Debates

WEEKLY HANSARD

Legislative Assembly for the ACT

SIXTH ASSEMBLY

27 SEPTEMBER 2007

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Thursday, 27 September 2007

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The Assembly met at 10.30 am.

(Quorum formed.)

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

Occupational Health and Safety (Regulatory Services) 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) (10.33): I move:

> That this bill be agreed to in principle.

The Occupational Health and Safety (Regulatory Services) Legislation Amendment Bill 2007 completes stage 1 of the government's budget commitment to consolidate and streamline the activities of various regulatory agencies across the ACT government. Stages 2 and 3, which I will bring forward next year, will comprehensively deal with the establishment of the Office of Regulatory Services by consolidating various laws which deal with overall governance of the new office, and principal legislation which regulates various ACT industries.

The establishment of a single, coordinated Office of Regulatory Services was announced in last year's budget and brought together the regulatory activities associated with ACT WorkCover, the Office of Fair Trading, the Registrar-General's Office, parking operations, tobacco licensing, charitable collections, outdoor cafes, and the Independent Competition and Regulatory Commission, to achieve economies of scale and remove unnecessary duplication of administrative costs across government.

Under the revised arrangements, occupational health and safety regulatory activities will be undertaken by the newly established Office of Regulatory Services within my department, the Department of Justice and Community Safety.

As part of the new accountability and reporting arrangements, the chief executive of my department will prepare a report on the exercise of her regulatory occupational health and safety responsibilities twice a year, which I will table in the Assembly. The first report will be the departmental annual report, which is tabled in September of each year, and the second report will be an interim report, which I will table in March of the following year.

In finalising the organisational structure of the Office of Regulatory Services, the government has recognised the importance of issues associated with occupational health and safety and has acknowledged the need to retain an independent Occupational Health and Safety Commissioner reporting directly to the minister and the Legislative Assembly.

Under the new arrangements, staff of the Occupational Health and Safety Commissioner's office will be directly responsible to the commissioner and, through the commissioner, to the Minster for Industrial Relations, reinforcing the independence and accountability of the Occupational Health and Safety Commissioner's office.

The Occupational Health and Safety Commissioner will continue to be appointed by the executive, and will remain responsible to the Minister for Industrial Relations for promoting an understanding, acceptance of and compliance with the Occupational Health and Safety Act and associated laws. The commissioner will also undertake research and development of educational programs to promote occupational health and safety principles in the workplace and will review ACT laws to ensure consistency with the Occupational Health and Safety Act and associated legislation.

The Occupational Health and Safety Commissioner will play a critical role in raising awareness within the community of occupational health and safety responsibilities, including responsibilities under new legislation. Retention of the role also demonstrates the importance and priority that this government places on education and promotion of work safety in the territory.

To ensure an appropriate level of transparency and accountability in the work of the Occupational Health and Safety Commissioner, the commissioner will report at six-monthly intervals to the Minister for Industrial Relations, who will table these reports in the Assembly.

Funding for the independent operation of the Occupational Health and Safety Commissioner's office will include additional resources to enable outsourcing of promotional and educational activities, as appropriate. I commend the bill to the Assembly.

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

Statute Law Amendment Bill 2007 (No 2)

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) (10.37): I move:

> That this bill be agreed to in principle.

This bill makes statute law revision amendments to ACT legislation under guidelines for the technical amendments program approved by the government. The bill makes amendments that are minor or technical, and non-controversial. They are generally insufficiently important to justify the presentation of separate legislation in each case and may be inappropriate to make as editorial amendments in the process of republishing legislation under the Legislation Act 2001.

However, the bill serves the important purpose of improving the overall quality of the ACT statute book so that our laws are kept up to date and are easier to find, read and understand. A well-maintained statute book significantly enhances access to ACT legislation and it is a very practical measure to give effect to the principle that members of the community have a right to know the laws that affect them.

The enhancement of the ACT statute book through the technical amendments program is also a process of modernisation. For example, laws need to be kept up to date to reflect ongoing technological and societal change. Also, as the ACT statute book has been created from various jurisdictional sources over a long period, it reflects the various drafting practices, language usage, printing formats and styles throughout the years. It is important to maintain a minimum level of consistency in presentation and cohesion between legislation coming from different sources at different times so that better access to, and understanding of, the law is achieved.

This Statute Law Amendment Bill deals with two kinds of matters. Schedule 1 provides for a minor, non-controversial amendment proposed by a government agency. Statute law amendment bills generally include a second schedule that contains amendments to the Legislation Act 2001 proposed by the parliamentary counsel to ensure that the overall structure of the statute book is cohesive and consistent and is developed to reflect best practice. This bill does not provide for such amendments but the schedule heading is retained to preserve the usual numbering of schedule 3 and a note to that effect is included in schedule 2.

Schedule 3 contains technical amendments proposed by the parliamentary counsel to correct minor typographical errors or clerical errors, improve language, omit redundant provisions, include explanatory notes or otherwise update or improve the form of legislation. Statute law amendment bills may include a fourth schedule that repeals redundant legislation. However, a fourth schedule is not included in this bill.

This bill contains a large number of minor amendments with detailed explanatory notes, so it is not useful for me to go through them now. However, I would like to briefly mention several matters. Schedule 1 contains five amendments to the Environment Protection Act 1997 and one amendment to the Environment Protection Regulation 2005. The first two amendments to the Environment Protection Act omit a redundant provision—and a related definition—which regulated dealings with ozone-depleting substances or things containing such substances if the dealing had been a prescribed activity. No relevant dealings are prescribed and ozone-depleting substances are now regulated under the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989—a commonwealth act.

The last three amendments to the Environment Protection Act omit schedule 2, part 2.4 and related definitions. Schedule 2, part 2.4, which regulated petrol quality, was enacted in the context of the introduction of unleaded petrol. Fuel quality is now regulated under the Fuel Quality Standards Act 2000—a commonwealth act—so the part is now redundant.

The amendment to the Environment Protection Regulation omits section 67 (2) (h) and is consequential on the omission of the definition of ozone-depleting substance from the Environment Protection Act 1997. Schedule 3 includes amendments to acts that have been reviewed as part of an ongoing program of updating and improving the language and form of legislation.

In addition to the explanatory notes in the bill, the parliamentary counsel is also available to provide any further explanation or information that members would like about any of the amendments made by the bill. The bill, while minor and technical in nature, is another important building block in the development of a modern and accessible ACT statute book that is second to none in Australia. I commend the bill to the Assembly

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

Rock attacks

MR PRATT (Brindabella) (10.42): I move:

That:

(1) this Assembly notes the growing trend of rock attacks against buses, cars and other vehicles in the ACT and that over a period of six or more months, in accordance with the Government's own reckoning, 58 or more such attacks have occurred with incidence on the increase;

(2) a select committee be appointed to inquire into the growing trend of rock throwing against moving vehicles, utilising the following terms of reference analysing:

(a) the incidents which have occurred, by differing categories and pattern;

(b) the psychological and sociological reasons behind the growing trend of rock assaults on moving vehicles;

(c) the plans and actions of Government designed to combat the trend and protect the public;

(d) the success or otherwise of public education and information programs;

(e) the measures taken to protect public transport and passengers, including how effective they were;

(f) the measures undertaken in other jurisdictions to combat the trend and their success or otherwise;

(g) the capacity of ACT Policing to undertake protracted targeted operations aimed at arresting offenders in the act; and

(h) what measures could effectively be undertaken to prevent further occurrences or to minimise the risk, including whether:

(i) discrete legislation is warranted to deal with the problem; and

(ii) if discrete legislation is warranted, whether that might include increased penalties;

(3) the committee be composed of:

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

(b) one Member to be nominated by the Opposition; and

(c) one Member to be nominated by the Crossbench; and

(4) the Committee report by the first sitting day in December 2007.

Today, the opposition is proposing that a select committee be established to inquire into what is very much a growing problem. There are potentially life-threatening consequences if something is not done to nip this issue in the bud. With respect to the motion that I have moved today, the first paragraph reads:

(1) this Assembly notes the growing trend of rock attacks against buses, cars and other vehicles in the ACT and that over a period of six or more months, in accordance with the Government's own reckoning, 58 or more such attacks have occurred with incidence on the increase;

In our motion we make this suggestion:

(2) a select committee be appointed to inquire into the growing trend of rock throwing against moving vehicles, utilising the following terms of reference analysing:

(a) the incidents which have occurred, by differing categories and pattern;

(b) the psychological and sociological reasons behind the growing trend of rock assaults on moving vehicles;

(c) the plans and actions of Government designed to combat the trend and protect the public;

(d) the success or otherwise of public education and information programs;

(e) the measures taken to protect public transport and passengers, including how effective they were;

(f) the measures undertaken in other jurisdictions to combat the trend and their success or otherwise;

(g) the capacity of ACT Policing to undertake protracted targeted operations aimed at arresting offenders in the act; and

(h) what measures could effectively be undertaken to prevent further occurrences or to minimise the risk, including whether:

(i) discrete legislation is warranted to deal with the problem; and

(ii) if discrete legislation is warranted, whether that might include increased penalties;

We have asked that the committee be composed of one member of the government, one member of the opposition and a crossbencher. Why are we doing this? Why is the opposition proposing that such a select committee be established? I will outline my case.

For some four or more months, the opposition has been calling upon the ACT government to take urgent action to address the problem of rock and concrete block attacks on buses, cars and other vehicles. We have continually asked the government what steps it has taken to date, and what measures it intends to take to ameliorate the problem. The government has never convincingly answered these questions from the opposition. Like bus drivers, passengers and other Canberrans, the opposition remains sceptical and totally lacking in confidence that this government (a) takes the matter seriously and (b) has any idea what to do about the problem.

It is only a matter of time before somebody is seriously injured in the ACT as a consequence of this behaviour. The incidents continue to grow in frequency and the perpetrators remain unhassled; nor do they have any fear of arrest or serious incarceration. It is for these reasons that the opposition calls for an urgent select committee inquiry into this growing phenomenon. A select committee inquiry will certainly assist the government in analysing why this phenomenon is growing and in finding answers to combat the problem. Frankly, it is necessary because the government appears to have dropped the ball on this matter. Therefore, a committee might be able to produce concrete recommendations for the government to act on. It is the aim of the opposition to see a select committee inquiry which, fundamentally, would assist the government properly to combat the problem.

What is the situation in the ACT? For six or more months, there have been persistent reports of rock throwing attacks against buses, initially in the Belconnen area. Now, because the problem has never been nipped in the bud, and as a consequence of publicity and perhaps well-intended but misguided education programs, this problem has spread. As we know, when it comes to this sort of behaviour, copycat activities occur. Luckily, nobody has been reported as having been seriously injured to date. However, many people have been shaken up by the near misses, including passengers and bus drivers.

I will give a summary of the best-known incidents. Firstly, in August 2007 there was an incident involving a school bus in the Belconnen region—a region that was busy with students. A side window was shattered, distressing the students; the bus and

passengers were delayed for one hour to allow for a clean-up. By the way, there was no bus to replace that bus, which is another issue. Secondly, in September 2007 a bus in the Gilmore region had the driver's window shattered by a rock. The rock narrowly missed the driver's head and shattered the division panel behind him. The driver was badly shaken.

In the last two months, there has been an increase in attacks on cars, involving both rock throwing and, alarmingly, dropped concrete blocks from overhead bridges. The following is an excerpt from a Neighbourhood Watch newsletter in the Farrer region, warning residents of the increase in incidence of this heinous activity:

> Even more alarming was a recent report of a shopping trolley dropped from an overpass onto the roadway. Fortunately, no-one was injured in this particular incident.

Time constraints mean that I can only give a description of two more of the most recent cases. Firstly, in August 2007, on Adelaide Avenue in the vicinity of Deakin, at 1 o'clock on a Saturday morning, a young lady received a concrete block through her windscreen, missing her by about half a metre. The block was dropped from the overhead bridge crossing Adelaide Avenue. Secondly, in September 2007, again on a Saturday night at about 1.00 am—I think it was the Saturday before last—a young woman had a rock hit the windscreen stanchion of her car. It then ricocheted and shattered the side mirror.

Bus drivers are incensed by the growing trend and the failure of the government to take sufficient action to even slow down this trend. Around the country, this trend is also growing. Regrettably, other jurisdictions have experienced very serious injuries, which, luckily, the ACT has yet to experience. There are well-documented public cases where both young teenagers and, in a quite separate category, younger adult men, usually travelling home from hotels late at night, have engaged in rock throwing and block dropping.

In six or more months, by the government's reckoning, 57 incidents had occurred. I refer to what was said in question time in the last sitting period. Since then, I am well aware of at least one more case, taking that caseload to 58. However, given this government's penchant for secrecy, I would not be surprised if there were some more cases that we are not even aware of. This is not a government that will ever admit that it has a problem such as this one. In my experience, unless the opposition asks direct questions, this government will rarely admit and publicise, or even quietly brief this Assembly on, serious matters such as this. Perhaps it could even seek the support of the Assembly when it confronts such issues.

Now, with a significant problem of these proportions—that is, 58 or more incidents in a significant period of time, with currently only two detentions for that entire period that we aware of, and with no let-up in the number of incidents—we cannot see any signs of government action. We cannot see signs of progress on this matter or any ideas expressed by the government as to how it will combat this problem in the future. That is why the opposition is calling for a select committee inquiry.

This is a very serious matter. In other jurisdictions, victims have experienced serious head injuries, with some being put in comas. It is only a matter of time before we have a bus driver, a passenger or the occupant or driver of a car hospitalised with serious head injuries or worse. In risk management terms, Mr Speaker, you would have to agree with this analysis. As I said, we have not really seen any action by the government, nor do we have any confidence whatsoever that any urgent action will be taken to address this matter.

If the government had demonstrated that they were taking action, the opposition would be satisfied. You cannot resolve these sorts of issues overnight. The trend will continue for a very long time. But at least if the government were demonstrating that they had taken a range of measures, the opposition would simply provide whatever assistance we could to the government and support them on this issue, because it is an issue which is deeply alarming to everyone in the community.

There has been an increase in this behaviour all over Australia. In New South Wales alone, there have been 50 arrests in relation to rock throwing since January this year. This high level of incidents prompted the Iemma government recently to announce increased penalties, to a minimum of 10 years and a maximum of 14 years jail time. New South Wales is sending out a strong message that rock throwing is unacceptable behaviour. Please take note of this, Mr Speaker and government members: the Iemma government is backing up its education and information program with strong legislative action. The opposition proposes that the government here should do the same. Let us at least see that proposition tested by a select committee inquiry. However, we urge the government to proceed now, and not to wait for a select committee inquiry, in providing stiffer legislation, in order to send a strong message.

The government is running a reasonably effective education and information program about the dangers of rock throwing and concrete block dropping, but that education program is toothless unless it is backed up with strong legislation to underscore the importance of that education and information program. And that is what is not happening.

During the last sitting, Minister Hargreaves threw his hands in the air when we questioned him about what was being done to protect ACTION transport against rock throwing. His response was, "What more can I do?" There is plenty that can be at least investigated. He mused that the government might look at reinforcing windows on buses. He said this would cost in the vicinity of half a million dollars. He said that the government might be considering that. We have moved past the point of whether we might consider such things. Action should have commenced before now. If this problem has been with us for six or more months and there have been 58 incidents, why have we not seen clear steps undertaken to date?

Let us look at some of the actions which have been considered in other jurisdictions which share the same sorts of problems. I will talk about Taree in New South Wales, although I stress that the Taree case is a particular case and one that we cannot necessarily draw parallels with in the ACT. In south Taree, a particular area is involved; therefore it is geographically tight, it is much easier to police and it is easier

for the authorities to take measures. Nevertheless, let us look at some of the measures they have taken, some aspects of which could be applicable in combating the problem here in the ACT.

Patrols are conducted at least twice a week to clear rocks away from the verges of roadways where it is known that rock throwing at cars is common. Low shrubs under two metres are removed in such areas; trees over two metres are trimmed; thorny ground cover is planted where applicable; there is stronger provision of lighting; and there is engagement with the community in crime prevention. The message here is quite simple: future offenders will be easily seen, there is nowhere for them to hide and their activities will be impeded.

As I say, that is a particular case which does not have much applicability here in the ACT. However, measures being taken there might give this minister some ideas regarding areas here where we know that rock throwing is fairly prevalent. In the Northern Territory, where police patrols target known areas for incidences of rock throwing, the number of reported incidents have substantially decreased.

In New South Wales, under the traffic act, rock throwing attracts a fine for those caught, and there are other related offences which can be taken up by the judiciary where necessary. As I said, in the last week the New South Wales Premier has increased penalties. The New South Wales government realise that, with a couple of people lying in hospital, one in a coma at least for a time, it is now beyond a joke.

In the city of Kalgoorlie-Boulder, local authorities have approved the expenditure of $100,000 for cameras to be installed on a street known to have high rock throwing incidence. Again, that is a particular case and not necessarily very applicable to the ACT, but there are some ideas there.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10.58): I move the amendment circulated in my name:

> Omit all words after "ACT" in paragraph (1), substitute:
>
> "(2) calls on the Government to commission an independent study to investigate the trend of rock throwing against moving vehicles covering issues such as, but not limited to, the psychological and sociological reasons motivating this type of behaviour, effectiveness of legislative and policing responses to date and possible future measures to address this behaviour.".

The government is deeply concerned about the phenomenon of throwing rocks and other objects at moving traffic. I condemn, and the government condemns, those who seek to make sport of innocent people, and call on these individuals to consider the impact they have on their victims when they engage in this behaviour. I also indicate the government's full support for ACT Policing and the Director of Public Prosecutions in their efforts to investigate and prosecute these crimes.

The safety of road users, including ACTION's passengers and drivers, is of prime concern to the government, to the police and to ACTION management. It is

disappointing, therefore, that each year we see ACTION drivers and passengers and private vehicle drivers and passengers experience a number of rock or object throwing incidents. Throwing rocks or other objects at vehicles is extremely dangerous for all concerned. Some of these incidents have already caused minor injuries and they do have the capacity to cause serious harm. It is important that the public are aware that these types of incidents are occurring and that they should contact the police if they see people behaving suspiciously along the side of a road or on an overbridge. The safety of road users, including bus passengers and drivers, is of prime concern. We view this type of attack as criminal behaviour that needs to be investigated and prosecuted to the full extent of the law.

I would like to address first of all the issue of what penalties are available for these types of offences. Contrary to the assertions made by those opposite, there are very serious penalties available to prosecutors and to the police when it comes to these types of incidents. The penalties attached to these offences are stern and they are consistent with those of other jurisdictions. For example, the ACT Criminal Code sets out the offence of damaging property. A person commits this offence where they intend to cause, or they are reckless about causing, damage to property belonging to someone else. The penalty for this offence is a fine of up to $110,000, imprisonment for 10 years or both. So that is in respect of crimes against property. Clearly, that would relate to damage caused to a motor vehicle, a bus and so on.

With respect to crimes against a person, the Crimes Act 1900 states that a person commits an offence if they recklessly inflict grievous bodily harm. A person who commits this offence is liable to 10 years imprisonment. The Crimes Act also includes a set of provisions that makes acts endangering a person's life or health criminal offences. A person who intentionally and unlawfully interferes with any conveyance or transport facility in circumstances likely to endanger human life or cause a person grievous bodily harm can also be found guilty of an offence punishable on conviction by imprisonment of up to 10 years. So there are very significant penalties already in place. For acts endangering health, where there is intentional and unlawful interference with a transport facility, a convicted person can also be liable for imprisonment of up to five years.

These offences were consciously cast broadly to capture a range of offensive behaviour. The reason for this is simple: broadly framed provisions with a general application avoid the technical difficulties and loopholes that come with having numerous slightly different provisions with similar effect across ACT law. Having simple and straightforward provisions that capture a broad range of offences and intentions ensures that police and prosecutors are able to do their job with maximum ease. The generalising of criminal prohibition makes the law easier to understand, simpler to prosecute, more accessible to the community and more sensible overall.

The understandable desire to add, and keep adding, specific criminal offences to the criminal law as a response to an immediate demand to do something about emerging problem behaviour should be resisted unless there is clear evidence that the existing criminal law does not address the problem. It is not good social policy to end up with criminal legislation which re-creates the mistakes of the past. It is also not good policy to recommend the enactment of specific offences just to make a political point with a particular sector of the community.

The government is satisfied that the offences I have outlined and the punishments that go with them carry the necessary deterrent effect. Ten years imprisonment and over $100,000 in fines are significant penalties. The full deterrent effect of the criminal law is realised with the sentencing and publicity following a successful prosecution and conviction. That is where we need to continue to focus our efforts when it comes to deterrence.

Mr Pratt's call for charges of attempted murder, which he called for on the weekend for this type of offence, shows his ignorance of how the law works. If Mr Pratt ever became police minister, prosecutors would be faced with the impossible task of making a charge of attempted murder where intention would need to be proved. Mr Pratt would be making this already very challenging task of prosecutors impossible, by placing them in the situation where they would have to prove intent to murder, which is one of the highest standards required in the criminal law. It is a naive approach and it adds nothing to the solution to this problem.

The work that ACT government agencies and ACT Policing are doing offers the real solution. The challenge that the government and the community as a whole face is the phenomenon of copycat behaviour. The media is playing a legitimate role in informing the community of where these incidents occur and how they have occurred. Unfortunately, associated with this is the risk of copycat incidents. We know anecdotally that, following the reporting of serious incidents in places such as New South Wales, we see a step up in the level of less serious incidents here in the ACT.

ACT Policing are particularly concerned about this type of dangerous behaviour and are applying quite a significant strategy which I would now like to outline to members. Current strategies centre on police communications response, crime prevention, intelligence gathering and media communication. Incidents of rock throwing do not seem to be targeted at any particular mode of transport, with both buses and private vehicles being struck. It seems that the throwing of objects is an opportunistic crime committed mostly by juvenile offenders. Nor have any particular suburbs been heavily targeted, although southside suburbs have recorded more instances than northside suburbs.

Officers in charge of the four ACT Policing district police stations are continuing to meet with ACTION bus management in order to develop a wide-ranging strategy to address these incidents. This contact has also been extended to private bus companies that operate within and through the ACT. Police and ACTION have agreed that education about and public awareness of the dangers of such attacks are the best way forward. As a result, schools have been issued with information about this issue as part of regular news bulletins to schools.

The ACT Policing territory investigations group has formed a dedicated team to investigate these incidents where objects are being thrown at buses and vehicles. So we have a dedicated team that is based at the Tuggeranong police station. It was formed after the ACT police operations committee recognised this was an emerging problem and it needed a dedicated response. In support of this team, police operations monitoring and intelligence support has been developing intelligence on previous rock

throwing incidents to try to ascertain trends in locations, times and days of incidents. This will help with a more targeted approach. So we have a dedicated team and we have intelligence and monitoring to support that team.

Members of the specialist response and security tactical response team are also involved with the investigations group. They are providing unmarked vehicles and plain-clothes members where we can identify particular hot spots of activity. Again, there is a dedicated response in place by the police. In addition, any reported rock throwing incident is treated as a priority by police communications, which ensures the immediate dispatch of a patrol to the location. This maximises the opportunity of gathering evidence, as well as the best possible chance of apprehending the offenders.

As part of the suburban policing strategy, police are also attending schools within the ACT to gather intelligence, to highlight the dangers of throwing objects at vehicles and to encourage students to report any information to Crime Stoppers or the police. In addition, the general duties and territory investigations group members continue proactively to patrol Canberra bus interchanges to focus on antisocial behaviour at these locations. Policing has also undertaken uniform patrols on buses on identified target routes. However, due to the random nature of these incidents, successful targeting is extremely difficult. But, as can be seen, police are undertaking a very dedicated and specific campaign. My colleague Mr Hargreaves has previously outlined measures undertaken to provide greater protection to bus passengers and drivers, including the fitting of shatterproof film to drivers side windows back in 2005 to give greater protection to drivers.

I hope that gives the Assembly some sense of the seriousness and urgency with which the government are treating this issue. We have strong penalties in place, we have a dedicated police operation in place and we have cooperation with the public and private transport industry to identify further measures. The government are proposing today to amend Mr Pratt's motion because we believe that the most significant issue here is to develop a better understanding of the psychological and sociological reasons behind this type of behaviour. That, in my mind, is the most significant challenge. Why does this happen? Why do some young people think it is a great idea to throw rocks at a bus or a vehicle? Why do they have such disregard for the safety and wellbeing of those people who are travelling on the roads? We need to get to the heart of these matters.

The government believes an independent study to investigate this trend and analyse it, through a body such as the Australian Institute of Criminology, is perhaps the best way to understand these issues. There is data in other jurisdictions. It requires, in the government's view, detailed analysis by experts in the analysis of crime data, the analysis of trends and a focus on measures that have been effective to date in addressing these issues.

The government does not believe that the very broad-ranging select committee inquiry proposed by Mr Pratt will add much to this issue. We understand it is highly random in nature, we understand it is difficult to target and we understand that it is mostly perpetrated by juveniles. The challenge is to look at the data and the experience in other jurisdictions. The data should be assessed by a criminologist, who can do the

appropriate level of detailed analysis around the sociological factors, the psychological factors and the behavioural trends to get the best possible fix on this issue.

As Mr Pratt rightly acknowledged, this is a trend not just in the ACT but across the country. It is a disturbing trend, but the government does not support the view that increasing penalties further will make any substantial difference. If the solution to every crime and every incidence of an offence against the community could be solved by increasing the penalty, we would be a crime-free society by now, but it is simply not the case. It is simplistic in the extreme to suggest that simply increasing the penalty will fix the problem. Increasing the penalty just makes it look like you are trying to fix the problem but it does not actually achieve anything on the ground in most instances.

The penalties need to be sufficient and robust, and we believe they are. Ten years imprisonment and a fine of up to $100,000 are significant penalties, and it cannot be suggested otherwise—especially for a young person. So the penalties are sufficient, and I believe the policing response has been commendable. There is a dedicated investigation group, dedicated patrols, intelligence gathering and school visits. These are all measures that we would expect from our police, and we welcome their response and their continuing efforts.

We need to have a detailed, independent, expert analysis of this trend. This will help to inform policy making. That is why the government proposes to amend the motion in order to commission an independent study. I commend that approach to members. I think it focuses on the detailed expert analysis that we need in order to understand the crime trends and data in this area. Hopefully, that will help to inform the community, the government and this Assembly as to how we continue to address this issue going forward. I commend the amendment to the Assembly.

MR SMYTH (Brindabella) (11.13): I seek leave to move my two amendments together, amending Mr Corbell's amendment.

Leave granted.

MR SMYTH: I move:

(1) omit "omit all words after 'ACT' in paragraph (1)"; and

(2) omit "(2)", substitute "(5)".

Mr Speaker, I think Mr Corbell has spoken a lot of wisdom today in that this is not a simple question which we can resolve. If it was a simple question, if there was a simple answer, it would have been put in place in Australia and, indeed, around the world. But it is an interesting change of approach from the government, and I commend Mr Corbell and I commend the AFP for actually sitting down and thinking about and coming up with a solution to this problem. On 23 August this year, when Mr Pratt asked Mr Hargreaves what he was going to do, the answer was:

> Apart from putting shatterproof glass on all the windows, bar the back window, I really do not know how to address this issue.

That is what brings us to this motion today. Apart from putting film on the windows, Mr Hargreaves had no idea about his role and what solutions he would put forward. Mr Hargreaves is actually the one who said:

> 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.

So Mr Pratt's response today is quite clearly that we need to have an across-the-board solution to this problem. It is not just an ACTION problem; it is not just a police problem. That is why the purpose is to put a select committee in place, because a select committee would indeed look at the territory and municipal services issues. As I said, it is not just ACTION; it is about how we maintain the perimeter of our road system, indeed the road system itself. There is a police and emergency response to this issue. Youth issues are involved; there are health issues involved; there are Attorney-General's issues involved, and that is why this proposal is appropriate. We did look at which standing committee it might be sent to, but, because the interests of so many groups are represented in this question, it is appropriate to have a select commission.

I would also like to commend Mr Corbell for what he has proposed as his amendment. I actually think it adds to what Mr Pratt has proposed, and that is why my amendments say, "Let's not get rid of the selection committee, but let's marry the two together, have a consensus approach from the Assembly on an issue that we all know is important to people here and to the community." So I would ask the government, in particular Mr Corbell, to consider adding Mr Pratt's motion as paragraph (5) to the amendment, because I think at the heart of it there truly is something that needs to be looked at in the terms of the psychological and the sociological reasons that motivate this type of behaviour.

Someone who knows a bit about this has said to me recently that throwing rocks is a sign of aggression. Indeed, it is something that sends an aggressive message but also seeks a response. So we have to get to the root cause of why people—let us face it, my understanding is it is predominantly young males—throw rocks. Therefore, let us go to the root cause of why they are doing this. What is it that is making them feel like they are not part of a society and that they have to behave in this way?

So, well done, Mr Corbell. I would hope that you would seriously look at having a consensus approach to this; that we actually go forward as an Assembly, because that is the best way to solve this problem. Mr Hargreaves, in his challenge to Mr Pratt said, "What would you do? Where are your ideas?" Mr Pratt has put some of them on the table. I will put forward some more ideas that, in doing research, the opposition has been able to come up with. Indeed, the most recent and perhaps the most interesting ideas are actually occurring in south Sydney. Peter Holmes a Court, this time with the South Sydney rugby league player David Peachy is actually putting a social solution on the table. I will read from an article from the *Sydney Morning Herald* of 16 August this year, Mr Speaker, where it says:

> Forget mesh screens, cameras or burly security guards. Down Maroubra way, the most effective strategy against rock throwing has been a coat of paint.

> Last month, after night-time rock-throwing attacks on the 394 and nearby routes, two buses were painted by local teenagers.
>
> One had a beach theme, to reflect Maroubra, and the other an indigenous motif for the teenagers at La Perouse. Since the buses started running, there have been no more attacks.

So perhaps at the root of this problem is social inclusion and the ability for all citizens to feel like they are part of the community. Indeed, the crime manager at the Maroubra police station said:

> We've been told by some of our high risk youth offenders that those buses will be left alone.

So there is one interesting solution, and perhaps it is about having buses that have different colour schemes and paint schemes on them so that people feel some ownership of them, rather than seeing them as just simply a target.

The responses around Australia have varied. Mr Pratt spoke about what is going on at Taree—at Taree they had a particular place; so some of their strategies are targeted at how you would look at securing a particular place. It includes things like sending out patrols two times a week to remove rocks and loose objects, planting of low-lying shrubs, trimming the bases of trees for better visibility and denying people a place to hide, and planting of thorny ground covers to make it hard for people to get to those places. So there are some ideas, Mr Hargreaves, that you could, through your TAMS portfolio, ensure happened if, when we look at the data, there are areas that have a prevalence of this. We all acknowledge that this can be very random.

In the Northern Territory, they have had a different approach. They have had a couple of operations—Operation Tigress and Operation Hurricane—but they involved youth workers. They made sure that the youth workers were involved—police and youth workers covering both sides of the coin. They targeted during school holidays, they analysed the data and asked, "When is it likely to occur? Where is it likely to occur? Let's make sure that we cover it properly." The Northern Territory actually used night vision goggles, so the thought of ACTION bus drivers or the AFP wearing night vision goggles in the ACT is a bit interesting, but if that is what is required then let us do it.

The WA government have had a massive crackdown on all sorts of crimes on buses. In their anti rock throwing campaign they sent out the very strong message that they were going to use DNA to catch offenders. Indeed, if members are interested, the adverts that they put out had things on it like "DNA is solving crime on buses", and instead of having the route number on the bus that is in the picture, it had "DNA LAB", giving the idea of a mobile DNA lab. Another says, "Violence towards bus drivers stops right here." But it is the police, it is the community and it is the authorities working together to make sure that it happens. So there is a different approach again, for the interest of Mr Hargreaves.

The point here is that we have a problem; we have a problem that has been going on for some time. We now have a solid initiative on the table from Mr Corbell, which is

welcomed, as opposed to the lack of activity from Mr Hargreaves. But the point is, if we do not do this together and if all arms of government are not brought to the same table to ensure that we are looking at all the options, we will fail. It does involve, I suspect, a lot of work with youth workers getting out into the community and actually finding out what is the cause of this. The Bureau of Criminology does a lot of good work, and perhaps the independent study could be referred to that body which has so much experience in analysing the root cause of crime. If we can address the problem, there also may be the positive side effect that it addresses other problems as well.

It was a challenge thrown down by Mr Hargreaves. Mr Pratt has responded; the opposition has responded. We put forward a number of solutions here. We have got a list of ideas. We have done our work; we have done our research; we have responded. We welcome Mr Corbell's response, but we simply ask that, rather than gut the motion—which is the effect of Mr Corbell's amendment—the government take on board what the opposition has proposed, which is to include the government's proposals with ours so that we send a very strong word to the community that this Assembly is willing to work together to ensure that we get the best outcome that we can for those who travel using public transport and, indeed, private transport. It is not just buses that are involved. There were instances recently on a Saturday night where rocks were thrown at cars. So it is not just a problem affecting public transport; it also affects private transport, so it affects all of the community.

We need to come up with solutions to deal with those that do this. Ultimately, if it leads to stronger penalties and more legislation, in a way, that would be unfortunate, but, if it is necessary, then we should not balk at doing that either. I notice Morris Iemma has recently said that the penalties in New South Wales would go up because they want to send a firm message. The other thing is that then we need to look at the education messages that we send out to ensure that they do not lead to more copycat crimes, and that they actually lead to people seriously considering what will happen to them and, particularly, what will happen to others should they throw rocks at moving buses and at moving vehicles.

I commend my amendments to the Assembly, Mr Speaker. I welcome Mr Corbell's amendment, but hope that it just does not become all that is left of the motion. I thank Mr Pratt for putting this motion on the notice paper today. It is an important issue; it is something that the Assembly, working together, can address.

MR PRATT (Brindabella) (11.23): Mr Speaker, in speaking to Mr Smyth's amendments, I would like to indicate that I support and welcome the spirit of Mr Corbell's amendment. But, like Mr Smyth, I would rather see Mr Corbell's amendment value added, so to speak, to the motion that we are proposing. Very simply, I would say this: I think Mr Corbell's identification of the sociological and psychological reasons as a primary issue is, indeed, a very important one. It does overlap some of the issues that we were looking at as well. We have also said that those reasons are very important. This is not about just taking punitive action and punitive action only. It is so much more important to identify why this trend is evolving.

Of course, there is a long debate about the situation we have now with a growing number of disaffected youth as a consequence of broken families. The situation with

broken families in the society of 2007 is a far more stark characteristic on our landscape than it ever was 10, 15 or 20 years ago. These are issues that do need to be addressed in terms of the growing extreme behaviour that we are seeing in Australian society, and I categorise rock attacks on buses as being a part of that growing extreme behaviour.

So I welcome the spirit of Mr Corbell's amendment, but, like Mr Smyth, I would rather see it value added. I think there is a place for both. Let us have a select committee covering a broad scope of municipal, police, health, family and sociological disciplines. Let us have that, plus the expert independent study that Mr Corbell is recommending, with people who do know technically the backgrounds to these various issues. Let us have both the external study and the select committee operating in concert and working together. I think in that way this Assembly would really be getting to the nub of this problem. That is all I have got to say at this point, and I will have other points to make when I close.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (11.25): Mr Speaker, the government will not be supporting Mr Smyth's amendments to my amendment, but I would just like to outline the reasons why. I would like to indicate to members opposite that I appreciate their heartfelt interest and concern in this issue, and I appreciate their desire to get into this issue in some way and to get into the detail of it.

I think the issue really is that we need a stronger evidence base so that we can get a good understanding of these issues, and I think an investigation by a qualified and independent and expert body, one specialising in issues that deals with an analysis of crime data and crime trends, will best inform the Assembly on this issue. Having received the results of that investigation and looked into it and developed that understanding, if there is then some need to consider where we go from there on that, then the government would be open to looking at ways of doing that through a committee process or otherwise.

So, I think it is all about getting beyond the simplistic notions around some of this behaviour. Yes, this behaviour is bad; ys, this behaviour is destructive; and, yes, this behaviour is potentially extremely dangerous to the lives of people in our community. But, it is also highly random, difficult to predict and difficult to understand. Getting some handle on why that is so and what is actually going on when people who perpetrate these types of crimes and trying to understand whether there is any pattern to this type of behaviour is something that will help us better understand the issue.

It being 45 minutes after the commencement of Assembly business, the debate was interrupted in accordance with standing order 77. Ordered that the time allotted to Assembly business be extended by 30 minutes.

MR CORBELL: I thank members. Mr Speaker, that is why I believe this work should come first. I would not rule out further engagement with other members of the Assembly once we have that body of knowledge, but let us get that body of knowledge first, draw on that, get past some of the simplistic assertions and notions we hear in this debate, and then we will be in a better position to move forward.

Hopefully then, also, we will have had the benefit of the experience of the police over the coming weeks in terms of their investigations and in terms of their own analysis of the trends and the behaviour. The police do have and can build at a given time quite significant bodies of intelligence and monitoring that can be used to better understand this behaviour as well. I think it would be incumbent on us to have that information at our disposal as well.

So it is not bloody-mindedness on the government's part, but it is very much a recognition that we need to develop a stronger base of knowledge before we go down this extremely ambitious and broad-ranging proposal that Mr Pratt has brought to the table today. That is the reason the government will not be supporting the amendments proposed by Mr Smyth.

Mr Smyth's amendments negatived.

Question put:

> That **Mr Corbell's** amendment be agreed to.

The Assembly voted—

Ayes 8		Noes 5	
Mr Barr	Mr Gentleman	Mrs Dunne	Mr Smyth
Mr Berry	Mr Hargreaves	Mr Mulcahy	
Mr Corbell	Ms Porter	Mr Pratt	
Dr Foskey	Mr Stanhope	Mr Seselja	

Question so resolved in the affirmative.

MR PRATT (Brindabella) (11.34): Mr Speaker, I do thank Mr Corbell for his contribution to the debate; I thought there were some very, very good points raised. It is pleasing that we can come into this place today and raise what is an urgent and dangerous matter and see the government come down with a number of ideas of its own and contributing to that debate. So I do thank the government, and I thank all who participated in this debate.

If I may pick up on a couple of points just before we close, the minister has said that the law as it now stands is sufficient to meet requirements. Well, the opposition does not believe that. The minister quite rightly has pointed out, for example, that over the weekend I did say that one has to wonder whether people caught red-handed in the act of throwing missiles at moving vehicles should, indeed, not be charged with attempted murder. Mr Corbell is quite right, and perhaps the opposition raising that reflects our frustration with the law as it now stands. The law as it now stands does not cover discretely the concerns that we see in this growing trend of rock throwing and concrete block dropping onto vehicles.

The minister is correct; we recognise that you can get up to 10 years imprisonment for interfering with property and interfering with transportation—or interfering with conveyancing, as it is so colourfully put. And, yes, you could apply under law an

offence under the guise of interfering with somebody's health. You could, therefore, see imprisonment of a maximum of five years applied there. But we still do not think that the laws that are available are tough enough to bring a stop to this behaviour. The point is that those elements of law are still too loose to be able to be cleanly applied to the offence of throwing rocks or dropping concrete blocks onto cars and buses. That is why we have floated the idea of introducing discrete legislation. We would prefer not to say, "Let's charge somebody with attempted murder." We would much prefer not to do that, and if we do ask the question about that, it is simply an exercise in the frustration that we have with the legislation as it now stands.

Why do we think we need to see legislation amended or strengthened? Because while the government's education and information program about this issue looks to be, on the face of it, an okay package, I think everybody in this country realises that education and information programs aimed at that lunatic one per cent fringe of society who do not care if they behave recklessly and who do not seem to think through the consequences of that behaviour and that it may, indeed, kill somebody, are not going to bite, they are not going to get through. So you have got to back up your education and information programs with very clear, discrete legislation. That is why we have mused as to whether or not discrete legislation should be introduced so that we can ram home the point to people. If the education program is up on the TV screen they might think, "Oh, my godfather, I might get 14 or 15 years. I could get 14 or 15 years imprisonment if I'm caught in the act of throwing rocks." And why? "Because if I throw a rock at a moving car, the combined velocities of me throwing a rock at a car travelling in my direction at 80 kilometres per hour is potentially fatal."

It is potentially fatal, and that is perhaps what some people do not realise when, on a Saturday night going home from the pub, they want to have a bit of a giggle and they think, "I'll have a bit of fun. I'll hurl this rock into this oncoming traffic." They need to know that potentially they may put somebody in hospital with a very serious head injury, or worse—there is an outside chance they just might kill somebody. We think the only way to underscore the education and information program is to talk about tougher legislation. So that is the point that the opposition was making about that.

Mr Corbell did say that he hoped that we were not just making a political point in raising today a motion to try and identify a select committee. I can assure the minister and I can assure the government that we are not playing political point scoring here today. As the shadow transport minister, I am concerned that something needs to be done to protect our bus fleet, our bus drivers and our passengers. That is initially where I have been coming from on this. That is my job as a shadow minister. It seems to me that there has not been any concrete action taken by government to do something about this. That is why we are debating this today. We are concerned that not enough is being done. Of course, the opposition is a great supporter of the concept of trying to attract people out of their cars to catch buses, but the public needs to have confidence that our bus transportation system is safe. It has got to be safe; that is one of the perspectives we are coming from.

I was pleased to see the minister talk about a dedicated, targeted policing operation. That is good; it is about time that we saw that. I do not know when that targeted policing operation was established, but after 58 incidents occurring over six or more

months, I would like to believe—I would hope—that that targeted operation has been in place for quite some time. We did not have confidence in that, of course, because when I asked the Minister for Territory and Municipal Services here in this chamber in the last sitting what actions were underway, what measures were in train, what was the government doing, he did not say that there was a targeted police operation underway at all. He simply mused, "Well, maybe we have to spend half a million dollars on protecting buses." Well, I agree with him. I want him to spend half a million dollars on reinforced windows on buses as an immediate, concrete step and a confidence-building step that he can take right now to show our bus drivers that we support them and to impress upon our passengers that we will protect them if they get onto those buses. But the minister did not know about the policing operation. Why did he not say, "My colleague Mr Corbell has the following actions in train"? If he had said that, perhaps we would have been a little bit more comfortable than we are in this place today.

Mr Speaker, we have talked about the amendments. Now that it is clear that our motion will not get up, I will implore the minister—even though we did not vote to support his amendment—to go away and look at what he proposed in his amendment, which is the establishment of a dedicated, expert inquiry into this behaviour. If he does that, then the opposition will be very pleased. I implore him to at least follow through and do that.

It would have been much better, though, Mr Speaker, if the minister had agreed to Mr Smyth's amendments to the minister's amendment to marry up his proposal with the opposition's proposal to identify a select committee. Why do I say that? Because, Mr Speaker, a select committee can be launched fairly quickly; it can report in a reasonable time frame. A select committee can cover the broad range of disciplines which we believe need to be exercised in addressing this issue, this scourge of rock throwing at buses and the dropping of concrete blocks onto young ladies' cars. Because the problem is multi-disciplined, you therefore need a select committee.

I think we have the talent and the capabilities in this Assembly to be able to address these sorts of issues. We would like to see both. We have adjusted our position today. Yes, we will accept the government's expert inquiry, but we would like to see it operating in tandem with a select committee. I would simply ask that, at the 11th hour, the government come on board and support our proposal for a select inquiry and, of course, marry that up with the expert committee that they are now talking about.

Mr Speaker, it is very, very important that we take clear steps to attack this growing trend. It is not simply a matter of locking people up. Much more importantly, it is necessary to identify why it is occurring in the first place. I thank Mr Corbell for his contribution on that issue. We would like to see the government now take action to address this matter.

Motion, as amended, agreed to.

Administration and Procedure—Standing Committee
Proposed reference

MR SMYTH (Brindabella) (11.44): I move:

> That standing order 156 be referred to the Standing Committee on Administration and Procedure for inquiry and report, with specific reference to whether members who receive benefits from poker machine revenue should be able to participate in debate on matters pertaining to gambling and associated subjects.

Mr Speaker, there has been much in the media over the last couple of weeks about poker machines—the evil of poker machines, where the revenue comes from, where it goes, and problem gambling. Indeed, for as long as I have been in this place, the whole issue of the ALP receiving poker machine money and whether or not that is a conflict of interest has been debated, and it has been debated around this place for many, many years. We have had the example where a former member, Mr Osborne, said he would not vote on these things because he had a contract with a club that derived money from poker machines and, therefore, he felt he had a conflict of interest. Others have put forward, including the Liberal Party, the contention that, as poker machine revenue comes into the ACT ALP and that the ACT ALP therefore funds campaigns and runs the office that manages the affairs of the ALP in the ACT, there is a conflict of interest for the members who benefit from the efforts of that office.

Standing order 156 refers to conflict of interest, and it says:

> A Member who is a party to, or has a direct or indirect interest in, a contract made by or on behalf of the Territory or a Territory authority shall not take part in a discussion of the matter, or vote on a question, in meeting of the Assembly where the matter or question relates directly or indirectly to that contract. Any question concerning the application of this standing order shall be decided by the Assembly.

There is a footnote referring to section 15 of the Australian Capital Territory (Self-Government) Act. Part of the dilemma may well be in the self-government act 1988, because it almost becomes a self-fulfilling prophecy in that if you have got the majority in the Assembly, as currently exists under this government, if you are called to scrutiny under section 156 you can vote against that scrutiny. That is exactly what has happened, and that is exactly what happens as we stand here today.

This motion deals with the matter of conflict of interest relating to the activities of the members of the Assembly. There is an associated issue of the integrity of the decisions made by a government. Indeed, we have only got to then refer to the comments by the Reverend Tim Costello where he said:

> ACT Labor's dependence on poker machine revenue meant it could not make the right decisions about gaming.

So there is an independent commentator—he is not even an ACT resident—saying there is a problem here with conflict of interest. I think, Mr Speaker, that is something that we cannot have hanging over the Assembly. I think it casts a cloud over all of us, not just the Labor Party, and over the decision making in this place. Indeed, there have been recent comments in the media and on some of the talkback stations with

people ringing in saying, "Look, the Stanhope government will not act simply because it's a cash cow for the ALP." So the perception is out there in the community, and it needs to be addressed if this Assembly is to be taken seriously by the people of the ACT.

There is also an associated issue of the ethics being followed by government in its approach to policy formulation and decision making where it clearly derives a benefit from those decisions, and there is an accountability of the government for the decisions that it makes. It is imperative that all members do not have any conflict of interest or are not in a position to be accused of having that conflict of interest, because it does bring down all 17 of us and the decisions that are made in this house.

The particular issue that prompted this motion concerns the ALP branch of the ACT receiving revenue from the Labor Club, revenue that has been generated in large part from the playing of poker machines and, indeed, from the figures, therefore a third of that would come from people with gambling problems. What I would ask members to do is consider the Stanhope government's code of conduct for ministers. In the tabling statement in February 2004 the Chief Minister said:

> The values incorporated in this code—fairness, openness and responsibility—are among the government's core values.

Fairness, openness and responsibility, Mr Temporary Deputy Speaker. The statement goes on to say:

> … the principles and standards set out in the code apply each day a minister is in office and are relevant to each decision he or she makes.

So if you have got a conflict of interest, when you make decisions you have to look at whether or not it affects those decisions. We are yet to see a minister stand aside, Mr Temporary Deputy Speaker. If you consider the code itself, we see comments such as:

> Being a minister demands the highest standards of probity, accountability and integrity.

That is from page 1.

> All ministers are to recognise the importance of full and true disclosure.

That is from page 2. On page 6 it goes on to say with respect to executive functions:

> … Ministers will inform the Chief Minister … or cabinet, of any situation of potential conflict between their private interests and executive functions.

It goes on at page 6 to say in respect to cabinet deliberations:

> … Ministers are to declare immediately any private interests, pecuniary or non-pecuniary … where a conflict of interest may arise.

This code is clear and unequivocal about matters of conflict of interest. The reality is that the accepting of the revenue by the ALP branch in the ACT creates a potential conflict of interest, and this issue needs to be addressed. Mr Temporary Deputy Speaker, also the matter—

Mr Corbell: On a point of order, Mr Temporary Deputy Speaker: to make a suggestion of a conflict of interest is a very serious allegation, and I think that it is a reflection upon me and all other Labor members in this place that we somehow are ignoring a conflict of interest—an alleged conflict of interest. I think that is disorderly and unparliamentary, and the assertion should not be made without some sort of substantive motion to that extent. I understand why Mr Smyth is moving this motion, and I will respond to that in the debate, but I think he does have to be careful in not using this debate to assert that there is a conflict of interest.

MR TEMPORARY DEPUTY SPEAKER (Mr Gentleman): Mr Smyth, when you continue, please make sure that you do not assert any conflict of interest.

MR SMYTH: All right, but I will address the point of order, because I do not accept the allegation. I would be interested to know under which standing order the minister raises it. What I said, if he had listened closely—and I will finish—is that it creates a potential conflict of interest. That is the point I am discussing here. The whole point of the motion is to clear up this ambiguity, so it is not right to raise a point of order on the whole point of the matter. That is the problem—the ambiguity is there; it is out in the public. The whole purpose of referring it to the committee is to address the ambiguity as it exists. But I take your advice, Mr Temporary Deputy Speaker.

MR TEMPORARY DEPUTY SPEAKER: Mr Smyth, just to reflect on the point of order, it does refer to reflections on members of the Assembly, so, as I said before, if you could just refrain from any assertion of conflict of interest by members of the Assembly.

MR SMYTH: I shall refrain in that light. Mr Temporary Deputy Speaker, there is also the matter of contracts explicitly raised by standing order 156. There is a contractual relationship between the Labor Club and the ACT government through the licences that are in place to enable the Labor Club to operate poker machines. On that basis alone, a significant issue of conflict of interest appears to arise. The whole issue warrants careful consideration.

The act, when it was put in place in 1988, that leads to standing order 156 may well be the root cause of the problem with the standing order. It may well be that when the committee reports it may have in it a recommendation that the federal government be approached to clarify what the act itself says. If there is a conflict of interest in a body, to have that body determine whether it can resolve the conflict of interest or determine who has the conflict of interest is, of itself, a conflict of interest. If, as the ministerial code says, we want to have openness and fairness, then we should clear up this ambiguity. As I said, the whole issue warrants careful consideration.

I think we have to take into account the situation in other parliaments, such as the House of Representatives. Its standing order on conflict of interest is entirely different

and is applied in an entirely different way. This is why I propose such consideration be undertaken by the administration and procedure standing committee. It is important that we clear it up. It is important that we do everything that would certainly raise the standard, raise the expectation, but, most importantly, raise the perception and the reality of how the people of the ACT see this Assembly.

I will go back to where I started from, Mr Temporary Deputy Speaker: where you a highly regarded individual such as the Reverend Tim Costello saying that the ACT Labor Party's dependence on poker machines meant that it could not make the right decisions about gaming, he is going to the heart of standing order 156. The Reverend Tim Costello is, in effect, saying that the ACT Labor Party have a conflict of interest. They are held hostage, held captive, by the fact that, for instance, in the financial year 2005-06, total receipts to the ALP from clubs with poker machines was $385,923—that is, 55 per cent of their income; 55 per cent of what has been declared in their returns. The Costello quote makes it quite clear that the perception not just in this place, not just in this community, but in the Australian community at large is that the ACT Labor government cannot make decisions based on sound reasoning and fact because they are beholden to their dependence on and their addiction to gambling revenues. Indeed, Reverend Costello went on to say that Russell Crowe and Peter Holmes a Court—

MR TEMPORARY DEPUTY SPEAKER: Mr Smyth, I just bring you again to standing order 55 regarding imputations of improper motives and personal reflections on members. They are considered highly disorderly. I have already asked you to refrain from imputations of conflicts of interest, and I will warn you once again.

MR SMYTH: Sure.

Mr Mulcahy: Mr Temporary Deputy Speaker, just speaking on that ruling, if I could, I do not think that Mr Smyth has reflected on members. What I heard him say was that there is a measure of ambiguity under the standing order and, indeed, the self-government act, which warrants examination and investigation by the administration committee because he says it creates circumstances of ambiguity. I think the fact that he is seeking to refer it to a committee is a clear indication that he is not making the assertion of a direct conflict of interest.

MR TEMPORARY DEPUTY SPEAKER: Mr Mulcahy, Mr Smyth referred directly to Labor members of this government in his statement.

Mr Mulcahy: That is right, but he did not say "conflict of interest". He says there is an ambiguity in terms of this issue, and that is why it needs referral.

MR SMYTH: If I can speak to the point of order, I do understand, and standing order 55 is there for a reason, and I am trying not to tread into the realms of standing order 55. What I was just saying is what the Reverend Costello was saying. What I am saying is that this is the problem. This is the nub of the problem in that somebody like Tim Costello in Melbourne knows about what is going on here in the ACT and is claiming—I am quoting him—that the dependence on poker machine revenue meant the government could not make the right decisions about gaming. That is the nub of the matter.

MR TEMPORARY DEPUTY SPEAKER: Mr Smyth, you continued then to make an imputation that Labor members of this Assembly had a conflict of interest.

MR SMYTH: No, no. Sorry, I disagree with the ruling, Mr Temporary Deputy Speaker.

Mr Corbell: Mr Temporary Deputy Speaker, on the point of order.

MR TEMPORARY DEPUTY SPEAKER: Yes, Mr Corbell.

Mr Mulcahy: There is no point of order.

Mr Corbell: Well, on a point of order, Mr Temporary Deputy Speaker: perhaps to provide some guidance in this debate, Mr Smyth's motion does not refer to Labor members; it refers to members—members who receive benefits from poker machines. Now, Mr Temporary Deputy Speaker, it is one thing to say that other people have said certain things about Labor members. It is another for Mr Smyth to advance that argument himself. Whilst Mr Smyth's motion deals with "members", his comments are reflecting on "Labor members". This is either a debate about the ambiguity in the standing orders or it is a vehicle for Mr Smyth to cast aspersions on Labor members, and he is doing the latter not the former.

Mr Mulcahy: Mr Temporary Deputy Speaker, I do not think that is a valid observation at all. Mr Smyth has indicated that he is seeking to clear up an ambiguity. I am very interested to know whether my discounted meal on Friday night with my family at the Southern Cross Club puts me in a position of having a possible issue under this standing order, and we need to get this clarified. There is clearly a need for improvement in that standing order, and that is simply what Mr Smyth is trying to do.

MR TEMPORARY DEPUTY SPEAKER: Thank you, members, for your comments. I have asked Mr Smyth to reflect on standing order 55. He only has a minute or so left for his comments—it appears his time has expired. I apologise, Mr Smyth.

Mr Smyth: I will tread carefully, Mr Temporary Deputy Speaker, and that is the whole point of the motion.

MR TEMPORARY DEPUTY SPEAKER: The time for the Assembly business has expired.

Public Accounts—Standing Committee
Report 11

DR FOSKEY (Molonglo) (11.59): I present the following report:

> Public Accounts—Standing Committee—Report 11—*Review of Auditor-General's Report No 8 of 2004: Waiting Lists for Elective Surgery and Medical Treatment*, dated 13 September 2007, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

DR FOSKEY: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

DR FOSKEY: I move:

> That the report be noted.

Due to the high level of public interest, the public accounts committee decided to inquire into the issue of waiting lists. The Auditor-General's report found that waiting times in the ACT were generally worse than for other Australian jurisdictions and had worsened in the years prior to the report. The Auditor-General found that there was significant scope for improvement in the generation and use of waiting list information by ACT Health.

The committee heard from a variety of witnesses and experts and the common theme was that waiting list reduction did not rely on additional resources. Much could be achieved through active management of lists to ensure that existing resources are used efficiently. The report uses the Auburn elective surgery program as a case study of how effective waiting list management can lead to greater access to operating theatres, fewer delays, reduction of average length of stay and shorter waiting times.

Waiting list management is an effective way of addressing increased demand, but it is also important to understand what is driving this increased demand. One area that the report highlights is the increased use of ACT hospitals for elective surgery by New South Wales residents. Cooperation between the ACT and New South Wales governments will be important in managing changes in demand for elective surgery.

Managing waiting lists is a complex task. The committee has noted that ACT Health has taken steps to attempt to respond to the concerns raised in the Auditor-General's report and the committee recommends that the government report to the Legislative Assembly on the outcomes of those steps.

Effective waiting list management is not just about the ACT getting more for its health dollars. Reduced waiting times and greater access to elective surgery for those most in need can have a huge impact upon the quality of life of those waiting. Waiting lists for elective surgery are of concern to the community and the committee believes that the government should consider greater community involvement in the difficult decisions around service provision and service priorities.

Mr Speaker, I want to thank the secretary of the public accounts committee at that time, Ms Andrea Cullen, for her work on this report and also the other committee staff

who assisted in its preparation. I would also like to thank the many people who made submissions to this inquiry and who took the time to write submissions. Many of them also appeared at committee hearings.

I also wish to acknowledge that the chairman's draft of this report was prepared while Mr Mulcahy was the chair of the committee. I am sure that he will have some comments to make as well. As the chair, I commend the report to the Assembly and as a member of the committee and a member of the Assembly I would like to raise a couple of other issues.

People will note that the recommendations do ask for greater information. In fact, the first recommendation recommends that ACT Health inform the ACT Legislative Assembly of the results of the 2005 reporting review. In my time in the Assembly I have observed that issues related to acute care, whether it is length of waiting lists, waiting times or, as highlighted in the media today, lack of timely attention in emergency care services, have become so political that there is a danger that this might lead to less, rather than more, disclosure from governments and more spin and less willingness by governments to admit that there are problems.

Headlines will always be gained by the media from failures in the hospital system. I feel fairly convinced that human error and other problems will always arise, no matter how well resourced our hospital system is, and the mix of human tragedy and bureaucratic failure is far too heady for the media to resist. Nonetheless, our inquiry into waiting lists indicates that this is one area that should be responsive to government attempts to introduce strategies to reduce waiting times and to increase the length of time that surgical facilities are being used.

Perhaps the problem here lies in getting cooperation between all the different players in the system. I understand and acknowledge that this would be an extremely difficult task, but I do believe that waiting lists are far more tractable than emergency departments where the unpredictable is the norm. The thing about waiting lists is that they are lists and there is the potential for intervention.

The case study that the committee looked at most closely was the Auburn program in Sydney. It provided an instructive case study for the committee. One of the reasons for its success, I think, is that it is fully supported and, to some extent, driven by the medical specialists and surgeons themselves. There seems to be a high degree of cooperation around that, which perhaps is a lesson in itself. Because this is an ongoing and an important issue, we hope that our report does progress discussion upon it. We very much look forward to receiving the government's response.

MR MULCAHY (Molonglo) (12.07): I would like to say a few words on this report. It was a lengthy inquiry, which has been acknowledged by Dr Foskey. It was essentially chaired and taken to the chairman's draft stage while I was presiding over the public accounts committee.

Elective surgery waiting lists, of course, are a major concern in the Canberra community. This report is the culmination of an in-depth investigation into the situation in the ACT and, as has been mentioned, extended also to examine the

Auburn hospital in New South Wales where we had extensive and highly informative briefings. We were originally going to send the committee secretary, but the Speaker took the view that it required a member to go, and on rather short notice I made that journey to Sydney.

I must say that, whilst it came at a time that was not terribly convenient, the information gleaned from that visit was extremely valuable. As I recall, colleagues went later on for further examination into the procedures being applied at Auburn. Those discussions were illuminating and provided us, I think, with some measure of confidence in what could be achieved if all the players in the hospital system were working profitably and singing off the one hymn sheet, so to speak.

Mr Speaker, when you trawl through the records of this place, you see various reports that have been written over the years that suggest a lot of work has gone in. I spoke of one yesterday in the debate on Ms Porter's motion on the fireworks. You do worry that all this work is expended and then they gather dust. Whilst they might be subject to a response, often it seems that not enough happens thereafter. I would hope that this report, which, from memory, was 135 pages—it might have come back to about 122 so it must have lost a few pages in our final editing—does receive the appropriate level of scrutiny and examination.

It was not done in a hasty fashion, and I firmly believe that this is one of the most important issues facing the people of Canberra. I harangue my colleagues about the importance of health as an issue in the minds of the people of Canberra. If my correspondence received is any indication, then the matter of elective surgery waiting lists is one of the two biggest single issues on public health that are raised with me by the electors of Molonglo. Elective surgery waiting lists are a major concern in the Canberra community and certainly this report goes some way towards providing solutions.

I would not stand here and say that this report has all the answers, because I do not think it is that simple. I have even talked to my youngest brother, who is a specialist, but not in this jurisdiction. He acknowledges the vexed complexity of waiting lists for elective surgery and has said to me that it is a quandary, particularly for politicians, because, he said, it is essentially inefficient not to have waiting lists for elective surgery. But as elected representatives we also know the frustration people have when those waiting lists for elective surgery are at a level that people find unacceptable and unreasonable. So there is a balancing act between community need and also the level of efficiency in the provision of health services. We do not want health workers standing around with nothing to do because we are putting through people so quickly.

Adding to the complexity of the health economics in this debate is that, as you improve the efficiency—this concept is alluded to in this report and it takes some grasping—you actually increase the number of people who then want to avail themselves of the waiting lists because they say they can get through quicker than in a situation where they are deterred because of the length of the waiting list. So it becomes somewhat circuitous at times.

We have tried to tackle a number of those issues in this report. The research associated with the report looks globally at the research that is out there and the

experience of other jurisdictions, particularly in the UK, as well as, as I said, in New South Wales. But I would emphasise that the number of representations that I have received into my office shows that this is a serious issue and it is to be hoped that the government gives appropriate consideration to the recommendations in the report and not quickly dismiss them, as sometimes can happen.

I will not cover all of the same ground that was outlined by Dr Foskey, but I do want to refer to a few of the recommendations. In particular, the committee's inquiry showed strongly the need for cross-border cooperation with New South Wales. Certainly the recommendation that the territory should have, for example, a five-year arrangement with New South Wales regarding cross-border payments for hospital care, provided they are calculated on an accurate basis, is most important.

I also strongly believe, as the report details, that ACT Health should commission an economic evaluation of the Canberra Hospital's practice of pursuing privately insured patients from a whole-of-system perspective. This came up in evidence about chasing the gold card market, as it is referred to, because, frankly, of the impact on the bottom line of pursuing those patients. I would hope that those factors are put back into proportion when understanding that the public system is there to serve the needs of all Canberrans and that we should not start tiptoeing through the market to try and find the areas that are most lucrative.

I know that a number of things have been done to try and speed up the waiting lists. Some of them I have a bit of a mixed view about, and I have mentioned them across the chamber on occasions, particularly the decision taken about a year ago when around 50 patients were run through the National Capital Private Hospital to deal with varicose veins operations, with the practitioners involved receiving a substantial premium, as a way of getting the numbers down for these quick operations that could be taken off the system.

Now, good luck to the people who benefited. Good luck also to the doctors who did very well out of the margins on those operations. But I would hope that that was a decision based on the needs of the community and not some attempt to say, "How can we get these numbers down and take off the heat on this issue?" There is a lot of public angst about the waiting lists issue and it does not seem to be going away.

The report also recommends that ACT Health incorporate management of waiting lists and compilation and reporting of waiting list data into induction programs and training, and we hope that this has some benefit. Similarly, ACT Health, to the extent that work is not already taking place, should model elective surgery activity using a capacity planning model to plan for changes in demand and consequent changes in capacity.

Several other recommendations that are of interest include recommendation 4, which recommends that ACT Health explore, in conjunction with the Canberra and Calvary hospitals, the rationalisation of operating theatre lists to a single six and a half hour list with a single shift of staff.

I am unpersuaded that we are managing our operating theatres to the best possible extent. I know there have been some improvements during the course of this inquiry. I

know that there are issues with the precedent attached to emergency patients, but I am also aware of the less spoken about issue, and that is the industrial relations environment which impacts on rosters. There seems to be no compelling case why the efficiencies that were detailed in evidence presented by the John James hospital could not have been applied equally to the Canberra Hospital. Indeed, as I recall, there were superior efficiencies even at Calvary, and that is something that warrants careful examination.

Relevant, too, is the committee's recommendation that, to the extent that work has not already taken place, the Canberra Hospital routinely produce and analyse theatre performance information falling under the following headings: capacity utilisation ratios in terms of hours and sessions; average number of cases per hour; cancelled schedule lists; cancelled operations; utilisation of scheduled theatre hours; a review of list start and finishing times; numbers of patients operated on compared with planned numbers; incidence of out of hours operating; theatre incident rates and break-up of public, private and Department of Veterans' Affairs patients.

Evidence given by the medical specialists gave cause for some concern in this regard. I am sure that the government have looked at that evidence, but I would encourage them to give weight to that issue in the context of their ongoing industrial relations management at the hospital, particularly with nursing staff.

Finally, I would also draw to the attention of the Assembly recommendation 13, wherein the commitee recommended that ACT Health consider the development of a not-ready-for-care policy to respond to people who delay surgery repeatedly without an adequate reason. This policy should stress to patients the consequences of failure to attend for scheduled surgery.

There seemed to be some resistance in this area, but the fact of the matter is that older folks sometimes, when presented with a date for scheduled surgery, put these things off, sometimes for reasons that we might think are not terribly important. I suspect sometimes people procrastinate because going in for surgery is not, to many people's minds, their idea of an enjoyable experience. But what is clearly not made known to people is the full consequences of those delays, and when their situation deteriorates they may well find that they are struggling to get into the surgery that they clearly need.

Elective surgery is a misunderstood term. I have had people write to me and say, "Why do we worry about people who want to have elective surgery?" They think it is like cosmetic surgery, people having noses improved and things to make themselves look more attractive. The fact of the matter is that—

Mr Barr: Or if they are in the defence force.

MR MULCAHY: Yes. I think they are for psychological reasons, though, or so we are told. But the fact of the matter is that if you do not have private insurance and you have a deteriorating orthopaedic condition in particular, that may not be life-threatening and particularly taking into account the backlog and the lack of specialists in the ACT, what might be deemed elective surgery, by definition, does not

really recognise the enormous pain and distress that some of our older people are going through while they sit on these lists waiting to get treatment for things such as hip replacements and the like. I know the minister said that if somebody had an emergency, a fall and a break, they would be attended to, obviously, but there are many stages between reaching a view that you need the operation and being an emergency case and it is those people that I am particularly concerned about.

There are major issues in ACT Health. One of the reasons why I got into this place was based on an experience that one of my family members had at the hospital. It is symptomatic of the problems in the management of ACT Health, reflected on the front page of today's *Canberra Times*, where we read of a man with potentially deadly brain haemorrhage who was told nothing was wrong when he went to Canberra Hospital's emergency department. We see other examples quoted in today's paper of people who have sought treatment at the hospital and been sent home with painkillers for serious conditions.

A member of my family went into the hospital and was told to go home and just take a few Aspros. It turned out that they had a deep vein thrombosis requiring immediate surgery and it was only because of continuous complaining that that was attended to. That case has never been taken up as a public health complaint, and I am sure there are many other people in the same position. There are examples here today where they have actually gone ahead and lodged a complaint.

They are distressing and alarming outcomes which ought to be a cause of concern to all members of the Assembly and the government. It was one of two experiences that prompted me to decide to seek to enter the Assembly because I think that in a civilized society we are entitled to better standards of health care. Indeed, the elective surgery waiting list is one very important component of public concern in relation to the administration of health, as are issues relating to the emergency waiting department at the Canberra hospital. On that point, Mr Speaker, I will conclude my remarks. I commend this report to the Assembly and to the ACT government.

Question resolved in the affirmative.

Planning and Environment—Standing Committee
Statement by chair

MR GENTLEMAN (Brindabella): Pursuant to standing order 246A, I wish to make a statement on behalf of the Standing Committee on Planning and Environment.

I deliver this statement in my capacity as chair of the Assembly's Standing Committee on Planning and Environment. It concerns the committee's participation in the 12th annual conference of parliamentary public works and environment committees in Darwin, Larrakia country, from 19 to 21 September 2007. Unfortunately, one of our members, Mr Seselja MLA, was unable to attend due to the recent birth of his daughter, Olivia, and congratulations to Ros and Zed. This statement, therefore, was adopted by the two MLAs who attended the conference—Ms Mary Porter MLA and me.

The theme of this year's conference was ancient knowledge and science in contemporary resource management. The conference theme is of fundamental importance throughout Australia in a wide range of areas, foremost amongst which is recognition of the customary laws and cultures of Aboriginal and Torres Strait Islander communities and the intergenerational transmission of those. It is also important for natural and cultural resource management, including national parks, sea country and fresh water, tourism, town planning, bio innovation and indigenous employment and partnerships in a wide range of areas.

A highlight of the conference was the after-dinner speech by the Administrator of the Northern Territory, His Honour Mr Ted Egan AO. Mr Egan spoke in rich detail about the need for Australians to develop a better understanding of traditional knowledge and languages and his forthcoming book about this. He called for a new co-management framework for all national parks in Australia, bringing together Commonwealth, state and territory governments, and indigenous communities.

Conference participants heard many presentations from recognised authorities. An issue raised in several presentations was concern about the Australian government's intervention in the Northern Territory. Concern was expressed about the lack of consultation with indigenous communities, the rushed nature of the intervention and the negative impact on indigenous employment and indigenous provision of social services.

Several presenters criticised changes to the CDEP, or community development employment program. These are said to substantially reduce the number of people doing ranger work on land and sea country and the number of people looking after the elderly and disabled. Delegates heard that indigenous unemployment may worsen by the hundreds as a result. The CDEP was said to be flexible and better able to respond to unpredictable circumstances, such as the unusual wet seasons, than regular jobs. Several speakers suggested that the aim of the policy initiatives should be to promote sustainable livelihoods, including health, wellbeing and income, rather than to erode these.

Delegates also heard that invasive species and drugs and alcohol may be more readily carried onto Aboriginal lands after the lifting of the permit system for Aboriginal lands and that more indigenous social dislocation and migration to urban areas is likely to follow.

Speakers put forward a number of sensible suggestions in their presentations about public administration in and for the territory, including:

- that all tiers of government focus on prioritising, consolidating, simplifying and lengthening programs' funding cycles, especially for initiatives for indigenous communities. This would reduce the heavy administrative burden placed on indigenous organisations, and encourage partnerships to flourish;

- that far more time, skill and effort be expended on culturally appropriate and flexible consultation processes with indigenous stakeholders, so that clear and shared understandings can develop;

- that more be done to record and maintain indigenous languages and transitional ethno-biological knowledge;

- that the health benefits for indigenous people of living and working on homeland country be recognised;

- that the national water initiative, including property rights and trading in water, be evaluated in terms of participation by indigenous peoples and the incorporation of indigenous knowledge;

- that nationally accepted standards and guidelines concerning indigenous Australians' interests in water be developed;

- that local governments do much more to engage with local indigenous communities;

- that more resources be injected into a wide range of education and training opportunities; and

- that all staff and funding recipients of projects with indigenous communities be required to undergo cross-cultural awareness training.

Delegates spent a field trip day touring the Darwin waterfront development site, also the Ludawei Windows on the Wetland Visitor Centre and the Crocodylus Park Wildlife Research and Education Centre. Conference presentations on the third morning focused on the future development of Darwin.

Beyond the themed conference presentations, each jurisdiction also presented a report on their current or completed inquiries. A significant amount of challenging work has been done in state and territory parliamentary committees over the past year or is underway. Members of parliament and committee staff also exchanged other information of interest.

The conference was very well organised, with extraordinary care taken to respond to the diverse needs and interests of delegates. On behalf of the committee, I extend our sincere appreciation to our most generous and hospitable hosts in Darwin, including the chair of the Northern Territory Sessional Committee on Environment and Sustainable Development, Mr Ted Warren MLA, and parliamentary committee staff Ms Maria Viegas, Mr Terry Hanley and Ms Joanna Burgess, and also the Larrakia people.

These annual conferences provide an invaluable learning and networking opportunity for parliamentary public works and environment committees, and the committee looks forward to the conference next year in Sydney. In closing, I would like to thank my committee colleague Ms Mary Porter for her assistance and Dr Hanna Jaireth for her hard work over this conference.

Sitting suspended from 12.28 to 2.30 pm.

Broadcasting guidelines
Statement by Speaker

MR SPEAKER: I wish to advise members that following a breach of the broadcasting guidelines made pursuant to the Legislative Assembly (Broadcasting) Act 2001, I have decided to take action to suspend the Assembly passes of the *Canberra Times* staff for a period of a week, commencing today, as well as the photographing of Assembly proceedings in the next sitting period in October.

I have not taken this decision lightly, but I think it is important that the guidelines that have been endorsed by the Assembly are adhered to. I have written to members, the Editor of the *Canberra Times* and the Assembly reporter explaining my decision.

Questions without notice
Canberra Hospital—emergency department

MRS BURKE: My question is to the Acting Minister for Health, Mr Corbell. Minister, my question relates to the annual report from the Health Services Commissioner. Minister, the commissioner reports on cases of people being misdiagnosed when they have attended the emergency department of the Canberra Hospital. In 2005-06, when in fact you were Minister for Health, you initiated what was described as a "comprehensive access improvement program". This latest annual report from the Health Services Commissioner reveals that problems continue. Minister, what are you and your ministerial colleagues doing to resolve the continuing issues with the management of the emergency departments at the ACT's public hospitals?

MR CORBELL: I thank Mrs Burke for the question. Mr Speaker, this government has made major investments into improving the resourcing and the capability of our emergency departments in our public hospitals. The public hospital system experiences and continues to experience high growth and demand for its services. In 2006-07, of course, our public hospitals managed over 73,500 admitted patient cost-weighted separations, representing growth of about six per cent on the previous year. This growth has continued in a similar magnitude in each year that Labor has been in office.

Mr Speaker, the government have responded to the increased demand in our health care systems by providing an additional $320 million since we came to office. In addition to that, of course, we have seen a record number of inpatients cared for. In fact, the ACT's emergency department has seen over 96,000 recorded presentations in the last financial year, 2006-07. So we are seeing record demand and record levels of investment to try and address that demand.

Of course, Mr Speaker, we have had to make up for the very dire position that hospitals had been left in under the previous administration. The previous administration saw 109 beds removed from the public hospital system. During the time of the Liberal government there was a 14 per cent decrease in public hospital beds. So we had to make up that deficit and add to that level of supply. We have, indeed, done that and done that well.

The issue, of course, is that we continue to see increase in demand. Timeliness results have improved in 2006-07, with the timeliness for category 2 presentations being seen on time increasing from 71 per cent to 77 per cent. So, for category 2 we have seen an increase in the level of timeliness. At the same time, of course, category 2 presentations have increased by over 11 per cent, so we are well on track to meet the national average for category 2 patients of 80 per cent being seen on time. Now it is 77 per cent compared to 71 per cent a year ago.

In relation to category 5 patients—people who should receive care within two hours—we performed just below the national target of 85 per cent being seen on time, with 82 per cent receiving care on time. These are good results, but our biggest concern remains in the area of category 3 and category 4 presentations. The outcome for both of these categories in 2006-07 was 47 per cent for category 3 patients and 49 per cent for category 4 patients being seen within the standard time frames. These, however, are still better than the previous year's results for category 3 of 44 per cent and category 4 of 47 per cent.

We are also focusing on ambulance off-stretcher times. This is the amount of time it takes to get people out of the ambulance and into and being seen within the emergency department. The amount of time it takes for a patient to be transferred from an ambulance into the emergency department continues to improve, with 93 per cent of patients off-loaded from ambulances within 20 minutes of arrival, an improvement of over the 89.6 per cent reported for 2005-06.

Mr Speaker, the incidents referred to in the report of the Health Services Complaints Commissioner—and, yes, the Health Services Complaints Commissioner does still exist; there has been no change to that role, contrary to the assertions made by Mrs Burke on the radio this morning—are, of course, of concern to the government. Nevertheless, they are still the isolated minority, not the majority, experience of most people seen in our emergency departments.

Yes, our emergency departments are under pressure, but what the commissioner confirms in his response and in his report is that we have seen a detailed assessment of those incidents, lessons learned from them, and continued systemic improvement to provide the high quality of care, which is still the majority experience—indeed, the overwhelming majority experience—in our emergency departments.

MR SPEAKER: A supplementary question, Mrs Burke.

MRS BURKE: Minister, health complaints increased by some 28 per cent in the previous year, and some 24complaints relate to hospitals. After three health ministers, innumerable special plans and programs and many millions of dollars in additional funds, why are these failures still occurring?

MR CORBELL: Mr Speaker, no public health system is foolproof; no public health system is without its problems and without complaints. In a system that provides over 73,500 occasions of service every year—73,500 occasions of service every year—it is difficult, and in fact impossible, not to see some level of complaint. That is the nature

of a public hospital system. Indeed, we welcome the fact that we are seeing an increased level of awareness of the complaints mechanism. That is why we have the health service complaints system.

But to suggest that there will not be any complaints in a system that sees over 73,500 inpatient cost-weighted separations or occasions of service every year and which sees 96,000 presentations to the emergency department every year is absurd. Of course there will be some level of complaint. But, Mr Speaker, let us look at what our most recent surveys of patient satisfaction find. The most recent report, based on a survey undertaken in February this year, shows that 94 per cent of patients surveyed reported that they were either very or fairly satisfied with their hospital experience—94 per cent. So 94 per cent of patients came away with a reasonable level of satisfaction with their experience in the hospital. That is a very strong result.

Health systems are complex systems; they involve complex occasions of care involving very many interactions throughout the journey that a patient undertakes through the hospital system. What the Health Services Complaints Commissioner has found, though, is that we have a health system which is responsive to complaint. Indeed, the commissioner says in his report that ACT Health responded appropriately and comprehensively to complaints that were raised.

We also have a system that learns from its mistakes, that identifies where problems are and that, through clinical assessment and clinical review, improves upon its systemic processes as well as upon its individual processes of care. That is the nature and the complexity of a public health system. It is not reasonable to make the claim that because there is complaint the system as a whole is not performing. The system is performing. The system is working hard and working well and dealing with an ever-increasing level of acuity and dealing with an ever-increasing level of demand. But that is not to say that there will not be some complaints. Of course there will be. The system is designed to respond to complaints and to learn from those complaints. That is the approach we will take going forward.

Environment—election promises

DR FOSKEY: My question is to the minister for the environment and it relates to the government's promises on the environment at the last election. In September 2004, as part of the election campaign, the government made a number of commitments relating to the environment, including the protection of an extra 900 hectares of grasslands and woodlands, specifically Kinleyside woodland, Newline Quarry woodland, South Aranda woodland, Lawson grasslands, West Majura-Campbell Park grasslands, and Naas Valley. Could the minister please give us a progress report on the protection of these areas and a time line of when the government intends to protect them?

MR STANHOPE: I am more than happy to provide details of the decisions and actions that have been taken by this government in relation to the protection of a whole suite of areas of various descriptions and various ecological significance, not just those in relation to grassland but indeed those that are particularly valuable as a result of their other ecological values—lowland woodland and not just grassland.

I do not have the exact dimension and the particular value of land that has been converted to nature reserve since we came to government but it is some thousands of hectares of inestimable value—certainly several hundred million dollars. The ACT is the only jurisdiction in Australia in which there has been an increase in the last decade in land conserved under a reserve system or in relation to which the ecological values have been protected. The ACT is now composed of 54 per cent nature reserve, against an Australian average of eight per cent, and against the next highest level of nature reserve within Australia, which I believe is Victoria, at somewhere around 15 per cent.

It is a reflection of the very history of the ACT that we are blessed to live in a place in which 54 per cent of the entire area of the jurisdiction is protected as nature reserve—as I say, against what I believe to be a national average across the states and the Northern Territory of less than 10 per cent. I believe I am right when I say that the next highest after the 54 per cent declaration in the ACT is around 15 per cent, in Victoria.

I would need to take specific advice in relation to the nature of the protective action that has been taken in the areas that Dr Foskey referred to. I am familiar with each of them but I cannot recall precisely the nature of the actions that have been taken or the stage that those actions are up to. The government is sincere in its commitment to the protection of each of these areas. Each of them has significant environmental and ecological values which we are determined to protect.

What is implicit in the question—and I may be doing Dr Foskey a disservice—is a suggestion that these particular areas and their environmental values can only be protected through declaration as a nature reserve. Of course that is not the case. The attitude which the government has taken to a number of areas—as I say, I will get specific advice in relation to each of the areas that Dr Foskey raises—is that conservators' directions have been issued in a number of these sites. In cooperation with existing land managers, conservation regimes have been developed and implemented, and are monitored. It is a very successful collaborative arrangement which allows some ongoing maintenance or treatment of particular areas as both, say, a rural lease and a conservation zone that is receiving appropriate levels of care and conservation.

In relation to some of the areas, Dr Foskey, I know that is the approach that has been adopted. I am more than happy to provide specific advice on each of the areas that you have mentioned.

MR SPEAKER: Is there a supplementary question?

DR FOSKEY: Is the minister still committed to the protection of these areas or are we likely to see them being recycled as promises for the next election?

MR STANHOPE: Yes, the government is committed to the protection of each of these areas. As I said in answer to the question, I will provide detailed and specific advice on the steps that have been taken and the processes that we are engaging in in relation to each of those areas.

Schools—closures

MRS DUNNE: My question is to the Minister for Territory and Municipal Services and relates to the future use of school sites. Minister, at the Belconnen-north Canberra district options workshop held at the AIS on Tuesday, which was convened to discuss the four broad generic options for reuse of school sites, there was almost unanimous support for the notion that if school sites such as Cook, Flynn and Holt could not be reopened as government schools they should be retained for their educational purposes and made available to non-government schools. This sentiment was expressed despite, or perhaps because of, the government's stated policy in the documentation that:

> Government does not support reuse for independent schools.

Minister, what is the reasoning for this policy exclusion? In the light of strong community opposition to this policy, will the government reconsider its position and, if not, why not?

MR HARGREAVES: I thank Mrs Dunne for the question. I make just one small correction. It was not just a forum convened to consider the four options put before the community. It was to consider a starting place of four options to be put before the community, and it was hoped that if the community had other options available to their imagination they would share them and we would take them on board.

There is nothing prescriptive about these four options. There are, however, a couple of things which we have indicated which are not up for negotiation. One is the retention as buildings of premises at Rivett and Mount Neighbour. The fabric of those buildings does not allow that and we are not going to go down there. Also, we are not going to entertain the thought of leasing those closed schools to the non-government school sector. The issue around the number of schools in a given area is one of concern to the government and so we have made that decision.

However, I can say this, Mr Speaker: if the community suggests to the government—and there is very, very significant support for this—that the school building site is not required for community use generally and is not required to be cut up, if you wish, and some of it used for open space and some of it used for community tenancies, but in fact that the site should be sold, then the site will be sold at auction and the territory will realise the best price it can for that particular site.

MR SPEAKER: A supplementary question, Mrs Dunne?

MRS DUNNE: Is it the case, minister, that this policy is driven by the Stanhope government's anti-non-government school ideology?

MR HARGREAVES: I thank Mrs Dunne for the supplementary question. The answer, as succinctly as I can deliver it, is no.

Hospitals—emergency department

MS PORTER: My question is to the Acting Minister for Health. Minister, could you update the Assembly on further recent initiatives that the ACT government has made to improve our emergency departments?

MR CORBELL: I thank Ms Porter for the question. There are three issues that need to be addressed when it comes to access to our emergency departments: reducing bed occupancy—making sure we have beds available; increasing capacity; and changing the way that health care is delivered not only in the ED but also throughout the hospital and into the community and the primary care sectors. So the government is focusing very strongly on these three key issues.

First of all, can I deal with the issues around the emergency department. We, as a government, have taken significant steps to improve access through the emergency department. This has been done through the access improvement program. This uses the experience of the staff and draws on their knowledge and their experience to redesign the system of how patients are managed and treated through the emergency department, and this has led already to the implementation of a number of key initiatives.

The opposition are very big on the rhetoric but very shallow—in fact, non-existent—on the policy. Where is their policy? All they say is "blame the bureaucracy". That is not a policy—just blame the management. What about some detailed initiatives like these ones that I am very pleased to outline to the Assembly today? For example, the government has established the new fast track system within the emergency department, which identifies patients that do not require complex care. These patients are then redirected to the fast track zone, which is an area within the emergency department where they are provided with appropriate and timely treatment that enables their discharge within two hours. That is a detailed policy response, unlike the lack of substance and lack of detail we hear from those opposite.

There is also, for example, the introduction of the three-two-one patient tracking system, which divides the journey for patients that are to be admitted from the ED into three manageable time periods which cover treatment, three hours; inpatient handover, two hours; and transfer to a ward bed, one hour. Again, that is a substantive response to managing the challenges within the ED. But is it the sort of policy detail we hear from those opposite? No, it is not, because they don't have any. They don't have any detailed assessment or policy approach. All they talk about is blaming management. That is not going to get us very far in addressing the challenges our public system faces.

Mr Speaker, there has already been substantial improvement as part of this access improvement program. These are the outcomes of the access improvement program that Mr Smyth, when he was shadow minister for health, criticised. When Mr Smyth was shadow minister for health, he said, "This is not going to achieve anything." Well, it already has. Let me highlight a figure that demonstrates that. The Australian Institute of Health and Welfare recently reported that the average treatment time in

emergency departments in the ACT was one hour and 50 minutes—the lowest in the country. So we have the most efficient treatment times in the country. What does that mean? What it means is that more people can be seen. If you are efficient in treating people, you can see more people. That is an immediate outcome of the access improvement program.

Access block—bed block; the issue that Mrs Burke always enjoys talking about—is down, and it is trending down further. In 2006-07 it was 28.6 per cent, down from the 33 per cent in 2005-06 and well below the 41 per cent reported in 2004-05. So access block is on the way down as a result of these initiatives. Similarly, surgery cancellation rates, which are also an indication of access block—if your surgery is cancelled it is because there is no bed for recovery after surgery—have also fallen. For the fourth quarter of 2006-07 the cancellation rate fell to eight per cent, which was a considerable improvement on the 13 per cent for the previous quarter.

These are concrete examples of the work this government is doing—not just "the rhetoric starts here", which we hear from Mrs Burke, but real policies making a difference and improving access.

Emergency services—FireLink

MR PRATT: My question is to the Minister for Police and Emergency Services while he is still hot. Minister, it was recently revealed that the management of the ESA failed to provide significant amounts of information to the Auditor-General during her inquiry into the FireLink system. Minister, why was information withheld? Have you sought an explanation as to the behaviour of ESA management?

MR CORBELL: I thank Mr Pratt for the question. Yes, I can tell you why that information was not made immediately available. It was because it was not properly filed; it was not properly kept. Records were not properly kept, Mr Speaker. The previous commissioner failed to ensure there was proper recordkeeping in place to ensure that those records could be easily accessed. We had to rely on the previous commissioner's personal knowledge of where the papers were stashed rather than having an appropriate recordkeeping system in place.

It is an indictment of the poor management practices of the previous commissioner and the previous authority that the only way those records could be found was based on the personal knowledge of the previous commissioner. Why was not there an adequate and comprehensive recordkeeping system in place so we did not have to rely on where the papers were squirreled away at the bottom of some filing cabinet somewhere?

That is the issue that was commented on by the Auditor-General and commented on by the independent reviews of the ESA. That is why that documentation was not available. I am pleased to say, though, that the Auditor-General found that this in no way compromised her ability to undertake her audit. She made that clear in her audit report. She made it clear that there was no substantive impact on the breadth or the—

Mr Mulcahy: Must be a fast reader.

MR CORBELL: If you think the Auditor-General is lying, Mr Mulcahy, I suggest that you take that up with her and make that assertion. We can only go on what the Auditor-General said. The Auditor-General said that this did not impact on her audit, did not impact on the evidence relevant to her audit and she was satisfied with the breadth of material available to her to make a full and accurate assessment through the audit process.

MR SPEAKER: A supplementary question from Mr Pratt.

MR PRATT: Thank you, Mr Speaker. Minister, have you sought assurances and can you assure the Assembly that there is no further information that has been withheld by the ESA? When do you think you might now produce that information? I know it is retrospective, but would you intend to provide it to the Auditor-General? If you have not sought assurances about any outstanding information, will you?

MR CORBELL: I am informed that all relevant information has been provided to the Auditor-General. The ESA did not at any time withhold information from the Auditor-General. That is a slur by Mr Pratt. It suggests some deliberate act to hold back information. That was not, and never was, the case. All information was provided. When further information was identified as being relevant that had not been provided, it was provided.

But, as I indicated before, the lack of proper recordkeeping and the lack of proper storage of files under the administration of the former authority was the cause of the failure to provide some information at the beginning of the audit process. As the Auditor-General has indicated, all relevant information was provided to her for the purposes of her audit. She was satisfied with that and she did not believe in any way that her audit was compromised.

Mr Pratt: I do not think that view is universally accepted, minister.

MR CORBELL: I know it is not accepted by Mr Dunn.

Mr Pratt: I am not talking about Mr Dunn.

MR CORBELL: There are no surprises there.

Budget

MR MULCAHY: My question is to the Treasurer. Treasurer, will the government introduce a second appropriation bill in this financial year?

MR STANHOPE: That is a decision for the cabinet and a decision that has not yet been taken. In the course of government, any government considers a range of possibilities and options. At this stage the government has taken no decision to introduce a second appropriation bill. Certainly, along with a million other considerations the government takes every year, I would not rule in or rule out anything.

MR MULCAHY: I have a supplementary question for the Treasurer. Can you indicate whether or not work is underway in relation to the preparation of a second appropriation bill?

MR STANHOPE: Certainly, agencies have, as always, and consistent with good government, been asked to give consideration to projects that they believe the government might wish to give consideration to.

Graffiti

MR SESELJA: My question is to the Minister for Territory and Municipal Services. Minister, yesterday, in answer to a question on graffiti painted on and near the CityScape depot in Turner, you said:

> If the graffiti is not offensive … if it is not racist, if it is not violent, if it is not sexual in nature, and if it is tucked away in the suburbs, what we try to do with the graffiti clean-up team is to target those areas in public areas which do contain racist or violent graffiti, or graffiti of a sexual nature.

Minister, on this basis, are these the criteria by which graffiti vandals are freely allowed to deface public property? What is the ordinary timeframe for the removal of graffiti that is not racist, violent or sexual in nature?

MR HARGREAVES: I refer the member to the government's anti-graffiti strategy which has been published for quite some considerable time.

MR SPEAKER: Is there a supplementary question?

MR SESELJA: Thanks, Mr Speaker. Minister, why won't the government clean up all graffiti on public property rather than just the worst examples?

MR HARGREAVES: Where graffiti is advised to the government, there is a program to remove it from public property. The government does not remove it from private property unless it has those connotations I have mentioned before about violence, racism—

Mr Pratt: Just like CityScape, where it has been for six months—a public building.

MR SPEAKER: Order, Mr Pratt!

MR HARGREAVES: As I said, we do not remove it from private properties unless it has offensive depictions on it—racism, violence or sexual connotations. We rather like the private property owners to address that issue themselves. But there is a program to remove graffiti, as I identified. We would encourage the community to contact Canberra Connect on 132281 and advise them of these sites. We will then put them in the program, subject to the offensive nature of the—

Mr Pratt: Have CityScape staff informed you that they are beleaguered?

MR SPEAKER: Order, Mr Pratt!

MR HARGREAVES: We have, as I said, a program for its removal and we do look at it in terms of the sensitivity of each place. Our inspectors look at it, and we use a range of methods to clean the stuff off. We also collect the tags and talk to the police about trying to identify those perpetrators.

Mr Pratt: Yeah, sure!

MR HARGREAVES: When eventually they are caught, they are charged with multiple offences. What is not in the graffiti strategy is an imperative upon the general public or even, I suggest, members of this place, to take it upon themselves to clean off public art that they consider to be offensive. If somebody has paid for public art in a public place through due process, I think they have a right to have it left alone, and perhaps even admired by fellow citizens who may come upon it.

Mr Pratt: It's a pity you don't register it.

MR HARGREAVES: What is not in our policy, and will never find its way into our policy—and I am just wondering whether the community are aware of what is not in our policy—is for us to encourage people to remove public art because they do not know the difference between offensive graffiti and the depiction of public artworks. I just wonder if those opposite do not have enough to do with their time but to scurry around the suburbs trying to find yet another piece of graffiti. I really worry about that. Instead of encouraging copycat activity by people, by putting this sort of thing into the public domain, they could be encouraging the anti-graffiti strategy, and joining with the government to try and attack this particular scourge. They could recognise that there is nothing unique about Canberra. People here have travelled extensively, as members; they would have seen it. Mr Mulcahy would have seen it all over half the cities in the United States. Yet we do have a strategy to fix it.

These guys have nothing better to do than to wander around the place. I am surprised that the question was from Mr Seselja, who I had credited with having more sense. Obviously, he has been very badly affected by his colleague to his immediate right. All I can say is that, as a lawyer, Mr Seselja ought really to take the lead here and discourage the defacing and vandalism of public artworks. That is why I am in grave fear for my security budget within Territory and Municipal Services. I might have to stick the policemen who normally sit at the bottom of Mr Pratt's driveway in front of one of our public artworks, in case he either daubs it or removes every speck of paint on it. I do not see any action on the part of Mr Pratt to ring up Canberra Connect. In fact, I might do this: I might ring up Canberra Connect and ask them how many phone calls they have received from Mr Pratt reporting graffiti that was offensive to him. I bet you I can count all of those calls on my thumb.

Schools—closures

MR SMYTH: My question is to the Minister for Territory and Municipal Services. Minister, your department is responsible for disposing of material in the schools

closed as part of the schools 2020 program. It is also responsible for implementing the government's policies of no waste by 2010. Minister, what is the policy on the disposal of excess material from closed schools? How much excess material has been disposed of, and where?

MR HARGREAVES: Mr Speaker, I will have to take the substance of that question on notice, because I do not really have that material available to me. It will obviously take some time. But since we have another sitting period, I will bring it back, absolutely no question, because I will have to go site by site to find out what volume and what type.

I need to say this, though, Mr Speaker: we have very significant policies around the recycling of building materials. If we were talking, for example, about timber, or we were talking about brickwork, or we were talking about those sorts of things, they will go to recycling activities. That is my understanding. Where we have other materials like, for example, furniture, that is not my issue. That is not my issue, because I only own the building, I do not own the contents. I will take the question on notice.

Mr Barr: Mr Speaker, I am happy to advise.

MR SPEAKER: Mr Barr.

MR BARR: Mr Smyth's question did relate to the contents. In fact, all of the material that was collected from closing schools was stored in a central location and made available to other schools. A significant proportion—something in the order of three-quarters—of equipment was redistributed amongst the other schools. There was a remaining amount that was made available, I understand, to charity. In fact, we were in negotiations with a number of charities. Also, I think there is a possibility of some of that equipment being made available to schools in East Timor. So a variety of discussions occurred.

In terms of the fine detail of every single item, I obviously do not have that information either. However, I am aware that there were a series of processes and that the vast majority of equipment was redistributed to other schools, as is appropriate. Anything that was not required by the schools was then made available to other organisations. I certainly had a meeting with representatives of organisations in East Timor who were interested in taking advantage of any material that might be available.

Mr Hargreaves: Mr Speaker, I now consider Mr Smyth's question answered.

MR SPEAKER: A supplementary question, Mr Smith?

MR SMYTH: Mr Barr might like to take this one as well. Were any materials sent to landfill?

MR BARR: I will have to seek advice on that. It may well be that some were, but I would have to seek advice, and I will advise the Assembly once I have that information.

ACTION bus service—bus shelters

MR GENTLEMAN: My question is to the Minister for Territory and Municipal Services. Minister, can you inform the Assembly of what efforts have been made to provide improvements in the provision of bus shelters across the city?

MR HARGREAVES: I thank Mr Gentleman for the question. Yes, I can. The ACT government has identified a deficiency of bus shelters in many areas of the ACT and a general need to upgrade existing shelters. Established practices within Australia and internationally have demonstrated that public transport street furniture which hosted third party advertising offset supply and installation costs, achieved a higher standard of maintenance and contributed positively to the public transport experience. On that basis, an extensive and detailed tender process was undertaken in 2005, with a number of potential suppliers expressing interest in the ACT market. Adshel Street Furniture Pty Ltd was selected as the preferred tenderer and a contract awarded in December 2006.

Adshel are the largest provider of advertising funded street furniture in Australia and New Zealand and have long-term agreements with many councils and government authorities. The shelters will incorporate the latest modern design, technological advancements and internal lighting. Some of the shelters will be powered using solar energy, with technology pioneered by Adshel. I am sure that will impress Dr Foskey. I hope it will.

Dr Foskey: It did.

MR HARGREAVES: Yes, I thought it might. All shelters will provide improved safety and amenities for commuters and are designed to comply with Australian disability standards—something else that I expect would impress Dr Foskey.

Mr Mulcahy: You are going green!

MR HARGREAVES: We do not have to impress you. The contract will involve the provision and installation of 241 new shelters, of which 133 will include advertising panels and 108 will have no advertising. The project will be undertaken in three phases and completed by not later than December 2009. This first phase, which has just commenced, will involve the installation of 55 shelters, comprising 37 advertising and 18 non-advertising units. These shelters will be provided by Adshel at no cost to the community and will also be maintained and cleaned over a term of 15 years, after which they will be handed back to the ACT government. I will repeat that. There will be no cost to the community. There will be 241 shelters and there will be no maintenance or cleaning costs for 15 years. What part of that deal is a bad idea?

This project will provide further benefits to the Canberra community by substantially increasing the number of shelters in the ACT. Do you hear that? There will be more shelters. What part of more shelters do not you understand?

Mrs Dunne: We understand.

MR HARGREAVES: Okay. That would not have been otherwise possible under normal government funding arrangements. The installation of these new Adshel shelters will increase the current number of shelters by almost 40 per cent.

Advertising displayed on these shelters will be in accordance with the advertising standards adopted by the Australian Association of National Advertisers. These rules, for example, include the prohibition of advertisements which are political, religious, pornographic—sorry about that, Mr Seselja—false or misleading and those which depict products or activities contrary to public health. There will be no cigarette ads—sorry again, Mr Seselja.

This project will significantly enhance our public transport infrastructure. I would not mind if those members who have been bagging this particular deal, and I do not mean Mrs Dunne because she has been encouraging us for a long time—

Mr Seselja: I was encouraging you with your buses; remember?

MR HARGREAVES: I am sorry. According to these standards, I cannot put your picture on one of our bus shelters. We cannot have false or misleading items on them. We cannot advertise products or activities which are contrary to public health. Sorry about the picture.

Mrs Burke: So that rules you out as well.

MR HARGREAVES: No, sorry. I would like to hear from those members opposite who have seen the shelters to come and tell me what is a bad idea about them? They are great. They are clear. They are lit.

Mr Seselja: I do not know who you are fighting about this.

MR HARGREAVES: I would like to see you jump up and congratulate us on it. I just want to see it.

MR SPEAKER: Order, Mr Hargreaves! Direct your comments through the chair.

MR GENTLEMAN: My supplementary question is: is the minister aware of any other alternative proposals for the provision of bus shelters within the city?

MR HARGREAVES: Thank you very much, Mr Speaker. The essence of this question is whether I am aware of any other alternative proposals for the provision of bus shelters in the city.

Members interjecting—

MR SPEAKER: Order, Mr Seselja, and Mr Barr as well, please. The conversation does not help Mr Hargreaves's presentation through the chair.

MR HARGREAVES: Mr Speaker, I went looking for alternative proposals to make myself aware of any which may exist. Now, you would expect, would you not, that in

a forum such as this, supercharged as it is, that there may in fact be some policy statement on the part of those opposite. So I went looking to make myself aware of whether or not there were alternative proposals.

I went to the opposition's transport policy, and I could only find the word "bus" written once in it anyway, and that was when they were going to do this policy. And this is a great policy—I want to know more about it. It includes integrating the bus, taxi and wheelchair-accessible taxi services to provide the basis for a demand-responsive, after-hours transport system. That sounds like a wonderful idea, but I have not got any information on it. I also have not got a shadow transport minister—there he is. Perhaps he might like to come and tell us how he is going to do this.

So, Mr Speaker, again I searched for something about bus shelters. I found on the web the opposition's policy statement of 2004, which depicts two pictures. I thought, "I haven't seen those before." One of them is a picture of an ACTION bus. It turns out that that ACTION bus was actually bought by the Stanhope government. Well, that is interesting. So they are picking up the ACTION bus policy.

The other thing which was rather interesting, Mr Speaker, was the depiction of an eight-door multi-tonne Hummer sitting on their website. I do not know about you, Mr Speaker, but I do not think that the gas-guzzling Hummers are a really good idea for this environmentally friendly city. I would not be putting it on the front of my documents.

Onward with my search for bus shelters, Mr Speaker, onward. I looked up the urban public transport part of their policy, to find nothing in it about any public bus service—nothing, not a sausage. Mr Speaker, all it says is that they will commission a detailed investigation of the financial viability of a light rail network. Good one. Also, they will provide cheaper licences for environmentally friendly taxis. That was the sum total of the urban public transport policy.

So I went looking further—looking further. I got to the key actions, hoping to find that they were going to double the number of bus shelters in the ACT. What did I find? No mention of bus shelters; no mention of buses. In fact there was not much in there at all. But they are going to enhance road safety and reward good drivers. Did you hear that, Mr Gentlemen? They are going to reward good drivers.

Mr Speaker, by this stage, I had almost given up. I could not find a bus shelter. But I did find this little pearl, which is in the Canberra Liberals' platform of July 2004.

MR SPEAKER: What has the Liberals' policy got to do with the question?

MR HARGREAVES: I was trying to find the alternative proposal for a bus shelter, Mr Speaker, and I am advising the Assembly of the fruits of that search. I found that they are going to involve the private sector companies in transport service provision. That sounds like competition for the ACTION bus service to me. Now, perhaps they would like to explain to us and to the Transport Workers Union and to the bus drivers and to the travelling public just how they are going to do it. But get this one. Where is Mr Seselja? He sits over there. I found one here he might like to know about. They are going to reserve transport corridors for future development. Did you hear that?

Mr Mulcahy: On a point of order, Mr Speaker: the relevance of this is getting so far from the question it is unbelievable.

MR HARGREAVES: All right. I will come back to it. Actually, I will not, Mr Speaker. I ran out of time, and I ran out of luck.

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

Supplementary answers to questions without notice

Theo Notaras Multicultural Centre
Greenhouse gas abatement scheme
Yarramundi Reach—ATSI cultural centre

DR FOSKEY: Mr Speaker, in accordance with Standing Order 118 (A), I ask for an explanation as to why the following questions, which were taken on notice at question time more than 30 days ago, have not been answered. I seek an explanation. The first of these is a question asked of the Minister for Multicultural Affairs, Mr Hargreaves, on 21 August regarding the Theo Notaras centre. An answer was promised. It has not arrived.

Mr Hargreaves: Is that it, because I will answer your question?

DR FOSKEY: Minister, you said:

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

The second question that has not yet been answered was a question to the minister for climate change on the greenhouse gas abatement scheme. Mr Stanhope said:

> 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.

MR HARGREAVES: It was my understanding that I returned to the chamber and actually answered that, but I could be mistaken. Dr Foskey—through you, Mr Speaker—I will ascertain whether I have or have not. If I have not, given that this is the last sitting for a couple of weeks, I will get you an answer and then, with the permission of members, I will send a copy of that answer around to all the other members as well.

MR STANHOPE: Mr Speaker, I will seek an explanation for why that particular question has not been responded to, if it has not. I take the opportunity now to table the answer to a question which I took on notice from Dr Foskey yesterday:

> Yarramundi Reach cultural centre—Answer to question without notice asked of Mr Stanhope by Dr Foskey and taken on notice on 26 September 2007.

Civic library

MR HARGREAVES: During this sitting period I took on notice a question from Mrs Burke in relation to the main doors of the Civic library. The main doors of the library were shut on 17 September due to work being conducted outside the doors in the square. These works were unrelated to the library. The library remained open throughout the works. The public were able to access the library through side doors, a fact that was clearly signed at the main entrance. In short, the operation of the library was not affected.

Papers

Mr Speaker presented the following papers:

> Annual Reports (Government Agencies) Act, pursuant to section 15—Annual Report 2006-2007—ACT Auditor-General's Office—Report No 6/2007, dated 26 September 2007.
>
> Study trip—Report by Mr Berry MLA—Legislatures of Prince Edward Island and Nova Scotia, Canada and the 2007 National Conference of State Legislatures, Boston, Massachusetts and Washington DC, USA, 31 July to 13 August 2007.
>
> Study trip—Report by Mrs Dunne MLA—Ireland, England and Italy, 15 March to 12 April 2007.

Committee reports—government responses
Papers and statement by minister

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

> Education, Training and Young People—Standing Committee—Report 4—Report on Annual and Financial Reports 2005-2006—Government response.
>
> Health and Disability—Standing Committee—Report 3—Report on Annual and Financial Reports 2005-2006—Government response.
>
> Legal Affairs—Standing Committee—Report 5—Report on Annual and Financial Reports 2005-2006—Government response.
>
> Planning and Environment—Standing Committee—Report 26—Report on Annual and Financial Reports 2005-06—Government response.
>
> Public Accounts—Standing Committee—Report 10—Report on Annual and Financial Reports 2005-06—Government response.

I ask leave to make a statement in relation to the government responses.

Leave granted.

MR STANHOPE: I am pleased to present the government's responses to five standing committee reports on the annual and financial reports for the calendar years 2005 and 2006 and the financial year 2005-06. As in previous years, I am tabling the responses to all of the standing committee reports covering all portfolios together. This is because the standing committee reports generally cover more than one minister and more than one portfolio and, in certain cases, issues raised in the reports apply across departments and agencies.

As members will be aware, annual and financial reports are prepared by agencies in accordance with the Annual Reports (Government Agencies) Act 2004, the Financial Management Act 1996 and the Chief Minister's Department Annual Report Directions. The government seeks to ensure that annual and financial reports are continually updated to reflect best practice and full accountability. In line with this approach, some of the issues raised in the reports have already been addressed in the 2006-07 annual report directions.

The standing committees made 33 recommendations. The government has agreed in full or in principle to 20 of these and noted a further five. Eight recommendations are not agreed. The government has agreed in full or in principle to the majority of recommendations made by the standing committees.

The Standing Committee on Public Accounts recommended that the Department of Treasury include in future annual reports a discussion on levels and rates of charging and taxing within the territory. It is the government's position that the purpose of annual reports is for agencies to account for their performance. A discussion on levels and rates of charges and taxes goes beyond the scope of annual reports.

The public accounts committee recommended that the government publish the audited financial report on TransACT Communications Pty Ltd as soon as it becomes available and submit the report to the Assembly, rather than wait till the end of the financial year. The government is not responsible for publishing TransACT's annual report.

The public accounts committee also recommended that the ACT government publish policy advice provided by the Department of Treasury in relation to revenue measures and reductions in outlays of expenditure. However, policy advice from the Department of Treasury in relation to revenue or expenditure measures is provided to government through cabinet as part of the budget development process. This advice is classified cabinet-in-confidence and should not be publicly released.

In addition, the Standing Committee on Public Accounts recommended that the Chief Minister's Department report back to the Assembly on the outcomes of the small business commissioner and the status of ongoing projects of the small business commissioner. The outcomes and status of these projects have been articulated in annual reports to the Assembly.

The remaining government responses to the 2005-06 annual and financial reports of the standing committees on public accounts, legal affairs, planning and environment, health and disability and education, young people and training are set out. I thank the standing committees for the effort they have made in producing these reports.

Financial Management Act—instrument
Paper and statement by minister

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

> Financial Management Act, pursuant to section 18A—Instrument authorising expenditure from the Treasurer's Advance to the ACT Planning and Land Authority, including a statement of reasons, dated 20 September 2007.

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

Leave granted.

MR STANHOPE: As required by the Financial Management Act 1996, I table a copy of the authorisation in relation to the Treasurer's advance to the ACT Planning and Land Authority.

Section 18 of the Act allows the Treasurer to authorise expenditure from the Treasurer's advance. Section 18A of the act requires that, within three sitting days after the day the authorisation was given, the Treasurer present to the Legislative Assembly a copy of the authorisation and the statement of the reasons for giving it and a summary of the total expenditure authorised under section 18 for the financial year. Under this instrument, $896,000 was provided to ACTPLA to make interim compensation payments, pending arbitration, to rural leaseholders affected by the proposed residential development in the Molonglo Valley. I commend the paper to the Assembly.

Paper

Mr Stanhope presented the following paper:

> Territory-owned Corporations Act, pursuant to subsection 19 (3)—Statement of Corporate Intent—Actew Corporation Ltd—2007-2008 to 2010-2011.

Cultural Facilities Corporation—quarterly report
Paper and statement by minister

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

> Cultural Facilities Corporation Act, pursuant to subsection 15 (2)—Cultural Facilities Corporation—
>
> Quarterly report 2006-2007 (1 April to 30 June 2007).

Tabling statement, dated 27 September 2007.

Multicultural mission to China
Paper and statement by minister

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

The Multicultural Mission to China—Report.

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

Leave granted.

MR HARGREAVES: It is with great pleasure that I table my report on my visit to China, the economic powerhouse of the world that has a special relationship with Canberra. That relationship is built on a number of factors. First and foremost, we are the sister city of Beijing and have a formal agreement with the city of Hangzhou. I met with the vice mayors of both places and both men remarked on the importance of the relationship.

But they both also knew of my effort as Minister for Multicultural Affairs to build a harmonious community made up of many ethnic groups, a community of many cultures but still only one community. It was interesting to learn that China also has a multicultural community, made up of 55 ethnic groups, and the officials I met with were very interested in our approach and successes in the ACT, particularly our multicultural strategy. Our approach struck a chord wherever we went because it was in stark contrast to what the Howard government is doing, creating division and playing different segments of the community off against each other.

The ACT multicultural festival was also well known in each of the four cities we visited, so much so that the director of the Ministry of Cultural Affairs in Xi'an was able to announce at our meeting that she has decided to send the famous shadow puppets to appear at the 2008 festival. She also arranged our attendance at a performance of the Royal Dance Theatre because that troupe will be visiting Sydney at the time of our festival. Madam Chung insists that the troupe, or at least part of it, should participate in the festival. I have asked the festival organisers to liaise with her to see how this can be made possible.

The cities I visited included current and former capitals of China, as well as economic hubs such as Shanghai. I met principally with the municipal levels of government and readily established a rapport because, although the scale of our mutual difficulties differs, the problems are the same: how to cope with growth; the problem of the increasing numbers of motor vehicles, including parking and environmental impacts; moving large numbers of commuters on public transport; collection and disposal of waste; balancing development with a sustainable environment; providing affordable housing to housing disadvantaged or poor people; identifying and preserving heritage areas in the face of pressure from property developers; and catering for tourists.

Guess what, Mr Speaker: none of the vice mayors or other officials I spoke to have the solution to these problems, but they all wanted to know how we were approaching them in the ACT. They were all doing what the Stanhope Labor government has been doing since 2001 and is continuing to do: gathering data; measuring the problem; identifying the real problem; proposing a range of solutions for community consultation; and then, most importantly, getting on with the job of implementing the most pragmatic solution.

Since we came to power, we have provided approximately $1.5 billion for municipal services, including transport, roads, libraries and parks and $260 million, including our contribution to the commonwealth-state housing agreement, for public housing. We will continue to provide sustainable funding in those areas to keep Canberra as the showcase capital the nation deserves.

What else can I say about the trip, Mr Speaker? It certainly put the problems we face into perspective and showed that, despite the carping criticism we cop, we do very well here in relation to planning, construction, provision of infrastructure, housing, environmental protection, the alleviation of poverty and the living standards enjoyed by all citizens.

I greatly appreciated the warmth of the welcome I received in Beijing and the former capitals. I extend my thanks to the vice mayors of each place, to Madam Li Hong at the embassy for organising the trip, and I give special thanks to officers of the Ministry of Cultural Affairs who accompanied us, Madam Chen Chunmei and Mr Zhu Hongbin, as they did an exceptional job in managing the delegation's daily program.

I also want to express my appreciation to the members of the delegation who, because they came from the local Chinese community, were able to bridge the communication gaps and gave me invaluable service. Overall, Mr Speaker, despite the inevitable criticism that will come from the opposition, and possibly the *Canberra Times*, I regard the delegation on multicultural affairs as a great success. I table my report.

Indigenous education—interim report
Paper and statement by minister

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

Performance in Indigenous Education—Interim report—January to June 2007.

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

Leave granted.

MR BARR: I am very pleased to present to the Assembly the progress report on performance in indigenous education. As members will recall, reporting periods

provide for an interim half yearly report covering the period January through June, followed by a more comprehensive full year report. So the report I present today is the interim report covering the period January to June this year.

The first half of 2007 saw the continued implementation of a number of budget initiatives. These included Koori preschools operating across five sites across Canberra; targeted support to year 4 indigenous students who were in the lowest 20 per cent in the year 3 ACTAP results; and the appointment of a senior officer grade B to the position of assistant manager of the Indigenous Policy and Organisational Practice Section. This officer provides support to officers working in schools and high level policy advice and direction for the department of education as a whole.

The report of the steering committee for the review of government service provision *Overcoming indigenous disadvantage: key indicators 2005* quotes from an OECD report that "attendance at preschool and school has a significant impact on later academic success". As the report I am presenting today shows, the enhancement of Koori preschool programs has provided greater opportunities for indigenous children to participate in early childhood education and has resulted in a significant increase in the number of children attending preschool. The five preschool sites at Ngunnawal, Wanniassa Hills, Holt, Calwell and Narrabundah continue to operate two days each week from 9 am until 1 pm.

In the full report for 2006, I reported that there was also improvement in numeracy results for year 5 indigenous students. Since then the department has continued to explore different ways to deliver support to indigenous students in year 4 and their teachers to build on those improvements already experienced.

The government has made a significant commitment to improving outcomes for indigenous students, and it is important to note that in comparison with other states and territories the ACT is a leader. However, the challenge for us is to eliminate the gap between the outcomes for indigenous and non-indigenous students. We are very hopeful that the support for literacy and numeracy that we are putting into early years of schooling will address the flagging outcomes experienced in the later years of schooling. For example, the students who received additional support in year 4 in 2006 will participate in ACTAP as year 5 students this year. We would hope to see an improvement in those students' results.

We also need to ensure that our indigenous students attend school regularly, are engaged with their schooling and make a successful transition to further study or work. The indigenous home school liaison officers have a critical role to play in this. At the beginning of the 2007 school year, those officers were based in a high school, rather than in a central location, as they provide support to the indigenous students of that school and local primary schools.

However, it is not their role alone. It is the responsibility of the entire education system. We need more understanding around how we engage indigenous students in learning and we need to ensure that our teachers have this understanding. Initiatives such as the dare to lead program, where schools make a commitment to improving

outcomes for indigenous students, will help. I am very pleased to report that 70 per cent of our public schools are members of the dare to lead coalition.

The government will continue to work towards the goal of indigenous students achieving outcomes equal to non-indigenous students. The foundations we have put in place in 2005—Koori preschools, an enhanced literacy and numeracy program and support through leadership and mentoring—will be built upon. We will continue to work in partnership with the indigenous community, particularly through the Indigenous Education Consultative Body, to ensure that the improvements we have seen, especially around literacy and numeracy, continue. Finally, we will continue to look at ways in which our teachers can gain greater insight and expertise around indigenous learning. I commend the 2007 progress report on indigenous education to the Assembly.

Affordable housing
Ministerial statement

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): I seek leave to make a ministerial statement related to affordable housing.

Leave granted.

MR STANHOPE: Mr Speaker, declining housing affordability is a major policy issue that is confronting governments around Australia, indeed the world. The ACT government is well aware of the importance of addressing the problem in order to improve the wellbeing of all Canberrans and the functioning of our regional community. It is for this reason that my government introduced its affordable housing action plan on 12 April 2007 and signalled that this matter will be a priority for the government over the coming years.

The government is particularly concerned about easing housing stress for medium and low income households so that all members of our community, irrespective of their income or personal circumstances, can access affordable, appropriate housing. However, before informing the Assembly of the government's progress in implementing the plan, I would like to briefly outline the reasons for the affordability problem that now confronts us.

The issue of declining housing affordability is widespread and has been building across Australia for a long time, but particularly over the last decade. The reasons are many and complex, but a major driver has been an increase in the demand for housing which has not been matched by supply. Ian Macfarlane, the former head of the Reserve Bank of Australia, was quoted in the *Financial Review* on 17-18 March 2007 as saying:

> Why have the prices of the eight million houses in Australia basically doubled in the last decade? The answer … is almost entirely on the demand side.

The latest *ANZ Australian Property Outlook* dated August 2007 supports this demand side analysis. In addition, the market and, importantly, interest rates and long-term economic stability have added to this crisis. Substantial increases in purchasing power led to intensive competition for establishing housing in existing inner and middle ring suburbs as owners increased equity in their dwellings. This had the effect of pushing up other property prices.

The 2004 Productivity Commission report *First home ownership* noted that since the mid-1990s house prices in Australia had risen significantly, but the escalation in prices had been more prolonged, cumulatively greater and more widely spread than in previous upswings. The commission concluded that, while surging house prices was a signal that demand had been outstripping supply, the dominant source of this widespread escalation was the general surge in demand. The surge in demand was a product of cheaper and more accessible housing finance; prolonged economic growth and a rise in real disposable household income; established home owners trading up to improved—bigger, nicer and better located—housing; a boost to demand driven by specific commonwealth schemes such as the first home owners scheme; and changes to capital gains taxation.

The increased liquidity caused by changes in commonwealth economic policies and incentives, strong returns on housing investment and national economic trends had a major impact on house prices in the ACT, as indeed it did elsewhere in Australia. In the ACT, population increases, largely due to commonwealth public service employment, have grown sharply and rapidly increased housing demand and caught the ACT government off guard due to a lack of consultation between governments.

The ACT's healthy economy, with an unemployment rate which is the lowest in the country and household incomes outstripping all other states and the Northern Territory, has continued to support growth in house prices. This is good news for those already owning or investing in houses, but very difficult for those who are trying to buy into the housing market.

According to the latest *ANZ Australian property outlook*, rental markets in the ACT tightened further with the vacancy rate down to just 1.3 per cent while rents have risen sharply by 14.8 per cent. This report predicts that affordability across Australia will deteriorate sharply in the years ahead. We must do all we can to stop this happening. The commonwealth must also accept its responsibility.

While the federal government has the greatest influence over housing affordability through broader fiscal and monetary policy, taxation policies and specific programs, the Labor government will do its bit to improve housing outcomes through those mechanisms over which it has control.

Many statistical and financial indices show that buying a home in the ACT is still affordable for the majority of Canberrans, given the ACT's high median household income. However, changes in the housing market have made the dream more elusive for many low to moderate income Canberrans. This has placed greater pressure on the private rental market and on public and community housing services.

As mentioned above, in response to these problems and in recognition of the importance of housing affordability to the community's economic and social wellbeing, the government introduced the affordable housing action plan on 12 April 2007. The release of the action plan was widely applauded as a bold strategy that traverses new ground. Some commentators also recognised that the action plan is in keeping with our social democratic roots, which place a high priority on the provision of affordable housing for low to moderate income households.

The government's affordable housing action plan is a comprehensive and wide-reaching plan to address housing affordability in the ACT and help Canberrans at all points on the accommodation spectrum, from home buyers and private renters to those in public and community housing. Some of the key initiatives in the plan include increasing the supply of affordable land to the market; regular englobo land sales; over-the-counter sales of affordable housing blocks; streamlining land release and planning approval systems; providing new house and land packages priced between $200,000 and $300,000; a major expansion of community housing that will deliver an additional 480 affordable dwellings over five years; making more effective and targeted use of public housing; an initiative through institutional investors to increase the supply of private rental dwellings by 200 to 400 homes in the first instance; ensuring the supply of sufficient land to meet the increasing demand for accommodation; land rent and shared equity schemes, including for public and community housing tenants; and targeted stamp duty concessions.

This is an ambitious program but we are getting on with the job of implementing the plan. The government moved quickly to implement the action plan by establishing a high-level team headed by the former executive director of the Master Builders Association, Mr David Dawes, to drive the reforms and coordinate the initiatives across government.

The initiatives were backed up with substantial resources in the 2007-08 budget, which included $375,000 to the Chief Minister's Department for two years to coordinate and implement the plan; $300,000 per annum to the ACT Planning and Land Authority for detailed planning for future land releases; $20,000 a year for a new annual award to recognise excellence in sustainability, design and construction; reduced stamp duty for first home buyers under the home buyer concession scheme at a cost of $1.5 million annually; deferral of stamp duties for eligible purchasers, at an approximate cost of $300,000 a year; the provision of $4.3 million to Housing ACT to construct approximately 17 two-bedroom units; and $80,000 a year to the Department of Justice and Community Safety for expanded tenant and advocacy services to increase support for rental tenants. Supported by these resources, departments and agencies, the Chief Minister's Department has been actively implementing the plan's recommendations.

A key element of the government's strategy is to help more Canberrans achieve their goal of home ownership. Around two-thirds of Australian householders own their own homes, but this percentage has been declining in recent years. The government is attempting to reverse this trend in the ACT by helping to ease entry into home ownership. It is doing that by providing a diversity of housing products, increasing

the supply of land, providing affordable house and land packages and demonstration villages, and introducing a range of home purchase arrangements, such as a land rent program.

A fundamental element of the government's action plan is to increase land supply. This builds upon a range of existing announcements to increase the supply of land, such as the release of an additional 500 residential blocks, which increased the release of dwelling sites to 2,672 in 2006-07, and we will continue to roll out this accelerated land release program.

The government has completed the estate planning for Franklin 2 and will release over 360 blocks onto the market by the end of this year. This estate will be the first to include a more diverse mixture of block sizes, with 15 per cent being smaller, and more affordable blocks scattered throughout the estate. The government is bringing forward the release of an additional 1,000 house blocks in this financial year in Casey, increasing the overall number of new residential to 3,200. The government is also working hard to accelerate other land releases with planning documentation for Franklin 3 and Bonner 1 underway.

Concept planning for suburbs 1 and 2 in Molonglo is well advanced. The Minister for Planning, Mr Barr, recently announced that the draft variation to the territory plan and the draft amendment to the National Capital Plan have been released for public consultation. The first blocks in Molonglo should be released in 2008. The government is pleased to see the speed with which the first englobo land release at Macgregor west is progressing. Further englobo land releases will be made regularly throughout this and coming years.

The principles embodied in the action plan have been embraced at a policy and legislative level. The 2007-08 statements of intent for both the land development agency and ACTPLA incorporate the objective of delivering affordable housing outcomes. Reforms to the territory plan and planning legislation through the Planning and Development Act passed by the Assembly, along with business systems improvements in both those authorities, will improve land release and planning approval systems and streamline planners', developers' and builders' land supply pipelines.

To cater for smaller, affordable housing, ACTPLA has released a planning guideline on compact block housing for new estates to allow for the introduction of the affordable house and land packages. This will provide opportunities and market entry points for housing choice for small house blocks of up to 250 square metres.

The action plan introduces new house and land packages priced between $200,000 and $300,000. As part of the plan, the government will particularly target supply of blocks in the $60,000 to $120,000 price range, well below what is currently available in the market. The initiative is designed to introduce a range of new affordable housing options for Canberrans. In particular, it will introduce stand-alone two-bedroom housing similar to the types of products that have proven popular in the states.

The estate development plan for Franklin 2 has been approved and includes the action plan requirement that 15 per cent of blocks are in the smaller affordable range; that is, $200,000 to $300,000 for house and land, with $60,000 to $100,000 for the land component. The Franklin 2 estate will also include a demonstration housing precinct. As more estates are developed by the land development agency, they, too, will include the requirement to provide 15 per cent affordable house and land packages. I would reiterate that this requirement to provide 15 per cent of affordable blocks is not inclusionary zoning by stealth, but provides a range of choice across new estates by salt and peppering a mix of smaller, and hence cheaper, blocks.

The government is introducing regular englobo land sales and is targeting two land sales annually, with at least one-third of land released through this means. The first englobo release was at Macgregor west, which is being developed by the Village Building Company. The LDA is developing a program of series of englobo releases on an annual basis for the coming four years. There will also be over-the-counter sales of affordable housing blocks. Work on the legislative changes that will be required to enable this to occur is progressing well.

While increasing land supply is a major plank of the strategy, the government has no intention of precipitating a fall in property values or engineering a solution for some Canberrans that will harm the interests of others. Giving people a foot in the door is also the aim of the action plan's initiatives for first home buyers. The government knows that the first step into the housing market is often the hardest. We are putting in place a range of measures to make that step a little less daunting and a lot less painful.

The government's innovative package of measures includes land rent and shared equity schemes, including for public and community housing tenants. Through an initiative unique to the ACT, we are introducing a land rental scheme, allowing eligible home buyers to rent their land rather than to buy it outright. By paying rent on a block of land rather than finding the full purchase cost, home buyers can potentially reduce their housing costs by hundreds of dollars a week. On average, we expect land rent payments to be around a quarter of the mortgage costs of purchasing a block.

The scheme takes advantage of the ACT's land leasehold system and will make buying a home a possibility for many people who might previously have thought home ownership out of their reach. The initiative will enable Canberrans to purchase a typical house and rent the land for the same monthly payment that they now make to rent an equivalent house.

Shared equity programs are a feature of many of the individual strategies that make up the action plan. In addition to the shared equity programs to be offered through Community Housing Canberra and the private rental scheme, we propose extending shared equity options to public housing tenants on incomes of more than $50,000. To further broaden the reach of shared equity programs, we will seek expressions of interest from not-for-profit providers, expanding the range of choices beyond the products currently available in the market. Discussions have been held with a number of financial institutions regarding the development of new finance packages to support both land rent and shared equity initiatives.

To further ease the burden of upfront payments for first home buyers, we announced that the eligibility of the home buyer concession scheme would be increased from the 40th percentile house price to the median house price. As the Assembly is aware, the home buyer concession scheme was amended to increase property value criteria to include median priced properties, and the arrangements commenced on 1 July.

The government has also introduced the Revenue Legislation (Housing Affordability Initiative) Amendment Bill to allow conveyance duty deferral for first home buyers for up to five years. The bill, which was debated and passed on Tuesday, will also enable people to defer payment of land for affordable house and land packages until the certificate of occupancy is issued. This will reduce the upfront cost for first home buyers and will also prevent the need to pay rent while attempting to repay a mortgage.

A small but increasingly important player in the ACT's housing market is community housing. The action plan involves a multimillion dollar investment in the not-for-profit community housing sector by enhancing its capacity to deliver innovative affordable housing solutions. We will help Canberra's main provider of community housing, Community Housing Canberra, undergo a major expansion, delivering an additional 500 affordable dwellings over five years and more than 1,100 over the next decade. Community Housing Canberra will keep around 250 of these extra properties for rent over five years, increasing to 470 over the decade.

The government has begun to deliver on this expansion of the community housing sector. It has agreed to the direct grant of three properties to Community Housing Canberra, being in Holt, Gungahlin and Gungaderra, and to the development of a rolling program of land sales in conjunction with the CHC. Members will be aware that the Revenue Legislation (Housing Affordability Initiative) Bill that was passed on Tuesday also introduces new provisions in the Duties Act, the Rates Act and the Land Tax Act that provides for organisations such as Community Housing Canberra to be exempt from the payment of duty and land tax.

The community housing initiatives also include a $40 million injection of equity through title transfers to Community Housing Canberra, a revolving $50 million loan facility and a $3.2 million capital subsidy over three years. The Department of Disability, Housing and Community Services transferred 132 properties to CHC by 30 June 2007 and this major investment recognises the important role that community housing plays in meeting the housing needs of our community.

Public housing also continues to play a vital role in providing affordable housing for Canberrans. With a stock portfolio of over 11,500 properties, it is estimated that Housing ACT directly houses some 30,000 people. The public housing stock represents approximately nine per cent of all properties in the ACT, almost double the national average. The ACT is the only jurisdiction to increase public housing property numbers both in real terms and as a percentage of total properties under the current commonwealth-state housing agreement.

The government has invested an additional $30 million over three years for public housing stock from 2006-07. In the first year of this program, 25 additional properties

were acquired for families on the list. From these funds Housing ACT will also purchase up to 20 new affordable house and land packages developed under the affordable housing action plan. A further $4.3 million capital injection in 2007-08 will allow Housing ACT to purchase 17 two-bedroom dwellings. This brings the government's total additional commitment to public housing stock to more than $34 million over three years.

Through the action plan and the broader public housing reform initiatives, the government is making more effective use of public housing assets and resources and strengthening Housing ACT's role as the principal social housing provider in the territory. Housing ACT has reviewed its procedures to ensure that the top priority applicants are housed within three months; continued to restructure housing stock to better meet the needs of Housing ACT clients; announced the introduction of eligibility reviews to encourage tenants with sustained incomes over $80,000 to purchase their home; commenced development of a shared equity product for eligible tenants that will allow tenants to purchase a majority share of their home; and commenced a pilot for a youth stairwell model whereby tenants with similar backgrounds in multi-unit complexes receive appropriate levels of support. These initiatives highlight the government's ongoing commitment to house the less well off in our community.

Many households in the private rental market also suffer high levels of housing stress. While the commonwealth government continues to exert primary influence over the private rental market through its economic and taxation policies and programs, such as the commonwealth rent assistance program, the government is pursuing initiatives to improve affordability for private renters.

To maximise the impact of the new land release policies on the availability of rental properties, the ACT government will embark on what I believe is an Australian first. We will boost the supply of rental accommodation by encouraging institutional investment in private rental accommodation. We will seek expressions of interest from the private sector to develop and rent between 200 and 400 dedicated private dwellings as part of a development or developments of up to 1,000 dwellings. Discussions have commenced with private institutions and are encouraging.

The government is also leading the charge in providing affordable aged persons accommodation. The government recently agreed to direct sell the former O'Connell Education Centre site in Griffith to Baptist Community Services for the purpose of a 160-bed aged care facility. BCS was granted a 100 per cent concession and thus are paying nothing for a site worth almost $2 million. There will be 57 new beds and 103 residents will be relocated from Morling Lodge. Of these 160 beds, at least 32 and perhaps up to half will be concessional. In a first for the territory, in exchange for the concession on the purchase price of the Griffith block, Baptist Community Services has agreed to redevelop the Morling Lodge site for aged persons supported accommodation and provide $1.8 million worth of affordable supported accommodation units over 15 years.

The affordable housing action plan will also result in a lot more construction activity over the next few years. For this to take place we will need to attract and retain skilled

workers. Through the affordable house and land packages we will put a strong emphasis on developing the skills of our apprentices and trainees. For those who travel from interstate to work on these new homes we will provide better affordable accommodation options, with a new two or three-star motel and a five-star caravan park.

Lastly, this plan takes account of another of the pressing issues of our time and policy priorities for the government, including climate change. We do not want to add greatly to the cost of home ownership or construction, but we will be paying close attention to sustainable design in our quest to deliver affordable housing.

Some commentators continue to assert that ACT government taxes have a significant effect on housing affordability. I dispute that assertion and would make some comments. A recent report commissioned by the Property Council of Australia showed that ACT government taxes account for only 5.1 per cent of the cost of purchase of a house and land package. Moreover, of the 13 residential growth markets considered by the property council report, Canberra has the third lowest state and local taxes as a proportion of the purchase price of a house and land package, with only Adelaide and Mandurah, which is 74 kilometres south of Perth, ranked lower.

I note that the only ACT government tax directly associated with the purchase of housing for owner occupiers is stamp duty on conveyancing, and the duty payable is only a small proportion of the price of a given residential property. For example, on a $400,000 house, the duty payable is $15,000 or 3.8 per cent of the purchase price. This compares with the interest cost on the associated standard housing loan of around $26,000 in the first year alone.

Moreover, while duty is a one-off payment, interest costs continue to be incurred over the life of a loan. For a 30-year loan, the interest cost would amount to over $300,000 in present value terms. It is also important to note that the long-term real growth in house prices of around four per cent means that the increase in a home buyer's wealth will exceed the cost of conveyancing duty within the first year of home ownership.

The government's affordable housing action plan is bold, innovative and far-reaching and we have hit the ground running. We have accepted all the recommendations of the steering group and have moved rapidly to their implementation. We have made significant strides. At the launch of the action plan I asked for patience on the part of those who desire rapid change. It is understandable that people are keen to immediately obtain cheaper land or acquire the new affordable housing land packages and other new products. However, we are not about a quick fix, but rather a fundamental change to the system.

An enormous amount of work is underway, but the government alone cannot tackle the issue of housing affordability. I welcome the support of industry, the not-for-profit sector and the community generally in working collaboratively to improve housing affordability.

Emergency services—communications systems
Ministerial statement

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services): I seek leave to make a ministerial statement concerning an update on the implementation of alternative communications systems for fire vehicle locations for the 2007-08 bushfire season.

Leave granted.

MR CORBELL: On 22 August this year, during a debate in the Assembly relating to emergency services mobile data communications systems, I undertook to provide an update on the implementation of alternative communications systems for vehicle location prior to the commencement of the 2007-08 bushfire season. This is that statement.

Following the withdrawal of FireLink, the Emergency Services Agency has established a working group to implement changes and to reconfigure procedures to ensure that a vehicle location system is in place that can operate effectively during the upcoming bushfire season.

As stated during the Assembly debate on 22 August this year, it is important to stress that the ESA is not without high-quality voice communications infrastructure for our emergency services. The trunk radio network is performing well and provides high-quality digital radio coverage across the urban, and a large part of the non-urban, area of the ACT. The TRN coverage will improve across non-urban areas of the ACT, once additional work is completed, through a number of towers in the southern areas of the ACT. The Mount Tennant radio site is completed and will be powered up by the end of October, using a temporary generator until underground mains power is connected, which is expected early in the new year.

In regard to Mount Clear, which is a joint New South Wales-ACT site, New South Wales has advised that site works are underway and a site completion date is expected to be advised by the New South Wales Department of Commerce in mid-October. Additionally, remote radio relays have been updated to cover mountain areas of the ACT, which has further improved voice communications.

For this fire season, for the purposes of vehicle location, the ESA will use the existing computer-aided dispatch system, or CAD, to manually enter the location of RFS and SES vehicles. We will also use manual tracking of those vehicles through mapping to identify the location of those vehicles. This system obviously works well in many jurisdictions, it works well for individual incidents and can work for the ACT for this season. It is not, however, the long-term solution. The long-term solution is the potential and permanent use of CAD, and that is being developed at this time.

The public can have every confidence that the ESA is well prepared for the upcoming bushfire season, that the communications systems are effective and that upcoming improvements will continue to provide our emergency services workers and volunteers with communications systems that are suitable for their needs.

Schools—closures
Discussion of matter of public importance

MADAM TEMPORARY DEPUTY SPEAKER (Mrs Dunne): Mr Speaker has received letters from myself, Dr Foskey, Mr Gentleman, Mr Mulcahy, Ms Porter, Mr Pratt, Mr Seselja and Mr Smyth, proposing that matters of public importance be submitted to the Assembly. In accordance with Standing Order 79, Mr Speaker determined that the matter proposed by Mr Smyth be submitted to the Assembly, namely:

> The management of closed schools in the ACT.

MR SMYTH (Brindabella) (4.05): Madam Temporary Deputy Speaker, as you would know, and know well, there is considerable angst and disappointment across the Canberra community about the closure of many government schools. These feelings continue, and are being heightened by the current round of consultation. There are a number of threads to this angst: the consultations that preceded the closure announcement; the actual closures and their announcement; the management of community anger following the announcement; the management of the sites of the closed schools since they were closed; the management of the disposal of surplus equipment; the attitude to other schools gaining access to any surplus schools or any new schools taking them on; the cultural vandalism of the Stanhope government in locations such as the Flynn primary school; and, overall, the scepticism about the Stanhope government's motives in closing schools, particularly concerning any change in use of these sites.

We will address these issues today but I would begin by focusing on the management of the actual facilities that remained on the sites when the schools were closed, especially the plant and equipment that remained—and I use the word "equipment" in a generic sense to represent all the furniture and other items that have become surplus with the closures.

My colleagues will focus on issues such as the consultation process that is being used to consider potential uses for the school sites. I will remind members of what has happened. It will not take much to bring back the memories. In the 2006 budget, the Stanhope government announced that 23 government schools would be closed. This was a most significant case of educational vandalism, but that has been and will be a matter for other discussions. The closures were to be staged over three years. One particular issue that now arises from the closures concerns the way in which all the equipment that is now redundant, including desks, computer desks, steel cabinets, chairs, blackboards, books, trampolines, teacher support material, stationery, sporting equipment and library assets, has been disposed of.

This equipment represents a significant asset for the territory and for the people of the territory. I would hesitate to put a value on it. I wonder whether the government can. Perhaps it is not even pertinent to do so. While this equipment may have a depreciated or zero value on the ACT government books, it is a valuable asset for those who may have very little or nothing or those who have an interest in education.

I would like to delve into this aspect of the school closures in a little more detail. As members would know, the question was asked at question time: what happened to this equipment? The minister said that there was a round of consultations and that offers were made to interested groups. There had been approaches from groups, including groups such as those representing interests in Dili, about gaining access to this equipment. What he could not tell us was what had actually happened and where it had gone. Having taken that question on notice, I hope the minister will come back during this debate and give us a little more information. But that is what you would have expected: this equipment would have been disposed of very carefully by offering it to other schools, getting full value for it from alternative uses, receiving appropriate prices for this equipment, or perhaps by recycling it.

The rhetorical question must be asked: what has happened to what must be an enormous stockpile of school equipment? I understand that, at least initially, things went pretty much according to Hoyle. In the first place, each of the schools that was closed was opened for a day to permit other schools to see whether there was any equipment that they could utilise. I understand that this was not a very successful activity. I suspect that having only one day to evaluate the equipment was probably too tight a timeframe for at least some of the continuing schools. Perhaps more to the point is to ask: what incentive exists for a school to utilise second-hand equipment when there is more merit for them in obtaining new equipment? Maybe that is a bit cynical but it is probably an accurate reflection of human nature.

Following this process, all of the then surplus equipment was taken to a storage facility, apparently called the "central hub", in Weston. A well-known removal company was engaged to undertake this massive project. Balfran Removals is well known to members here in the Assembly as they move boxes around this place. This project apparently started on 31 January 2007 and it took a number of months. I understand from information I have received that the quality of this equipment ranged in some cases from being almost brand new to, in the main, being very usable and functional. I have been shown a number of photos of samples of what was on display and now considered surplus. It is evident that the desks, chairs, cabinets, books and stools shown in the photos are, indeed, in pretty good condition. Again, we will await confirmation from the minister. I also understand that very little of this surplus equipment was in such poor or dilapidated condition that it would have had to have been destroyed, according to individuals who have seen the equipment.

The question that emerges at this point is: what happens next to all of this equipment? It should be remembered that this process started in January. I understand that various interests—not schools—who might have a use for this equipment were invited to inspect the stored surplus equipment and provide feedback to the education department on what equipment they would be interested in and how they would see this surplus equipment being used. These interests were asked to provide information on what plans they would have for using the equipment, what other organisations would be involved in receiving the equipment, the status of these organisations, whether they were charities or otherwise, and where the equipment would finally be located.

From some of the conversations I have had with people who have contacted us, I can be quite specific, for instance, about Revolve's interest in this equipment. The general manager received an email from the education department on 24 May 2007 in which the department asked for details of the process that Revolve would consider for utilising the surplus equipment. Revolve duly inspected the equipment and began considering its response to the department. On 31 May, the department asked Revolve what progress had been made. I assume there was other email traffic then, but on 7 July Revolve sent an email to the department expressing disappointment in not having received a reply to Revolve's earlier email. That date of 7 July was after the lock-out on 30 June, so maybe that had something to do with it.

Revolve then found out that the relevant person in the department had moved on. From that point, there was no useful communication with the department, and it is from this point that questions start to be asked about how the equipment was dealt with. Some interested parties became aware that at least some of the surplus equipment had been taken to landfill for disposal. Let me repeat that: it appears that at least some of the surplus equipment has been taken to the Mugga Lane landfill for disposal.

Upon hearing this, I was very surprised by how much surplus equipment had apparently been handled. There is one report of at least three truckloads, three container loads, of equipment going into the landfill. It does not equate with the environmental imperatives espoused by the Chief Minister and his colleagues; indeed, it is not even close to coming to grips with having no waste by 2010. With respect to this surplus equipment, people who saw it at the tip reported that most of it seemed to be in good, very good or excellent quality. It was dumped at the landfill. One's immediate reaction is to hope that it is not correct but, upon checking, a number of sources said that, yes, some equipment was seen at the tip.

Some critical questions arise about how this store of equipment—things like desks, and computer desks in particular, steel cabinets and chairs—was managed and why it ended up at the tip. We have asked that question of the minister today. I hope that, in the course of the debate in the Assembly, the minister for education might tell us how much was actually sent, whether a value was calculated and whether he is happy with the decision to put this into landfill.

These are the questions that must be answered: how much of the equipment was sold? If it was sold, how much was sold and what revenue was generated? Was any of this equipment given away to interested parties either in Australia or in other countries? I would be delighted if some of it went to Dili, as was suggested. But we need to know how much was involved and where it is. If so, to whom was it given and what guarantees were obtained about the way in which the equipment would be used? The important questions in light of this matter are: was any of the equipment recycled and was any of the equipment disposed of in the landfill? These questions have to be answered.

We are not talking about an independent body just discarding material; we are talking about a department of the ACT government, and ultimately someone has to answer

for this. I note that Mr Hargreaves is nodding, so I am sure he will shortly tell us that none of it has gone into landfill and that all of it has found a useful home. We will wait to hear what the government has to say and we will see whether or not this needs to be taken further.

I also understand that the minister responsible for managing the school sites undertook to fence the schools that had been closed in order to provide some security and protect them from vandalism. We now know that there are a number of sites that have been vandalised and, to the best of my knowledge, no fences have appeared to protect these valuable government assets. If they are to be reused—if the decision, based on what the community wants and what the government can afford, is for them to be reused—and if they have been vandalised, all we are doing is adding to the cost and making it more difficult for them to be reused in the future. Why isn't the Stanhope government acting to protect these public assets to the best of its ability? The minister might like to detail for the Assembly, when he jumps to his feet, how many sites have been vandalised, what the estimated cost of the vandalism is and whether the sites will be restored.

We on this side of the house, at least, are aware of a number of existing schools expressing interest in taking over various sites of the closed schools. Unfortunately, the government seems to have a closed mind on this issue. I think it is unfortunate that it does. If there are to be viable alternative options then we believe the community should be given those options. Clearly, the community is interested in those options. Schools like Burgmann College in Gungahlin and Radford College in Belconnen have enormous waiting lists of students wanting to attend these schools. We know that other schools like Blue Gum and Emmaus are still looking for homes and would very much like to gain access to some of these excess properties.

If the Canberra community wish these schools to remain as schools, they should be able to have their way. If the government does not want to use them then the community will. Indeed, in my electorate of Brindabella, the Tharwa community would love to get their school back; they would love to be able to get control of that building and use it for what it was designed for and what it was heritage listed for in terms of its school heritage value. Given the changes to the Education Act and the government's intransigence on this issue, it would appear that this is not likely to be considered as a viable option. That is a shame. We should not have a closed mind on this. The Stanhope government talks about access, equity and fairness for all but that appears only to be in the context of when it suits the government and when it meets the government's requirements.

I do not believe that is a clever strategy by the Stanhope government. If the facilities could be used by other schools, that seems to be a sensible use of resources. However, the Chief Minister and his colleagues have chosen to force these other schools to go out and invest in greenfield sites while former school facilities lie idle. I would have thought that the minister, who, in March this year, said that climate change was one of the most pressing matters to confront us this century, if not the most pressing matter, would have done some quick sums and asked, "What's the environmental impact of knocking down an old school, perhaps recycling some of it and sending the rest to landfill, balanced against the environmental cost of building a new school?" There

does not seem to be any indication that the government thinks this is a viable option, simply because of its blinkered approach to education and its blinkered approach, in particular, to non-government education.

We had the example of cultural vandalism by the Stanhope government following the school closures. The most prominent instance of this was the removal by the Stanhope government of the plaque to John Flynn from the Flynn primary school. How insensitive, how silly and how unnecessary was that? What blunder caused that action to be approved? Fortunately, extreme pressure applied by the Canberra community, especially by the people of Flynn, and by people like Mrs Dunne, Mr Stefaniak and Senator Humphries, saw the plaque returned to their suburb.

The closure of government schools began as a sad saga and continues to be a management disaster for the Stanhope government. I am particularly disgusted at the hypocrisy of the Stanhope government having regard to the way in which it has destroyed the surplus equipment from some of these schools. The other issue is its total abandonment—and I am sure Mrs Dunne will have a few words to say about this—of its guide to engaging with the community. The initial press release regarding community consultation on former ACT school sites, which comes from the TAMS site, says, "In the first stage of consultation, district-level forums will be held in Belconnen, Woden, Weston and Tuggeranong." I am aware that the Tuggeranong forum was held on Monday night, the Belconnen one was on Tuesday and the Woden one will be held tonight, but there now is no Weston forum—a distinct district that is facing particularly savage cuts involving buildings in that area. As is always the case, Weston is being lumped in with Woden. It is a further disappointment for the community.

The guide talks about how adequate time must be taken. It is strongly recommended that the absolute minimum for any community engagement—the community engagement aspect—must be six weeks. Basically, all the community activity is happening this week in three forums, which is only three-quarters of what was promised in the first place. On page 6 of a wonderful document that has Mr Hargreaves's smiling face on it, it says: "For large projects, policies and strategies seeking comprehensive feedback, 12 weeks is recommended." Clearly, what is being said is: "We don't want comprehensive feedback from the public; we're going to limit it really to just this week." The advertising of it has been quite limited; indeed, the consultant was appointed no more than a month ago. So we do not have a government that is interested in genuine consultation. *(Time expired.)*

MR HARGREAVES (Brindabella—Minister for the Territory and Municipal Services, Minister for Housing and Minister for Multicultural Affairs) (4.21): I will quickly correct Mr Smyth regarding his last couple of points. My advice is that the Weston Creek area is included in the Woden area when we are talking about a regional approach to the schools. The feedback that we have received so far would indicate that there is reasonable interest in the future of premises on a regional basis but that there will be a lot more interest expressed during the site-specific consultations. Mr Smyth talks about a 12-week period; we have to take into account that it is from now through to October. As I mentioned before, I did something in May; everybody has known that it has been coming.

I am glad that this topic was suggested because it is a pressing item and a major project for my department. However, we need to bear a couple of things in mind. In particular, these properties are not the only government properties that are managed by a relatively small section of my department. The property group manages 158 properties that are insured for $498 million. By way of comparison, the surplus school properties are insured for $38 million. The tenure of the 158 properties in the portfolio differs. Some we own, some we lease, some are shared tenancies between government and private or community sector groups. The uses range from community facilities to office buildings, recycling estates, a convention centre, rural residential, business incubators, heritage buildings, childcare centres, storage facilities and depots.

Such a diverse portfolio raises many complex management issues, not the least of which is dealing with surplus properties. I want to reiterate that these properties are not the only government properties that my very small section, the property group, manages. The surplus school properties project currently is the highest priority for the property group and they are applying best practice management to these surplus properties. That involves ensuring that the current tenants are aware of what is happening with any given property and, where necessary, are being relocated to more suitable premises. It also involves providing security services, attempting to prevent vandalism—and it should be remembered that school properties, surplus or otherwise, are always prime targets for vandals—and carrying out required maintenance.

We also need to bear in mind that there are so many differing expectations around these properties. There are some—not many but some—people in the community who expect these properties to be reopened as schools. There are many people who have accepted the closure of the schools but who now want the properties kept for community use. There are those who expect us simply to hand the properties over to community organisations for no rent or no other charge. There are those who do not really care what happens to the buildings but want the open space retained.

Members would be aware that the consultation program that I announced in May 2007 is still underway. The third community meeting is happening tonight, for the Woden-Weston area. The consultation program is designed to gather all ideas from the community so that the government can make an informed decision about the future use of these properties.

The consultation program will cover two different levels. The first level will determine the best use for the sites at a regional level, and the second level will focus on the best uses for particular sites. This process will be completed when the consultant hands over the report in November 2007. The government will then have to decide what to do with the sites, and my department will continue to manage the properties until those decisions are made.

I repeat for the umpteenth time, Mr Speaker: the government has not decided what use the sites will be put to, and will not do so until the consultation is complete. Even then, the usual processes need to be gone through before any change in use can occur—that is, there are planning processes, development application processes and, in some cases, no doubt, transfer to the Land Development Agency for sale processes. In the

meantime, my department is charged with the responsibility for managing these surplus government properties. Some will remain vacant; some will continue to be tenanted as they are now.

Government properties, including former schools that are no longer required by holding agencies, are transferred to the property group within the Department of Territory and Municipal Services for management while their future use is considered, in accordance with the whole of government surplus property policy. The schools identified for closure will no longer be available for casual hire, as the property group is not resourced to provide janitorial services. Accordingly, organisations have been encouraged to approach the other community venues in their area to seek alternative arrangements.

Some properties come with existing tenants in them and need to be managed accordingly. The tenants are contacted and advised that the tenancy will continue until the property evaluation is completed or suitable alternative accommodation is identified. Notwithstanding that there were no existing tenancies at Tharwa or Hall, it has been agreed that, given the special requirements of these small towns, the local community can access or sublease some of the facilities in their closed schools. At Tharwa, permission has been given to access kitchens for a community fair, while at Hall the Hall Progress Association has been granted a sublease for use of the old headmaster's cottage for a couple of nights a month. The latter will enable the association to conduct its regular community meetings and keeps monthly rent to an absolute minimum.

The property group took over responsibility for the maintenance and security of the closed schools at the end of the 2006 school year. All security arrangements and building safety systems are maintained at all sites, including fire protection and alarms. Security patrols monitor the sites regularly. The operational aspects of managing these surplus properties include maintaining utilities, maintaining the buildings, fire protection, maintaining active security—patrols—and passive security systems—alarms—maintaining the grounds, and responding to and repairing vandalism.

Whilst vandalism is a problem with schools that do not have a permanent presence on site, vandalism also occurs in occupied schools and is a cost that has to be factored in to the operational costs. Since taking over the management of these properties, the property group has responded to incidents of vandalism, mostly involving broken windows. Where the windows are utilised by a tenant, they are replaced; otherwise the glass is removed and the windows are boarded up to discourage further vandalism. The government is aware that, whilst consultation with the community on the future use of these schools is underway, we must continue to bear these costs to ensure we protect the community asset whilst a decision is made as to their future use. We will continue to manage these properties so that their value is retained until we announce the future of these sites in early 2008.

I was wondering for a while where Mr Smyth was going with this issue of school furniture. I was thinking to myself that there has been a policy about the disposal of surplus school furniture for decades, and I could not imagine that any disposal would be outside that policy. I think my colleague the minister for education has undertaken

to give further information, but he may be satisfied that the question has been answered sufficiently. That is for him to decide, not me.

The stuff that Mr Smyth talked about has to be verified, because he was very quick and easy with descriptions. He said, "Something has been taken to landfill." By extension, it has gone to the dump. "Gone to the tip" were the actual words he used. He did not use the word "dump"; he used the word "tip". That is fair enough but we use the word "landfill", not "tip". The thing is that, if something is delivered to the landfill, it does not necessarily mean that it has gone on top of the hill. It could be put into the landfill area itself and covered. It could be placed there for reuse. It could be placed there for recycling. We have battery recycling, metal recycling—all manner of recycling opportunities are available at the Mugga Lane landfill.

I would like to be satisfied about whether anything which is reusable or recyclable has actually been disposed of inappropriately. I want to check that because it does not sound quite right to me. I worked in the area of property management in that department and I know what processes they go through. I know they are not anything else but diligent. I also know, Mr Speaker, that they attempt to get the best recycling and reuse out of surplus school furniture that you could possibly imagine.

I was wondering to myself, "Where is he going with this?" Mr Smyth has never been, from my understanding, the greatest environmental advocate that I have ever struck. So was he concerned that the territory was not getting best value for its asset? I can understand that, because on many occasions in this place he has criticised the government for not getting enough value, in his view, for assets that it has disposed of. I give him credit for that; that has been his role in the past, and that is fair enough. So it is reasonable for him to ask the question: "If you have disposed of things at sale, did you realise a reasonable amount of money for them? Did you auction them, sell them, did you just give them away to your mates or what?" That is a reasonable question.

The question was asked, "If you gave it away or disposed of it, what value was attached to it at that particular time?" Usually, they are not worth a thing. Usually, by the time furniture is ready for disposal at schools, it may look okay at first glance but it actually has no residual value because it has been depreciated over quite a number of years, so its value is actually nothing. It actually costs more money to take it somewhere for disposal, in a lot of cases, than it is worth, even if it is only halfway through the depreciation cycle. Their method of disposal has often been through Pickles Auctions. In some cases they have gone to places like the recycling and reuse areas at the tip. Sometimes they have just been made available for people to pick over, because they have no residual value.

He then gave a tiny tickle-up around the Revolve issue. He said that Revolve wanted to get their hands on this material. There was a sneaky implication that perhaps there was some incompetence, inefficiency, and maybe a little bit more skulduggery than that, around Revolve not being able to get hold of it; I do not know. But I thought, "Now we know where he has gone." And that is sad.

The problem with the topic of Mr Smyth's MPI today is that it did not give us or anyone else who has a reasonable level of education an opportunity to understand

what on earth he wanted us to address. The actual topic of the MPI is "The management of closed schools in the ACT." Half of his speech was on management of disposal of unwanted furniture and equipment. It was only in the last little bit that he started to talk about the actual management process, the community consultation process and that sort of stuff.

I would say to him that, if he wants to have these sorts of discussions—and I have no problem in engaging in them at all—if he can be a little more specific about the bits that he wants to include in the MPI, that would make it clearer. Mr Smyth has been a member here for exactly the same length of time that I have. He would know that MPI discussions are exactly 60 minutes long. If the idea is to have information put to the public because it is a matter of public importance, he should give people who have information an opportunity to put it on the table. If he is going to be obtuse about it then the quality of public information will be lacking; it will be lessened.

We heard from my colleague that some of the furniture was destined to go overseas. He said that. If Mr Smyth was interested in further information on that, had the topic of this MPI been clearer about that part of his interest, we would have been delighted to talk about that, because that is an important issue and it is part of our process. I have to say that we were doing that during the time when I was a public servant under Gary Humphries.

DR FOSKEY (Molonglo) (4.36): The management of closed schools in the ACT is the latest chapter in a sorry saga that began with the budget last year. What we have seen, I believe, is a failed process in terms of so-called consultation about which schools would be closed and which schools would be turned into fragments of schools. It was a very bad process, followed up by another process which cannot be good because of the roots from which it originated. As Mr Hargreaves has pointed out, there are many ways a topic like the management of closed schools could go. I was a little uncertain myself; however, I am just going to take the topic where I believe it needs to go.

There are a lot of issues around this. The first one was pointed out most clearly when Mr Hargreaves talked about "letting" the people of Tharwa use the kitchen of their old school and "letting" the people at Hall have access for a few days to some other part of their school. I think this is where we come to the fundamental problem of this whole process—people actually thought these schools were their schools, they thought they were the community's schools. So they are actually experiencing this process, this closing of their schools, when they still do not understand what the good reasons were for the closures. They do not agree that the reasons that the government has given are good reasons. They are experiencing this as a theft of some kind, certainly a theft of community amenity and, in a way, a theft from the value of their children's education.

So when people go along to the consultations conducted, I am sure, in good faith by the consultants and get told that the one option that they cannot consider is the one that they most want—which is to see their schools reopened—to them that theft is confirmed. I think it does not hurt the government to try and understand how people actually feel out there. It is not enough to say, "These people are wrong" or, "They

haven't read the terms of reference" or, "They're wrong. We know what's best for their kids." It is a fundamental problem that people know they are not being listened to, that they are not being respected. They know that the assets that their taxes have paid for, the reasons why they moved into particular communities, the reasons why they have spent all that time and energy raising money for their P&Cs are actually being discounted.

I would say that a lot of the property that is being disposed of was actually purchased by communities. I do not know how the government draws the line on the division between stuff that was paid for out of their grants—I suppose there could also be commonwealth grants in these equations—and where it comes out of community effort. But this is what people are seeing. I take my hat off to the people who are still engaging in these consultations, because so much faith was lost and so many people feel, "Why bother? It's a foregone conclusion. The very thing that we most want is ruled out as an option." Mr Hargreaves was actually being scathing when he said "only" 30 people turned up to the consultation on Monday night. Thirty people in this situation, in this context, is a damn lot, and every one of them deserves respect, because they are still fighting for something that they see as important in their community and certainly to their children.

So I am starting from that basis, Mr Speaker. I am starting with respect for the people who are still fighting for their school sites. In some ways, I have a great deal of sympathy for the consultants who have been engaged. I had a conversation with one of them last week at a meeting on another matter where he just happened to be. I feel that we have to separate the consultants' efforts from the context in which they are performing these consultations. I believe the consultants want to make every effort to allow people to get their opinions across, but already so many options have been ruled out and the time line has been reduced to such an extent where consultation is almost meaningless. It is not quite meaningless, because it can still be salvaged; it can still be salvaged if people are really listened to.

The ruling out of schools having any access to these sites, whether they are private or public schools, or people wanting their government school to be reopened, really needs to be addressed. I am like many people who have had representations from schools. I guess the one that really blows my mind is Blue Gum community school, which is an existing school. It is a popular school; people choose it because it fills a niche which public education does not fill. It is not Steiner education—I think you would have to say that about it as well. Many of the independent schools in this town are making up for the number of options that we have seen reduced over the years. We have seen them reduced in self-government, in a sense. We have seen the loss of the School Without Walls, we have seen it change, evolve and then disappear altogether.

Blue Gum comes out of that sort of desire that some people have for a school where they can be totally involved in it and they can have alternative education and all the things that you do find there. But Blue Gum community school is looking for a site. They would really like to be able to expand their place in the Hackett primary school, and they have been advocating with the department and going through all the right channels, and it is fairly clear that somewhere or other they must have got the minister offside. I know things do get a bit personal at times.

Mr Barr: I get on very well with Morag. That's a very unfair accusation.

DR FOSKEY: I said "perhaps they have". The school has been told that there is further temporary space available and it is very nearby. Another tenancy has been vacated, and the location suits many organisations. I am referring to the letter I got from Mr Hargreaves. Apparently there is a list for access to these premises, and you are placed on that list in chronological order. It disturbs me, and I hope that I am wrong—Mr Hargreaves wrote the letter, and he can respond later on perhaps—that the only criteria for being considered to be able to use these government-owned facilities is whether you appear on the list. Sometimes there are other issues that need to be brought up to the front, and the Blue Gum community school is such a case. It is a school which exists and which needs space just to keep going, not just to expand, and I would like to see a little bit more thought about education aspects of the kinds of decisions that are made.

We do have a number of community organisations lobbying for access to these school sites. I am sure that there are many, many people with a bit of an investment in schools not being opened on these unused school sites. However, to me, these sites were schools; they were built as schools and will involve quite a lot of adaptation for community organisations. By all means, where they are in surplus I want to see community organisations having a first go at them. But they were built as schools, and I would like to see schools being prioritised on their merits for access to these sites. That does not mean every school that applies has to be given a site, but just to rule them out altogether is something I do not understand. It has not been properly explained to me why that decision was made, but it is certainly limiting the consultations that are occurring about the future of school sites.

MRS DUNNE (Ginninderra) (4.46): This is a very important matter, and it is a really top-of-mind issue for many people in the community, especially this week, because it is this week that the small process of public consultation is taking place over the future of school sites. I think that we have to start just a little bit before that. There is public consultation going on at the moment which is being fairly radically truncated by a whole lot of things, some of which have been put down to ensuring that Mr Hargreaves's department goes through the right procedures, the procurement procedures. As a result of that, we have quite a truncated consultation process on what to do with future sites.

The threshold question has never been addressed in that: who owns those school sites? Having had the opportunity to attend one of the two meetings that have already taken place—and I will go back to those meetings again—the very strong sentiment expressed at the large, well-attended meeting that I was at at the Australian Institute of Sport on Tuesday night was that these are the community's sites. These do not belong to the government; the current Stanhope government is nothing more than the custodian of those sites. The views strongly expressed are that the community demands to be heard. As I was leaving the other night a number of people said to me, "Well, that was probably a waste of time and no-one in the government will probably listen to what we have to say. But at least we have to go through the motions. We have to put out here the things that we want to say so that we do at least know what the government has ignored of what we had to say."

This is the cynical approach that has been inculcated by the Stanhope government in relation to communities when they are thinking about what to do with empty school sites. This has been engendered over the past 15 or so months through the whole process of *Towards 2020* and now through this venture. These school sites belong to the communities; they belong to the taxpayers and the residents of the ACT. They do not belong to John Hargreaves or Andrew Barr or Jon Stanhope or all of those people collectively. This is a very clear message that the people that I spoke to on Tuesday night wanted to get across. You can see why people are concerned. You had Mr Hargreaves saying, as Dr Foskey rightly pointed out, "We are letting people have access to what used to be their schools, so the residents of Hall can get access to their old school a couple of days a week. We are being so generous as to allow the Tharwa community to use the kitchens of their old school."

Mr Hargreaves: What happened to Charnwood high school?

Mr Barr: Sold! Christian Life Centre.

MRS DUNNE: This is what has happened. The community wants a say, and the clear message is that they want those schools in the community.

Mr Hargreaves: So Gary Humphries sold it? It wasn't Brendan?

Mr Barr: It might have been the Leader of the Opposition, actually. It was Bill, wasn't it?

MRS DUNNE: I note, Mr Speaker, that they think that they can just talk over me because they are discomforted; because they are hearing things that they do not want to hear. But what we actually to have—

Members interjecting—

MR SPEAKER: Order, members! Mrs Dunne has the floor.

MRS DUNNE: What we actually have to have is a clear and open approach that deals clearly and sensitively with what the people actually want, not what the Stanhope government, through this consultation, want people to say. This is no reflection on the consultant; the consultant essentially buys into a brief and has to deliver the brief. But the consultation has been a sham. Yes, Mr Hargreaves said everyone knew that it was coming because, "I told you back in May," but actually on 12 September the consultant told the community that this week—24, 25 and 27 September—there would be three district meetings. On 12 September, 12 days before, we did not know where those meetings would be or at what time; we only had dates. The people who were going to the Tuggeranong meeting, which was held on Monday, did not know until two days before when an ad appeared in the *Canberra Times.* That is when they found out, and two days notice is not good enough.

Mr Hargreaves stood up here the other day and said, "Only 30 people turned up." Well, other people told me it was close to 50, but, irrespective of whether it was 30 or

50, this was a testament to people because it was essentially a secret meeting. Some of those people who turned up were in fact challenged. "Why are you here? You have not registered." This is the problem: people feel that they are unwelcome. Nowhere does it say, "You can't come unless you register." Mr Speaker, I did not register for the Tuesday meeting because, quite frankly, I did not have time, and I suppose no-one is likely to say to the local member, "I'm sorry, Mrs Dunne, you're not registered, so out of here." But why is it that people are being confronted, that they are told that they are not welcome because they have not given the secret password? This is what this is about. The people of Canberra are sick to death of it; they are sick to death of being told, "Well, you can talk about things in this very narrow way."

They came to this meeting the other day and they were essentially told that they could talk about these four generic options. They could add other ones to them, but only within very narrow bounds. For instance, people at the community meeting I went to expressed almost universally a requirement, a demand, that these facilities and lands stay in possession of the community, that they not be sold off. We can talk about whether or not other school sites were sold off, and it may or may not have been a mistake, but we are talking about the here and the now of the experiences that we have had as a result of selling off land in the past. If people say that was a mistake, it may well be, and we can have a discussion about this, but we are talking about the here and the now. Here and now my constituents are saying, "Do not sell this land. Keep it in the possession of the community. Do not alienate it from the community, because one day the community may want it back for the purpose for which it is already there or for some other purpose."

The clear message is that there may be a time in the future when we actually need to reopen schools. If we need to reopen schools, those schools should be there. In the meantime the clear message out of the meeting at the Australian Institute of Sport was that if we cannot have a government school there, we want a non-government school to be able to use it for an educational purpose. That message was there, and those at the meeting wanted to know why the government had ruled this out. The simple answer is ideology; they hate non-government schools because they only think about government schools. As Mr Seselja said the other day, the Liberal Party in this place is the only party that has an interest in both government and non-government schools.

This Liberal Party is the only party which will stand up for both sectors while Andrew Barr and John Hargreaves want to drive them into the ground. While they are driving the non-government schools into the ground, what they are trying to do is obliterate all memory of those schools. I have been working around the place saying to people that what is actually happening here is like what the Romans did to the Carthaginians. John Hargreaves is the person who is charged with the job of sowing our school sites with salt so that there is no memory of them in the past.

An example of the Andrew Barr-Jon Stanhope approach to obliterating memory is the Flynn plaque fiasco that Mr Smyth touched on before. What an absolute outrage! Mr Barr tried to justify himself and told us in this place and in estimates hearings things like: "The plaque was damaged while it was being removed. It was damaged to an extent that it was unrepairable." We were told that this plaque was damaged to an extent that it was unrepairable. Mr Speaker, I attended the recommissioning of the

plaque. It is the same plaque. It has a bit of a ding in it, but it was not unrepairable. The damage was quite insubstantial, and most of that damage was administered when the workmen, whoever they were, took it off the plinth. Then, of course—to show that my theory is right—they obliterated the name "Flynn" from the plinth, because they want to obliterate all memory of these schools.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (4.56): In what has been an interesting and wide-ranging debate on a range of aspects in relation to former schools, we have traversed a couple of areas. In question time I did undertake to provide further information to the Assembly in relation to school equipment. In terms of outlining the processes, as I said in question time, equipment and resources from closed schools were offered to other government schools.

The first offer was to schools that were receiving students from the closed schools. Any remaining equipment after that allocation process was then made available to other ACT government schools, and I am advised that most usable equipment was reallocated in this process. The equipment that remained was in poor condition. Where possible, this equipment was dismantled, and usable parts were retained to repair other equipment in the future. What remained after that process, the component parts—metal, timber, plastic, paper—were then made available for recycling where possible.

I am advised by the department that, through the school management asset registers that are required to be held from each school, the record of assets is maintained under that policy. The detail that I can provide is that teacher and school resources, such as books, paper, craft equipment and stationery, were made available to receiving schools and has all been delivered. P&C groups transferred certain P&C assets to other schools during the closing process. Where they specifically requested that assets go to a particular school, the P&Cs were able to transfer assets to those schools. Memorabilia from closed schools has been securely stored. All musical instruments were transferred to the instrumental music program for assessment, and instruments requested by receiving schools were distributed. Artworks were assessed by Arts ACT personnel.

We went through the most extensive process, and only a very small amount of remaining equipment that was not possible to recycle and that was not wanted by any of the other schools or any of the organisations that we approached, such as Revolve and others, was sent to landfill. But my advice is that that was a very small proportion of the overall surplus equipment and that this equipment has in fact now found a new home in all of the remaining schools across the territory and is being put to very good use. This provides a neat segue into the broader issues that we have debated today—that is, the needs of the ACT education system overall.

Dr Foskey and others spoke at some length about why we undertook such a significant reform process. I have debated this probably 30 times in this place in the last 12 months, but I will put it on the record again: changing demographics in this city, declining school age population and declining enrolments in government schools meant that there was a need to make changes in public education systems. As a result

of those major factors, we undertook a significant reform process. I have outlined at more than 100 public meetings that I attended last year and at more than 700 meetings attended by myself and my departmental officials the reasons why we went through this process.

As a result, we now have $350 million worth of investment in education—the strongest position in financial terms that the public education system has ever been in. We are investing record amounts into our public education system to address just the issues that I identified, ensuing that we have the highest quality in terms of building facilities and resources. As we move into our new curriculum framework in 2008 and institute a range of new policies across the education sector we will see a continued improvement in the strength of our public education system.

Mr Mulcahy: But what about enrolments?

MR BARR: Mr Mulcahy raises a question about enrolments. There is no doubt that following 10 years of skewed funding polices from the commonwealth government we are seeing and have seen a move away from government schools. The combination of additional subsidies to non-government schools at commonwealth level, a massive increase in funding to non-government schools and a capacity in the Canberra community with the highest incomes in Australia to be able to afford to pay—

Mr Mulcahy: That's not why they're moving.

MR BARR: Indeed, Mr Mulcahy, the research we have, nationwide and in the ACT, is that they are factors. There are a range of factors at play, and those are amongst them. There are also issues about the quality of facilities in government schools. The surveys that we undertook showed that one in four parents identified facilities and the quality of facilities as a major issue. There were a range of other issues, which we have discussed, around religious values, moral values, uniforms, and perceptions around discipline, particularly in government high schools, that were all raised by parents. But in that list was quality of education and facilities, and they are the two areas where the government has put a significant focus in terms of investment to respond to the issues that parents are raising.

This government will continue its record levels of investment. I am very pleased that the August census for preschools showed a massive increase in enrolments in government preschools and that our investment in early childhood education is beginning to pay dividends. I will look forward to a continuation of Labor's strong record in public education, and as a result of the difficult reforms we undertook we will see a stronger public education system into the future. We made decisions last year to ensure the long-term viability of public education, not just for the next year, not just for the next two years, but for the next 15 years right through to 2020. They were difficult decisions, ones that obviously involved short-term political pain and ones that provided opportunities to opportunists like those opposite. When they were in government they recognised these issues but lacked the courage and the intestinal fortitude to address these issues.

To his credit, the now Leader of the Opposition, in a process that stands in marked contrast to the process I undertook last year, closed certain schools on a couple of

occasions. He closed Charnwood high school on a months notice—a months notice—halfway through a school year and then flogged the site off later on. So for those opposite to have the hide to come into this place and suggest and seek to argue that this government and the processes that we have gone through—the most extensive consultation process ever in the history of self-government—are inadequate, given their record in government, their failure to address the substantive issues when they were in office, which involved a process of rationalising schools and closing a school on a months notice midway through a school year, is outrageous. But it is what we come to expect from this bunch.

Mr Mulcahy gets up and talks about the need to reform the delivery of government services. But then in every area, every specific area where the government have taken action to ensure that we prioritise quality ahead of quantity and that we ensure that our public education system is delivering to meet the needs of all students, they oppose it. They have no economic credibility at all. Mr Mulcahy knows it. He bows his head in shame. He bows his head in shame as he has to listen to the schizoid positions of the shadow ministry.

MADAM TEMPORARY DEPUTY SPEAKER (Mrs Dunne): Order! The time for debate on this matter of public importance has expired.

Occupational Health and Safety Amendment Bill 2007

Debate resumed from 30 August 2007, on motion by **Mr Barr**:

> That this bill be agreed to in principle.

MR MULCAHY (Molonglo) (5.06): In relation to the Occupational Health and Safety Amendment Bill 2007, I thank the minister for arranging a briefing. Unfortunately—it is the first time it has happened—I had to leave it to my advisers, but they relayed the information in detail and went back to clarify some issues that arose following our subsequent discussions. So I am well informed about the basis of this bill. I have to say that the opposition is not satisfied with this bill, which we believe continues a dangerous legal trend in the area of occupational health and safety. This is a trend which reverses the golden thread of the criminal law and sees employers judged guilty until proven innocent in prosecutions for workplace accidents. As such, I will later move an amendment to the bill to remove those sections which seek to impose draconian provisions into our criminal law.

I begin by noting the opposition's position on the less contentious aspects of the bill. In relation to the Occupational Health and Safety Council, the opposition is satisfied with the government's explanation for the changes to the membership of the council. These amendments will allow the minister to appoint an additional member of the council. I note from the government's briefings that the council has formerly included the head of WorkCover and the head of the Office of Regulatory Services as one person, but this will not always be the case.

In terms of the termination of members, the legislation also amends the circumstances for termination of members of the council. With respect to the requirement to

terminate a member for committing an offence punishable by 12 months imprisonment or more, the minister is now required to be satisfied that the conviction affects the member's suitability as a member of the council. The amendments also mean that the requirement to terminate a member for failing to attend three consecutive meetings without leave is now discretionary rather than mandatory. I think there is some sense in that; I have seen other cases of boards where, for all sorts of legitimate reasons, it can happen that people miss three consecutive meetings.

In relation to immunity from suit, the legislation amends the provisions for immunity from suit for members of the council so that a member is immune "in relation to an honest act or omission". This replaces the previous immunity which applied "in relation to an act done or omitted to be done in good faith". The government advised in its briefing on this bill that this change from "good faith" to "honesty" is merely a result of a whole-of-government drafting change undertaken by the Parliamentary Counsel's Office.

I mention this aspect of the bill because there is some judicial authority to the effect that "good faith" and "honesty" are in fact separate, although related, legal concepts and that, in particular, "good faith" includes obligations in addition to "honesty". Authority to this effect can be found in the case of Wiltrading (WA) Pty Ltd v Lumley General Insurance Ltd in the Supreme Court of Western Australia. Further judicial authority can also be found in other cases cited in that case. Thus, contrary to the government's explanatory statement for this bill, this is a change that has the potential to have a substantial legal effect on the council. In particular, it may potentially diminish the immunities granted to members of the council and subject them to legal duties that are encompassed within the concept of good faith but not within the concept of honesty.

This may not necessarily be a problem. However, you would expect this would be an issue that the government was made aware of, at the very least. But in its explanatory statement and in the briefings provided on this bill, there was no awareness shown by government officials that there might be any legal difference between the terms "good faith" and "honesty", which I am advised do exist very much at law. In fact, staff in the briefing went so far as to advise that this was not their concern and that the issue was one for the Parliamentary Counsel's Office and the Attorney-General.

I beg to differ, because I believe that, when you put forward a bill, you had better know what it means and you had better be aware of how a court might interpret the changes adopted by this Assembly. Having considered this issue, I am satisfied that these changes will not be a problem, but I am unsatisfied with the level of rigour displayed by government in considering the effect of this bill, which is an issue I have raised on previous occasions regarding other legislation, particularly in this area.

I turn to the matter of strict liability and the trend in OH&S and environmental offences. I will speak in some detail on the issue of strict liability when I speak to my amendment. However, before I go into detail, I would like to take a brief look at some disturbing legal trends in this area. The move to strict or absolute liability for serious offences and the reversal of the onus of proof engendered by this change is an alarming trend that is becoming more and more prevalent in areas of occupational health and safety and environmental offences.

It seems that many self-appointed crusaders for so-called justice in these areas are acting with little regard for the rule of law and the safeguards of the criminal justice system in their endeavours to punish those they do not like. This alarming trend was the subject of an illuminating article by Mr Ken Phillips of the Institute of Public Affairs, who pointed to the hypocrisy of many alleged civil liberties advocates who criticise the Australian government's anti-terrorism laws and yet remain silent about or even defend the removal of presumption of innocence in occupational health and safety matters. I will quote from Mr Phillips's comments:

> Civil libertarians and many legal groups are guilty of hypocrisy in the way they allegedly defend justice in the Australian community.
>
> Their double standards are demonstrated in the loud criticism of federal terrorism laws and dead silence over NSW occupational health and safety laws.

Indeed, he went on to point out that the occupational health and safety offences contain few, if any, of the protections in anti-terrorism laws, which we hear our Chief Minister and others with an allied interest speak about so loudly. We have not yet reached the draconian occupational health and safety laws of New South Wales, where defendants are denied any pretence of justice. However, the current bill that has been introduced by the government and this minister goes some way towards detracting from the protections that should rightly be granted to defendants in prosecutions for serious offences.

MR SESELJA (Molonglo) (5.13) I welcome the foreshadowed amendments to be moved by Mr Mulcahy to the Occupational Health and Safety Amendment Bill 2007. I would like to say a few words in particular about the strict liability aspects.

The government proposes to impose strict liability on serious offences in the Occupational Health and Safety Act and the Dangerous Substances Act that require employers to comply with safety duties imposed under those acts. These offences carry terms of imprisonment of up to five years. Mr Mulcahy has already spoken about the draconian nature of these changes and how they diminish the presumption of innocence for employers accused of safety breaches. I certainly concur with those comments.

I would like to speak from the perspective of what was put into the report of the committee which scrutinised this issue. Firstly, strict liability offences are those which do not require guilty intent for their commission but for which there is a defence if the wrongful action was based on a reasonable mistake of fact—or, to use the Criminal Code language, a strict liability offence is one where there is no fault element for any of the physical elements of the offence.

The draconian nature of the strict liability provisions that the government seeks to impose was addressed in part by the scrutiny of bills committee in its consideration of the government's bill. The committee observed that the amendments proposed by the government would allow the imprisonment of an employer for negligence only, without any intention or recklessness element. It also observed that the offence in section 48 of the Occupational Health and Safety Act does not require actual harm to

have occurred, only a risk of substantial harm. This means that a person could potentially be imprisoned under these laws for mere negligence, even when no actual harm is caused. The committee said:

> The critical question in either case might be posed in this way: supposing the worst case where a person through their negligence exposed a person to a substantial risk of serious harm, would the imposition of a fine of 1500 penalty points and imprisonment for 5 years be justifiable?

I would say no. Another option which has been provided certainly in commonwealth legislation, and I think it may have been used in ACT legislation, is the option of an alternative offence with strict liability attaching but with lower penalties. This is something that the government certainly should have considered.

We need to look at what this actually means in practice. If we look at the offence as it is now, under section 48, failure to comply with safety duty, we see that it already has a very draconian absolute liability offence attaching to the first element. Currently, it states:

> A person commits an offence if:
>
> (a) the person is required to comply with a safety duty;

That is an absolute liability offence. Now, under the government's amendments, under paragraph (b), if a person fails to comply with a safety duty, that will have strict liability attached, while paragraphs (c) and (d) will not have either strict or absolute liability attached. Essentially, we can have a circumstance under this amended legislation where a person commits an offence punishable by up to five years in prison where, under paragraph (a), the person is required to comply with a safety duty. If they did not know about the safety duty, there is no defence there in terms of a response, because there is absolute liability. In terms of the person failing to comply with a safety duty, strict liability attaches. So most of the elements of the offence are made out without any guilty intent on the part of the person being charged or prosecuted. We have the extraordinary potential for people to be put in prison for up to five years where, for most parts of the offence, there are no mental elements, and no mental elements need to be proved in order to do that.

I draw the attention of the Assembly to the report by the commonwealth Standing Committee for the Scrutiny of Bills in relation to strict and absolute liability offences. It refers to the commonwealth Attorney-General's Department guidelines, and I think they provide a reasonable guide as to strict liability and absolute liability offences. The report states:

> Strict liability has been applied in the following cases:
>
> to regulatory offences, particularly those which relate to the environment or public health;
>
> where it is difficult for the prosecution to prove a fault element because a matter is peculiarly within the knowledge of the defendant;

> to overcome the knowledge of law problem, where an element of the offence expressly incorporates a reference to a legislative provision;
>
> If strict liability is applied:
>
> the penalty should not include imprisonment;
>
> the maximum penalty should in general be no more than 60 penalty units …

Under this scenario, with absolute liability and now strict liability attaching, there are penalties of 1,500 penalty units and imprisonment for five years, with strict liability and absolute liability attaching. It really makes a mockery of the provisions of the Human Rights Act when you can throw out legal principles because the government feel it is convenient for their prosecutions to throw away these important aspects of the rule of law. The report went on to say:

> Absolute liability should apply only to:
>
> elements of offences relating only to jurisdiction;
>
> offences not punishable by imprisonment of more than 10 penalty units;
>
> where inadvertent errors including those based on a mistake of effect ought to be punished;

They have set the limit at 10 penalty units, yet here we have an offence—albeit that one of them is already there, in terms of absolute liability—attracting 1,500 penalty units and five years in prison. We in the opposition believe that this is way over the top. It is not unreasonable for the prosecution, where there are employers who have done the wrong thing, to have to prove their case, to have to prove the fault elements. It should not just be assumed that the employer is guilty and then they have to make the case in defence, particularly when we are dealing with such significant penalties. It is a very important principle. My committee has commented on numerous occasions that we should not expose people to very serious penalties, involving lengthy terms of imprisonment and very substantial fines, without having to prove the elements of the case.

With respect to absolute liability, the commonwealth Attorney-General's Department guidelines talk about it applying only to offences not punishable by imprisonment or more than 10 penalty units. Going back to the elements of offences relating only to jurisdiction, that is not the case here. We are talking about a person being required to comply with a safety duty, and that is not merely a jurisdictional question.

We think that this goes way too far. It appears to be a bit of an employer-bashing exercise by this government, in that they are imposing particularly draconian measures. Let us face it: they are measures that they would never apply to anyone else. We think that employers, like employees and everyone else in the community, are entitled to the protection of the rule of law. Where there are serious offences, they should have to be proved. The fault elements should have to be proved, not just the physical elements of those offences.

It really does make a mockery of the government's professed commitment to human rights. They seem consistently to breach their own Human Rights Act. In relation to strict liability in particular, we see that very often. We have seen it in other cases. We saw it in the case of the draconian powers to bring someone before a tribunal with no notice and with no particular period of limitation. We see how they have made a mockery of their statements that their legislation complies with the Human Rights Act. It is clear here that, if the Human Rights Act provisions are worth the paper they are written on, exposing individuals in our community to these kinds of offences without actually having to prove the case goes well beyond those provisions. I will be supporting Mr Mulcahy's proposed amendments, which would improve this. The government should take another look at this matter. This is bad law, and it should be rejected as such.

DR FOSKEY (Molonglo) (5.22): The Greens have supported improvements in occupational health and safety requirements, and the government's bill, the Occupational Health and Safety Amendment Bill 2007, provides a series of changes which are aimed at improving the OH&S legislation in the territory. The amendments to the safety duty offences in the current Occupational Health and Safety Act and in the Dangerous Substances Act are sensible. These amendments also reflect the original intent of the Assembly when it passed these provisions, as evidenced by the wording of the original explanatory statement.

These amendments are a reminder that, even with the best drafting practices and practitioners—and I am generally very impressed with the professional standard of the legislative drafting office—mistakes can be made, and it is appropriate to acknowledge these mistakes and rectify them as soon as possible after they have been identified.

Strict liability is an ongoing issue of concern, and a report into the matter is currently in the process of being prepared by the legal affairs committee. I was concerned about the application of strict liability in this case because on first appearances the maximum penalty of 1,500 penalty units or five years imprisonment or both seems excessive, especially with reference to the Senate recommendation of a maximum of 60 penalty units for strict liability offences. However, section 48 (1) (d) of the legislation ensures that the person would have to have been reckless or negligent in their actions before they could be found guilty of a safety duty offence under this section. I am reassured by the fact that all four elements of an offence under section 48 (1) would have to be proven.

It is anomalous that a person who is under a safety duty, and who creates a substantial risk of serious injury, or even causes a death, in the case of section 46 of the Dangerous Goods Act, can avoid a conviction under this act merely because they can convince a court that there is insufficient evidence to prove beyond reasonable doubt that they were aware that they had such a duty. I look forward to hearing Mr Mulcahy explain why he thinks that a person who has been grossly negligent should be able to avoid prosecution on the basis of such a flimsy and ultimately irrelevant defence.

It is also the case that the maximum penalty will only be applied in the worst case scenario. Even then, the sentence will be at the discretion of a judge, and the context

and proportionate penalties will be taken into account in any eventual sentence. Given the serious nature of these offences, I assume that the government will put considerable effort into informing people who may be under a safety duty that such a duty exists. I would appreciate it if the minister's office would contact my office to tell us what measures they take to advertise the existence of these duties.

The amendments to the termination sections of the current act are to bring the justifications for dismissal into line with current human rights practice. Ministerial discretion will apply, but it is good to see this ensures that the reasons for ending an appointment are relevant to the council and its functions. The amendment is probably unnecessary, as it is hard to imagine a minister abusing his or her power in such a blatant manner, but I do believe that such caution is warranted, as good laws should not place unnecessary reliance on the goodwill and propriety of future governments.

Changing the legislation to reflect current practice is also appropriate, as it intends to simplify OH&S arrangements in the ACT. In this case, it entails giving inquiry and reporting powers into matters concerning public employees to the chief executive, as these powers have always been delegated by the council in the past. With reference to clause 11, selecting a chair from the ministerial appointees is, again, standard practice, in order to ensure that neither employee nor employer groups are at a disadvantage. So setting out this requirement in writing simply ensures that protection.

The council is essentially a brains trust of OH&S professionals, and it has good representation from the unions, which are significant repositories of expertise and historical knowledge on OH&S issues. Hopefully, placing another ministerially appointed member on the council will mean increased and wider ranging representation. It is important that the representation is broad and representative. This should assist the government in reaching more equitable decisions on OH&S matters.

In a briefing on this act, the minister's office advised my staff that both employer and employee groups are in regular contact about changes both inside and outside the council room. They have also told us that the future stages of changing OH&S requirements will include a consultation process and will allow for corrections to this amendment if necessary. I am always happy to hear government representatives express a commitment to meaningful consultation processes. Of course, I am even happier when I see such processes actually occurring in reality. Mr Temporary Deputy Speaker, I will be supporting these amendments.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.29), in reply: I would like to take this opportunity to thank members and members' staff who attended briefings on the bill. It is a distinct club that has a very passionate interest in occupational health and safety matters. It is always reassuring to see the high level of interest that we get from members of the Assembly. I indeed look forward to working with members and other stakeholders on the next stage of the legislative reform, which will see a comprehensive package brought forward to the work safety legislation of the territory.

As was explained in the briefings and in my introductory speech, the bill contains relatively minor amendments to the OHS act. In relation to the OHS council

provisions, the bill increases the number of ministerial appointees from three to four. This brings the number of ministerial appointees in line with the business community and employee representatives on the council. This amendment has no cost implications, nor does it shift the balance of member representation on the council.

It is worth noting that the nature of the OHS council is an advisory one, to advise me, as the minister responsible for OHS policy and legislation, on relevant matters. Whilst the council is a very important body, it does not have a decision-making capacity, and given its important advisory role it is not a body that votes on matters. In fact, the council often provides advice to me outlining the range of opinions that are expressed by its members.

Members would be aware that the new OHS council is currently up for reappointment. These amendments will allow me to appoint a representative from the Office of Regulatory Services, which is responsible for the regulatory aspects and enforcement of the OHS act. The OHS commissioner is retained as a statutory appointment on the council. However, as the commissioner is no longer the head of the OHS regulator, there is a need to provide an extra member to ensure that the regulator is represented. The bill achieves this objective.

Apart from making the amendment to provide for an additional member, the remaining provisions in part 2 of the act have been reviewed and updated to ensure that the new council can be appointed under a modernised scheme. I outlined in my presentation speech for the bill what these changes are, but I will summarise them once more.

The amendments create a statutory requirement that the chair be independent of employer and employee members. The bill transfers the council's powers under part 5A of the act concerning inquiries and reports in relation to matters affecting public employees of the Chief Executive of the Department of Justice and Community Safety, which is consistent with the government's decision to transfer regulatory functions to that department. The bill also clarifies member representation and requirements and removes provisions from the OHS act that are covered in the Legislation Act 2001. Finally, the bill modernises the existing provisions in part 2 and brings them into line with current drafting practice and human rights standards.

I stated earlier that the bill, contrary to some beliefs, contains relatively minor amendments. I say this because there appears to be a level of discomfort surrounding the amendments proposed to the construction of safety duty offences in the OHS act and the Dangerous Substances Act. Officers from my department have met with some stakeholders to allay these concerns and I will be responding to other stakeholders who have raised similar views.

I would like to take this opportunity to reiterate to everybody today that these amendments are absolutely not bringing the territory's OHS offence structure in line with the existing regime in New South Wales. This bill does not introduce a reverse onus of proof regime for safety duty offences in the OHS act. I understand that there remains a level of confusion surrounding strict liability in the territory. As Dr Foskey identified, the Standing Committee on Legal Affairs is currently inquiring into strict

and absolute liability offences in the ACT. I understand that the committee's report is expected in the near future and this work should go to decreasing the level of confusion to some extent.

However, the territory is, in many ways, in a special position in relation to our system of criminal law. We are the only Australian jurisdiction that has adopted the Model Criminal Code and enacted human rights legislation. The ACT and those other jurisdictions who have adopted the Model Criminal Code—namely, the commonwealth and, more recently, the Northern Territory—are in a unique position in that the legislature is required to specify whether strict or absolute liability applies to an offence or, in this case, an element of an offence. If the legislature does not specify the application of strict or absolute liability, the Criminal Code imports default fault elements into the offence.

This is in contrast to the approach of those non Model Criminal Code states whereby it is left to the judiciary to interpret provisions in legislation to determine whether or not strict liability applies. In doing so, the judiciary considers a vast amount of case law established over time in relation to the application of strict and absolute liability. In the ACT, legislation is developed to specify strict or absolute liability, employing the same principles established over time by the courts, and we as the Legislative Assembly debate the merits or otherwise of the provisions. This is why we continually debate the merits or otherwise of the application of strict and absolute liability, and rightfully so.

However, this unique position also creates a level of misunderstanding and confusion, especially among those stakeholders who operate across state and territory borders. Some stakeholders have associated the Criminal Code concept of strict liability with the offence regime in the New South Wales OHS act. This is not correct. New South Wales has a reverse onus of proof construction for its OHS offences and this means that under New South Wales law an employer, for example, has an absolute obligation to ensure the health, safety and welfare at work of all employees.

In a prosecution under the act, a defendant in New South Wales may rely on a defence if the person proves that it was not reasonably practicable for the person to comply with a duty, or the commission of the offence was due to causes over which the person had no control. Under this regime the prosecution is only required to prove that an employee's safety was compromised. Following that, the onus of proof in relation to the defence shifts to the defendant. This is in contrast to other Australian jurisdictions, including the ACT, where OHS obligations are limited by reasonable practicability. In other words, the prosecution must establish all elements of an offence beyond reasonable doubt, including that a duty holder did not take reasonably practicable steps to guard against a contravention.

The New South Wales approach has been subject to much criticism. Chris Maxwell QC, in a review of the Victorian OHS legislation, noted that there is no demonstrated deterrent effect in shifting the onus of proof to the defendant in OHS prosecutions. The New South Wales approach has also been criticised on the basis of the cost burden imposed on defendants in OHS prosecutions and its questionable compatibility with human rights principles in relation to the right to a fair trial and

natural justice. The ACT government does not support, nor will it progress, any reforms in line with the New South Wales reverse onus of proof provisions in OHS legislation.

I would now like to deal with the comments made by scrutiny of bills committee report 45 dated 24 September this year. This report was handed down on Monday night and I have provided a formal written response to the chair. However, given the tight turnaround and the fact that this bill is being debated today, I consider it appropriate to detail the content of my response.

I remind members that the bill imposes strict liability in the second element of the safety duty offence. I am advised that this was the original intention for the provision. The effect of the offence is as follows. A person commits an offence, first, if the person is required to comply with a safety duty. Absolute liability attaches to this element. The second element of the offence is that the person fails to comply with the safety duty. The third element is that the failure exposes anyone to a substantial risk or serious harm or causes serious harm to a person and the person was either reckless or negligent about whether the failure would expose the person to or cause the serious harm.

The offence, as a whole, remains a fault element offence. The strict and absolute liability elements of the offences are necessary to maintain the integrity of a work safety legislative regime. As I mentioned earlier, it is our role as the Legislative Assembly to attach strict or absolute liability to particular elements of an offence or an offence as a whole. Otherwise the Criminal Code imports the default elements for the offences.

In asking whether the imposition of strict liability in relation to the second element of the offences is justifiable, the committee suggests that the first and existing element of the offences is onerous. The government does not consider the first element of the offences to be onerous. The first element provides that absolute liability applies to the requirement that a person is required to comply with the safety duty. In other words, it is not necessary to prove that the defendant had any awareness or any other fault element about the existence of a safety duty under the legislation. It is not relevant that he or she may have made a mistake about the safety duty that applies.

The existence of the safety duty is a precondition of an offence and the state of mind of the offender is not relevant. Attaching absolute liability to the first element is essential to the integrity of work and public safety legislation whereby duty holders are expected to be aware of their statutory obligations. To put this in the context of the OHS act, employers, for example, are expected to know that they have a safety duty in respect of their employees as this is intrinsic to the employment arrangement. Therefore, no evidence about whether they know about the safety duty is required.

The justification for the inclusion of strict liability into the second element of the offences in the bill is, in essence, the need to ensure that people who have control over the generation of risks in a work environment at all times act appropriately to minimise, as far as possible, the risk of harm to people. The government considers that the public interest is best served by ensuring that these risks are minimised

through establishing a regulatory regime that encourages duty holders to develop a safety culture or run the risk of being found in breach of the legislation. Fostering of this safety culture would be more difficult to accomplish without the use of the strict liability elements in the offences.

It is not appropriate to prove that a defendant intentionally or recklessly failed to comply with the safety duty. This would involve establishing a knowledge or, at the very least, some degree of awareness of the existence of the safety duty, thereby negating the first element of absolute liability. In a work safety context, duty holders must be expected to be aware of the obligations in this legislation.

Under the offences it is still necessary to prove that the defendant was either reckless or negligent about whether his or her conduct would expose or cause serious harm to anyone. In the case of recklessness, the prosecution would be required to prove that the defendant knew or was aware of a substantial risk that their act or omission would expose or cause serious harm to anyone. In the case of negligence it is still necessary to prove that the defendant's act or omission merits criminal punishment because it involves such a great falling short of the standard of care that a reasonable person would exercise in the circumstances and, as such, a high risk that a person would be exposed to or suffer serious harm.

The test for criminal negligence is high. The acts currently contain a cascade of offences, with the strict liability version of the offence having the lowest penalty. Where an offence involves acts or omissions that are done negligently, recklessly or deliberately, the penalty is higher to reflect the greater degree of culpability. I do not agree with the committee's suggestion that the proposed offences should be redrafted to exclude the imprisonment term and a third level of offence created. A third offence that attracts fault for each and every element would send the wrong message to duty holders in this context. This is because, in effect, a duty holder who demonstrates an awareness of the first two elements of the offence and yet fails to comply, for whatever reason, would be subject to a greater level of penalty and imprisonment than a duty holder who shows no level of awareness of their health and safety obligations.

In other words, under the committee's proposal, a duty holder who demonstrates some degree of diligence yet commits an offence could be liable for a term of imprisonment, whereas a duty holder who is criminally negligent and demonstrates no level at all of awareness as to their duty or shows no degree of diligence or responsibility whatsoever would only be subject to a monetary penalty. For example, it would be easier to prove that a defendant who has a safety management system and sound OHS policy in place knows that he or she is required to comply with a safety duty and either knew or was reckless about not complying than it would be for a defendant who has no obvious safety system in place and who has made no attempt whatsoever to develop a safety culture in the workplace.

The committee notes that tiered offences, with a version attracting strict liability with no imprisonment and a version imposing fault and an imprisonment term do not exist in the territory legislation. This is true. However, I am advised that a tiered offence approach along these terms is not appropriate for an OHS regulatory regime. I am about to run out of time so I will return to these matters when we discuss Mr Mulcahy's amendment.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 17, by leave, taken together and agreed to.

Clause 18.

MR MULCAHY (Molonglo) (5.44): I will be opposing this clause. The government proposes amendments to various offences under the Occupational Health and Safety Act and the Dangerous Substances Act. As the minister has acknowledged and as Mr Seselja has mentioned, the offences that the government proposes to amend are serious offences and are subject to penalties which include up to five years imprisonment.

I stress that these offences may potentially result in the deprivation of liberty of a convicted offender for a significant period of time—indeed, for a period of time similar to the term imposed in the ACT for many serious violent crimes such as assaults and rapes. The proposed amendments take the incredible step of imposing strict liability on defendants in prosecutions for failure to comply with safety duties imposed under these acts. These amendments would allow defendants to be convicted under these offences for negligent breaches of safety duties even where no element of intention or recklessness is present.

Whilst this may be reasonable for some less serious offences such as traffic violations, it is a general principle of law that such a person should not be subject to imprisonment without having a guilty mind; that is, without the prosecution having to prove intention or recklessness on the part of the defendant. Mere negligence, even under the criminal standard of negligence in section 21 of the Criminal Code, should not be sufficient to warrant such a severe penalty as five years imprisonment. To put it rather bluntly, the amendments proposed by the government would allow them to imprison a person for being stupid, rather than for acting in a genuinely criminal manner.

In relation to strict liability, report and current offences, this was an issue which was highlighted in the report of the scrutiny of bills committee on this very bill. In that report the committee noted:

> The issue can be avoided (as has been done in Territory legislation) by creating two offences. One offence as is proposed by clauses 18 and 19 would contain elements of absolute and strict liability but would not provide for imprisonment as a penalty. The second offence would provide for imprisonment, but would not affect the governing rules that fault elements attach to all physical elements of the offence.

In fact, this is what we already have under the existing act. The Occupational Health and Safety Act already provides for a less serious strict liability offence under section

47. This offence is drafted in the same terms as the other offence, but involves strict liability, as the government proposes for these other offences. However, it is pertinent to note that the strict liability offence already present carries a far less serious penalty, a penalty of a fine of 100 penalty units with no term of imprisonment. This is much more in keeping with the general rule that one should not be imprisoned without a guilty mind.

In relation to strict liability and the defence of reasonable mistake of fact, the government has made much of the fact that the proposed amendment to strict liability would still allow a defendant the defence of a reasonable mistake of fact. This is indeed correct. However, it is important to note that the onus of such a defence is on the defendant, who must prove this defence on the balance of probabilities. This is a far cry from the normal case where the prosecution must prove an intention or recklessness element beyond reasonable doubt.

It is a huge derogation from the presumption of innocence to exempt the prosecution from the onus of proof beyond reasonable doubt and instead ask the defendant to bear the onus, not just of establishing this reasonable doubt, but of proving their case on the basis of the normal civil standard for a plaintiff—the balance of probabilities. This converts the defendant from one who may be presumed innocent until proven guilty to being put in the situation of a plaintiff who must convince the court of his innocence.

In briefings on this issue the government have offered many purported justifications for the change to strict liability. In the first place, this government have argued that the existing absolute liability provisions in the offences were intended to ensure that the prosecutor need not prove that the defendant had knowledge that they were under a safety duty.

They argue that this has been frustrated by the current requirement to prove intention or recklessness as to an alleged breach of an employer's safety duty. Whether or not this argument has merit, the conclusion that such strict liability should be imposed is a non sequitur. For such serious offences it would make more sense to remove the existing absolute liability provisions than to impose additional draconian elements of strict liability on other elements of these offences.

Another argument that the government have offered in their briefings is the assertion that strict liability is justified by the regulatory character of the offences. I must admit that I am somewhat at a loss to understand what this is supposed to mean. Any law can be called regulatory. All laws regulate what we are allowed to do. And yet, if some more narrow definition is taken, it is hard to see how such serious offences could fall within the ambit of regulatory matters. In my view, the imposition of a term of imprisonment for five years is hardly what one would ordinarily describe as a regulatory offence to which strict liability should apply.

Finally, the government has argued in its briefings that, because work safety is such an important matter with such potential danger, somehow this justifies strict liability attaching to these safety duty offences. However, if I am not mistaken, there is scope for equally serious harm in such offences as murder and rape. Are we to remove the presumption of innocence from these offences on the same grounds? I think we would

all agree that the presumption of innocence performs an important role in these contexts precisely because of the seriousness of an offence. I am a little amazed that this minister would proceed to these amendments, given the impacts on individual liberty that arise from these issues.

I think it is a set of legislative amendments that have been put through without probably a very good appreciation of the various shades of grey that can occur in relation to workplace industry and to workplace environments. I have to say that the opposition is very committed to workplace safety, but we are also committed to the rule of law and just and reasonable legislation going through this place. For that reason I will be opposing this clause.

DR FOSKEY (Molonglo) (5.51): I am going to be opposing the amendments to be proposed by Mr Mulcahy, the reasons being as I am about to describe. With regard to Mr Mulcahy's opposition to the strict liability clauses, it would seem that he either is not aware of or does not care about the problems with section 48 of the OH&S Act and the various sections of the Dangerous Substances Act which led to this bill. As it is currently worded, the legislation renders the absolute liability which applies to the first element in each of these offences essentially redundant. If Mr Mulcahy thinks that absolute liability should not apply to the first element in each of these offences, then why do his amendments not include the repeal of the absolute liability provisions that apply to each of these offences? Leaving it as it is creates ambiguity, and it is poor drafting practice to allow provisions which are redundant to remain on the statute book.

Mr Mulcahy is asking us to approve a law that would allow a person who either causes death, in the case of section 44 of the Dangerous Substances Act, or who exposes other people to a substantial risk of death or serious harm to escape liability if they are able to convince a court that they had no knowledge that they were required to comply with a safety duty in the first place. That is a remarkable proposition. We are not talking about stubbed toes, bad smells or slippery floors. We are not even talking about a far-fetched possibility of injury. We are talking about a substantial risk of death or serious harm. Each of those factors would have to be proven beyond reasonable doubt by the prosecution. For some of the other sections dealt with by the amendment, the prosecution would have to prove that there was a substantial risk of serious harm, not just a risk of some vague harm. Serious harm is defined in the Criminal Code as harm that:

> (a) endangers, or is likely to endanger, human life; or
>
> (b) is, or is likely to be, significant and longstanding.

Now, this sets the bar pretty high. If the prosecution cannot prove all of these elements, it would be left with a prosecution under section 47 of the OH&S Act, which actually is a strict liability offence but it carries a maximum penalty of only 100 penalty units. This is a woefully inadequate penalty for a person who created the kinds of deadly situations that would be being prosecuted under the provisions that Mr Mulcahy is trying to weaken with his amendments. So this does raise the question of who the Liberals are trying to protect with these amendments.

I am concerned that the omission of this clause would actually endanger the bulk of employees and other people who may be exposed to serious risk by the deliberate, negligent or reckless actions of people who have a safety duty. It is deeply concerning that we are debating this legislation as though it were a case of employers versus unions—read "workers"—because absolutely everyone has a stake in safe workplaces. If these offences were wholly strict or absolute liability offences, then I would agree with Mr Mulcahy's amendments. It would be inappropriate to have such serious penalties without a qualifying mental element to the offence. But these are not purely strict liability offences; they already possess a mental element. The prosecution still has to prove that a defendant was reckless or negligent in creating such a serious risk.

The bill simply removes the possibility that a person who caused such a serious danger can argue that they should escape punishment because they were not aware that they had a duty not to create a serious risk, or, alternatively, that they can convince a court that there is a lack of evidence to prove beyond reasonable doubt that they were so aware. That is why it has put such a huge onus on the government to make sure that absolutely every employer in the ACT is totally and well aware of the provisions. I agree with the Attorney-General that it should not be a relevant factor whether a person is aware of his or her safety duty. It defies reason and any sense of social responsibility to suggest that a person should be allowed to put other people in serious danger and escape punishment by arguing that he or she was not aware that they should not have done it.

Mr Mulcahy may be concerned that a person could receive an unduly harsh sentence if these strict liability clauses go through. Indeed, he clearly is concerned, because he has said so. But it is naive to imagine that a judge would impose an incredibly harsh penalty simply because the maximum available penalty gives him or her the ability to do so. If the circumstances of a particular prosecution contain extenuating circumstances and lessen the culpability of an offender, then a judge will, presumably, have his or her attention drawn to those circumstances and adjust the sentencing accordingly. In any case, a person convicted under these provisions has the opportunity to appeal against any oppressive sentence.

I agree that both carrots and sticks are required to create a safety culture, particularly where private businesses are concerned. Most of these provisions aim to put employers on notice that they must provide a safe work site and ensure that the supply of dangerous substances and plant is carried out in a safe manner. They are commendable, and the government's bill aims to restore their efficacy to the level that they were originally intended to provide.

Employees and members of the public should be entitled to expect that people under a safety duty—employers, suppliers of dangerous goods and managers of premises—take appropriate measures to ensure their safety. It is appropriate that criminal penalties should exist to punish people who fail to comply with their safety duty in addition to any civil remedies that may be available to people who have been injured, or to the estates of people who have been killed as a result of such failures. Those are the reasons why I will not support the amendments.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.58): In the time that remains I will quickly thank Dr Foskey for her support in opposing Mr Mulcahy's amendments and signal that the government will not be supporting Mr Mulcahy's amendments either.

Mr Speaker, I just want to make a couple of other comments in relation to some issues that the scrutiny of bills committee raised. The committee did particularly question whether the current penalties are proportionate to the offences. In particular, the committee asked whether, in the situation of the worst case where a person, through their negligence, exposes another person to a substantial risk of harm, the imposition of a fine of 1,500 penalty units and imprisonment for a maximum term of five years would be justified. My answer to that question is simply yes.

As mentioned earlier, the concept of criminal negligence is very different from civil negligence. It is not the case that employers would be charged with criminal negligence or imprisoned simply because they could be successfully sued for negligence. A court must be satisfied that a person's act or omission merits criminal punishment. The defendant's conduct must involve a great falling short of the standard of care that a reasonable person would exercise in the circumstances and there must be a high risk that the person would be exposed to serious harm because of the defendant's acts or omissions.

Mr Speaker, I would also like to add that the offences in question relate to exposing people to or causing serious harm. Serious harm is just that—it is serious harm; it is not mere exposure to a risk or hazard. Serious harm is defined in the Criminal Code to mean any harm that endangers, or is likely to endanger, human life or any harm that is, or is likely to be, significant and longstanding. So in light of this, I am satisfied and the government is satisfied that the penalties in the legislation are justified. It is worth noting that it is the Labor Party that maintains a strong commitment to improving work safety in the territory. The Labor Party is dedicated to building a robust and modern body of legislation that is consistent with the principles of natural justice and human rights.

The government believes that the provisions in this bill are further testament to our commitment to build a robust and modern body of work safety legislation. I commend the bill to the Assembly. I welcome the support of Dr Foskey, and I indicate again that the government will be opposing Mr Mulcahy's amendments.

At 6.00 pm, in accordance with standing order 34, the debate was interrupted and the resumption of the debate made an order of the day for the next sitting. The motion for the adjournment of the Assembly was put.

Adjournment

Burma

DR FOSKEY (Molonglo) (6.00): Thank you, Mr Speaker. I want to express my solidarity with the monks and the citizens of Burma who were out in the streets. I do

not know what they are doing today; I have not caught up with the news. I just want to express my concern, and I urge the Australian government and everyone else who has an ability to impact upon the situation to do what they can. I am aware that Amnesty International is having a vigil outside the Burmese embassy at the moment. Clearly, I am not able to be there.

Mr Mulcahy: That is an enlightening piece of information.

DR FOSKEY: Yes; I thought you would appreciate that. All members will have in their mailboxes a notice that on Sunday, 30 September—although it says Sunday, 1 October—there is a prayer vigil at the Buddhist Monastery in Lyneham. All these efforts, of course, are well meaning and they may have an impact, but this is one case where it is up to the governments of the world to act. We all know that the government that would probably have the most influence upon the situation is the Chinese government. However, that is not a government over which we have any power or persuasion, so the government that we have to work with is the Australian government.

As someone who was involved in human rights dialogues with the Department of Foreign Affairs and Trade, including the Minister for Foreign Affairs, over many years before I was elected to this place, I am aware that the Australian government engages with Burma in relation to human rights in what they call "constructive dialogue". We were never ever able to see any results or any impacts on the regime of this so-called constructive dialogue, and I am also aware that many well-meaning people participated in human rights education of the military regime which, of course, had no interest in human rights at all.

I count among my friends many people in the expatriate Burmese community here. I know that the reason they live here is because they cannot safely live in their own country. I would urge our Minister for Foreign Affairs to use much stronger language than he has used until now. I have observed a ratcheting up of the Prime Minister's statements on this issue, and this is one situation where I believe he could follow George Bush more closely. We have not had trade sanctions in Burma. Actually, I think the situation is well past that.

I do not know how the United Nations Security Council has voted, but if ever there were a case for UN peacekeeping forces to enter a country, this is it. Some of the monks who have taken to the streets have already been killed. This is a situation where they are just saying, "We are going for it." The difference between this situation and 1988, when we saw the violent deposition of the democratically elected government, is that this time the whole world is watching. Because we can see it, it is incumbent upon us to act. We cannot see these things and turn away.

Industrial relations

MR MULCAHY (Molonglo) (6.05): I want to use my time in today's adjournment debate to talk about a threat to Australian and Canberran society that has the possibility of becoming a reality: the reunionisation of Australia being attempted by the Labor Party. This is not an overt attempted takeover but is happening by stealth

under the guise of federal Labor's election campaign. Those opposite may not like the fact that unions are no longer a way of life for the majority of Australians or the majority of Canberrans. In fact, 80 per cent of the people in this town have said that enough is enough, and they have moved on. Membership numbers are dwindling and the unions, it would appear, are having trouble holding onto the people that they have got.

In June, news broke that the ACTU were relying on mistruths and scare tactics to convince their own members that the Howard government's industrial relations changes were the evil that the ACTU and others have been claiming. There is a wonderful document, which I have a full copy of in case the minister does not have it: the federal election 2007 union political strategy manual. It is just full of fascinating reading and full of instructions. There are classic lines in here such as: "Don't read out the minimum wage, four weeks annual leave, two weeks can be cashed out, 10 days sick carer's leave, 38-hour week, unpaid parental leave." There is a host of directions in this handbook, Mr Speaker, which work through ingenious ways to try and manipulate union members into believing certain points of view.

I found it fascinating reading, especially when they start suggesting lines to use to try and mould people's thinking and to try and, in fact, manipulate people who might even be conservative voters or coalition voters and twist their way of thinking. For example, in this document they say, "If a member is not sure, agree with them that there has been no case made." You have got to play along here. The document asks for the agents of the ACTU to consider using various affirming statements such as: "Yes, it's hard to fathom. The government didn't even bother putting a case for change. I don't remember hearing a word about these laws at the last election. It just shows what happens when politicians are in power for so long"—I agree with that one in the territory—"they lose touch with the issues that really matter to ordinary Australians. The government cares more about appeasing its big business friends than looking after working families."

Mr Speaker, if you need help—but I think you know how they operate—these are examples of affirming statements that you have got to use when you are trying to manoeuvre members of the union in the desperate hope that they can oust the Howard government, a hope which seems to be slipping away as each day advances. It certainly shows how desperate the union position has become when they have to resort to misleading their own people through scare tactics to maintain membership. Of course, you wonder why they do it, but it is very clear: times have rarely been better than they are currently as a result of the Howard government's policies. Rather than acknowledging that their product is no longer relevant in the eyes of the vast majority of workers, the unions have latched their hopes onto the federal Labor leader and his team of spin doctors.

They know they are out of touch. I sat down with Bill Kelty about six years ago and he asked me for ideas on marketing. I said, "Bill, your product is the problem. It's like a bad confectionary product that sounded good in the laboratory but when you put it in the market it just isn't working. Your problem is your product." He went away scratching his head, but I was happy to help him because I understand the lack of relevance to most people in Australia of what the unions are now doing. They are there only by virtue of controls that they keep wanting to put in place.

In the time remaining I will focus on some of the interesting comments from two of Labor's "star" recruits—and that word has rarely been used so recklessly—and they are Mr Bill Shorten and Mr Greg Combet. Remember that Mr Combet said in June last year:

> I reckon we used to run the country a while back. I reckon it wouldn't be bad if we did run it again.

Of course, I dispute Mr Combet's assessment of the old days of union and Labor control. High unemployment and high levels of inflation are just two of the trademarks that spring to mind. But even more blatantly, the *Northern Star* newspaper just a few weeks ago on 26 August reported:

> Mr Shorten told his audience that after the election Labor would use the goodwill generated during the campaign to re-unionise Australia, beginning with the bush.

I know they are desperate to do this, because the confidence of the Australian people in the union movement and its methods, particularly the antics we have seen from the thuggery in Western Australia, is now well-known, Mr Speaker. I am quite sure that people nationally will come to their senses and vote the Howard government back in when the opportunity arises.

Communities@Work

MR GENTLEMAN (Brindabella) (6.10): On a more serious matter, I spent the evening last night joining in recognising the important contribution of Tuggeranong Communities@Work at the Tuggeranong Community Centre. I was delighted to attend the event with the federal member for Canberra, Annette Ellis, and Communities@Work members, Maureen Cane, John Turner, Jill Faulkner, all of the staff, of course, and the carers and volunteers as well. I was also pleased to see Rosemary Lissimore from Tuggeranong Community Council there and Frank Cassidy, another of the hard workers behind the scenes.

Communities@Work has contributed greatly over the last 30 years not only to the Tuggeranong community but all of Canberra. Communities@Work provide a vital service to the people of Tuggeranong and Weston Creek. From this government's perspective, valued organisations like Communities@Work are to be cherished as a highly valued partner.

Let me thank the organisation for allowing me to unveil a picture graph depicting the 30 years of achievement of Communites@Work, a milestone in anyone's book. It is important that our history, the history of the community, is recorded and retained for future generations. It is important for us to remember these achievements, and the picture graph which was launched yesterday will allow the staff, the carers, the volunteers, the families and, most importantly, the children to reflect on the benefits received from services provided by Communities@Work.

The quality of the contribution to the social health of the ACT is evidenced by the longevity of the organisation. Over the last 30 years Communities@Work has quietly

and professionally assisted thousands of people in need of support and encouragement. Of course, my Assembly colleague Ms Porter has been personally involved over some of that period and is recognised in the story of Tuggeranong community service and Communities@Work publications.

It was wonderful to be able to share stories and reminisce with attendees last night over the early days of Kambah and the Tuggeranong Valley. I took great pleasure in commending the continuing efforts of the organisation. Mr Speaker, the achievements of this group and other groups similar to this one are often overlooked and in return seldom make the headlines, but in many ways the achievements of this organisation are much more substantial than most of the things that do.

I wish to highlight a few of the programs which Communities@Work offers. The community development program identifies the capacities and assets within the community to enhance opportunities for and establish strong, effective community development at a local and regional level. The community youth centre subsidy provides for the coordination and promotion of the use of community facilities and related services at the Tuggeranong Community Centre.

The financial and material aid grant program provides funding for two projects. The first is the eat well, live well project, which supports over 200 people at local schools to budget, eat nutritional meals, reduce reliance on emergency relief services and improve their overall health and wellbeing. The other project provides supplementary support for emergency relief. It provides short-term emergency financial and/or material assistance to individuals experiencing financial crises in the Tuggeranong and Weston Creek areas.

Mr Speaker, I hope that Communities@Work can continue with its wonderful contribution to the Canberra region. I encourage all members of the Assembly to do all they can to ensure that this organisation lasts for another 30 years. I can merely act as a voice for such an overwhelming service. In the end, Communities@Work realises that actions speak louder than words.

Question resolved in the affirmative.

The Assembly adjourned at 6.13 pm until Tuesday, 16 October 2007, at 10.30 am.

Answers to questions

Hawkers licences
(Question No 1622)

Mr Mulcahy asked the Attorney-General, upon notice, on 21 August 2007:

(1) How many hawkers licences granted under the *Hawkers Act 2003* are currently valid;

(2) In reference to the licence granted to Mr John Daley for the operation of the takeaway food van operating on London Circuit, do other food vans in the ACT also operate with a hawkers licence, for instance in the car park off Corinna Street and on Parramatta Street, Phillip.

(3) Do these two takeaway food vans operate under or incur any liabilities from the Land Act;

(4) Is the Minister able to say whether the food van on London Circuit, operated under a licence granted to Mr Daley, has any formal connection to the Construction, Forestry, Mining and Energy Union; if so, was any consideration given to this connection when issuing the licence.

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

(1) As at 30 June 2007 there were 13 active hawker licences in the ACT.

(2) Yes.

(3) I am advised that the answer to this question is no.

(4) I am unaware of any connection.

Environment—noise complaints
(Question No 1623)

Mr Mulcahy asked the Minister for Territory and Municipal Services, upon notice, on 21 August 2007*(redirected to the Minister for the Environment, Water and Climate Change)*:

(1) What, if any, complaints has the ACT Environment Protection Authority received regarding noise from Toast nightclub;

(2) Is the Minister or the ACT Environment Protection Authority aware of any instances in which Toast nightclub has exceeded the ACT's environmental noise limits; if so, (a) when did each of these instances occur, (b) what was the legal noise limit at the relevant time and (c) by how much did the nightclub exceed this noise limits;

(3) What, if any, action has been taken over any such breaches;

(4) Has any special instruction ever been given to any personnel in the ACT Environment Protection Authority for dealing with noise complaints from the Waldorf Hotel; if so, (a) what instructions have been given and (b) who gave these instructions;

(5) Has the Minister had contact with the Waldorf Hotel over noise complaints regarding Toast nightclub; if so, (a) what kind of contact occurred (eg email, a meeting) and (b) when did this contact occur.

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

(1) The Environment Protection Authority (EPA) has received complaints concerning noise being emitted from Toast Café and Bar originating from the following sources:

- amplified music from Toast Café and Bar; and
- people talking, yelling and screaming at Toast Café and Bar.

Noise from a person using only his or her body is exempted under the *Environment Protection Act 1997* (the Act).

(2) The EPA has investigated reports of excessive noise originating from Toast on 23 occasions since September 2003. On four occasions the noise from amplified music was measured above the noise standard.

(a) Noise standards were exceeded once in September 2004 and the other three in times in April/May 2005.

(b) The legal limit is 50dB(A).

(c) September 2004 – 5dB(A) above the permitted noise level;
April 2005 – 4.7dB(A) above the permitted noise level;
April 2005 – 8dB(A) above the permitted noise level; and
May 2005 – 2.5dB(A) above the permitted noise level.

(3) Action taken over breaches include:

- September 2004, a warning letter was issued.
- April 2005, an infringement notice and an Environment Protection Order were issued for the offences in April 2005. The Environment Protection Order, on advice from the ACT Government Solicitor, was withdrawn.
- May 2005, another warning letter was issued.

Since June 2005, 15 complaints have been received from the Waldorf. On each occasion the noise emissions from amplified music complied with the Act. The EPA undertook a review of the circumstances and frequency of complaints from the Waldorf in mid November 2006. The Review indicated that, since the EPA's 'regulatory' action, Toast had been managing their noise emissions.

(4) No special instructions have been given, however, as a result of the November 2006 review Environment Protection Officers were advised to attend to noise complaints from the Waldorf Apartments where the complaint referred to noise of a different nature to the 15 complaints previously investigated. Where the complaint alleged that the noise source was different in nature, either perceived as being louder or from a different source, Environment Protection Officers would investigate.

(5) An email was received on 23 July 2007 from Waldorf management. A representative from my office met with Waldorf management on 6 August 2007.

Environment—used cooking oil (Question No 1624)

Mr Seselja asked the Minister for the Environment, Water and Climate Change, upon notice, on 21 August 2007 *(redirected to the Minister for the Territory and Municipal Services)*:

(1) Given that used cooking oils suitable for recycling must be stored in suitable, sealed and secured containers, why is there a requirement that such oils must not be stored within 10 metres of a storm water sump;

(2) Are businesses that are not able to meet the above criteria precluded from participating in a used cooking oil recycling initiative;

(3) What environment protection guidelines exist for the storage and collection of used cooking oil;

(4) What structures are in place to ensure that collection vehicles used for the collection of used cooking oil operate within environment protection guidelines;

(5) Does the Government license and control operators who collect stored used cooking oil for recycling;

(6) What structures are in place to ensure the safe handling and recycle usage/disposal of used cooking oil after it has been collected.

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

(1) Oils and other substances are permitted to be stored within 10m of the stormwater system, including stormwater sumps, provided that the following are complied with.

(a) The container is not exposed to rain or runoff, and
(b) The container is secured, and
(c) The container is watertight.

Where businesses are unable to comply with the above then the used cooking oil should be stored within the business premises to minimise the potential for persons to interfere with the waste and cause a spill to occur.

Under the *Environment Protection Act 1997* (the Act) it is an offence if a person leaves a prohibited substance (which includes cooking fat or oil) unattended: and within 10m of a drain or water way; and exposed to rain or runoff and not securely contained within a watertight container.

(2) No. See answer to Q1.

(3) Environment Protection and Heritage have a Business and Industry Information Sheet titled Retail Food Business. The information sheet covers potential sources of pollution from businesses engaged in the food business. The information sheet provides advice on ways to minimise the potential for activities associated with the business to pollute the environment. Storage of liquids, including used cooking is covered in the information sheet.

(4) In addition to the requirements outlined previously, there is a general environmental duty on everyone not to pollute the environment.

Environment Protection officers as part of their normal duties undertake audits of businesses, which include waste collection businesses, to ensure the activities undertaken by the business are not having an adverse impact on the environment.

There is also a very proactive community within Canberra who will report a business who is polluting the environment. EP Officers investigate all reports and will take action as required to ensure the protection of the environment.

(5) No.

(6) EP Officers undertake routine inspections and audits to ensure that companies and individuals are complying with the *Environment Protection Act 1997* and the Environment Protection Regulation 2005.

Land Titles Office (Question No 1627)

Mr Stefaniak asked the Attorney-General, upon notice, on 21 August 2007:

(1) Why did the Land Titles Office move from Civic to Fyshwick;

(2) How much did this move cost;

(3) What studies were done before the move was undertaken;

(4) Are any further moves planned for the Land Titles Office; if so, (a) why and (b) what studies have been done supporting any further moves.

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

(1) The Land Titles Office was part of the Registrar General's Office, which is now part of the Office of Regulatory Services. The lease for Allara House expired 31 December 2006 and these functions were collocated with other Office of Regulatory Services functions at 255 Canberra Avenue, Fyshwick.

(2) The removalist's costs relating to the Registrar General's Office including the Land Titles Office relocation to Fyshwick was $45,795.90. There were also fit out costs associated with locating Office of Regulatory Services functions at 255 Canberra Avenue, Fyshwick.

(3) Whilst there was no specific studies undertaken, it was consistent with the Whole of Government Accommodation Strategy.

(4) a) Government is yet to make a decision on this issue. Any relocation would be part of the Whole of Government Accommodation Strategy that is progressively being implemented based on the accommodation requirements supplied by Agencies and approved by Government.

b) I am advised that no official study has been undertaken.

Human Rights Commission (Question No 1629)

Mr Stefaniak asked the Attorney-General, upon notice, on 21 August 2007:

(1) How many staff worked in the Human Rights Commission and in what areas as at 1 July 2007;

(2) How many staff does the Minister predict will work in the Human Rights Commission and in what areas as at 1 July 2008;

(3) What are the reasons for any proposed changes;

(4) What proportion of the Commission's workload is directly related to the introduction of the Human Rights Act.

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

On 1 July 2007 there were 18 staff, including 3 Commissioners, working in the Human Rights Commission. They were employed in the following areas:

Human Rights & Discrimination	Children & Young People, Disability Community Services	Health Services	Administration
6	1	8	3

(2) It is predicted that the Commission will be fully staffed at 1 July 2008. The proposed distribution of employees is

Human Rights & Discrimination	Children & Young People, Disability Community Services	Health Services	Administration
6	3	8	5

(3) The proposed change allows for the employment of two officers to assist the Disability Community Services and Children and Young People Commissioner and one officer to assist all staff to provide education. In addition the Commission has agreed to train an indigenous officer.

(4) The *Human Rights Act 2004* was commenced on 1 July 2004. Three officers are directly involved in the implementation of the *Human Rights Act 2004*.

Human Rights & Discrimination Commissioner	Human Rights and Legal Policy Adviser	Human Rights and Discrimination Law Policy Adviser
50%	100%	50%

Emergency services—FireLink (Question No 1630)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 21 August 2007:

Is there a plan for disposal of the hardware and software relating to the dumped Firelink Project; if not, why not; if so, how much of the original $4.5 million purchase price will be recouped.

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

The Emergency Services Agency has written down assets as $1.68m hardware in the 2006-2007 budget. Software and development costs are not recoverable. The Government Solicitor's Office and Australian Technology Information Pty Ltd are currently working on final resolution of contract price and disposal of assets following the notification of termination of the contract on 20 July 2007. Any residual items of hardware and software will be disposed of by standard government policy and procedures.

Roads—overdue unpaid fines (Question No 1632)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 21 August 2007:

(1) Does the ACT Government currently have any overdue unpaid fines owed to it from interstate drivers caught speeding and/or running red lights; if so, how much is owed;

(2) Does the ACT Government have any arrangements with other States to (a) recover money owed by interstate drivers in unpaid fines and/or (b) deduct points from the driver.

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

(1) Yes. Dating back to 1980 there are 18,929 unpaid speeding and red light infringements issued to interstate drivers. The value of these infringements is $3.805m.

(2) TAMS has recently written to the NSW Roads and Traffic Authority about the possible introduction of arrangements to recover money owed by interstate drivers for unpaid traffic infringements in each other's jurisdictions. As almost 13,500 of the outstanding infringements were issued to NSW drivers, TAMS will pursue these negotiations with NSW before other states.

Waste disposal—landfill tip fees (Question No 1633)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 21 August 2007:

In relation to ACT NOWaste, how much revenue has been raised from landfill tip fees (a) at the Mugga Lane tip since June 2006 and (b) from June 2005 to June 2006.

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

The total landfill tip fees for the two periods in question are below. These total figures include total waste to landfill revenue from both Mugga Lane and Mitchell Transfer Station.

Total Tip Fees 2005/06	**$10,537,356**
Total Tip Fees 2006/07	**$10,890,025**

Roads—adopt a road program (Question No 1634)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 21 August 2007:

(1) Has the 'Adopt a Road' program been cancelled; if so, (a) when and (b) why did it cease;

(2) If the program has been cancelled, have all 'adopters' been notified of the cessation of the cancellation of the program;

(3) If the program has not been cancelled, are there any plans to phase out the program.

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

(1) Yes the 'Adopt a Road' program was cancelled; (a) it was terminated in December 2006 (b) it ceased due to declining levels of interest and other volunteer programs assuming a higher priority within a tight budget environment.

(2) At the time the decision was made to cease the program, there were believed to be 38 participating groups with only a few actively performing litter pick sessions. All these groups were sent a letter advising them of the decision and a certificate of appreciation for their involvement. It has since become apparent that there are additional participating groups who did not receive the original letter advising them of the termination or a certificate. Steps are now underway to send these groups the appropriate letters and certificates.

(3) NA.

Roads—Point Hut road (Question No 1636)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 21 August 2007:

(1) How often does ACT Roads conduct road safety inspections on Point Hut road;

(2) If there are inspections conducted, (a) when did regular inspections begin and (b) how long will inspections continue;

(3) Can the Minister supply details of all other ACT roads that undergo routine road safety inspections.

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

(1) Point Hut Road is inspected once a week.

(2) (a) Since Self-Government the road has been subjected to an on going assessment and formal inspection process as part of the Territorial Road Inspection Program.

(b) There is no consideration being given to discontinuing this program.

(3) All main urban and rural roads are generally inspected annually with local residential roads inspected every 3-5 years.

Roads—traffic liaison committee (Question No 1637)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 21 August 2007:

In relation to road safety, are there any plans to reinstate the traffic liaison committee; if not, why not.

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

The former Traffic Liaison Committee has been replaced by new road safety liaison arrangements under the ACT Road Safety Strategy and Action Plan, which I launched on 26 April 2007.

Two new groups, the Road Safety Liaison Committee and the Road Safety Task Force, have been established. These groups consist of the key government agencies responsible for items under the ACT Road Safety Action Plan.

In addition, separate consultative processes with key road user groups have been established.

Further details on these new arrangements can be found on pages 25-27 of the ACT Road Safety Action Plan 2007-2008, which is accessible on the web at www.tams.act.gov.au/move/roads/road_safety/act_road_safety_strategy

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Roads—fixed speed cameras (Question No 1638)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 21 August 2007:

In relation to the installation of fixed speed cameras, can the Minister provide crash data and/or other methodology of fixed speed cameras at (a) Tuggeranong Parkway near the Cotter Road overpass and (b) Federal Highway, southbound approaching the Antill Street roundabout.

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

In May 2007, I announced the installation of fixed speed cameras at a number of midblock locations, including the Tuggeranong Parkway near the Cotter Road overpass, and the Federal Highway southbound approaching the Antill Street roundabout.

As outlined in the ACT Road Safety Strategy, fixed speed cameras are one way to address the issue of safer speeds. The National Road Safety Action Plan for 2007 and 2008 also notes that the moderation of speeds chosen by drivers and motorcycle riders is critical in establishing a safer road system.

In October 2005, the Government agreed to allow all arterial, major collector and minor collector roads in the ACT to be assessed, and if suitable, designated as traffic camera sites.

The new fixed speed cameras have been targeted on high volume, higher speed roads – namely the Federal Highway, Barton Highway, Monaro Highway and Tuggeranong Parkway – where they have high visibility and crashes can have major ramifications.

These major roads are already declared sites for mobile speed camera van operations. The use of fixed cameras on these roads allows the mobile vans to focus on other areas of the road network.

Potential sites for the new fixed speed cameras were selected on the basis of a review of speed survey data, prioritising zones where speeding is occurring. Two to three potential zones were identified on each road.

Specific sites were selected within these zones, taking account of availability of power and technical suitability for the camera technology.

Roads—snow plough machinery (Question No 1639)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 21 August 2007:

(1) Does ACT Roads utilise snow plough machinery to clear roads such as Brindabella Road at Uriarra; if so, what is the nature of this equipment and is it owned by the Territory or does the Territory contract out the service;

(2) If the service is contracted out, what is the (a) performance standards of the contract regarding time by which a road must be cleared after significant snow falls and (b) nature of the contract, including whether it is (i) in place before winter, for the duration of winter and spring and (ii) arranged as the need arises; if so, what are the contract requirements;

(3) If there is no contracted service and no Territory owned capability, why not.

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

(1) Road graders are utilised for this purpose. The machinery is not owned by the Territory but contracted in when required.

(2) (a) The contract requires the contractor to respond within six hours to any request made by Roads ACT for snow removal.

(b) The current contract is for two years (all seasons) and commenced in October 2005.

(i) The contract in place is not season specific.

(ii) See (b) (i).

(3) See 2 (b)

Environment—sustainability (Question No 1641)

Dr Foskey asked the Minister for the Environment, Water and Climate Change, upon notice, on 22 August 2007:

(1) Is the Minister aware that a number of groups have been established at the community level to increase the sustainability of their suburbs;

(2) Will the Minister consider broadening the framework for the state of the environment report to include at the suburb level (a) carbon emissions, (b) waste creation and (c) water use, to help community organisations establish benchmarks;

(3) Will the Government establish a consultation process to consult with representatives of the aforementioned groups to pass on figures relevant to their projects.

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

(1) Yes. I am aware of and commend community groups around the ACT currently established to increase sustainability in their suburbs. The Government recently awarded the SEE-Change Group in Jamison an environmental grant to reduce the carbon footprint in several suburbs around the area.

(2) Dr Maxine Cooper has recently been appointed to the role of the Commissioner for the Environment. Part of her role will be to advise the Government on sustainability reporting and determine the reporting requirements for the state of the environment report. I will ensure that your views on this matter are passed onto Dr Cooper.

(3) I support this principle and will await the outcome of the review of the role of the Commissioner for the Environment and Dr Cooper's advice on future reporting. The ACT Government will continue to maintain and develop relationships with community groups to assist in raising awareness and encouraging community involvement in our response to the challenges of climate change.

Government—departmental rent rises (Question No 1642)

Dr Foskey asked the Minister for the Environment, Water and Climate Change, upon notice, on 22 August 2007:

(1) Are departments expected to find funds from their own budget when they are faced with unexpected rent rises;

(2) Does the Government provide supplementary funds to ensure programs are not cut;

(3) Will Environment ACT have to cut programs to meet the cost of its doubled rent; if so, is the Government concerned about the implications for environmental management in the ACT.

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

(1) Departmental running costs including rent are normally met through their annual budget. Budgets are reviewed each year and adjusted to take into account expected rises in costs for the coming financial year. However, additional funding can be sought from Treasury for large unexpected increases in costs.

(2) In this case, supplementary funds will not be required and programs will not be cut. The Research and Monitoring Unit of Parks, Conservation and Lands (previously known as Environment ACT) is based at the CSIRO site on the Barton Highway. CSIRO are proposing to increase the annual rental cost by 50%, the first rental increase for the unit since 1998.

(3) The rent increase of $30K per year is a small fraction of the overall budget allocated for environmental programs by the ACT Government and it will not impact on the Government's commitment to environmental management programs in the ACT.

Water—restrictions (Question No 1643)

Dr Foskey asked the Minister for the Environment, Water and Climate Change, upon notice, on 22 August 2007:

Is it the case that a person can shower all day and install a pool while gardens may only be watered by hand between 7pm and 10pm.

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

The ACT Government through its current water efficiency initiatives is committed to working with ACT residents to become water wise. While it is true that under the current initiatives Canberrans can for instance shower all day, it is simply common sense that they would not.

The targets set for reductions in water consumption through the Governments *Think water, act water* strategy are providing savings that will see these targets achieved if not bettered by 2013 and 2023. A clear example that ACT residents are amply aware of the need to be water efficient and are doing their best to work with the ACT Government in managing the ACT water resources.

The majority of domestic water (54%) is used outside the home and of that 39% is used on the garden while the bathroom only uses 20% in comparison. Restricting water use on gardens targets the areas of highest water use.

Allowing watering of gardens from 7am to 10am and 7pm to 10pm is designed to reduce water loss through evaporation while permitting a level of flexibility to ACT residents and through education this pattern should become a common sense approach to outside watering.

Water—audit program (Question No 1644)

Dr Foskey asked the Minister for the Environment, Water and Climate Change, upon notice, on 22 August 2007:

(1) How successful has the *Think Water Act Water* audit program been;

(2) What is the future of the *Think Water Act Water* audit program.

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

(1) To date the programs implemented under *Think Water, Act Water* will see the targets set for reductions in water consumption of 12 per cent by 2013 and 25 per cent by 2023 achieved if not bettered by 2013 and 2023. The *Think Water, Act Water* audit programs have contributed to this achievement with:

- over 7,300 ACT residents having taken up the residential programs *WaterSmart Homes* and *GardenSmart*;
- 75 commercial audits undertaken to date. Funding to assist the commercial sector implement the recommendations of the audits is included in the 2007/08 appropriation for the *Think Water Act Water* program;
- water audits being completed on the five ACT Police regional stations this month;
- 40 water audits undertaken as part of the ACT Government supported ACT Sustainable Schools initiative during 2006/07 and 2007/08.

A summary of the *Think Water Act Water* 2007/08 water efficiency programs delivered by the Sustainability Policy and Programs Section, including the audit programs, is attached for your information.

(2) During 2007/08 the ACT Government will continue to deliver the *Think Water, Act Water* water tune-up audit services to ACT residents, businesses and schools. Programs provided via the *Think Water, Act Water* tune-up include:

- commercial/government building audit retrofits;
- sustainability schools indoor and outdoor audits;
- implementation of the findings of the sustainability schools indoor and outdoor audits; and
- residential outdoor audits through the GardenSmart program.

The success of the ACT Greenhouse Gas Abatement Scheme (GGAS) has seen the need for the *WaterSmart Homes* program significantly lessened. The business sector has responded to the GGAS with products and services that contribute to providing

free water efficient audits to ACT homes. As a result, funds that were previously used to deliver the *WaterSmart Homes* program will be redirected into other water saving measures for the householder, such as water-efficient gardening and greywater rebate initiatives.

The 2007/08 program has evolved from the 2006/07 program and will deliver 17 separate water efficient initiatives. The budget for delivery of this program is $1.779m including staffing. The 17 initiatives and the dedicated funding are contained in the attached summary of the *Think Water Act Water* 2007/08 water efficiency program.

Water Efficiency Program
The 2007/08 Water Efficiency program has evolved from the 2006/07 program. The budget for delivery of this program is $1.779m including staffing. The initiatives and the dedicated funding are:

• Public awareness, communication and evaluation services	$200,000
• Dual Flush Toilet Rebate – old 6/3 litre toilet	$2,000
• Dual Flush Toilet Rebate – new 4/3.5 litre toilet	$150,000
• Dual Flush Toilet Rebate – new 4/3.5 litre – full cost	$52,000
• Greywater Treatment System Rebate	$100,000
• Sustainable Schools Indoor Audit Program	$6,700
• GardenSmart	$155,460
• Murrumbidgee Country Club Water Efficiency Demonstration Site	$10,000
• Sustainable Schools Outdoor Audit Program	$28,000
• Commercial/Government Building Retrofits	$311,500
• Sustainable Schools Indoor Audit Implementation Program	$100,000
• Greywater Diverter Hose Giveaway	$150,000
• Greywater/Rainwater Advice Service	$75,000
• IrrigationSmart Program Design	$75,000
• IrrigationSmart Pilot Scheme	$60,000
• Rainwater Tank Rebate – existing tank internal plumbing	$6,000
• Rainwater Tank Rebate – new tank plus internal plumbing	$56,000

Housing—supported accommodation assistance services (Question No 1646)

Dr Foskey asked the Minister for Disability and Community Services, upon notice, on 22 August 2007:

(1) How many Supported Accommodation Assistance Program (SAAP) providers have had to reduce their support for clients since the reduction in funding to SAAP services in the 2006-2007 budget;

(2) How many clients are affected by this.

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

(1) No SAAP accommodation places were lost as a result of the 2006/07 Budget. Savings were made in the areas of administration and duplication. Changes to service models were implemented in some services to better reflect contemporary service delivery and this resulted in some changes to the nature of supports provided.

(2) As above.

Graffiti
(Question No 1647)

Dr Foskey asked the Minister for Police and Emergency Services, upon notice, on 22 August 2007 *(redirected to the Attorney General)*:

(1) What are the policing steps currently being taken with regard to graffiti in the ACT;

(2) How many cases of graffiti reports increased or decreased over the last five years;

(3) How many perpetrators were apprehended in 2006;

(4) In comparison to the number of reports of graffiti over the last five years, has the number of apprehensions increased or decreased over the same period;

(5) What punishments are handed down to offenders and are offenders required to reimburse the cost of the case.

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

(1) ACT Policing continues to work together with agencies and programs such as the ACT Department of Territory and Municipal Services, the Police Citizens Youth Club and RecLink to combat graffiti. Programs include the Graffiti Program aimed at educating youth on their legal responsibilities and avenues to legally express their art form. Youths "at risk" identified as potential graffiti offenders are being helped and funded to attend vocational courses as part of the Reclink Program.

ACT Policing Crime Prevention Team has made available to businesses a booklet, encouraging environmental designing of businesses to minimise the potential for criminal activity including graffiti. Information is also available to the community on the AFP website.

At PCYC Blue Light Dance parties, proactive crime prevention messages including reference to graffiti are displayed on a giant video screen.

Greater police numbers undertaking increased proactive patrols under the Suburban Police Strategy also support these efforts, as do the strong relationships between ACT Policing and both Neighbourhood Watch and Safety House programs.

(2) Offences increased between 2002 and 2006, as follows:

2002:	85
2003:	72
2004:	138
2005:	125
2006:	186

(3) 16 offenders were apprehended during the 2006 calendar year for graffiti offences, with 20 charges being laid against them.

(4) The number of apprehensions over the last five years has remained relatively stable.

2002:	17
2003:	8
2004:	22
2005:	13
2006:	16

It should be noted that apprehensions results relate to the date of apprehension and not the date of the offence or offences.

(5) ACT Magistrates Court does not have ready access to information regarding penalties or whether or not offenders are required to reimburse court costs.

Government—payment of rates and charges (Question No 1648)

Dr Foskey asked the Minister for Territory and Municipal Services, upon notice, on 22 August 2007:

What is the number of (a) ACT ratepayers and residents attending the Dickson Shopfront, (b) people calling Canberra Connect, (c) people paying registration, rates and other government charges over the internet and (d) people using BPay at Post Offices, in (i) 2005, (ii) 2006 and (iii) 2007.

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

(a) ACT ratepayers and residents attending the Dickson Shopfront

Financial Year	
2004/05	115670
2005/06	117043
2006/07	135529

(b) people calling Canberra Connect

Financial Year	
2004/05	391708
2005/06	523268
2006/07	884654

(c) people paying registration, rates and other government charges over the internet

Financial Year	
2004/05	128309
2005/06	120271
2006/07	141850

(d) people using BPay at Post Offices

BPay is not a payment option offered by Australia Post. The figures provided show all channels of payment at Australia Post for the periods in question.

Australia Post Counter Payments

Financial Year	
2004/05	297711
2005/06	302486
2006/07	299716

Australia Post Phone Payments

Financial Year	
2004/05	35415
2005/06	20920
2006/07	29361

Australia Post Internet Payments (excluded from (c) above)

Financial Year	
2004/05	674
2005/06	741
2006/07	876

BPay payments for the corresponding periods are

Financial Year	
2004/05	168595
2005/06	251481
2006/07	305058

Gungahlin swimming pool (Question No 1649)

Dr Foskey asked the Minister for Territory and Municipal Services, upon notice, on 22 August 2007 *(redirected to the Minister for Tourism, Sport and Recreation)*:

(1) How many people does Gungahlin have to have before it is allocated a 50 metre pool;

(2) How many private pools has the Minister approved in Gungahlin;

(3) Can the Minister outline the formula or process used to determine an area's eligibility for a public pool.

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

(1) In 1997 the government commissioned a consultant to prepare a strategic plan for the provision of swimming pools and related facilities in the ACT over the next 10 to 15 years. In that report, which has provided the government with broad planning guidance since it was completed, the consultant recommended that "once the Gungahlin population exceeds 50,000…there will be justification for a medium scale aquatic/leisure facility to complement the Belconnen facility and specifically serve the residents of Gungahlin".

Planning work is currently in progress on the so-called 'wellbeing precinct' in Gungahlin Town Centre, which will include a secondary college, library, an enclosed oval, and a leisure centre that is expected to incorporate a swimming pool. This work will guide government planning for the provision of swimming facilities in Gungahlin.

(2) ACTPLA's building records, dating back to settlement in Gungahlin from May 1993, indicate that 257 pools have been approved by private building certifiers.

(3) The process for determining the provision of aquatic facilities would normally be through the development of a strategic plan similar to that prepared in 1997, involving a suitably experienced leisure planning consultant. This would include an analysis of current provision, along with current and projected future demand and based on comparisons with other jurisdictions, the development of a recommended scheme of works over an appropriate period of time.

Education—student qualifications (Question No 1651)

Dr Foskey asked the Minister for Education and Training, upon notice, on 22 August 2007:

(1) How many students across the ACT secondary school system have been awarded ACT Year 10 certificates in each of the past five years;

(2) How many students across the ACT secondary school system have been awarded ACT Year 12 certificates in each of the past three years;

(3) Are those statistics requested in parts (1) and (2) displayed in the Department of Education and Training (DET) annual reports; if so, where; if not, why not, and will they be in the future;

(4) For each of the years from 2002 to 2006, how many of the students who received an ACT (a) Year 10 certificate were enrolled in Year 11 in the ACT senior secondary system in February of the year following the receipt of their Year 10 certificate, (b) ACT Year 12 certificate were classified as mature-age students and (c) Year 12 certificate did not gain an ACT Year 10 certificate two years prior to receiving their Year 12 certificate;

(5) For each of the years from 2002 to 2006, what percentage of ACT system students (including those resident in NSW) who completed (a) Year 10 (in terms of enrolment or attendance) actually received an ACT Year 10 certificate, noting recent DET annual reports provide the percentages sought here for indigenous students and non-indigenous students, but not for all students and (b) Year 12, in terms of enrolment or attendance, actually received an ACT Year 12 certificate;

(6) Are students ever awarded both a Year 12 certificate and a Secondary College Record in the same year; if so, how many cases have there been of such dual awarding in each year from 2002 to 2006;

(7) For each of the years from 2002 to 2004, how many of the students who received an ACT Year 10 certificate received an ACT Year 12 certificate two years later.

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

(1) The number of year 10 certificates awarded in the ACT for each of the past five years is provided in table 1.

Table 1: Year 10 certificates awarded in ACT secondary schools 2002 - 2006

Year	Government schools	Non-government schools	Total
2002	2510	2036	4546
2003	2453	2124	4577
2004	2472	2201	4673
2005	2557	2184	4741
2006	2540	2281	4821

(2) Figures for 2006 are publicly available from the ACT Board of Senior Secondary Studies website, in the *Year 12 Study 2006*, Table 2.3a.

2005 - 4056 students
2004 - 4016 students

(3) Statistics on the number of year 10 certificates awarded in the ACT secondary school system are not displayed in the Department of Education and Training's annual reports. Government and departmental policy focuses on maximising student retention and participation to completion of year 12 rather than year 10. At this time there is no intention to include statistics on the number of year 10 certificates awarded in future annual reports.

(4)

(a) Non-government schools provide minimal personal information about students awarded an ACT year 10 certificate. The information provided by non-government schools is insufficient to accurately track students from year 10 to year 11 in February of the year following the award of the year 10 certificate. The data in table 2 is for students who were awarded an ACT year 10 certificate at a government school and then enrolled in year 11 in a government college in February of the following year.

Table 2: Number of government school students who received a year 10 certificate and enrolled at a government college in February of the following year

Year 10 year	Year 11 (February) year	Number of enrolments
2002	2003	2239
2003	2004	2184
2004	2005	2214
2005	2006	2305
2006	2007	2251

(b) Figures for 2006 are publicly available from the ACT Board of Senior Secondary Studies website, in the *Year 12 Study 2006*, Table 1.1.

2005 - 15 students
2004 - 47 students
2003 - 60 students
2002 - 68 students

(c) Due to the constraints on identifying and matching non-government school students between year 10 and year 12, the data provided below is for students who completed both year 10 at a government school and year 12 at a government college.

Table 3: Students awarded a year 12 certificate not awarded a year 10 certificate 2 years earlier

Year completed year 12	Number of students
2002	104
2003	97
2004	78
2005	100
2006	78

(5)

(a) Table 4 provides data for the percentages of school students attaining year 10 certificates in the ACT system and includes information from government and non-government schools.

Table 4: Proportion of ACT system students receiving a year 10 certificate as a percentage of total enrolment at August Census

Year	Percentage of students attaining a year 10 certificate (%)
2002	98
2003	97
2004	97
2005	98
2006	98

(b) The percentages of students recorded as enrolled and attending college during semester 2, year 12 who received an ACT Year 12 Certificate that year are:

2002 - 97.1%
2003 - 96.1%
2004 - 95.8%
2005 - 95%
2006 - 96%

Students who do not complete the requirements for an ACT year 12 certificate by the end of year 12 can return to college the following year to do so.

The above figures do not include year 12 students who completed the requirements and received an ACT year 12 certificate but left college before semester 2, year 12.

(6) Yes. A secondary college record provides details of a student's achievements and enrolment in units/courses to date, during years 11 and 12. Secondary College Records are printed by colleges at the request of students and signed by the college principal. There is no limit on the number of secondary college records a student can request. The dual awarding of a year 12 certificate and secondary college record is therefore not recorded. At the end of year 12, a student who decides to leave school without having completing the requirements for a year 12 certificate is reported in the *Year 12 Study* as eligible for a secondary college record.

(7) **Table 5: Number of ACT government school students who received an ACT Year 12 certificate at ACT government college two years later**.

Year awarded year 10 certificate	Year awarded year 12 certificate	Number of government school students
2002	2004	1706
2003	2005	1694
2004	2006	1730

Canberra Hospital—television rental charges (Question No 1652)

Mrs Burke asked the Minister for Health, upon notice, on 23 August 2007 *(redirected to the Acting Minister for Health)*:

(1) Is the cost for television rental for patients at The Canberra Hospital (TCH) $8.80 per day and $6.60 per day for concession holders;

(2) Why are patients at TCH being charged so much for this service which provides access to free to air channels;

(3) How and to whom is the revenue from this service distributed.

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

(1) The rates for patient television hire at TCH are currently:

- $8.80 per day, $44.00 per week for the first week and $33.00 per week thereafter, $99.50 for the first month and $77.50 per month thereafter.
- Health Care Card holders attract concession rates of $6.60 per day, $33.00 per week, $66.00 for the first month and $49.50 per month thereafter.

In addition to the concession rates, patients in the Paediatric and Oncology wards are not charged for access to the Hospital's TV service.

(2) TCH has licenced the supply of patient TV services to an external provider, Erwick Proprietary Limited (Erwick Pty Ltd), trading as "Hospital TV Rentals" (HTR). This has been in place since 1999. Patients pay hire costs, which are applied by HTR.

It is not uncommon for patients to pay a third party contracted service provider for access to bedside television services in public hospitals throughout Australia. Access to this service is a matter of choice for the patient and is negotiated directly between the patient and the contracted service provider.

(3) Under the terms of the contract, the service provider HTR enters into a rental agreement with the patient and collects rental fees as revenue.

As required by its contract, HTR also pays ACT Health an annual licence fee of $48,000.

Health—organ donors (Question No 1653)

Mrs Burke asked the Minister for Health, upon notice, on 23 August 2007 *(redirected to the Acting Minister for Health)*:

(1) How many ACT residents have registered for organ donation as at 30 June 2007;

(2) What proportion of eligible people in the ACT have registered for organ donation;

(3) How does the ACT compare with other Australian States and Territories;

(4) What action has the ACT Government taken to increase the number of people registering for organ donation;

(5) What evaluation has been carried out to assess the effectiveness of community education programs for organ donation;

(6) Is the Minister or the Government considering the "opt-out" system for organ donation; if so, at what point are discussions up to; if not, why not.

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

(1) As of 30 June 2007 there were 47,546 ACT residents on the Australian Organ Donation Register (AODR)

(2) Approximately 18% of the eligible ACT population has registered formally on the AODR.

(3) ACT registration rates are above NT (11.1%) and similar to Victoria (18%). They are below the other states (30-55%) which have all transferred data from their car licence databases.

(4) The ACT Government has employed 2 Donor Coordinators at the Canberra Hospital to cover organ and tissue donations in the ACT and regional NSW to ensure 24 a day 365 days a year coverage. The ACT service plays a significant role in community awareness raising.

In addition, the Government provides ongoing funding to Gift of Life Inc (formerly the ACT Organ Donation Awareness Foundation) to conduct community awareness activities, and has done so for some years.

The ACT provides funding to Australians Donate, the national peak body, as part of a national funding agreement. TCH is one of 21 hospitals Australia wide currently involved in a national collaborative exercise on organ donation coordinated by Australians Donate to ensure best practice is performed with regard to identification and management of organ donation processes. TCH was invited to participate in recognition of the fact that it is one of the highest performing hospitals in this field.

(5) The effectiveness of local community education progress is best evidenced by the regular increase in the number of ACT residents registered on the AODR:

- February 2001 1,429
- December 2003 11,608
- December 2006 45,060
- June 2007 47,546

Nationally, within the context of the current National Reform Agenda on Organ Donation agreed by Australian Health Ministers, a review of Australians Donate has been completed and is being assessed by a group of senior officials.

The National Clinical Taskforce on Organ and Tissue Donation, established by the Minister for Health and Ageing in 2006, has engaged in wide ranging consultation to provide advice on practical and effective ways to improve Australia's performance on organ and tissue donation, including community awareness and donor registration. The final report of the Taskforce is expected in December 2007.

(6) The current national "opt-in" system was agreed by Australian Health Ministers after careful consideration of various options.

Health—community awareness (Question No 1654)

Mrs Burke asked the Minister for Health, upon notice, on 23 August 2007 *(redirected to the Acting Minister for Health)*:

(1) What is ACT Health's projected expenditure on public health community awareness campaigns in 2007-2008;

(2) How does this compare to the previous financial year's allocations;

(3) Are any new campaigns to be undertaken by ACT Health in the 2007-2008 financial year; if so, what is the (a) projected cost of those campaigns and (b) main focus of such programs;

(4) Is the management/organisation of those campaigns to be out sourced; if so, to whom.

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

(1) The projected expenditure on public health community awareness campaigns in the ACT will total $570 000. Of this $57 000 is for nutrition based messages (Go for 2&5), $70 000 for physical activity based messages (Find 30); $53 000 supporting the Australian Better Health Initiative (ABHI) national campaign; and $390,000 for health promotion sponsorships, which call on sponsored sports, recreation, arts and cultural groups to deliver health promotion messages to their participants and audiences.

(2) ACT Health expenditure on public health awareness campaigns in the 2006-07 financial year totalled $413 250.

(3) ACT Health intends to develop and implement the 'Find 30' campaign, which is aimed at increasing physical activity in adults by persuading people to find time within their daily routine for at least 30 minutes of exercise. The 'Find 30' campaign forms part of ACT Health's contribution to the Australian Better Health Initiative (ABHI). The projected cost of the campaign for the financial year 2007-08 is $70 000.

(4) ACT Health will manage these campaigns.

Health—dental care (Question No 1656)

Mrs Burke asked the Minister for Health, upon notice, on 23 August 2007 *(redirected to the Acting Minister for Health)*:

(1) How many people are on the waiting list for dental care in the categories of (a) adult general, (b) child, (c) dentures and (d) orthodontics;

(2) How long is the longest wait in each category in part (1).

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

In relation to both questions (1) and (2)

(a) Adult General Dental Service

- As of 31 August 2007 there were 2015 on the adult general restorative waiting list. Currently the longest waiting time for general restorative services is 11.98 months.
- The Government has recently allocated additional and recurrent funding specifically to reduce the waiting times for restorative services in 2007-2008.
- 100% of adults triaged as a dental emergency receive appropriate treatment from the Dental Health Program within 24 hours.

(b) Child and Youth Dental Service

- There is no waiting list for Child and Youth Dental Services.

(c) Dentures

- As of 31 August 2007 there were 158 people on the Denture Waitlist. Currently the longest waiting time for treatment to commence is 3.7 months.
- Prior to entering the Denture Waitlist a priority assessment is conducted to ensure that clients who have higher priority denture needs receive treatment earlier.

(d) Orthodontics

- The Dental Health Program provides a limited child and youth orthodontic service. Currently 109 children are on the waitlist for an orthodontic assessment. The longest wait time for scope of treatment provided by the Dental Health Program is 10.6 months.

Health care system—compensation payments (Question No 1659)

Mrs Burke asked the Minister for Health, upon notice, on 23 August 2007 *(redirected to the Acting Minister for Health)*:

How much did the ACT Government pay in compensation to victims of accidents or injury within the ACT health care system during (a) 2003-04, (b) 2004-05, (c) 2005-06 and (d) 2006-07.

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

Year	Costs
(a) 2003-04	$2,163,637
(b) 2004-05	$10,006,745
(c) 2005-06	$9,801,227
(d) 2006-07	$3,406,568

The costs provided are a combination of payments made by either ACT Health or the ACT Insurance Authority.

The costs do not include workers compensation claims.

The dates refer to the date on which payment was made, not the date on which the accident or injury occurred. There can be a number of years between the reporting of an incident and settlement of a claim.

Housing ACT—Causeway properties (Question No 1660)

Mrs Burke asked the Minister for Housing, upon notice, on 23 August 2007:

(1) What plans, if any, are there to dispose of any properties at The Causeway (Kingston) that are owned by Housing ACT;

(2) If properties are to be sold, how many have been identified as being prepared for disposal by Housing ACT and what will Housing ACT do to assist with the relocation of tenants who could be left without a Housing ACT tenancy.

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

(1) There are no plans at this time to dispose of any Housing ACT properties at The Causeway.

(2) See answer to Question 1.

Land Development Agency (Question No 1664)

Mr Seselja asked the Chief Minister, upon notice, on 23 August 2007:

(1) What is the detailed organisational structure of the Land Development Agency (LDA);

(2) What is the functional description of each area identified in the organisational structure outlined in part (1);

(3) How many full-time equivalent (FTE) staff are there currently employed in the LDA;

(4) What is the FTE staff projection for June 2008;

(5) What is the designation and classification of all staff employed by the LDA (a) by functional area as outlined in part (1) and (b) identified as (i) permanent full time, (ii) permanent part time, (iii) temporary full time and (iv) temporary part time;

(6) What is the staffing plan for those positions identified in part (1) that are currently vacant.

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

(1) Refer to Attachment A.

(2) The organisational structure of the Agency consists of two development divisions supported by the Corporate and Finance Division that includes Sales, Marketing and Communications. The Urban Development Division is responsible for brownfields and town centre developments, and the preparation of commercial and industrial land for sale. The Residential Development Division is responsible for the development of greenfields residential land.

(3) As at 22 August 2007 the FTE count was 50.44. This information has been provided by the Shared Services Centre and represents the FTE from the ACTPS payroll system Chris21.

(4) The FTE staff projection for June 2008 is 60.8 as is contained in the Statement of Intent.

(5) What is the designation and classification of all staff employed by the LDA (a) by functional area as outlined in part (1) and (b) identified as (i) permanent full time, (ii) permanent part time, (iii) temporary full time and (iv) temporary part time;

Division	**Emp Mode**	**Permanent**	**Temporary**	**Casual**	**Total FTE**
Community & Direct Grants Program	Full-time	6.00	1.00		7.00
Corporate & Finance	Full-time	10.00	4.00		14.00
Marketing & Sales	Full-time	4.00	2.00		6.00
Marketing & Sales	Part-time	0.00	0.44		0.44
Chief Executive Officer	Full-time		1.00		1.00
Residential Development	Full-time	9.00	2.00		11.00
Urban Development	Full-time	10.00	1.00		11.00
		39.00	**11.44**	**0.00**	**50.44**

(6) The LDA has identified a workforce plan for the period 2007 – 2008 and has in place Attraction and Retention strategies to realise this. The LDA is a proactive participant in Whole-of-Government initiatives regarding Attraction and Retention, including participation in the Government's 2008 Graduate Program.

The LDA utilises contractors and consultants from time to time for specialist advice and where there is a short-term need. The LDA minimises its use of contractors and consultants and has in place a recruitment program to fill the vacant positions. There are currently (at 28 August 2007) 13 recruitment actions in progress and 6 requests to advertise in the pipeline.

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

Alexander Maconochie Centre (Question No 1665)

Mr Seselja asked the Attorney-General, upon notice, on 23 August 2007:

(1) What is the projected total running cost of the Alexander Maconochie centre per year;

(2) What is the projected prisoner population per year by (a) category of prisoner and (b) gender;

(3) What is the projected cost per prisoner per day at the Alexander Maconochie centre;

(4) How are these estimates derived.

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

(1) $19.635m (April, 2003 prices, subject to normal rates of escalation). The final operating budget is being refined in consultation with Treasury in line with the normal budget process.

(2) a) ACT Treasury projections of prisoner populations are:

Year (June)	Projected Sentenced Prisoners	Projected Remand Prisoners	Total Projected Prisoner Population
2008	152	92	244
2009	154	93	247
2010	155	96	251
2011	157	97	254
2012	158	98	256
2013	160	98	258
2014	161	99	260
2015	162	100	262
2016	164	100	264
2017	165	100	265
2018	166	100	266
2019	167	101	268
2020	169	100	269
2021	170	99	269
2022	171	99	270
2923	172	99	271
2024	173	98	271
2025	173	99	272

Year (June)	Projected Sentenced Prisoners	Projected Remand Prisoners	Total Projected Prisoner Population
2026	174	98	272
2027	175	98	273
2028	176	97	273
2029	176	98	274
2030	177	97	274
2031	177	97	274
2032	178	96	274

b)
It has not been possible to do any meaningful projections of the number of women prisoners as historically the numbers have fluctuated between 3% and 12% of the total population. Planning for the Alexander Maconochie Centre has provided 10% of beds for women, assuming the historic trend would continue.

(3) A projected cost per prisoner per day is not possible until the final operating budget has been determined (refer Q1).

(4) n/a

Courts—registrar
(Question No 1667)

Mr Seselja asked the Attorney-General, upon notice, on 23 August 2007:

(1) When was the position of Registrar in the ACT Supreme Court last advertised;

(2) What advertisements where placed and where;

(3) How many (a) applications were received in response to those advertisements and (b) applicants were interviewed;

(4) How many of the applicants interviewed for the position were assessed as suitable;

(5) On what basis was the preferred applicant selected;

(6) What is the experience, qualifications and employment history of the successful applicant;

(7) In relation to each of the applicants not interviewed, what were the specific reasons for deciding not to interview them;

(8) What provisions exist for applicants to access the reasons for their individual failure to be selected for the position.

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

(1-2) The position was advertised in the ACT Government Gazette No.7, Thursday 22 February 2007, The Financial Review 23 February 2007 and The Canberra Times 24 February 2007.

(3) A total of 13 applications were received, from which 4 applicants were selected for interview. One applicant withdrew before interviews were conducted.

(4) Two

(5) The preferred applicant was selected on merit, judged against the advertised Selection Criteria and assessed in light of their written application, interview performance and referee reports.

(6) The successful applicant had been with the Supreme Court since 2001 as a Deputy Registrar and, on occasions, acting Registrar. The applicant has worked in the ACT courts system for over 10 years, as an associate to Master Alan Hogan, Magistrate John Burns and then Master Terry Connolly. After this time, the applicant was employed as a solicitor in the ACT Government Solicitor's Office before moving to the Supreme Court. She is a member of the ACT Bar Association, the ACT Law Society Civil Litigation Committee and Criminal committee, the ACT Law Courts' Senior Executive Group and the Joint Rules Advisory Committee.

(7-8) The reason given to the unsuccessful applicants was that the other applicants demonstrated stronger claims against the selection criteria.

In addition, the unsuccessful applicants were invited to contact the Chief Executive, ACT Department of Justice & Community Safety if they were interested in discussing the Selection Advisory Committee's assessment of their application or any other queries that they may have had concerning the selection for the position. Those that were unsuccessful at interview were invited to contact the Chief Executive to receive post-interview feedback.

ACT Corrective Services (Question No 1668)

Mr Seselja asked the Attorney-General, upon notice, on 23 August 2007 *(redirected to the Minister for the Territory and Municipal Services)*:

(1) What is the total floor space, by site, of accommodation occupied by ACT Corrective Services;

(2) What leasing/tenancy arrangements apply to the accommodation identified in part (1);

(3) When will any leasing/tenancy arrangements expire at each of these sites.

Mr Hargreaves: The answer to the member's question is as follows for the premises managed by Property Group:

(1) Eclipse House, levels ground, one and two, total floor space of 1,622m2 plus basement storage of 467m2.

(2) Privately leased building, current rental for the office component is $330.53m2 per annum plus GST and $137.30m2 per annum plus GST for the basement storage.

(3) The sub lease expires on 30 November 2016.

ACT Planning and Land Authority (Question No 1669)

Mr Seselja asked the Minister for Planning, upon notice, on 23 August 2007 *(redirected to the Minister for Territory and Municipal Services)*:

(1) What is the total floor space of accommodation occupied by the ACT Planning and Land Authority (ACTPLA) in their offices at (a) Dickson, (b) Mitchell and (c) at any other sites;

(2) What leasing/tenancy arrangements apply to the accommodation occupied by ACTPLA at those sites listed in part (1);

(3) When will any leasing/tenancy arrangements expire at each of these sites.

Mr Hargreaves: The answer to the member's question is as follows for the premises managed by Property Group in the Department of Territory and Municipal Services:

1(a) Dickson - Dame Pattie Menzies House: six levels with a total floor space of 5,232m^2.

1(b) Mitchell – Mitchell Business Centre: Unit 8, 820m^2.

1(c) Hackett - Storage in former City Parks Depot: 125m^2.

2(a) Territory owned building – space rented from Property Group.

2(b) Privately owned building – Property Group holds the sublease and ACTPLA is the sitting tenant paying rent to the landlord via Property Group

2(c) Territory owned building - space rented from Property Group.

3(a) Ongoing tenancy.

3(b) The sublease expires on 30 September 2008, but it includes a further one year option.

3(c) Ongoing tenancy, but alternative uses by other ACT agencies are currently being investigated.

ACT Planning and Land Authority (Question No 1670)

Mr Seselja asked the Minister for Planning, upon notice, on 23 August 2007:

(1) What is the detailed organisational structure of the ACT Planning and Land Authority (ACTPLA);

(2) What is the functional description of each area identified in the organisational structure at part (1);

(3) How many full time equivalent (FTE) staff are there currently employed in ACTPLA;

(4) What is the FTE staff projection for June 2008;

(5) What is the designation and classification of all staff employed by ACTPLA (a) by functional area as outlined in part (1) and (b) identified as (i) permanent full time, (ii) permanent part time, (iii) temporary full time and (iv) temporary part time;

(6) What is the staffing plan for those positions identified in part (1) that are currently vacant.

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

(1), (2) and (3) The answers to the Member's questions can be viewed in the organisation's Annual Report to be tabled in the Legislative Assembly on 25 September 2007.

(4) As stated in the Budget Papers 2007-2008 the full time equivalent (FTE) staff projection for June 2008 is 258.

(5) The designation and classification of all staff employed in ACTPLA is summarised in the form requested in the table at Annexure A.

(6) Vacant positions are reviewed for currency in terms of level, responsibilities and placement within the organisational structure. They are then advertised and filled in as timely a manner as possible.

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

Schools—environmental building codes (Question No 1671)

Dr Foskey asked the Minister for Education and Training, upon notice, on 28 August 2007:

(1) Could the Minister provide the environmental building codes or guidelines which are being used for the whole of building approach to design in upgrading existing facilities and building new facilities;

(2) Does this environmentally aware design incorporate best practice in terms of reduction in toxins, especially with regard to use of paints, flooring and building materials, which can have a detrimental effect on children's development and behaviour;

(3) Is the Minister considering installing solar systems onto school buildings to provide enough energy for the schools' needs as well as potentially feeding back into the grid;

(4) Is it the Minister's intention to install wireless internet technology throughout schools in the ACT;

(5) Is the Minister aware (a) of the possible detrimental health effects of wireless internet, particularly at primary school and pre-school level, (b) that some reports show that some school wi-fi routers emit up to three times the electro-magnetic radiation levels of mobile phone tower pads and (c) that the Teachers' Union in the United Kingdom is calling for a ban on wi-fi in schools.

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

(1) The Department of Education and Training uses a number of sources to inform the design of its environmental building works. These include specialist consultants' reports, the Green Building Council of Australia Guidelines and their Green Star Environmental rating system.

(2) Yes, the green star rating system assesses occupant well-being and performance by addressing the heating, ventilation and air-conditioning system, lighting, occupant comfort and pollutants.

(3) Yes, solar panels have recently been incorporated into Amaroo School and Birrigai School. There are plans to also incorporate solar panels at the east Gungahlin school at Harrison, west Belconnen school and Gungahlin College to supplement and reduce their mains energy usage. The possibility of retrofitting panels into existing schools will be assessed on a school-by-school basis.

(4) Yes.

(5)

(a) Active steps are taken within ACT schools to minimise students' exposure to wi-fi radiation. These steps include:

- wi-fi networks in ACT schools are minor networks. The bulk of IT equipment is networked via the major 'cabled' networks. This ensures the majority of students would not regularly use wi-fi-enabled technology in schools
- site surveys are undertaken before any wi-fi equipment is installed to ensure there is no unnecessary overlap of the wi-fi signal, and
- all wi-fi equipment within ACT schools accords with the *Radiation Protection Standard 3* published by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA).

(b) Doctor Lindsay Martin, a recognised national expert in this field and advisor to the Federal Government and manager of the Electromagnetic Radiation Section of the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), says ARPANSA is not particularly concerned about electromagnetic energy levels emitted from wi-fi equipment. He states that all mobile phone and wireless telecommunication towers are required to adhere to the Radiation Protection Series 3 standards for frequencies 3kHz to 300Ghz (spectrum) Australian standards AS2772 for maximum exposure levels. Wi-fi technology electromagnetic energy emission levels are also well within this standard.

(c) I am aware of recent reports from the UK where some parents, teachers and councillors from an area in London are calling for the removal of existing wi-fi routers from schools and a ban on any new wireless installations. However, active steps are taken within ACT schools to minimise students' exposure to wi-fi radiation. See 5 (a).

Water—restrictions (Question No 1672)

Mr Stefaniak asked the Minister for the Environment, Water and Climate Change, upon notice, on 28 August 2007 *(redirected to the Treasurer)*:

(1) When will the decision be made about the introduction of Level 4 restrictions;

(2) What is the deadline for businesses and community organisations to make submissions to ACTEW for exemptions from Level 4 restrictions.

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

(1) ACTEW is continuously monitoring the water situation to ensure the ACT is in the most appropriate stage of water restrictions. ACTEW has foreshadowed that Stage 4 Water Restrictions may be required in November 2007 if dam storage levels reach critical levels of the kind experienced during autumn 2007.

The effects from the June rainfall have significantly improved the chance of avoiding Stage 4 this year, with dam levels now at nearly 43 per cent. However, this is still about 7 percentage points lower than at the same time last year. In addition, water consumption has increased with the arrival of warmer weather.

ACTEW is currently updating its modelling on restriction requirements this spring and summer, and expects to inform the community in September.

Meanwhile, liaison continues with industry groups to consider the set of exemptions ACTEW will make available as the first Tier of Stage 4.

(2) ACTEW does not set deadlines for exemption applications. It is up to the individual customer to make their own decisions on submitting an application for exemption from aspects of a restrictions stage. In some instances ACTEW grants a general exemption – an exemption granted to all customers or a class of customers – in which case there is no need to apply. ACTEW informs the community of any general exemptions via its advertising, website and correspondence.

Although consideration and planning for a set of exemption conditions has been undertaken in collaboration with industry groups in preparation for Stage 4, ACTEW does not formally bring exemptions in place until it has declared a particular stage of restriction.

The initial consultation phase, where industry and community groups were invited to comment on the proposed exemptions, finished in June 2007. ACTEW is currently advising industry representatives on the post-consultation exemption conditions and continues to assess the feasibility of providing recycled water.

Narrabundah Long Stay Caravan Park (Question No 1673)

Mrs Burke asked the Chief Minister, upon notice, on 28 August 2007:

(1) What was the exact date, in late 2006, that your office received a telephone call from Koomarri, advising that they were intending to sell the Narrabundah Long Stay Caravan Park;

(2) What action did your office take in light of this information.

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

My office did not receive any such telephone call from Koomarri in late 2006.

Canberra Hospital—National Centre for Surgical Excellence (Question No 1674)

Mrs Burke asked the Minister for Health, upon notice, on 28 August 2007 *(redirected to the Acting Minister for Health)*:

(1) What is the status of the Government's 2004 pre-election promise to deliver a $15 million National Centre for Surgical Excellence at The Canberra Hospital;

(2) Has the project run on time and on budget; if not why not;

(3) How many dedicated laparoscopic and robotic theatres are currently operating at The Canberra Hospital;

(4) How many staff have utilised the dedicated computer simulation training centre;

(5) Has this initiative achieved its claim that it will attract and retain more surgeons to the national capital (*ABC Online*, 10 October 2004); if so, what are the figures to support the statement; if not, why has this initiative failed to achieve the promised outcome.

Mr Corbell: I am advised that the answer to the member's question is

(1) A Procurement Feasibility Plan for a Skills Development Centre was completed in 2006. This incorporates a simulation laboratory for surgical skills.

ACT Health is currently developing a Surgical Services Plan which will prioritise future strategies for surgical services in the ACT, including robotic and dedicated laparoscopic theatres.

ACT Health is also developing a Capital Asset Development Plan which will integrate clinical strategic requirements for the future delivery of health services.

(2) The project is part of the overall strategic planning for the future delivery of health services in the ACT which will be considered by the government shortly.

(3) There are no dedicated robotic or laparoscopic theatres at The Canberra Hospital. However procedures are being done laparoscopically.

(4) There is no dedicated computer simulation training center.

(5) The initiative has not yet been implemented.

Hospitals—medical equipment (Question No 1675)

Mrs Burke asked the Minister for Health, upon notice, on 28 August 2007 *(redirected to the Acting Minister for Health)*:

(1) What is the Government's preventative maintenance program for medical equipment held at Calvary Hospital and The Canberra Hospital;

(2) Has any such equipment currently in use passed its useful life; if so, what equipment;

(3) During 2006-07 and 2007-08 to date, were any instances reported of injuries sustained by ACT Health staff or patients as a result of using such equipment that is either inadequately maintained, or has passed its useful life; if so, (a) how many instances, (b) what injuries were sustained and (c) what subsequent action was taken to prevent a repetition;

(4) During 2006-07 and 2007-08 to date, were any instances reported of injuries sustained by ACT Health staff or patients as a result of undertaking tasks due to their non-use of such equipment and the reasons for non-use of such equipment; if so, (a) how many instances, (b) what type of equipment would have been needed for the tasks undertaken, (c) why was the equipment not available and (d) what subsequent action was taken to prevent a repetition;

(5) During 2006-07 and 2007-08 to date, were any instances reported of the health of patients being at risk due to any such equipment either being not available, poorly maintained, or passed its useful life; if so, (a) how many instances, (b) what was the nature of the health risk, (c) why was the equipment not available and (d) what subsequent action was taken to prevent a repetition;

(6) In relation to consumables of a medical nature, for example but not limited to dressings, tubing (for IV and other uses) and medications etc, what policies and practices are in place in relation to central stock levels that are maintained by the hospitals for consumables;

(7) What evidence is there to show that those stock levels outlined in part (6) are adequate to ensure the timely supply of consumables to meet the needs of hospital patients;

(8) What internal supply processes are in place to ensure that hospital wards have adequate and timely access to consumables held in central store;

(9) During 2006-07 and 2007-08 to date, were there any reported instances of staff being unable to attend to the needs of patients because of the lack of supply of consumables; if so, (a) how many instances, (b) why were the consumables not available and (c) what subsequent action was taken to prevent a repetition;

(10) During 2006-07 and 2007-08 to date, were there any reported instances of the health of patients being at risk because of the unavailability of consumables; if so, (a) how many instances, (b) what was the nature of the health risk, (c) why were the consumables not available and (d) what subsequent action was taken to prevent a repetition.

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

(1) The information I am providing is for ACT Health facilities and does not include Calvary Health Care assets as those assets are not on the ACT Health Asset Register.

The Canberra Hospital utilises both in-house and external contractors to complete its preventative maintenance programs for individual equipment, to schedules recommended by the manufacturers of those individual equipment items.

(2) There is no equipment in place that is not supported or passed its useful life. However, there would be equipment that has reached its depreciated life on the asset register but which remains useful with continued maintenance.

(3) During 2006-07 and 2007-08 to date, there have been no incidents reported of injuries sustained by staff or patients, where the cause of injury was attributed to inadequate maintenance of equipment or equipment that had passed its useful life.

(4) During 2006-07 and 2007-08 to date, there were no reported incidents of staff or patients being injured due to non-use of equipment, because that equipment was either inadequately maintained or passed its useful life.

(5) As indicated in responses to parts (1) and (2) above, ACT Health has comprehensive systems for the maintenance and life-assessment of its equipment, so as to minimise risk to staff and patients and to maximise availability and useful life of equipment for the Territory.

(6) The policies and practices in place for consumable supplies represent legislated requirements from the ACT Procurement legislation and associated guidelines and contemporary best practice in relation to stock management including accounting principles.

Inventory is managed according to internal policies and procedures, which cover but are not limited to: Purchasing, receiving, product storage, stock rotation and expired stock, returned stock, distribution, loans, finance and budgeting, product recalls, inventory computer system, out of stocks and back orders, and stocktake.

The ACT Health supply chain holds an average of 30 days stocks of high volume medical and other consumables in its warehouse at Mitchell and central hospital pharmacies, with wards holding a further three to ten days stocks of their high use products.

(7) The ACT Health supply chain system provides a comprehensive range of over 30,000 different medical and other consumables to all clinical services areas across the Health portfolio, including hospital operating theatres, wards and Community Health Centre activities. The system is supported by integrated purchasing and inventory control systems in both the supply services and pharmacy departments and has consistently maintained very high order fill levels.

The ACT Health supply systems are comparable to the best of any other states or territories, in terms of their ability to maintain order fill rates to customers.

(8) In addition to the explanation of the supply chain system as described in part (7) above, ACT Health utilises barcode imprest systems to maintain ward storeroom stock levels. Stock levels are based on turnover, criticality, historical usage and are established in consultation with ward clinical managers.

Trained supply officers regularly replenish storeroom stocks and ward staff can request variations to ward supply levels according to patient demands.

Supply staff and ward managers utilise a range of system-generated management reports to monitor stock levels and items that are on backorder and liaise between each other on the supply of alternatives or substitute products where required.

(9) During 2006-07 and 2007-08 to date, there have been no reported instances of staff being unable to attend to the needs of patients because of the lack of supply of consumables.

(10) During 2006-07 and 2007-08 to date, there have been no reported instances of the health of patients being placed at risk because of the unavailability of consumables.

Griffin Centre—parking (Question No 1676)

Dr Foskey asked the Minister for Territory and Municipal Services, upon notice, on 30 August 2007:

(1) Is the Minister aware (a) of the multitude of parking problems for volunteers, users and tenants of the Griffin Centre, particularly since the development of Section 84 and (b) that there are only two disabled car spaces outside the Griffin Centre, where there used to be six disabled spaces in the general government carpark along Bunda St, as well as additional disabled parking within the old Griffin Centre carpark;

(2) Is the Minister considering (a) making more disabled spaces available in the area and (b) instituting time limited parking in the existing disabled spaces in the interim;

(3) Is the Minister aware that (a) many volunteer organisations, including many users of the Griffin Centre, are issued with Volunteer Parking Permits which are only useable in Government long-stay parks and (b) the only applicable carparks are those either near the Assembly or near the Law Courts, both of which are quite far from the Griffin Centre, especially for the elderly, resulting in volunteers doing less volunteer work;

(4) Is the Minister considering improving options for users of these volunteer parking permits, either by validating volunteer permits in parallel parks alongside the Centre or in meter parks in Civic and Braddon or by the Government purchasing prepaid tickets from the QIC carparks, which are close to the Centre;

(5) Given that construction workers are using most of the short stay parks alongside the Centre, making loading impossible, is the Minister considering reinstituting five to 15 minute spots in order for users of the Griffin Centre to load and drop off;

(6) Will the Government be installing bicycle parking alongside the Griffin Centre.

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

(1) (a) I am aware that there are parking concerns at the Griffin Centre.
(b) Yes.

(2) (a) Yes. Two new disabled parking spaces were installed on 23 July 2007.
(b) This was instituted on 23 July 2007.

(3) (a) and (b) Yes.

(4).Under the volunteer parking permit scheme, community organisations that have volunteers, may apply for two types of volunteer permits, 'Short Stay' and 'Location Specific'. The holder of a short stay volunteer permit may park in short-stay ticket or meter parking areas for free provided the time limit on the parking sign is not exceeded. There are many meter parking areas closer to the Griffin Centre than the Assembly or Law Courts carparks. I have asked my officers to ensure that the difference and conditions of use in the two types of permits is clearly explained to the community groups that use the Griffin Centre. I expect my officers to contact those groups in the near future. I have also asked for advice on what other options may be available.

(5) This has been done. Two 15 minute parking spaces were installed in Narellan Place adjacent the Griffin Centre on 23 July 2007. Eight 30 minute pay parking spaces will be installed on the opposite side of Narellan Place within the next two months.

(6) Yes. 39 bicycle racks will be installed in Bunda Street, Genge Street and Narellan Place near the Griffin Centre in the next month.

Waramanga—pruning work (Question No 1677)

Dr Foskey asked the Minister for Planning, upon notice, on 30 August 2007:

(1) Can the Minister confirm that an order was made, following hearings in the Administrative Appeals Tribunal (AAT) and Supreme Court, requiring the lessees of Block 45 Section 37,Waramanga, by or before 6 December 2004 to (a) trim or prune all vegetation on the block that is bamboo that extends beyond any boundary of the block so that it does not extend beyond the boundary, and in such a way that prunings and loppings fall only within the boundaries of the block and (b) trim, prune, or remove all vegetation on the block that is bamboo, to the reasonable satisfaction of the Territory;

(2) Did someone, on behalf of the Territory, indicate to the lessees prior to or on 6 December 2004 what amount of trimming, pruning or removing of bamboo would be satisfactory to the Territory; if so, who; if not, how were the lessees expected to comply with the order by 6 December 2004 in the absence of the indication of satisfaction from the Territory;

(3) Did officers from ACT Planning and Land Authority (ACTPLA) attempt to ascertain what removal work had been undertaken by the lessees before 16 June 2005;

(4) Was the trimming, pruning and removal work undertaken by the lessees a reasonable attempt to comply with the order in the circumstances;

(5) Is the inability to confirm that the removal work was reasonable a result of the failure of officers of ACTPLA to inspect the property before 16 June 2005;

(6) Did ACTPLA obtain a search warrant on 24 November 2005 from the Magistrates Court after it informed the Court that the lessees had failed to comply with an order of the ACT AAT and had breached section 258 of the *Land (Planning and Environment) Act 1991*;

(7) Did four ACTPLA officers and two members of the Woden Police undertake a search of the premises on 1 December 2005, using a boltcutter to enter the premises, and take still and video photographic recordings within the premises;

(8) Was the rectification notice issued by ACTPLA on 20 December 2005 issued stating that the notice (a) requires the lessees to remove all vegetation on the land that is bamboo by digging out the entire plant both cane and rhizome and dispose of the canes, rhizomes and entire plants at an appropriate waste or recycling facility and (b) it is issued on the grounds that the lessees failed to comply with an order requiring the lessees to remove, by 6 December 2004, all vegetation on the land that is bamboo;

(9) Has the matter of the alleged failure of the lessees to comply with the order and the rectification notice been referred to the Director of Public Prosecutions (DPP); if so, what action has been taken by the DPP on that reference;

(10) Has ACTPLA notified the lessees that it now intends to employ contractors to undertake work referred to in the rectification notice and to require the lessees to pay the costs so incurred;

(11) Were the subsequent actions on the part of ACTPLA justified in light of the failure of ACTPLA to advise the lessees as to what amount of trimming, pruning or removing of bamboo would be satisfactory to the Territory;

(12) Is the ACT Government Solicitor, acting for ACTPLA, currently seeking to recover from the lessees legal costs in part referable to the Supreme Court hearing on this matter;

(13) Is pursuing the lessees for the legal costs incurred in the making of the order justified in light of the failure of ACTPLA to advise the lessees as to what amount of trimming, pruning or removing of bamboo would be satisfactory to the Territory.

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

(1) Yes.
The lessees of Block 45 Section 37,Waramanga Mr and Mrs Gerondal made application to the ACT Administrative Appeals Tribunal (AAT) for the review of an Order issued under Section 256 of the *Land (Planning and Environment) Act 1991* (Land Act).

The lessees application to the AAT was for a review of an Order issued by the ACT Planning and Land Authority (Authority). The Authority's Order, issued on 20 December 2002, required the Gerondals to complete previously approved extensions to their house by 6 November 2004. The Order required the lessees to significantly reduce the extent of the overgrowth of trees and vegetation on the block and maintain it in a clean state, this included the storage of building materials within the confines of an approved structure by 24 January 2003.

Following three days of hearings where the lessees presented a large volume of material in support of their case they were also able to extensively test the evidence presented by the Authority. The AAT set aside the Authority's decision and substituted the following decision: -

The lessees are directed to: -

i. Comply with the terms of approval in plans No 26446D, E and F (or in any amended plans that may be approved in writing by the Territory) to construct extensions to the existing residence and related works on Block 45 Section 37 Waramanga, all the works to be completed by 5 November 2004 or within such further time as may, prior to the date, be agreed by the Territory.

ii. Clean up the leasehold Block 45 Section 37 Waramanga in accordance with the schedule or within such further times as may, prior to the date specified in the schedule, be agreed in writing by the Territory.
The schedule provides as follows:

iii. By or before 31 August 2003, all building materials on the block to be stored inside the residence or the garage or shed or behind the rear building line of the residence, except at times when in use for construction work.

a By or before 31 August 2003, all wood or timber that is building material (other than material incorporated in buildings on the block) to be stored in such a way that it is not in contact with the soil.

b By or before 31 August 2003:

(i) Trim or prune all vegetation on the block that is bamboo that extends beyond any of the block so that it does not extend beyond the boundary, and in such a way that prunings and loppings fall only within the boundaries of the block; and

(ii) Trim, prune, or remove all vegetation on the block that is bamboo, to the reasonable satisfaction of the Territory.

(iii) By or before August 31 2003, remove from the block any loppings, prunings or clippings of vegetation that is bamboo.

(iv) By or before 5 November 2004, remove from the block, all unused building material, including any timber off cuts or off cuts of any other material, and any metal, bricks, concrete or masonry other than that that is stored inside the garage or shed or behind the rear building line of the residence.

(v) Until 5 November 2004, all building material, off cuts or waste not to be used in the construction (other than any other material stored in accordance with clause1), including any timber off cuts or off cuts of any other material, and any metal, bricks, concrete or masonry, to be removed from the block or stored in a 'miniskip' within the boundary of the block.

(vi) In this schedule "building material" means any material that is to be incorporated in the building or in part of the building on the block

The following quotation from the introduction to the President of the Tribunal's statement of reasons for the above decision may assist your understanding of the overall situation

"On 9 April 2002 an article appeared in the Chronicle entitled "27 Years of Housework". It began by noting that in 1975 when the then Prime Minister, Gough Whitlam, was dismissed and Think Big won its second Melbourne Cup, a

Waramanga couple received permission to extend their home. Twenty seven years later, it continued, the work was incomplete and frustrated neighbours had almost given up hope that they would ever see it finished. The Chairman of the Weston Creek Community Council described the block as a building site and had been in that condition for almost living memory."

After the Tribunal handed down its decision the lessees chose to appeal that decision to the ACT Supreme Court. The lessees were advised at that time that unlike the Tribunal the ACT Supreme Court is a cost jurisdiction and that should they be unsuccessful in their claim they would be liable for the full cost of both parties.

The ACT Supreme Court upheld the decision of the Tribunal and remitted the matter back to the Tribunal to adjust the dates in the schedule to allow for the time taken for the scheduling and hearing of the appeal.

Justice Crispin in handing down his decision said of the section of the order dealing with the bamboo

> "In the present case I see no difficulty in the interpretation of this order. It seems to me to have been phrased with commendable clarity and the objections to it really seem to have been based on a reluctance to comply with it".

The Tribunal revised its order and changed the dates for compliance with the Order from August 2003 to 6 December 2004 and from November 2004 to 5 March 2005.

(2) No.

However it should be noted that the matter in question, specifically what does the term "to the satisfaction of the Territory" mean with respect to this matter were dealt with during the hearing in the ACT Supreme Court. Justice Crispin in his decision wrote that:

"The eighth ground of appeal alleged:

8. The Tribunal erred in the orders made, which are incapable of compliance by reason of imprecision and/or exposing or requiring the appellants to commit civil or criminal wrongs in order to effect compliance.

84. The first of the substituted directions requires the lessees to "comply with the terms of the approval in plans 26446 D, E, and F (or in amended plans that may be approved in writing by the Territory) to construct extensions to the existing residence and related works on block 45, section 37 Waramanga …". As I have mentioned, there were no explicit terms in the approval and, if these words had to be construed without reference to their context, some confusion could arise. However, the words were immediately followed by the direction "all the works to be completed by 5 November 2004 or within such further time as may, prior to that date, be agreed in writing by the Territory". In this context it seems relatively clear that that compliance requires completion of the works approved by that date. Furthermore, perusal of the reasons for judgment reveals, as I have already mentioned, a debate about the words "terms of approval" and extensive discussion

about the implication of a term requiring that the works be completed and that they be completed within a reasonable time. In this context I think that the meaning of the direction is quite clear.

85. The requirements of order (b) are, in my view, very clear. It was submitted by the appellants that they were too vague because the precise nature of the trimming and pruning of the bamboo is not specified. It was also argued that bamboo was not a noxious weed or a "pest plant". However, the directions do not suggest that the bamboo falls within either description and, having regard to the terms of the order, there was no need for such a precise specification as suggested. The orders in relation to bamboo required the appellants to trim or prune the bamboo that extends beyond the boundaries so that it no longer extends beyond the boundaries and in such a way that the prunings and loppings fall back within the block. Ms Gerondal argued that this would require her to trespass on neighbouring land but I do not accept that this would be necessary.

86. The directions require the appellants to trim or remove the bamboo to the reasonable satisfaction of the Territory. Whilst I understand the heartfelt objections which the appellants have to that direction, it does seem to me to be a perfectly clear order and one which could not be impugned on the basis suggested.

87. Furthermore, as Dr Jarvis pointed out in his submissions, an order is not rendered invalid merely because its scope and purpose do not appear with pellucid clarity. There may be circumstances in which it cannot be determined that particular matters fall within its scope but, generally speaking, courts and parties, for that matter, must do the best they can to interpret the orders made.

88. In the present case, I can see no difficulty in the interpretation of this order. It seems to me to be have been phrased with commendable clarity and the objections to it really seem to have been based upon a reluctance to comply with it.

There was no attempt by the Authority to enforce the order on or about 6 December 2004.

On 1 March 2005 the lessees wrote to the Chief Planning Executive Mr Neil Savery. In that letter the lessees raised a number of issues regarding the order. Mr Savery replied to the lessees correspondence of 1 March 2005 on 27 July 2005.

The letter (Attachment A) advised the lessees that consistent with previous advice to them they should undertake the work and then seek to have the work they had undertaken inspected to determine that it met the satisfaction of the Territory.

This advice was the consistent earlier advice provided to the lessees. During the various order, tribunal and court processes not the Authority, the Tribunal nor the Supreme Court has sought to dictate how the work was to be done as that is a decision left to the lessees. The order affirmed by both the Tribunal and the Supreme Court describes an outcome to be achieved by the lessee not a process to be undertaken.

The part of the order in relation to bamboo extending into neighbouring properties both above and below ground is unambiguous. The steps taken to prevent later extension of bamboo beyond the boundaries of the block would impact on the nature and extent of the pruning. Further the level of pruning and removal of other bamboo

was also dependent on how the other sections of the order relating to the storage of building materials was complied with.

(3) No.

The order is in two parts with compliance with the vegetation and storage of wood and timber building materials requirements set for the

6 December 2004 and compliance with the building and associated works set for 5 March 2005. Given the history of the works on the lease the Authority allowed extra time from the end of the last date for compliance before recommencing inspections at the lease.

(4) No. The inspection of 16 June 2005 identified that mature canes continued to extend over the lease boundaries.

(5) No

(6) Yes

(7) On 1 December 2005 four officers from the Authority appointed as inspectors under the *Land (Planning and Environment) Act 1991* sought to execute a valid warrant issued by the Magistrates Court.

The officers were unable to make contact with anyone inside the house so they, under police observation, used bolt cutters to gain entry to the lease.

The evidence gathered (some of which is at Attachment B) showed that the order had not been complied with either in relation to the vegetation or the building works.

(8) Yes.

(9) No

(10) Yes, in a letter from the Chief Planning Executive to the lessees on 29 May 2007 (Attachment C).

(11) Unable to answer as the subsequent actions are not identified.

(12) Yes, the ACT Government Solicitors Office is seeking to recover its costs on behalf of the Territory. The lessees were fully informed when they lodged their application to the ACT Supreme Court for a review of the AAT's decision that they were entering a cost jurisdiction.

Appeals on decisions of the Tribunal's can only be made on a point of law. The decision that the lessees were contesting was one where the law was not ambiguous nor was the way the Authority had applied the law.

The hearing before Crispin J ran over two days. The lessees presented eleven grounds on which they claimed the Tribunal had erred in law in its decision. The grounds included the relative weights that the Tribunal had placed on various pieces of evidence and the conclusions drawn there from.

They also included that the Territory lacked jurisdiction and thus the Tribunal lacked jurisdiction to issue orders in relation to design and siting issues.

The lessees also alleged that there were grounds for there to be a reasonable apprehension of bias in the decision of the President of the Tribunal. These grounds were widely canvassed over the two days of the hearings however none could be established to the satisfaction of the court.

Following the awarding of costs to the Territory the ACT Government Solicitor's Office provided the lessees with an overall bill of $36,762.50 representing the cost incurred by the Territory in defending the case.

The lessees then sought a detailed breakdown of this amount. The ACT Government Solicitors Office referred their file to a costing solicitor to provide this breakdown in taxable form. The consequence of that process was a revision of the costs at the higher sum of $51,113.10.

The lessees then applied to the ACT Supreme Court for the taxation of the costs. The ACT Supreme Court on taxation reduced the Territory's overall costs to $42,011.19 but allowed the ACT Government Solicitors Office to claim the additional cost of taxation. These costs amounted to $7,258.38 resulting in a revised cost of $49,269.57.

This amount is currently attracting interest at the ACT Supreme Court rate of 11%. The ACT Government Solicitor's Office is pursuing this debt that is owed by the lessees to the Territory.

(13) Yes. The legal costs were not for the making of the order.

The costs owed by the lessees to the Territory were incurred when the lessees decided to appeal the decision of the Tribunal to the ACT Supreme Court. The majority of the order deals with issues associated with the failure on the part of the lessees to complete building works, which the lessees commenced in 1975.

The costs incurred by the lessees are payable irrespective of compliance or otherwise with the order.

(Copies of the attachments are available at the Chamber Support Office).

Kambah—suburban block, cleaning (Question No 1678)

Dr Foskey asked the Minister for Planning, upon notice, on 30 August 2007:

(1) In relation to the Administrative Appeals Tribunal (AAT) consent decision Order No. 20022986, dated 10 July 2002, concerning the cleaning up of the suburban block at 54 Morant Circuit, Kambah, on what basis was the AAT consent decisions translated by ACTPLA inspectors into emptying the block of all items in the yard regardless of value or use;

(2) Was the arbitrary nature of the clearance and the lack of consultation with the lessee a breach of the spirit of the AAT consent decision;

(3) Was the lessee informed in writing as to what the satisfaction of the Territory meant in relation to a clean up of the block, either by himself or by ACTPLA, before the clean up was conducted;

(4) What policies or procedures does ACTPLA use to decide whether a block is considered a dirty block;

(5) What was ACTPLA's lawful reason for (a) entering the premises on 2, 3 and 4 December 2002 and (b) instructing contractors to remove a substantial amount of the owner's possessions and relocate these to the nearest landfill;

(6) What process does ACTPLA use to identify unapproved structures from structures that did not require approval prior to demolition by the contractors.

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

(1) The effect of the consent decision was to replace the original date on which the order of 10 July 2002 had to be complied with from 8 August 2002 to the later date of 25 November 2002.

The consent decision stated that:

(a) substituting the date of 25 November 2002 for the date of 8 August 2002 specified in the paragraph number (i) in the order of the Delegate of the Minister for the Environment Land and Planning:

(b) Deleting the paragraph numbered (ii) from the order and substituting:
"(ii) such later day as I agree in writing; provided always that the operation of paragraph (i) above will not be affected unless and until I give such agreement";

(c) The decision is otherwise affirmed.

The consent decision did not change the substance or the intent of the original order which was to clean up a leasehold by removing the accumulation of miscellaneous items and debris from the land and to continue to keep the land clean to the satisfaction of the Territory.

The value and or use of the items in the yard was not a relevant consideration for the clean up. The order was to remove the accumulation of items and debris from the land. Given the long and protracted nature of this matter there can be no doubt as to either the intent or the scope of the clean up that was to be undertaken.

(2) The clean up of the leasehold was neither arbitrary nor lacking with respect to consultation. The consent decision was agreed to by the lessee at the end of a process that had commenced in May 2002 and had involved a multitude of correspondence between ACTPLA and the lessee over that period of time.

(3) No

(4) ACTPLA uses the following criteria to determine what constitutes and unclean residential leasehold.

Visibility
The area of the lease to be assessed must be:

a) Visible from the street;

b) Visible from other areas of the public domain – walkways, reserves, parks etc; or

c) Visible (easily) from adjacent blocks at ground floor level or from natural ground level at least 1.5m from a side boundary and at least 3.0m from a rear boundary of the block

Coverage
30% or more of the visible area of the lease that is not occupied by approved structures is occupied by one or more of the items or class of items listed below.

Items to be included in coverage: -

a. machinery;
b. machinery parts;
c. derelict vehicles;
d. vehicle parts;
e. discarded bottles, containers or packaging;
f. builders soil;
g. builder's spoil, including leftover materials from renovations;
h. refuse;
i. scrap material;
j. items associated with residential activities but in quantities greater than usually associated with residential activities;
k. items not normally associated with residential activity being stored on the land; and
l. excessive vegetation only when in conjunction with one or more of the above. Note where there is only excessive vegetation and that vegetation constitutes a potential or actual fire hazard then the matter will be dealt with by the Fire Brigade.

(5) The lawful reason for entering the premises was that the lessee did not comply with the consent decision of 21 October 2002.

The version of the *Land (Planning and Environment) Act 1991* (the Land Act) in force in December 2002 empowered authorised persons to enter the premises to complete the work required under the consent decision of 21 October 2002 that was not complied with by the agreed date of 25 November 2002.

Section 259 of the Land Act stated that:

> *(1) Whether or not proceedings are instituted for an offence against this part, the Minister may –*
>
> *direct that a person authorised by the Minister enter a place on which a controlled activity is being conducted and carry out work or conduct an activity to which an order relates which was not carried out within the period specified in the order;*

The contractors were instructed to carry out the work that the lessees had agreed to undertake in the consent order of 21 October 2002. Specifically to remove the accumulation of items and debris from the land which included:

> broken pieces of wood, large pieces of weathered timber, broken and damaged bricks, rusted and old pieces of metal and tin, old rusted and damaged tins, old

rusted and damaged 44 Gallon drums, paint tins, weathered paper, weathered and damaged books, fridge carcasses, broken and damaged chairs, bald and damaged tyres, broken and damaged wheels, broken and leaking car batteries, weathered and moth eaten clothes , broken and damaged furniture and broken and damaged sink, empty rusted and broken gas cylinders, broken and damaged roller doors and tilt doors, rocks , concrete pieces and pieces of tubing, old and damaged cable reels, cracked fish tank, old and weathered bags and folders, broken and damaged toilets, rusted and damaged tools, weathered and rusted wheelbarrows (some without wheels) broken and rusted bikes and frames, broken and weathered cupboard, parts of engines, old and rusted pieces of washing machines, damaged plastic bread crates, rusted twines of wires, old and rusted lawn mowers with and without engines, weathered and damaged door to cool room, old and damaged air conditioning units, old and damaged fence palings, weathered and damaged pallets, broken and damaged window frames, rusted and damaged car radiators, old and weathered pieces of carpet.

A number of unregistered and un-roadworthy vehicles were removed from the block. All of the vehicles contained significant collections of junk material within them. The total number of vehicles removed was eight this included a van, three trucks and four cars.

(6) Authority officers consulted the Territory Lease file and the Building file.

All structures on the lease for which development and building approval had been sought and granted are recorded on the Territory Lease file and the Building file.

To determine if an approval was in force for any structures on the lease officers consulted both files. None of the structures removed had either development or building approval.

Only structures that fall within the definition of being exempt from development approval and/or building approval are permitted on residential leases. Structures that are not approved, that is all structures that are not recorded in the Territory Lease file or the Building file, are assessed to determine if they meet the exemption criteria set out in Schedule 1 of the *Land (Planning and Environment) Regulations 1992*. Structures that do not meet the exemption criteria are therefore unlawful.

Schools—lockdowns (Question No 1680)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 30 August 2007:

(1) What is the number of lockdowns that have occurred at ACT government schools for (a) 2007 to date and (b) 2006;

(2) What is the name of each school where a lockdown has occurred in (a) 2007 and (b) 2006 and what was the reason for each lockdown occurring.

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

The Department of Education and Training's Emergency Management Checklists outline lockdown procedures in three stages, with implementation of lockdown at stage 3 or red alert.

(1) (a) Nil. (b) One.

(2) (a) N/a. (b) Rivett Primary School. The reason for the lockdown at Rivett Primary School was to secure the students, on the advice of the Australian Federal Police, due to an incident in the suburb.
