woden Valley Community Council, recommended that the entire northern entertainment, accommodation and leisure and restricted access recreation precinct be varied to permit office and residential development. This was intended to provide an additional incentive to upgrade public infrastructure like the swimming pool, the ice-skating rink, Phillip oval, restaurants, squash courts and all of the other facilities there. Significant funds are required to repair and upgrade the pool. This can be achieved only by permitting broader development opportunities to subsidise the refurbishments needed. The requirement for the lessee of the Phillip pool site to continue to provide a 50-metre pool and an ice-skating rink was retained and is included as a control in the commercial B land use policies.

Another issue that I understand is of concern—or has been—is the future of Phillip oval as a premier Australian rules oval. The proposed territory plan map and Woden town centre precincts map contained a final variation to protect the oval and have been amended to extend the restricted access recreation land use policy and public land overlay over the whole of the Phillip oval site—block 9, section 23—except for the south-east and south-west portions fronting Launceston Street, which will be subject to commercial B precinct land use policy. This has been done to ensure that the sporting and recreational uses of the oval are protected.

The government recently agreed to fund the reinstatement of Phillip oval to optimise recreation and urban design outcomes. The commercial development is concentrated on the Launceston Street frontage, while the oval perimeter is reserved for future grandstands, with possible community and commercial uses at street level. The existing oval site is proposed to be subdivided to create a single development site of about 2,500 square metres in the south-west corner fronting Launceston Street. This commercial site affects about five per cent of the existing site area of almost 4.4 hectares. On the basis that any commercial activity incorporated into the grandstands will be ancillary to the sporting functions of the oval, the final version of the variation was amended to incorporate the whole of the balance of the Phillip oval site—not including the two Launceston Street corner blocks—into the restricted access recreation land use policy.

I do not consider that the changes proposed in the variation will detract from the provision of sport, leisure and recreation opportunities in the Woden town centre. In fact, this variation actually increases the protection for the pool and the ice-skating rink. The current entertainment, accommodation and leisure land use policy does not ensure the retention of the existing recreation facilities except for the pool.

Whilst the proposed commercial land use policy will provide a greater range of options, it will continue to make provisions for all the existing facilities. I acknowledge that it does not ensure their retention. But the territory plan cannot and should not ensure the ongoing viability of these facilities. This variation does provide a higher level of protection than exists under the current policy and provides for a vibrant precinct around these facilities which can add to their viability.

In regard to concerns about height that have been raised, there are currently no restrictions on height under the current entertainment, accommodation and leisure or

restricted access recreation policies. Under the proposed changes, heights would be restricted to six storeys, although buildings of up to 12 storeys may be permitted provided matters such as overshadowing are addressed. Any development proposal would undergo a development assessment process that would look specifically at these issues.

While the government understands the community council's desire for additional community facilities in the Woden town centre, we do not consider that this process is the appropriate one in which to make these provisions. There are a number of territory controlled sites which could provide future options for such facilities should those decisions be made in the future.

The process associated with the preparation of the Woden town centre master plan and variation 259, including the consultation, has been comprehensive; we need to finalise this exercise. Dr Foskey has not raised any substantive or new issues that have not already been addressed. For this reason, the government will not be supporting the disallowance motion.

MR SESELJA (Molonglo) (11.01): The opposition will be supporting this disallowance motion. There are a number of reasons for that. This issue has been going for some time. I do not necessarily share Dr Foskey's concerns over the process; I think the process has been reasonable. There has been an opportunity for the planning and environment committee to look at the matter; there has been an opportunity for submissions to be made. The process is a reasonable one, in our opinion.

At the same time, I have looked at this issue very carefully and discussed it with a number of stakeholders who are affected by this—including, most importantly, the Woden community council, but also groups such as the MBA and the southern cross club, which is an important stakeholder in that precinct. I have also had representations—as I think other members have—from a number of individual residents, most living in the Woden area, who have concerns over the variation. On balance, taking all of those things into account, we have come to the view that the disallowance motion should be supported.

David Menzel has put a very forceful argument in relation to the need for a section master plan. There is some merit in that, and I will go into some of the reasoning behind our support for it.

The minister has spoken about the protection of the pool. I think what the committee recommended—which has largely been agreed to—is a good thing. It is important that we have some protection for the pool and the ice-skating rink. There are still concerns in the community around the open space with the pool, but obviously there are economic realities which make that a difficult balancing act in order to keep this pool viable for the community. There are concerns around that but also concerns around some of the other recreational facilities in the precinct. That is where I think the government needs to take another look at this. There are significant concerns about loss of some of the other recreational facilities in particular, such as the bowling green and the gymnasium.

This is a fairly vibrant precinct. It is an important precinct for people of the south in particular, and most particularly those of the Woden Valley. In the context of this variation, we have to look at what kind of vision we have for the Woden town centre. Whilst we have the Woden town centre master plan and other planning documents that deal with this, we need to decide what we want to see in 10 or 15 years time. What I would like to see is a very vibrant town centre which has many more people living there and much more commercial activity. At the same time, if we are going to bring in those uses and encourage people to be living in this town centre—which I think we should—it is incumbent on us to protect some of those recreational facilities.

It is no good having wall-to-wall apartments and commercial office blocks without preserving some of the important open space which people, in Canberra particularly, really value. We do not want to see the sort of situation we see in large cities around the world where there is so much development that it is just wall-to-wall apartments and wall-to-wall office blocks without preserving what the community values. We want to make this a good place to live. We want to make it an attractive place for Canberrans to live in medium and high-density housing. We want to make it an attractive place to work. If, in this particular precinct north of Launceston Street, we allow the ability to take away some of these recreational facilities, it will take away from the vibrancy of the Woden town centre.

I would want to see more development in other parts of Woden, around the retail core. I make no bones about that. I would want to see more commercial office space and more residential space than even what has been planned for at the moment. But this is where we need to strike the balance. I do not think that this is the place where we should necessarily be concentrating most of the commercial development; that should be more around the retail core on the other side of Launceston Street.

Given that we have here an opportunity to protect a recreational precinct, the government should take another look at it. They should take another look at this precinct with a view to ensuring that it is vibrant. That does not mean that there should not be some commercial development there, but we need to look at whether we are going to lose most or a lot of the recreational facilities that are in this area. That is a legitimate concern to the people of the Woden Valley—and the people of south Canberra generally, because the Woden town centre is utilised in one form or another by people on the south side of Canberra.

The issue is important. I do not think that the government had ill will in seeking to remove some of these facilities. But we must look at the outcome of this. I note that the southern cross club has concerns. It has a lease for only a couple more years, I think. After that time we do not know what could happen to its facilities; we do not know what kind of redevelopment could go on there. Members of the community may well lose some important facilities.

The minister alluded to other potential areas for some of these recreational facilities. We would like to see them. We would certainly be interested in hearing what the government's plans are in relation to some other areas where these could be sited. As it stands, we have some important recreational facilities. There is a need to allow

some commercial development, but we do not think the government has got the balance right here.

Once again, we need to look at it in the broader context of what we want the Woden town centre as a whole to look like in 10, 15 and 20 years time. I do not think that this gets the balance right. I would like to see more development there, but I do not think that this is necessarily the way to do it. That is why we will be supporting this disallowance motion.

MS PORTER (Ginninderra) (11.07): The minister has outlined the proposed changes to the territory plan contained in draft variation No 259. In addition to the minor revisions that were made to the exhibited draft variation as a result of the public consultation period, the planning and environment committee made 10 recommendations, as the minister said. It is interesting that Mr Seselja has just stood up in this place and spoken in the way that he has, because there were no dissenting reports. He is the deputy chair of the planning and environment committee, and there were no dissenting reports in that inquiry. Obviously none of these concerns were evident at that particular time.

The government considered the issues raised and tabled a government response in May this year. Briefly, the key planning and environment committee recommendations relevant to the disallowance motions were as follows. Recommendation 4 was that:

> … additional Community Facility and/or public land be identified in Sections 23 and/or 104 and in Blocks 1 and/or 4 of Section 35.

It was noted that the land use on these sections already allows for community facilities and uses, although section 104 is required predominantly for car parking. The committee also recommended that:

> … the Planning and Land Authority amend the proposed extension of the Town Centre Commercial B precinct b Land Use Policy in Woden Town Centre to include Section 22, block 2, and remove the 8M Phillip Public Pool overlay from Part B8: Entertainment, Accommodation and Leisure land Use Policies.

This recommendation was supported and incorporated as part of the draft variation. The committee recommended that:

> … the Planning and Land Authority insert an Area Specific Overlay in Part2B: Town Centre Land Use Policies—Commercial B for the Phillip Pool site to require that the lessee of Section 22 block 2 Woden continue to provide a public 50 metre pool and an ice skating rink.

The minister has already outlined that. The substance of this recommendation was supported and a clause was inserted into the land use policy for the site requiring the lessee to provide a 50-metre public pool and ice-skating rink.

The next recommendation was:

> … that the site of the Phillip Pool and Ice Skating Rink be included in the proposed detailed master plan for the Phillip Oval site.

This was also supported and adopted as part of the draft variation.

Further changes were made to the final variation regarding the protection for sporting and recreational uses; controlled development and tight limits around the Phillip pool site; and the management of the redevelopment of the pool site. In addition, the whole of the balance of Phillip oval site, not including the two Launceston Street corner parcels, have been retained as restricted access recreation land use policy.

An additional clause was incorporated into the written statement for height controls for commercial precinct B areas north of Launceston Street to ensure that any development on the site adjoining the Phillip pool does not impact on the use of the pool. It states that development on the site for uses other than a swimming pool and ice-skating rink shall be restricted to the southern portion of the block. Redevelopment of the site will still accommodate an outdoor area to the north of the block, which would not be overshadowed by taller building elements to the south.

It should be noted here that there are currently no restrictions in the existing entertainment, accommodation and leisure or restricted access recreational policies that would limit building heights in the precinct. The Woden Valley Community Council, in representations to Dr Foskey, Minister Barr and the Chief Minister, raised concerns primarily relating to the retention of recreational facilities and building height restrictions in the northern precinct and future provisions for community facilities in the Woden town centre.

The current entertainment, accommodation and leisure land use policy over the northern precinct does not ensure retention of existing recreational facilities, except for the Phillip pool, which is protected by the existing 8M area specific policy overlay. The policy allows a range of other options that the lessee could pursue even if variation No 259 did not proceed. The proposed commercial precinct B land use policy will provide a greater range of options. It will continue to make provision for all of the existing facilities, but will not ensure their retention, except for the Phillip pool and the ice-skating rink, which will be incorporated into precinct B controls in the territory plan written statement.

In the past, the basketball and bowling club located on section 24 were provided by a community club. That subsequently divested its interests in the area of Woden. The leases on both sites were deconcessionalised and sold in the private market. In the case of the basketball club, a superior four-court facility was constructed in Tuggeranong to meet the changing needs of Basketball Canberra. Given that the facilities are not in community or government ownership, it is not reasonable for the government to guarantee the continuation of existing activities irrespective of the land use policy. The preparation of a section master plan would not necessarily protect these uses, as higher order uses are currently permitted under the existing policy. Any continuation will depend on the sustainability of these activities—to continue operating in their present capacity.

While the government understands the community council's desire for additional community facilities in Woden town centre, it is not in a position to make a commitment about specific provisions at this point in time. There are a number of territory controlled sites that provide future options for the development of such facilities. However, it would be pre-emptive to specifically reserve any of these sites for particular uses. The government is confident that the proposed territory plan policies in variation 259 can accommodate the proposed uses if and when required.

These responses to issues raised by the Woden Valley Community Council and the changes made to the final variation demonstrate clearly that the planning and land authority and the government have responded to community comment and to issues raised by the planning and environment committee of which Mr Seselja is a member, as I said before. Members in this place would appreciate that it will never be possible to fully satisfy every individual's views about every specific issue—though don't we all wish that we could do that?

The government believes that the consultation processes of this exercise have been comprehensive and that there is nothing to be gained by further delay. Not only was the variation the subject of consultation; so, too, were the Woden centre master plan changes. They have been made through both these processes, including making responses to the planning and environment committee's report.

For this reason, the government does not propose to support the disallowance motion and looks forward to variation 259 commencing as soon as possible.

MRS BURKE (Molonglo) (11.15): I rise today as one of the members for Molonglo—a Liberal member. I am very concerned about the way in which the government has proceeded with this matter. The shadow planning minister, Mr Seselja, has outlined very carefully and succinctly the point that we are trying to make in supporting Dr Foskey's motion today—that we need a vibrant, mixed use town centre but one with a balance of commercial, residential and community facilities. The planning minister would argue that that is all going to happen here. I will make some comments about that later.

Dr Foskey mentioned the words "respectful relationships". During this process, the government sought advice from the Woden Valley Community Council, which the government asked to consult with the broader community. It would appear that the council has done a sterling, job—an absolutely sterling job. We should give all credit to the chair, David Menzel, and his team. Unfortunately, it seems that all this advice—on two, three or four pages—has all but been ignored. At every step, the council has always attempted to work with the government—and it is not just over this variation: it has been doing it for some six years. The council is to be commended for that and for their part in this whole process.

I think it is right that the community council should stand up, that Dr Foskey should raise this motion and that we as the opposition should stand to support the Woden community on this issue. We cannot simply sit back and see the government planning gurus and the minister ride roughshod over yet another community development

process. It is disappointing that the government is not willing to honestly engage with the community. It appears to be the government's way—no way.

It must be noted, too, as I alluded to, that the Woden Valley Community Council did not just rule this out out of hand. The six-page letter from the council to the minister that Dr Foskey tabled today outlines some 13 suggestions and options that came out of their consultations. They thought very carefully, and they very thoughtfully considered the future of Woden town centre and the environs. They are not a negative council; they do work. It would be extremely disheartening to see little, if any, of that being taken into account with the government pushing forward with their plan.

Today we see not only Dr Foskey but also the opposition, the Woden Valley Community Council and the broader Woden community having some problems with this variation to the territory plan. The pool has been mentioned. I know that Swimming ACT, which utilises the Phillip pool, is naturally concerned for the future. At point (h) of possible solutions and options, the Woden council suggested that the government should:

> Agree to full public consultation with all stakeholders on pool provision prior to any changes to the lease of the current site and any announcement on the future provision …

I am not sure to what extent that has occurred and whether they have been satisfied by the government's response. Again, we need to see consultation in the actual meaning of the word—not consultation that is one sided: "We'll listen to you but we're going to do our own thing anyway."

The planning minister tells us that there will be a higher level of protection for sporting facilities. I think he said something like that; forgive me if I have got it wrong. I get concerned about things like that. From the past six years, knowing the way this government flip-flops around, I would say: can we really trust the words? The government says something today and then changes it next week. Mr Barr says that there are no new issues that have not been addressed. Is this code for "We've heard you all, but we'll just do what we want to do anyway"?

This motion should be agreed to for the sake of common sense and for the future planning of the Woden Valley. We support the motion.

Members interjecting—

MR SPEAKER: Order, members! There are too many conversations going on. Mrs Burke has the floor.

MRS BURKE: I do have my voice back, but I agree with you, Mr Speaker: it is very hard. Just to finish off, let me say that I agree that we should revisit the whole situation in the context of what the Woden Valley Community Council worked so hard to put together and in terms of the future of planning and making sure that at the end of all this we do not come up with some hotchpotch arrangement that we regret. I commend Dr Foskey's motion to the Assembly and will be supporting it.

MR MULCAHY (Molonglo) (11.20): As has been made clear by my colleague Mr Seselja, we will be supporting the disallowance motion. I would first like to take issue with the matters raised by Ms Porter, who seemed to be castigating Mr Seselja for daring to express a view contrary to a report from a committee on which he sits which is dominated by members of the government.

I find outrageous the constant approach in this place suggesting that once you are on a committee you are muzzled and you cannot express your own view. I take great exception to that; it is something that we have to resist. I think that the people of Canberra will not accept it. I take strong issue with the view that you have to try and silence the shadow planning minister when he expresses a valid point of view because he is sitting as a minority of one out of three on a committee. The principle at stake here is that you are bound by every decision of those committees and you can never, ever take exception: you are never allowed to take a contrary point of view.

On the committee I am a member of, I have seen things put up by Dr Foskey where I think, "Well, I do not think it is particularly smart, but we will let it go through." You do not have to write a dissenting report on every single item to make it clear that you do not necessarily think that something the committee has decided on is the best course of action. If that was the case, we would be writing dissenting reports all day long. The criticism of Mr Seselja that he is in some way bound not to question this particular change is fallacious and cannot be supported.

My concerns are not about the consultation process that the minister detailed in itself; rather, they are, most specifically, as Mr Seselja pointed out, about the concerns of the Woden Valley Community Council that have been expressed here today and the concerns of the MBA, the southern cross club and, most importantly, fellow residents of the Woden area. I think I am the only MLA living the Woden Valley area, and therefore—

Mr Barr: No, I think Simon does.

MR MULCAHY: Simon has moved out there now, has he? He has changed residence? Sorry; I thought he was out at Weston. Anyway, I certainly take a keen interest in the development of this area. It is one of the most desirable areas in Canberra and has one of the greatest potentials in terms of future living. To a large extent, it is probably the geographic heart—

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

Sitting suspended from 12:31 to 2.30 pm.

MR MULCAHY: My understanding is that the key feature of the variation to territory plan No 259 is the replacement of the current B8 entertainment, accommodation and leisure use policy for the north-west area of the Woden town centre on land north of Launceston Street—that is Launceston, not lawn or anything else, for the benefit of those who are unfamiliar with that area. Launceston sits on the Tamar River, near where the proposed pulp mill is going to be built. I am pleased that Phillip oval and Phillip pool and ice-skating rink are to be retained and protected. For

many years, my family—and I, myself, on rare occasions—have used the pool. My children, in particular, have used those facilities. We are pleased that there is a degree of protection for those facilities afforded within the arrangements.

I am pretty comfortable with the idea of seeing more residential development in that area, but, as Mr Seselja pointed out, it is important to ensure that we have appropriate recreational facilities. I know that it will be a long time before we grow to the size of Manhattan, but when you look at a city like that, where people clamour for a tiny piece of space where they can have a sandwich and that is not taken over by high-rise buildings, there are lessons for modern cities—not to get to the point where you cannot go back. As I indicated, I do not think we are going to have quite that population, but in a mini-community, you can still build out all the available space, and the temptation for a government that has relied so heavily on land sales must always be there. In developing the area, I am anxious to see that we have quality high-rise buildings, not things that are thrown together.

I am not one of those who are generally opposed to development. Indeed, in most cases I encourage it. But in the process there does need to be protection of community assets. In east O'Malley, where there has been substantial development—I know the people involved in the development and I live in that vicinity—I have seen a complete failure to make appropriate traffic planning arrangements to take into account the large numbers of extra people moving into that area. In the past week, my GP's wife's car was wiped out trying to get out of there onto Hindmarsh Drive. I have not even had time to respond the email he sent me about it, and there is another one he has reported on. We see a situation—

Mr Barr: There are four other exits.

MR MULCAHY: There is no traffic controlled exit out of O'Malley. Every day people take their lives in their hands and attempt to beat the traffic, with the traffic hammering down Yamba Drive and Hindmarsh Drive.

The point I make is that, if we are going to develop these areas and cash in on the land sales, let us make sure that we take care of the needs of that community and think things through. The best example in this territory is Gungahlin. You just have to ask the people of Gungahlin how important community recreation facilities are—or the lack of them. It is very important that we make sure that community assets are available to residents of Woden. If only the people of Gungahlin were as lucky as the ones in Woden who presently enjoy those facilities! I was in Gungahlin Marketplace at the weekend and people constantly raised the issue; they do not even have a swimming pool up there.

I share the concerns of residents about the loss of other community assets—the bowling green and possibly the basketball courts. The people of Woden do not need or want wall-to-wall buildings, office blocks and so on. The importance of amenities to people cannot be underestimated.

There is room for both development and recreation facilities—to sit alongside. As I have said, I am not by any means against development, but there needs to be some

protection of existing recreation facilities. Once they are gone, they will be gone forever; it is very hard to replace a building with an oval.

As I said by way of interjection, the Phillip oval is to some extent the pet project of a former Treasurer, Mr Quinlan. It is one such example. The minister referred to the continuing availability of Phillip oval. It is something of an indictment of the current government that the oval has been allowed to fall into its current state of disrepair. It could be useful for grazing; I accept that. The Chief Minister has talked about the limited agricultural opportunities in the ACT. But as a sporting facility, the concept of night games for the AFL being played on Phillip oval is one that I hope never makes the Melbourne media. It would hold us up as something to be mocked; it is a foolish concept given the way in which the government has managed that facility.

Woden does need community assets, including sporting grounds and a swimming pool. As I said earlier, other parts of Canberra are lacking—to my consternation and the consternation of the people I represent. I urge the government to take into account what Mr Seselja said and develop a better master plan for this whole area—taking into account the broader needs of Woden as well as preserving these vital facilities that have given rise to concern by people living in that district.

DR FOSKEY (Molonglo) (11.29), in reply: I am very appreciative of the opposition's support for this motion. It is hard to imagine that anyone with real concern and some kind of vision for the Woden area would not be concerned about these changes. I also thank the opposition for raising points about where we trade off increasing commercial and residential development with recreational opportunities, because the two things are complementary. Woden will not be a desirable place to live if there are not places where you can go and have a walk from your unit. Sky Plaza can only work while people have places to go outside their units where they can meet other people—not just a mall, not just a plaza. They need green places; they need places where they can exercise their bodies. It is not enough to sit on your stationary bicycle and keep yourself fit that way.

This matter raises some other issues that I will talk about in relation to the planning legislation. This government now has encapsulated all its consultation in the community councils. That is all the government does now. Those community councils get a certain amount of money—not a lot; none of them have paid people and the workload is enormous. I know that David Menzel has been working his guts out, cooperating with the government on the master plan and so on. He would have liked to have retired from that position this year, but the concern is: who will do that work? Who would want to do that work, for a start? Who would want to work for nothing, basically, in their retirement? You just do it because you care; you do it because you care about your community. The government laughs at people who care and tries to exclude them from the process.

Just think about that as you deny all the input and all the good suggestions. Think about whether the Woden community council will be quite this prepared in the future. I expect it will, because it is made up of good caring people, but there will be much less trust that their effort will be worth while.

I want to respond to some of the points made by the minister. In the case of the Phillip pool, he said, "We require selling off land in order to finance the upgrade of the pool." Was this the case in Belconnen? I do not think so. I want to know why this particular argument is pulled out at the government's discretion when in other places we consider it a community right to have access to decent facilities.

Another thing that concerned me about the whole process was that there seemed to be some certainty given to developers on that site before the time had elapsed by which the variation would have come through. I was getting emails saying, "Why are you holding up this process? We are all ready to go." There should not be that certainty given to developers until these things have been right through the process. That is concerning.

Andrew Barr does not consider that this variation will affect recreational amenity, but that is just his opinion. There is no proof for that. Those approximately 100 people per day, apparently, playing lawn bowls—I am not sure where they are going to go. To say that people can go and play basketball in Tuggeranong these days does not take into account the public transport issue, for instance, or the fact that people have to get in their cars to do all these things as we close down amenities closer to hand.

This is something that the government is going to have to be rethinking. And it is about time it started rethinking it now. These kinds of plans that are being set in motion will last for decades into the future. And decades into the future we are going to be trying to undo some of these things. We could have had the vision and forethought to have thought about them now.

It is interesting that the government understands Woden Valley Community Council's desire for community facilities but refuses to give them any sense that they are actually going to do something about it. Mr Barr said, "There are other sites," but he did not commit the government to making those available. I endorse most of the things that were said by the opposition in relation to that; I will not repeat them.

In closing, I would like to read out the very constructive suggestions which Woden Valley Community Council put forward to the minister and which Mrs Burke referred to. I would be very concerned if none of these things can be done because the government voted against this disallowance motion. The first—it is too late now—is:

> (a) Allow the Disallowance Motion to succeed. Resubmit a DV which is minus WTC's Northern Entertainment, Accommodation and Leisure Precinct. Undertake a Section Master Plan for this EA&L Precinct in consultation with the Woden Community BEFORE land use changes are effected.

The list continues:

> (b) Make section 22 Blocks 1 and 2, Section 24, Section 104 and Section 23 Blocks 1-4 and 8 subject to a Section Master Plan with a view to retaining as a minimum the current level of recreation services in the Town Centre (either to the area, to the north of Launceston Street or elsewhere) prior to agreeing to any changes to leases on these blocks.

(c) Consider the difficulty of ensuring pool and skating provisions for Section 22, Block 2 as well as allowing commercial development on that site to fund those projects.

I think the Woden Valley Community Council is prepared to go a long way with the government. The list continues:

(d) Accept that the provision of a children's pool and outdoor amenity play area are requirements for any pool development.

(e) As discussed at our meeting, consider options to remove pool and skating requirements for the site with a view to the Government selling the site for full commercial value and identify a site, in consultation with the Woden community, to build a new pool complex elsewhere in the Town Centre.

They do not want a degraded pool complex. They are prepared for it to be relocated as long as it is as good as, but preferably better than, what they have now. The list continues:

(f) Not issue a long term lease for the pool until the future of the pool facilities are agreed.

(g) Note that revenue from unencumbered commercial use of the site could offset a significant part of the construction of a new pool complex in another part of the Town Centre.

(h) Agree to full public consultation with all stakeholders on pool provision prior to any changes to the lease …

(i) Change the land use for the section of the land adjacent to the south eastern side of the oval back to restricted access recreation.

(j) Examine options and determine a site for a community/cultural/arts centre in the Town Centre ...

(i) Support a feasibility study for such a … centre.

(j) Amend the Territory Plan to accommodate the outcomes of above options as appropriate.

(k) Retain the old police centre site until finalisation of a site for the proposed community/cultural/arts facility ...

While I have been saying these things, Mr Barr has been muttering, "We are doing that; we are doing that." Why did he not say that in his speech? Why does what the government will do to improve the amenity of the Woden town centre not appear anywhere? I have not heard it here today. I need to hear it; the Woden people need to hear it. Remember that we are talking about people from Curtin to Garran to Mawson, including a lot of people in the Weston Creek area who lack their own pool and who lack a lot of these facilities.

It is important, Mr Speaker. I commend this motion to the Assembly. I suggest that government members consider voting separately from their party in this instance or, if they will not, exact from Mr Barr a commitment to the provision of at least equal, if not improved, recreational facilities in the Woden area—not to mention community, cultural and arts facilities.

Question put:

That **Dr Foskey'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.

Planning and Environment—Standing Committee
Statement by chair

MR GENTLEMAN (Brindabella): Pursuant to standing order 246A, I am delivering a statement in my capacity as chair of the ACT Legislative Assembly's Standing Committee on Planning and Environment. On 12 June 2007, on behalf of the committee, I wrote to the Australian parliament's Joint Standing Committee on the National Capital and External Territories. I invited our counterpart committee to meet to discuss whether the two committees might hold joint inquiries on some matters that require amendments to both the national capital plan and the territory plan. Mr Seselja supported this letter as well.

Members are well aware of the inefficiencies, costs and political inequities of the current dual planning system, which the planning and environment committee is keen to see addressed. Members of the Assembly may recall that in the planning and environment committee's report on annual and financial reports 2005-06, the committee recommended that the Assembly resolve to permit joint inquiries. The committee also recommended that the Assembly consider the benefits of joint inquiries by Assembly and counterpart parliamentary committees in other jurisdictions, including the commonwealth, in relation to matters that have both commonwealth and ACT implications. The committee is disappointed to advise the Assembly that the Joint Standing Committee on the National Capital and External Territories has rejected the proposal to conduct joint inquiries on appropriate ACT planning matters, and has declined to meet with the planning and environment committee to discuss the issues.

In a letter dated 21 June 2007, the committee chair, Senator Ross Lightfoot, advised that the proposal had been considered with interest but rejected following advice.

Senator Lightfoot advised that the joint standing committee is subject to its resolution of appointment and, further, that the Public Accounts Committee of the Australian parliament had only ever conducted one joint inquiry. One member of the current joint committee had participated in that inquiry, and others were aware of the procedural and administrative issues associated with joint inquiries.

The planning and environment committee is disappointed in the joint standing committee's response, as persuasive reasons had been provided in the annual reports report as to why joint inquiries should be considered. The committee regards collaborative and participatory governance for the territory as an important goal. The committee intends to raise this matter again with the incoming Australian parliament following the next federal election before the parliament reconstitutes its committees. The committee also notes the continuing possibility of joint inquiries by Assembly committees with other Australian parliamentary committees, and trusts that any other proposal to pursue joint inquiries is not dismissed so quickly.

Planning and Environment—Standing Committee
Statement by chair

MR GENTLEMAN (Brindabella): Pursuant to standing order 246A, I seek leave to make a statement regarding my attendance at the inaugural conference of Australian members of parliament entitled Environment and Industry.

Leave granted.

MR GENTLEMAN: Last month, as chair of the committee for planning and environment, I had the privilege of representing the ACT Legislative Assembly at the environment and industry inaugural conference of Australian members of parliament held at the parliament of Victoria. This conference enabled a forum of commonwealth, state and territory members of parliament to enhance their parliamentary experiences by sharing their knowledge and practices on a wide range of relevant issues. Along with Mr Stefaniak I was joined by 62 other members of Australian parliaments in attending seminars by field experts on various environment and industry topics.

At this conference I was fortunate enough to attend a range of seminars that were relevant to both members of the Assembly and the greater ACT community. These seminars included a look at how energy efficiency regulation of the housing market can be used to reduce greenhouse gas emissions, what implications climate change both present and future is having on our economy, and how a carbon trading emissions scheme is likely to work in practice in Australia. While all the seminars I attended contained vast amounts of valuable information, one seminar which I found particularly relevant to the ACT was about water issues in the 21st century. I will not go into details about the current water situation in the ACT, as I am sure we are all well aware of it, but we do need to pay close attention to what is happening nationally in regard to the sustainability of water resources.

Our very own Peter Cullen from the University of Canberra delivered the seminar on Australia's increasing water scarcity and how we need to build on a national water initiative to develop a sustainable management plan that integrates both land and water issues. Mr Cullen raised some very important issues in relation to the 2004 national water initiative that should not come as a shock to any of us. Mr Cullen informed the conference that he believed the national water initiative is not working. According to Mr Cullen, four Australian capital cities are still in a race to see which

will run out of water first. Mr Cullen says that at the beginning of June 2007, Brisbane and Canberra had 68 weeks of water left, Perth had 65 weeks and Adelaide had a mere 32 weeks of water left. That is not a good statement to hear, particularly coming from an expert researcher in the field. It is a clear message that we need to act now. We need to stop the race. Water is our most precious resource and we in the ACT must address the issue.

It is through these types of conferences that ideas are canvassed, discussed and talked through until they are exhausted so that we, as representatives of our constituents, are better informed. I learnt a great deal about a variety of issues in regard to the environment and industry at this conference. Being able to share the ACT's experiences with other parliamentarians and experts and being able to hear their experiences in return has been an invaluable experience. As a representative of the ACT Legislative Assembly and as chair of the planning and environment committee, I found this inaugural conference of Australian members of parliament an important step in gaining valuable knowledge in addressing the issue of climate change, and recommend to all members of this Assembly to consider attending future conferences.

Multicultural Youth Forum
Statement by minister

MR HARGREAVES (Brindabella—Minister for the Territory and Municipal Services, Minister for Housing and Minister for Multicultural Affairs) (11.49): I ask leave of the Assembly to make a ministerial statement concerning the multicultural youth forum.

Leave granted.

MR HARGREAVES: I would like to make a statement about the ACT multicultural youth forum entitled "Youth together—talking together". I note, obviously, the commitment of members opposite in their interest in the youth of today. It is sad to see that I am speaking to empty seats, but I hope members are all listening because this is a very important issue.

MR DEPUTY SPEAKER: You are speaking to me.

MR HARGREAVES: I understand that, Mr Deputy Speaker, and indeed in your capacity as opposition spokesman on multicultural affairs you will be particularly interested in the results of this. I have other comments to make about your performance in the house, Mr Deputy Speaker, but I will pay you credit for your commitment to multicultural affairs, without reservation.

MR DEPUTY SPEAKER: Very sporting of you, Mr Hargreaves. You have the call.

MR HARGREAVES: Many things have been said of me in the past in this chamber, particularly by your good and learned self, but sporting has never been one of them. But I am glad for the appellation. It is something I will wear with pride. Today's young people in the multicultural community are the face of the ACT's multicultural future: its cultural makeup, its prejudices, its social bonds, its limitations, its opportunities, its inherited problems and new solutions.

On 9 August I held a multicultural youth forum. I learnt a lot being able to talk to a great bunch of young people from culturally and linguistically diverse backgrounds. It gives me a fresh perspective on Canberra, and provides me with important information when I am making decisions as minister. At this forum, I met with a group of very impressive youth leaders, along with close to 100 other young people at the Theo Notaras Multicultural Centre. The day was spent with these young people outlining the major issues facing them. They also suggested ways to move the issues forward and ways in which the ACT government can help.

In this rapidly changing world, talking with young people, and especially a group from culturally and linguistically diverse backgrounds, is a privilege. Young people bring a unique perspective on the ever-shifting landscape of multiculturalism, of values, beliefs and communities at the local, national and international level. Young people offer us an important glimpse into the future. Their attitudes to their life, community and culture in Canberra help us understand current attitudes and how those attitudes are likely to change.

The ACT government has a responsibility to encourage the representation and participation of young people in our community and to make sure that their needs are addressed by our government agenda. In particular, the ACT government holds three key responsibilities: to address the unique issues faced by multicultural youth in our community and ensure they have opportunity to reach their full potential; to help them preserve their cultural identities, for themselves and future generations, while balancing their modern Australian lives; and to ensure the broader community appreciates and accepts these people and their cultures without prejudice or discrimination.

Speaking with and listening to young people has given me as Minister for Multicultural Affairs insights into which direction we want the ACT to head. Many of the challenges facing Australian youth reflect the way they are perceived by the broader community. The positive and negative perceptions citizens have of young people from culturally and linguistically diverse backgrounds are known to be a critical factor in how they are treated in the public domain. This community is often exposed to negative media portrayals of young people from culturally and linguistically diverse backgrounds. These include allegations of gang rather than group, creating a climate of suspicion and fear.

Young people who have newly arrived in Australia are often so busy with the challenges of settlement that they often do not have time or energy to deal with issues that may seem so large and so hard to address. They are often struggling to master the English language. There is school and study, and they are often juggling part-time work and family commitments. So it is important that governments and communities everywhere work together to tap into the strengths, experiences and creativity of young people from culturally and linguistically diverse backgrounds. The need for the multicultural youth forum was identified in the multicultural strategy 2006-09. The document states:

> The ACT Government will facilitate a Youth Forum seeking the views of young people from diverse cultural backgrounds to discuss a range of issues.

Incidentally, I have not heard lately anything from the Liberals on their policies of multiculturalism, or any policy on young people. I have not seen them conduct any forums for young people or do anything to help young people become leaders in our community. Fear not, the ACT Government is to the rescue. The ACT government remains committed to taking positive steps in engaging the multicultural community, and young people within the multicultural community in particular. The theme of the youth forum was "youth together—talking together" and that is what they did—and we listened.

I had the privilege of meeting 18 leaders, all fantastic young people, during the morning session of the youth forum. These young leaders were nominated by schools contacted by the Department of Education and Training—and I thank the minister for his support in this and the Office of Children, Youth and Family Support within the Department of Housing and Community Services—and I thank my other colleague minister for her support; and of course the service providers including Multicultural Youth Services, the ACT Youth Coalition and the Sudanese Youth Association. A lot of people in this town are not aware that we have a Sudanese Youth Association, and I am very pleased to be able to publicise that here.

From that very productive morning session, issues were distilled into four main themes which were workshopped in the afternoon by the group of 100. Young people from educational institutions all over Canberra were invited. There were representatives from Melba, Lanyon, Telopea, Melrose and Stromlo high schools; Lake Tuggeranong, Hawker, Narrabundah, Radford, Daramalan colleges—all of those institution colleges, of course; Canberra Grammar School, which is the boys school, and the Australian National University.

The four themes developed by these leaders were community attitudes to multicultural people, including racism and policing; cultural education; making culture cool—a very big theme, not to be confused with artistic appreciation, which often a lot of people misconstrue, but in this case it is about cultural background and making that culture cool—and sport, recreation and health. I am pleased to say that the people who attended the youth forum continue to provide written submissions on identified issues. Anecdotally, students who came from other countries found it amazing that they were able to speak directly with the Minister for Multicultural Affairs—something that would not happen easily in their countries of origin. This accessibility is important.

As a small digression, we found that in a lot of the cases—as you would know, Mr Deputy Speaker—when young people come from a country that has suffered oppression of some type, any authority figure is feared by the young people. Whether it is a police officer, a soldier, a politician or a headmaster, these people are afraid of authority. These people were amazed that our young people have no such fear of authority. Certainly there is fear of police from time to time, but they certainly do not fear teachers, as my colleague's brother can attest to.

With much fruitful discussion during the afternoon workshops the leaders came up with the following key ideas. With respect to community attitudes of multicultural people—which is about racism and policing—they wanted to increase the number of programs; increase efforts to promote awareness of existing helpful programs and

events; increase resources for programs that help to integrate international students and migrants; and for police to take a more hands-on and engaged approach with young people. We need more avenues for these two groups to communicate so that cultural exchange can take place. This is an opportunity for my department to work with the ACT Policing multicultural liaison officer to assist with intercultural awareness for new recruits in the AFP and ACT Policing.

The young people wanted to develop strategies that encourage interactions across cultural groups by young people; to encourage young people to speak their minds; to provide opportunities to break the cycle for young people unable to gain employment, because they do not have the appropriate work experience; and to develop strategies that address racism by encouraging people to change from within themselves. That is an insightful comment for a young person.

In relation to cultural education, they wanted to provide overseas students with additional support so they could enter into community activities; to celebrate cultural differences all year round, not just during the national multicultural festival; to promote radio, music and creative activities as a way to unify multicultural groups; and to better promote events and groups to the broader community. With regard to the theme of making culture cool, they wanted to provide organisations, such as the Hellenic Youth Club or Multicultural Youth Services, with more financial support so they could provide more activities for more young people. That was a surprise, was it not? They want to help young individuals to fully understand their cultural heritage, rather than encourage them to leave it behind and become mainstream.

With respect to sport, recreation and health, they wanted to provide further resources for a program to integrate refugees and migrants into Australian sporting life. The ACT government is already engaging many of the concepts and ideas provided by the young people at the forum. For example, the integrated sports program facilitated by the Muslim community and involving the broader community has an open registration approach with its aim to bring together members of both sectors through sport, such as soccer, badminton and cricket. Also, I witnessed a very popular world youth soccer event involving very talented refugee young people held during Refugee Week in June. That was a fantastic day.

Intercultural awareness not only provides an understanding of other cultures but also extends to providing an understanding of how your own culture and beliefs will influence your interactions with others. My department and I will work with other relevant ACT government ministers and agencies to develop policies and strategies that build on current activities to meet the needs of youth in the ACT. It is the responsibility of government, community and schools to ensure that everything is done to keep our city's cultures alive. The best way to do this is to create a culture in Canberra where young members of our multicultural communities feel free to express their culture and customs without discrimination. If we fail, what will we tell future generations when they ask what we did to keep cultures alive? Young people are our future. We need them to be involved in the process of governing and to be engaged in our community. The ACT multicultural youth forum was, in my opinion, a big success.

However, it could not have been a success without our bright, young representatives of tomorrow being prepared to spend their day coming along and getting involved. I sincerely thank each and every one of the participants for their valuable contributions. I hope that the participants saw the youth forum as the beginning of an ongoing engagement with the government and the community and a way to insist on building a better city and country for everyone. I also express my appreciation to John Gunn from Multicultural Youth Services (ACT) for the facilitation, and to the officers from the Office of Multicultural Affairs, Nic Manikis, Kate Skandreth, Maria Vincent and others, for their assistance.

It was a real pleasure to engage with young people, for them to have a chat with government. We have done this before, but what was unique was we brought the leaders together and left the room. The leaders determined the agenda. We came back, discussed the construct of that agenda and where we were going, gave them a bit of extra information and went away. Those leaders led the rest of the hundred or so people in the room and came to conclusions and advised the government. We got warts-and-all advice from the young people of the community. It was incredibly valuable. Again, I express my appreciation and that of the government to all participants.

Planning and Development Bill 2006
Detail stage

Clause 15.

Debate resumed from 21 August 2007.

DR FOSKEY (Molonglo) (12.05): I will be opposing this clause, because there is a quite complex, high-level interaction between statements of planning intent, statements of strategic direction, planning strategies and so on. They have different significance to legal action, the authority's direction and government thinking. In this case, it just does not make sense that the minister may give the authority to a statement of planning intent. The minister should be required to do so. We understand that this provision might simply reflect existing provisions in the legislation, but, given that this whole bill reflects several years of work, there was every opportunity to follow through on the detail.

There are many instances in this bill where it would be best to ensure easier public access to information. I will use this opportunity to suggest that it makes sense to mandate the publication of statements of planning intent on the minister's and the authority's websites. I understand that planning ministers are likely to do so anyway, but, given the importance of those statements to the authority's functions, it should be required that such statements are visible on both sites. There are other examples in this legislation where we need that kind of transparency. I would be happy to hear the minister confirm that this is his intent in the short term and that if we need to revisit this bill, perhaps when the plan gets introduced, we can agree on some simple amendments such as those that I have just suggested.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (12.06): I understand the point that Dr Foskey is making. As Minister for Planning, one of the first things I did was issue a statement of planning intent. However, that is a discretionary matter for the minister of the day. I would anticipate that most ministers would want to issue such a statement and make it publicly available. I think the requirements in the act mirror existing provisions, as Dr Foskey has outlined. They are appropriate at this time.

I have, of course, placed my statement of planning intent on the ACT Planning and Land Authority's website. I do not have my own stand-alone website at this time. Ministers have a little page off one of the ACT government's sites, but, in the future, should the Minister for Planning get his or her own website, I am sure any future minister would make these statements publicly available in that form. The requirements proposed in clause 15 are adequate at this time.

MR SESELJA (Molonglo) (12.08): We do not have any problem with clause 15 as it is. I take the minister's point about some discretion, and I cannot see why a minister would not state the planning intent the way this has been set up. So I cannot really envisage that that is going to be a problem. If the Greens have an issue with the wording, a simple amendment would have been worth debating. I do not see any reason to oppose clause 15.

Clause 15 agreed to.

Clauses 16 to 27, by leave, taken together and agreed to.

Clause 28.

DR FOSKEY (Molonglo) (12.09): My objection here is related, again, to the transparency of documents. The public register and associated documents should be available for public inspection. It seems to me that, again, this is a matter where we should use our electronic technology. Also, we should make sure that this register is searchable. So, again, while this may be the intention of the minister and of the authority, it seems reasonable that these things are put on the website. We know, for instance, that being available for public inspection is not the same as the public being able to inspect them.

The loss of shopfronts, for instance, has made it very difficult for people to interact with officials. Not everybody is able to make it during nine to five to the various offices where these things, I assume, are going to be available. Sometimes they are in libraries, but this section of the act does not spell it out. So, again, it is just that more detail is required, more consideration of people's circumstances, and more evidence that the government wants to facilitate the ability of people to inspect the public register and all those associated documents.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (12.11): I know that ACTPLA is a very enthusiastic embracer of new technology, and it has

received additional funding to proceed with further work to make more and more of its work available online. I am sure it will continue to do so into the future. So whilst, again, I understand the points Dr Foskey is making, I do not necessarily think that this legislation is the appropriate way to address her concerns. I am sure that ACTPLA's enthusiastic embrace of the internet will continue and that the sorts of public access that Dr Foskey is talking about will be provided.

Clause 28 agreed to.

Clause 29 agreed to.

Clauses 30 to 44, by leave, taken together.

MR SESELJA (Molonglo) (12.12): The opposition will be opposing these clauses. It is interesting that the minister laughs, because I am sure that if this minister had been planning minister back in 2002, we would not see the Land Development Agency in its current form. I do not mind betting that this minister has inherited a Land Development Agency that he does not want. He has been lumped with it by his predecessor and that is why we will oppose it.

Mr Barr: It is not in my portfolio.

MR SESELJA: Well, that is right.

Mr Barr: It sits with the Chief Minister.

MR SESELJA: Yes, the Chief Minister had to take that away from Minister Corbell, because under his leadership, of course, we were never going to see any progress towards the stated goals of the Land Development Agency. We think the Land Development Agency has been an abject failure. Let me read from the speech of the former planning minister, Simon Corbell, on the Land Development Agency. He said:

> The government will ensure that the land release program delivers a sustainable balance between strategic planning objectives, a fair return on the territory's land asset from land sales, and housing affordability.

What a failure the government has been in this area, an absolute failure. He went on to say:

> The move towards greater government land development will contribute to assisting housing affordability through two main mechanisms:
>
> - firstly, by ensuring adequate land supply some pressure will be taken off land prices—

apparently—

> bringing land ownership closer for many families and small businesses …

How is the minister going with that?

- secondly, the process will assist in the provision of adequate land and housing options at the lower end of the market. This "demand matching" approach need not affect general housing prices, community's returns on its land assets or the efficient and sustainable use of greenfields land.

The government has failed in its objectives. If the objective of the LDA was to make housing and land more affordable in the territory, it has failed. The ACT now has some of the most expensive land in the country, and in large part that is because the government has simply failed to get enough of it out there. That has happened under the LDA. This has been a misguided project from the start.

Canberrans, essentially Canberra home buyers, and first home buyers in particular, have been forced to prop up the LDA's bottom line. There are no two ways about it. The Chief Minister, in a moment of honesty, acknowledged this without quite saying it. He acknowledged that they have been fleecing first home buyers in order to prop up the bottom line. He said, "Well, I would rather give up some profits in order to keep housing more affordable." That is not what he has been doing for the past few years. What he has been doing for the past few years is fleecing first home buyers. They have been forced to pay exorbitant amounts not just for their land but also in rates and charges in order to prop up the bottom line of the LDA and of this government. It is an unreasonable cost burden that has been placed on a particular group in our society, particularly first home buyers. First home buyers have had to bear the brunt of this flawed policy.

The idea of moving back, as we did under the former planning minister, to a government monopoly land developer is just extraordinary. This is why the minister cannot quite keep a straight face on this, because he must know that this was a bad idea. To go down the path of a public sector monopoly for land development was always flawed, and flawed for a number of reasons. Firstly, monopolies generally should be avoided where possible.

Mr Barr: Economists?

MR SESELJA: Most economists would probably acknowledge that, whether they be public or private. There are very few areas where we should maintain monopolies. Land development is one area where we should not be having monopolies. Essentially, over the past few years, that is what we have had under the LDA. We have had a government monopoly. People might be able to put up with it if they were seeing good outcomes, but they are not. Housing has become less and less affordable since the LDA came into being.

We have a number of conceptual problems with it. One of the fundamental problems is that it is not their money. That is just one of the fundamental differences between a government monopoly land developer and a private land developer. When it is your money, you act differently. That is simply human nature. That is the reality of it. We have seen it with some of the excesses in spending from the Land Development Agency—the ridiculous spending of $200,000 on a site office, which industry would spend $30,000 to $40,000 on. If you are going to spend five to six times the industry standard on things like that, you are just going to go through the agency. There is

going to be fat in the agency that would not be there if they were dealing with their own money.

We saw a $50,000 sign for the EpiCentre advertising the sale of a piece of land. Did they really think that the average punter driving past EpiCentre was going to say, "Look, EpiCentre, I might be able to stump up a few million bucks and make a bid for that." Come on—it was an absolute waste of money. We have seen that over time. The marketing costs have been in the vicinity of $3 million and $4 million a year for a monopoly land developer. Where else are you going when you want to buy a block in Canberra? Up until very recently you had to go to the Land Development Agency if you wanted a residential block. So this idea that it has to have these marketing exercises which market the brand is an outrage. It is an example of why we should never have gone down this path, because we have seen the wastage.

In many ways, the wastage in that kind of spending is not the biggest scandal. It is not the worst part of the LDA. The scandal with the LDA is that it has failed—an abject failure—to deliver on the goals that it set, and one of the most important was to make housing more affordable. It has made it less affordable. It has not released enough land. The former planning minister has joined us to defend the LDA. I suspect he does not feel that the current planning minister's heart is really going to be in it. He has come to the chamber to tell us why the LDA is such a good idea. Maybe he can refer back to some of his comments: "The move towards greater government land development will contribute to assisting housing affordability." Maybe he can back that up with some figures as to how he has achieved those goals. I suspect that he has joined us because he does not feel that Andrew Barr's heart is really going to be in defending the LDA.

It is clear that the LDA has failed to deliver on those goals. It has failed in a serious way. The burden of that has been borne particularly by first home buyers in the territory, many of whom have left the territory and have been forced over the border to find opportunities for reasonably affordable housing. That is disappointing. That is one of the greatest disappointments of the Land Development Agency, and that is why we, the opposition, will be opposing these clauses.

DR FOSKEY (Molonglo) (12.21): I am joining Mr Seselja in opposing clause 42 (2). However, no doubt my reasons are different.

MR SPEAKER: Order! The question is that clauses 30 to 44 be agreed to. I do not think you are able to be selective.

DR FOSKEY: Clause 42?

MR SPEAKER: Clauses 30 to 44.

DR FOSKEY: Yes, and this is clause 42.

Mr Barr: We are going to take them as a whole. We agreed to that.

DR FOSKEY: I believe I can speak, however.

MR SPEAKER: Yes, sure.

DR FOSKEY: I would like to do that, thank you.

MR SPEAKER: Of course you can speak.

DR FOSKEY: The clause that I am opposing is clause 42. We may be dealing with them all together; nonetheless, I will be speaking to this clause. By dint of the inclusion of "sustainable development" as one of the areas of expertise represented on the board of the Land Development Agency, I am hopeful that decisions of the LDA will, as a matter of course, take account of, or be reviewed in the light of the requirement to take account of, environmental impacts. However, there is no need for the LDA to consider the social impacts of its decisions. If the job of the LDA were merely to organise the sewerage and the kerbing for the development of new suburbs, that might not be such an issue. However, one of its functions is to carry out strategic or complex urban development projects.

The glorious, unsocial, upmarket lakeside developments of Kingston, plus the lack of acceptable public spaces and the poorly organised traffic flows of the Gungahlin town centre, combined with the escalating prices of affordable housing in Canberra, point to some of the problems that come from a failure to properly consider the social outcomes and planning decisions. I would have liked to have seen someone with social or cultural planning or with community development expertise on the LDA board. Sadly, only engineers and accountants are identified as having the essential skills.

I am not joining Mr Seselja in his opposition to all the clauses that relate to the LDA. I believe there possibly needs to be some sort of inquiry or other way of looking at the work of the LDA. We are constantly hearing claims from the opposition about the failure of the LDA. I take its criticisms with some scepticism, because it is very clear that the land development industry does not like the LDA. We need a more impartial assessment of its work before I am going to just go along with the opposition. Yakking at me while I am talking is hardly going to give me any reason to change my mind on that. That is the sort of spirit in which the opposition seems to approach this issue.

If we are going to have a Land Development Agency, which is, of course, an instrument of government—which is, perhaps, what the opposition does not like—it should have the full range of expertise. It should consider the social ramifications of planning. Why else have it if it does not in some way further the objectives of our community as reflected through the government it elects? I will not be joining Mr Seselja's opposition to these provisions, but I have concerns about the Land Development Agency. If it is going to be a government instrument, we ought to make sure that it has the full range of expertise and that it does the job that it was set up to do. Perhaps we need to look at what that job was, and perhaps we need a broader inquiry that looks at the work of the Land Development Agency.

MR SPEAKER: I draw Dr Foskey's attention to the fact that we will not be considering clause 42 separately. Leave has already been granted to consider clauses 30 to 44 together.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (12.25): The government will be supporting clauses 30 to 44. After spending a little time in this place one gets to realise what a truly robust democracy we operate in. We have the opportunity in these debates to hear the full array of views. On the odd occasion when the Liberal Party is attempting to channel some form of sensible economic policy—as rare as it is in this place—we see some exhibition from Mr Seselja about the importance of competition. I concur, and that is why there is competition in the delivery of land development in the ACT.

It is very important that the government plays a role through the LDA in this process. The LDA helps to ensure that the ACT community benefits from optimising the returns from its land assets, including through gaining an appropriate share of the financial benefits of development activities. These gains can then be used to enable the government to provide enhanced services for the people of the ACT. The LDA has improved the standard of land development through working with leading urban designers, builders and industry as a whole. Importantly, the LDA provides flexibility to the government in implementing its land release program and helps bring a greater level of stability to the market than has been the case in the past. Perhaps most importantly, under the government's affordable housing action plan, the LDA continues to play a leading role in our land release strategy, along with englobo releases. It is important to note the LDA has shown a considerable amount of flexibility in working with government to ensure that we get the best possible outcomes for the ACT community.

For the Liberal Party, which seems to sidestep most major economic issues in so many other areas, to suddenly become hairy chested about there being no role for government in this area of the territory's economy is a fascinating example of the opposition picking and choosing where it believes in market forces and where it does not, and where it believes it is appropriate for there to be some level of government involvement in particular activities. It would seem those opposite have a base ideological opposition to any government involvement in land development.

I think the government has struck the appropriate balance in ensuring that we meet our overall desire and requirement for additional land releases into the market. The flexibility the LDA has shown in responding to a revitalised agenda from the government on housing affordability, as the Chief Minister has outlined, has been important in our ability to deliver, as a government, an overall housing affordability package.

Those opposite would appear to want to leave it entirely in the hands of the private sector to deliver a response on housing affordability. They spent a lot of time in question time on Tuesday wanting the government to intervene in the taxi industry and to run operations there. So they pick and choose the particular issues where they want involvement and where they believe that the government should be responsible for activities in the marketplace. It is always amusing to watch the sidestepping of Mr Mulcahy as he dodges around the positions that the shadow minister has put forward. It must be one of the toughest jobs to be opposition spokesperson on economic matters surrounded by colleagues such as he has.

The key thing here is that the LDA, under its revised arrangements, is now operating very effectively to deliver the outcomes that the government and the community desire to address housing affordability. It plays a very important role in returning a dividend to the community, in its overall take in land development. It is crucially important that it is allowed to get on with its work. The opposition is simply wasting the time of the Assembly for a spurious debating point. The government will be supporting these clauses.

MR SPEAKER: I welcome to the gallery year 10 students from St Clare's College, and Eric Garapova, the Undersecretary of the Ministry of Lands, Housing and Survey from the Solomon Islands, who is working with ACTPLA for eight weeks as part of an AusAid program.

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

Sitting suspended from 12.31 to 2.30 pm.

Questions without notice

Hospitals—patient administration system

MR STEFANIAK: My question is directed to the Minister for Health. Minister, the new patient administration system—PAS—was originally scheduled to be operational in August 2006. After considerable questioning by the opposition, it emerged that the new system would not be operational in August 2006; rather, the anticipated functionality of the system would be achieved by March 2007.

In the estimates hearings in June this year, the CEO of ACT Health said that while "PAS is effectively fully operational, there are a couple of minor areas that we are just finalising". Minister, is the new patient administration system now operational in terms of all the functionality that was required under the contract? If not, why not? If the system is performing satisfactorily, what additional expenditure has been required to achieve this status?

MS GALLAGHER: Yes, ACT Health's new patient administration system was introduced in September last year. This is introducing a whole-of-health administration system for the recording of admissions, scheduling, billing and patient information. All of the major issues, as we said at estimates, had been resolved. There were implementation problems, as we have discussed in here on previous occasions.

The last time I was briefed, which was late August—probably a couple of weeks ago—a couple of areas were still outstanding. The ACTPAS team was largely moving into maintenance and support. It was not really about any of the bigger projects that came out of implementation. The three I have here are: completion of some reports, migration of infection history from the legacy system, and the establishment of the InTACT PAS support team. The other issues had all been resolved.

In terms of costs, my understanding is that this is all being met within the requirements of the contract and the team that works at the hospital. There has been no loss of revenue or impact financially from the implementation of ACTPAS.

MR STEFANIAK: Mr Speaker, I have a supplementary question. What considerations have been given to incorporating any additional functionality into PAS?

MS GALLAGHER: In terms of moving across to Calvary and things like that—that kind of thing?

Mr Stefaniak: Across the system; yes.

MS GALLAGHER: The whole idea behind it is to have a system-wide administration. Yes, it has capacity, as I understand it, to take further functionalities as we may need them. It was intended to be moved into Calvary in the short to medium term. I understand there are some discussions around whether we can do that. That issue relates to the manager of Calvary and the systems they have in place across their hospitals. Certainly the intention is for this to be whole-of-health wide.

Health—patient care

MRS BURKE: My question is also to the Minister for Health. Minister, you said in question time earlier this week, in reference to patients in aged care, mental health and chronic disease management:

> The numbers that are being seen … will not be able to be managed in a system built as we have now.

Minister, firstly what did you mean by this waffle?

Members interjecting—

MRS BURKE: Well, it was waffle. It was a little bit off the point. And what actions are you taking to alleviate the pressures on our health system in the short term—say, in the next 12 months?

Mr Stanhope: You are so dignified!

MRS BURKE: I say it how it is, Chief Minister—much like you.

Mr Stanhope: What did the Liberal Party polling describe you as? Dead wood, was it? Time server.

MRS BURKE: I won't comment on you yet.

MR SPEAKER: Order! The Minister for Health has the floor.

MS GALLAGHER: As members would be aware, we do a good deal of detailed planning work in ACT Health. All of that planning work indicates that managing people with chronic disease in the community and managing our ageing population are going to increase in terms of the numbers that we are going to have to deal with.

What I am saying is that, if we did nothing—if we did not change the way our system works—we would not be able to meet the needs of our future community.

It is not waffle; it is fact. You will see it in terms of the growth in activity that is performed at the hospital. You will see it from reports such as the one we have done recently with year 6 students, which showed that 25 per cent of our 11 and 12-year-olds are overweight or obese. When you extrapolate that out to 20 years—what it is going to mean in terms of managing 30-year-olds who have had that level of obesity when they are 11—you can see that the management of the obvious chronic disease that you are going to have—namely, heart disease and type 2 diabetes—will be significantly more than for the populations we are dealing with now.

That is what I am talking about. Unless the system changes and unless we have capacity to do more in the home—keep people out of hospital, manage their disease early in partnership with a GP—the acute system will not cope. I do not think that you will find anyone who works in the health system who will disagree with the comments I made earlier in the week.

It is certainly not waffle. In terms of activity, we report quarterly on levels of activity around a whole range of areas. You would receive that information. In fact, I think that you have taken on the FOI requests and get that information monthly. You will see that it clearly supports what I have said.

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

MRS BURKE: Thank you. Further to that, in developing your plans, minister, what face-to-face consultations did you have with nursing staff and health professionals?

MS GALLAGHER: For access health, are we talking about?

Mrs Burke: No, talking to people across the board.

MS GALLAGHER: In terms of the planning work that we are doing, we consult. In fact, I cannot think of an area in health where we do not consult with all stakeholders. I meet with the ANF regularly. They are the main body I deal with in relation to nurses, although we have the nurses and midwifery board, which I also met with.

Mrs Burke: Have you talked to nurses, though, particularly face-to-face?

MR SPEAKER: Order, Mrs Burke!

MS GALLAGHER: I talk to nurses all the time. It is part of my job. I do it on a daily basis almost. I held public meetings, for god's sake! The whole of Canberra was invited to come and have a word with me about future directions for ACT Health. We advertised in the paper. We advertised amongst all health stakeholders. I meet with the health consumers association. I can rattle off all the mental health groups I deal with.

Mrs Burke: It is the nurses that say you are not talking to them.

MS GALLAGHER: I do not think nurses are saying I am not talking to them. I think you have got it—

Mrs Burke: Oh, right!

MR SPEAKER: Order! Cease interjecting, Mrs Burke. It is better not to respond.

MS GALLAGHER: Here we have a situation where we have more nurses than ever before, the lowest separation rate we have ever seen—

Mrs Burke: And you are not talking to them.

MR SPEAKER: Order, Mrs Burke!

MS GALLAGHER: and an industrial dispute that never happened. And I am the one that is not talking to the nurses! The record of the opposition on talking to nurses is of a strike and an unsettled industrial dispute. Here we have, for the first time since self-government, a situation where the nurses and the government have spoken, to the point where there is no industrial dispute.

We have more nurses than ever before. We have 1,200 full-time equivalent nurses now, 100 more than we had this time last year, working in the hospital.

Mrs Burke: But they say you are not talking to them.

MR SPEAKER: Mrs Burke!

Mrs Burke: I am only saying what they are saying to me.

MR SPEAKER: Ask your question and sit quietly and listen.

Mrs Burke: She is not answering it.

MS GALLAGHER: Mrs Burke, I do not deny that you have—

Members interjecting—

MR SPEAKER: Order! Chief Minister, cease interjecting. The Minister for Health will direct her comments through the chair. Mrs Burke, no more interjections.

MS GALLAGHER: She cannot help herself. She is the woman that never interjects but spends the whole time interjecting.

Mrs Burke: I have never said that.

MS GALLAGHER: Having dealt with Mrs Burke in a range of portfolios, I know what happens. I do not doubt that you speak to nurses, Mrs Burke, but you cannot say that I am not speaking to nurses.

Mrs Burke: That is what they are telling me.

MR SPEAKER: Come back to the subject matter of the question. Leave aside the subject matter of the interjection and come back to the subject matter of the question.

MS GALLAGHER: This government's record on supporting nurses is strong. We have an agreement about to go out that makes our nurses No 1 or No 2 in the country in terms of pay. We have agreement about nursing workloads. We have no industrial dispute. We have got fantastic retention rates. We have got better recruitment rates than we have got separation rates.

Yes, we have a workforce that is under pressure. Of course they are. Anyone who has looked at health in the past two months will have seen that anyone who is working at the hospital at the moment is extremely busy, and that places pressure on nurses because the largest workforce in the hospital is nurses. I do not discount that there have been issues around workload for nurses and stress while at work. But when you look at the data in terms of how we are faring, in terms of recruitment, in terms of numbers leaving the profession and in terms of salary and conditions, we have done very well in addressing many of the nurses' concerns.

The nurses have also come to the party in addressing some of the government's concerns. Overall I am not at all concerned that there are systemic concerns within the nursing workforce. I do not discount that from time to time issues arise that need resolving, and we deal with those as they arise.

Hospitals—patient admission

MR SESELJA: My question is to the Minister for Health. Minister, you will recall that two weeks ago 12 Gold Coast students were admitted to Canberra Hospital as they were all suffering from an outbreak of the flu. However, I understand that they were not admitted to paediatrics; rather, they were admitted to the paediatric oncology day unit. Minister, can you confirm that these children were admitted to an oncology unit? If so, why? If not, where were they admitted and how were they treated?

MS GALLAGHER: There were 16, not 12, who were admitted, and they were part of a group of 46 who were seen at the hospital. They were kept in the paediatric day unit, and that was primarily because they were infectious—they were all suspected of having influenza. As you would be aware, when you have influenza, you do not like to expose everyone else in the hospital to it, so they were kept in a contained area. In fact, they were not even seen in the emergency department; they were seen in part of the discharge lounge of the hospital, in the home area. That was precisely because we had infection control measures in place which involved reducing contact with other people involved.

Mr Seselja: Was it oncology or just paediatrics?

MS GALLAGHER: I will confirm whether it was oncology. I know it was the paediatric day unit. That may well provide oncology services. Because it was a Friday afternoon by the time they were admitted, there was no-one else in the paediatric day

unit, and that meant we were able to admit all those children very quickly from another area of the hospital, with minimal contact with other people who were working or in the hospital for other health reasons.

MR SPEAKER: Is there a supplementary question?

MR SESELJA: Minister, when you get back to us about whether it was the oncology unit, could you also advise the Assembly of the decontamination procedures which ensured that there was no risk posed to patients who are immuno-compromised?

MS GALLAGHER: Yes. It was a public health response. All of the decisions about how to move those children into the hospital, through the hospital, out of the hospital, to their bus, onto a plane and back to Queensland were taken with infection control measures in place. In terms of decontamination and cleaning, having spent some time in an isolation ward at the hospital recently, I know that very thorough cleaning processes are put in place. There were no other children in the unit where the 16 were admitted. With respect to the hotel where some of the other children were staying, the infection control procedures extended to cleaning the hotel after the children had left.

Integrated Forest Products Pty Ltd

MR GENTLEMAN: My question is to the Chief Minister. The opposition leader is reported in today's *Canberra Times* as saying that secured creditors such as banks—in this case the National Australia Bank—should receive precedence over the payment of workers entitlements, such as superannuation and long service leave, if the Integrated Forest Products mill at Hume is forced to close. Will the Chief Minister tell the Assembly what would be the effect of an unconditional government response, as proposed by Mr Stefaniak, to the receiver's request for assistance?

Mr Stefaniak: Point of order. The question is out of order because the member has misquoted me. If he is going to ask a question like that he needs to quote me exactly.

MR SPEAKER: That is not a point of order.

MR STANHOPE: We can all understand the Leader of the Opposition's sensitivity to this. If anybody every needed an assurance of his party's ideological opposition to workers—

Mrs Dunne: Point of order. I seek your guidance, Mr Speaker. The way Mr Gentleman's question was framed, it seemed to relate to the comments made by Mr Stefaniak. I do not think Mr Stanhope has any responsibility for comments made by Mr Stefaniak.

Mr Corbell: On the point of order, the question was what would be the consequences of the ACT government adopting the approach proposed by Mr Stefaniak. As Mr Stanhope is the minister responsible for the request for assistance from the pulp mill, it is entirely in order that he outline what the consequences would be should the government adopt such an approach as proposed by Mr Stefaniak.

MR SPEAKER: Will you repeat the question that you asked, Mr Gentleman?

MR GENTLEMAN: It is: will the Chief Minister tell the Assembly what would be the effect of an unconditional government response, as proposed by Mr Stefaniak, to the receiver's request for assistance?

Mr Stefaniak: I do not think I proposed that at all, Mr Speaker.

MR SPEAKER: That is not relevant.

Mr Stefaniak: It should be.

MR SPEAKER: You might think so.

Mrs Dunne: On the point of order, you have ruled, and previous Speakers in this place have ruled, that comments reported in the papers in relation to other members of the Assembly are not within the purview of anyone in the government.

MR SPEAKER: That is not a point of order. The question asked the Chief Minister what the government's response would be.

MR STANHOPE: We can understand the sensitivity of the Liberal Party.

MR SPEAKER: Order! Never mind the Liberal Party. Come to the subject matter of the question.

MR STANHOPE: Just imagine a response by this government or any government to a request by the private sector for a government—in other words, the taxpayer—to prop up a failed company, to prop up the creditors of a failed company, without applying some conditions that went to the need to protect the working entitlements of members of that failed company's workforce. The essential proposition proposed today by the opposition was that the banks must come first. The National Australia Bank, the leading secured creditor, a company which achieved a profit of $5 billion in its past financial year, and which has lent and secured credit to the tune of $10 million to $15 million at the Hume mill, has appointed a receiver. Of course, the receiver is working for the bank, and the receiver is asking me to provide ACT taxpayers' money to this company to support it over the next five months.

The Liberal Party believes it is not appropriate for me to seek to ensure that the workers—the 110 men and women whose superannuation has not been secured, whose long service leave has not been secured, whose holiday pay has not been secured and whose redundancy payments have not been secured—should not be protected by the government on behalf of the people of the ACT, yet we should provide taxpayers' money to the private sector. This really highlights the absolutely ideological position pursued by the Liberal Party through WorkChoices, a disdain for working men and women and working families, and a disdain for the 110 employees at Hume whom I am seeking to protect.

The secured creditors are five financiers. The major secured creditor, one of our leading banks, a bank that achieved a profit of over $5 billion in its past year, is to be given precedence over the workers at Hume in the eyes and the mind of Bill Stefaniak

and the Liberal Party in this place. I am to be castigated, I am to be challenged as acting illegally, for seeking to arrange with the receiver, who is an employee of the bank—and there is nothing untoward, illegal or against the law in me suggesting—that any moneys provided by the ACT government, ACT ratepayer funds, to support this company till the end of the year so it can continue to operate whilst the receiver seeks to find a buyer, is secured to the extent that it will support the workers and not the bank or the receiver. The receiver has already foreshadowed a fee of $1.1 million, which, of course, is secured ahead of the workers. Is it unreasonable for me to suggest—(*Time expired.*)

MR SPEAKER: A supplementary question, Mr Gentleman?

MR GENTLEMAN: Will the Chief Minister tell the Assembly what part the ACT government is playing in the rescue bid that aims to ensure the mill continues to operate so workers can maintain their jobs?

MR STANHOPE: The ACT government continues, as it has in the past, to seek to secure the future of this mill. We have provided $1.4 million assistance in the past. We provided that in the way of direct cash grants as well as a significant payroll tax holiday. We put an additional $716,000 on the table in the way of cash grants and payroll tax reductions as sought by the receiver. We are willing to participate with the commonwealth to work with the receiver of the company and the New South Wales government to ensure that this business can continue to operate between now and the end of the year. That is the condition applied by the commonwealth.

We have this notion that it is the ACT government that is imposing conditions and being unreasonable. It needs to be understood that the commonwealth has not yet agreed to the terms of the payment of the $4 million that it has proposed. Indeed, the commonwealth government is in the process of negotiating an extensive and detailed set of conditions with the receiver. In the draft agreement of the commonwealth's conditions provided to me by the receiver, the commonwealth has 74 conditions to its commitment of $4 million. In the arrangements that the commonwealth makes it agrees that 25 per cent of the $4 million that the commonwealth is providing will go to meet the receiver's fees. That is a position that I am not prepared to accede to.

There is one concern I expressed to the receiver that he has been able to satisfy me about. I asked that ACT taxpayers' funds not be used to pay the receiver's bill. The receiver is an employee of the banks. He is appointed by the banks to look after their interest, their $15 million debt, the $15 million that the National Australia Bank invested in this company—some interesting decisions made by whoever it was who assessed the worth of that investment. The commonwealth has determined that the $1.1 million receiver and auditor costs are a legitimate charge against the $4 million. That is interesting. It is a position that surprises me and a position that I was not prepared to countenance.

Now, in my negotiations with the receiver, I can say that if the commonwealth is happy to pay the receiver, so be it, but I indicated that I was not prepared to use ACT taxpayers' money to pay the bills of the National Australia Bank in the employment of a receiver to look after its interests in relation to this insolvency. That is not the business of the ACT government. It is not for the ACT taxpayer to pay the National

Australia Bank's bills. That is the sort of understanding, and they are the sorts of guarantees, that I have sought in my negotiations and my arrangements. I want to know the terms and conditions the commonwealth is applying, and the terms and conditions are that the commonwealth will pay $1 million a month between now and Christmas to ensure that the company continues to trade so it can be sold. What then? The commonwealth's interest ends. What if it is not sold? It will cease to operate, it will cease to trade at all. The position those workers face now—namely, redundancy— will become a reality.

The commonwealth's commitment to this rescue does not extend beyond the federal election. It is four months of $1 million, then it runs out. Of course, we are all hoping and praying that in that time there will be a sale and that whoever purchases this company will not move across the border—most particularly to Bombala—and the business will be retained here. One does not have much confidence in relation to that. This company has not run at a profit in any of the past six years. In the first six months of this year it lost $4 million. That is where the $4 million of commonwealth funding comes from. The commonwealth has committed to ensure that the company continues to operate on the basis that is has over the previous six months. That is one of the conditions. It must be maintained at no greater than a $4 million loss, which is consistent with the loss of the first six months of this year.

The company lost $7 million last year. It has lost $4 million in the first six months of this year. The commonwealth expects it to lose $4 million in the second half of this year. That is food for thought in the context of the future of this company within the ACT. This is information that I have asked the receiver to provide to me so that the workers at this mill know the gravity of their situation. This company is running at a loss of $6 million to $7 million to $8 million a year and the workers need to know that. They need to be told that this is a company in dire straits. (*Time expired.*)

ACTION bus service—safety

MR PRATT: My question is to the Minister for Territory and Municipal Services. Minister, there continue to be incidents in which rocks are thrown at buses at various places across the ACT. This practice has been unrelenting for six months or more. Indeed, in the past fortnight there have been a number of rock-throwing attacks against buses, including one in Tuggeranong on Tuesday this week. Bus drivers and ACTION staff are increasingly concerned about these attacks as there is the potential for serious injury to be caused to ACTION staff and passengers as a result of these attacks. Minister, as you are responsible for ACTION you have a duty of care for bus drivers and for passengers. Minister, what strategies have you put in place to safeguard ACTION staff and passengers from these unrelenting attacks?

MR HARGREAVES: Firstly, the government regards these incidents particularly seriously. Before I give an outline of the incident that occurred let me say that each year ACTION encounters a number of rock missile-throwing incidents. Following a spate of incidents in 2005, as a safety measure ACTION undertook a program of fitting shatterproof film to drivers' side windows to protect drivers and passengers. As members would know, some years ago a spate of objects were being dropped from bridges. That action changed to missiles being thrown at buses from the roadside.

After the 2005 spate, following advice from ACT policing, a joint media presentation was held on 19 June 2007 to raise public awareness of this antisocial and dangerous behaviour. Information regarding the incident, a smashed bus window and photos of the damaged bus were displayed. Since the media presentation there have been more than 56 incidents. It is interesting that in 2005-06 there were only 23 incidents. In 2006-07 there were 43 incidents. After the public presentation on 19 June this year and after the public media stunt, if you like, which was aimed at prevention, there have been 56 incidents.

The incident that occurred yesterday involved a rock being thrown at an ACTION bus at approximately 4.30 pm on the Monaro Highway near Gilmore. The rock smashed through the windscreen of the bus and narrowly missed the driver's head. No passengers were on the bus because the driver was dead-running to Kingston to commence the next service at Canberra railway station. The police were contacted straightway and I believe the driver was looked after quite appropriately by ACTION.

We have arrangements in place with the police. We have duress buttons and communication systems on the buses. In this case the incident was relayed from the bus to the communications centre and the driver reported that a rock had been thrown. Our communications centre immediately contacted police operations. It is pretty hard for ACTION to prevent people from throwing things at its buses. We have arrangements with the police to enable plain clothes or uniformed police officers to travel on the buses at no charge.

When we have any information that will assist the police in the prosecution of such an incident, plain clothes police are put on the buses to try to detect whether there is a pattern to try to address that issue. We also have regular meetings on this issue with the Transport Workers Union and with ACTION supervisors and drivers. Apart from putting shatterproof glass on all windows, bar the back window, I really do not know how to address this issue. I am told—and this is not a firm figure because I have not seen the numbers yet to support it—that it would cost about $500,000.

Members can be assured that that is something to which this government will give a lot of thought, but I want to see the justification for it. I want to see actual numbers to support that figure. Apart from being able to describe these people I find it very hard to know what to do other than to have further conversations with the police and to take their advice on what to do. Missiles are being thrown from the roadside. This incident occurred on the Monaro Highway when no-one was on the bus. The driver identified some people and relayed that information to the police. (*Time expired*.)

MR PRATT: I ask a supplementary question. Minister, given the increasing trend of this behaviour and the failure of your education program, which could never have appealed to the better nature of the offenders anyway, what other action has your government taken or do you intend to take to stop this rock-throwing trend?

MR HARGREAVES: I thought I had predominantly answered most of the member's question when I told the house that we had arrangements in place for a response from the police. As I indicated recently, we have CCTV cameras on our buses. If a bus is stationery and a missile is thrown of the size that was thrown in Gilmore, we may be

able to relay an image to the police. As I said, we are also looking at further shatter-proofing the buses. I really do not know how ACTION, as a bus service, can prevent somebody standing on the side of the road from hurling a missile at a passing bus.

Members interjecting—

MR HARGREAVES: I am not treating this issue frivolously at all. This is a very serious issue which gives us an enormous amount of concern because our bus drivers and our passengers are at risk. The missile that was thrown in Gilmore, a rock of a significant size, went through the windscreen and barely missed the bus driver's head. He received some minor lacerations from flying glass but I suspect that he might have been killed had the rock hit him. I do not know how ACTION can prevent this from occurring. Mr Pratt asked what ACTION was doing. I do not know what we can do. We do not have the powers of arrest. If a bus driver sees someone standing on the road what is he to do?

Mr Pratt: What work are you doing with the police?

MR SPEAKER: Order, Mr Pratt!

MR HARGREAVES: I have already said in this house that we have had conversations with the police. We have continuing conversations with the police. Duress buttons are available on the buses if a driver believes that something is about to happen. Communication systems are also available on buses. All the information is then fed to the police to determine whether or not there is a pattern, so that plain clothes police officers can arrange to be on a bus at a predicted time. That is what we are doing. I am hearing from Mr Pratt that ACTION—a bus service, a mass transport system—is not doing enough to stop people chucking rocks at its buses.

I honestly do not know what Mr Pratt is prepared to offer by way of a solution to this problem. I would be delighted to hear from Mr Pratt, but not by way of interjection.

Mr Pratt: What sort of targeted police operations would be happening in concert with ACTION staff, for example?

MR SPEAKER: Order! Mr Pratt, you have asked a question. The minister is entitled to answer it.

MR HARGREAVES: I would be delighted to receive something in writing from Mr Pratt, a positive suggestion for the way forward. The Transport Workers Union, the police, ACTION drivers, bus supervisors and ACTION management all meet fairly regularly to talk about how to prevent these things. If there is something else that Mr Pratt in his wisdom knows about that I am not aware of, I would be delighted to hear from him a suggested way forward. In his press release tomorrow I would like to see what magic things he will pull out of his hip pocket, things that we have not already done, to fix this problem. I have just been handed a note that states that, following a tip-off, police are interviewing two youths this afternoon.

Mr Pratt: It's about time. It has taken six months.

MR SPEAKER: Order!

MR HARGREAVES: Mr Pratt suggested that it has taken six months. The incident occurred only 24 hours ago.

Mr Pratt: Is that your first arrest?

MR SPEAKER: Order! Mr Hargreaves, ignore Mr Pratt's interjections.

MR HARGREAVES: I will, Mr Speaker. He is the only man I know who takes 90 minutes to watch *60 Minutes*. Instead of racing off to put out media releases I challenge Mr Pratt, through you, Mr Speaker, to give us in writing his suggestions on how to fix this problem. I will then issue a media release backing him up.

Mr Pratt: Any solution would beat yours.

MR HARGREAVES: Well, do it. Put up or shut up.

Mr Pratt: It has taken you six months to investigate somebody.

MR HARGREAVES: In that case, shut up.

MR SPEAKER: Order!

Mr Pratt: Are you operating the stovepipes?

MR SPEAKER: Mr Pratt, I warn you.

Hospitals—elective surgery

MR MULCAHY: My question is to the Minister for Health. Minister, you and your Chief Minister are prone to make much of your spending on health. Indeed, unless one had to actually visit a Canberra hospital emergency department or be placed on the elective surgery waiting lists, it would be easy to believe that everything was fine and travelling nicely.

The truth, however, is that, according to the Australian Institute of Health and Welfare, ACT patients waited 61 days for elective surgery in 2005-06 compared to the Australian average of 32 days. Similarly, in 2005-06 only one in two patients received timely treatment in ACT emergency departments; you will recall that this was ranked as the worst performance in the country.

Minister, clearly, under your leadership, there is not a direct link between spending and actual results. Why is performance in Canberra hospitals so bad?

MS GALLAGHER: I thank Mr Mulcahy for the question. I totally reject the assertions made through the question that the hospital is not performing. In fact, there is no national report which shows that the Canberra Hospital is performing at the worst level in the country—which goes to the concerns that Mr Mulcahy has raised

but which is quoted repeatedly in the media releases put out by the shadow health spokesperson. You cannot find a document that says that as such—and you will not, because there is none.

When you look at the actual performance of the Canberra Hospital in terms of health outcomes, you will see that we rank very highly—not one, but in the top two or three in the country. It is very easy to just talk about timeliness around categories 3 and 4 in the emergency department and, with elective surgery, the wait for access to elective surgery—the two measures. But you pull those together and say that means you have a badly performing hospital. It is not the case.

Nobody stands here and says that the access around those categories is right. I have never stood here and said that it is okay to have those waits. Under my *Access health* document, which has been ridiculed by the opposition, one of the first priority areas is focusing on timely access to care. One of the key issues around access to elective surgery is beds. As we keep saying in this place, we have invested. We have replaced the 114 cut out by the opposition. We have now built it back up.

Mr Smyth: Are they all acute?

MS GALLAGHER: No, they are not all acute.

Mr Smyth: So therefore you haven't.

MS GALLAGHER: I have never said that they are all acute.

Mr Smyth: Well, how can you replace acute beds?

MR SPEAKER: Order! Mr Smyth, cease interjecting. Minister, don't pay any attention to them; just direct your response to the question.

MS GALLAGHER: But replacing the beds in the hospital in order to deal with the demand for elective surgery. As everyone knows, no minister has control over who is added to the waiting list. They are decisions taken by doctors. But what I do have control over is throughput through elective surgery. What we see is that we are delivering record amounts of elective surgery through our public hospital system.

I know that those opposite do not want to listen to this, because this is the true measure, but 9,326—I think, at the last count—elective surgery procedures were delivered last year. That is a 22 per cent increase on our first year in government. We are doing everything that needs to be done to improve access to elective surgery. That does not mean that I have control—

Mr Smyth: So the list just gets longer.

MS GALLAGHER: I do not have control over the waiting list. Mr Smyth, you know that. Doctors have control over the waiting list. They are the ones who put people on the waiting list. I am the one who puts people off the waiting list. What we have done is deliver 1,400 or 1,500 more procedures than you guys were delivering when you were last in government. My job is to concentrate on throughput. To do that, we make

investments. Investments largely come by increasing funding. The funding is then used to employ nurses, establish beds and create wards that will provide the services. We have done that every single year.

In terms of the emergency department, again we have invested in the emergency department. We are seeing 100,000 presentations a year through our emergency department. That is not something that you ever saw in government. These are the figures of today: 100,000 people coming and needing help through our emergency department. On measures of when people are seen, timely access to treatment and the appropriateness of that treatment, we perform the best in the country.

In terms of the public confidence in our health system, we have the highest utilisation of public hospitals of anywhere in the country bar the Northern Territory—and they stick out for their own reason. We have the highest level of private health cover and the highest incomes, and people still want to come to the public hospitals. Why? Because that is where they know they are going to get excellent treatment.

You cannot sit here and say that our investments in health have not delivered a better health system. Our health system is delivering more than it has ever delivered in the past. Year on year on year, every statistic shows improvements in access, in growth and in dealing with complex cases. In terms of access to emergency treatment, we are the first in the country. These are the stats that you do not want to hear about.

MR SPEAKER: Is there a supplementary question?

MR MULCAHY: Minister, why have previous plans or strategies put in place by your government to tackle the issues I identified in my question failed so badly?

MS GALLAGHER: If you had listened to my answer to your question, you would have heard that they have not. I do not have control over the waiting list. If someone is sick and goes to their doctor, and their doctor says, "You need some surgery," they go on the waiting list. The only thing I can deliver on is removals from the list.

Mr Mulcahy: What about theatre utilisation?

MS GALLAGHER: Theatre utilisation?

MR SPEAKER: Never mind the interjections.

MS GALLAGHER: I should not bite, but he raises a good point. Theatre utilisation: we have extended operating theatres; we have commissioned the ninth and 10th operating theatres. All of that is paid for through our increasing investment in health. In terms of access to elective surgery, you are right: you need access to theatres. So what have we done? We have increased the number of theatres that we can utilise. It does raise a question about what we are going to do in the future, which is why we do this planning work. We are now operating at full steam.

Mr Mulcahy: The same length of hours—

MR SPEAKER: Order, Mr Mulcahy! You have asked your question.

MS GALLAGHER: In terms of theatre utilisation, our theatres are able to be used on Saturdays. For elective surgery, they largely operate between eight and five on weekdays. We do not tend to use them for much longer than that because there has been report after report about overtired doctors operating in theatres. There are some very good reasons why you would not extend use of the operating theatres from what is the case now.

Mr Mulcahy: Dr Sherbon refuted that claim in estimates two years ago.

MS GALLAGHER: I am not going to talk about what private hospitals do, but there is a lot of evidence on why you would not run your theatres into the night for elective surgery. We do not intend to do that. But we do have three theatres over at Calvary, for example, that the private hospital uses, through our generosity—but for a price.

Members interjecting—

MS GALLAGHER: They are publicly funded, publicly built operating theatres but we have an agreement that the private hospital can use them. But it does raise a question: in the future, when we will need to either build new operating theatres or resume those theatres, what are we going to do? If we want to see continued growth in the number of elective surgery procedures performed, we will need more operating theatres, more staff and more beds. All of those questions are on the table at the moment in terms of how we are going to respond in the future. Certainly, we have enough operating theatres to meet public demand, and we use them to the best of our ability. There is a whole range of work going on about the best utilisation of theatres. We have already implemented some changes in that regard, and we will continue to do so to make sure that they are being run efficiently. In terms of any major extension to operating theatre hours, that is not on the table.

Significant change is occurring in the emergency department regarding improved access. We have established a fast-track system to try and deal with the less acute patients so that they can be seen quickly. We have the best response times in the country for category 1. Our category 2s are very good. Yes, there are significant issues around category 3—and, to a lesser extent, category 4. I have met with the emergency department senior staff. I have travelled to Sydney to see what is done in hospitals that are performing well against targets. There is a whole range of reasons for this. For example, in many hospitals in Sydney, the clock stops at the nurse-initiated treatment. Here, that does not happen. Here, the measure involves when the doctor sees the patient. If we made that one single change, we would see significant changes in that AIHW report.

There is a whole range of reasons. I am not going to make excuses, because more work needs to be done on categories 3 and 4. But in terms of delivery of health services, what the hospital does—what it achieves, the performance measures for infection rates, unplanned returns to theatre, and access to emergency treatment—we are number one in the country. Ours is the only hospital system that has 100 per cent accreditation as well. These are the things that you should add to your media release when you bag the system, bag the hospital, bag the doctors and bag the nurses.

Mrs Burke: You know I don't do that.

MS GALLAGHER: Mrs Burke, you do that time after time.

Mrs Burke: On a point of order, Mr Speaker: that is an imputation. I have never, ever said anything disgraceful like that.

Mr Stanhope: What a load of rubbish! That's misleading the Assembly! Withdraw it.

MR SPEAKER: That is not an imputation. Resume your seat.

Dr Foskey: On a point of order, Mr Speaker: Mr Stanhope said that Mrs Burke was misleading the Assembly, and he should withdraw that remark.

MR SPEAKER: I did not hear it, but withdraw it if you said that.

Mr Stanhope: I will withdraw it. It is clearly misleading, Mr Speaker.

MR SPEAKER: Just withdraw it unequivocally.

Mr Stanhope: I withdraw it.

Greenhouse gas abatement scheme

DR FOSKEY: My question is directed to the Minister for the Environment, Water and Climate Change and relates to the greenhouse gas abatement scheme. On Tuesday the Chief Minister stated that he thought the greenhouse gas abatement scheme was the "greatest contribution we make to the fight against global warming". I am aware that this scheme is a key part of the government's climate change strategy.

This scheme had targets to reduce greenhouse gas emissions per head from 2005 to 2007. However, the benchmarks are now set at a flat rate per head until 2012. Modelling has shown that to truly achieve emissions five per cent below 1990 levels, the benchmark should drop annually from its current 7.27 until it reaches 5.85 tonnes of greenhouse gas emissions per head.

Given that the government is aiming for a population of 500,000 by 2030, is the minister aware that, despite strict compliance with this scheme, the net effect is that greenhouse gas emissions from the ACT can continue to rise overall?

MR STANHOPE: I thank Dr Foskey for the question. In the context of the technical detail, Dr Foskey, I will have to take the question on notice.

DR FOSKEY: Mr Speaker, I have a supplementary question. I understand that the Chief Minister is committed to a national emissions trading scheme by 2010.

MR SPEAKER: Come back to the supplementary question, please.

DR FOSKEY: Is the minister aware that continuation of the greenhouse gas abatement scheme until 2012 is likely to be an impediment to moving towards a national and international trading scheme?

MR STANHOPE: Thank you, Dr Foskey. I am more than happy to take both your question and supplementary question on notice and provide a detailed response. Far from suggesting that the greenhouse gas abatement scheme that the ACT government has entered into in partnership with New South Wales is an impediment, I have always regarded it—and continue to regard it—as a move towards a national emissions trading scheme. It is the only scheme or arrangement in Australia at the moment that shows any semblance of the need for us as a nation, and indeed the world, to adopt a trading regime. It is a first step, and a very good first step.

Some of the detail I will provide in relation to the question you ask will go to the impact that our adoption of the greenhouse gas abatement scheme has had here in the ACT. Certainly, as I indicated in a statement that I made on Tuesday, as a result of remodelling undertaken by the ICRC, there has been a rationing down of the effect of the ACT's participation in the greenhouse gas abatement scheme within the ACT. That is a result of modelling which apportions a different level of population to the ACT vis-a-vis New South Wales. It is a technical adjustment. There is an adjustment down in the overall benefit.

But even with the new arrangement, equation or ratio of population that has been attributed to the ACT as against New South Wales, the effect of our participation in the scheme in the last year—in the context of the credits granted—was the removal of about 43,000 cars from ACT roads over the course of the year. That is very significant. That will be repeated over this next year, and the year after, and the year after, until we get to the point where we as a nation embrace—and continue to participate in—a national emissions trading scheme.

I regard it—as does all my advice, Dr Foskey—as a very good set of first steps. It has had a significant impact in the context of its operation over these last two years. I am pleased that the ACT government, along with the New South Wales government, has been able to participate—in the context of Australia—in the first attempts at an emissions trading scheme.

I acknowledge that it does not go as far as we all hope and expect. Of course, the states and the territories, in the absence of leadership and participation by the commonwealth, had committed to go it alone in relation to the development of a national emissions trading scheme. Our declared intent is that such a scheme will be up and operational by 2010. The federal government—the Prime Minister; the Johnny-come-lately to climate change; Australia's leading climate sceptic; better late than never—

Mr Corbell: A bit like Gary Humphries.

MR STANHOPE: The same as Gary Humphries; yes—better late than never. This is something that the Liberal Party in this place in Australia cannot hide from or walk away from. For the last 10 years in Australia, the great impediment, bulwark and

hurdle to the addressing of greenhouse as a national issue has been the intransigence of the Prime Minister of Australia and his cabinet colleagues in his party.

As recently as 14 months ago the Prime Minister was a self-declared climate change sceptic. Of course, his colleagues here in the territory have gone along kowtowing to that particular position: the refusal to participate in Kyoto; the refusal to participate with the states and territories in the development of an emissions trading scheme. Johnny-come-lately—poll driven again: the great populist—realised, after 10 years in government, that the people of Australia—after 10 years in government the Liberal Party realised that the people of Australia—

Opposition members interjecting—

MR SPEAKER: Order! Members of the opposition, cease interjecting. If you would, Chief Minister, come back to the subject matter of Dr Foskey's question.

MR STANHOPE: The people of Australia were looking for leadership on climate change. They did not get it. They will never get it from the Prime Minister and his party in government; they will get it from Kevin Rudd and the Labor Party.

Health—patient administration

MR SMYTH: Mr Speaker, I am sure that when you were health minister, you were generous to a tee, given that the current health minister is now generous for a price.

MR SPEAKER: Never mind me. Just get on with your question.

MR SMYTH: My question is to the Minister for Health. Minister, people who enter the health system in the ACT can do so through a number of points, including through community care, the public or private hospital system or the mental health system. It seems reasonable to expect that, with the rapid developments taking place in information technologies, it is now feasible to use efficient processes to identify patients.

Minister, what system is in place in the ACT health system to allocate a unique identifying number for each patient? If there is no such system in use, why is there not?

MS GALLAGHER: Thank you, Mr Speaker. There is, through ACTPAS, the ability to identify patients who use the health system. That can be primarily within ACT Health across a range of those areas that you have talked about. That is one of the reasons why we have moved down the path of ACTPAS.

As you would know, there is a lot of national work going on in relation to ehealth and looking at how we can have unique patient identifiers across the country. That work is before the ministerial council now and is being progressed pretty slowly, I have to say, for a range of different reasons, primarily issues around privacy. But certainly ACTPAS does provide us with capacity in terms of being able to pull up patients within ACT Health at the moment, and we are looking hopefully at some extension for GPs and other primary health care providers in the future.

MR SPEAKER: Mr Smyth with a supplementary question.

MR SMYTH: Minister, given that the process of determining unique patient identification started under the previous government, why has nothing occurred in the last six years under your government?

MS GALLAGHER: I just do not think that is right.

Mr Smyth: No, it is. Michael Moore, the 2000 budget.

MS GALLAGHER: No. Whether it started under your government—why has nothing happened in the last six years? We have just had a massive overhaul of our patient administration system, the biggest overhaul ever, and it has come with some implementation issues.

It may well have started under Michael Moore. We now have ACTPAS in place and it does provide easy access to patients and being able to check them. If they come through mental health or community health, we are able to see where they have come from and look at their records.

Mr Smyth: Six years after the biggest overhaul of the health system you still have not got a unique identifier.

MS GALLAGHER: I have answered the questions.

Hospitals—equipment shortages

MRS DUNNE: My question is to the Minister for Health. Minister, it has come to my attention and to the attention of other opposition members that in both our public hospitals nurses are facing shortages of basic equipment and supplies such as dressings, tubing that could be used for IVs, catheters and central lines, and basic implements such as sphigmometers that are needed to ensure an appropriate level of patient care. Minister, what assurances can you give to the Assembly and to the ACT community that adequate supplies of equipment are available to deliver appropriate care to all patients in our public hospitals?

MS GALLAGHER: I welcome opposition members providing me with details and with evidence that they have of this, if they are able to do so.

Mrs Burke: If you talk to the nurses face to face at Calvary and Canberra they will tell you.

MR SPEAKER: Order, Mrs Burke!

Mrs Burke: I am sorry, Mr Speaker.

MR SPEAKER: I do not think you are.

Mrs Burke: If the minister cannot—

MR SPEAKER: Order!

MS GALLAGHER: I talk to nurses all the time. They are telling me that that woman does not speak for them. If anyone is waffling in the health system it is coming from that side of the chamber.

Mr Corbell: They run the other way when they see her coming.

MS GALLAGHER: That is what they say to me.

Members interjecting—

MR SPEAKER: Order, Mrs Burke! Order, everybody! The Minister for Health is trying to respond to a question which was not about whether or not one talks to nurses.

MS GALLAGHER: This was drawn to my attention through a media release from the shadow opposition spokesperson on health that stated, "ACT hospitals short of basic equipment," which is the usual standard assertion in media releases that cannot be substantiated. That media release related to a patient who had had some issues about delays and timeliness of treatment. We undertook to do a full clinical review and that review has been done. It included concerns about iceblocks.

I am happy to inform the Assembly that there has been no shortage of iceblocks in the hospital. On occasions there may be a shortage within a ward area because iceblocks have not been able to be brought up from the big freezers where we have all the iceblocks for the whole hospital. They may have been delayed in getting to the ward but I can assure everyone that lemonade iceblocks are there and ready to be used. I have asked the questions, I have sought advice and I have been given an undertaking that there is no shortage of supplies in the hospital and there never has been.

Members interjecting—

MR SPEAKER: Order! Members should be careful.

MS GALLAGHER: I stand by that. Unless you can prove otherwise, which you have never had to do—

Mrs Burke: You would sack them.

MR SPEAKER: Order!

MS GALLAGHER: Mrs Burke just said that people were sacked.

Mrs Burke: I said you would sack them.

MR SPEAKER: Order! Mrs Burke, I warn you.

MS GALLAGHER: You are appalling! Do you have proof, Mrs Burke, that I would sack them if they said anything?

MR SPEAKER: Minister, just resume your seat for a minute. Mrs Burke, I warn you: no more interjections. I call the Minister for Health.

MS GALLAGHER: This is the type of bullying that we are receiving and that nurses are receiving from the opposition. Mrs Burke does not realise that when she says nurses get sacked for speaking out she is not attacking me; she is attacking the nurses.

MR SPEAKER: Order! Come to the subject matter.

MS GALLAGHER: She is attacking the nurses and the management in the hospital.

MR SPEAKER: Order! Come to the subject matter of the question asked by Mrs Dunne.

MS GALLAGHER: She is attacking the chief nurse and every other nurse who works under her. That is what she does not realise. She has no idea of the damage that she is doing to the nursing workforce. She has no understanding at all. There is absolutely no shortage of supplies at hospitals. There might have been delays in the one case that was raised in a media release that was issued by Mrs Burke. There were delays in a chemotherapy patient having the right order of chemotherapy, which delayed treatment for 1½ days, with no adverse clinical outcome. But there is no shortage of supplies at all. There is no financial reason for there to be a shortage of any supplies. The supplies are managed at the hospital that we manage or at the hospital that we do not manage.

Many of Mrs Burke's complaints might need to be taken up with the Little Company of Mary, which manages Calvary, if her concerns are about Calvary. I have examined every one of her ridiculous allegations that she puts out day by day. When I look at the allegations I think that they cannot possibly be true, but I do the responsible thing and say, "Can someone provide me with advice on this? Is this true? Are there any problems in relation to supplies?" and I receive back information. Unless the member can prove otherwise, other than her waffle and her little allegations in media releases, she has nothing to stand by.

MRS DUNNE: I ask a supplementary question. Minister, now that you have given us assurances that there are no problems with the amount of supplies, what action will you take to ensure that those supplies are in the right place at the right time so that people are not waiting a day and a half for oncology services or waiting in theatre to find the right piece of equipment to deal with their problem?

MS GALLAGHER: There are staff in the hospital whose job it is to ensure that the supplies that are ordered—this relates to individual relationships between wards and the supplies area, depending on what they are after—are managed on a day-to-day basis. If Mrs Dunne is suggesting that it is my job to go and stop trolleys in the wards at our public hospital to make sure that nobody runs out of the necessary equipment, she is taking ministerial responsibility just a little too far.

Mrs Dunne: You always trivialise it.

MS GALLAGHER: I am not treating it trivially; I am saying that if you have proof that either of our public hospitals have run out of basic supplies then prove it. You have not been able to. You have put out four or five media releases alleging that there are no supplies and that if anyone puts up their hand they get sacked. You have not proven it.

Mrs Dunne: Point of order. My question was about what measures the minister will put in place to ensure that the supplies go to where they are required. The minister is saying "Prove it; prove it" in relation to something that we are not talking about. We are talking about what measures are in place to get the supplies where they are needed, on the day they are needed, and on time.

MS GALLAGHER: I answered that question at the commencement of my answer.

Child and family centres

MS MacDONALD: My question is to the Deputy Chief Minister in her capacity as Minister for Children and Young People. Minister, the government committed, through the social plan, for the construction of two flagship child and family centres at Gungahlin and Tuggeranong. The second centre, the Tuggeranong Child and Family Centre, opened in June this year. Could you please update the Assembly on how these centres are operating?

MS GALLAGHER: I thank Ms MacDonald for the question. As members would be aware, the child and family centres are the cornerstone of the government's commitment to ensuring that families in our community have the support structures they need. They were a new model of providing service from government in the sense that we provided $11.5 million to build two purpose-built centres and then co-locate a range of government services with them.

The model did grow out of the Lyons recovery centre, which was established post the 2003 bushfires, where a similar model was put in place. The positive feedback of having the ease of co-location of a range of services was certainly a significant part of the positive feedback from people who use the Lyons recovery centre.

We decided to adopt this model in terms of providing services for children and their families. The two obvious places to begin were Gungahlin and the Tuggeranong region. The Gungahlin centre opened in May last year and the Tuggeranong centre itself began delivering services in July 2006. It was not until June this year that the Chief Minister opened the new centre, which is conveniently located at the Tuggeranong town centre.

Both centres have already proved a real success. I know the opposition is very supportive of them, too, from their attendance at the openings—along with Dr Foskey. Already our early data for the 2006-07 year suggests that 668 families have accessed both centres over that financial year, which is 11 per cent above what we had set

ourselves in our target. It shows that the community of Tuggeranong has embraced the services being offered through that centre.

The services offered in both centres have included 163 parenting sessions and 93 community development and education programs. We are putting together a range of different services which are now available at both centres. We have got the maternal child health services, of course. We have got allied health services. Therapy ACT has speech and physiotherapy drop-in services on a monthly basis. Relationships Australia offer counselling to families. The Smith Family learning for life program is under development and child and adolescent services provides outreach from the centres, where required.

Parents as teachers also provide individual home visiting and group programs for families. A transition plan is being developed for the integration of the schools as communities program into the child and family centres. The centres offer individual case management and counselling, clinical and therapeutic services to children and their families and there are group programs such as the triple P; best foot forward; learn, giggle and grow; paint and play; poppy playgroup; new parents playgroup; young parents group and topical talks for terrific parents—which are all popular with families.

In terms of community development, which is another part of the programs offered at the child and family centres, we have the very successful over the trolley program. We also run information around child protection week and children's week functions and a program to welcome new families to Gungahlin and Tuggeranong. We are also leading a program in Gungahlin which we look forward to extending to Tuggeranong in 2008. It concerns the engagement of families attending the Koori preschools in Ngunnawal and Holt. We are hopeful that we can extend that program to Tuggeranong.

We have a range of activities coming up for children's week with Dr Joe Tucci speaking; parents are often very keen on attending those. But these activities are not just for your average family that is struggling in a few parenting issues, wanting information or being new to the territory. We are also keen to make sure that they are taking on those families in need who often come in and have contact with the government, whether it be through statutory care or the health system. We have a program for young parents who may have been in our child protection system, looking after them and looking after initiatives through the birth to two years project. We have had a child protection worker based at each centre to offer support through the centre. It is about dealing with a whole range of different families with different needs.

These centres are here for the long term. They have proven their success. They are a model that I think has been looked at across the country. They have become part of our community fabric and they are a real success from the government's social plan and commitment to supporting families in the ACT.

Alexander Maconochie Centre

MS PORTER: My question is to the Attorney-General in relation to the development of the Alexander Maconochie Centre. Minister, can you please outline how planning for the operation of the AMC is having regard to the issues raised by the Human Rights Commission in its audit of the ACT correctional facilities?

MR CORBELL: I thank Ms Porter for the question. Yesterday, I was very pleased to attend the formal launch of the Human Rights Commission's audit into correctional facilities here in the ACT. I said at that launch, and I am very happy to say it again today, that with these types of reports it is always easy to get defensive about some of the difficult issues that will inevitably be encountered when it comes to corrections management and the operation of corrections facilities. But what that report says to us very clearly is something that those opposite are going to need to face up to: the provision of the existing remand facilities at Belconnen Remand Centre and the existing temporary facilities at Symonston are simply out of date and need to be replaced.

The first and very clear message that comes out of this audit report is that Belconnen is antiquated, overcrowded and out of date and must be replaced. Another very clear message that comes out of the Human Rights Commissioner's report is that the provision of facilities at the Belconnen Remand Centre is very much contingent on space and design. The fact that remandees do not have access to open-air areas and do not have access to an exercise area any larger than, say, half the size of a tennis court is down to the physical design of the facility. The fact that at times remandees face excessive periods of lockdown—that is, confinement to cells—in that facility is down to the fact that the number of staff needed to manage such a relatively modest facility is large because of the inadequate design. That means that we see those excessive hours of lockdown.

All of these issues are directly attributable to physical design. The development of the new AMC provides us with a way to address these very key issues about excessive lockdown, lack of recreational facilities and lack of open space for prisoners to have some form of physical exercise and recreation.

The report is a strong endorsement of the need for a new corrections facility. Those opposite need to make a decision. With the facility now underway and halfway towards completion, and with yesterday's damning report by the Human Rights Commissioner about the physical environment of BRC, what are those opposite going to do? Are they going to finally accept that, as a community, we are taking responsibility for the management of our own prisoners, our own remandees? What approach are they going to adopt for the management of the new correctional facility?

What is their philosophy? Are they committed to a human rights agenda? Are they committed to a healthy prison concept? That is the key policy challenge for the Liberals now. They can no longer simply criticise the development of the prison. They can no longer critique the fact that money is being spent on the prison. It is going to be finished. It is going to be finished before the next election. It is going to be occupied before the next election.

What is their policy? What are they going to do? Are they going to endorse a human rights approach? Are they going to endorse a healthy prison approach? What is going to be their philosophy?

The commissioner also makes a number of comments in relation to management practice at the correctional facilities. I was very pleased to see that first and foremost the commission identified the overwhelmingly good work, positive attitude and progressive approach being adopted by most corrections staff when it comes to the operations of the facility.

The commissioner also identified instances where practice was not as good as anyone would like to see it. I welcome the fact that she is prepared to highlight those comments. We will take those comments on board. But the fact is that corrections staff have a difficult job to do and it does not make their job any easier to be working in substandard facilities. It creates a confrontationist and charged atmosphere between remandees and sentenced prisoners and staff. We need to eliminate that atmosphere and create a healthy atmosphere for staff. *(Time expired.)*

Order to table documents

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): Mr Speaker, during question time Mrs Burke said that she would be happy to table the evidence that she has of equipment shortages at the Canberra hospital.

Mrs Burke: I did not say that at all.

MR STANHOPE: Do I need to suspend standing orders to allow her to table that information?

Mrs Burke: I will not be tabling it, Chief Minister.

MR STANHOPE: Mrs Burke, you interjected that you were happy to table the evidence that you had that proved equipment shortages.

Mrs Burke: No.

MR SPEAKER: Order!

MR STANHOPE: I am happy to move a motion requiring the information to be tabled by close of business today.

Mrs Burke: Go for your life. It will not be tabled.

MR STANHOPE: If the Assembly demands it, it will be tabled, Mrs Burke.

MR SPEAKER: Order! Do you want to close off question time, Chief Minister?

Mrs Burke: Do what you wish. I will not be tabling it.

MR STANHOPE: I ask that all further questions be placed on the notice paper.

Mr Stefaniak: Where is your Kama stuff?

MR STANHOPE: Should I move a motion to require that information to be tabled?

MR SPEAKER: That is entirely up to you.

Mrs Burke: What about Kama? What about Koomari having a call to your office—

Mr Stefaniak: Where is your Kama stuff?

Mrs Burke: All in due course.

Standing orders—suspension

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) (3.49): I move:

> That so much of the standing orders be suspended as would prevent Mr Stanhope from moving a motion to require Mrs Burke to table documents by 6 pm today.

Mrs Burke: I will not be tabling the information, Mr Speaker. You know why I will not be tabling it as well.

MR SPEAKER: Mrs Burke to speak to the motion?

MRS BURKE (Molonglo) (3.49): Thank you, Mr Speaker. We could have been as spiteful on this side of the house, and not for as serious a reason either. The Chief Minister has the audacity to raise this today. Perhaps he would also, after I have finished, like to table stuff on Kama—

Mr Corbell: I raise a point of order, Mr Speaker.

MRS BURKE: on the reason for the phone call conversation that was had between Koomari—

MR SPEAKER: Point of order, Mrs Burke. Order, Mrs Burke!

MRS BURKE: Moving on to the motion—

MR SPEAKER: Order, Mrs Burke!

MRS BURKE: Well, you wanted me to speak to it, didn't you?

Mr Corbell: Point of order, Mr Speaker.

MR SPEAKER: There is a point of order.

Mr Corbell: Mr Speaker, the motion before the chair is that standing orders be suspended. It is not about the substantive matter—that is, why the Chief Minister is requesting that standing orders be suspended—nor is it about any of the other matters that Mrs Burke refers to. It is that standing orders be suspended.

MR SPEAKER: I would like members to confine themselves to whether or not standing orders should be suspended.

Mr Stefaniak: On a very simple point, Mr Speaker, in terms of this issue of standing orders being suspended, I would just ask you to review the transcript because I think we are operating on a false premise here. I do not actually think Mrs Burke ever said that.

MR SPEAKER: It does not matter what Mrs Burke said. There is a motion before the chair—

Mr Stefaniak: So we can do that on totally spurious grounds?

MR SPEAKER: Order! There is a motion before the chair that has to be considered by the house and we are going to proceed through the process. The question is that standing orders be suspended.

MRS BURKE: Thank you, Mr Speaker. In fact, Mr Stefaniak is right. I did say I would table it but I could not, and the Minister for Health knows this.

Ms Gallagher: No, I do not.

Mr Stanhope: Why not?

Ms Gallagher: Because she is alleging everyone gets sacked.

MR SPEAKER: Order!

MRS BURKE: I am unable to table the evidence because if I do so, it will reveal the exact identity of the people who have come forward to give me the information. For the same reason the minister knows jolly well, and she sits there asking me to do something that she knows I cannot do. I have said that I could—

Members interjecting—

MR SPEAKER: Order!

MRS BURKE: Mr Speaker, I will not be tabling the information, to protect the identity of those people who have come forward. However, I will ask and make further inquiries of the people in order that I may table evidence.

Mr Speaker, I believe the suspension of standing orders is totally inappropriate. I do not believe that it should be going ahead this afternoon. If government members want to put the jobs of people at risk by them coming forward, they can do so.

Ms Gallagher: Rubbish!

MRS BURKE: It is not rubbish, and you know it.

Question put:

> That standing orders be suspended.

The Assembly voted—

Ayes 10		Noes 7	
Mr Barr	Mr Gentleman	Mrs Burke	Mr Smyth
Mr Berry	Mr Hargreaves	Mrs Dunne	Mr Stefaniak
Mr Corbell	Ms MacDonald	Mr Mulcahy	
Dr Foskey	Ms Porter	Mr Pratt	
Ms Gallagher	Mr Stanhope	Mr Seselja	

Question so resolved in the affirmative, with the concurrence of an absolute majority.

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) (3.56): Mr Speaker, I move:

> That Mrs Burke table before 6 pm today all evidence which she has claimed she has in her possession of equipment shortages at Canberra and Calvary Hospitals with all identifying information about individuals removed.

Mrs Burke has in recent times, in a number of press releases and a number of media interviews, made the allegation that both Canberra and Calvary hospitals have severe equipment shortages and that nurses are unable to access or find equipment in emergencies and for basic procedures. These are scurrilous allegations. They are outrageous allegations. They are allegations designed to test the faith of the people of Canberra in the security and professionalism of our hospitals and the level of care that they can expect to receive.

There is no more serious allegation than that our hospitals are not properly equipped, that they are ill-equipped, that staff do not have available to them the basic equipment they need to ensure the care and protection of people who seek to access Canberra and Calvary hospitals. These are serious and grave allegations.

There is a second level. If these allegations and this evidence prove, as Mrs Burke now repeatedly claims—she repeated her claim again today in her response to the motion that standing orders be suspended and willingly acknowledged that the evidence exists before giving her reason for her hesitation in tabling that evidence—that there is throughout the hospitals within specific wards an absence of vital equipment, then surely to goodness the hospital authorities need to know so that they can respond to it. We need to know that in order that we can respond to the needs of patients.

We have a double situation here. There are unsubstantiated allegations which, if not true, are causing severe damage to the reputation of our public hospitals. If they are true—and Mrs Burke will not reveal the details of the equipment shortages—it potentially puts the lives of patients at risk. Mrs Burke has today said that she has specific, explicit evidence of equipment shortages at Canberra and Calvary hospitals. She nods now in agreement.

If that is the case, then surely, Mr Speaker, for Mrs Burke not to provide that information to the Minister for Health and our hospital authorities potentially puts at risk the lives of patients. That is untenable. I cannot sit here and be advised by the shadow minister for health that she has knowledge of such seriousness going to the absence of equipment within our public hospitals that might lead to the death of a patient and for her not to provide that. It is staggering and stunning that the shadow minister for health has in her possession evidence of an absence of equipment which potentially, because of its absence, could lead to patients dying and she refuses to provide it to us.

This is a serious matter. Mrs Burke must provide this information to the minister through the Assembly so that the minister can respond immediately to the evidence which Mrs Burke claims to have and so that we can do one of two things; that is, rebut it or respond to it. Surely we need the evidence so that we can formally rebut it if it is not true. If it is true, we can respond to it and ensure that no patient at the Canberra hospital or Calvary hospital suffers or potentially dies as a result of the absence of equipment known to Mrs Burke.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (4.00): I think this motion is a stunt. I am interested that at least the Chief Minister has not asked for information that will enable these people to be identified. But it really concerns me that there are people out there—and we see them reasonably regularly—who are scared to come forward because they will be identified. Rightly or wrongly, they fear for their jobs. I think we have a duty in this Assembly to ensure that we protect constituents who come to us with problems.

The fundamental point here is that there is another simple solution. If we can get some material to you that does not identify people, we certainly will. But there is another thing, too, and that is for the minister to actually check this out herself and to tell the hospital to make sure that any shortages are actually rectified so that there is a steady stream of the necessary equipment coming forward.

Mr Stanhope: We have done that.

MR STEFANIAK: If you have done that, that is fine. That is good. There might have been a glitch. You might have overcome it. Well and good; we can all move on. But I find it a bit rich. It is absolutely hypocritical for this government to move a motion like this requiring Mrs Burke to table documents which she is obviously reluctant to do because of fear of people being fingered—

Mr Stanhope: Of being made a fool.

MR STEFANIAK: Jon, I will say this: I get on well with your government, but even with a nice government like the one we used to have, you would occasionally have people being a little bit worried about coming forward with information because of things that might happen to them in the workplace. Maybe it behoves us all to be a little bit more open to enable people actually to come forward without fear of retribution coming down on them. That is a very real fear with this government.

In terms of documentation, we are still waiting on you, Chief Minister, to provide the documents in relation to Kama which the estimates committee asked for.

Mr Stanhope: No, you are not.

MR STEFANIAK: You actually got them? Well, that is something. If you have supplied those, I am delighted. I have not got them, but if you have supplied those, Chief Minister—

Mr Stanhope: I have.

MR STEFANIAK: Good. I hope that is right. I will check that out. Thank you. I will take that as said and we will have a look at those. But there are a lot of other documents which we, the opposition and Dr Foskey, have called for, and rightly so, which have never been supplied. One example is the functional review.

This is a stunt. I say just get on with the job. If you have fixed up this glitch, fine. If we can actually give you some information which does not finger people, we will. But it does concern me that there are people out there who are scared to come forward. They are scared for their jobs and the opposition have a duty, just like a journalist has a duty not to reveal a source, to protect these people.

Rather than wasting time like this, it might be sensible if the minister had a chat to Mrs Burke and, without revealing any particular details, they might be able to sort the matter out. Why do we not try that one? This is a stunt. It should be treated as a stunt. The government should withdraw this motion and get on with the important job of the Assembly, which is actually dealing with the very important planning legislation.

DR FOSKEY (Molonglo) (4.03): I just want to speak briefly because I am very concerned about the time that we are using up and the fact that at the end of the day we are going to be quite resentful of having to stay here, perhaps into the early hours of the morning. I also want to say that while I support public interest disclosure, if that is indeed the case with these documents, I also feel that it may not be enough just to remove the names. There may be other matters which need removing as well.

I agree that this is a bit of a stunt, but I understand also that it is the result of a lot of frustration about these kinds of accusations being made that the government would allow these documents to have anything that might identify the person who has revealed them to be whited out or whatever. It is important. I would have thought that the government would want to know these things. I believe that it has the right to ask for the documents, but I believe it could be done in a way that absolutely protects anybody that is involved.

MR GENTLEMAN (Brindabella) (4.05): These allegations by the opposition health spokesperson of faults in the hospital system are nothing new. They are not true. We saw this happen through the estimates process. I witnessed the shadow spokesperson for health in her questions to the minister make allegations such as "why are nursing staff leaving our hospital systems en masse?" Of course, the minister replied, "Well, they are not." So we saw these sorts of pre-emptive allegations and questions right through the estimates hearings. I am pleased to see that something is being done about it today.

In relation to Mr Stefaniak's Kama question to the Chief Minister at estimates, the Chief Minister has responded to the committee. That will be provided shortly, I imagine. If not, it will be in the report.

MRS BURKE (Molonglo) (4.06): It is a pity that the government cannot adopt a sensitive approach to this issue. Unfortunately, it just does not suit them. Mr Gentleman's version of the estimates hearing is another load of ridiculous rubbish. At the estimates hearing the minister also said that the morale of nurses was fine. Why have I had a steady stream of people calling me? Let us look at the evidence. The Chief Minister, being a lawyer, wants evidence.

Mr Corbell: Table it. Table the evidence.

Ms Gallagher: That is what we want to do. That is why we want to have a look at the evidence.

Mr Stanhope: We want to look at the evidence.

MR SPEAKER: Order!

MRS BURKE: How do members in this place suggest that I table verbal conversations and phone calls? I may be a lot of things to those people opposite.

Mr Barr: Write it down and submit it.

MR SPEAKER: Order!

MRS BURKE: One thing I do not do is lie, and that is what I am now being accused of in this place. The government says that the things I have been saying in media releases are wrong. It is saying that these accusations are wrong; therefore Mrs Burke must be lying or making it up or whatever.

Mr Stanhope: Table it.

Mr Corbell: Prove it.

MRS BURKE: I cannot table the information. You know that. I will have a look at what emails I have had. The phone calls I cannot table. You know I cannot, Mr Barr, and I will not make contemporaneous notes to table in this place. Simply put, Mr Speaker, to do so would identify those nurses that have called me.

I am not embarrassed about what is happening today, but the government is. I can stand here all afternoon, if I have to, to say why I put those media releases out, why I brought it to the attention of the general public, because the minister, despite her remonstrations that she talks to people, does not. Nurses have seen her on the ward and cannot get anywhere near her. Perhaps if she had been allowed to get near them, they would have told her face to face that there was a shortage of equipment.

Mrs Dunne mentioned just a few things that nurses are running around wards for at Calvary and Canberra hospitals. I have told you. If you do not believe me, well, that is your problem, not mine. I do not have the problem. You have the problem for accusing me in this place of lying or being untruthful or saying some things that are not right.

You are now calling on me to table information in phone calls, which would be difficult. I have probably three or four emails, which I cannot table because it would identify people. I am not going to do that. Those opposite know that and they can make all they want out of this. That is fine. I stand by my allegations. I stand by the things I have said. At least I will stand up for the nurses who are running about on wards. In fact, one of our members this side has actually got direct proof of it happening.

Mr Corbell: Table it.

MRS BURKE: How can he table a missing IV tube?

Mr Stefaniak: Table the member!

MRS BURKE: Table the member, quickly. I have been described as making serious, outrageous allegations. All these words sound very well, but it is actually happening. If you do not want to believe me, that is fine. I will stand by what I have said in this place.

Mr Corbell: Live by the same standard you require of the government.

MRS BURKE: Have you woken up, Mr Corbell? Good afternoon. The government knows full well that I will not be able to table phone calls.

Mr Corbell: One rule for you, one rule for us.

MRS BURKE: No, it is not one rule for me, Mr Corbell.

MR SPEAKER: Order! Mrs Burke has the floor.

MRS BURKE: Mr Speaker, the issue is that the minister already knows.

Mr Corbell: Double standards.

MRS BURKE: She, by her own admission, knows that there have been problems.

Mr Corbell: Double standards.

MRS BURKE: The CEO knows. What did you have for lunch?

Mr Corbell: Hypocrisy.

Mr Stanhope: Double standards.

MRS BURKE: Are you right?

Mr Corbell: Live by the same standards you require of the government.

MRS BURKE: You can have your say in a moment, Mr Corbell.

Mr Corbell: Live by the same standards you require of the government.

MR SPEAKER: Order, Mr Corbell!

MRS BURKE: Both CEOs know all about what is going on. The senior nurses know at both hospitals. I am sorry that you have not been told, minister, more details than you need. I am not blaming you this afternoon in this place. It seems to me that—

Ms Gallagher: You could have fooled me.

MRS BURKE: It does affect you because the buck stops with you, minister. Mr Speaker, the Chief Minister says to rebut or respond. I respond in this place by saying I do not need to table anything. The minister is aware, the hospitals are aware and the nurses are aware. If the minister would just allow herself to be able to speak face to face to people, she, like me, would get the same information. I will say it again: I do not lie. I may be a lot of things, but I do not lie.

Mr Stanhope: Well, table it and prove it to us.

MRS BURKE: No, I do not need to table it.

Mr Stanhope: Table the evidence.

MRS BURKE: No. You are being churlish and childish in asking me to reveal a constituent's identity. Those that ring me are incredibly scared of losing their jobs.

Mr Stanhope: This is just one person's evidence, is it?

MRS BURKE: You know it is not just one. Sit there and bluff and bluster all you want. I stand by what I have done, Mr Speaker. I am unable to table any information at this time. If I can get people to come forward who are brave enough and if the minister backs them and confirms that there will not be any disciplinary action taken against them for speaking out, then perhaps we can do something. I am happy to talk

to you after today. I can give you some Christian names and phone numbers. If that is what you want, you can ring them personally. I will not be tabling anything in this place today.

Mr Stanhope: Because you have not got anything.

MRS BURKE: I have.

Mr Stanhope: You have not got a thing.

Motion (by **Dr Foskey**) proposed:

> That the question be now put.

Mr Mulcahy: Mr Speaker, I raise a point of order.

MR SPEAKER: The question is that the question be now put. That has precedence over all other matters.

The Assembly voted—

Ayes 10		Noes 7	
Mr Barr	Mr Gentleman	Mrs Burke	Mr Smyth
Mr Berry	Mr Hargreaves	Mrs Dunne	Mr Stefaniak
Mr Corbell	Ms MacDonald	Mr Mulcahy	
Dr Foskey	Ms Porter	Mr Pratt	
Ms Gallagher	Mr Stanhope	Mr Seselja	

Question so resolved in the affirmative.

MR SPEAKER: The question now is that Mr Stanhope's motion be agreed to.

Mr Mulcahy: I raise a point of order, Mr Speaker.

MR SPEAKER: Mr Mulcahy on a point of order.

Mr Mulcahy: Mr Speaker, I have spoken with the Clerk on this point. Under standing order 117 (b) (i) there is an explicit requirement not to name people in questions. The whole series of events arose as a consequence of a question that Mrs Dunne asked about equipment. If we were to proceed to carry this motion, we would be effectively compelling a member to do something that is not in accordance with the standing orders in relation to questions.

I know this is a subsequent motion, but it has arisen directly from a question that was raised by Mrs Dunne where we are now directing a member to provide information which we are told is inextricably linked with the evidence that is being sought.

MR SPEAKER: Order! The motion before the house specifically, as I recall, calls for any identifying material to be removed.

Question put:

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

The Assembly voted—

Ayes 9		Noes 7	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Smyth
Mr Berry	Ms MacDonald	Mrs Dunne	Mr Stefaniak
Mr Corbell	Ms Porter	Mr Mulcahy	
Ms Gallagher	Mr Stanhope	Mr Pratt	
Mr Gentleman		Mr Seselja	

Question so resolved in the affirmative.

MR SPEAKER: Further to my comments in relation to the point of order raised by Mr Mulcahy, I should add that the issue that Mr Mulcahy raised related to questions. The matter the house was dealing with was a motion.

Supplementary answer to question without notice
Hospitals—patient admission

MS GALLAGHER: In question time Mr Seselja asked whether or not the day unit concerned was paediatric oncology. I am advised that the unit can be used for day chemotherapy treatment, but was not on that day and no-one else was there.

Paper

Mr Speaker presented the following paper:

> Travel report—Non-Executive Members—Sixth Assembly, up to and including 30 June 2007.

Reusable medical and surgical devices—review
Paper and statement by minister

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women): For the information of members, I present the following paper:

> Reusable medical and surgical devices—Review—Interim report, prepared by SpencerSmith and Associates Pty Ltd, dated 18 April 2007.

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

Leave granted.

MS GALLAGHER: For the information of members, I table the interim report of the review into reusable medical and surgical devices. As members will recall, in late

2006 ACT Health conducted a lookback exercise of patients who had undergone a paediatric rectal suction biopsy at Canberra hospital in the years between 1987 and mid-October 2006. The decision to take this action was made when it became apparent that two of the four paediatric rectal suction biopsy tools used by Canberra hospital over the period of time had been cleaned but not sterilised in accordance with current Australian sterilisation standards, potentially putting at risk of infection any children who had had biopsies taken using these tools.

The lookback exercise contacted all children and their families who had received biopsies from these tools to explain what had happened and to undertake testing to assess whether or not they had contracted any infections as a result. The lookback exercise is now complete and there is no evidence that any of the children were infected as a result of using the tools.

This incident did, however, identify a problem with the processes for tracking and sterilising equipment at Canberra hospital, and an internal review commenced immediately to identify how and why these tools had not been appropriately sterilised over a 19-year period. To complement the internal review, an external review into reusable medical and surgical devices at Canberra hospital commenced in March 2007. The objective of the external review was to examine the systems and processes at Canberra hospital for the identification, tracking, recording and reprocessing of reusable instruments, devices and equipment to ensure compliance with the Australian sterilisation standards.

The successful tenderer for this review was SpencerSmith and Associates. The report tabled in the Assembly today documents the interim report of the review outlining the findings and recommendations of this first part. The interim report identifies that appropriate actions have been undertaken and are underway to improve processes associated with sterilising the surgical equipment at Canberra hospital that will reduce the chance of similar problems occurring in the future.

However, the report also identified a number of areas where work can be built on to improve the sterilising process. These fall into four broad categories. They are: improving governance structures involving ACT Health sterilising services, Canberra hospital infection control, Canberra hospital operating rooms and Calvary public hospital; enhancing the tracking systems and processes across ACT Health for surgical equipment to ensure that there is a comprehensive electronic tracking of all reusable instrumentation within Canberra hospital and Calvary hospital; the commissioning of an audit of sterilising services and putting in place measures to ensure that the sterilising facilities at Canberra hospital have the capacity to meet the demands placed on them.

The interim report includes 11 recommendations to address these issues, and an action plan in response to these recommendations has been developed by ACT Health and is currently being implemented. Before describing some elements of the extensive work underway, I would like to reassure members and the ACT community that, while the incident that led to this review should never have happened, overall sterilising and infection control services at the Canberra hospital are of a high standard.

In May 2007, ACT Health sterilisation services was fully accredited by an independent accreditation agency against the relevant standards. What this

accreditation shows is that systems are in place within the services to ensure that quality checks and risk management processes are in place and that the services meet the needs of ACT public hospitals. In addition, the infection control performance of the ACT's public hospitals compare favourably with hospitals in other states and territories and are, for example, lower than major hospitals in other capital cities, such as Melbourne and Sydney. There is also a comprehensive data system in place to monitor hospital acquired infection rates and we are able to identify rapidly sources of infection and to respond quickly and appropriately.

Concerning the recommendations from the interim report, I am able to inform the Assembly that the recommendations are being comprehensively addressed. Canberra hospital currently uses the T-DOC electronic tracking system to track instrumentation which requires sterilisation. This system is being expanded to embrace all instrumentation requiring high-level disinfection and sterilisation. At the conclusion of the project the system will also enable individual matching of instrument to individual patient to ensure effective monitoring of whether any patients are being put at risk of infection.

An audit of all reusable medical and surgical devices within the Canberra hospital is underway and expected to be completed next month. The Canberra hospital gastroenterology and hepatology unit is being expanded to manage the high level disinfection and reprocessing of all reusable medical and surgical devices which do not require sterilisation. The remodelled unit is to be complete in September 2007.

A full review of governance arrangements between sterilising services and theatre management at both Canberra hospital and Calvary health care has been undertaken and improved committee structures implemented. Significant structural improvements to the Canberra hospital pre rinse sterilising unit facility are scheduled in the short term and planning for new premises is underway. A full external audit of sterilising services at the Canberra hospital, Calvary health care and the Mitchell facility has been organised for mid-September 2007.

Part 2 of the review will be finalised on completion of the Canberra hospital internal review, at which time the consultants will reconvene, consider the findings of the Canberra hospital internal report, consult with ACT Health staff, conduct a final audit of ACT Health sterilising services and provide a final report. It is anticipated that part 2 of the external review will be completed in October 2007. I will table this review in the Assembly after that date.

MRS BURKE (Molonglo) (4.25): Mr Temporary Deputy Speaker, I seek leave to make a few brief, positive comments about this paper.

Leave granted.

MRS BURKE: I thank the minister for tabling this paper. It is something that the community has been waiting to see, so I thank the minister for bringing it forward today. I notice there are 11 recommendations, which were alluded to in the minister's statement, which fall into four broad categories. I note that the audit of all reusable medical and surgical devices within the Canberra Hospital is currently underway. That is positive, and good news. It is expected to be completed in September 2007.

This is an issue that I have often heard Professor Peter Collignon talk about lately. I think he is well on top of the issue. We have a very good professor there in terms of what he is doing in infectious disease control. I look forward to continued updates from the minister as this progresses. I thank her very much for tabling this paper today.

Paper

Ms Gallagher presented the following paper:

> Variation to the Commonwealth State/Territory Disability Agreement—Variation Agreement between the Commonwealth and the Australian Capital Territory, dated 9 July 2007.

West Belconnen school
Paper and statement by minister

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs): For the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to subsection 229B(7)—Statement regarding exercise of call-in powers—Development application No 200603581—West Belconnen Regional School—Block 1 Section 48 Holt, dated 22 August 2007.

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

Leave granted.

MR HARGREAVES: This matter relates to a proposal for which the Minister for Planning, Mr Barr, is responsible as minister for education. To avoid any potential for a conflict of interest, Mr Barr provided me with a delegation pursuant to section 254A of the Legislation Act 2001 to exercise the call-in powers under the land act.

On 15 August 2007, I directed, under section 229A of the land act, the ACT Planning and Land Authority to refer to me development application 200603581. The application sought approval for the construction of the West Belconnen Regional School. On 18 August 2007, I advised the ACT Planning and Land Authority that I had decided to consider the development application. This direction was notified on the legislation register.

On 22 August 2007, I approved the application using my powers under section 229B of the land act. In deciding the application, I gave careful consideration to the requirements of the territory plan, the advice of the Conservator of Flora and Fauna, the Heritage Council and the ACT Planning and Land Authority. I also gave consideration to the four written submissions received by ACTPLA during the public notification period of the DA in May 2007. I have imposed conditions requiring reduction in the overall height of the proposed buildings, the management of noise potentially generated by the use of the gymnasium and the provision of an appropriate and timely level of off-site works.

The land act provides for specific criteria in relation to the exercise of the call-in power. I have used my call-in powers in this instance because I consider the proposal will substantially contribute to the achievement of objectives for land that is subject to the community facilities land use policies of the territory plan.

Development on this site represents an outcome that meets community needs for community services and facilities in an appropriate and accessible location. It also contributes to the implementation of high-level planning policies that aim to ensure that provision is made for a comprehensive range of readily accessible community, cultural, sporting and recreational facilities, distributed according to the varying needs of different localities and population groups. It contributes to the provision of high-quality education facilities in Canberra, thus providing opportunity for the community's long-term wellbeing.

I consider the proposal will provide a substantial public benefit arising from the provision of a significant integrated education establishment catering for students from pre-school to high school, which also serves as a focus for broader community use. This also provides a welcome response to the closure of the former Ginninderra district high school and a number of suburban primary schools.

Section 229B of the land act specifies that, if I decide an application, I must table a statement in the Legislative Assembly within three sitting days of the decision. As required by the land act, and for the benefit of members, I table, as delegate for the Minister for Planning, a statement providing a description of the development, details of the land on which the development is proposed to take place, the name of the applicant, details of my decision and grounds for the decision.

Finally, I wish to express my appreciation for the assistance rendered to me by officers of the ACT Planning and Land Authority in enabling me to fully appreciate the rather complex nature of this particular issue.

Planning and Development Bill 2006
Detail stage

Debate resumed.

Clauses 30 to 44.

MRS DUNNE (Ginninderra) (4.31): It is with great pleasure that I stand to support Mr Seselja's amendments to this bill, because they are consistent with the position that the Canberra Liberals have taken ever since the establishment of the Land Development Agency. In thinking about this matter, I looked back at what was said in the debate on the establishment of the Land Development Agency on 12 December 2002. It was really very useful to do so. I was struck by many of the things that Mr Corbell said then in defence of the Land Development Agency. This is one of the standouts. When he said this, I am not sure whether he really believed that this was the role of the Land Development Agency or whether he hoped this would be its role, but it certainly has not come about. He said:

> One of the objectives of this land development agency will be to deliver more liveable neighbourhoods, less crowded neighbourhoods, better streetscapes, better urban design outcomes, places that people would want to live in in 20 or 30 years time.

As I spent some time driving through Gungahlin the other day with my building apprentice son, we marvelled at the—and I measured it once—1½ kilometres of straight, bare lanes that have been developed in places like Gungahlin and Harrison. I do not know that any of the criteria for better streetscapes, more liveable neighbourhoods, less crowded neighbourhoods and better urban design can be exemplified by that bit of urban design. Universally, if you talk to the general punter in the street, it is recognised that this is particularly bad urban design. It is particularly atrocious urban design and something that must be avoided.

If this is what Mr Corbell wanted to achieve by the establishment of the Land Development Agency, he has failed, along with everything else that has gone on with the Land Development Agency. What about what happened two Christmases ago with the marketing ploys of the Land Development Agency, when we went off with our children to see the school holiday cinema extravaganzas? I remember going off with the children to see *King Kong*, but we were confronted with the 'King Kong' advertisements from Mr Corbell's Land Development Agency. There they were, extolling their virtues. They were not selling anything except the notion of the Land Development Agency. It was interesting because I was sitting with two or three other families, all of whom were reasonably switched on politically and do not necessarily adhere to my political persuasion, and each one of them made comments about how the Land Development Agency had driven up the cost of land in the ACT and that they were paying to sit through advertisements extolling the virtues of the Land Development Agency.

On every occasion that we have discussed the Land Development Agency, the Canberra Liberals have been extraordinarily consistent and straightforward. This morning Mr Barr called it ideology. I want to see Mr Barr's ideology being cast aside—and, first and foremost, putting ideology aside and working for the benefit of the community.

It is interesting to read what Mr Corbell said about the Land Development Agency. For instance, his speech was all about the Land Development Agency working for the community. It was not government land development; it was community land development. If we were to ask any member of the community whether they felt that their community had been better developed under the governance of the Land Development Agency, they would say no, and they would say that because when a member of the community wants to go out and buy a block of land, they cannot afford to do it. They are moving across the border in droves because they cannot afford to do it.

I will give an example of some young people who are finishing their university degrees or their qualifications and who are looking to settle in this town, and who are saying, "I don't think I'll ever be able to afford to build or own a house in Canberra

because of the way the price of land has gone up, and the way it has driven up the cost of housing."

I gave this example the other day. To the best of my recollection—and the figures are not precise—at the last land sale before the 2001 election, which was for a block of land in Ngunnawal, the raw land price was $26,000 per block for standard residential blocks—about 500 square metres. That was the raw land component. That is what the developer paid for. After they were developed, they sold for under $70,000. The last blocks of land that were sold and serviced before the change of government sold in Gungahlin for under $70,000.

With respect to the first blocks of land sold before the establishment of the Land Development Agency but under the new scheme that Mr Corbell was trying to put in place at Yerrabi stage 1, they sold at auction for not less than $90,000. There was no block there for less than $90,000. Over the time that I was the shadow minister for planning, I regularly attended auctions and ballots that were conducted by the Land Development Agency and its predecessor, the Gungahlin Development Authority, during the time when it merged from one to the other, and over that time I saw the price of blocks go up to $128,000, and then they went up to $148,000.

By Harrison stage 1, there were no blocks available for under $140,000. Since then, the price has just gone up and up, until quite recently, without any concern on the part of the Stanhope government. I give credit to the minister this morning, because he has become a little concerned about the carpetbagging nature of his colleagues. It was obvious that the Chief Minister was feeling uncomfortable about being a carpetbagger as well, because he took over control of the Land Development Agency, away from the planning minister. We had a move away from exclusive development by the Land Development Agency back to much more developer involvement in this, which resulted in what could only be described as a spac attack from the then planning minister and, as a result, he is no longer the planning minister.

There was a clear change in government policy away from the failed proposals put in place by the previous planning minister. As a result, we now have some changes. For instance, there are developments at MacGregor that may see some brakes being put on the cost of land—and the cost of land is an increasing component in the value of housing. We have seen this across Australia, and we see it here regularly. The cost of building a house has not actually gone up all that much but the cost of buying the land on which that house is situated has gone up extraordinarily.

With the establishment of the Land Development Agency—I suppose I used to say it jokingly, and Mr Corbell used to take exception to it—it was like a return to the good old days of DURD, Kep Enderby and Gough Whitlam. We wanted to have a workers' paradise where everything was made great by the servicing of land. What we actually had in Mr Corbell's workers' paradise was workers being priced out of the market. They no longer had the capacity to buy land; the average tradesman, his wife and children do not have the prospect of owning a comfortable, modest bungalow in the suburbs anymore because it has now been priced beyond their reach, mainly through the intervention of Simon Corbell, the previous Minister for Planning, and of the Land Development Agency. The only thing that will change that is to have a complete departure from the current Land Development Agency model, and something that will

provide affordable housing for the people of Canberra needs to be put in its place. *(Time expired.)*

Question put:

> That clauses 30 to 44 be agreed to.

The Assembly voted—

Ayes 10		Noes 7	
Mr Barr	Mr Gentleman	Mrs Burke	Mr Smyth
Mr Berry	Mr Hargreaves	Mrs Dunne	Mr Stefaniak
Mr Corbell	Ms MacDonald	Mr Mulcahy	
Dr Foskey	Ms Porter	Mr Pratt	
Ms Gallagher	Mr Stanhope	Mr Seselja	

Question so resolved in the affirmative.

Clauses 30 to 44 agreed to.

Clauses 45 and 46, by leave, taken together and agreed to.

Clause 47.

DR FOSKEY (Molonglo) (4.45): I will speak to both clauses 47 and 48 in this speech. Objects clauses are important, and not just as reference material in the case of ambiguity in the interpretation of legislative provisions. The object of the territory plan, according to clause 47, is to provide the people of the ACT with an attractive, safe and efficient environment in which to live, work and have recreation.

This term "efficient environment" has me asking questions. Efficient for whom? For people to live in or drive in, or is it efficient for ecosystem resilience? At best, it is too vague; at worst, it points to a focus on the built environment without reference to the landscapes with which they have an ultimate relationship. In fact, on the whole, when this legislation mentions "environment", it is referring to the built environment. I think that should be made clear. The built environment can be efficient, although one hopes it is other things as well, but I do not think it is a term that can be applied to the natural environment.

One certainly could use resources such as land, water or energy efficiently and we could use space efficiently, or we could design facilities which operate efficiently. But if that really is the object of the act then it should be spelt out. Furthermore, if we are going to write those values into the objects of the plan then I would like to see social equity and an understanding of the relationship between the natural environment and the built environment written in.

Assuming that the reference to an efficient environment is as purely anthropocentric as it sounds, I have to ask: does the concept of an efficient environment contain at its heart the imperative that it must also be a healthy environment for the people who

have to live and work in it and for its own sake as well as to maintain the biodiversity of its ecosystems?

Clause 48 talks about the plan "giving effect to its object in a way that gives effect to sustainability principles". This is one of those clauses that I have to stand on my head to understand. You are asking for something to give effect to something that gives effect. How about rephrasing it to "achieving its aims while also enhancing sustainability"? I suggest the plain English guide needs to be written into this legislation. There should also be a dedicated explanatory website and a booklet or two—or all three. I presume these sustainability principles are the principles identified in the objects sections of the act which describe sustainable development. But it is not clear; there may be more or fewer sustainability principles than the four that are identified in section 8. It may be that decision makers are entitled to take the expanded definitions of sustainable development that are contained in other legislation.

If that is the case then it should be made explicit in this legislation. If we are going to put sustainable development into the act, and if that definition is going to be built on only four stated key principles, can't we simply say that those same principles will inform or underpin the territory plan? Unfortunately, the government chose to ignore the advice of various environmental peak bodies that "ecologically sustainable development" would be a better form of words than "sustainable development". To the extent that this is principally a problem with definitions, a future amendment which expands and clarifies the meaning of sustainable development could solve the problem.

As I reminded the Assembly on Tuesday when discussing the objects clauses in chapter 2 of the bill, ACTCOSS pointed out that the sustainability principles themselves were much better articulated in the 1992 national strategy for ecologically sustainable development—itself, by the way, a result of a year or two's process that the Hawke government encouraged. Somehow, in the intervening period, the idea that sustainable development incorporates the promotion of individual and community wellbeing and welfare has slipped off the agenda. Does anyone remember agenda 21?

It would be disturbing if the aspirations of the plan failed to match those of the act. In their current form, the aspirations contained in these instruments are underwhelming in the extent to which they embody the social and environmental values which we as a society must embrace if we are to face the challenges ahead. I am sick of these being called marginal.

The objects clauses contained in this section and in chapter 2 do not appear to contain any internal mechanisms that would militate towards the realisation of the Chief Minister's no doubt sincere efforts to achieve affordable housing outcomes. His oft-repeated commitment to achieving affordable housing outcomes sits oddly with this planning legislation, which has a glaring paucity of statutory obligations to consider social outcomes in planning decisions.

I want to remind people, in this very large discourse on planning—I am going back to a thesis that I presented in April 1994—that planning is essentially a political process. It is about who gets what and who decides who gets what. The planners' action

certainly can be an efficient method of equitably distributing many of the goods and services to society. This legislation leaves out that that is what it does. But you can bet that is what will happen because the decisions the planners make not only affect the physical shape of our society and our suburbs, they also affect who gets what, who lives where and whether they can afford to. So I would like to see it spelt out.

Even with these obvious shortcomings, the second major concern I have with the objects clause is that there is no obligation on decision makers to either apply or have greater regard for the objects of the act. This contrasts with other jurisdictions. In New South Wales, for instance, section 3 of the Water Management Act states that one of the objects of the act is to "apply the principles of ecologically sustainable development". You would expect that in a water act, wouldn't you?

There are other examples which the government could have drawn upon if it was really committed to implementing best practice social and environmental planning legislation. In short, this bill should contain a clause which provides that all persons involved in the administration of this act should exercise their functions under this act in a manner that gives effect to the sustainability objectives of this act. It should be remembered that the words as they exist now are "giving effect to its object in a way that gives effect to sustainability principles". I still do not know what that means. The objects clause should be a relevant consideration for decision makers rather than mere window dressing, which is what I fear it will become.

MR SESELJA (Molonglo) (4.54): I will deal first with clause 47. I think it is pretty good. It says:

> The object of the territory plan is to ensure, in a manner not inconsistent with the national capital plan, the planning and development of the ACT provide the people of the ACT with an attractive, safe and efficient environment in which to live, work and have their recreation.

You can be as broad as you like with objects clauses. What I see as being attractive is going to be different from what Dr Foskey, Mr Barr or other people see as being attractive. I do not think we should try and over-analyse objects clauses because I think it is dangerous when they become too important in any interpretive process. I think they are there to set a broad framework and to give you a little bit of an idea of what it is about, but if we try and incorporate everything we want and then give a lot of weight to it, it takes away from the substantive clauses which actually do affect how things are done. I think they are much more important regarding whether this ends up being a good bill and whether we end up having a better or worse planning system as a result. I do not support Dr Foskey's objections. The terms of clause 47 seem to me to be reasonable. I think it is pretty hard to object to. I take the point that it is broad but I think it probably should be.

In relation to clause 48, Dr Foskey should be happy that it is giving effect to sustainability principles. Perhaps it is the case that the wording could be a little better but I do not think it makes any real difference. I think both these clauses get the point across that essentially this act is about making Canberra a good place in which to live and getting good development outcomes. We should be giving effect to sustainability principles. I think this covers it, so we have no problem with clauses 47 and 48.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (4.56): I note Dr Foskey's comments. I welcome the support of the shadow minister, and the government will be supporting these clauses.

Clause 47 agreed to.

Clause 48 agreed to.

Clause 49 agreed to.

Clause 50.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (4.57): I move amendment No 7 circulated in my name *[see schedule 1 at page 2065]*.

This amendment inserts a new item in clause 50 of the bill to enable the territory plan to provide for affordable housing. It underlines the capacity of the territory plan to provide for affordable housing. This amendment was suggested in the light of some interstate court decisions that questioned whether measures related to affordable housing were authorised by the relevant statutory plan under the concept of sustainability.

MR SESELJA (Molonglo) (4.57): This seems to us like a good amendment. We have no problem with it. It is important not only to have it in the territory plan but that the government through all of its agencies contributes towards there being affordable housing. It is important that we take measures to make specific pockets and parcels of land affordable. It is important that we seek broadly to make land on the outskirts of Canberra more affordable so that first home buyers have a reasonable prospect of getting into the market. So I welcome the words in here but it is incumbent upon the government for all of its agencies and in all of its policies to be contributing to this end. Unfortunately that is not something we have seen over the past few years.

Amendment agreed to.

Clause 50, as amended, agreed to.

Clauses 51 and 52, by leave, taken together and agreed to.

Clause 53.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (4.58): I seek leave to move amendments Nos 8 to 10 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 8 to 10 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment No 8 substitutes a new clause 53 (1) (a) of the bill to enable development tables to specify a minimum assessment track rather than just an assessment track. It clarifies that the development tables can specify a minimum assessment track as per the proposed restructured territory plan. A development proposal may end up being assessed under a minimum track, for example a code, or a higher track, for example merit, depending on the specifics of the individual design. This makes the bill congruent with the restructured territory plan and clarifies the operation of the proposed assessment tracks. Amendments Nos 9 and 10 are companion amendments to amendment No 8.

Amendments agreed to.

Clause 53, as amended, agreed to.

Clause 54.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.00): I seek leave to move amendments Nos 11 to 14 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 11 to 14 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment No 11 provides clarification of clause 54 (1) of the bill by inserting the words "or precinct code, that is, a concept plan" after the words "general code". This makes it clear that a precinct code, that is, a concept plan, can but does not have to contain rules and criteria for the purposes of development assessment. Amendment No 12 revises clause 54 (1) (a) of the bill by deleting the reference to code requirements. The restructured territory plan refers to rules instead of code requirements. This amendment makes the bill congruent with the restructured territory plan.

Amendment No 13 revises, again, clause 54 (1) (b) of the bill by deleting the reference to merit criteria. The restructured territory plan refers to criteria instead of merit criteria. Amendment No 14 substitutes clause 54 (5) of the bill to provide for a new definition of a general code. The amendment simplifies the existing provision and also makes it clear that if the general code includes rules and/or criteria, these must apply in the assessment of development applications.

Amendments agreed to.

Clause 54, as amended, agreed to.

Clauses 55 to 59, by leave, taken together and agreed to.

Clause 60.

DR FOSKEY (Molonglo) (5.02): This is the first of the clauses that I am going to oppose in regard to consultation protocols. According to the bill, when preparing draft variations to the territory plan the authority would be required to consult with offices and bodies that have particular responsibilities. Some are specifically ACT government agencies. Others, such as the ACT Heritage Council, are, in essence, advisory, while the National Capital Authority has a federal responsibility. Given that, the Greens would like the authority also to consult with ACT government agencies responsible for social outcomes, such as housing affordability, bodies like community councils—given that they have formal planning responsibilities, which I addressed at length this morning—and peak community advocacy groups such as ACTCOSS and the conservation council.

This bill is the result of six or seven years of moving away from community participation and engagement in planning decisions about suburbs and neighbourhoods by people who care. No doubt this is annoying to developers, bureaucrats and governments, but the community visions applied with the expertise of the bureaucrats have often been successfully brought together in well-facilitated, well-attended community consultations. For instance, there were many meetings about the Yarralumla brickworks. Community aspirations, developers' hopes and Treasury coffers were abandoned and that still lies in abeyance. Better was the involvement of the Yarralumla school and community members in the making of tiles for the refurbished shopping centre. These are issues that I know about from being a community member of that suburb.

At one stage there were local area planning committees with a formal voice in both territory plan variations and in response to development applications. When deciding to terminate them, the government made a commitment to a neighbourhood planning process which would provide an agreed community values base for future developments and the establishment of community planning forums. Where government persisted with neighbourhood planning there have been some good outcomes, but there is no such process incorporated into this plan. In addition, the proposed community planning forums were abandoned.

I seek leave to table these newsletters which are called "Neighbourhood Planning in the ACT". One is issue No 6 for February 2004 and one is issue No 7 for April 2004, just as a reminder of the kind of community engagement that ACTPLA used to participate in.

Leave granted.

DR FOSKEY: Both those newsletters advise people that the minister has decided to drop the proposed community planning forum, so I guess they are historical documents. The document assessing the ACT's consultation mechanisms, which was produced in 2004 and proposing models for future meaningful consultation, had just one element out of all its recommendations, consultation with town and community councils, plucked out of it and then the document just disappeared. I am referring here to the *Review of stakeholder engagement in ACT planning* report from the National

Institute for Governance. It is a very useful document and still has validity today. It is one the new minister would do well to read. There was also for some time a higher level planning and land council whose expertise could well have fed into the development of draft variations, but it was shut down on the basis that it had too much to say and that not everything it said was complimentary about the government or its agencies.

Consequently it is not acceptable to simply cut the consultation on development and plan variations down to the statutory bodies whose approval, by definition, is required. Nor is it acceptable that no environmental or social impact analysis is required. The community has the ability to provide this expertise, but its knowledge needs to be valued and filtered into the authority's processes by environmental and social planners. The planning and land management group used to have social planners. I do not know if we still have them in ACTPLA. This relationship should be collaborative. Unfortunately, because the government and its agencies have often made up their minds about the basic structures of their proposals before they go out for the community to comment on, the relationship often becomes combative and community engagement comes to be seen as a hindrance by the government and its agencies.

One of the tables in the National Institute for Governance's document is "Arnstein's Ladder". It is a very famous piece of work that most people who study community development have looked at at some time or other. It is a ladder of eight steps in community participation. It looks very much to me as though ACTPLA's consultation stops at the fifth step on the ladder, placation and justification, which reads:

> For example co-option of hand-picked "worthies" on to committees. It allows citizens to advise or plan but retains for power holders the right to judge legitimacy or feasibility of the advice.

That is when we had the forums that we no longer have. So, we are not doing too well on the consultation ladder. In addition to expanding on the requirements of the authority to scope out the expected impact of these variations, and work more assiduously to inform relevant bodies and the general public of any proposed changes, we need to see more comprehensive commitment to community engagement incorporated into the legislation. In one of the newsletters that I have tabled there is a historical section on community engagement. That is also worth reading.

This could be the right location for varying the territory plan, but the same issues come back when we look carefully at substantial development approvals, the management of concessional leases and environmental impact assessments. There is no good reason why the minister's duty to table EISs in the Assembly has been removed. There is no good reason why the Assembly should not decide which EISs should be the subject of further scrutiny. While I am happy to look at future amendments to the act, the Greens would propose a more thoughtful and comprehensive approach to community engagement to take to the community at the next election.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.10): The government supports clause 60. It substantially mirrors the existing provisions in

the land act. In relation to the points Dr Foskey raised, the groups to be consulted according to clause 60 are the groups with a statutory role. We would consult with other groups, such as some of the ones she listed, under section 62 of the act.

MR SESELJA (Molonglo) (5.10): We support clause 60. As the minister has pointed out, clause 60 sets out the statutory consultations, and clause 62 sets out the broader consultation with the community on the draft plans. You can lead a horse to water but you cannot make it drink. You can have all of the consultation settings you like in the legislation but you cannot make a government genuinely consult. You can make them go through the motions, and putting in all sorts of extra clauses that make them go through more motions is not going to make them listen. You can have all the roundtables you like; the government can still ignore what the community says. We can sometimes get a little obsessed with what is in some of these clauses. I would say that we are pretty comfortable with these consultation clauses as they are. As I say, it is then up to governments to genuinely listen to the feedback. Legislation cannot make them do that; it can only make them go through certain motions. If they want to ignore the community, they will face the consequences at the ballot box. So we will be supporting the clause and not supporting Dr Foskey's opposition.

Clause 60 agreed to.

Clause 61 agreed to.

Clause 62.

DR FOSKEY (Molonglo) (5.12): I will be opposing this clause. My concerns apply not just to this clause but to the rest of this part, but I will cover those concerns in my comments on clause 62. In the first instance, a 15-working-day consultation period is inadequate. We could talk for a long time about who ought to be notified about a variation to the plan and to be given sufficient time to consider the proposal, to seek further information and to place their views on the record. Six weeks is reasonable for a variation to the territory plan. Four weeks, if well promoted, might be long enough, but 15 working days is insufficient. Letting the public know through a public announcement advertisement in the *Canberra Times* is also manifestly inadequate. There are many ways to advise people of proposed variations to the territory plan. I hope ACTPLA will take it upon itself to be more rigorous in the methods it uses to inform relevant communities of future developments.

In the past few years we have seen that the authority and the government do not believe they have obligations to communicate with their constituents other than by following statutory requirements. The disgraceful process surrounding the siting and construction of Telstra's wireless network towers is a salutary example of the lack of commitment demonstrated in the past. Given that, the statutory consultation requirement ought to be substantially greater so that the minimum is enough. The provision for the authority to remain secretive about a proposed variation to the plan—it should be called the Karralika provision—is absolutely unacceptable in its current form. The rationale for keeping mum about any proposed variation ought, at the very least, to be articulated. The processes for consultation and community engagement across legislation are neither good nor consistent.

It is true that the time frame for consulting on a draft variation to the territory plan and, for example, on a land management plan, involves a similar woefully inadequate 15-day period. But when the draft variation is given to the minister, all the background papers, including written reports, consultation comments, NCA documents, and a report on the public, NCA, conservators, the Environment Protection Authority, ACT Heritage Council and land custodians' comments must be given with the variation. These written reports are not required to be passed on to the minister in the case of draft management plans.

However, with the draft plan and management process, after the written comments are set out in a written report for the minister, a written explanation of why the draft plan does not incorporate the comments must also be included. This is a very important part of the process. It is not just about collecting the comments and ticking the boxes. It is then about considering that advice and those thoughts and explaining how various issues were decided on. Thus the minister, other Assembly members, committee members and the public can be aware of what was taken into account.

So here we have two similar processes which both incorporate some good, clear thinking and which also both omit a very sensible part of the process applicable to the other type of draft plan. When this was raised in a briefing two weeks ago, it looked like the department might have been willing to try to incorporate those processes to improve them to be consistent and, more importantly, more rigorous. Perhaps this is a sign that the different sections of the legislation were drafted by different people or that it was done in a hurry, or with little consistency check. The suite of planning bills is so large and complex that a comprehensive consistency check is probably stretching the bounds of human capabilities. Unfortunately, the one thing that remains consistent throughout is the 15-day consultation period, combined with the notion that advertising the existence of that consultation period can be achieved through small notices in the daily newspaper. We know who looks there—the people who know to look there, the people whose business is involved in knowing what ACTPLA has on its plate. Perhaps when we see another iteration of this Act these things will be revised and improved.

Clause 62 agreed to.

Clauses 63 and 64, by leave, taken together and agreed to.

Clause 65.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.17): I move amendment No 15 circulated in my name *[see schedule 1 at page 2065]*.

This amendment substitutes new subclauses 65 (2) and (3) into the bill to include criteria for when the ACT Planning and Land Authority may exercise its discretion not to make part of a draft variation or background paper publicly available. This amendment seeks to address concerns raised by the scrutiny of bills committee and aligns criteria for non-disclosure of certain draft plan variations with similar criteria for non-disclosure of development applications. Amendment No 118 is a companion

amendment to this amendment and will enable the ACT Planning and Land Authority to exercise its discretion not to make part of the draft plan variation or background paper publicly available.

MR SESELJA (Molonglo) (5.18): We will support this amendment. It is good to be bringing this into the act and making it very clear exactly what kind of circumstances there will be to not make part of the draft plan variation or background paper available.

Amendment agreed to.

Clause 65, as amended, agreed to.

Clauses 66 to 86, by leave, taken together and agreed to.

Clause 87.

DR FOSKEY (Molonglo) (5.19): I will be opposing this clause. I have a general concern about these technical amendments. Rezoning for future urban use or rezoning within the context of future urban use could have wide-ranging impacts. This legislation should mandate simple requirements to ensure that community councils are advised, where relevant, and that announcements are also made through the website and so on.

I also use debate on this clause to register my ongoing concerns with the marginalisation of the planning and environment committee of the Assembly. I recognise that full-scale inquiries into technical amendments might be unworkable, and there have been issues with workloads that are too high, but much as the public accounts committee can remain abreast of Auditor-General reports—to receive them, get a briefing on them, and decide whether to do further investigations—the planning and environment committee ought to be kept up to date on territory plan amendments, technical and otherwise, and again make that decision as to whether or not they will pursue them.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.20): I will shortly be moving amendment No 16 circulated in my name. I inform Dr Foskey that this amendment will address some of the concerns she has raised. I note the other issues she has raised and notify the Assembly that the government will consider amending this clause at a subsequent date.

Clause 87 agreed to.

Clause 88.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.22): I move amendment No 16 circulated in my name *[see schedule 1 at page 2065]*.

This amendment substitutes a new clause, 88 (1) (b), into the bill. This clause requires all technical variations to be subject to public consultation for a minimum of

15 working days. The concept in the bill that some types of variations are sufficiently minor as to negate the need for public consultation is removed.

MR SESELJA (Molonglo) (5.22): We will be supporting this amendment. Even though we do not want to see technical amendments slowed down significantly by the need for consultation, this will be good for the process in that it may mean that issues or problems unforeseen by the authority or by the government in these technical amendments will be picked up. This will make it a little more likely that technical amendments that have problems with them will not slip through. It will give a little bit of an extra safety net, so we support it.

Amendment agreed to.

Clause 88, as amended, agreed to.

Clauses 89 to 92, by leave, taken together and agreed to.

Clause 93.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.24): I move amendment No 17 circulated in my name *[see schedule 1 at page 2065]*.

This amendment revises clause 93 (1) (a) of the bill to make it clear that an estate development plan only has to be consistent with a concept plan if one exists. This is because in some areas of Canberra there are no prior existing concept plans or precinct codes against which an estate development plan can be assessed. In the absence of a concept plan, the estate development plan must be assessed against other relevant codes in the territory plan.

MR SESELJA (Molonglo) (5.25): We will be supporting this amendment. It is one of those amendments that demonstrate that things were a little rushed in the first place. This is probably one of the ones that slipped through in the first place, and it is good to see that it has been picked up since the bill was tabled. So we will be supporting it.

Amendment agreed to.

Clause 93, as amended, agreed to.

Clauses 94 to 110, by leave, taken together and agreed to.

Clause 111.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.25): I seek leave to move amendments Nos 18 to 20 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 18 to 20 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment No 18 revises clause 111 (2) of the bill to replace the reference to code requirements with "rules". The restructured territory plan refers to rules and criteria instead of code requirements and merit criteria. There are a number of companion amendments—Nos 138, 147 and 157—in addition to amendment No 19, with its companion amendments, Nos 20, 148 and 150.

MR SESELJA (Molonglo) (5.26): This is one of those annoying amendments. I just got used to the terminology of a big 400-page bill and now we need to change it. Nonetheless, the government assures us there are really good reasons for this so we are not going to be opposing it.

Amendments agreed to.

Clause 111, as amended, agreed to.

Clause 112 agreed to.

Clause 113.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.28): I move amendment No 21 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 21 inserts a new clause 113 (3) into the bill to clarify that the ACT Planning and Land Authority may refuse to accept a development application made in an assessment track other than the assessment track for the development proposal. If the authority assesses a development application made in an assessment track other than the track for the proposal, the authority must refuse the application. Thus a development application that is made in the wrong track can either be not accepted, or accepted, assessed and refused, but cannot be granted.

Amendment agreed to.

Clause 113, as amended, agreed to.

Clause 114.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.29): I seek leave to move amendments Nos 22 to 27 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 22 to 27 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment 22 is to confirm that references to requirements of codes in clause 114 are references to the whole text of the code—that is, both the rules and criteria. The companion amendments are 23, 24, 25, 26 and 27 and they similarly confirm that references to requirements of codes in clause 114 are references to the whole text of the code.

Amendments agreed to.

Clause 114, as amended, agreed to.

Clause 115.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.30): I seek leave to move amendments Nos 28 and 29 circulated in my name together.

Leave granted.

MR BARR: I move amendment Nos 28 and 29 circulated in my name together *[see schedule 1 at page 2065]*.

This amendment revises clause 115 of the bill to replace "relevant code requirements" with "relevant rules". Again, the restructured territory plan refers to "relevant rules" instead of "relevant code requirements". The companion amendments are 34, 155 and 156 to this amendment.

Amendments agreed to.

Clause 115, as amended, agreed to.

Clauses 116 to 119, by leave, taken together and agreed to.

Clause 120.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.32): I move amendment No 30 circulated in my name *[see schedule 1 at page 2065]*.

Amendment 30 substitutes a new clause 120 in the bill. Clause 121 clarifies that "if a development proposal is in the merit track, the application for development approval for the proposal must be publicly notified under division 7.3.4".

Clause 122 provides more detail in the bill about limitations on the right of review under chapter 13 in the bill in relation to a decision to approve an application for development approval for a proposal in the merit track. If there is a right of review under chapter 13, the right of review is only in relation to the decision, or part of the decision, to the extent that (a) the proposal is subject to a rule and does not comply with the rule, or (b) no rule applies to the proposal. Putting it another way—

MR DEPUTY SPEAKER: If you could put it another way that would be nice, Mr Barr.

Mr Smyth interjecting—

MR BARR: Speaking like a planner. Yes, I will put that another way: if a design feature fully complies with the relevant rule, then it cannot be reassessed on appeal. The substance of amendment 30 was in schedule 1 of the presentation version of the bill. This amendment to clause 120 of the bill, in conjunction with amendment 139, brings the provision into the main body of the bill to give it more prominence. Companion amendment 139 also does similar things.

MR DEPUTY SPEAKER: Thank you, Mr Barr. I am really clear on that matter.

Amendment agreed to.

Clause 120, as amended, agreed to.

Clause 121 agreed to.

Clause 122.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.34): I move amendment No 31 circulated in my name *[see schedule 1 at page 2065]*.

This amendment inserts a new clause 122 (e) in clause 122 of the bill to specify additional circumstances under which the impact track will apply. The territory may enter into bilateral agreements with the Commonwealth in relation to the assessment of activities that may require approval under the Environment Protection and Biodiversity Conservation Act 1999. The new clause applies if there is such a bilateral agreement or a proposed activity requires assessment under the EPBC Act and the Planning and Development Act 2007, or if the Commonwealth minister advises the territory that assessment under the EPBC Act will not be required because assessment under the Planning and Development Act 2007 by the territory will suffice. The clause requires the territory assessment of the proposed activity to be under the impact track.

MR SESELJA (Molonglo) (5.36): We will be supporting this amendment. It is quite a reasonable amendment. I think it is one of those amendments that probably should have been there initially but was missed. It has been part of this process. It is good that this hole has been fixed.

Amendment agreed to.

Clause 122, as amended, agreed to.

Clauses 123 to 131, by leave, taken together and agreed to.

Division 7.2.6 (clauses 132 to 134).

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.36): I move amendment No 32 circulated in my name *[see schedule 1 at page 2065]*.

Amendment agreed to.

MR SESELJA (Molonglo) (5.36): I seek leave to move amendments Nos 2 and 4 on the blue sheet circulated in my name together.

Leave granted.

MR SESELJA: I move amendments Nos 2 to 4 circulated in my name on the blue sheet together, which amend Mr Barr's amendment No 32 *[see schedule 3 at page 2102]*.

These amendments follow on from the amendments we moved last Tuesday, I believe, in relation to use as development. They are not necessary if they take out the concept of use as development, which we have advocated and we will continue to advocate. Of course, the government is not going to support us on this, but we believe it is an important principle. These are a part of a suite of amendments in relation to moving that concept out of the bill.

I understand that the "gang of nine" have come out again. They are, with one voice, unified in their opposition to use as development, which certainly backs our claim that there is significant concern amongst those who will have to deal, most pointedly, with this concept. This is certainly not, as the minister said, just the position of the property council or just a property developer's problem; it is a much broader issue. We think it may well be a serious problem once it is passed. That is the rationale for moving these additional amendments. We will continue to oppose this concept.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.38): The amendments that I have moved revise division 7.2.6 of the bill as follows. New clause 132 clarifies the definition of "exempt development" with a reference to new clause 132A. New clause 132A is inserted. The purpose of this clause is to exempt specified use from requiring development approval.

Clause 132A (8) defines "authorised use" for the purpose of this clause. "Authorised use" includes use authorised by "a lease, a licence, a permit under the Roads and Public Places Act 1937, a provision of chapter 15 (Transitional), and includes a use authorised by a lease that expired not more than 6 months before the use if the lease is renewed within 6 months after the expiry and does not include a use authorised by clause 240 of the bill". Clause 240 authorises home business to be conducted on residential leases.

New clause 132A sets out the circumstances under which an authorised use is exempt or not exempt. "Authorised use" is exempt from requiring development approval

provided there are no earthworks, construction, building, alteration or demolition work of a kind that of itself requires development approval.

If the relevant work is of a kind that is exempt from requiring development approval—for example, a small shed that is exempt from requiring approval under the regulation—then use approval is not required. This point is underlined in clause 132A (7) which explicitly states that use of a building does not require development approval if the construction of the building or structure is exempt from requiring development approval.

This provision has, for example, the following effects. No approval is required to continue authorised use unless work that is non-exempt from requiring development approval is carried out on the land. When work is done which requires development approval, development approval is required for the construction of the work, the use of any new building or structure, and use of the land on which the work is located. If a second or third building is added some years after getting the first use approvals noted above, and the further building is not exempt from requiring development approval, development approval is required for both the construction of the additional building as well as the use of the new building.

There is provision that the exemption of new clause 132A does not cease because relevant use is not continuous, interrupted or abandoned; the relevant lease is subject to a transfer or other dealing or is renewed; or the relevant lease is surrendered for the purposes of achieving a lease variation or renewal. However, under subclause 132A (5) the use approval does cease if the relevant lease plus the six-month grace period for renewal expire and the lease is not renewed; the relevant lease is surrendered, other than in connection with a lease variation or renewal; the lease is terminated; or if the use was authorised by a licence or permit under the Roads and Public Places Act (1937) and the licence or permit ends.

New clause 132B continues to provide that exempt development can be undertaken without development approval and that an application for development approval of exempt development cannot be made. This clause is substantially the same as the existing omitted clause 132 (1) of the bill.

Finally, new division 7.2.7 on prohibited development is inserted. The new division retains clause 133 of the bill to the effect that a development application cannot be made for prohibited development. It amends clause 134 of the bill to incorporate the concept of "authorised use". New clause 134 (3) defines "authorised use" as "a use authorised by a lease, section 240 of the bill, a provision of chapter 15, and includes a use authorised by a lease that expired not more than six months before the use of the lease is renewed within six months after the expiry". Thirdly, it amends clause 134 of the bill to make it clear that a development application for authorised use can still be made, notwithstanding that the use is prohibited development under the territory plan or under clause 133 (2) of the bill. In this case the use is assessable under the impact track.

MR SPEAKER: We have crossed over a bit here because we really ought to have been dealing with just your amendments, Mr Seselja. Do you want to speak further to your amendments?

MR SESELJA (Molonglo) (5.43): If I could, Mr Speaker.

MR SPEAKER: Sure.

MR SESELJA: I did mention the "gang of nine". For the record, because Hansard would not understand what I am talking about, I would like to say who the "gang of nine" are—I have a press release here—the ACT Law Society; the Canberra Business Council; the Housing Industry Association; the Master Builders Association of the ACT; the Property Council of Australia; the Planning Institute of Australia, Australian Capital Territory division; the Australian Property Institute; the Real Estate Institute of the ACT; and the Royal Australian Institute of Architects.

The significance of that, in particular, is the Law Society coming out. Whilst the Chief Minister and members of this government might write off some of these groups, unfairly in our opinion, as coming from a particular perspective or siding with the Liberal Party or whatever it is, I do not think that anyone could say that the ACT Law Society is generally backing the Liberal Party. I understand that it is unprecedented for the ACT Law Society to come out in the way they have on an issue before a territory parliament. The only reason they have come out like that is that they believe it is a bad law. They believe it is actually going to undermine our crown leasehold system.

Mr Speaker, with the indulgence of the Assembly I would just like to read what was said in the press release put out by the "group of nine" concerned groups:

> The ACT Government will soon be considering amendments to the Planning and Development Bill. While industry groups have been generally pleased to see that those amendments reflect some changes based on our concerns, the controversial "use as development" concept remains.
>
> The ACT Crown lease system has long been regarded as embodying the basic land rights of ACT landowners.
>
> "The Crown lease determines the purposes for which land in the ACT can be used. A lessee can apply to vary these uses, but doesn't currently need to apply for further approval for activities on land that are consistent with the use contained in the lease." said John Miller, Executive Director, Master Builders Association of the ACT.
>
> Under the new proposed Planning and Development Bill a Crown lessee will not be able to erect or alter a building or structure on that land without development approval to confirm that the "use" is allowable.
>
> Various exemptions will apply. However, the amendment brings into question the fundamental certainty of the Crown lease.
>
> "If the Act is amended as proposed, a Crown lessee won't be able to assume that a use which is included in the lease will be permissible in future. A Crown lease will no longer be a definitive statement of the permitted land uses." said Catherine Carter, Executive Director of the Property Council of Australia (ACT).

> Industry groups believe that the change to the assessment of Crown leases could threaten the confidence of the community and investors in the Crown lease system.
>
> "Financiers and valuers won't be able to determine the value of a Crown lease with any real certainty as the lease will only be suggestive of what purpose might be approved by the Authority." said Nick McDonald-Crowley, President, Australian Property Institute (ACT Division).
>
> "We support the reform of the ACT planning system, and the changes within the Bill that will assist in simplifying the development process. Certainty is part of that process though, and is necessary to encourage sustained investment in the city." said Elisabeth Judd, Executive Director HIA, ACT/Southern NSW.
>
> "The uncertainty surrounding the valuation of Crown leases could also have a negative impact on the ACT Government's revenue - not only at the sale of lease stage, but also with regard to the amount of rates and land taxes payable because these are linked to the lease values." said Michael Wellsmore, Deputy President Real Estate Institute of the ACT.
>
> "It is unclear whether the proposed changes will in fact make the implementation of the Act "simpler, faster and more effective" as suggested by the Authority. One thing is clear though, Canberrans will no longer have the certainty that the uses outlined in their Crown leases will be available to them in the future" said Greg Walker, President, ACT Law Society.
>
> There are many good things contained within the proposed changes to Canberra's planning regime, and there is much to praise the Government and ACTPLA about. "Use as a development", sadly, is not one of them."

Mr Speaker, I think that sums up some of the genuine concerns. They cannot be written off just as the whinges of property groups or just about self-interest. The ACT Law Society, in particular, add a lot of weight to that. They are only doing this because they genuinely believe that this is bad law. It is disappointing for many in the community, many in industry and many others who believe that, whilst there have been some real positives in this bill, this concept may well undermine a lot of the positive changes that will be made once this bill is passed.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.48): It will, of course, come as no surprise that most of the issues that Mr Seselja has listed in that letter have been raised extensively by those organisations over an extended period of time. To respond to some of them in more detail, particularly the issues around crown leases, I need to state categorically that leaseholders will continue to be able to exercise lease authorised uses and to change uses at will without having to make a development application—assuming, of course, that there is no significant building work involved.

The criticism of the "group of nine" assumes that a lease operates as a blank cheque to authorise any use consistent with the lease. This is not the case. A crown lease is subject to other laws, such as the need to comply with the Environment Protection and Biodiversity Conservation Act. Also, if the proposed use or change of use involves

new building work, then a development approval under the current Land (Planning and Environment) Act is required.

The ACT Planning and Land Authority does not gain any additional powers to vary leases. As I indicated through a recent amendment, if the territory plan purports to prohibit a lease authorised use, then a development approval can still be granted for such a use under the impact track. Also, use approval may not be required at all if building work is not involved and the section 132A exemption applies.

On the issue of financiers and valuers, the government believes that the new provisions will assist financiers and valuers in ways to value and assess crown leases by introducing mechanisms through an amendment of the Land Titles Act for use approvals to be noted on the lease at the Land Titles Office. All relevant information can be obtained from that office. It will set up clear parameters as to how use is assessed and how the territory plan applies to use, instead of what can be described as the current approach, which would be best described as "muddling through".

It is not correct to suggest that lease provisions are 100 per cent determinative of the value of the land. Under current legislation new development proposals must still be subject to development assessment, including use impacts, and this can affect land values. Other legislation, like the Environment Protection and Biodiversity Conservation Act, can also affect land values.

Without wanting to relive Tuesday's debate, I understand the position that is put by the "group of nine" and supported by the opposition here today. But, again, the government has to strike an appropriate balance in this legislation. We have responded to concerns that were raised, particularly by the law society, through this process and the series of amendments that I have moved. I am pleased to see that there was acknowledgement from the industry groups and from the opposition. It was, for once, accurately reported in the *Canberra Times* this morning that the government has responded to those concerns. And, yes, I acknowledge that we have not met and resolved all of the concerns that have been put forward by the "group of nine", but I do not think it was ever possible to achieve everything that those organisations wanted whilst also maintaining appropriate balance and protection for the community in this legislation.

Again, the government has achieved a balanced position overall, as I have observed on this legislation. We have been criticised by the Greens in some aspects for being too pro-development and then criticised by the opposition for making it difficult for developers. That would seem to me to indicate that we have struck an appropriate balance here and that the sensible middle path has been progressed with this legislation. The government will not be supporting Mr Seselja's amendments.

MR SESELJA (Molonglo) (5.52): I seek leave to just quickly respond, Mr Speaker.

MR SPEAKER: You will need leave.

Mr Barr: Yes. I would not want to be accused of not letting him say his piece.

MR SPEAKER: The standing orders provide 20 minutes for an amendment. I remind you of that. Mr Seselja has had that opportunity.

Mr Barr: Yes. I will give him leave quickly.

MR SPEAKER: I do not mean to suggest that I would not enjoy being here for the rest of the night. Just keep that in mind.

Mr Barr: Not at all, Mr Speaker. I am sure this act of generosity will be repaid down the track.

Leave granted.

MR SESELJA: Thank you, Mr Speaker and members, for the leave. I will be brief. I will respond to Mr Barr's comments, particularly in relation to the blank cheque argument, the straw man that was put up by his predecessor when we had the argument on Tuesday. It is interesting that it has now filtered into the official notes. I did not hear it when we had the debate on Tuesday. It seems the former planning minister still has some influence.

Mr Pratt: Stumped the guru.

MR SESELJA: He has come in and given advice. This blank cheque argument has not been put up by anyone. It certainly was not in that press release and it certainly was not in any of the arguments that were put by the opposition. We do not see it as a blank cheque, but we do make a strong distinction between legislation such as the Environment Protection and Biodiversity Conservation Act and a discretionary ability for ACTPLA to prevent a land title from taking up a legitimate use without there being certainty. That is where we object.

It is not about a lease being a blank cheque. No-one has ever argued that—certainly no-one from the opposition. I have not heard anyone in industry in any way publicly arguing that leases are meant to be a blank cheque. Nonetheless, the government is putting that up as the straw man. We do distinguish between legislation that is clear and does restrict landholders' rights and the discretionary ability to prevent use.

The other point, in response to Mr Barr, is that, whilst there is improvement and it only applies when there is building or alteration of a structure, nonetheless the "use as development" does kick in and that is and continues to be our concern.

Amendments Nos 2 to 4 negatived.

Mrs Burke, pursuant to order, presented the following papers:

Equipment shortages—Canberra and Calvary Hospitals—
Letter to the Speaker from Mrs Burke, dated 23 August 2007.

Media releases—Mrs Burke—

Reinstate sacked nurse and improve infection control, dated 13 July 2007.

Gallagher runs for cover as nurses tell it like it is, dated 31 July 2007.

Mismanagement not winter ills behind hospitals' crisis, dated 3 August 2007.

ACT hospitals short of basic equipment, dated 6 August 2007.

Minister still denying the undeniable, dated 7 August 2007.

Another day another excuse from the ACT Health Minister, dated 9 August 2007.

Not another health plan, dated 10 August 2007.

Staffing critical at top heavy ACT public hospitals, dated 13 August 2007.

Hospital nurses being bullied into silence, dated 15 August 2007.

Is training a factor in nurse shortage at hospitals?, dated 16 August 2007.

Human Rights Act 2004—Extract, page 6.

Division 7.2.6, as amended, agreed to.

Clause 135.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.55): I move amendment No 33 circulated in my name *[see schedule 1 at page 2065]*.

This amendment modifies clause 135 (1) of the bill. It amends it in such a way that a proponent may apply to the authority for advice on the development of the proposal as to which track is likely to apply, public notification requirements et cetera.

Amendment 33 amends clause 135 (1) to require the authority to consider the request and provide advice in all cases unless the authority concludes that the information provided with the request is not sufficient for the authority to provide the advice. New clause 135(1B) requires the authority to tell the applicant if it has decided not to provide advice due to insufficient information.

MR SESELJA (Molonglo) (5.56): This is a sensible amendment which will improve the bill. It is not an unimportant amendment. It will certainly help proponents and make sure that they get on the right track. It will hopefully save a lot of time and prevent people from going down the wrong assessment track and having to start again. We certainly support this amendment.

Amendment agreed to.

Clause 135, as amended, agreed to.

Clause 136.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.57): I seek leave to move amendments Nos 34 to 39 circulated in my name together.

Leave granted.

MR BARR: I move amendment Nos 34 to 39 circulated in my name together *[see schedule 1 at page 2065]*.

I have already addressed amendment 34 as a companion amendment to amendment 28. Amendment 35 revises clause 136 (2) (d) of the bill to replace "relevant code requirements" and "relevant merit criteria" with the words "relevant rules" and "relevant criteria", and clarifies when a statement of environmental effects is required. As I have indicated before, the restructured territory plan refers to "rules" and "criteria" instead of "code requirements" and "merit criteria". A statement of environmental effects will be required where a code, in the restructured territory plan, stipulates that an assessment is necessary. Companion amendments 36 and 39 revise clause 136 (2) (e) (i) and 136 (4) of the bill respectively to similarly replace "relevant code requirements" and "relevant merit criteria" with "relevant rules" and "relevant criteria".

Amendment 37 modifies clause 136 (2) (f) of the bill to confirm that it only applies to nominal rent leases and does not apply to variations of a nominal rent lease where the change of use charge is not payable under clause 269 of the bill. The requirement in 136 (2) (f) for an assessment by an accredited valuer should only apply where the lease variation may incur a change of use charge—that is to variations of nominal rent leases other than a variation of leases to which clause 269 of the bill does not apply.

Amendment 38 revises clause 136 (2) (g) (iii) of the bill to replace the words "direct grant" with "direct sale". This and related amendments update language to remove references to "direct grants of leases" and replace with a reference to "direct sales of leases" consistent with government proposals arising from the housing affordability strategy.

At 6.00 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having put and negatived, the debate was resumed.

MR BARR: As I was saying, this updates language to remove references to "direct grant" and to replace them with the words "direct sale". Companion amendments are 87, 88, 89, 90, 91, 92, 93 and 141. These amendments substitute the words "direct grant" with the words "direct sale". This is to modernise language and reflect the government's housing affordability strategy. Finally, amendment 39 is, in fact, a companion amendment to amendment 35, again replacing "relevant code requirements" and "relevant merit criteria" with "relevant rules" and "relevant criteria".

MRS DUNNE (Ginninderra) (6.00): I rise in support of these amendments. At last we are getting rid of the terminology "direct grant" when we have never meant direct grant. This raises an issue that has concerned me about the 160-odd amendments that the government has moved. When we did all the planning legislation reform, and after years of explaining to people that when we said "direct grant" we did not mean "direct grant", we meant "direct sale", we should have got it right in the first place.

I am concerned that there is such a large number of amendments to fix language and make it better. I am concerned that tonight we are bulldozing this legislation through without the necessity of timing. I go back to the point that I made in the in-principle stage a couple of days ago: I do not want us to be in the situation that we were after the passage of the L Act where we still have language that is wrong.

I think that there should be a much more thoughtful approach to this. We have got to the 11th hour with these amendments—amendments which were put together on Monday; the last time they were printed off was on Monday—and we are still having to put in amendments to take out "direct grant" and put in "direct sale". It makes me wonder what else is here that should be more carefully considered. Many of Mr Seselja's amendments and many of the government's amendments point to the fact that the first cut that was presented to the Assembly was not good enough. We are now here on a wing and a prayer hoping that these amendments are good enough.

The people of the territory deserve exemplary planning legislation. We have never had it. I hope that we will not be back here in two or three months time—before this bill has even commenced, which is not for another six months or more—saying, "We have still got some problems here. We have got to fix up the language here. There is still an ambiguity there." When you listen to the minister, who has not been here long in this place, reading the explanations of these things, you know that he does not understand it. If he does not understand it, what hope is there for the rest of us?

Amendments agreed to.

Clause 136, as amended, agreed to.

Clause 137.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (6.04): I move amendment No 40 circulated in my name *[see schedule 1 at page 2065]*.

I will need to sound authoritative now when reading this bit after the very harsh dig that Mrs Dunne has just had at me across the chamber. If only I had the time to be able to recite this legislation backwards. I do, of course, have to rely on the outstanding work of officials, and I thank them for being here with us this evening.

Amendment No 40 substitutes a new clause 137 (1) (a) in the bill. It states that the clause applies if a requirement under a code that applies to a development proposal is that an entity approves the development or certifies something in relation to the development. There is no substantive change from the bill and the amendment is for clarification of wording. The subclause makes it clear that this provision applies to situations where the relevant code requires approval from another agency.

Amendment agreed to.

Clause 137, as amended, agreed to.

Clauses 138 to 142, by leave, taken together and agreed to.

Clause 143 agreed to.

Clauses 144 to 149, by leave, taken together and agreed to.

Clause 150.

MR SESELJA (Molonglo) (6.07): I move amendment No 22 circulated in my name *[see schedule 2 at page 2099]*.

Mr Speaker, this is one of those late amendments as we worked through this afternoon. I believe the government will be agreeing to it. This omits 150 (4) (a), which would waive the need for public notice under the earlier subsections "if, in the authority's opinion, it would be impractical to give notice by post to the lessee of each adjoining place because of the number of adjoining places". I think that is probably a little broad. It would certainly be of concern to residents who tend to be affected by these developments by virtue of the fact that they are hard to get hold of. There being too many apartments would be the most likely sort of scenario.

In response, the minister may wish to tell us the process this is going to go through in those kinds of circumstances. If it is an apartment complex, would we see some sort of public notification at the door or something like that, or letterboxing if each individual lessee cannot be contacted? We think this amendment will improve things somewhat and take away the broad discretion not to give notice under the earlier subsections.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (6.08): I thank the shadow minister for working with my office to see this amendment moved. The government will be supporting it. I acknowledge that there are some difficulties when it comes to particularly contacting tenants in large multi-unit developments. We are able, through various databases, to get access to the owners of the units, but it has often been the case that the tenants have not been advised of a development application because the landlord has not passed that information on.

Certainly I think it is incumbent upon the ACT Planning and Land Authority to look at other measures and other means to get the word out. I think it is fair to say, though, that, when a controversial development proposal is put forward, word of mouth is a very powerful tool in spreading the message; nonetheless, I think it is important that we look at some different ways, be that advice to the householder or, as Mr Seselja has suggested, perhaps be able to place some information on notice boards or whatever around multi-unit developments.

Of course, the authority does a tremendous amount of work in advising surrounding communities of development application proposals. We do go to great lengths on the authority's website to make information available, but of course you can always do more. In that spirit, we accept the opposition's amendment. We will look to provide an enhanced notification process for members of the public.

DR FOSKEY (Molonglo) (6.10): On the whole, my concerns with this clause are similar to my concerns, which I did not get to express because I was not in the room, on clause 143.

MR SPEAKER: The question before the house is Mr Seselja's amendment.

DR FOSKEY: Yes. I do support the amendment; nonetheless, I have concerns with the whole clause.

While ACTPLA sometimes goes out of its way and beyond its legislative obligation to inform the community of proposed developments, we have also heard the previous planning minister defending ACTPLA for not informing people, who really should have received notice of a development, by saying that ACTPLA had fulfilled their bare minimum legislative duty. In my opinion, this whole section is a way to protect ACTPLA—when people do not hear about something, it is covered by the legislation. It is in this light that clauses like this one appear to vest too much trust and discretion in ACTPLA to do the right thing.

Clause 150 (5) means that a person who has not been notified and who fails to object to an inappropriate development proposal in time will effectively lose any legal remedy. While I support the amendment, I am still going to oppose the whole clause. I am sure that there is a large amount of goodwill and good intentions within ACTPLA, but the point is that good legislation cannot rely on trust. It establishes checks and balances and prescribes good practice. The definition and effect of the word "adjoins" in this clause makes it far too restrictive. It means that a multistorey development that overshadows someone's home, destroys privacy, creates traffic snarls and possibly makes the neighbourhood unsafe for children to walk around, could go ahead without that household being notified, because the house does not actually touch the proposed development site.

I know that the issue is more about areas we are seeing more of where there are multi-residential developments and where there may be hundreds of people in an adjoining development. I think they have every right to know. I will support Mr Seselja's clause because that is the least we can do to fix this up.

MR SESELJA (Molonglo (6.13): I thank the minister and Dr Foskey for their support. It is one of the issues that really do get to people if they feel they have not been informed about proposals or developments in their area, especially on adjoining land. I think it is really important that we ensure that people are at least told and given time to object if they feel that that is necessary. I think that is a legitimate concern of people and hopefully this will help in that process.

Amendment agreed to.

Clause 150, as amended, agreed to.

Clauses 151 and 152, by leave, taken together and agreed to.

Clause 153.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (6.14): I seek leave to move amendments Nos 41 to 43 circulated in my name together.

Leave granted.

MR BARR: I move amendment Nos 41 to 43 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment No 41 inserts a new note for clause 153 (2) of the bill to provide a cross-reference to new clause 153A, which sets out the meaning of "public consultation period" for development applications. There is no change in substance, as the proposed public consultation period remains the same.

Amendment No 42 inserts new clause 153 (3A) in the bill, which provides that, if the authority extends the public consultation period, the authority must give the applicant for the development approval written notice of the extension. Amendment No 43 omits clause 153 (6) of the bill, which defines a public consultation period as it is replaced by the new clause 153A.

Amendments agreed to.

Clauses 153, as amended, agreed to.

Proposed new clause 153A.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (6.15): I move amendment No 44 circulated in my name, which inserts new clause 153A *[see schedule 1 at page 2065]*.

This amendment, as I have previously indicated, inserts a new clause 153A in the bill, defining "public consultation period" for the bill. The definition of "public consultation period" is relocated; otherwise it is retained unchanged.

Amendment agreed to.

Proposed new clause 153A agreed to.

Clauses 154 and 155, by leave, taken together and agreed to.

Clause 156.

DR FOSKEY (Molonglo (6.16): I will be opposing this clause. I have chosen clause 156 to object to, but really the problem that concerns me pervades the legislation—that is, this legislation gives the minister unaccountable call-in powers. These powers are too broad, lack safeguards and reduce certainty and the authority of the planning system.

If people know that the government wants a particular development to go ahead, they may be discouraged from lodging an objection because of the possibility that the minister will call in the project and deprive them of any appeal rights, or practical legal avenue of redress anyway. I know that one of the previous minister's advisers said that his prolific use of the call-in powers was largely the result of commercial interests abusing the appeal processes to delay and damage their competitors. I do not doubt that this is true, but it was not only because of such abuse. Of course, call-in powers can be used to stop objections of people in the neighbourhood as well.

Call-in powers are not the only way to deal with such abuse. Other jurisdictions give tribunals the power to strike out matters that are perceived to be an abuse of process by commercial competitors. They also have penalty provisions to punish any such abuses. Was this approach considered? Indeed, was there any genuine attempt to solve the problem of frivolous and anticompetitive legal actions by means that did not disenfranchise the community? I suspect that the argument of abuse of appeal mechanisms by developers is a convenient smokescreen to remove those pesky do-gooders from getting in the way of development.

I welcome the limited appeal rights for community organisations that have been included in this bill. They are better than nothing. I hope not too many legal resources are wasted in arguing over whether a group's objects clauses are sufficiently related to the development to award it standing. I fear that this may be the case.

Where is the requirement for the use of call-in powers to be referred to a committee, or where is the obligation on the minister to give a detailed statement of reasons for his or her decision? These powers lend themselves to the corrupt peddling of political power and improper influence by sectional interests. Political so-called "donations" from developers have corrupted the political process in other jurisdictions. We do not want to do anything that encourages the peddling of political influence.

The Development Assessment Forum, or DAF, which came up with the basic planning model that we are adopting, was itself set up and funded by the Howard government. In the opinion of the senior legal officer of the Environmental Defender's Office, "the DAF model has as one of its aims the exclusion of community participation in the planning process". The restriction of appeal rights, limited legal standing, abolition of independent advisory bodies, limited referral to committees and broad call-in powers are all part of a system that, in the words of the President of the Local Government Association, Mike Montgomery, "is an assault on the democratic right of communities to control the planning process". No wonder the development lobby thinks it is such a fine, best practice, cutting-edge model for planning reform.

This government has made a few amendments that ameliorate the system somewhat, such as the granting of standing to entities whose objects clauses are concerned with the issue under dispute. However, these measures do not go far enough and I have no confidence that the call-in powers will not be abused either by this government or by a future Labor or Liberal government. This government does not seem to appreciate that it is not making laws just for itself. The laws that you pass here today will be implemented by a future government too. Even if you think you can be trusted with

such a large amount of discretionary power, do you really believe that a future Labor or non-Labor government could necessarily be trusted with such powers?

Clearly, there is an argument that call-in powers have a place in a planning system. The Greens have not supported them, but I can foresee that, if other mechanisms fail, it may be a necessary last resort. There need to be mechanisms that kick in before the call-in powers are exercised, which ensure that the best decisions are made with the best information available. This includes the expression of community perspectives. In the context of this debate, I will simply say that, if call-in powers are to be included, they demand accountability and there should be checks and balances and scrutiny built into the system. But these checks and balances are absent from this legislation.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (6.21): The government will be supporting clause 156. In response to the issues that Dr Foskey has raised, it is important to put on the record that the Labor Party has set out the principles to guide whether or not the call-in power should be exercised. We have worked, both in government and in opposition, to ensure that the call-in powers are used only against an assessable set of clear criteria.

We believe that there is a strong argument for the retention of the call-in power. It is there to be exercised for development applications of territory-wide significance that either run the risk of not happening because of deliberate attempts to stymie them through the appeals process, as Dr Foskey has indicated, as opposed to legitimate objections or, alternatively, if there is a proposal that is clearly not in the interests of the people of Canberra but which may be approved.

It is important to remember that the call-in powers are not just about approving applications; technically it is about determining applications. The planning minister or his or her delegate can just as easily determine not to approve an application as they can to approve one. The government considers that the retention of call-in powers are important. They are an important democratic safeguard to be used in exceptional circumstances. As I have indicated, the Labor Party has worked both in government and opposition to make the exercise of call-in powers far more transparent.

Indeed, my predecessor Mr Corbell amended the land act to provide for clear criteria for the exercise of call-in powers. These are outlined in section 299A of the land act. The land act provides for the following criteria: the development application raises a major issue of policy, it seeks approval for a development that may have a substantial effect on the achievement or development of the objectives of the territory plan or it allows a decision that could give rise to a substantial public benefit.

The government has maintained this approach in consequential legislation and has increased the accountability and transparency of the call-in power. The legislation provides that the minister must obtain advice from ACTPLA prior to making a decision. Its notice, telling ACTPLA of the minister's decision, is indeed a notifiable instrument. That legislation has been in place and is carried forward in the new legislation. It indicates the government's approach to the exercise of this power. It shows how seriously we treat it and the sorts of requirements that we believe need to be in place to make sure that any future minister for planning, be they of Labor or

Liberal colour, as it is unlikely they will be a Green, acts responsibly in determining any application themselves.

In conclusion, call-in powers exist in all jurisdictions in one form or another to provide a contingency for government to make decisions on matters of great significance to the community. We will be supporting this clause.

MR SESELJA (Molonglo) (6.25): Mr Speaker, we will be supporting this clause. I am the first to criticise the call-in when I think it is used in the wrong way. I think I coined the term "call-in Corbell" for Mr Barr's predecessor. I am sure that had something to do with why Mr Barr did not want to call in the West Belconnen side. He did not want us to come up with a fancy nickname for him.

Mr Barr: As I do not have a first name or a surname that begins with C it makes it pretty difficult for you.

MR SESELJA: Nonetheless, it may not lend itself as well, but we would have come up with something. We wait with bated breath for your first call-in, Mr Barr.

Mr Barr: I look forward to it.

MR SESELJA: Nonetheless, Mr Speaker, that is part of the democratic process. Mr Corbell, Mr Barr or any minister who exercises this power too much will certainly feel the wrath of the electorate and will certainly get significant criticism from the opposition if we feel they are using it in an unreasonable way.

This is a democratically elected parliament. We do not always like what this government does and we do not always like what ministers do, but we have to acknowledge that there has to be an ability to make decisions at times; it is not just about bureaucrats making decisions. Sometimes decisions have to be made, and there should be the ability for a minister, who is hopefully seeking to represent their electorate, to step in at times.

As Mr Barr pointed out, sometimes it will be to reject a development. There will be times when a minister should step in and reject inappropriate developments—and that is another important part of the call-in power. It is a democratic process. The minister is accountable. The minister will stand condemned and will cop a public flogging if he acts inappropriately. It is always within the ability of a parliament, if you have a majority, to override anything through a piece of legislation, if that is considered necessary.

The Greens talk about democracy, but sometimes it is more about the loudest interest group rather than democracy working in action. I have concerns sometimes about some of the arguments that are put forward by the Greens. The ability to block developments wherever possible goes to the heart of what the Greens argue. They would really like to be able to block many more developments and many developments that are quite reasonable.

If we were to follow the Greens on development we would have a stagnant economy and this would be a depressing place to live. Dr Foskey scoffs, but the reality is that, if

we were to follow their economic policy or their policy on planning, I do not think we would see many of the cranes that we have seen around town in the last few years. There would probably have to be some sort of commonwealth legislation to get departments built in this town. If we were to respond to every objection from every loud interest group any time there is a development, nothing would get built.

This is an important power which should be used with great discretion. I think it should be used carefully, but it should be there. The minister should be able to cop the heat. The community is able to respond and throw out ministers and governments who they feel act unreasonably in this area.

Sitting suspended from 6.29 to 8.00 pm.

DR FOSKEY (Molonglo) (8.00): I take this opportunity to respond to what Zed said about the Greens in relation to planning. He will say this many times; nonetheless I put it on the record: the Greens' amendments and opposition are not because we are anti development by any means. It might be good to be broadcasting this about us in the year before an election. But very clearly we are not.

We do believe, however, that it has become more and more clear that development needs to be appropriate; that development takes place in a natural environment; that development does impact on the natural environment; and that the way development occurs affects the way people behave with each other. Consequently, we are very excited about development and development occurring in a way that makes Canberra a model for the 21st century.

Clause 156 agreed to.

Clause 157 agreed to.

Clause 158.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.03): I move amendment No 45 circulated in my name *[see schedule 1 at page 2065]*.

This amendment inserts a new clause 158 (1A) in the bill, requiring development applications for the removal of the concessional status of a lease to be refused in specified circumstances. Those circumstances are that, if the minister determines that the removal of the concessional status is not in the public interest under the revised clause 253 coming up in amendment No 99, then the relevant development application under this clause must in all cases be refused. There are of course some companion amendments—Nos 72, 99 and 115—to this amendment.

Amendment agreed to.

Clause 158, as amended, agreed to.

Clause 159 agreed to.

Proposed new clause 159A.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.04): I move amendment No 46 circulated in my name, which inserts a new clause 159A *[see schedule 1 at page 2065]*.

MR SESELJA (Molonglo) (8.04): Thank you to Mr Barr for moving the amendment so that I can oppose it. I will be opposing this amendment.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.05): I should explain that this amendment inserts a new clause 159A in the bill to remove any doubt that, if a proponent applies for a development approval for a use and the application is refused, the proponent's existing rights to use land or buildings are not affected.

Proposed new clause 159A agreed to.

Clause 160.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.05): I move amendment No 47 circulated in my name *[see schedule 1 at page 2065]*.

This amendment revises clause 160 (3) of the bill to change development approval from being "approved" to "given". This is a clarification of wording only.

Amendment agreed to.

MR SESELJA (Molonglo) (8.06): I move amendment No 3 circulated in my name *[see schedule 2 at page 2099]*.

This amendment removes paragraph (i)—paragraph 160 (3) (i)—which states that, if the approval relates to a use of land or building or structure on the land, the land or buildings or structures on the land may only be used for the use in the stated circumstances. That follows on from our earlier amendments.

Amendment negatived.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.07): I move amendment No 48 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 48 provides that development approvals assessed under the code track cannot be granted subject to conditions unless the condition is of a type set out in the regulation. Amendment No 48 sets out examples of the type of conditions that may be listed in the regulation.

MR SESELJA (Molonglo) (8.08): We will be supporting this amendment. It is good to put it up front and give some guidance both to the minister in making regulations and ACTPLA. For that reason we have no trouble supporting it.

Amendment agreed to.

Clause 160, as amended, agreed to.

Clauses 161 to 163, by leave, taken together and agreed to.

Clause 164.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.08): I move amendment No 49 circulated in my name *[see schedule 1 at page 2065]*.

This amendment revises clause 164 (3) of the bill to update the cross-reference for the new clause 153A on the public consultation period to assist with readability.

Amendment agreed to.

Clause 164, as amended, agreed to.

Clause 165.

MR SESELJA (Molonglo) (8.09): I move amendment No 4 circulated in my name *[see schedule 2 at page 2099]*.

This is in line with our amendments in relation to use as development.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.09): The government will not be supporting Mr Seselja's amendment. We will instead be supporting amendment No 50, which I will move shortly.

Amendment negatived.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.10): I move amendment No 50 circulated in my name *[see schedule 1 at page 2065]*.

This amendment substitutes clause 165 (1) (c) of the bill to reflect the new definition of "use". The words including "beginning a new use or changing a use" are now superfluous, because the new definition of "use" includes "beginning, continuing or changing a use". In addition, the revised wording makes it clear that the requirement to notify the Registrar-General applies to development approvals that solely authorise use and authorise other development as well as use.

Amendment agreed to.

Clause 165, as amended, agreed to.

Clauses 166 to 169, by leave, taken together and agreed to.

Clause 170.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.11): I move amendment No 51 circulated in my name *[see schedule 1 at page 2065]*.

This amendment substitutes clauses 170 (1) (b) and (c) of the bill to clarify when a development approval takes effect. This clause applies when there is no potential for a development approval to be challenged by third parties in the merit review before the AAT because one or more of the circumstances set out in the revised clause 170 (1) (b) apply. This clause makes it clear that in this circumstance, the development approval commences—

MR SPEAKER: Do you want to raise a point of order, Dr Foskey?

Dr Foskey: Mr Speaker, I think we are out of sync here. I am just checking here. I think it happened back around Mr Barr's amendment No 50.

MR SPEAKER: We are still on amendment No 51.

MR BARR: We are on clause 170, amendment No 51.

Dr Foskey: That is right. But I am not sure that is what has been said. But if we are all now saying the same, that is really good.

MR SPEAKER: The question is that Mr Barr's amendment No 51 be agreed to.

MR BARR: As I was saying, this clause makes it clear that, in the circumstance that a development approval commences operation a day after the application is approved—in other words, with no possibility of a third party appeal—there is no reason for a delay.

Amendment agreed to.

Clause 170, as amended, agreed to.

Clause 171.

MR BARR (Molonglo-Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.14): I seek leave to move amendments Nos 52 and 53 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 52 and 53 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment No 52 substitutes the heading for clause 171 of the bill to clarify that this clause applies in the scenario where a single representation has been made and there is potential for third party merit review in the AAT. Amendment No 53 inserts a new clause 171 (1) (ba) to (bc) in clause 171 (1) of the bill to clarify when a development approval takes effect where a single representation has been made.

Amendments agreed to.

Clause 171, as amended, agreed to.

Clause 172.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (815): I seek leave to move amendments Nos 54 and 55 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 54 and 55 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment No 54 substitutes the heading for clause 172 of the bill to clarify that this clause applies when there are multiple representations and there is potential for third-party merit review in the AAT.

Amendment No 55 inserts a new clause 172 (1) (ba) to (bc) in the bill to clarify that multiple representations must be granted the right from chapter 13. This clause applies when representations have been made on a development application and there is potential for third-party merit review of the granting of the application. This potential exists if the development is not in the code track, major public notification is required, or the application is not exempt from third-party appeal. The clause makes it clear that there is a delay to the commencement of the development approval if, and only if, there is potential for third-party merit review before the AAT.

Amendments agreed to.

Clause 172, as amended, agreed to.

Clause 173 agreed to.

Clause 174.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.16): I move amendment No 56 circulated in my name *[see schedule 1 at page 2065]*.

This amendment substitutes a new clause 174 (2) (c) (ii) in the bill to ensure that the clauses adequately cover the relevant scenarios in relation to commencement of development applications that are granted subject to a condition and a lease variation made post approval. The amendments incorporate a reference to the Administrative Appeals Tribunal application being dismissed or struck out as well as withdrawn. Companion amendment No 57 substitutes a new clause 175 (2) (c) (ii) of the bill with the same effect as amendment No 56.

Amendment agreed to.

Clause 174, as amended, agreed to.

Clause 175.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.18): I move amendment No 57 circulated in my name *[see schedule 1 at page 2065]*.

I addressed this in my previous comments.

Amendment agreed to.

Clause 175, as amended, agreed to.

Clause 176 agreed to.

Clause 177.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.18): I move amendment No 58 circulated in my name *[see schedule 1 at page 2065]*.

This amendment substitutes a new clause 177 (2) (b) into the bill to remove the incorrect reference to the application for reconsideration being withdrawn. This clause can apply only if the application is not withdrawn.

Amendment agreed to.

Clause 177, as amended, agreed to.

Clause 178.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.19): I seek leave to move amendments Nos 59 and 60 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 59 and 60 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment No 59 inserts new clause 178 (1) (aa) in the bill to clarify that a representation must have been made in conjunction with clause 178 (1) (c). This amendment, in conjunction with amendment No 60, clarifies that there is an automatic delay of 20 working days to the commencement of the development approval if, and only if, a representation has been made and there is potential for third-party merit review.

Amendments agreed to.

Clause 178, as amended, agreed to.

Clause 179.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.20): I move amendment No 61 circulated in my name *[see schedule 1 at page 2065]*.

This amendment revises clause 178 (1) (c) of the bill to omit the words ", including beginning a new use or a change of use". As we have previously discussed, the omitted words are no longer necessary given the new global definition of "use" in the new clause 7A.

Amendment agreed to.

MR SESELJA (Molonglo) (8.21): I move amendment No 5 circulated in my name *[see schedule 2 at page 2099]*.

I refer to my previous comments in relation to use of development. This is why we are moving this amendment.

Amendment negatived.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.22): I move amendment No 62 circulated in my name *[see schedule 1 at page 2065]*.

This amendment inserts a new note after clause 179 (3) in the bill to clarify that the development approval does not end when the building work is completed within the required statutory period. Development approvals are to last indefinitely. It has companion amendments, Nos 64, 68 and 70, which similarly amend clauses 180 (2), 181 (2) and 182 (2) of the bill respectively.

MR SESELJA (Molonglo) (8.22): I move amendment No 6 on the blue sheet, which amends Mr Barr's amendment No 62 *[see schedule 3 at page 2102]*.

I refer to previous comments in relation to use as development. This takes away some of the notes which would be superfluous if use as development were totally taken out of the bill.

Amendment No 6 negatived.

Amendment No 62 agreed to.

Clause 179, as amended, agreed to.

Clause 180.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.23): I seek leave to move amendments Nos 63 and 64 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 63 and 64 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment No 63 substitutes clause 180 (2) (vi) of the bill to clarify that a development approval does not end simply because the relevant lease is surrendered as an intermediate step in the process of implementing the relevant lease variation or renewal.

Amendment No 64 is a companion amendment to amendment No 62, which I moved earlier. It inserts a new note in clause 180 (2) of the bill and clarifies that the development approval does not end when the building work is completed within the required statutory period. Development approvals, as I say, are to the last indefinitely.

MR SESELJA (Molonglo) (8.24): I move amendment No 7 on the blue sheet, which amends Mr Barr's amendment No 64 *[see schedule 3 at page 2102]*.

This is a very similar amendment to amendment No 6 on the blue sheet, which relates to the proposed new notes and is in relation to use as development.

Amendment No 7 negatived.

Amendments Nos 63 and 64 agreed to.

Clause 180, as amended, agreed to.

Clause 181.

MR SESELJA (Molonglo) (8.25): I oppose this clause *[see schedule 2 at page 2099]*. It is unnecessary. Once more it relates to use as development. It is therefore superfluous. That is why we are opposing it.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.26): I seek leave to move amendments Nos 66 to 69 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 66 to 69 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment No 66 revises clause 181 (1) (a) of the bill to omit the words ", including beginning a new use or a change of use". Again, the omitted words are no longer necessary given the new global definition of "use" in clause 7 (a). It is similarly the case for a couple of the other amendments: No 67 substitutes a clause 181 (2) (d) of the bill to clarify that the development approval does not end because the relevant lease is surrendered; and amendment No 68, which was a companion amendment to amendment No 62.

Finally, amendment No 69 substitutes clause 181 (3) of the bill to clarify when development approvals end. The clause clarifies that, when a development approval is granted that covers multiple uses, the requirement for commencement of the use within two years is satisfied if just one of the approved uses is commenced. If there is only one use allowed under the development approval and the use is not begun within the two years of approval, the development approval ends at the end of that two-year period. If more than one use is allowed under the development approval, and none of the uses have begun within the two-year approval, the development approval ends at the end of the two-year period.

Amendments agreed to.

Clause 181, as amended, agreed to.

Clause 182.

MR SESELJA (Molonglo) (8.28): I will be opposing this clause *[see schedule 2 at page 2099]*. It relates to end of development approvals for use. We do not think that concept should be in the bill.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.28): I move amendment No 70 circulated in my name *[see schedule 1 at page 2065]*.

This is a companion amendment to amendment No 62. It inserts a new note in clause 182 (2) of the bill and clarifies that a development approval does not end when building work is completed within the required statutory period.

Amendment agreed to.

Clause 182, as amended, agreed to.

Proposed new clause 182A.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.29): I move amendment No 71 circulated in my name *[see schedule 1 at page 2065]*.

This amendment inserts a new clause 182A in the bill to confirm that a development approval persists indefinitely unless it ends in accordance with the circumstances specified in clauses 179 to 182 of the bill. This clause puts the effect of those provisions beyond any doubt.

MR SESELJA (Molonglo) (8.29): I move amendment No 8 on the blue sheet, which amends Mr Barr's amendment No 71 *[see schedule 3 at page 2102]*.

Amendment No 8 on the blue sheet omits proposed new clause 182A (1) (c) and (d).

Amendment No 8 negatived.

Amendment No 71 agreed to.

Proposed new clause 182A agreed to.

Clauses 183 and 184, by leave, taken together and agreed to.

Clause 185.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.30): I move amendment No 72 circulated in my name *[see schedule 1 at page 2065]*.

This amendment will substitute a new clause 185 (2) to provide that the clause does not apply to the refusal of the development application to which division 9.4.2—varying concessional leases to remove concessional status—applies if the minister decides that considering the application is not in the public interest, as well as a refusal of an application in the code track. Thus the reconsideration process cannot be used to reassess the refusal of a development application if that refusal was required because of a decision by the minister under clause 253, and that the removal of the concessional status from the lease is not in the public interest. This amendment should be read in conjunction with previous amendment No 45 and forthcoming amendments Nos 99 and 115.

Amendment agreed to.

Clause 185, as amended, agreed to.

Clause 186 agreed to.

Clause 187.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.32):

I move amendment No 73 circulated in my name *[see schedule1 at page 2065]*.

This amendment will insert a new clause 187 (2) (a) to clarify that the ACT Planning and Land Authority may reconsider an original decision only to the extent that the development proposal approved or refused in the original decision, or part of the original decision, is subject to a rule and does not comply with the rule or is not subject to a rule. This is consistent with the approach to the AAT review in revised clause 120 from previous amendment No 30.

Amendment agreed to.

Clause 187, as amended, agreed to.

Clauses 188 to 192, by leave, taken together and agreed to.

Clause 193.

MR SESELJA (Molonglo) (8.33): I move amendment No 8 circulated in my name *[see schedule 2 at page 2099]*.

Amendment No 8 would omit "or section 198" on page 51, line 15, from clause 193 (7). This is in line with previous discussions about use of development.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.33): Again the government will not be supporting this amendment.

Amendment negatived.

Clause 193 agreed to.

Clause 194.

MR SESELJA (Molonglo) (8.34): I seek leave to move amendments Nos 9 and 10 circulated in my name together.

Leave granted

MR SESELJA: I move amendments Nos 9 and 10 circulated in my name together *[see schedule 2 at page 2099]*.

Amendment No 9, which is a minor amendment, will omit "134 and s" from clause 194 (4). Amendment No 10 will omit clause 194 (6) on page 52, line 19 and substitute:

> (6) To remove any doubt, this section does not apply to development that is lawful because of section 195 or section 197.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.34):

In a similar vein, the government will not be supporting these amendments. I will move amendments of my own shortly.

Amendments negatived.

Clause 194 agreed to.

Clauses 195 and 196, by leave, taken together and agreed to.

Clause 197.

MR SESELJA (Molonglo) (8.35): I move amendment No 11 circulated in my name *[see schedule 2 at page 2099]*.

In line with previous recent amendments, this minor amendment will omit the heading and substitute "Development lawful when begun".

Amendment negatived.

MR SESELJA (Molonglo) (8.36): I move amendment No 12 circulated in my name *[see schedule 2 at page 2099]*.

This amendment will remove ", other than a development that is continuing a use,". The amendment, which is in line with other amendments, will remove any reference to use as a development.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.36): Again the government will not be supporting this amendment but I will be moving amendment No 74 shortly.

Amendment negatived.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.37): I seek leave to move amendment No 74 circulated in my name.

Leave granted.

MR BARR: I move amendment No 74 circulated in my name *[see schedule 1 at page 2065]*.

This amendment will revise clause 197 (1) (a) by omitting the word "continuing". The omitted word is no longer necessary, given the new global definition of "use" in clause 7 (a).

Amendment agreed to.

Clause 197, as amended, agreed to.

Clause 198.

MR SESELJA (Molonglo) (8.38): I will be opposing this clause, in line with all our other amendments regarding use of development *[see schedule 2 at page 2099]*.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.39): I move amendment No 75 circulated in my name *[see schedule 1 at page 2065]*.

This amendment, which will amend clause 198 (1), is a minor clarification of wording. This clarification was needed because of the new global definition of "use" in clause 7 (a). However, there is no substantive change.

Amendment agreed to.

Clause 198, as amended, agreed to.

Clauses 199 to 204, by leave, taken together and agreed to.

Clause 205.

DR FOSKEY (Molonglo) (8.39): I will be opposing this clause. Mr Speaker, sometimes it is a good idea for you to look up. Even though we are not on the cheat sheet we often have something to say.

MR SPEAKER: All you have to do is call out.

DR FOSKEY: The Greens believe that clause 205 is another area where too much discretionary power is being vested in the minister. Similar powers have been abused in other jurisdictions where out-of-date studies, which only marginally address the contemporary development proposal, have been used as justification for fast-tracking development approvals. This clause presumes that the planning minister either possesses or will call upon sufficient environmental expertise to make a competent decision as to whether an EIS is sufficiently comprehensive and up to date.

This function should divulge the appropriately qualified surviving staff of the environment minister, but it does not. It is vested in the planning minister, who will make a decision under section 205 without any regulatory guidance and without any AAT appeal rights to temper his or her judgement. This provision is not out of place in this legislation, but again it should be safeguarded by checks and balances, appeal rights, committee referrals and open standing appeal rights provisions.

There should be an obligation on the minister to provide a statement of reasons. This is nothing more than he or she would have had to produce if the legality of the decision was challenged in the Supreme Court under the Administrative Decisions (Judicial Review) Act. It would reassure the community that the decisions were taken with due regard to all relevant considerations, and that the relationship between the proposed development and the previous study was legitimate.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.41): I move amendment No 76 circulated in my name *[see schedule 1 at page 2065]*.

This amendment revises clause 205 to clarify that the approval referred to is a development approval, and to ensure that the wording is more consistent with the rest of the bill. In relation to Dr Foskey's comments, I understand in negotiations with my office that we indicated we would be prepared to accept an amendment that the minister would be obliged to table reasons under this clause. I am happy to investigate that perhaps at a later revision of the bill if the Greens are still interested in pursuing it. At this point I stick by the amendment that I have moved.

Amendment agreed to.

Clause 205, as amended, agreed to.

Clause 206 agreed to.

Clause 207.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.43): I move amendment No 77 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 77 will revise clause 207 (3) to define a consultant as a person who meets the criteria prescribed in the regulation. The authority may require a proponent to engage such a consultant. Amendment No 77 has a companion amendment, amendment No 121, which will substitute a new clause 417 (2) (c) in the bill which provides for a regulation in connection with the keeping of the list of consultants by the authority. The authority is to maintain a list of consultants who meet the prescribed criteria. This amendment departs from the bill which provided for the list itself rather than the criteria for inclusion to be in the regulation. I believe that the revised approach is more flexible and more transparent.

Amendment agreed to.

Clause 207, as amended, agreed to.

Clauses 208 to 210, by leave, taken together and agreed to.

Clause 211.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.44): I move amendment No 78 circulated in my name *[see schedule 1 at page 2065]*.

This amendment will omit clauses 211 (2) and (3) for the public consultation period for a draft EIS. These clauses will be replaced by a new clause 211A, which will be dealt with in amendment No 79.

Amendment agreed to.

Clause 211, as amended, agreed to.

Proposed new clause 211A

MR BARR (Molonglo-Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.34): I move amendment No 79 circulated in my name *[see schedule 1 at page 2065]*.

This amendment will insert a new clause 211A.

Proposed new clause 211A agreed to.

Clause 212.

MR BARR (Molonglo-Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.45): I move amendment No 80 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 80 will insert new clauses 212 (2A) and (2B), which will allow the authority to extend the public consultation period for a draft EIS and specify the notification requirements. If the authority extends the public consultation period pursuant to new clause 211A, the authority must give written notice of that to the proponent of the development proposal. Section 151B of the Legislation Act 2001 applies to require the authority to tell the proponent of any extension as soon as possible.

Amendment agreed to.

Clause 212, as amended, agreed to.

Clause 213 agreed to.

Clause 214.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.46): I seek leave to move amendments Nos 81 and 82 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 81 and 82 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment No 81 will insert a new note in clause 214 (1) which refers to the fact that the public consultation period of the draft EIS may be extended under clause 212A. This is simply a cross-reference note to facilitate a reading of the bill. Amendment No 82 will omit clause 214 (4), which limits the definition of "public

consultation period" for a draft EIS to the clause. New clause 211A will remove the need for this clause.

Amendments agreed to.

Clause 214, as amended, agreed to.

Clauses 215 to 219, by leave, taken together and agreed to.

Clause 220.

DR FOSKEY (Molonglo) (8.48): I will be opposing this clause. One justification that my office was given for the inclusion of this provision was that it was impractical for the minister to present every EIS to the Assembly. Again, this is a "trust me" clause. There is no guidance on which EISs the minister should present to the Assembly. This clause goes together with the general downgrading of public input and participation in the EIS process. There appears to be no provision for interested parties and ecological experts to challenge or query the adequacy or accuracy of completed EISs, remembering that proponents produce EISs.

The last stage at which the public can comment is while the EIS is still a draft. This is yet another shortcoming of this bill. What appears to be insignificant to one person, say an ACTPLA planning expert, may be recognised by another person as a critical ecosystem. Ecological processes are often so complex and so poorly understood that only one researcher might recognise a critical relationship between ecosystem components that will be adversely impacted by a development proposal. For example, how many people in the ACT are experts on the corroboree frog?

The assessment of environmental impacts is one area where the broadest possible range of expertise should be actively canvassed. It is arrogant, ignorant and presumptuous to assume that the planning agency and the minister's office have sufficient ecological expertise consistently to make sound judgements about the environmental ramifications of development proposals.

This clause, which is an example of a recurring fault in the legislation and which is based on a "trust us" approach, demonstrates that ACTPLA and the government have not been listening to the feedback that has been consistently offered by the community. Once lost, trust is hard to win back and it has to be earned by actions and not words. Since the PALM days the message has been that the planning authorities are failing adequately to engage with the community, that they are not communicating well with people who are adversely affected by inappropriate developments, and that there are perceptions of pro-development bias and capricious and inconsistent decision making.

The most blatant example is in East O'Malley, where ACTPLA and the government apparently decided that the environmental impact of destroying some of the last remaining yellow box and red gum grassy woodland ecosystem did not amount to a significant environmental impact. Molonglo Valley contains other examples of these ecological communities, and I am not at all certain whether the ACT's planning authorities have the expertise competently to assess the value of these assets.

Decisions about environmental impact assessments such as this should be properly taken by an agency that has responsibility for and expertise on ecological matters. Unfortunately, the ACT's ecological expertise took a heavy hit in the last budget, as the Costello report apparently found that we could not afford to maintain such an unprofitable function at its previous level. This legislation moves in the opposite direction. It takes power away from other agencies, boards and community organisations and centralises it with ACTPLA and the planning minister.

Many people in the community who speak out and take exception to developments do so because they have the kind of expertise that we are talking about. They may be bird lovers, as in the case of East O'Malley. The minute community activists speak out they are often seen as pests. This legislation is a salutary case study of an exercise in empire building.

MR SESELJA (Molonglo) (8.52): Whilst I disagree with much of what Dr Foskey said, I have some sympathy for her position on this. I would like to hear a bit more from the minister, specifically why it would be burdensome for him to have to present each of these EISs to the Assembly.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.52): I am pleased to be able to provide that information. Essentially, it comes down to consideration by the Assembly, and it is dependent on available sitting days, sitting patterns and available times. So the impact track process could not continue while the EIS was awaiting consideration by the Assembly.

For example, during the recent winter recess, when we did not sit for about 10 weeks, there would have been significant delays to that process. It would certainly work against the overall desire for these reforms to create a simpler and faster planning process. That is why the government believes what is currently in place is the best way forward.

DR FOSKEY (Molonglo) (8.53): Has the minister considered using the Standing Committee on Planning and Environment as it exists in between Assembly sittings?

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.53): No, I had not considered it at this point but I am happy to look at it in a subsequent review of the legislation. I will not be making amendments on the run tonight but I am happy to consider those issues in the fullness of time.

MR SESELJA (Molonglo) (8.54): I think that issue could be considered in the future. As it stands, I accept the minister's explanation and will not be opposing the clause.

Clause 220 agreed to.

Clauses 221 to 225, by leave, taken together and agreed to.

Proposed new clause 225A.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.54): I move amendment No 83 circulated in my name *[see schedule 1 at page 2065]*.

New clause 225A, which is about recovery of inquiry panel costs, provides that the direct and indirect costs to the territory of the conduct of an inquiry about an EIS are recoverable from the proponent of the bill and the proposal to which the EIS relates.

Proposed new clause 225A agreed to.

Clause 226.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.55): I move amendment No 84 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 84 will omit the definition of "nominal rent lease" from clause 226. Nominal rent lease is now defined in the bill's dictionary because the term is not limited to chapter 9.

Amendment agreed to.

Clause 226, as amended, agreed to.

Clause 227.

DR FOSKEY (Molonglo) (8.56): I will be opposing this clause. The Greens consider that only not-for-profit community organisations should be eligible recipients for concessional leases, and that is a view we share with ACTCOSS. Although we are not proposing any amendments today, this is one area I would be keen to revisit when the Assembly next amends the legislation.

Although it may be the government's intention that only not-for-profit organisations receive such leases, that is not spelt out in the legislation. There should be clear non-profit tests which should be upheld at each change of hands or lease variation. ACTCOSS has a lot more to say about this aspect of the legislation in its submission to the inquiry of the Standing Committee on Planning and Environment, and I commend its paper to the Assembly.

On the positive side, there have been some definite areas of improvement, such as ensuring that land with a concessional lease cannot be sold off for profit. We have seen what happens when this goes wrong, as in the case of Koomarri and the Narrabundah Long Stay Caravan Park, which is costing the ACT government and the Canberra community millions of dollars to rectify.

It would be nice if this legislation could go through a more negotiated process. I understand that the government and ACTPLA concur with some of my proposals and my officers' proposals. If this process were slowed down even this week, some of those proposals could be taken on board before the commencement of the bill.

MR SESELJA (Molonglo) (8.58): I will not be opposing this clause. In relation to the points made by Dr Foskey, in the vast majority of cases only non-profit organisations would be eligible. However, there should be some flexibility in issues such as aged care where there is a real community need. The fact that a profit is involved should not necessarily prevent a concessional lease from being granted. If it is a profit-making exercise that would affect the government's consideration of how much of a concession to grant. Sometimes there is strong community interest in granting concessional leases to organisations other than non-profit organisations.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.58): I move amendment No 85 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 85 will provide clarification that a concessional lease does not include a lease granted to the territory. This exemption is necessary because leases are granted to the territory for less than market value and would otherwise come within the definition of "concessional lease", which is not intended. I take on board the comments made by both Dr Foskey and Mr Seselja on this issue. I am sure this is an area about which we can have some further discussions in the months and years ahead.

Amendment agreed to.

Clause 227, as amended, agreed to.

Clause 228.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (8.59): I move amendment No 86 circulated in my name *[see schedule 1 at page 2065]*.

This purely technical amendment will delete clause 228. The intention of this clause has been dealt with in other parts of chapter 9 and will be dealt with in amendments that I will move shortly.

Amendment agreed to.

Clause 228 negatived.

Clauses 229 and 230, by leave, taken together and agreed to.

Clause 231.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.00): I move amendment No 87 circulated in my name *[see schedule 1 at page 2065]*.

For the benefit of Mrs Dunne, this and a number of amendments that follow substitute the words "direct grant" with the words "direct sale" in various clauses of the bill. It is

to modernise language and to reflect the government's housing affordability strategy. I will not speak to the subsequent amendments to which this applies.

MR SESELJA (Molonglo) (9.01): On behalf of Mrs Dunne and the Liberal Party, I thank the minister for moving the amendment.

Amendment agreed to.

Clause 231, as amended, agreed to.

Clause 232 agreed to.

Clause 233.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.01): I seek leave to move amendments Nos 88 and 89 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 88 and 89 circulated in my name together *[see schedule 1 at page 2065]*.

These are the "direct sale" amendments.

Amendments agreed to.

Clause 233, as amended, agreed to.

Clause 234.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.02): I move amendment No 90 circulated in my name *[see schedule 1 at page 2065]*.

Amendment agreed to.

Clause 234, as amended, agreed to.

Clause 235.

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 91 and 92 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 91 and 92 circulated in my name together *[see schedule 1 at page 2065]*.

These are a continuation of the "direct grant" to "direct sale" amendments.

Amendments agreed to.

Clause 235, as amended, agreed to.

Clause 236.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.03): I move amendment No 93 circulated in my name *[see schedule 1 at page 2065]*.

This is another "direct grant" to "direct sale" amendment.

Amendment agreed to.

Clause 236, as amended, agreed to.

Clauses 237 and 238, by leave, taken together and agreed to.

Clause 239.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.04): I seek leave to move amendments Nos 94 and 95 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 94 and 95 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment 94 revises clause 239 (2) (a) of the bill to amend the language of the provision to refer to a rental lease, because that is the term used in the bill and defined in clause 226 of the bill, by looking at definitions in chapter 9. Subclause (1) of clause 239 does not apply to a rental lease that is granted for the full market value of the lease.

Amendment 95 modifies clause 239 of the bill by inserting new subclauses (3) and (4). New subclause (3) states that an entity pays an amount that is not less than the market value if the total monetary component and the works component is not less than the market value. This clause clarifies that market value payment for a lease can be comprised of money and infrastructure or other works, provided that the total value of these items is equivalent to market value. This recognises that leases are occasionally granted where payment is by way of both money and in-kind services or works.

Amendments agreed to.

Clause 239, as amended, agreed to.

Clause 240.

MR SESELJA (Molonglo) (9.06): I move amendment No 14 circulated in my name *[see schedule 2 at page 2099]*.

This is in line with our earlier omissions in relation to use as development.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.06): The government will be opposing this amendment, and I will be moving amendment 96 shortly.

Amendment negatived.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.07): I move amendment No 96 circulated in my name *[see schedule 1 at page 2065]*.

Amendment 96 revises clause 240 (2) and (3) of the bill to specify that land may also be used for a home business as defined in new subclause (3) if the lease is a residential lease. Residential leases can be used for a home business, even if this is not a purpose authorised in the lease. New subclause 240 (3) defines "home business" as a profession, trade or other occupation carried out on the relevant land that is subject to a residential use by a resident of the land. This definition is aligned with the current definition of "home business" in the territory plan and the restructured territory plan.

The bill refers to concepts of home business and home occupation, the meaning of which is defined in regulation. Both can be undertaken on a residential lease, notwithstanding that the use is not authorised by the lease. Home occupation does not require a development approval but home business does. Amendments to clause 240 achieve the same result but in a more transparent manner. "Home business" is now defined in the bill rather than in the regulation. The concept of home occupation is to be replaced by an exemption regulation that exempts low-impact home business from requiring development approval. Other types of home businesses will require a development approval.

Amendment agreed to.

Clause 240, as amended, agreed to.

Clauses 241 to 245, by leave, taken together and agreed to.

Proposed new clause 245A.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.10): I move amendment No 97 circulated in my name *[see schedule 1 at page 2065]*.

This amendment inserts new clause 245A into the bill to specify that the territory must not transfer a lease if the territory is the registered proprietor of the lease. This is to prohibit the transfer of leases where the territory is the registered proprietor. This prohibition is to underline current practice which is to issue such leases with a condition that they not be transferred.

Proposed new clause 245A agreed to.

Clause 246.

MR SESELJA (Molonglo) (9.11): I move amendment No 15 circulated in my name *[see schedule 2 at page 2099]*.

Amendment No 15 relates to use as development. It seeks to amend clause 246 (2) by inserting, after "of the land", "for the same purpose".

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.11): As we have resolved this issue, the government will not be supporting Mr Seselja's amendment.

Amendment negatived.

Clause 246 agreed to.

Clause 247.

MR SESELJA (Molonglo) (9.12): We oppose clause 247 because we see it as being unnecessary for the reasons spelt out before *[see schedule 2 at page 2099]*.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.12): The government will be supporting this clause, for reasons that are exactly opposite what Mr Seselja has just outlined ever so briefly.

Clause 247 agreed to.

Clauses 248 to 251, by leave, taken together and agreed to.

Clause 252.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.13): I move amendment No 98 circulated in my name *[see schedule 1 at page 2065]*.

Amendment 98 substitutes a new clause 252 in the bill to clarify that division 9.4.2, the varying concessional leases to remove concessional status division, applies if the application to vary a concessional lease includes a proposal to remove its concessional

status. The purpose of this amendment is to ensure that the meaning of the clause is clear.

Amendment agreed to.

Clause 252, as amended, agreed to.

Clause 253.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.14): I move amendment No 99 circulated in my name *[see schedule 1 at page 2065]*.

Amendment 99 substitutes a new clause 253 into the bill. It makes a new provision that the minister must not decide a development application to vary a lease to remove its concessional status unless the minister decides whether it is in the public interest to do so. New subclause 253 (2) sets out what the minister must consider in deciding whether it is in the public interest to consider the application and the minister must give notice of the decision to the planning and land authority. The decision of the minister as to the public interest is not subject to merit review at the AAT. Amendment 115 deals with that. Amendment 99 should be read in conjunction with previous amendments 45 and 72 and forthcoming amendment 115.

Amendment agreed to.

Clause 253, as amended, agreed to.

Clauses 254 and 255, by leave, taken together and agreed to.

Clause 256.

MR SESELJA (Molonglo) (9.16): We will be opposing this clause, for the reasons stated earlier. It relates to use as development *[see schedule 2 at page 2099]*.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.16): The government will be supporting clause 256, use as development, for the reasons stated earlier.

Clause 256 agreed to.

Clause 257 agreed to.

Clause 258.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.17): I move amendment No 100 circulated in my name *[see schedule 1 at page 2065]*.

Amendment 100 revises clause 258 (2) (b) of the bill to insert the words "eligible person" at line 20 after the word "lessee". This corrects a minor omission in the existing wording.

Amendment agreed to.

Clause 258, as amended, agreed to.

Clauses 259 to 262, by leave, taken together and agreed to.

Clause 263.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.19): We oppose the clause *[see schedule 1 at page 2065]*.

Clause 263 negatived.

Clauses 264 to 268, by leave, taken together and agreed to.

Clause 269.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.20): I move amendment No 102 circulated in my name *[see schedule 1 at page 2065]*.

Amendment 102 inserts a new clause 269 (3) in the bill to specify that the clause does not apply to a variation of a nominal rent lease if the only effect of the variation would be to alter a common boundary between two or more adjoining leases, the land in each adjoining lease is leased for the same purpose and none of the adjoining leases is a rural lease. These are minor variations that do not significantly affect the aggregate value of the leases involved. As such, it is not appropriate for a change of use charge to apply.

Amendment agreed to.

Clause 269, as amended, agreed to.

Clauses 270 to 280, by leave, taken together and agreed to.

Clause 281.

DR FOSKEY (Molonglo) (9.21): I am concerned about the definition of improvement, especially in relation to land held under a rural lease. The definition is "any improvement to the land reasonably undertaken for rural purposes". This definition has been carried over from the land act, which dates back to 1925. For a start, it is self-referential to define an improvement as an improvement. We have not learnt anything from that definition.

More importantly, historically, improvements to rural land have involved activities like land clearing which these days would no longer be automatically seen as an improvement. In my opinion, especially in the ACT where we have so little of it, clearing of remnant native vegetation would represent serious ecological vandalism. This clause does not make it clear that this type of activity is unacceptable. The other part of the problem is that this part of the bill, 9.8, also makes the territory automatically liable for paying the lessee compensation for these so-called improvements if or when the lease expires. Given that each lease already contains a provision in it with specific reference to that piece of land and its purpose, I cannot see any reason for keeping an out-of-date fallback clause in the act.

I also understand there have been departmental discussions around this definition and that there could be agreement on a more refined definition, so that it read something like "any earthworks, planting or other work that affects the landscape of the land that is reasonably undertaken for rural purposes", which I would be happy to support. It has been pointed out that land clearing is already prohibited or regulated through the terms of the lease, the land management agreement and other approval requirements. However, I cannot see why that should preclude an out-of-date definition from being revised to ensure greater clarity and consistency on such an important issue.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.24): The government would be quite happy to support an amendment from the Greens along the lines that Dr Foskey has just read out. So if Dr Foskey would like to move such an amendment, I will happily support it.

Dr Foskey: I would move it now but I—

MR SPEAKER: We really need to have something circulated.

Dr Foskey: Yes. I would rather think a little more about that definition. That was just a proposed definition.

MR SPEAKER: You would not be interested in doing that later on?

Dr Foskey: I could do it later on. Do you want it tonight?

MR SPEAKER: Yes.

Dr Foskey: I could do it now. It would certainly be an improvement on the current definition.

MR SPEAKER: We really need to have it written and circulated.

Dr Foskey: Okay. Let us do that.

MR SPEAKER: At the end of the bill you can ask for this clause to be resubmitted.

Dr Foskey: I am sure everyone will be delighted!

Mr Barr: I am happy with that. I have the words written down here but they are not quite in a—

Dr Foskey: You have it? You can move it then.

MR SPEAKER: We can sort it out between now and the end of the bill.

Mr Barr: At the end of it, yes.

Dr Foskey: Okay.

Clause 281 agreed to.

Clauses 282 to 290, by leave, taken together and agreed to.

Clause 291.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.26): I oppose the clause *[see schedule 1 at page 2065]*.

MR SESELJA (Molonglo) (9.26): We will be opposing clause 291. As I identified in my speech during the in-principle debate, this is an outdated clause. It was certainly highlighted during the hearings of the planning and environment committee. It simply makes it unlawful to exercise everyday transactions. It is unfortunate that it has been in here for so long. I was surprised to see it in the draft bill. I believe that, from memory—and Mr Gentleman might be able to help me out here—one of the recommendations made by the planning and environment committee was to remove this clause. So I welcome the fact that it is being removed. As I stated in my earlier speech, it was of concern to me that the former minister thought, when it was raised with him, that it was something he would consider enforcing. So I am glad that the government has moved from that extreme position to removing this clause, and we will also be opposing it.

Clause 291 negatived.

Clause 292.

MR SESELJA (Molonglo) (9.28): We will no longer be opposing this clause but I flag that we will be opposing the amendment.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.28): I seek leave to move amendments Nos 104 to 106 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 104 to 106 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment 104 revises clause 292 to preserve the anti-speculative objective of the former section 291 in a more flexible way. Provision is made to clarify what is meant by "personal reasons" which will be prescribed by regulation and to specify what comprises "financial reasons". These matters are key considerations for the authority when deciding whether to give consent to the transfer of undeveloped land. This amendment is one of a set of amendments that will make it possible to consolidate debt where borrowings are secured against an undeveloped lease. However, lessees must be more accountable and take responsibility to ensure such borrowings are appropriately used to comply with the building and development provisions of their lease.

An application for consent to transfer an undeveloped lease in circumstances where this does not occur will only receive favourable consideration where the reason given is to meet the requirements of revised section 292. Where consent to transfer is refused, the lessee will be required to surrender their lease and may be entitled to receive a refund.

Amendment 104 also revises clause 292 by providing the authority with the ability, when deciding whether to consent to transfer on an undeveloped lease, to consider any major unforeseen event that occurs after the purchase of the lease and that has a demonstrated effect on the lessee's ability to comply with the building and development provisions. One example of such an event would be a major bushfire.

Amendment 105, which is a companion amendment, provides examples of unforeseen major events, as detailed in amendment 104. It is one of a set of amendments to clause 292 intended to preserve the anti-speculative objective of the former section 291 in a more flexible way.

MR SESELJA (Molonglo) (9.30): We will be opposing this amendment. I would flag that the entirety of clause 292 is something that the opposition may well come back to. We are not convinced that this is necessarily needed in order to achieve the anti-speculative aims. My concern with this, once we had our briefing, was in relation particularly to some of the notes and some of the descriptions we were given. It seems that the authority is being called upon to make some sort of moral judgement as to whether the person, through their own actions or otherwise, came to have financial hardship. So that is certainly of concern to us. We do not see that the authority should be making those kinds of judgements in relation to the transfer of land, and that is why we are opposing the amendments.

Amendments agreed to.

Clause 292, as amended, agreed to.

Clauses 293 to 298, by leave, taken together and agreed to.

Clause 299.

MR SESELJA (Molonglo) (9.32): I move amendment No 18 circulated in my name *[see schedule 2 at page 2099]*.

Amendment negatived.

Clause 299 agreed to.

Clauses 300 to 311, by leave, taken together and agreed to.

Clause 312.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.33): I move amendment No 107 circulated in my name *[see schedule 1 at page 2065]*.

Amendment 107 will substitute a new clause 312 that clarifies the meaning of "proponent" and includes a new definition of "technical variation" of a plan of management. This type of variation includes correction of a minor error in a geographical description of a boundary, updates of references to territory laws, and updates of references to an administrative unit or other territory entity.

Amendment No 107 has as its companion amendments Nos 108 and 109. Amendment No 108 will revise clause 315 to clarify that that clause applies to variations and plans of management other than technical variations, and amendment No 109 will insert a new clause 324A to specify how a technical variation of a plan of management may be made, when a technical variation commences, and how it is publicly notified.

Amendment agreed to.

Clause 312, as amended, agreed to.

Clauses 313 and 314, by leave, taken together and agreed to.

Clause 315.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.35): I move amendment No 108 circulated in my name *[see schedule 1 at page 2065]*.

Amendment agreed to.

Clause 315, as amended, agreed to.

Clauses 316 to 324, by leave, taken together and agreed to.

Proposed new clause 324A.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.35): I move amendment No 109 circulated in my name *[see schedule 1 at page 2065]*.

This amendment will insert a new clause 324A.

Amendment agreed to.

Proposed new clause 324A agreed to.

Clauses 325 to 369, by leave, taken together and agreed to.

Clause 370.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.36): I seek leave to move amendments Nos 110 to 113 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 110 to 113 circulated in my name together *[see schedule 1 at page 2065]*.

Amendment No 110 and its companion amendments Nos 111, 112 and 113 will amend various clauses, commencing with clause 370 (3) (b), to clarify that the authority may give a prohibition notice to an entity by which or on behalf of which an activity was, is being, or is to be conducted, or is likely to be conducted. "Entity" is defined under the Legislation Act 2001 and includes individuals, corporations, unincorporated associations and partnerships.

Amendments Nos 111, 112 and 113 make similar changes to clause 370 (4) (b) and (c), clause 370 (4) (f), and clause 370 (5) respectively to recognise that a prohibition notice may be issued to any entity.

Amendments agreed to.

Clause 370, as amended, agreed to.

Clauses 371 to 379, by leave, taken together and agreed to.

Clause 380.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.37): I move amendment No 114 circulated in my name *[see schedule 1 at page 2065]*.

This amendment will substitute a new clause 380 to specify that the authority may appoint a public servant, rather than a person, as an inspector. The authority can appoint inspectors but the appointee must be a public servant. The existing provision was considered to be possibly too open-ended in the relevant report of the Standing Committee on Legal Affairs performing the duties duties of a scrutiny of bills and subordinate legislation committee.

Amendment agreed to.

Clause 380, as amended, agreed to.

Clauses 381 to 399, by leave, taken together and agreed to.

Clause 400.

MR SESELJA (Molonglo) (9.38): I move amendment No 19 circulated in my name *[see schedule 2 at page 2099]*.

This amendment and amendments Nos 20 and 21 relate to third party appeals and who is eligible to appeal against a decision. I am moving these amendments for the reasons I gave in an earlier speech. The government has moved some way and there have been some improvements in this area but we believe that a hole remains. Essentially, this amendment seeks to plug that hole. Because of the order in which we are dealing with these clauses the description of how these appeals work appears to be going backwards. Amendment No 19 will omit the definition of "eligible entity" and replace it with:

> (a) means an entity mentioned in schedule 1, column 4 in relation to the decision; and
>
> (b) includes any entity declared to be an eligible entity for the decision under section 403A.

To explain the rationale for that we are saying that the definition of "material detriment" as it relates to organisations essentially allows any organisation to gain a standing through its terms of reference or its articles of association, which is a matter of concern. Essentially, groups would be set up specifically to have a standing in development applications and development appeals.

That could apply to existing groups that have broad terms of reference, or to groups such as Canberrans for better planning, Canberrans against development, or residents against multi-unit developments. The kinds of groups that could be set up would be mind boggling. It is of concern to me that these kinds of groups could be allowed to stifle and frustrate development for no legitimate purpose.

This could apply in a number of ways. It could apply to existing groups which may have been formed in good faith but which, in my opinion, should not necessarily have standing simply because they have broad terms of reference, because they are anti-development, or because they happen to have terms of reference that apply to a particular development. Another significant area of concern is that commercial competitors could set up all sorts of organisations and use them to challenge developments. I will refer to that issue in subsequent amendments.

Essentially, this is what I have put into the definition of "eligible entity" to ensure that in some circumstances groups can be granted standing by the minister. We do not want ridiculous front groups or groups that oppose every development to be able to get standing as they can under current legislation. By closing that loophole we will enable the minister, if it is seen as being in the public interest and if it is a significant issue of concern, to grant standing.

That does not mean the minister will be able to make a decision about whether or not it is a good or a bad development, although it applies in a similar sort of way.

Essentially, the minister would be saying, "There is significant public interest so this group will be allowed standing." I will come back to the rationale for subsequent amendments, but amendment No 19 will enable the minister to grant standing to groups in certain circumstances.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.43): Whilst the megalomaniac in me might be tempted to support Mr Seselja's amendment, I do not believe it would be an appropriate path. The government will be opposing amendments Nos 19, 20 and 21. As Mr Seselja indicated when speaking to these amendments, if passed they would significantly restrict the rights of third parties to appeal decisions of development approvals. The bill, as it stands, requires third parties to demonstrate that they would suffer material detriment from a proposed development in order to appeal a decision in the AAT.

For the purposes of community organisations, material detriment is established if the organisation can demonstrate that the proposed development is relevant to the objects and purposes of the organisation, which is consistent with current law. The proposed amendments retain the concept of material detriment but it would be fair to say that they radically reduce its scope. An organisation might be able to appeal on the basis that it may suffer adverse impacts on its use or enjoyment of the land, but this is not likely.

Effectively, if these proposed amendments were passed, community organisations would not be able to appeal decisions except with the permission of the minister. In effect, standing to appeal a decision will depend on a decision of the planning minister on whether or not it is in the public interest for an organisation to appeal a decision. Fundamentally, these amendments are inequitable because potentially they would shut out community organisations from the AAT, except with the leave of the minister.

I also believe that these amendments are impractical. The concept of public interest is not defined which, in itself, potentially will lead to unnecessary litigation on the decision of the Minister for Planning to grant standing. Another point that needs to be made is that these amendments cut directly across the jurisdiction of the AAT and represent a significant departure from the principle whether it is the courts that should determine issues of standing and non-executive government. This amendment cannot be supported.

Question put:

> That amendment No 19 be agreed to.

The Assembly voted—

Ayes 5		Noes 8	
Mr Mulcahy	Mr Stefaniak	Mr Barr	Mr Gentleman
Mr Pratt		Mr Berry	Mr Hargreaves
Mr Seselja		Mr Corbell	Ms MacDonald
Mr Smyth		Dr Foskey	Ms Porter

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) (9.49): I move amendment No 115 circulated in my name *[see schedule 1 at page 2065]*.

This amendment and related amendments apply to development applications to vary a lease to remove its concessional status. Amendment No 115 will substitute a new definition of "reviewable decision" to clarify that a reviewable decision does not include a decision by the minister under new clause 253, which we covered in amendment No 99, as to whether a development application is in the public interest, or a decision by the authority or the minister to refuse a development application under clause 158 of the bill, under the section deciding development applications, because the minister decides under new clause 253 that considering the application is not in the public interest. This amendment should be read in conjunction with amendments Nos 45, 72 and 99 with which we have previously dealt.

Amendment agreed to.

Clause 400, as amended, agreed to.

Clause 401 agreed to.

Clause 402.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.51): I move amendment No 116 circulated in my name *[see schedule 1 at page 2065]*.

This amendment will substitute new clause 402 (2) and (3) to specify that an application for review must be made within four weeks of notification of either a clause 171 or a clause 172 decision. The bill required applications for third party merit review in the AAT to be made within four weeks of the decision to grant a development approval.

This clause will amend that approach to make the four-week period run from the date the third party is notified of a decision to grant the approval. This is considered to be a fairer process and more consistent with processes in the Administrative Appeals Tribunal Act 1989, where the relevant periods, typically, run from the date of receiving notice of the decision.

Amendment agreed to.

Clause 402, as amended, agreed to.

Clause 403.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.52): I move amendment No 117 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 117 will insert a new note to clause 403 and omit clause 403 (2). The omission of this clause and the new note will clarify that ministerial decisions are not reviewable. The previous wording indirectly applied to the right to seek merit review in the AAT if a call-in matter was possible. This certainly is not the case. A call-in matter is not subject to merit review in the AAT.

Amendment agreed to.

Clause 403, as amended, agreed to.

Proposed new clause 403A.

MR SESELJA (Molonglo) (9.53): I move amendment No 20 circulated in my name *[see schedule 2 at page 2099]*.

This amendment will insert a new clause 403A. I broadly covered this amendment when I spoke earlier in debate on amendment No 19. As I said, this amendment will ensure that groups are not excluded from making applications to or lodging an appeal with the AAT. It was interesting to hear the minister state that that would trample on the review rights of the AAT when one of his amendments and some of the issues that we have been discussing relating to call-ins will do just that.

The minister was not prepared to do that in relation to west Belconnen; he got Mr Hargreaves to trample on the AAT's review rights. That is an interesting difference of opinion. It is all right for the minister to take away the right of residents to appeal to the AAT but he said that it would be some sort of breach of the separation of powers to grant them standing. I do not quite follow that logic. For that reason I call on all members to support my amendment.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.54): I will respond briefly to Mr Seselja's contribution.

Mr Smyth: Careful! I might respond to you.

MR SPEAKER: Order!

MR BARR: Coming from a former planning minister who called in many a development, that is a bit rich.

Mr Smyth: A very wise decision.

MR SPEAKER: Order!

MR BARR: I am sorry, Mr Speaker, I am allowing myself to be distracted. This highlights the important point that I have been making throughout this debate. Throughout this process the Liberal opposition moved a series of amendments that would make it difficult for the community and for community groups to be involved in the planning process.

The government sought to resist those amendments and to steer a clear middle path between the extreme position held by the Greens and the position held by the Liberals. It falls on the great Australian Labor Party to steer an effective middle course to ensure that we have a fine balance in our planning system. The government does not support the amendments moved by Mr Seselja as they would unfairly impinge on the right of community groups to have standing in these matters.

DR FOSKEY (Molonglo) (9.56): Through this amendment Mr Seselja seeks to make the already severely limited legal appeal rights to community organisations dependent on the personal whim of the relevant minister. It is good that it was rejected by the relevant minister. This amendment is to be read in conjunction with Mr Seselja's next amendment to clause 411, so I will save my comments on the combined effect of these amendments until we consider that clause.

MR SESELJA (Molonglo) (9.57): I thank the minister and Dr Foskey for their contributions but I do not think Mr Barr's Labor Party conference-style speech added much to our deliberations. The idea that the ACT Labor Party is anywhere near approaching a middle path is laughable. We could poll other Labor premiers to get their opinion on where the ACT Labor Party sits on the ideological spectrum.

Proposed new clause 403A negatived.

Clause 404 agreed to.

Clause 405.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.58): I move amendment No 118 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 118, which is a companion amendment to amendment No 15, will insert a new paragraph (aa) in clause 405 (5) to specify that a draft plan variation is a relevant document when assessing public information and security. A draft plan variation is added to the list of documents that may be withheld from publication for national security reasons.

Amendment agreed to.

Clause 405, as amended, agreed to.

Clauses 406 and 407, by leave, taken together and agreed to.

Proposed new clause 407A.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (9.58): I move amendment No 119 circulated in my name *[see schedule 1 at page 2065]*.

This amendment, which will insert a new clause 407A, is to clarify that the Planning and Land Authority, or an official, is not prevented from taking compliance action under chapters 11 and 12, simply because a development approval certificate of compliance or a certificate of occupancy under the Building Act 2004 has been issued in connection with the matter.

Proposed new clause 407A agreed to.

Clauses 408 to 410, by leave, taken together and agreed to.

Clause 411.

MR SESELJA (Molonglo) (10.00): I move amendment No 21 circulated in my name *[see schedule 2 at page 2099]*.

This completes the three amendments I am moving in relation to third-party appeals. It omits the definition of material detriment and replaces it with a new definition. The opposition is moving this amendment—I touched on it before but I restate it—because the way the government has it at the moment will still allow an abuse of the AAT review process. It will allow a large number of groups, for virtually any reason, to be able to appeal against decisions. This has a real impact upon the cost of housing, the cost of developments. These kinds of delays can cost a significant amount of money to those looking to develop land. That is our concern. It has been our concern for some time.

I am sure Mr Barr gets approached—I certainly get significant numbers of people in the industry—by people who get, often unreasonably, delayed by what are often, but not always, quite spurious appeals. We remember the late Mac Dickins, who would appeal against virtually everything that went on in Turner. I cannot be sure but I think Mr Smyth may well have had to call in some developments as a result of Mac Dickins. It certainly led to the call-in power being used a lot more.

It is a concern to us that there could be these kinds of appeals. It is very broad. It seems to go against what the government is trying to do in relation to third-party appeals, which is to more narrowly define them. You could drive a truck through this. I think any commercial operator could essentially frustrate a competitor through this clause, whether it be by a month, two months or six months. It can be in the interests of certain commercial competitors to do that. The way the government has it drafted at the moment is not good enough. It will leave a big hole. We have sought to plug that hole as best as possible.

It is clear that the government will not support these amendments. The government should look very closely at how these work once this commences. They should be prepared to look at these clauses again if there are these kinds of appeals. There is a

very strong likelihood that not only the commercial competitors but also groups that are simply anti development will be able to hold things up.

That feeds very much into the issue of housing affordability. When there are these unreasonable delays it is not necessarily the developer or the builder who suffers, it is often home buyers. If these delays occur across the territory it feeds into the price of buying an apartment or a home. That is a real concern to the Liberal Party and to the opposition. The government has not in any way got the balance right. That is why these amendments should be supported.

DR FOSKEY (Molonglo) (10.04): While I certainly agree with Mr Seselja that there can be vexatious interruptions to development, we also have to acknowledge that while they may seem vexatious to the person being held up, they may be very deeply felt by the person making that objection. That was probably the case with Mac Dickins. I do not think that concern about some of these people is felt just by developers; I think that there are community organisations that do not necessarily always stand behind some members in the community that do not do their cause well.

I have to speak very strongly about this amendment. With it, Mr Seselja seeks to do away with the appeal rights of community organisations. Apparently he wants to make their rights contingent on the whim of the minister of the day. We have heard Mr Seselja arguing that community groups should not be allowed to have standing to challenge inappropriate development proposals. This is a remarkable proposition for a representative of a party that purports to represent community interests, personal freedoms and small government.

What happened to his strong championing of the certainty of rights of property holders? It seems that not all rights are created equal, and democratic rights to participate in the planning process are not to be accorded the same value as the sanctity of property owners to do whatever they choose with their property regardless of the impact they may have on their neighbours, the environment or the community at large.

It seems that the Greens' concern about ministerial discretion is misplaced and antidemocratic when it applies to the amenity and rights of the broader community, but when individual property rights are the subject of ministerial discretion, it is an antidemocratic outrage.

The basis for Mr Seselja's opposition to legal redress for community groups is that bogus groups may form to oppose developments. As he has a forest activist background, I remind him of the so-called forest protection society. Think about Timber Communities Australia, which is actually funded by the National Association of Forest Industries. Yet it purports to represent the little folk.

These things are a real problem for everybody. Bogus groups will form if they see a gain in it. But there are ways to deal with that. Other jurisdictions provide powers for courts and tribunals to identify and strike out vexatious claims and to impose monetary penalties if they are warranted.

Some people drink and drive. But we do not think that everybody should be banned from driving. It is a nonsensical argument. As I said, I suspect it is merely a smokescreen because the opposition does not want to be on the record as saying that community groups, whose votes they need, should be prevented from pursuing their legitimate interests. But that is what they are saying. They should have to defend their position among the people they are seeking to disenfranchise. There are sanctions to discourage people from drink driving, and there should be sanctions to discourage people from bringing frivolous and vexatious legal actions under this legislation.

If the object of the legislation is to create a best practice system that enables legitimate community input into decisions that affect community amenity and environmental integrity, surely more elegant solutions which maximise the rights of legitimate stakeholders should be tried before effectively removing those rights by making them dependent on the minister's approval.

For instance Minister Hargreaves has described legitimate peak bodies as daytime offices of the Greens. He regularly denigrates other organisations who question his authority and judgement. Does anyone believe that if he were the planning minister he would grant such groups standing to appeal decisions made by his portfolio agencies? And what if the Liberals gain power? Does the government think that they would be able to transcend their ideological biases and grant standing to union groups, or groups which have former Labor Party members on their boards?

There is not even a requirement for the minister to justify his or her decision under this proposed section 403A. Standing should be a right and not a privilege, and certainly not a privilege to be disposed of at the whim of a partisan, political entity. What about all the hundreds of community groups that have been in existence for years? Is the Liberal Party saying that these groups have no legitimate right, independent of a minister's prejudices, to advocate on behalf of their members in support of the very objects that they were set up to champion?

If they have not already got a specific matter in their objects, does the Liberal Party think that they should be prevented from amending their objects clauses in order to gain standing under this legislation? Would he care to say this out loud at a community meeting? There will be plenty of opportunities for him to do so next year, and I cannot wait to hear the reaction.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.11): Very briefly, I concur with many of the views that Dr Foskey has just expressed. There might be a temptation not to grant standing to certain groups—I could think of some; the Exclusive Brethren would perhaps be at the top of my list—but it would not be appropriate for my personal prejudices, or those of any minister for planning, to come into play in this sort of way. The government will be opposing this amendment.

MR SESELJA (Molonglo) (10.11): I respond to some of Dr Foskey's apparent arguments. It is clear that Dr Foskey did not read the amendments or does not understand them. She talked about neighbours being prevented from appealing. Clearly this does not affect those whose use of their land is affected to have standing.

Clearly she has not read it. The drink-driving example is quite ridiculous. The idea that the right to appeal anything and everything is the same as the right to drive a car on the road does not stand up to any sort of scrutiny.

Dr Foskey talked about bogus groups. It is not just bogus groups; it is groups who, as I said in my earlier discussion, for whatever reason, even with good intent perhaps, are simply anti development and will seek to appeal against anything. As I say, Mac Dickins may well have been well-intentioned. But he caused a lot of frustration to many people. It is not just about bogus groups. There are a number of areas.

Dr Foskey talked about putting forward more elegant solutions. I find that quite extraordinary, given the number of clauses that Dr Foskey has got up and talked about. Without having anything to offer—amendments or otherwise—she is happy to occasionally say she does not like something. But Dr Foskey has offered about zero solutions.

Mr Barr: One.

MR SESELJA: One, Mr Barr tells me. But I think that was done very late. Nonetheless, I thank members for their contribution. I repeat: because of the way this has been drafted, there will be some issues for the government, for the development community and for first homebuyers as a result. It will lead to more delays than we need to see. I do not buy the argument that any group, simply because it is interested in it, has some sort of right to essentially—with no prospect of financial loss—be able to significantly hold things up.

I have never heard someone put to me a rational argument as to why that is an inherent right. It is legitimate for us to restrict that. Where people's enjoyment of their land is affected, we should be preventing it. In fact, this bill goes further than that and allows people whose enjoyment of public land is affected to have standing. There are protections.

I make one other point. It is interesting that the former planning minister has moved a long way on this. He used to believe that you should be able to have third-party appeals for any reason. He has moved some way since then and believes—since being in this place for some time and since becoming minister—that we should set broad frameworks in legislation and in the territory plan, and that we should debate the merits of many of these things ahead of time. That is why we have these rules. That is why we have these criteria. Often with these appeals they simply go over issues—debate policy and the merits—which have already been settled. There are reasons for restricting this. The government does not have the balance right. That is why we have moved these amendments.

Question put:

> That the amendment be agreed to.

The Assembly voted—

Ayes 4	Noes 7	
Mr Mulcahy	Mr Barr	Mr Gentleman
Mr Pratt	Mr Berry	Mr Hargreaves
Mr Seselja	Mr Corbell	Ms MacDonald
Mr Smyth	Dr Foskey	

Question so resolved in the negative.

Amendment negatived.

MR SESELJA (Molonglo) (10.20): I move amendment No 1 on the yellow sheet circulated in my name *[see schedule 4 at page 2103]*.

This amendment relates to material detriment, which we have just been discussing. This would prevent groups—after a decision is made in relation to a development—from being formed or altering their objects specifically to get standing. This is a reasonable amendment. It would simply prevent bogus claims—particularly by commercial competitors—being set up specifically for a development in order to gain standing. I do not think it is reasonable—I know Dr Foskey has already said that she thinks it is reasonable—to be able to form a group or change your objects simply to get standing for an appeal. We think this is an eminently reasonable amendment and that it should be supported.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.21): The government will not be supporting this amendment. Clause 411 allows community groups or organisations to make an appeal in the AAT if a decision to grant a development approval is relevant to the objects or purposes of the organisation. In this, the provision is essentially a continuation of the existing law. The ability for such community groups to appeal has not proved to be problematic to date.

Mr Seselja's amendment will have the effect of requiring community groups and other organisations to be in existence before a decision on a development approval is given, and for those organisations to have objects or purposes relating to that development approval also before the development approval is given. Such an amendment, if agreed, would impact adversely on groups of neighbours who might want to band together to challenge development approval and legitimately choose to form themselves into a small corporate structure. Such groups may challenge a decision and form themselves into an organisation only after the decision is made on the development approval.

Whilst the operation of this provision will be monitored to exclude the ability of groups or organisations to appeal in circumstances where third-party appeal rights exist it would be an unreasonable restriction on the right of people to form associations for a variety of purposes. It is also important to keep in mind that not all decisions to grant development approval are subject to third-party appeal at the AAT. Such third-party appeals can be exercised only where there is an opportunity to do so; for example, certain matters in the merit or impact tracks within the new assessment processes.

Community groups or organisations would still be subject to any general tests of frivolous or vexatious litigation. They will need to demonstrate how the decision relates to a matter included in the objects of the group or organisation. As with other appellants, such groups or organisations would not gain standing where it could be demonstrated that the purpose of their appeal was to gain or maintain commercial competitive advantage. For these reasons, the government will not be supporting Mr Seselja's amendment.

Amendment negatived.

Clause 411 agreed to.

Clauses 412 to 414, by leave, taken together and agreed to.

Proposed new clause 414A.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.24): I move amendment No 120 circulated in my name, which inserts a new clause 414A *[see schedule 1 at page 2065]*.

This amendment inserts a new general transitional provision, clause 414A, in the bill. The provision requires any outdated reference to the repealed Land (Planning and Environment) Act 1991, regulations made under the repealed act and things done under the repealed act to be read as references to the corresponding matters in the new Planning and Development Act 2006, assuming that there is a corresponding matter.

Proposed new clause 414A agreed to.

Clauses 415 and 416, by leave, taken together and agreed to.

Clause 417.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.25): I seek leave to move amendments Nos 121 and 122 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 121 and 122 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 121 is a companion amendment to amendment No 77. It substitutes a new clause 417 (2) (c) in the bill, which provides that a regulation may make provision for the keeping of a list of consultants. The intention is for the regulation to include criteria that consultants must satisfy to be included in the list of consultants to be kept by the authority.

Amendment No 122 inserts a new clause 417 (2) (g) to the bill to allow for regulations for controlled activities and enforcement. This new clause permits regulations to be made in connection with the processes involved in compliance actions under chapters 11 and 12 of the bill.

Amendments agreed to.

Clause 417, as amended, agreed to.

Clauses 418 and 419, by leave, taken together and agreed to.

Clause 420.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.27): I move amendment No 123 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 123 revises clause 420 (1) of the bill to allow transitional regulations for the Building Legislation Amendment Act 2007. The capacity to make regulations to deal with unforeseen transitional difficulties now applies to the Building Legislation Amendment Act as well as the Planning and Development Act 2006.

Amendment agreed to.

Clause 420, as amended, agreed to.

Clause 421 agreed to.

Clause 422.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.28): I move amendment No 124 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 124 substitutes clause 422 to omit clause 433A and clause 457 in chapter 15 from the general expiry date of the chapter of two years after the commencement date. This is because these clauses need to continue to operate beyond the two-year period and have their own peculiar expiry dates within each provision.

Amendment agreed to.

Clause 422, as amended, agreed to.

Clause 423.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.29): I move amendment No 125 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 125 modifies clause 423 (1) of the bill. It specifies that the territory plan referred to in this clause is the plan made for the purposes of clause 45 of the bill. This clause makes it clear that the territory plan referred to in clause 423 of the bill is the draft territory plan that is proposed to be made as the new territory plan.

Amendment agreed to.

Clause 423, as amended, agreed to.

Clause 424.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.30): I move amendment No 126 circulated in my name *[see schedule 1 at page 2065]*.

Amendment No 126 inserts in the bill a new clause 424 (1) (e) which specifies the transitional public consultation conditions for the territory plan. This new clause strengthens the existing requirements for preparation of the initial territory plan. The clause requires the authority to publish and consult on the draft territory plan after the commencement of this clause. The minimum period for public consultation is 15 working days. This requirement is in addition to the requirements in existing clause 424 (1) of the bill, the transition and public consultation on the territory plan clause.

Amendment agreed to.

Clause 424, as amended, agreed to.

Clauses 425 to 428, by leave, taken together and agreed to.

Proposed new clauses 428A and 428B.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.32): I move amendment No 127 circulated in my name *[see schedule 1 at page 2065]*.

This amendment inserts in the bill new clauses 428A and 428B to provide additional transition provisions for draft plan variations submitted to the minister under the repealed act—the Land (Planning and Environment) Act 1991—that are part complete at the time of the commencement of the Planning and Development Act. These new clauses cover additional scenarios not already addressed. Provisions such as these are intended to ensure that work done on draft variations prior to commencement is not wasted.

Proposed new clauses 428A and 428B agreed to.

Proposed new clause 428C.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.33): I move amendment No 128 circulated in my name *[see schedule 1 at page 2065]*.

This amendment inserts a new clause 428C into new part 15.2A to provide that upon commencement of the Planning and Development Act the planning strategy for the ACT will be the Canberra spatial plan and the sustainable transport plan. This clause ensures that on commencement of the new planning system there is a planning strategy for the ACT that is comprised of the ACT government's current strategic land use planning documents.

Proposed new clause 428C agreed to.

Clause 429 agreed to.

Clause 430.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.34): I move amendment No 129 circulated in my name *[see schedule 1 at page 2065]*.

This amendment inserts after the words "repealed Act" the words "(including the territory plan and any other instruments under the repealed Act)" in clause 430 (2) of the bill. The note clarifies that the repealed Land (Planning and Environment) Act 1991, the territory plan and other instruments made under the repealed land act continue to apply to development applications made before the Planning and Development Act takes effect.

Clause 430, as amended, agreed to.

Proposed new clause 430A.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.35): I move amendment No 130 circulated in my name *[see schedule 1 at page 2065]*.

This amendment inserts new clause 430A into the bill to provide transitional provisions for applications for review not finally decided. This transitional clause applies to development applications made prior to the commencement of the Planning and Development Act and which are still undecided at the time of commencement of the act. The new clause makes it clear that such applications must be decided in accordance with the repealed land act and the former territory plan and any other relevant subordinate instruments made under the repealed land act.

Proposed new clause 430A agreed to.

Clause 431.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.35): I will be opposing this clause *[see schedule 1 at page 2065]*.

Clause 431 negatived.

Clauses 432 and 433, by leave, taken together and agreed to.

Proposed new clause 433A.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.36): I move amendment No 132 circulated in my name *[see schedule 1 at page 2065]*.

This amendment inserts new clause 433A, which provides for existing lease and development conditions to be considered when assessing some development applications. New clause 433A requires the ACT Planning and Land Authority or the minister, if the minister has exercised the power to call in, to consider the requirements of any existing lease and development conditions applicable to the relevant land, if this is required by the territory plan and the development application is not in the code track.

This requirement applies for a period of five years, post commencement of the Planning and Development Act. There is no intention to make new lease and development conditions after the commencement of the Planning and Development Act and this function will be taken over by other instruments of the new territory plan, such as concept plans and estate development plans.

Proposed new clause 433A agreed to.

Clause 434 agreed to.

Clause 435.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.37): I move amendment No 133 circulated in my name *[see schedule 1 at page 2065]*.

This amendment substitutes a new clause 435 (4) into the bill. The transitional clause 435 of the bill provides that existing rights to use land are not affected by anything in the bill, subject to what I am about to outline. However, an approval for use of land may be required if, after commencement of the Planning and Development Act, earthworks, building work, alteration, demolition or construction work is carried out on the land and such work is non-exempt from requiring development approval. This is the intended effect of revised 435 (4) in conjunction with new clause 132A (2) and 132A (3) that we discussed at amendment No 32. This means that the undertaking of construction, building and earthworks has the same implications for both new and existing leases.

MR SESELJA (Molonglo) (10.38): I will be opposing this amendment as it relates to use as development.

Amendment agreed to.

Clause 435, as amended, agreed to.

Clause 436.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.40): I will be opposing this clause *[see schedule 1 at page 2065]*.

Clause 436 negatived.

Clause 437.

MR SESELJA (Molonglo) (10.41): I will be opposing this clause for the reasons outlined before in relation to the use as development.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.41): I will be opposing this clause as well *[see schedule 1 at page 2065]*.

Clause 437 negatived.

Clause 438.

MR SESELJA (Molonglo) (10.41): I will be opposing this clause for the reasons mentioned in relation to clause 437.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.41): I will be opposing this clause too, but for completely different reasons *[see schedule 1 at page 2065]*.

Clause 438 negatived.

Clauses 439 to 456, by leave, taken together and agreed to.

Proposed new clause 457.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.42): I move amendment No 137 circulated in my name *[see schedule 1 at page 2065]*.

This amendment inserts a new clause 457 into the bill. It is simply a transitional provision to preserve existing plans of management.

Proposed new clause 457 agreed to.

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

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.42): I seek leave to move amendments Nos 138 to 160 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 138 to 160 circulated in my name together *[see schedule 1 at page 2065]*.

For the sake of saving time, I will not go through the lot of them. They are minor technical amendments.

MR SESELJA (Molonglo) (10.43): I will be opposing amendment No 159 *[see schedule 3 at page 2102]*.

DR FOSKEY (Molonglo) (10.44): I do not seem to be on the running sheet but I oppose schedule 1 on page 339. The reason I am opposing this provision is that I do not think it goes far enough. AAT appeal rights should be very wide, and the opportunity for AAT appeal should be the default position for every administrative decision made under these acts. We have a human rights law. Everybody is meant to have standing before a court, and it should be extended to the planning law as well. Of course there should be mechanisms to prevent the abuse of these provisions by competitors or by frivolous and vexatious litigants. No-one is denying that, least of all the Greens.

My anti-SLAPP strategic law suits against public participation legislation recognises that business groups and some individuals do abuse the legal system to pursue their own interests to the detriment of the democratic process. But I am not going to take this back to its illogical extreme and suggest that all legal actions to seek to stop actions or extract damages from people who are improperly interfering with property rights should be forbidden. That would deprive innocent people of legitimate rights to carry on legitimate businesses. Despite what Mr Seselja likes to put about, I have never been opposed to responsible, legitimate and appropriate developments.

I welcome the inclusive nature of the definition of material detriment under clause 411. It represents some measure of redress to the developer-biased nature of the legislation, but it does not go far enough. Why are community groups only given standing to challenge decisions made under proposed section 158? The Environmental Defenders Office submission on these planning reforms to the Standing Committee on Planning and Environment goes into considerable detail regarding the merits of expanding appeal rights. The paper debunks the argument that wider appeal rights necessarily lead to a flood of appeals that would bog down and stymie legitimate developments. I commend the EDO's paper to members.

Debate interrupted.

Standing order 76—suspension

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10.46): With the Assembly's indulgence, I move:

> That standing order 76 be suspended for the remainder of the sitting.

Standing order 76 prohibits new business being introduced after 11 pm. Two associated bills with this legislation need to be passed. Given that we will progress past 11 pm, we need to suspend the standing order.

Question resolved in the affirmative.

Planning and Development Bill 2006
Detail stage

Remainder of bill.

Debate resumed.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10.47): I will speak briefly on this item—obviously in support of the government proposal—and to refute some of the arguments made by Dr Foskey. First of all, of course, a human rights compatibility statement has been issued for this bill, so it has been assessed by the human rights office as a piece of legislation that meets all the necessary tests and requirements of the Human Rights Act. It is important to place that on the record. To deal with the more substantive issues, open standing is a provision which casts the net as wide as possible to capture people's ability to seek independent review of decisions relating to planning and development. However, the necessary balance has to be struck between the opportunity for those who are most directly affected by a development proposal and those who disagree with the policy intent of the planning policy that is in place.

My concern with arguments for broad open standing in all circumstances—I do not disagree that open standing should be available in certain circumstances but I disagree that it should as a matter of principle be available in all circumstances—is that it provides an opportunity for policy debates which have been legitimately revisited, discussed by the public in earlier fora, have almost inevitably been dealt with by elected representatives, and have then been the subject of ongoing dispute through the mechanisms of review around individual development applications. That is one of the dilemmas with open standing. It permits those who are aggrieved with the decision, say, of this body—an elected representative body determining policy about what can and cannot occur on land—to seek to frustrate that legitimate decision through a review process.

The distinction needs to be drawn between instances where citizens are directly impacted by a development proposal and should have the right to seek a review of a decision in relation to that proposal—which our legislation provides for—and the broader issue of simply allowing citizens to revisit, through an individual development proposal, the policy matter that has already been settled by the elected representatives. That is not to say there are not avenues open to citizens to continue to dispute the policy matter. That is why we have a democratic system of government.

That is why we have opportunities of policy review in this place and, ultimately, through the ballot box. So, there are those opportunities.

This is the point Mr Barr was making in that the Labor Party seeks to achieve an appropriate balance and a balance between those who would really prefer there not to be any engagement by citizens in the review of the individual development applications, approvals or refusals, against those who would argue for open standing in absolutely all circumstances. A sensible balance needs to be struck and we need to distinguish between the opportunities for citizens in policy making versus the opportunity for review in development assessment. That is a balance that is struck well in this legislation.

MR SESELJA (Molonglo) (10.51): I welcome, once again, the contribution of the former planning minister. In particular I thank him for agreeing with our argument that it should only be those who are directly affected by developments who should be able to question those through the AAT, as a general rule, and that we should not be reviewing the policy setting that are put in place in the Legislative Assembly in relation to each individual development. So I thank the minister for reiterating the arguments that I was making earlier, that any old group for any old reason—which is what is going to happen under this legislation—should not be able to launch an appeal and, therefore, stifle a development and revisit many of the issues that are settled at a policy level in this forum in particular.

The minister has pointed out that there is a human rights compatibility statement with this legislation, but we know they are not really worth the paper they are written on. There was a health tribunal sometime ago where you could be detained without a warrant and for any reason for, I think, up to 14 days. The human rights compatibility statement came out of there. It went much, much further than the anti-terror laws and the ability to detain someone. This government put up a human rights compatibility statement next to it. Dr Foskey and I, I think, take with a grain of salt the human rights compatibility statement.

I find it interesting that, given Dr Foskey's apparent commitment to third party appeal rights, she is, essentially, by opposing schedule 1, arguing for no review rights for anyone. So if we were to follow Dr Foskey's advice and vote against this clause, given that she has not put up anything instead of it, there would be no appeal rights under this legislation.

Amendments agreed to.

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

Clause 281—reconsideration.

Motion (by **Dr Foskey**) agreed to:

> That clause 281 be reconsidered.

DR FOSKEY (Molonglo) (10.54): I move amendment No 1 *[see schedule 5 at page 2103]*.

I have circulated my amendment and believe it was substantially agreed upon when we talked about it earlier.

I propose deleting the definition of "improvement" on lines 4 to 9 and replacing it with "any earthworks, planting or other work that affects the landscape of the land that is reasonably undertaken for rural purposes". Those words may not yet be perfect, because I think the word "rural" is a bit vague. As far as we know "rural" means non-urban. In that case, what are rural purposes? I guess it means making sure a place does not become urban. We would look at that again further down the track, but I thought it was important to have something that was better than the 1925 definition that was in the legislation. I thank the minister for inviting me to move this amendment.

Mr Seselja suggested that I ought to have put a number of more considered and elegant amendments to this bill to address the Greens' concerns. Let us be clear about all the work that has been done in relation to this bill. I made it clear in my agreement in principle speech that my staff and I have not developed more far-reaching amendments to debate this week, partly because in my office the detail became more difficult and pointless as we came closer to the time of this debate. My office requested briefings. Indeed, we would have loved some negotiations and discussions with ACTPLA and the minister's staff in May, but the minister's office was unable to oblige until two weeks ago. The meetings we have had with the minister's office and with ACTPLA staff showed a lot of areas on which we could have reached agreement and come up with some better words. That would not have been a problem if this were a minority government. We could have sat around a table and worked out what we could all live with, and some of the Greens' ideas would have probably gained support.

In that context, the work of parliamentary counsel within very tight frames would have been more purposeful. Furthermore, if we did not have sufficient time the debate could have concluded in September. However, where the government is in a take-it-or-leave-it position, where limited time is available to develop intelligent and viable amendments, my office and I came to the view that the best use of all our time was for me to flag our concerns and to put the general arguments for them. I am quite happy to revisit this bill following more detailed work early next year. I believe the ongoing issues will be raised at the next election as well. Whether or not we members raise them, I think the community will. I commend my motion to the Assembly.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.58): Indeed I did encourage Dr Foskey to move this amendment and signalled at that time that the government would agree with this amendment. In response to today's final comments, I acknowledge that Dr Foskey and her office sought a meeting with me in my office. I think it was a matter of two weeks after I became planning minister. It would not have been a particularly constructive meeting because I needed time to get across some of the detail of this legislation.

I am pleased that officers from ACTPLA and my office were able to meet with the Greens, but it is important to note, though, that this bill was first tabled in December last year. There were ample opportunities to discuss it with the former planning

minister over a considerable period. I acknowledge to Dr Foskey that in the transition from Mr Corbell no longer being minister to my becoming minister we needed time to get up to speed on the detail of this, and that would have made it very difficult to have a constructive conversation. Nonetheless, we did so prior to the debate today and on Tuesday, and it is a little unfair to suggest that no consultation opportunities were provided for the Greens. It being a late hour, I will not press that issue any further.

Amendment agreed to.

Clause 281, as reconsidered, as amended, agreed to.

Bill, as amended, agreed to.

Mr Corbell: Mr Speaker—

MR SPEAKER: We cannot debate anything at this point, Mr Corbell.

Mr Corbell: I was seeking the call to make some comments before the bill was finally passed.

MR SPEAKER: Not after the question that the remainder of the bill as a whole be agreed to.

Mr Corbell: With your indulgence, Mr Speaker, I seek leave to make some brief comments.

Leave not granted.

Standing orders—suspension

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

> That so much of the standing orders be suspended as would prohibit Mr Corbell from speaking to the question.

Planning and Development Bill 2006
Statement by minister

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (11.01): I thank members of the opposition for their grace. I put on the record my thanks to the very large number of people who have worked on this bill over a considerable period, particularly when I was Minister for Planning. The point we have reached tonight started a very long time ago, in 2003, when the government indicated its commitment to review the land act and to adopt the development assessment forums proposals for a streamlined development assessment.

The passage of the bill tonight marks a very important milestone, in that when this government was first elected in 2001 we put in place a series of significant

governance changes with the development and establishment of the chief planning executive, the ACT Planning and Land Authority and the Land Development Agency. We followed that up with the strategic planning framework for the ACT, the Canberra spatial plan and its associated documents, including a sustainable transport plan. Tonight we have put those pieces of policy into law and made them the formal strategic planning framework for the territory. Tonight we have completed the task that as a government we set ourselves a number of years ago: to completely overhaul the planning legislation in the ACT.

Of course, there is still work to be done, particularly in relation to the territory plan and the codes within that. But this evening we are putting in place a completely new framework for the conduct of planning and development in the ACT. It is a moment that should not go completely unremarked.

I express my personal thanks for the diligence, hard work and commitment of the members of the planning system reform team. I have lost count of the number of meetings I had with them as minister—and Minister Barr probably has already lost count. But whether it was explaining the intricacies of use as development, how codes will work, the different assessment tracks or a range of other issues, they have always been professional, diligent and patient in explaining it to their ministers, to the broader community, to their colleagues within government and to a whole range of other people. So thank you all. I formally put on the record my thanks to them and wish them well in the ongoing process of implementing this bill.

Bill, as amended, agreed to.

Planning and Development (Consequential Amendments) Bill 2007

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

> That this bill be agreed to in principle.

MR SPEAKER: I remind members that on Tuesday we had a cognate debate on this and two other bills. I therefore propose now to put the question that the bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

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) (11.06):

I move amendment No 1 circulated in my name *[see schedule 6 at page 2104]*. I table a supplementary explanatory statement to the government amendments.

This amendment omits clause 2 of the bill, the commencement clause, and substitutes a new clause. The new clause provides that the bill commences when clause 419 of the Planning and Development Bill commences, and this new clause 2 of the bill is inserted to address the possibility that different sections of the Planning and Development Bill commence at different times. In this event, it will still be clear when this consequential bill commences. Under this new clause, the bill will commence when the existing Land Planning and Environment Act 1991 is repealed.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clause 3 agreed to.

Schedule 1 amendments 1.1 to 1.42, by leave, taken together and agreed to.

Schedule 1 amendment 1.43.

DR FOSKEY (Molonglo) (11.08): I will be opposing this amendment. It is hardly surprising that I would oppose this clause because, as I mentioned in relation to the more substantive legislation, it appears to further centralise power in the planning minister by removing the power of the environment protection authority to request the minister to establish a panel to conduct an inquiry into a specified activity.

There may be occasions when an independent panel is the appropriate mechanism to investigate the environmental indications of a development. In many instances there is arguably a conflict of interest between the planning minister being part of a cabinet that has responsibility for infrastructure developments and also having the power to decide when a relatively independent body gets to undertake an inquiry into the environmental impact of those developments, as well as having the discretion to withhold the completed EIS from the Assembly.

This, it seems to me, is another of the many "trust us" provisions in this legislation, which could be abused in the hands of a weak, autocratic or corrupt minister—not, of course, that we have one of those at the moment.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (11.09): The government will be supporting the clause and will not be supporting Dr Foskey in this matter. I do take her final comments to be an endorsement of my time as Minister for Planning. I thank her very kindly for making those remarks.

Schedule 1 amendment 1.43 agreed to.

Schedule 1 amendments 1.44 to 1.82, by leave, taken together and agreed to.

Schedule 1 amendment 1.83.

MR SESELJA (Molonglo) (11.10): I move amendment No 1 circulated in my name *[see schedule 7 at page 2106]*.

This amendment is consequential to amendments that we moved to the substantive bill.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (11.10): For the reasons that we have outlined ad nauseam between Tuesday night and tonight, the government will not be supporting Mr Seselja in his desire to eliminate uses development from the legislation.

Amendment negatived.

Schedule 1 amendment 1.83 agreed to.

Schedule 1 amendment 1.84.

MR SESELJA (Molonglo) (11.12): I move amendment No 2 circulated in my name *[see schedule 7 at page 2106]*.

I move the amendment for the same reasons that I articulated in relation to amendment No 1.

Amendment negatived.

Schedule 1 amendment 1.84 agreed to.

Schedule 1 amendments 1.85 to 1.89, by leave, taken together and agreed to.

Schedule 1 amendment 1.90.

MR SESELJA (Molonglo) (11.13): I move amendment No 3 circulated in my name *[see schedule 7 at page 2106]*.

MR SESELJA: I move the amendment for the same reasons that I articulated for amendments Nos 1 and 2.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (11.13): The government will not be supporting the amendment. Although I do admire Mr Seselja's consistency in getting up time after time to pursue these particular amendments, the government will not be supporting them.

MR SESELJA (Molonglo) (11.14): I thank the minister for his admiration. It is certainly appreciated. May I assure him that we will continue to pursue issues around this and other issues in this parliament with vigour, tenacity and consistency?

Amendment negatived.

Schedule 1 amendment 1.90 agreed to.

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

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (11.15): I seek leave to move amendments Nos 2 to 8 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 2 to 8 circulated in my name *[see schedule 6 at page 2104]*.

Amendment 2 omits amendment 1.116 from the bill and substitutes a new amendment. The new amendment revises clause 177 of the Planning and Development Bill. This is the clause that determines when a development approval that has been confirmed following a reconsideration process commences. The new amendment omits clause 177 (1) (a) of the Planning and Development Bill and substitutes new clauses 177 (1) (a) and 177 (1) (b). The revised amendment is to make it clear that clause 177 does apply, subject to conditions, when a reconsideration of a decision to grant approval has been sought.

Amendment 3 omits amendment 1.124 from the bill and substitutes a new amendment. The new amendment updates the reference to the housing commissioner made in clause 227 of the Planning and Development Bill.

Amendment 4 revises amendment 1.125 by omitting the proposed new clause 233 (1) (d) of the Planning and Development Bill and substituting new clauses 233 (1) (d) and 233 (1) (e). The revised amendment makes it clear that the planning and land authority is able to effect the grant of a lease under clause 231 (1) (d) of the Planning and Development Bill in circumstances where this is necessary to give effect to a lease variation or the grant of a further lease at the lease renewal stage.

Amendment 5 of the bill amends amendment 1.144 to amend a typographical error in clause 417 (2) (c) of the Planning and Development Bill. This amendment is no longer necessary given the government's amendments to the Planning and Development Bill. It therefore omits 1.144 from the bill.

Amendment 6 amends amendment 1.147 to the bill. It is sought to correct another typographical error in clause 435 (4) of the Planning and Development Bill. The amendment is no longer necessary given the government's amendments to the Planning and Development Bill. Therefore this omits amendment 1.147 from the bill.

Amendment 7 inserts an entirely new amendment into the bill, amendment 1.209, in a new part headed 1.35 Utilities (Telecommunications Installation) Act 2001. This new amendment omits section 6 of the Utilities (Telecommunications Installations) Act and substitutes a new section 6. The new section 6 defines the term "authorised network plan" as a plan authorised by development approval.

The revised definition is necessary because the existing section 6 is expressed as applying to the installation of a telecommunications facility that is covered by a network plan approved under guidelines set under the Land (Planning and Environment) Regulations 1992. This regulation and the guidelines are repealed by the Planning and Development Bill. In future, network plans will be assessed as development applications under the Planning and Development Bill. The new amendment also includes a transitional provision to preserve the application of the Utilities (Telecommunication Installations) Act to installations covered by the one network plan that has already been approved under the old guidelines.

Finally, amendment 8 inserts an entirely new set of amendments into the bill, amendments 1.210 and 1.211 in a new part headed part 1.36 Water Resources Act 2007. The new amendment omits section 28 (6) (b) of the Water Resources Act 2007 and substitutes a new section 28 (6) (b).

Section 28 of the Water Resources Act makes it an offence to take water without the required licence. There are a number of exceptions to this. Section 28 (6) indicates that no offence is committed if the water is taken from a rainwater tank that is installed in accordance with an approval under the Planning and Development Act, if any such approval is required. The new section 28 (6) (b) inserted by this amendment is to make this section more clear. It indicates that no offence is committed if the water is taken from a rainwater tank that is authorised by development approval under the bill or if the tank is an exempt development under the Planning and Development Act.

The new amendment 1.211 is a transitional amendment. This amendment to section 204 of the Water Resources Act makes it clear that a reference to the Planning and Development Bill in the Water Resources Act includes a reference to the repealed Land (Planning and Environment) Act as it is in force at any time before its repeal.

Amendments agreed to.

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

Bill, as amended, agreed to.

Building Legislation Amendment Bill 2007

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

> That this bill be agreed to in principle.

MR SPEAKER: I remind members that on Tuesday we had a cognate debate with this and two other bills. I therefore propose now to put the question that the bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (11.21): I seek leave to move amendments Nos 1 to 34 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 1 to 34 circulated in my name *[see schedule 8 at page 2107]*. I table the revised explanatory statement to the amendments.

I will quickly provide a summary of the amendments. Amendment 1 ensures that the relevant parts of the Building Legislation Amendment Act commence at the appropriate point or points in time that are required to amend the Building Act 2004. This amendment is necessary to cater for a circumstance that could arise where only part of the Planning and Development Act commences on a particular day and commencement of that part does not necessitate consequential amendments to that act or the Building Act.

Amendment 2 ensures that, under proposed new section 19D (1) (c) of the Building Act 2004, an entity's appointment as a building certifier ends if the entity's appointment has been suspended for a single period of three months or longer, rather than only applying to a suspension of only three months. Amendment 3 means that the proposed new section 19D of the Building Act will apply to licence suspensions of three months or longer.

Amendment 4 inserts proposed new section 19E of the Building Act, which provides that after a building certifier's appointment has ended under the proposed section 19D (1) (e), the certifier can be appointed again. This is termed a second appointment for the same building work as the initial appointment. It also provides that the second appointment is taken as a continuation of the initial appointment, rather than a new appointment.

Amendment 5 makes consequential amendments to a cross-reference in the bill proposed under section 20 (2) (c) of the Building Act. Amendment 6 limits the circumstances in which a certifier must notify the government that the certifier's appointment has ended.

Amendment 7 recasts the bill's proposed new section 21 (1) (b) of the Building Act to ensure it relates to all matters relevant to section 27. Amendment 8 changes the term "residence" to "dwelling" in the bill's proposed example under the proposed new section 31 of the Building Act.

Amendment 9 amends the proposed new section 30A (3) (b) of the Building Act by inserting new section 30A (3) (c). It is intended to ensure that a regulation may

prescribe the advice that an entity may give if the entity is required by the Building Act to give advice on an application for building approval under that act.

Amendment 10 changes the phrase "as prescribed under section 21 (1) (b)" to "as prescribed by regulation" in proposed new section 36A (1) (a) of the Building Act. Amendment 11 is a consequence of amendment 10 which makes reference to section 21 (1) (b) redundant. Amendment 12 is also a consequence of amendment 10.

Amendment 13 ensures that the bill's proposed section 43 (2) (b) (ii) of the Building Act relates not only to a referral entity's advices but also to consents of referral entities and consultations with referral entities. Amendment 14, in conjunction with other proposed amendments to the bill, provides a system to resolve an anomaly in relation to section 50 of the Building Act. It also clarifies the intent of section 44 of the Building Act.

Amendment 15 inserts clause 1.38A into the bill. It addresses the fact that although a building certifier is required to give documents about consultation and consents obtained from referral entities, the Building Act deems certain consultations and consent to have taken place or to have been given if the specified time has expired.

Amendment 16 corrects a cross-reference in the proposed new section 48 (2) (b) of the Building Act. Amendment 17 addresses concerns raised from consultation on the bill's proposed new section 48 (2) (h) of the Building Act. The concerns relate to the need for a certifier to specify which relevant subsection of section 69 applies to the relevant building work.

Amendment 18 inserts proposed new clause 1.41A into the bill. It is to cater for a deficiency in the Building Act where the ACT Construction Occupations Registrar is required to issue a certificate that certain building work complies with the relevant requirements of the act under section 72. However, the act is silent on how the registrar can determine if the work complies.

Amendment 19, in conjunction with other proposed amendments to the bill, resolves an anomaly in section 50 of the Building Act which requires a building certifier to notify government about certain non-compliant building work unless the work is brought into compliance within a reasonable time period. Amendment 20 proposes new sections 50 (3) (b) and 50 (3) (c) of the Building Act to establish the administrative system to support the 21-day notification period arrangements mentioned in clause 18 of the bill.

Amendment 21 ensures a consistent use of common terms. It amends the bill's proposed section 53 (5) of the Building Act. Instead of mentioning the term "stop work notice", it mentions the term "stop notice". Amendment 22 is in respect of the proposed note 1 under section 54 (2) of the Building Act and is again to ensure consistent use of the term "stop notice". Amendment 23 is in respect of section 54 (4) of the Building Act and also ensures consistent use of the term "stop notice". Amendment 24 makes consequential amendments to a cross-reference in the bill's proposed section 62 of the Building Act.

Amendment 25 addresses an anomaly in section 71 of the act which requires the ACT Construction Occupations Registrar to certify that demolition of a building complies with the relevant requirements of the act. Amendment 26 inserts into the bill the proposed new amendment 1.63A. It changes section 142 (2) of the Building Act by deleting "person" and substituting "entity".

Amendment 27 combines proposed clauses 1.64 and 1.65 into a single clause, which is the proposed new clause 1.64. Amendment 28 makes a consequential amendment to the bill's proposed new section 152 (2) (c) of the Building Act. The bill only dealt with advice from referral entities, but it needs also to deal with consultations with and consents from referral entities. Amendment 29 makes consequential amendments to paragraph (a) in the Building Act dictionary definition of the term "certifier". The effect is to insert additional cross-references to relevant proposed sections in the bill.

Amendment 31 deletes clause 1.80 and substitutes a revised new clause 1.80 in the bill. This substitution follows legal advice on how to make the provision more effective. It inserts into the Construction Occupations (Licensing) Act 2004 a proposed new section 33A entitled "Rectification orders—exercise of registrar's powers".

Amendment 32 deletes the proposed new subsection (36) (3) of the Construction Occupations (Licensing) Act and substitutes a revised provision. The revised subsection is virtually identical to amendment 31 about exercising rectification order powers.

Penultimately, amendment 33 inserts a proposed new clause 181A into the bill to make consequential amendments to cross-references in the Construction Occupations (Licensing) Act. Finally, amendment 34 corrects a typographical error.

Amendment Nos 1 to 34 agreed to.

Bill as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Adjournment

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

> That the Assembly do now adjourn.

The Assembly adjourned at 11.30 pm.

Schedules of amendments

Schedule 1

Planning and Development Bill 2006

Amendments moved by the Minister for Planning

7
Proposed new clause 50 (2) (ca)
Page 36, line 19—

insert

(ca) make provision in relation to affordable residential housing; and

8
Clause 53 (1) (a)
Page 37, line 18—

omit clause 53 (1) (a), substitute

(a) the minimum assessment track that applies to each development proposal; and

Note Assessment tracks are dealt with in ch 7.

9
Clause 53 (1) (b), proposed new note
Page 37, line 21—

insert

Note Exempt developments are further dealt with in div 7.2.6.

10
Proposed new clause 53 (3)
Page 38, line 9—

insert

(3) The assessment tracks, from minimum to maximum, are as follows:

(a) code track;

(b) merit track;

(c) impact track.

11
Clause 54 (1)
Page 38, line 11—

after

general code

insert

or precinct code that is a concept plan

12
Clause 54 (1) (a)
Page 38, line 13—

omit

(the ***code requirements***)

13
Clause 54 (1) (b)
Page 38, line 15—

omit

(the ***merit criteria***)

14
Clause 54 (5)
Page 38, line 25—

omit clause 54 (5), substitute

(5) A code that sets out requirements applicable to the Territory, the Executive, a Minister or a Territory authority is a ***general code***.

(6) To remove any doubt, a general code may also contain—

(a) policies to be complied with; and

(b) rules and criteria applicable to development proposals the code applies to.

15
Clause 65 (2) and (3)
Page 48, line 1—

omit clause 65 (2) and (3), substitute

(2) However, the planning and land authority must not make a part of the draft plan variation or of a background paper available under subsection (1) if satisfied that publication of the part—

(a) would disclose a trade secret; or

(b) would, or could reasonably be expected to—

(i) endanger the life or physical safety of anyone; or

(ii) lead to damage to, or theft of, property.

(3) If part of a draft plan variation or a background paper is not made available under subsection (1) because of the operation of subsection (2), each copy of the draft plan variation or background paper made available must include—

(a) a statement to the effect that an unmentioned part of the document has been excluded; and

(b) the reason for the exclusion.

16
Clause 88 (1) (b)
Page 63, line 19—

omit clause 88 (1) (b), substitute

(b) limited consultation has taken place.

17
Clause 93 (1) (a)
Page 67, line 4—

after

concept plan

insert

(if any)

18
Clause 111 (2) (a)
Page 80, line 14—

omit

code requirements

substitute

rules

19
Clause 111 (2) (b)
Page 81, line 2—

omit

code requirements and merit criteria

substitute

rules and criteria

20
Clause 111 (2) (c)
Page 81, line 9—

omit

code requirements and merit criteria

substitute

rules and criteria

21
Proposed new clause 113 (3)
Page 82, line 24—

insert

(3) To remove any doubt—

(a) the planning and land authority may refuse to accept a development application made in an assessment track other than the assessment track for the development proposal; and

(b) if the authority assesses a development application made in an assessment track other than the track for the proposal, the authority must refuse the application.

22
Clause 114 heading
Page 83, line 1—

omit clause 114 heading, substitute

114 Application of inconsistent code requirements

23
Clause 114 (1) (b)
Page 83, line 5—

omit

relevant code requirements for the proposal

substitute

requirements under each code (the ***code requirements***) that apply to the proposal

24
Clause 114 (2)
Page 83, line 7—

omit clause 114 (2), substitute

(2) If the code requirements of a precinct code and either a development code or a general code are inconsistent, the code requirements of the precinct code apply to the development proposal and not the code requirements of the development code or general code, to the extent of the inconsistency.

25
Clause 114 (3)
Page 83, line 12—

omit clause 114 (3), substitute

(3) If the code requirements of a development code and a general code are inconsistent, the code requirements of the development code apply to the development proposal and not the code requirements of the general code, to the extent of the inconsistency.

26
Clause 114 (4)
Page 83, line 17—

omit clause 114 (4), substitute

(4) If the code requirements of 2 or more precinct codes, development codes or general codes are inconsistent, the code requirements of the more recent code apply to the development approval and not the code requirements of the earlier code, to the extent of the inconsistency.

27
Clause 114 (5)
Page 83, line 22—

omit clause 114 (5), substitute

(5) To remove any doubt, a code requirement is not inconsistent with the code requirements of another code only because one code deals with a matter and the other does not.

28
Clause 115 (b)
Page 84, line 6—

omit

relevant code requirements

substitute

relevant rules

29
Clause 115, notes 1 and 2
Page 84, line 7—

omit notes 1 and 2, substitute

Note 1 ***Relevant rules***—see the dictionary.

Note 2 ***Rules***—see the dictionary.

Note 3 If a development application is made in the code track, but the development proposal is in another track, the application must be refused (see s 113 (3)).

30
Clause 120
Page 87, line 6—

omit clause 120, substitute

120 Merit track—notification and right of review

(1) To remove any doubt, if a development proposal is in the merit track, the application for development approval for the proposal must be publicly notified under division 7.3.4.

(2) If there is a right of review under chapter 13 in relation to a decision to approve an application for development approval for a proposal in the merit track, the right of review is only in relation to the decision, or part of the decision, to the extent that—

(a) the proposal is subject to a rule and does not comply with the rule; or

(b) no rule applies to the proposal.

31
Proposed new clause 122 (e)
Page 88, line 6—

insert

(e) the Commonwealth Minister responsible for administering the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth) advises the Minister in writing that the development proposed—

(i) is a controlled action under that Act, section 75; and

(ii) does not require assessment under that Act, part 8 (Assessing impacts of controlled actions) because a bilateral agreement between the Commonwealth and the Territory under that Act allows the proposal to be assessed under this Act.

32
Division 7.2.6
Page 94, line 7—

omit division 7.2.6, substitute

Division 7.2.6 Exempt development

132 What is an *exempt development*?

In this Act:

exempt development means development that is exempt from requiring development approval under—

(a) the relevant development table; or

Note 1 Development tables are dealt with in s 53.

Note 2 ***Relevant development table***—see the dictionary.

(b) section 132A; or

(c) a regulation.

132A Exempt development—authorised use

(1) An authorised use of land, or a building or structure on the land, is exempt from requiring development approval.

(2) However, use of the land is not exempt from requiring development approval if—

(a) earthworks or other construction work is carried out on the land; and

(b) the work requires development approval.

(3) Also, use of the land, or a building or structure on the land, is not exempt from requiring development approval if—

(a) a building or structure on the land is constructed, altered or demolished; and

(b) the construction, alteration or demolition requires development approval.

(4) To remove any doubt, if an authorised use of land, a building or structure is exempt from requiring development approval under subsection (1), the right to use the land, building or structure as authorised does not end only because 1 or more of the following apply in relation to the use:

(a) the use is not continuous;

(b) someone deals with the lease (the ***affected lease***) that authorises the use;

(c) a further lease is granted for the affected lease on application under section 246, whether or not the grant happens immediately after the expiry of the affected lease.

(5) However, the authorised use of the land, building or structure stops being exempt from requiring development approval if the use was authorised by a lease (the ***affected lease***) and—

(a) the affected lease expires and no application is made under section 246 for a further lease; or

Note A person may apply for the grant of a further lease not later than 6 months after the expiry of the affected lease (see s 246).

(b) the affected lease is—

(i) surrendered, other than for a lease variation or renewal; or

(ii) terminated.

(6) Also, the authorised use of the land, building or structure stops being exempt from requiring development approval if—

(a) the use was authorised by a licence under this Act or a permit under the *Roads and Public Places Act 1937*; and

(b) the licence or permit ends—

(i) whether on expiry or otherwise; and

(ii) even if renewed.

(7) To remove any doubt, an authorised use of a building or structure is exempt from requiring development approval if the construction of the building or structure is exempt from requiring development approval.

(8) In this section:

authorised use, of land, or a building or structure on the land—

(a) means a use authorised by any of the following (whether expressly or by implication):

(i) a lease;

(ii) a licence under this Act;

(iii) a permit under the *Roads and Public Places Act 1937*;

(iv) a provision of chapter 15 (Transitional); and

(b) includes a use authorised by a lease that expired not more than 6 months before the use if the lease is renewed within 6 months after the expiry; and

(c) does not include a use authorised by section 240.

consolidation—see section 226.

subdivision—see section 226.

132B Exempt development—no need for application or approval

(1) An exempt development may be undertaken without a development application and development approval.

(2) A person cannot apply for approval of a development proposal for an exempt development.

Note The development proposal may still need a building approval under the *Building Act 2004*.

Division 7.2.7 Prohibited development

133 Development proposals for prohibited development

(1) If a development is prohibited, either under the relevant development table or under subsection (2), a person cannot apply for approval of a development proposal for the development.

Note 1 A development is prohibited if any part of the development is prohibited (see dict, def ***prohibited***).

Note 2 It is an offence to undertake prohibited development (see s 194).

Note 3 However, if development is authorised by a development approval and subsequently becomes prohibited, the development can continue (see s 195).

Note 4 Also, development that is lawful when it begins continues to be lawful (see s 197 and s 198).

(2) A development by an entity other than the Territory or a territory authority in a future urban area is prohibited unless the structure plan for the area states otherwise.

134 Applications for development approval in relation to use for otherwise prohibited development

(1) This section applies to a development proposal in relation to a use of land, or a building or structure on the land, if—

(a) the use is an authorised use; but

(b) beginning the use is a prohibited development.

(2) Despite section 133—

(a) a person may apply to the planning and land authority for development approval for the development proposal; and

(b) the proposal is taken not to be a prohibited development; and

(c) the impact track applies to the proposal.

(3) In this section:

authorised use, of land, or a building or structure on the land, means—

(a) a use authorised by—

(i) a lease; or

(ii) section 240; or

(iii) a provision of chapter 15 (Transitional); and

(b) includes a use authorised by a lease that expired not more than 6 months before the use if the lease is renewed within 6 months after the expiry.

33
Clause 135 (1)
Page 97, line 5—

omit clause 135 (1), substitute

(1) The planning and land authority must consider a development proposal if asked by the proponent of the proposal.

(1A) However, the planning and land authority need not consider the development proposal if satisfied that the information provided by the proponent in relation to the proposal would not allow the authority to provide adequate advice in relation to the matters mentioned in subsection (2).

(1B) The planning and land authority must tell the proponent if, because the authority is satisfied under subsection (1A), the authority does not consider the development proposal.

34
Clause 136 (2) (c)
Page 99, line 10—

omit

relevant code requirements

substitute

relevant rules

35
Clause 136 (2) (d)
Page 99, line 13—

omit clause 136 (2) (d), substitute

(d) if the application is for approval of a development in the merit track—be accompanied by information or documents addressing the relevant rules and relevant criteria; and

(da) if the application is for approval of a development in the merit track and the territory plan requires an assessment (an ***assessment of environmental effects***) of the possible environmental effects of the development in detail that is sufficient taking into consideration the size and significance of the impact of the development on the environment—be accompanied by an assessment of environmental effects; and

36
Clause 136 (2) (e) (i)
Page 99, line 21—

omit

relevant code requirements and relevant merit criteria

substitute

relevant rules and relevant criteria

37
Clause 136 (2) (f)
Page 99, line 24—

omit

variation of a lease

substitute

variation of a nominal rent lease (other than a variation to which section 269 does not apply)

38
Clause 136 (2) (g) (iii)
Page 100, line 7—

omit

direct grant

substitute

direct sale

39
Clause 136 (4), definition of *relevant merit criteria*
Page 101, line 11—

omit the definition, substitute

relevant criteria, for a development proposal, means the criteria that apply to the proposal in each relevant code.

40
Clause 137 (1) (a)
Page 101, line 20—

omit clause 137 (1) (a), substitute

(a) a code that applies to a development proposal requires an entity to approve the development or certify something in relation to the development; and

41
Clause 153 (2), proposed new note
Page 115, line 9—

insert

Note ***Public consultation period*** for a development application—see s 153A.

42
Proposed new clause 153 (3A)
Page 115, line 13—

insert

(3A) If the planning and land authority extends the public consultation period under subsection (3), the authority must give the applicant for the development approval written notice of the extension.

43
Clause 153 (6)
Page 115, line 24—

omit

44
Proposed new clause 153A
Page 115, line 28—

insert

153A Meaning of *public consultation period* for development applications—Act

In this Act:

public consultation period, for a development application, means—

(a) the period prescribed by regulation; or

(b) if the period prescribed is extended under section 153 (3)—the prescribed period as extended.

45
Proposed new clause 158 (1A)
Page 119, line 24—

insert

(1A) However, the planning and land authority or Minister must refuse a development application to which division 9.4.2 (Varying concessional leases to remove concessional status) applies if the Minister decides under section 253 that considering the application is not in the public interest.

46
Proposed new clause 159A
Page 121, line 14—

insert

159A Refusal does not affect existing use

The refusal of a development application in relation to the use of land does not affect an existing use of the land.

47
Clause 160 (3)
Page 121, line 25—

omit

approved

substitute

given

48
Clause 160 (4), proposed new examples
Page 123, line 21—

insert

Examples of conditions that may be prescribed

1 requirement to keep documents or other administrative requirement

2 manage the impact of carrying out development, whether on or off development site

49
Clause 164 (3)
Page 126, line 24—

omit clause 164 (3), substitute

Note ***Public consultation period*** for a development application—see s 153A.

50
Clause 165 (1) (c)
Page 127, line 10—

omit clause 165 (1) (c), substitute

(c) if the application approved relates to the use of land, or a building or structure on the land—to the registrar-general for notification under the *Land Titles Act 1925*; and

51
Clause 170 (1) (b) and (c)
Page 130, line 24—

omit clause 170 (1) (b) and (c), substitute

(b) either—

(i) there are no representations about the application; or

(ii) there is no right to apply to the AAT for review of the decision to approve the application because—

(A) the application is in the code track; or

(B) the application was not required to be publicly notified under section 152; or

(C) the proposal to which the application relates is exempt from review under a regulation; and

52
Clause 171 heading
Page 131, line 10—

omit clause 171 heading, substitute

171 When development approvals take effect—single representation with AAT review right

53
Proposed new clause 171 (1) (ba) to (bc)
Page 131, line 16—

insert

(ba) the development is not in the code track; and

(bb) the application was required to be publicly notified under section 152 (Major public notification); and

(bc) the development proposal is not exempt from review under a regulation; and

54
Clause 172 heading
Page 132, line 4—

omit clause 172 heading, substitute

172 When development approvals take effect—multiple representations with AAT review rights

55
Proposed new clause 172 (1) (ba) to (bc)
Page 132, line 10—

insert

(ba) the development is not in the code track; and

(bb) the application was required to be publicly notified under section 152 (Major public notification); and

(bc) the development proposal is not exempt from review under a regulation; and

56
Clause 174 (2) (c) (ii)
Page 134, line 16—

omit clause 174 (2) (c) (ii), substitute

(ii) the application for review is withdrawn, dismissed or struck out.

57
Clause 175 (2) (c) (ii)
Page 135, line 13—

omit clause 175 (2) (c) (ii), substitute

(ii) the application for review is withdrawn, dismissed or struck out.

58
Clause 177 (2) (b)
Page 136, line 25—

omit clause 177 (2) (b), substitute

(b) the day after the day the approval is confirmed under division 7.3.10;

59
Proposed new clause 178 (1) (aa)
Page 137, line 11—

insert

(aa) 1 or more representations have been made about the application; and

60
Clause 178 (1) (c)
Page 137, line 18—

omit clause 178 (1) (c), substitute

(c) both of the following apply:

(i) the application has been publicly notified under section 152;

(ii) the substituted decision is not exempt from review under chapter 13.

61
Clause 179 (1) (c)
Page 138, line 3—

omit

, including beginning a new use or a change of use

62
Clause 179 (3), proposed new note
Page 138, line 26—

insert

Note A development approval to which this section applies continues unless the approval ends under this section, s 180, s 181 or s 182.

63
Clause 180 (2) (vi)
Page 139, line 25—

omit clause 180 (2) (vi), substitute

(vi) the lease is surrendered, other than for a lease variation or renewal; or

64
Clause 180 (2), proposed new note
Page 140, line 2—

insert

Note A development approval to which this section applies continues unless the approval ends under s 179, this section, s 181 or s 182.

66
Clause 181 (1) (a)
Page 140, line 8—

omit

, including beginning a new use or a change of use

67
Clause 181 (2) (d)
Page 140, line 17—

omit clause 181 (2) (d), substitute

(d) the approval is surrendered, other than for a lease variation or renewal; or

68
Clause 181 (2), proposed new note
Page 140, line 21—

insert

Note A development approval to which this section applies continues unless the approval ends under s 179, s 180, this section or s 182.

69
Clause 181 (3)
Page 140, line 22—

omit clause 181 (3), substitute

(3) If only 1 use is allowed under the development approval and the use in accordance with the development approval does not begin or happen before the end of the period of 2 years starting on the day after the day the approval is given, the development approval ends at the end of the 2-year period.

(3A) If more than 1 use is allowed under the development approval and none of the uses in accordance with the development approval begin or happen before the end of the period of 2 years starting on the day after the day the approval is given, the development approval ends at the end of the 2-year period.

70
Clause 182 (2), proposed new note
Page 142, line 8—

insert

Note A development approval to which this section applies continues unless the approval ends under s 179, s 180, s 181 or this section.

71
Proposed new clause 182A
Page 142, line 20—

insert

182A Development approvals continue unless ended

(1) This section applies to a development approval to which any of the following applies:

(a) section 179 (End of development approvals other than lease variations);

(b) section 180 (End of development approvals for lease variations);

(c) section 181 (End of development approvals for use under lease without lease variation, licence or permit);

(d) section 182 (End of development approvals for use under licence or permit).

(2) To remove any doubt, a development approval to which this section applies continues unless the approval ends in accordance with a section mentioned in subsection (1).

72
Clause 185 (2)
Page 143, line 25—

omit clause 185 (2), substitute

(2) However, this section does not apply in relation to—

(a) the refusal of a development application, or an application for amendment of a development approval, in the code track; or

(b) the refusal of a development application to which division 9.4.2 (Varying concessional leases to remove concessional status) applies if the Minister decides that considering the application is not in the public interest.

73
Proposed new clause 187 (2A)
Page 145, line 20—

insert

(2A) Also, the planning and land authority may only reconsider the original decision to the extent that the development proposal approved or refused in the original decision or part of the original decision—

(a) is subject to a rule and does not comply with the rule; or

(b) is not subject to a rule.

74
Clause 197 (1) (a)
Page 154, line 3—

omit

continuing

75
Clause 198 (1)
Page 154, line 11—

omit clause 198 (1), substitute

(1) This section applies to the use of land, or a building or structure on the land, if—

(a) the use, when it began, was exempt from requiring development approval in a development table or by regulation; and

(b) the use is authorised by—

(i) a lease (the ***affected lease***) for the land; or

(ii) a licence under this Act; or

(iii) a permit under the Roads and Public Places Act 1937; or

(iv) section 240; and

(c) the use stops being exempt.

76
Clause 205
Page 160, line 9—

omit

for approval

substitute

for development approval

77
Clause 207 (3)
Page 161, line 8—

omit clause 207 (3), substitute

(3) In this section:

consultant means a person who satisfies the criteria prescribed by regulation.

Note See also s 417 (2) (c) (Regulation-making power).

78
Clause 211 (2) and (3)
Page 163, line 1—

omit

79
Proposed new clause 211A
Page 163, line 7—

insert

211A Meaning of *public consultation period* for draft EIS—Act

In this Act:

public consultation period, for a draft EIS, means—

(a) the period, not less than 20 working days, when representations may be made on the draft EIS under section 211 (1) (a) (ii); or

(b) if the period is extended under section 212 (2A)—the period as extended.

80
Proposed new clause 212 (2A) and (2B)
Page 163, line 12—

insert

(2A) The planning and land authority may, by notice published in a daily newspaper, extend the public consultation period.

Note The planning and land authority may extend the public consultation period after it has ended (see Legislation Act, s 151C).

(2B) If the planning and land authority extends the public consultation period under subsection (2A), the authority must give the proponent of the development proposal written notice of the extension.

81
Clause 214 (1), proposed new note
Page 164, line 15—

insert

Note The public consultation period may be extended under s 212 (2A).

82
Clause 214 (4)
Page 165, line 1—

omit

83
Proposed new clause 225A
Page 171, line 16—

insert

225A Recovery of inquiry panel costs

The direct and indirect costs to the Territory of the conduct of an inquiry about an EIS are recoverable from the proponent of the development proposal to which the EIS relates.

Example of indirect costs

the administrative overheads of staff exercising functions in relation to the inquiry

Note 1 The costs may be recovered in a court of competent jurisdiction (see Legislation Act, s 177).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

84
Clause 226, definition of *nominal rent lease*
Page 173, line 7—

omit

85
Clause 227, definition of *concessional lease*, proposed new subclause (1) (c) (iiia)
Page 175, line 8—

insert

(iiia) a lease granted to the Territory; or

86
Clause 228
Page 176, line 1—

[oppose the clause]

87
Clause 231 (1) (d)
Page 177, line 15—

omit clause 231 (1) (d), substitute

(d) direct sale.

88
Clause 233 heading
Page 178, line 12—

omit clause 233 heading, substitute

233 Restriction on direct sale by authority

89
Clause 233 (2)
Page 179, line 4—

omit

direct grant

substitute

direct sale

90
Clause 234 heading
Page 179, line 17—

omit clause 234 heading, substitute

234 Direct sale if single person in restricted class

91
Clause 235 heading
Page 180, line 1—

omit clause 235 heading, substitute

235 Notice of direct sale

92
Clause 235 (1)
Page 180, line 3—

omit

direct grant

substitute

direct sale

93
Clause 236 heading
Page 180, line 23—

omit clause 236 heading, substitute

236 Direct sale leases subject to agreed provisions

94
Clause 239 (2) (a)
Page 181, line 20—

omit clause 239 (2) (a), substitute

(a) a rental lease granted for the full market rental value of the lease; or

Note ***Rental lease***—see s 226.

95
Proposed new clause 239 (3) and (4)
Page 181, line 27—

insert

(3) To remove any doubt, an entity pays an amount that is not less than the market value of a lease if—

(a) the entity pays less than the market value of the lease (the ***monetary component***); and

(b) the entity provides infrastructure, or carries out other work, in relation to the lease (the ***works component***); and

(c) the total of the monetary component and the value of the works component is not less than the market value of the lease.

(4) The validity of a lease granted by the planning and land authority is not affected by a failure to comply with this section.

96
Clause 240 (2) and (3)
Page 182, line 9—

omit clause 240 (2) and (3), substitute

(2) However, if the lease is a residential lease, the land may also be used for home business.

(3) In this section:

home business, carried on on land subject to a residential lease, means a profession, trade or other occupation carried on by a resident of the land.

97
Proposed new clause 245A
Page 186, line 21—

insert

245A Leases held by Territory not to be transferred or assigned

(1) The Territory must not transfer or assign a lease if the Territory is the registered proprietor of the lease.

(2) To remove any doubt, subsection (1) does not prevent the Territory from subletting a lease if the Territory is the registered proprietor of the lease.

98
Clause 252
Page 192, line 16—

omit

to remove its concessional status

substitute

if the application includes the removal of its concessional status

99
Clause 253
Page 193, line 1—

omit clause 253, substitute

253 No decision on application unless consideration in public interest

(1) The planning and land authority, or Minister, must not decide a development application to which this part applies under section 158 (Deciding development applications) unless the Minister decides whether it is in the public interest to consider the application.

(2) In deciding whether it is in the public interest to consider the development application, the Minister must consider the following:

(a) whether the Territory wishes to continue to monitor the use and operation of the lease by requiring consent before the lease is dealt with;

(b) whether approving the application would cause any disadvantage to the community;

(c) whether the application to vary the lease to make it a market value lease is, or is likely to be, part of a larger development and, if so, what that development will involve;

(d) whether the Territory should buy back, or otherwise acquire, the lease.

(3) The Minister must give notice of the decision to the planning and land authority.

(4) The decision is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

100
Clause 258 (2) (b)

Page 196, line 20—

after

lessee

insert

or eligible person

101
Clause 263
Page 201, line 5—

[oppose the clause]

102
Proposed new clause 269 (3)
Page 204, line 25—

insert

(3) This section does not apply to a variation of a nominal rent lease if—

(a) the only effect of the variation would be to alter a common boundary between 2 or more adjoining leases; and

(b) the land comprised in each adjoining lease is leased for the same purpose; and

(c) none of the adjoining leases is a rural lease.

103
Clause 291
Page 220, line 18—

[oppose the clause]

104
Clause 292 (2) (b) (i)
Page 222, line 12—

omit clause 292 (2) (b) (i), substitute

(i) the authority is satisfied that the lessee cannot, for personal reasons prescribed by regulation, comply with the building and development provision; or

(ia) the authority is satisfied that—

(A) the lessee cannot comply with the building and development provision for financial reasons; and

(B) the financial reasons are connected with the lease; or

(ib) the authority is satisfied that—

(A) an unforeseen major event outside the lessee's control happened after the lessee purchased the lease; and

(B) the event has had a demonstrable affect on the lessee's ability to develop the land comprised in the lease; or

105
Clause 292 (2), proposed new examples
Page 222, line 19—

insert

Examples of unforeseen major events

1 a bushfire

2 a large increase in interest rates

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

106
Proposed new clause 292 (2A)
Page 222, line 19—

insert

(2A) For subsection (2) (b) (ia), a financial reason is connected with the lease unless—

(a) the reason is that the lessee has borrowed an amount, using the land as security, for a purpose other than to purchase or develop the land; and

(b) the amount is used for a purpose other than to meet an expense arising from a personal reason prescribed by regulation for subsection (2) (b) (i).

Examples of financial reasons not connected with lease

1 expenditure on purchase of other land

2 purchase of luxury car

3 expenditure on extended overseas holiday

107
Clause 312
Page 236, line 3—

omit clause 312, substitute

1 312 Definitions—pt 10.4

In this part:

proponent means—

(a) for a draft plan of management, or technical variation of a plan of management, for an area of public land—the custodian of the land; or

(b) for a draft variation, or technical variation of a plan of management, for an area of public land—

(i) the custodian of the land; or

(ii) if the draft variation or technical variation was prepared by the conservator of flora and fauna—the conservator of flora and fauna.

technical variation, of a plan of management, includes a variation of the plan of management to—

(a) correct a minor error or anomaly in a geographical description of a boundary; or

(b) change an incorrect or outdated reference to a territory law; or

(c) update the name of an administrative unit or other territory entity.

108
Clause 315
Page 237, line 8—

omit clause 315, substitute

315 Variations of plans of management other than technical variations

(1) The custodian for an area of public land, or the conservator of flora and fauna, may prepare a draft variation of a plan of management (other than a technical variation) in the same way as a draft plan of management.

(2) However, the conservator of flora and fauna must not prepare a draft variation of a plan of management for an area of public land (other than a technical variation) unless the conservator has consulted the custodian for the area.

(3) This part applies to a draft variation of a plan of management (other than a technical variation) as if it were a draft plan of management.

109
Proposed new clause 324A
Page 242, line 22—

insert

324A Technical variations

(1) A technical variation of a plan of management in relation to an area of public land may be made by—

(a) the custodian of land; or

(b) the conservator of flora and fauna with the agreement of the custodian.

(2) The technical variation is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(3) Subject to any disallowance under the Legislation Act, chapter 7, the technical variation of the plan of management commences—

(a) on the day after the 6th sitting day after the day the technical variation is presented to the Legislative Assembly under that chapter; or

(b) if the technical variation provides for a later date or time of commencement—on the later date or time.

(4) Not later than 5 working days after the day the technical variation is notified under the Legislation Act, the proponent must publish a notice in a daily newspaper that—

(a) describes the variation; and

(b) states the date of effect of the variation; and

(c) if the proponent considers it necessary or helpful—states where the variation and information about the variation is available for inspection.

110
Clause 370 (3) (b)
Page 274, line 5—

omit everything before subparagraph (i), substitute

(b) an entity by which or on behalf of which the activity—

111
Clause 370 (4) (b) and (c)
Page 274, line 11—

omit clause 370 (4) (b) and (c), substitute

(b) each entity to which it is directed; and

(c) that the notice takes effect when it is given to an entity to which it is directed; and

112
Clause 370 (4) (f) (i) and (ii)
Page 274, line 18—

omit clause 370 (4) (f) (i) and (ii), substitute

(i) must not be carried on by the entity; or

(ii) must not be carried on by the entity except in accordance with the notice; and

113
Clause 370 (5)
Page 274, line 26—

omit clause 370 (5), substitute

(5) A prohibition notice takes effect when it is given to an entity to which it is directed.

114
Clause 380
Page 282, line 2—

omit clause 380, substitute

2 380 Appointment of inspectors

The planning and land authority may appoint a public servant as an inspector for this Act.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

115
Clause 400, definition of *reviewable decision*
Page 298, line 18—

omit the definition, substitute

***reviewable decision*—**

(a) means a decision mentioned in schedule 1, column 2; but

(b) does not include—

(i) a decision by the Minister under section 253 about whether considering a development application is in the public interest; or

(ii) a decision by the planning and land authority or Minister to refuse a development application under section 158 because the Minister decides under section 253 that considering the application is not in the public interest.

116
Clause 402 (2) and (3)
Page 299, line 12—

omit clause 402 (2) and (3), substitute

(2) The application for review must be made not later than 4 weeks after—

(a) for a decision to which section 171 (When development approvals take effect—single representation with AAT review right) applies—the day the person was told about the decision; or

(b) for a decision to which section 172 (When development approvals take effect—multiple representations with AAT review right) applies—the day final notice of the decision was given.

(3) The period for making the application for review may not be extended under the *Administrative Appeals Tribunal Act 1989*.

(4) In this section:

final notice—see section 172 (3).

117
Clause 403 (2)
Page 299, line 22—

omit clause 403 (2), substitute

Note A decision of the Minister under s 158 is not a reviewable decision (see s 400, def ***reviewable decision*** and sch 1).

118
Clause 405 (5), definition of relevant document, proposed new paragraph (aa)
Page 303, line 1—

before paragraph (a), insert

(aa) a draft plan variation;

119
Proposed new clause 407A
Page 305, line 15—

insert

407A Enforcement actions unaffected by other approvals etc

(1) To remove any doubt, the planning and land authority or an official is not prevented from exercising a function in relation to a matter only because any of the following have been issued in relation to the matter:

(a) a development approval;

(b) a certificate of compliance;

(c) a certificate of occupancy under the *Building Act 2004*.

(2) In this section:

function—see section 406 (1).

official—see section 406 (1).

120
Proposed new clause 414A
Page 309, line 5—

insert

414A Construction of outdated references

(1) In any Act, instrument made under an Act or document, a reference to the *Land (Planning and Environment) Act 1991* is, in relation to anything to which this Act applies, a reference to this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(2) In any Act, instrument made under an Act or document, a reference to a provision of the *Land (Planning and Environment) Act 1991* is, in relation to anything to which this Act applies, a reference to the corresponding provision of this Act.

(3) In any Act, instrument made under an Act or document, a reference to anything that is no longer applicable because of the repeal of the *Land (Planning and Environment) Act 1991*, and for which there is a corresponding thing under this Act, is taken to be a reference to the thing under this Act, if the context allows and if otherwise appropriate.

121
Clause 417 (2) (c)
Page 310, line 5—

omit clause 417 (2) (c), substitute

(c) the keeping of a list of consultants under section 207;

122
Proposed new clause 417 (2) (g)
Page 310, line 8—

insert

(g) procedures for carrying out the authority's functions under chapter 11 (Controlled activities) and chapter 12 (Enforcement).

123
Clause 420 (1)
Page 312, line 3—

after

enactment of

insert

the *Building Legislation Amendment Act 2007*,

124
Clause 422
Page 312, line 14—

omit clause 422, substitute

422 Expiry—ch 15

This chapter, other than section 433A (Transitional—application for development approval if lease and development condition under

repealed Act) and section 457 (Plans of management), expires 2 years after commencement day.

125
Clause 423 (1)
Page 313, line 4—

after

territory plan

insert

proposed to be made for section 45 (Territory plan)

126
Proposed new clause 424 (1) (e)
Page 314, line 6—

insert

(e) after commencement of this section—

(i) publishes the proposed territory plan; and

(ii) gives public notice that written comments may be made on the proposed territory plan within the period of not less than 15 working days or, if another period is prescribed by regulation, the period prescribed; and

(iii) considers any comments provided in accordance with the notice.

127
Proposed new clauses 428A and 428B
Page 319, line 7—

insert

428A Transitional—draft plan variation submitted to Minister under repealed Act

(1) This section applies if, before commencement day—

(a) the actions mentioned in section 428 (1) (a) to (d) apply in relation to a plan variation under the repealed Act, section 15 (Preparation of plan variations); and

(b) the planning and land authority consults with, and considers any advice given by, the environment protection authority; and

(c) the authority prepares a notice (the ***consultation notice***) under the repealed Act, section 19 (Public consultation—notification) in relation to the draft plan variation; and

(d) the consultation notice complies with the repealed Act, section 19A (Public consultation—notice of interim effect etc); and

(e) the authority complies with the repealed Act, section 19B (Public consultation—availability of draft plan variation etc) and section 21 (Public inspection of comments) in relation to the draft plan variation; and

(f) either—

(i) the draft plan variation is revised under the repealed Act, section 22 (Revision, deferral or withdrawal of draft plan variations); or

(ii) the draft plan variation is not revised; and

(g) the draft plan variation is submitted to the Minister in accordance with the repealed Act, section 24 (1) (Submission of draft plan variation to Minister); and

(h) under the repealed Act, section 24 (2), the planning and land authority gives the Executive a written report about the authority's consultation with the national capital authority; and

(i) the authority complies with the public notification requirements under the repealed Act, section 24 (3) to (6) in relation to the documents mentioned in the repealed Act, section 24 (1); and

(j) the authority gives the Minister a written report about the authority's consultation with the environment protection authority; and

(k) the draft plan variation has not been referred to the appropriate committee of the Legislative Assembly under the repealed Act, section 25 (Consideration by Legislative Assembly committee).

(2) Each of the following applies in relation to the draft plan variation:

(a) the draft plan variation is taken to be a draft plan variation under this Act;

(b) the planning and land authority is taken to have complied with this Act, section 60 (Consultation etc about draft plan variations being prepared) in relation to the draft plan variation;

(c) the draft plan variation is taken to have been publicly notified under this Act, section 62 (Public consultation—notification);

(d) the consultation notice is taken to be a consultation notice under section 62 that complies with the requirements of this Act, section 63 (Public consultation—notice of interim effect etc);

(e) if the draft plan variation was revised under the repealed Act, section 22 (Revision, deferral or withdrawal of draft plan variations)—the draft plan variation is taken to have been revised under this Act, section 67 (Revision and withdrawal of draft plan variations);

(f) the draft plan variation is taken to have been given to the Minister under this Act, section 68 (Draft plan variations to be given to Minister etc);

(g) the planning and land authority is taken to have complied with this Act, section 69 (Public notice of documents given to Minister);

(h) if the consultation notice states that the draft plan variation has interim effect—the draft plan variation has interim effect in accordance with the consultation notice and this Act, section 71 (Effect of draft plan variations given to Minister).

428B Transitional—draft plan variation referred to Legislative Assembly committee under repealed Act

(1) This section applies if, before commencement day—

(a) the actions mentioned in section 428 (1) (a) to (d) apply in relation to a plan variation under the repealed Act, section 15 (Preparation of plan variations); and

(b) the planning and land authority consults with, and considers any advice given by, the environment protection authority; and

(c) the authority prepares a notice (the ***consultation notice***) under the repealed Act, section 19 (Public consultation—notification) in relation to the draft plan variation; and

(d) the consultation notice complies with the repealed Act, section 19A (Public consultation—notice of interim effect etc); and

(e) the authority complies with the repealed Act, section 19B (Public consultation—availability of draft plan variation etc) and section 21 (Public inspection of comments) in relation to the draft plan variation; and

(f) either—

(i) the draft plan variation is revised under the repealed Act, section 22 (Revision, deferral or withdrawal of draft plan variations); or

(ii) the draft plan variation is not revised; and

(g) the draft plan variation is submitted to the Minister in accordance with the repealed Act, section 24 (1) (Submission of draft plan variation to Minister); and

(h) under the repealed Act, section 24 (2), the planning and land authority gives the Executive a written report about the authority's consultation with the national capital authority; and

(i) the authority complies with the public notification requirements under the repealed Act, section 24 (3) to (6) in relation to the documents mentioned in the repealed Act, section 24 (1); and

(j) the authority gives the Minister a written report about the authority's consultation with the environment protection authority; and

(k) the draft plan variation is referred to the appropriate committee of the Legislative Assembly under the repealed Act, section 25 (Consideration by Legislative Assembly committee); and

(l) the Legislative Assembly committee has not reported on the draft plan variation.

(2) Each of the following applies in relation to the draft plan variation:

(a) the draft plan variation is taken to be a draft plan variation under this Act;

(b) the planning and land authority is taken to have complied with this Act, section 60 (Consultation etc about draft plan variations being prepared) in relation to the draft plan variation;

(c) the draft plan variation is taken to have been publicly notified under this Act, section 62 (Public consultation—notification);

(d) the consultation notice is taken to be a consultation notice under section 62 that complies with the requirements of this Act, section 63 (Public consultation—notice of interim effect etc);

(e) if the draft plan variation was revised under the repealed Act, section 22 (Revision, deferral or withdrawal of draft plan variations)—the draft plan variation is taken to have been revised under this Act, section 67 (Revision and withdrawal of draft plan variations);

(f) the draft plan variation is taken to have been given to the Minister under this Act, section 68 (Draft plan variations to be given to Minister etc);

(g) the planning and land authority is taken to have complied with this Act, section 69 (Public notice of documents given to Minister);

(h) if the consultation notice states that the draft plan variation has interim effect—the draft plan variation has interim effect in accordance with the consultation notice and this Act, section 71 (Effect of draft plan variations given to Minister);

(i) the Minister is taken to have referred the draft plan variation to the appropriate committee of the Legislative Assembly under this Act, section 72 (Consideration of draft plan variations by Legislative Assembly committee);

(j) the Minister must not taken action under this Act, section 75 (Minister's powers in relation to draft plan variations) in relation to the draft plan variation.

128
Proposed new part 15.2A
Page 319, line 7—

insert

Part 15.2A Transitional—planning strategy

428C Transitional—planning strategy

(1) The following documents are taken to make up the planning strategy under section 104:

(a) *The Canberra Spatial Plan* published by the planning and land authority in March 2004;

(b) *The Sustainable Transport Plan* published by the planning and land authority in April 2004.

(2) Despite section 105 (Public availability of planning strategy), the plans mentioned in subsection (1) need not be notified under the Legislation Act.

129
Clause 430 (2)
Page 320, line 15—

after

repealed Act

insert

(including the territory plan and any other instruments under the repealed Act)

130
Proposed new clause 430A
Page 320, line 18—

insert

430A Transitional—applications for review not finally decided

(1) This section applies if, before commencement day—

(a) an application was made to the AAT for review of a decision of the Minister, or the planning and land authority, under the repealed Act; and

(b) the application had not been finally decided.

(2) To remove any doubt, the repealed Act (including the territory plan and any other instruments under the repealed Act) continues to apply for the purposes of deciding the application.

(3) To remove any doubt, this section is additional to, and does not limit, the Legislation Act, section 84 (Saving of operation of repealed and amended laws).

131
Clause 431
Page 320, line 19—

[oppose the clause]

132
Proposed new clause 433A
Page 323, line 12—

insert

433A Transitional—application for development approval if lease and development condition under repealed Act

(1) This section applies to a development application if the application is—

(a) not in the code track; and

(b) for development on land comprised in a lease to which a lease and development condition under the repealed Act applied immediately before commencement day.

(2) If the territory plan requires the lease and development condition to be considered in making a decision under section 158 (Deciding development applications) in relation to the development application, the planning and land authority, or Minister, must consider the condition in making the decision.

(3) This section expires 5 years after the day it commences.

133
Clause 435 (4)
Page 325, line 7—

omit clause 435 (4), substitute

(4) However, this section does not apply to a use of land, or a building or structure on the land, if the use—

(a) is an authorised use under section 132A (Exempt development—authorised use); but

(b) is an exception to section 132A (1) because section 132A (2) or (3) apply in relation to the land.

134
Clause 436
Page 325, line 8—

[oppose the clause]

135
Clause 437
Page 326, line 20—

[oppose the clause]

136
Clause 438
Page 327, line 9—

[oppose the clause]

137
Proposed new clause 457
Page 338, line 22—

insert

457 Plans of management

(1) This section applies to a plan of management under the repealed Act in force immediately before commencement day.

(2) The plan of management is taken to be a plan of management under this Act.

(3) This Act applies in relation to the plan of management—

(a) as if a reference in the plan to the *Land (Planning and Environment) Act 1991* or the Land Act were a reference to this Act; and

(b) as if a reference to schedule 1 of the *Land (Planning and Environment) Act 1991* or the Land Act were a reference to this Act, Schedule 2; and

(c) as if a reference to section 197 of the *Land (Planning and Environment) Act 1991* or the Land Act were a reference to this Act, section 314 (Preparation of plans of management); and

(d) as if a reference to part 4 of the *Land (Planning and Environment) Act 1991* or the Land Act were a reference to this Act, chapter 8 (Environmental impact statements and inquiries); and

(e) with any necessary change and any change prescribed by regulation.

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

(5) This section expires on 1 January 2012.

138
Schedule 1, item 3, column 2, paragraphs (a) and (b)
Page 340—

omit paragraphs (a) and (b), substitute

(a) is subject to a rule and does not comply with the rule; or

(b) is not subject to a rule

139
Schedule 1, item 4, column 2
Page 340—

omit item 4, column 2, substitute

decision under s 158 to approve a development application in the merit track, whether subject to a condition or otherwise if—

(a) the application was required to be notified under s 150 and s 152, whether or not it was also required to be notified under s 151; and

(b) the application is not exempted by regulation.

140
Schedule 1, item 12, column 4
Page 345—

omit column 4, substitute

an entity if—

(a) the entity made a representation under s 153 about the proposal or had a reasonable excuse for not making a representation; and

(b) the approval of the development application may cause the entity to suffer material detriment

141
Schedule 1, item 15, column 2
Page 346—

omit

direct grant

substitute

direct sale

142
Schedule 1, item 19, column 2
Page 347—

omit item 19, column 2, substitute

decision under s 249 or s 250 that a lease is, or is not, a concessional lease

143
Schedule 1, item 1, column 2, paragraph (a)
Page 355—

omit paragraph (a), substitute

(a) a provision of a lease; or

144
Schedule 1, item 3, column 2
Page 355—

omit item 3, column 2, substitute

undertaking a development for which development approval is required—

(a) without development approval; or

(b) other than in accordance with the development approval

145
Schedule 2, proposed new item 10
Page 357—

insert

10	heritage area	1	to conserve natural and cultural heritage places and objects, including Aboriginal places and objects
		2	to provide for public use of the area for recreation, education and research as appropriate, and having proper regard to natural and cultural values

146
Schedule 3, part 4.3, item 5
Page 365—

omit item 5, substitute

5 proposal with the potential to have a significant impact on—

(a) a domestic water supply catchment; or

(b) a water use purpose mentioned in the territory plan (water use and catchment general code); or

(c) a prescribed environmental value mentioned in the territory plan, (water use catchment general code) of a natural waterway or aquifer

147
Dictionary, definition of *code requirements*
Page 368, line 13—

omit

148
Dictionary, proposed new definition of *criteria*
Page 369, line 14—

insert

criteria, in relation to a code, means the criteria in the code.

149
Dictionary, proposed new definition of *exempt development*
Page 371, line 29—

insert

exempt development—see section 132.

150
Dictionary, definition of *merit criteria*
Page 373, line 23—

omit

151
Dictionary, definition of nominal *rent lease*
Page 374, line 6—

omit the definition, substitute

nominal rent lease means a lease for nominal rent.

152
Dictionary, definition of *prohibited*, paragraph (a)
Page 375, line 2—

substitute

(a) a development is ***prohibited*** if the development is prohibited under the relevant development table or under section 133 (2); and

153
Dictionary, proposed new definition of *prohibition notice*
Page 375, line 5—

insert

prohibition notice—see section 370 (1).

154
Dictionary, proposed new definition of *public consultation period*
Page 375, line 17—

insert

public consultation period means—

(a) for a development application—see section 153A; or

(b) for a draft EIS—see section 211A.

155
Dictionary, definition of *relevant code requirements*
Page 376, line 11—

omit

156
Dictionary, proposed new definition of *relevant rules*
Page 376, line 14—

insert

relevant rules, for a development proposal, means the rules that apply to the proposal in each relevant code.

157
Dictionary, proposed new definition of *rules*
Page 376, line 25—

insert

rules, in relation to a code, means the rules set out in the code.

158
Dictionary, proposed new definition of *structure*
Page 377, line 14—

insert

structure includes a fence, retaining wall, swimming pool, ornamental pond, mast, antenna, aerial, road, footpath, driveway, carpark, culvert or service conduit or cable.

159
Dictionary, proposed new definition of *use*
Page 378, line 5—

insert

use land, or a building or structure on the land—see section 7A.

160
Dictionary, definition of *variation*
Page 378, line 6—

omit the definition, substitute

variation—

(a) of a lease—

(i) includes the surrender of the lease and the grant of a new lease to the same lessee, subject to different provisions, over land that—

(A) is all or part of the land comprised in the surrendered lease; and

(B) is not in an area identified in the territory plan as a future urban area; and

(ii) without limiting subparagraph (i), includes the surrender of a concessional lease and the grant of a new lease to the same lessee as a market value lease; and

(iii) includes the consolidation or subdivision of the lease within the meaning of section 226; but

(iv) does not include the surrender of the lease and the grant of a further lease under section 246 (Grant of further leases); and

(b) of a plan of management, for chapter 10 (Management of public land)—see section 307 (Definitions—ch 10).

Note The terms 'vary' a lease and 'lease variation' have meanings corresponding to 'variation of a lease' (see Legislation Act, s 157 (Defined terms—other parts of speech and grammatical forms).

Schedule 2

Planning and Development Bill 2006

Amendments moved by Mr Seselja

2
Clause 134
Page 95, line 16—

[oppose the clause]

3
Clause 160 (3) (i)
Page 122, line 11—

omit

4
Clause 165 (1) (c)
Page 127, line 10—

omit

5
Clause 179 (1) (c)
Page 138, line 1—

omit

6
Clause 181
Page 140, line 3—

[oppose the clause]

7
Clause 182
Page 141, line 23—

[oppose the clause]

8
Clause 193 (7)
Page 151, line 15—

omit

or section 198

9
Clause 194 (4), note
Page 152, line 17—

omit

134 and s

10
Clause 194 (6)
Page 152, line 19—

omit clause 194 (6), substitute

(6) To remove any doubt, this section does not apply to development that is lawful because of section 195 or section 197.

11
Clause 197 heading
Page 154, line 1—

omit the heading, substitute

197 Development lawful when begun

12
Clause 197 (1) (a)
Page 154, line 3—

omit

, other than a development that is continuing a use,

13
Clause 198
Page 154, line 10—

[oppose the clause]

14
Clause 240 (1), note
Page 182, line 6—

omit

15
Clause 246 (2)
Page 187, line 20—

after

of the land

insert

for the same purpose

16
Clause 247
Page 188, line 13—

[oppose the clause]

17
Clause 256
Page 194, line 14—

[oppose the clause]

18
Clause 299 (c)
Page 226, line 1—

omit

19
Clause 400, definition of *eligible entity*
Page 298, line 13—

omit the definition, substitute

eligible entity, for a reviewable decision—

(a) means an entity mentioned in schedule 1, column 4 in relation to the decision; and

(b) includes any entity declared to be an eligible entity for the decision under section 403A.

20
Proposed new clause 403A
Page 299, line 24—

insert

403A Ministerial declaration of standing

(1) The Minister may declare that an entity is an eligible entity for a reviewable decision by the Minister under section 158 (Deciding development applications) on a stated development application.

(2) However, the Minister must not make a declaration under subsection (1) in relation to an entity for a reviewable decision unless satisfied that it is in the public interest for the entity to have a right to apply to the AAT for review of the decision.

(3) A declaration in relation to an entity for a reviewable decision may be made—

(a) in anticipation of the decision; or

(b) at the same time as the decision; or

(c) within 2 working days after the day the decision is made.

(4) The Minister must give a copy of the declaration to—

(a) the planning and land authority; and

(b) the entity declared to be an eligible entity.

(5) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

21
Clause 411 (1), definition of *material detriment*
Page 307, line 18—

omit the definition, substitute

material detriment, in relation to land—an entity suffers ***material detriment*** in relation to land because of a decision if the decision has, or is likely to have, an adverse impact on the entity's use or enjoyment of the land.

22
Clause 150 (4) (a)
Page 113, line 7—

omit

Schedule 3

Planning and Development Bill 2006

Amendments moved by Mr Seselja

2
Amendment 32
Proposed new clause 132, definition of *exempt development*, paragraph (b)—

omit

3
Amendment 32
Proposed new clause 132A—

omit

4
Amendment 32
Proposed new clause 134—

omit

5
Amendment 46—

[oppose the amendment]

6
Amendment 62
Clause 179 (3), proposed new note—

omit

, s 180, s 181 or s 182

substitute

or s 180

7
Amendment 64
Clause 180 (2), proposed new note—

omit

, this section, s 181 or s 182

substitute

or this section

8
Amendment 71
Proposed new clause 182A (1) (c) and (d)—

omit

9
Amendment 133—

[oppose the amendment]

10
Amendment 159—

[oppose the amendment]

Schedule 4

Planning and Development Bill 2006

Amendment moved by Mr Seselja

1
Proposed new clause 411 (3)
Page 308, line 6—

insert

(3) Also, an entity does not suffer ***material detriment*** in relation to land because of a decision if the decision is made—

(a) before the entity is formed; or

(b) before the matter to which the decision relates is included in the entity's objects or purposes.

Schedule 5

Planning and Development Bill 2006

Amendment moved by Dr Foskey

1
Clause 281, definition of *improvement*
Page 213, line 4—

omit the definition, substitute

any earthworks, planting or other work that affects the landscape of the land that is reasonably undertaken for rural purposes.

Schedule 6

Planning and Development (Consequential Amendments) Bill 2007

Amendments moved by the Minister for Planning

1
Section 2
Page 2, line 4—

omit section 2, substitute

2 Commencement

This Act commences on the commencement of the *Planning and Development Act 2006*, section 419 (Repeals).

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

2
Schedule 1
Amendment 1.116
Page 43, line 14—

omit amendment 1.116, substitute

[1.116] Section 177 (1) (a) and (b)

substitute

(a) the planning and land authority or Minister approves a development application (the ***original decision***) under section 158; and

(b) application is made under section 185 for reconsideration of the original decision; and

3
Schedule 1
Amendment 1.124
Page 47, line 1—

omit amendment 1.124, substitute

[1.124] Section 227 (1) (c) (iii)

omit

commissioner for housing under the *Housing Assistance Act 1987*

substitute

housing commissioner under the *Housing Assistance Act 2007*

4
Schedule 1
Amendment 1.125
Proposed new section 233 (1) (d)
Page 47, line 21—

omit proposed new section 233 (1) (d), substitute

(d) the grant is to give effect to a lease variation (whether by consolidation, subdivision or otherwise); or

(e) the grant is in accordance with—

(i) section 234 (Direct grant if single person in restricted class); or

(ii) section 246 (Grant of further leases).

5
Schedule 1
Amendment 1.144
Page 53, line 1—

omit

6
Schedule 1
Amendment 1.147
Page 53, line 11—

omit

7
Schedule 1
Proposed new part 1.35
Page 71, line 18—

insert

Part 1.35 Utilities (Telecommunications Installations) Act 2001

[1.209] Section 6

substitute

6 Installations to which Act applies

(1) This Act applies to the installation of a telecommunications facility on a utility network facility on defined land if the installation is for a reticulated service in accordance with an authorised network plan.

(2) In this section:

authorised network plan means—

(a) a plan for a reticulated service authorised by a development approval under the Planning and Development Act 2006; or

(b) the 3GIS ACT Network Plan as in force immediately before the commencement of the Planning and Development Act 2006.

installation, of a telecommunications facility, includes—

(a) the construction or extension of the facility; and

(b) the attaching or securing of the facility to any part of a utility network facility; and

(c) placing any part of the facility on, over or under land; and

(d) any activity that is ancillary or incidental to an activity mentioned in paragraph (a), (b) or (c).

reticulated service—see the *Planning and Development Regulation 2007*, dictionary.

8
Schedule 1
Proposed new part 1.36
Page 71, line 18—

insert

Part 1.36 Water Resources Act 2007

[1.210] Section 28 (6) (b)

substitute

(b) the taking of rainwater from a rainwater tank that—

(i) has been installed in accordance with a development approval under the *Planning and Development Act 2006*, chapter 7 (Development approvals); or

(ii) is an exempt development within the meaning of that Act.

[1.211] Section 204

substitute

204 References to Planning and Development Act

(1) A reference in this Act to the *Planning and Development Act 2006* includes a reference to the *Land (Planning and Environment) Act 1991* (as in force at any time before its repeal).

(2) A reference in this Act to the *Planning and Development Act 2006*, chapter 7 (Development approvals) includes a reference to the *Land (Planning and Environment) Act 1991*, part 6 (Approvals and orders) (as in force at any time before its repeal).

Schedule 7

Planning and Development (Consequential Amendments) Bill 2007

Amendments moved by Mr Seselja

1
Schedule 1
Amendment 1.83
Page 33, line 2—

omit

2
Schedule 1
Amendment 1.84
Page 33, line 6—

omit

3
Schedule 1
Amendment 1.90
Page 37, line 23—

omit

Schedule 8

Building Legislation Amendment Bill 2007

Amendments moved by the Minister for Planning

1
Clause 2
Page 2, line 3—

omit clause 2, substitute

2 Commencement

(1) This Act (other than schedule 1, part 1.5) commences—

(a) on a day fixed by the Minister by written notice; or

(b) if not earlier commenced, on the commencement of the *Planning and Development Act 2006*, section 419 (Repeals).

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) Schedule 1, part 1.5 commences on the commencement of the *Planning and Development Act 2006*, part 11.2 (Complaints about controlled activities).

(3) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to this Act.

2
Schedule 1
Amendment 1.11
Proposed new section 19D (1) (c)
Page 9, line 14—

after

months

insert

or longer

3
Schedule 1
Amendment 1.11
Proposed new section 19D (4)
Page 10, line 11—

omit proposed new section 19D (4), substitute

(4) An appointment that ends under subsection (1) (c) ends—

(a) for a suspension for a single period of 3 months—on the day after the end of the 3-month period; or

(b) for a suspension for a single period of longer than 3 months—on the day after the end of the first 3 months of the period.

4
Schedule 1
Amendment 1.11
Proposed new section 19E
Page 10, line 12—

insert

19E Appointment of certifier after appointment ends under s 19D (1) (e)

(1) This section applies if an eligible entity's appointment as certifier for building work on land (the ***first appointment)*** ends under section 19D (1) (e).

(2) The owner of the land may appoint the entity as certifier for the building work (the ***second appointment***).

(3) If the certifier is an eligible entity during all of the relevant period, the second appointment is taken—

(a) to begin on the day after the day the first appointment ends; and

(b) to be a continuation of the first appointment, not a new appointment.

(4) However, for section 19D (1) (e), the second appointment is taken to be the last appointment if no appointment has been made after it.

(5) In this section:

relevant period means the period that—

(a) begins on the day after the day the first appointment ends; and

(b) ends on the day before the day the second appointment is made.

5
Schedule 1
Proposed new amendment 1.11A
Page 10, line 12—

insert

[1.11A] Section 20 (2) (c)

omit

section 19

substitute

section 19D (Ending appointments)

6
Schedule 1
Amendment 1.14
Proposed new section 24 (1) (b) (ii)
Page 12, line 3—

after

ends

insert

under section 19D (1) (a) or (b)

7
Schedule 1
Amendment 1.17
Proposed new section 27 (1) (b)
Page 18, line 24—

omit proposed new section 27 (1) (b), substitute

(b) if—

(i) a regulation prescribes that an entity's advice on the application must be sought—the entity's advice has been sought; or

(ii) a regulation prescribes that an entity must be consulted about the application—the entity has been consulted; or

(iii) a regulation prescribes that an entity's consent to, or approval of, the application is required—the entity has consented to, or approved, the application; or

(iv) a consent or approval prescribed by regulation contains a condition that must be complied with—the certifier is satisfied on reasonable grounds that the condition has been complied with; and

8
Schedule 1
Amendment 1.23
Proposed new section 30 (1), example
Page 24, line 2—

omit the example, substitute

Example

Under the *Planning and Development Act 2006*, s 240 leased land must not be used for a purpose other than a purpose authorised by the lease. A lease provides that the leased land may be used only for a single dwelling.

If an application for building work on the land contains plans for 2 dwellings in a single building, carrying out the site work will result in a contravention of the lease and therefore the *Planning and Development Act 2006*. Accordingly, a certifier must not issue the building approval.

If an application for building work on the land indicates that 1 room is to be used for a home office, and part of the lounge room is to contain a bar area, the building may still be used as a dwelling and a certifier could issue building approval, even though conducting a home business may require development approval.

9
Schedule 1
Amendment 1.23
Proposed new section 30A (3) (b)
Page 25, line 26—

omit proposed new section 30A (3) (b), substitute

(b) if an entity's advice must be sought on an application to a certifier for building approval—the advice the entity may give;

(c) anything else in relation to the advice.

10
Schedule 1
Amendment 1.34
Proposed new section 36A (1) (a)
Page 31, line 12—

omit proposed new section 36A (1) (a), substitute

(a) an entity's advice on an application for building approval has been sought as prescribed by regulation; and

Note See s 30A (3) (When building approvals not to be issued—advice on referral).

11
Schedule 1
Amendment 1.34
Proposed new section 36A (2)
Page 31, line 23—

omit

under section 27 (1) (b)

12
Schedule 1
Amendment 1.34
Proposed new section 36A (6), example
Page 33, line 19—

omit

under s 27 (1) (b)

substitute

as prescribed by regulation (see s 30A (3))

13
Schedule 1
Amendment 1.36
Proposed new section 43 (2) (b) (ii)
Page 36, line 1—

omit proposed new section 43 (2) (b) (ii), substitute

(ii) any condition of the following:

(A) an advice mentioned in section 27 (1) (b) (i);

(B) an approval or consent mentioned in section 27 (1) (b) (iii).

14
Schedule 1
Amendment 1.36
Proposed new section 44 (2) (a) (iii)
Page 37, line 3—

omit proposed new section 44 (2) (a) (iii), substitute

(iii) states the date that the noncompliance came to the certifier's attention; or

15
Schedule 1
Proposed new amendment 1.38A
Page 38, line 26—

insert

[1.38A] Section 48 (2) (a)

substitute

(a) if advice mentioned in section 27 (1) (b) was sought—

(i) written evidence of the advice; or

(ii) if the advice was not given within the time prescribed by regulation for giving it—a written statement by the certifier to the effect that the certifier is satisfied the advice was not given within the time;

Note See s 36A (Requirement to give advice in relation to proposed building work).

(aa) if consultation mentioned in section 27 (1) (b) was required—

(i) written evidence of the response to the consultation; or

(ii) if there has been no response to the consultation within the time prescribed by regulation for giving a response—a written statement by the certifier to the effect that the certifier is satisfied no response was given within the time;

(ab) if a consent or approval mentioned in section 27 (1) (b) was required to be obtained—written evidence of the consent or approval;

(ac) if compliance with a condition of a consent or approval prescribed by regulation was required—a written statement by the certifier to the effect that the certifier is satisfied on reasonable grounds that the condition has been complied with;

16
Schedule 1
Amendment 1.39
Proposed new section 48 (2) (b)
Page 39, line 4—

omit

section 43 (2) (a) (i)

substitute

section 43 (2) (a)

17
Schedule 1
Amendment 1.41
Proposed new section 48 (2) (h)
Page 39, line 21—

omit

the section

substitute

section 69 (1), (2) or (3)

18
Schedule 1
Proposed new amendments 1.41A and 1.41B
Page 39, line 23—

insert

[1.41A] New section 48 (2) (hb)

insert

(hb) if, in the certifier's view, building work involving the erection of a structure on or attached to land or a building has been completed in accordance with the prescribed requirements under division 5.1 for the building work—written advice that the registrar would be justified in issuing a certificate for the building work under section 72;

[1.41B] New section 48 (4A)

insert

(4A) If the certifier is required to give the constructions occupations registrar written evidence of something under this section—

(a) the registrar may ask for further information relevant to the thing in relation to anything not dealt with, or not adequately dealt with, in the written evidence; and

(b) the certifier must give the registrar the further information not later than 7 days after the day the registrar asked for it.

19
Schedule 1
Amendment 1.42
Proposed new section 50 (1) (c) (ii)
Page 40, line 14—

omit

5

substitute

21

20
Schedule 1
Amendment 1.42
Proposed new section 50 (3) (b) and (c)
Page 41, line 1—

omit proposed new section 50 (3) (b) and (c), substitute

(b) the certifier gives the building licensee in charge of the building work written notice that—

(i) the work does not comply with section 42; and

(ii) includes directions that are reasonable and appropriate for achieving compliance; and

(iii) states the date that the noncompliance came to the certifier's attention; and

(c) the certifier is satisfied on reasonable grounds that—

(i) the building licensee in charge of the building work has done what is reasonable and appropriate to achieve compliance (even if what is done is not in accordance with the directions in the notice); and

(ii) the licensee achieved compliance within 14 days after the date mentioned in paragraph (b) (iii).

21
Schedule 1
Amendment 1.47
Proposed new section 53 (5)
Page 49, line 10—

omit proposed new section 53 (5), substitute

(5) To remove any doubt, the ending of a stop notice ends the suspension of any building approval suspended because of the stop notice.

Note A stop notice automatically suspends a building approval (see s (2A)).

22
Schedule 1
Amendment 1.48
Section 54 (2), proposed new note 1
Page 49, line 17—

omit section 54 (2), proposed new note 1, substitute

Note 1 A stop notice suspends a building approval in relation to all or stated building work under the approval (see s 53 (2A)). This means that building work that contravenes this Act unless done in accordance with a building approval contravenes this Act if a stop notice has suspended the approval.

23
Schedule 1
Amendment 1.49
Proposed new section 57 (4)
Page 50, line 3—

omit proposed new section 57 (4), substitute

(4) To remove any doubt, the cancellation of a stop notice ends the suspension of any building approval suspended because of the stop notice.

Note A stop notice automatically suspends a building approval (see s 53 (2A)).

24
Schedule 1
Amendment 1.51
Proposed new section 60 (2)
Page 50, line 25—

omit

section 43 (2) (a) (i)

substitute

section 43 (2) (a)

25
Schedule 1
Proposed new amendments 1.58A and 1.58B
Page 54, line 24—

insert

[1.58A] New section 70A

insert

70A Completion of building work involving demolition

(1) This section applies if—

(a) building work involving the demolition of a building appears to have been completed; and

(b) the certifier for the building work is satisfied on reasonable grounds that the work has been completed in accordance with the prescribed requirements for the work.

(2) Within 7 days after the day the certifier is satisfied, the certifier must give the construction occupations registrar written advice that the registrar would be justified in issuing a certificate for the building work under section 71.

[1.58B] Section 71 (1)

substitute

(1) This section applies if—

(a) building work involving the demolition of a building has been completed in accordance with the prescribed requirements for the building work; and

(b) the certifier for the building work gives the construction occupations registrar the written advice mentioned in section 70A.

26
Schedule 1
Proposed new amendment 1.63A
Page 55, line 18—

insert

[1.63A] Section 142 (2)

substitute

(2) Also, a building action in relation to building work may not be brought more than 10 years after—

(a) if an entity has given a notice under section 24 (2) that the entity's appointment as certifier for the building work has ended—the day the entity gave the notice; or

(b) if an entity's appointment as certifier for the building work has ended under section 19D and the entity need not give notice under section 24 (2)—the day the entity's appointment ended.

27
Schedule 1
Amendments 1.64 and 1.65
Page 55, line 19—

omit amendments 1.64 and 1.65, substitute

[1.64] Section 146

substitute

146 Review by AAT

(1) Application may be made to the AAT for the review of a reviewable decision.

(2) The AAT must not, in relation to a proposed building, or a building as proposed to be altered, forming part of a development—

(a) vary a decision to issue a stop notice under section 53 (Stop notices) or a notice under section 58 (2) or (4) (Further notices relating to stop notices) or section 62 (1) (Notice to carry out building work), or substitute a decision for a decision it has set aside, in a way that would be contrary to a development approval for the development; or

(b) vary a decision to issue a notice under section 58 (4), or substitute a decision for a decision it has set aside, unless there is a development approval for the development.

(3) If the construction occupations registrar or another entity makes a reviewable decision, the registrar or other entity must give written notice of the decision to the relevant entity in relation to the decision.

(4) A notice under subsection (3) must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

(5) A regulation may prescribe—

(a) what decisions are reviewable decisions; and

(b) the relevant entity for each reviewable decision.

28
Schedule 1
Amendment 1.67
Proposed new section 152 (2) (c)
Page 56, line 15—

omit proposed new section 152 (2) (c), substitute

(c) the following:

(i) when an entity must be consulted about, consent to, or approve, an application for building approval;

(ii) anything else in relation to the consultation, consent or approval.

29
Schedule 1
Amendment 1.68
Dictionary, definition of *certifier*, proposed new paragraph (a)
Page 56, line 20—

omit proposed new paragraph (a), substitute

(a) for building work—means an entity appointed to act as certifier under section 19 (Appointment of certifiers—work not begun), section 19A (Appointment of certifiers—work begun) or government certifier under section 20 (Appointment of government certifiers) for the work; but

30
Schedule 1
Proposed new amendment 1.74A
Page 57, line 23—

insert

[1.74A] Dictionary, definition of *minor maintenance work*

omit

31
Schedule 1
Amendment 1.80
Page 60, line 3—

omit amendment 1.80, substitute

[1.80] New section 33A

insert

33A Rectification orders—exercise of registrar's powers

(1) To remove any doubt, the registrar is not prevented from having a belief on reasonable grounds, or being satisfied, about a matter mentioned in this part in relation to a construction service only because the registrar, the planning and land authority, a certifier or another entity has—

(a) given a certificate, or approval under—

(i) this Act or an operational Act in relation to the construction service; or

(ii) the *Planning and Development Act 2006* in relation to the place where, or the territory lease under which, the construction service was provided; or

(b) otherwise endorsed the construction service under this Act, an operational Act or the *Planning and Development Act 2006*.

(2) In this section:

Planning and Development Act 2006 includes the *Land (Planning and Environment) Act 1991* (as in force at any time before its repeal).

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

(4) Subsections (2) and (3) and this subsection expire 3 months after the day this subsection commences.

32
Schedule 1
Amendment 1.81
Proposed new section 36 (3)
Page 60, line 18—

omit proposed new section 36 (3), substitute

(3) However, the registrar need not consider whether the registrar, planning and land authority, a certifier or other entity has—

(a) given a certificate, or approval under—

(i) this Act or an operational Act in relation to the construction service; or

(ii) the *Planning and Development Act 2006* in relation to the place where, or the territory lease under which, the construction service was provided; or

(b) otherwise endorsed the construction service under this Act, an operational Act or the *Planning and Development Act 2006*.

(4) In this section:

Planning and Development Act 2006 includes the *Land (Planning and Environment) Act 1991* (as in force at any time before its repeal).

(5) Subsection (4) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

(6) Subsections (4) and (5) and this subsection expire 3 months after the day this subsection commences.

33
Schedule 1
Proposed new amendment 1.81A
Page 60, line 26—

insert

[1.81A] Section 56 (2) (b)

omit

section 19 (Appointment of certifiers)

substitute

section 19 (Appointment of certifiers—work not begun) or section 19A (Appointment of certifiers—work begun)

34
Schedule 1
Amendment 1.87
Proposed new section 123 (3)
Page 62, line 11—

omit

development

substitute

land

Answers to questions

Parking—government vehicles (Question No 1551)

Mr Seselja asked the Minister for Territory and Municipal Services, upon notice, on 1 May 2007:

(1) How many designated free car parking places are provided for ACT Government and Executive vehicles in the ACT;

(2) How many designated free car parking places were provided for ACT Government and Executive vehicles in the ACT for each year from 2000 to 2006.

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

(1) Government vehicles – parking places are provided for use by both Commonwealth and ACT Government vehicles. Therefore this question is ambiguous and as such I cannot provide an answer.

Executives vehicles – Nil

(2) This information is not available.

Gungahlin Drive extension (Question No 1576)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 3 May 2007:

(1) What is the proposed completion date of work currently being undertaken on the Gungahlin Drive Extension (GDE);

(2) Have there been any changes to the proposed completion date for work currently being undertaken on GDE since December 2006;

(3) What is the expected final cost for work currently being undertaken on the GDE;

(4) What was the original budget for completion of the GDE.

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

(1) Mid 2008

(2) No

(3) $120.05 M including contingency

(4) $86.05 M was allocated in the 2005-06 budget

United Ngunnawal Elders Council (Question No 1590)

Mrs Burke asked the Minister for Indigenous Affairs, upon notice, on 3 May 2007:

Is the United Ngunnawal Elders Council still being funded by the ACT Government; if not, why not and where has the funding for this Council been diverted to.

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

Yes

Water—consumption (Question No 1598)

Mr Stefaniak asked the Minister for the Environment, Water and Climate Change, upon notice, on 29 May 2007:

(1) What consultation has occurred with (a) sporting groups and (b) the business community, especially those businesses that are dependent on water use, regarding the probable introduction of Level 4 water restrictions;

(2) What actions will the ACT Government take to (a) reduce its water usage, (b) persuade the Federal Government to reduce its water consumption and (c) persuade embassies to comply with water restrictions;

(3) What negotiations has the ACT Government undertaken with (a) the National Capital Authority, (b) the Royal Canberra Golf Club and (c) other relevant bodies about use of the water from Lake Burley Griffin.

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

(1) Both ACTEW and the ACT Government have undertaken, and continue to undertake, consultation with the sporting groups and business community to understand the likely implications on these sectors resulting from the introduction of Stage Four Temporary Restrictions.

(a) On 30 May 2007, the Department of Territory and Municipal Services, in conjunction with ACTEW, undertook a public meeting with sporting groups to detail a process of consultation and seek groups' input. A Venue Manager's meeting was also held on 7 June 2007. The outcomes of the consultation will be incorporated into a Territory Sports Strategy. The Strategy will be provided to ACTEW detailing a recommended list of facilities seeking an exemption. Facilities will be recommended on the basis of their capacity to achieve the best outcomes for sport and recreation in the ACT and maintain diversity of physical activity opportunity for the community.

(b) ACTEW has undertaken direct negotiations with those sectors of the business community that will be directly impacted through the move to Stage Four restrictions. Industries groups which ACTEW has consulted include:

- Australian Car Wash Association
- ACT Children's Services Association
- Building Service Contractors Association of Australia
- Property Council of Australia (ACT)
- Irrigation Association of Australia
- Australian Institute of Horticulture
- Australian Institute of Landscape Architects
- Landscape Contractors Association
- Nursery & Garden Industry NSW & ACT (NGINA)
- Turf Grass Association of Australia

On 4 June 2007 I announced the establishment of a high level inter-departmental committee to identify the possible ramifications of stage 4 water restrictions on business and the community and to make contingency plans to address the likely impact. The Committee is being chaired by the Chief Executive of the Department of Territory and Municipal Services, Mr Mike Zissler and supported by Dr Maxine Cooper and the Water Security Taskforce. The Committee will work with ACTEW to identify areas across the social, economic and environmental spectrum that may suffer adverse impacts if the move to stage 4 is made.

(2) (a) The ACT Government has complied with the Temporary Water Restrictions. All Government agencies are aware of the need to conserve water and have amended their water management practices to reflect the requirements under the Temporary Restrictions Scheme.

In addition:

- $430,000 is being spent implementing water audit recommendations in schools;
- $100,000 has been allocated to retro-fit Evatt Primary with water efficient products and fixtures as a demonstration to other schools;
- $25,000 is being spent upgrading irrigation system fixtures in five schools; and
- $350,000 is being spent installing the COMTROL water-efficient irrigation control system in 17 schools.

The five highest water using ACT Government leased buildings have also been water audited and the Government has also provided assistance to the commercial and institutional sectors, through the logging of water consumption data and walk-through water audits. To date 70 commercial audits have been conducted.

(b) The ACT Government continues to engage with the Commonwealth Government in relation to the Temporary Water Restrictions, the broader water supply implications of the Murray Darling Basin as well as the Prime Minister's National Plan for Water Security. Commonwealth agencies are committed to comply with the ACT water restrictions.

(c) ACTEW has written to the Department of Foreign Affairs and Trade seeking the cooperation of the Diplomatic Corp in adhering to the requirements of the Temporary Restrictions.

(3) The National Capital Authority administers water allocations from Lake Burley Griffin. Officials from the ACT Government and the National Capital Authority met on 23 May 2007 to discuss, inter alia, Stage Four water restrictions.

Policing—numbers (Question No 1599)

Mr Stefaniak asked the Minister for Police and Emergency Services, upon notice, on 29 May 2007:

(1) What changes have occurred in police numbers in 2006-07 to date;

(2) What have been the changes in police numbers within the various areas of the ACT Australian Federal Police during that period;

(3) What is the average (a) recruitment and (b) staffing costs incurred for police officers recruited in 2006-07 to date.

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

(1) The total ACT Policing staff numbers for the period 2006-07 are as below:

	Total Staff
Jul-06	839.27
Aug-06	846.51
Sep-06	843.14
Oct-06	852.35
Nov-06	861.45
Dec-06	856.81
Jan-07	864.71
Feb-07	855.93
Mar-07	845.54
Apr-07	831.66

(2) Staff numbers within ACT Policing work areas continuously fluctuate in accordance with operational priorities. The distribution of staff across ACT Policing portfolios at any given time is approximately:

Operational Response functions (including District Patrols, Territory Investigations Group, Traffic Operations and Specialist Response and Security): 60%

Other Operational functions: 20%

The balance of staff of 20% is constituted by Operations Support and Administrative functions.

(3) (a) The average recruitment cost per police recruit in 2006-7 is $14,000. This amount represents the actual cost to ACT Policing of salary (while undergoing training) and training delivery for each recruit deployed to ACT Policing.

(b) The average staffing cost per police recruit in 2006-07 is $40,000. This amount represents the post graduation staffing cost, including salary and on-costs to ACT Policing, for each recruit deployed to ACT Policing for the remainder of their first year of service.

Woden bus depot site
(Question No 1600)

Mr Stefaniak asked the Minister for Territory and Municipal Services, upon notice, on 29 May 2007:

(1) What arrangements are in place for the former Woden Bus Depot site in Phillip;

(2) How much money does the Territory earn from the lease of this site;

(3) How long are the lease arrangements in place for;

(4) Was the lease on this site put out for tender; if so, how was the successful tenderer chosen; if not, what process did the Territory follow to enter into the lease.

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

(1) The Depot is leased to a commercial tenant.

(2) The licence fee is $102,000 ext GST per annum plus a percentage of gross monthly receipts where the monthly receipts exceed $25,000.

(3) The licence is ongoing and requires three months notice from the Territory for it to be terminated.

(4) Yes it was put out for public tender. The successful tenderer was chosen on value for money.

Environment—wetlands
(Question No 1601)

Dr Foskey asked the Minister for the Environment, Water and Climate Change, upon notice, on 29 May 2007:

(1) What steps have been taken to advance the Commonwealth and ACT's joint $17 million funded project to recreate wetlands in Ginninderra, Yarralumla and Weston Creek;

(2) What areas have been identified for this project;

(3) What is the timeline for this project;

(4) Which community groups will be involved;

(5) Is the Woden East/Land Development Agency wetlands proposal part of this project;

(6) Who will fund the Woden East Yarralumla Creek wetlands project;

(7) Which part of the existing channel will be part of the wetlands.

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

(1) The following steps have been taken to advance the Canberra Integrated Urban Waterways Project:

- a Project Manager has been appointed within Sustainability Policy and Programs, TAMS.
- a Steering Committee has been established to oversee the project. The Committee is comprised of TaMS CE; ACTPLA CE; Director, Sustainability Policy and Programs; and a Project Manager from the National Water Commission.
- a cross Government Project Team has been established coordinated by Sustainability Policy and Programs, TAMS and made up of representatives from: ACTPLA, TAMS, Treasury, Procurement Solutions, Land Development Agency; ACTEW, National Capital Authority and a community representative.
- feasibility phase one has commenced with CSIRO procured to undertake a study to identify optimum site options.
- due to previous preliminary design, the first project site has been identified near Flemington Road, Sullivans Creek Catchment. A pond system will provide harvested stormwater to EPIC, the Race Course and Yowani Country Club. Construction is scheduled for October 2007.

(2) The areas initially identified for the project were sub-catchments that do not have adequate water quality pollution control ponds before flowing into the Molonglo or Murrumbidgee Rivers, that is: Weston Creek; Yarralumla Creek, downstream of Lake Ginninderra and Sullivans Creek Catchment. The major objective of the project is to harvest maximum volumes of stormwater and alternative sources of water for reuse to displace potable water use for uses such as irrigation. Hence **all urban areas in the ACT** are being investigated to identify optimum volume capture of water to meet existing irrigation demand.

(3) A program for the project has been established including a two-phase feasibility study to identify project sites and undertake preliminary design. Following the determination of sites, detailed design, stakeholder and community consultation will follow prior to construction. The project is scheduled for completion in 2010.

(4) Broad community consultation will be undertaken through the environment assessment process. The Urban Waterways Coordinator (to be employed shortly using National Landcare Program funding) will represent community catchment groups on the Project Team. ACT Catchment groups include: Molonglo Catchment Group; Sullivans Creek Catchment Group; Southern ACT Catchment Group; and Ginninderra Catchment Group.

(5) No

(6) The Woden East Joint Venture (LDA and Hindmarsh) is required under its Holding Lease/Deed of Agreement to undertake improvements to that section of Yarralumla Creek passing through the Holding Lease boundary (i.e. that section of the creek from Hindmarsh Drive to Wilbow Street extension). The Holding Lease/Development Deed clearly state that the extent and nature of the improvements will be established by the upstream studies to be undertaken by ACTPLA/TaMS. The extent of the works having been established - the works required within the relevant section of Yarralumla Creek will be undertaken by the Joint Venture.

(7) The improvements undertaken by the Joint Venture will be to the section from Hindmarsh Drive to Wilbow Street.

Waste disposal—dumping guidelines (Question No 1602)

Dr Foskey asked the Minister for Territory and Municipal Services, upon notice, on 29 May 2007:

(1) Is the Minister aware that the operators of the Belconnen Golf Course allegedly are using a section of the property as a dumping ground for waste material including electrical equipment, household waste and building materials;

(2) Is such dumping on this site approved or regulated; if so, when did environment officers last inspect the site to ensure it is meeting with environmental guidelines on dumping; if not, why has the Department of Territory and Municipal Services not yet responded to complaints from residents regarding this dumping despite these complaints having been lodged through Canberra Connect over two months ago, in mid-February.

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

(1) Yes.

(2) The dumping of materials on the golf course site has not been approved. The complaint of 16 February 2007 regarding the alleged dumping on the golf course was sent by Canberra Connect to the City Rangers Licensing and Compliance section in the Department of Territory and Municipal Services (TAMS). As the complaint included matters that are the responsibility of the ACT Planning and Land Authority (Authority), it was forwarded to that agency on 18 April 2007.

Inspectors from the Authority undertook inspections on three occasions between 24 April 2007 and 6 June 2007. The inspection on 6 June 2007 was conducted jointly with inspectors of the Environment Regulation Unit of TAMS.

The operator of the Belconnen Golf Course has advised Authority inspectors that the dumping which has occurred had been as a result of after hours illegal dumping by members of the public in the car park area of the block.

The golf course operator has advised inspectors that they had moved the materials over a period of time to an area away from public view.

Arrangements have been made by the golf course to remove the materials from the site by Friday 15 June 2007. Inspectors from the Authority will monitor the removal of the rubbish.

At the 6 June 2007 inspection TAMS environment regulation inspectors, advised that there was no evidence of contamination from the dumping of waste at the golf course and as a consequence there are no issues of concern in terms of relevant environmental requirements.

Hackett—footpaths
(Question No 1603)

Dr Foskey asked the Minister for Territory and Municipal Services, upon notice, on 29 May 2007:

(1) Are there plans to lay more surfaced footpaths and pedestrian crossings throughout Hackett in light of the suburb's growing population of young families who require safe walking routes throughout the area; if so, when will work on installing these begin; if not, why has the Department of Territory and Municipal Services decided that current pedestrian arrangements, for example, pedestrians using heavily trafficked roads, are adequate;

(2) How many traffic accidents involving pedestrians within Hackett have occurred, including on Antill Street and Phillip Avenue where they pass through this suburb, within the past 10 years, or within any timeframe for which records are available.

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

(1) My Department has several programs in place to monitor and identify traffic and pedestrian safety issues and implement measures to enhance pedestrian and traffic safety. These programs are:

a. Traffic Management at Schools - an ongoing program where the traffic and pedestrian safety situation in and around selected schools are investigated and measures implemented in consultation with the schools and the school community. The schools for investigation under this program are selected on a priority basis from a list maintained by the Department.

b. Minor New Works program – which deals with reactive and proactive pedestrian and traffic safety improvement programs throughout the ACT.

c. Ad hoc safety improvement programs – which deal with safety improvement programs if and when safety concerns are raised by residents.

d. Neighbourhood safety improvement programs – which deals with street lighting and other residential amenity improvement programs.

e. Capital upgrade program for footpath improvements - Roads ACT maintains a database of public requests for footpaths in established suburbs. These are ranked against other competing priorities for consideration in future works programs. At present there is only one request in this database for a path in Hackett, and this is currently ranked at No 127. On this basis this path is unlikely to be built in the near future. There are no other footpaths planned by Roads ACT for this suburb

(2) There has been a total of three recorded traffic accidents involving pedestrians in Hackett from 1 December 1996 to 30 November 2006. There was a fatality recorded on Antill Street in 1999, an injury recorded on Antill Street in 1997 and a non-injury accident on Gilruth Street in 2002.

Red Hill primary school (Question No 1605)

Dr Foskey asked the Minister for Education and Training, upon notice, on 29 May 2007:

(1) Is the Department of Education and Training aware of the problems faced by Red Hill Primary School in terms of lack of available classroom space to meet growing demand for student places;

(2) Does the Minister approve of students being turned away from the school their older siblings already attend purely because of space constraints;

(3) Does the Department have any plans to expand classroom space at Red Hill Primary School, for example through the installation of demountable classrooms; if not, will the Department seek alternative space for the French-Australian pre-school which currently rents classroom space at Red Hill Primary School, to free up this space for the expansion of the primary school.

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

(1) Yes, the Red Hill Primary School Board has raised the issue of space at the school. The school is currently nearing capacity with a waiting list, and would like to enrol more students. It should be noted that the school has sufficient capacity to meet its in area enrolments.

(2) The only time a sibling might be turned away is when they reside outside the priority enrolment area for the school (e.g. NSW) and the school is at absolute capacity.

(3) As a rule, the Department would like to see that any government school has first choice of use of space at the school. Departmental officers are currently engaged in discussions with the French Australia Preschool Association Inc and Property Branch, Territory and Municipal Services, to assist in finding suitable alternative accommodation for the preschool that meets their requirements.

Public service—corporate credit cards (Question No 1606)

Mr Stefaniak asked the Treasurer, upon notice, on 30 May 2007:

(1) How many corporate credit cards are held by ACTEW officers;

(2) Have there been any instances of inappropriate use of credit cards since 2001; if so, (a) how many, (b) in what circumstances were credit cards used (c) what was the cost of the items purchased;

(3) What disciplinary action was taken against those responsible for inappropriate credit card use.

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

(1) ACTEW has advised that four officers and four staff hold corporate credit cards. From time to time other officers and staff may require a card for business activities. These are allocated as required.

(2) ACTEW has advised that there are no known or identified instances of inappropriate use of credit cards.

(3) Not applicable.

Actew—board meetings (Question No 1607)

Mr Stefaniak asked the Treasurer, upon notice, on 30 May 2007:

(1) How regularly does the board of ACTEW meet and where are these meetings held;

(2) How regularly are the shareholders briefed on issues related to the management of ACTEW and where do these briefings occur;

(3) How often are the shareholders meetings held and what is the venue.

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

(1) The Board schedules ten meetings per year, however additional meetings are held as and when required. Matters are also dealt with by way of out of session papers.

The meetings are usually held at the registered office of the company, that is Level 9 ActewAGL House, 221 London Circuit, Canberra. In 2005-06, nine meetings were held at this address and one meeting was held at the Lower Molonglo Water Quality Control Centre.

In 2006-07, thirteen meetings have been held to date, ten at the registered office of the company, one at the Googong Water Treatment Plant, one in Sydney and one at TransACT House.

(2) Significant decisions are reported to the portfolio Minister and shareholders after each Board Meeting. ACTEW reports matters of policy consequence in accordance with its obligations under the *Territory Owned Corporations Act 1990*. Additional briefings also take place on an as-needed basis. To the knowledge of the Chairman, under successive Governments, all such briefings have been in Canberra.

(3) The annual general meeting of the company is held each year usually in September. The meetings are held at the registered office of the company.

Clean Up Australia (Question No 1608)

Dr Foskey asked the Minister for the Environment, Water and Climate Change, upon notice, on 30 May 2007:

(1) How is the Government supporting Clean Up Australia in the ACT;

(2) Are there any Clean Up Australia projects that the Government plans to support collaboratively or otherwise;

(3) Is the Government aware of alleged growing sentiments within Clean Up Australia that the ACT Government does not appreciate its work;

(4) What is the Government doing to ensure more effective waste management in the ACT.

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

(1) Each year, Territory and Municipal Services assists with the Clean Up Australia Day campaign by providing a free service of removing the collected litter. Almost seven tonnes of litter was taken to landfill in March 2007. A total of 89.5 labour hours was used to provide this service at a cost of $3,730.90.

(2) The ACT Government is committed to a long-term partnership with Clean up Australia and will continue to provide waste disposal services for Clean Up Australia Day.

(3) No.

(4) The ACT Government has initiated or supports several programs aimed at raising public awareness of the damage caused to the environment by littering. These include Waterwatch, Landcare, Adopt a Wetland, Clean Up Australia Day and a "Butt Free City Campaign" in conjunction with the Butt Littering Trust, which commenced in 2005 and was again carried out in March this year. Public awareness campaigns are also carried out periodically targeting litter and illegal dumping. This month (June 2007) Territory & Municipal Services and ACT Police are undertaking a joint campaign targeting uncovered loads. In addition, the *Litter Act 2004* provides a more effective piece of legislation to deter people from littering. Under this legislation our City Rangers and Police can issue on-the spot fines to offenders ranging from $60 to $1000.

Regular maintenance programs are also in place throughout Canberra's public and open space areas to ensure that litter is kept within service charter specifications. Furthermore, the ACT Government has in place the *No Waste Strategy* which is progressively being implemented and has already achieved a 75% resource recovery rate for all municipal wastes generated.

Health—bird flu (Question No 1609)

Dr Foskey asked the Minister for Territory and Municipal Services, upon notice, on 30 May 2007:

(1) How does the Government ensure that large scale commercial hen interests operating in the Territory, such as Parkwood, have appropriate public health mechanisms;

(2) What is the Government's strategy for ensuring that birds in this commercial environment do not contract avian influenza;

(3) Has the Government drawn up a strategy specifically targeted at a large scale avian influenza outbreak;

(4) What is the Government's strategy for ensuring that backyard hens do not contract avian influenza.

Mr Stanhope: I am responding to this question as responsibility for animal welfare now comes within my portfolio. The answer to the member's question is as follows:

(1) There are well-developed biosecurity systems in place for the chicken meat and egg industry that have been strengthened in recent years due to the threat of Highly Pathogenic Avian Influenza. Poultry farmers are alert to the possibility of the disease entering the country and have high-level support with diagnostic facilities and response plans. I am advised that these plans and procedures are the equal of any in the world. Biosecurity is a systematic risk based approach to the preparation for and response to an incursion of a new pest or disease that could affect primary industry or the environment.

In 2003 the Australian egg industry, in conjunction with Animal Health Australia, developed the *Code of Practice for Biosecurity in the Egg Industry*. This industry standard provides clear guidance to egg producers for the development of effective biosecurity practices on their farms. This quality assurance program covers a comprehensive range of production practices including food safety, animal welfare, human health and safety, egg labeling and biosecurity. All requirements have been approved by the appropriate State and Territory health authorities for animals and humans.

(2) As a signatory to the Emergency Animal Disease Response Agreement, the Government, together with all other jurisdictions and peak animal industry groups, has participated in the development of contingency measures for an outbreak of an exotic disease. Each disease of national significance, including Highly Pathogenic Avian Influenza, has a technical response document in place under the AUSVETPLAN banner which establishes agreed standards and protocols for surveillance, diagnosis, linking policies and strategies, emergency-management plans and coordinated implementation of response measures. ACT specific information for responding to animal disease incidents is set out in the Animal Disease Sub Plan of the ACT Emergency Plan.

(3) In relation to the sole ACT commercial egg production facility, inspection of compliance with biosecurity requirements is periodically undertaken. Special training for employees has been conducted by government staff to ensure that workers are aware of biosecurity and health standards and procedures. Preparedness for an Avian Influenza outbreak has been tested through participation in a nationally coordinated simulation exercise. Additional operational policies have been inserted in AUSVETPLAN to address the risks posed by wild birds.

(4) In relation to backyard hens, the risk from Avian Influenza is reduced because of the small individual flocks and their relative isolation from industry sources of infection. Government officers actively investigate unexplained wild bird deaths and owners of domestic birds are encouraged to seek professional advice if unusual illness or death

occurs. The Domestic Animals Services unit of the Department of Territory and Municipal Services maintains specially designed Avian Influenza response equipment and has associated operating procedures in place should an outbreak occur or be suspected that has implications for domestic birds.

Water—conservation measures (Question No 1610)

Dr Foskey asked the Minister for Territory and Municipal Services, upon notice, on 30 May 2007 *(redirected to the Minister for the Environment, Water and Climate Change)*:

(1) Does the Government distribute a succinct, comprehensive information sheet that explains simply to people how to save water and energy and how to implement energy and water saving measures;

(2) Does the Government distribute any specific, targeted information or research on how to implement functional energy and water saving mechanisms in the home; if not, why not.

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

(1) The ACT Government distributes a range of succinct fact sheets, guidelines and brochures that explain simply to people how to save water and energy and implement energy and water saving measures. This information is available as printed material and from the *Think water, act water* and the *Home Energy Advice Team* websites at the following locations.

- http://www.thinkwater.act.gov.au/water_savingtips/ water_saving_tips.shtml
- http://www.heat.net.au/topics.html

Printed fact sheets, guidelines and brochures are distributed via public events and displays, community group presentations on request, the Home Energy Advice Team, and to participants in the ACT Government Water Tune-up programs and ACT Energy Wise audits.

Water information available includes:

- Home water-saving tips
- Dual flush toilets
- Taps, aerators and flow regulators
- Water-efficient showerheads
- Water wise gardening
- Drip irrigation
- Lawns and saving water
- Mulching your garden
- Rainwater tanks fact sheet
- Rainwater tanks: guidelines for residential properties in Canberra
- Greywater use: guidelines for residential properties in Canberra
- Water Efficiency Labelling Scheme (WELS) brochure

Energy information includes:

- ACT Energy Wise Good Sense Guide
- Top Tips For Staying Warm
- Choosing a Heating System
- Wash Yourself in the Winter Sun

- Cavity Wall Insulation
- General Insulation Tips
- Budget Tips for Homes
- Slab Edge Insulation
- Budget Tips for Homes
- Windows Fact Sheet
- EER Ratings Explained
- Standby Power
- Eaves in Canberra
- Top Tips For Staying Cool
- Top Ten Energy Saving Tips
- Choosing a Cooling System
- AAA Showerheads
- Solar Hot Water
- Introduction to Electricity

(2) Yes. In addition to the information identified in response to Question 1, the ACT Government provides specific, targeted information about how to implement functional energy and water saving mechanisms in the home via its *Think water, act water* tune-up programs and *ACT Energy Wise* audits. This information is provided during a home visit and is therefore specifically tailored to implementation in the participant's homes. Rebates are also provided to assist participants to implement functional water and energy saving mechanisms in their homes and gardens.

Roads—footpaths (Question No 1611)

Dr Foskey asked the Minister for Territory and Municipal Services, upon notice, on 30 May 2007:

Has the Government (a) considered adopting wider footpaths in Canberra suburbs and town centres and (b) developed any plans with regard to footpaths, to encourage walking in the ACT; if not, why not.

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

(a) No – there are specific design standards covering footpaths and this highlights different widths, ranging from 1.2 – 3.0m, depending on their use and location. This is consistent with practice in other jurisdictions around Australia.

(b) There is a 10 year master plan covering cycle and pedestrian infrastructure. This information is available on the TAMS website. The Plan has been also been disseminated through public information sessions, and is supported by groups such as pedal power.

WorkChoices (Question No 1612)

Mr Mulcahy asked the Minister for Industrial Relations, upon notice, on 31 May 2007:

What was the total cost including (a) any obligations arising from the final judgement, (b) counsel's fees, (c) nominal cost of ACT Government Solicitor's services and (d) court costs arising from the ACT's decision to intervene in the High Court challenge brought by the States against the WorkChoices legislation.

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

The total cost was $89,885.80.

To break this down according to the Member's categories:

(a) There was no cost in relation to any obligations arising from the final judgement. The ACT supported by all the States and Northern Territory, have submitted that the normal rule that an intervener should not have to pay costs, should apply in this case. There has been no response from the Commonwealth yet.

(b) Counsel's fees and expenses were $57,195.80.

(c) The nominal cost of ACT Government Solicitor's services were $32,690.00.

(d) There were no court costs arising from the ACT's decision to intervene in the High Court challenge brought by the States against the WorkChoices legislation. The normal rule for an intervener in proceedings is that no cost is payable. The ACT, the States and Northern Territory have submitted to the Commonwealth that this normal rule should apply.

Cooleman Ridge
(Question No 1613)

Dr Foskey asked the Minister for the Environment, Water and Climate Change, upon notice, on 5 June 2007:

(1) Why has the Government appointed the same private company that will be clearing the land on Cooleman Ridge in Weston Creek to undertake the consultation process;

(2) Why did the Government fail to include a proposed helipad in the public display in relation to Cooleman Ridge;

(3) How did the Government consult with the local community in relation to the helipad;

(4) Has the Government taken advice of peak groups, such as the Cooleman Ridge Park Care Group, with regard to the proposed helipad and the clearing on Cooleman Ridge.

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

(1) Cooleman Ridge is currently going through the planning phase for proposed works to reduce fuel loads as required by the Strategic Bushfire Management Plan. As Cooleman Ridge is designated land under the National Capital Plan, the proposed works require approval from the National Capital Authority. Cooleman Ridge also includes communities and species listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act* and as such approval for the proposed

works is also required from the Commonwealth Department of the Environment and Water Resources.

Territory and Municipal Services has engaged a consultant to develop the planning documentation required to seek the necessary approvals for undertaking work on Cooleman Ridge. The current consultants are not engaged to undertake the proposed clearing activities.

(2) There is no helipad proposed for Cooleman Ridge.

(3) There is no helipad proposed for Cooleman Ridge.

(4) The community were informed through local media of two community consultation forums. These forums were aimed at detailing the proposed works and providing the community with an opportunity to raise concerns. Issues raised by the community and peak groups will inform the works approval and environmental approval documentation that will be submitted to the National Capital Authority and the Commonwealth Department of the Environment and Water Resources. Further opportunity for community comment will be available once the Development Application process has commenced.

Housing—rental assistance (Question No 1614)

Mr Mulcahy asked the Chief Minister, upon notice, on 5 June 2007:

How many single pensioners in the ACT over the age of 65 are currently (a) receiving payments for rental assistance for private accommodation and (b) living in government accommodation.

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

(a) Rent Assistance is an Australian Government program paid to individuals through Centrelink. Inquiries about the Rent Assistance program should be directed to the Australian Government.

(b) 1535 (does not include tenants in community properties managed by community organisations – this information is not available).

Health—medical treatment interstate (Question No 1615)

Mr Mulcahy asked the Minister for Health, upon notice, on 5 June 2007:

(1) How many ACT residents over the age of 65 have been required to travel interstate in order to obtain medical treatment in the last year;

(2) In how many of the cases referred to in part (1) was the patient's medical condition further aggravated by the travel.

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

(1) ACT Health does not record this type of information.

(2) Not applicable.

Canberra Glassworks (Question No 1616)

Mr Mulcahy asked the Minister for Planning, upon notice, on 5 June 2007 *(redirected to the Minister for the Arts)*:

(1) What was the original budgeted cost for the new Canberra Glassworks on the Kingston foreshore;

(2) What was the original budgeted cost for this project in the form in which it was finally approved;

(3) What was the final cost of this project;

(4) How will this blow out in costs affect the ACT Budget position and the pressure on ACT taxpayers;

(5) Does the Government wish to revise the projected costs for any of its other capital works projects in light of this blow out in costs.

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

(1) The original construction budget for the Canberra Glassworks was $9.545 million, allocated in 2004-05 following the development of a user's brief and the preparation of a full Business Case.

In 2001-02, prior to the undertaking of a base-building audit, development of a user's brief or completion of forward design, an initial allocation of $2.9 million (including $.3 million for forward design) was made to the proposed contemporary glass centre. The (then) Kingston Foreshore Development Authority promised a contribution of $2.47 million towards a base-building upgrade (to bring the building shell up to current standards) which was not provided until 2006-07.

(2) The construction budget for the approved design (Final Sketch Plans) for the Canberra Glassworks was $10.75 million.

Following completion of the Preliminary Sketch Plans, and a base-building audit which demonstrated that the building was in poorer condition than originally thought, the Land Development Agency contributed an additional $1.3 million. This funding was allocated in 2005-06, but not provided until 2006-07.

(3) The final capital works cost of this project was $11.41 m.

During construction, unexpected faults were identified in the roof structure, and residual contaminants were discovered once roof replacement had commenced. An

additional $665,000 was reallocated from existing Chief Minister's Department funds in 2006-07 to meet these latent conditions.

(4) I do not consider this funding a 'blow out in costs'. The frame of reference that applies to any project 'blow out of costs' remains the Bruce Stadium fiasco in which the Liberal Party took a $12million project and delivered it for in excess of $80million. Now that's a blow out.

The increased costs were due to additional work required to address latent conditions in the Kingston Powerhouse building, problems which would have had to have been addressed in any refurbishment of this important community asset. The Powerhouse is the oldest permanent public building in the ACT, and was left unused for many years, so it is hardly surprising that unexpected challenges arose during the refurbishment of the Powerhouse and construction of the Canberra Glassworks.

Additional funding of $1.3million was provided by the Land Development Agency as a part of the Kingston Foreshore development project, and $655,000 was sourced from underspends and savings within the Chief Minister's Department. Rather than cause so-called problems for the ACT community, this modest investment in Australia's latest cultural attraction will produce significant and ongoing benefits to both the residents of and visitors to the ACT.

(5) As stated, I do not consider the project suffered from a 'blow out' in costs.

Planning—carpark takeaway food van (Question No 1617)

Mr Mulcahy asked the Minister for Planning, upon notice, on 5 June 2007:

(1) Does the purpose clause of the car park allow the takeaway food van currently operating in the car park on London Circuit next to the Australian Federal Police Headquarters to operate legally;

(2) What, if any, change has occurred to the purpose clause of the car park to allow this food van to operate;

(3) Have any licences, or other authorisations, been granted to this food van to allow it to operate legally;

(4) Who is the operator of this food van;

(5) How much is the operator of this food van paying for the use of this site;

(6) What rates and levies is this food van required to pay in order to operate at this site;

(7) How has the addition of this food van affected competing takeaway food businesses in Civic who are required to pay rates and levies in order to operate.

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

(1) There is no lease or licence under the Land Act.

(2) Not applicable on the basis of the answer to question Q1.

(3) Yes, the operator has a current Hawkers Licence granted under the *Hawkers Act 2003*. The licence is due to expire on 30/8/2007.

(4) The person who currently holds the Hawkers Licence is Mr John Daley.

(5) The operator paid $803.45, being the determined fee under the *Hawkers Act 2003*.

(6) Refer to A5.

(7) There are no similar facilities within the immediate vicinity. The position of the van is temporary and it is understood that the van is primarily to service construction workers and CFMEU members engaged in the construction of the developments along London Circuit, Marcus Clark Street and Farrell Place. It is understood that the provision of the service is to deter employees from attending licensed premises for meals.

Community groups—accommodation (Question No 1618)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 5 June 2007:

(1) What are the details of all community groups that have been accommodated in school buildings left vacant following the closure of schools at the end of 2006;

(2) What are the details of the lease arrangements for all community groups listed in part (1);

(3) Have all community groups and tenants previously accommodated in schools or on school grounds now closed, been relocated; if so, please provide details;

(4) How much money has been spent on the maintenance of the (a) Mt Neighbour Primary and (b) Rivett Primary closed school sites.

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

(1) There are six (6) community organisations that are occupying buildings that were closed at the end of 2006. They are:

- The YMCA of Canberra located at the former Melrose Primary School, Chifley;
- Noah's Ark Resource Centre and the Warehouse Circus located at the former Rivett Primary School; and
- The Association of Parents and Friends of ACT Schools, Nature & Society Forum, and Uniting Care Mirinjani at the former Weston Primary School.

(2) These community organisations all had formal tenancy arrangements with the Department of Education and Training prior to the closures. These arrangements have

been transferred to the Department of Territory and Municipal Services (TAMS). All the tenancy arrangements were due to expire over the course of 2007, but the Government has offered and had accepted the opportunity for each organisation to continue its tenancy arrangement until the future use of their sites is known.

(3) The Government announced that Rivett and Mt Neighbour, Kambah will be sold following community consultation. Accordingly, TAMS is working with Noah's Ark and the Warehouse Circus to relocate them from Rivett to one of the other closed schools. The Warehouse Circus is likely to move to Melrose by August, while Noah's Ark is still considering its position.

(4) From 22 December 2006 till 31 May 2007, the following amounts had been spent on the maintenance:

(a) Rivett Primary School - $21,717.52;

(b) Mount Neighbour Primary School - $18,954.10.

Hospitals—pay parking (Question No 1619)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 5 June 2007 (redirected to the Minister for Health):

(1) How much revenue has been collected from pay parking since its introduction at (a) The Canberra Hospital and (b) Calvary Hospital;

(2) What was the total cost of the implementation of pay parking, inclusive of initial consultancy reports at (a) The Canberra Hospital and (b) Calvary Hospital;

(3) What contracts are currently in place to manage and maintain the parking systems at (a) The Canberra Hospital and (b) Calvary Hospital;

(4) What is the value and duration of the contracts outlined in part (3).

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

(1) Revenue collected from pay parking to the end of June 2007 is $1.207m. (a) The Canberra Hospital $0.816m and (b) Calvary Hospital $0.391m.

(2) Total cost of implementing pay parking, inclusive of consultancy reports was $1.282m. (a) The Canberra Hospital $0.920m and (b) Calvary Hospital $0.362m. In addition to the costs of implementation for pay parking, $463k was spent across both campuses for overall parking management and maintenance of pay parking facilities.

(3) There are currently no contracts in place for the management of pay parking at Calvary and The Canberra Hospital. All contracts ceased on 11 June 2007.

(4) There are currently no contracts in place.

Dogs—attacks
(Question No 1620)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 5 June 2007:

(1) How many dog attacks upon a person have been reported in the ACT since June 2006;

(2) How many of the dog attacks outlined in part (1) resulted in the (a) prosecution of the owner and (b) destruction of the offending animal;

(3) How many rangers are currently employed in the Domestic Animal Service section of the Department of Territory and Municipal Services (TAMS);

(4) How many rangers were employed in the Domestic Animal Service section of TAMS between June 2005 and June 2006.

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

(1) There have been 83 actual attacks by dogs on a person reported to DAS between 01/06/2006 to 30/05/2007

(2) There have been 70 prosecutions to date regarding attacks and the number of dogs destroyed has been 83. These figures cover attacks on both animals and individuals.

(3) 8 Rangers

(4) 6 Rangers

Kambah—schools
(Question No 1621)

Mr Pratt asked the Minister for Education and Training, upon notice, on 5 June 2007:

(1) Does the ACT Governments plan to keep Wanniassa High School open when the new P-10 school in Kambah is built in 2011, considering the Minister has stated two P-10 schools within two kilometres of each other are not viable;

(2) What design plans are the ACT Government considering for the new P-10 school in Kambah;

(3) What names are being considered for the new P-10 school in Kambah;

(4) Will the ACT Government consider developing a committee of concerned community members, including students and parents, to assist in the development of the new Kambah school;

(5) Will funding to Urambi Primary School be affected by the decision to close the school in 2010;

(6) Has the ACT Government developed a strategy to move established programs at Kambah High, like the Makabetsu exchange program, to other schools, and will these programs be moved back to the new Kambah school in 2011;

(7) What plans does the ACT Government have to move historic pieces in Kambah High, including student achievement boards, to the new Kambah school.

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

(1) There are no plans to close Wanniassa School.

(2) There are no design plans yet developed for the new school. The Department of Education and Training will be engaging a consultant to undertake an adaptive re-use study of the existing buildings. This study will inform the planning of the site prior to a formal master planning process in 2008.

(3) There are no names being considered for the new P-10 school at present. The usual process is for the principal (when appointed) in consultation with the community, to put forward an appropriate name for the school to the Department for approval.

(4) Yes.

(5) No.

(6) Officers of the Department are working with the school to consider the best possible locations for any established programs that need to be relocated. As an example, it has been determined that the two special education programs will move to Melrose High School from 2008.

Decisions on the programs to be offered at the Kambah P-10 school will occur as part of the consultation process for the new school.

(7) All school memorabilia from Kambah High School will be catalogued and placed into storage. When the new principal is appointed he/she will decide on the appropriate location for memorabilia in consultation with the community.
