Debates

WEEKLY HANSARD

SEVENTH ASSEMBLY

Legislative Assembly for the ACT

17 SEPTEMBER 2009

www.hansard.act.gov.au

Thursday, 17 September 2009

Petition: Roads—footpaths—petition No 99—ministerial response....................4133
Long Service Leave (Community Sector) Amendment Bill 2009....................4133
Workers Compensation (Default Insurance Fund) Amendment Bill 2009 (No 2)..4136
Education Amendment Bill 2009....................4138
Campaign finance reform....................4141
Education, Training and Youth Affairs—Standing Committee....................4141
Standing and temporary orders—suspension....................4160
Crimes (Murder) Amendment Bill 2008....................4160
Justice and Community Safety—Standing Committee....................4171
Crimes (Assumed Identities) Bill 2009....................4171
Questions without notice:
- Cotter Dam—cost....................4175
- Cotter Dam—project management....................4176
- Schools—truancy....................4178
- Cotter Dam—cost....................4180
- Cotter Dam—briefings....................4181
- Education—early childhood....................4183
- Waste—management....................4186
- ACTION bus service—occupational health and safety....................4189
- Schools—sizes....................4190
- Youth justice....................4192
- Housing—construction....................4194

Supplementary answers to questions without notice:
- Waste—management....................4196
- Pace Farm—battery hens....................4196
- Cotter Dam—cost....................4198

Papers....................4199
Territory-owned Corporations Act—statements of corporate intent....................4199
Paper....................4204
Cotter Dam—call-in powers....................4204
Social housing (Ministerial statement)....................4207
Capital works projects (Matter of public importance)....................4215
Crimes (Assumed Identities) Bill 2009....................4233
Dangerous Goods (Road Transport) Bill 2009....................4239
Cotter Dam—Paper....................4246
Adjournment:
- Health services....................4246
- Brindabella Blues Football Club....................4246
- Attendance at community events....................4246
- Print handicapped radio....................4246
- Hockey Canberra....................4246
- Mr Roland Manderson....................4248
- Mr Roland Manderson....................4249
- *Canberra Times* fun run....................4249
- Filmlink....................4249
- Menslink....................4249
- Mr Roland Manderson....................4250
- Mr Ken Crawford....................4251

Mr Roland Manderson ... 4252
Teachers—quality ... 4252
Young Achievement Australia ... 4253
Mr Roland Manderson ... 4255
Legislative Assembly—sitting hours ... 4255
Schedules of amendments:
Schedule 1: Dangerous Goods (Road Transport) Bill 2009 ... 4256
Schedule 2: Dangerous Goods (Road Transport) Bill 2009 ... 4256
Answers to questions:
Government—advertising (Question No 248) ... 4259
Government—rental properties (Question No 249) ... 4259
Government—rental properties (Question No 250) ... 4260
Public service—travel costs (Question No 252) ... 4260
Public service—staff training (Question No 253) ... 4261
Energy—concessions (Question No 255) ... 4262
Public service—email accounts (Question No 256) ... 4262
Canberra Technology Park (Question No 257) ... 4263
Housing Review Committee (Question No 258) ... 4265
Housing—public (Question No 259) ... 4266
Children—Vardon report (Question No 261) ... 4267
Bushfires—back-burning (Question No 262) ... 4268
Housing—transitional services (Question No 263) ... 4268
Roads—bus transit lanes (Question No 267) ... 4270
Canberra Hospital—car park (Question No 268) ... 4270
Finance—government expenditure (Question No 269) ... 4272
Children—playground upgrades (Question No 271) ... 4273
Government—advertising (Question No 274) ... 4274
Hospitals—elective surgery (Question No 275) ... 4275
ACT Corrective Services—death in custody (Question No 276) ... 4276
Public service—disabled persons (Question No 278) ... 4277
Health—solariums (Question No 279) ... 4277
Calvary Private Hospital (Question No 281) ... 4278
Housing—public (Question No 282) ... 4279
Economy—poverty proofing (Question No 285) ... 4279
Government—advertising (Question No 292) ... 4280
Finance—strategic budget review (Question No 293) ... 4281
Heritage—historic places and objects (Question No 305) ... 4281
Bicycles—monitoring (Question No 306) ... 4282

Thursday, 17 September 2009

The Assembly met at 10 am.

(Quorum formed.)

MR SPEAKER (Mr Rattenbury) 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.

Petition
Roads—footpaths—petition No 99—ministerial response

The Clerk: The following response to a petition has been lodged by a minister:

By Mr Stanhope, Minister for Transport, dated 15 September 2009, in response to a petition lodged by Mr Smyth on 18 August 2009 concerning the closure of pedestrian access to John Close, Gilmore.

The terms of the response will be recorded in *Hansard*.

The response read as follows:

> The ACT Government notes the Petition submitted by the petitioners, tabled by Mr Smyth MLA and received by the Assembly on the 18 August 2009, and makes the following comments:
>
> - Walkways such as this form an integral component of the community footpath network. They provide access for pedestrians and cyclists through suburbs to bus stops, shops, green areas and other community facilities.
>
> - An officer of the Department has been in contact with the Australian Federal Police (AFP). The AFP advised that police patrols had been despatched to the area in response to requests by residents and the situation was quickly brought under control. The AFP also advised that the residents were happy with the outcome.
>
> - The ACT Government is concerned that the removal of this footpath would inconvenience far more members of the local community than those living in John Close. The AFP also agrees that the situation does not warrant closure of this walkway.
>
> - Although I am sympathetic to the residents in John Close, I have an obligation to act in the interests of the wider community. Consequently, I regret that I am unable to support the closure of this walkway.

Long Service Leave (Community Sector) Amendment Bill 2009

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

Title read by Clerk.

MR HARGREAVES (Brindabella—Minister for Disability and Housing, Minister for Ageing, Minister for Multicultural Affairs, Minister for Industrial Relations and Minister for Corrections) (10.05): I move:

> That this bill be agreed to in principle.

Members will recall that only last month this Assembly debated the passage of the Long Service Leave (Portable Schemes) Act 2009. That act continued a range of improvements being currently undertaken in the area of long service leave management and administration in the ACT, and also provided the vehicle for the integration of further industry-specific schemes into the administrative fold of the authority.

During that debate I also foreshadowed that, as minister responsible for long service leave, it would be my great pleasure to soon present to this Assembly, on behalf of the Minister for Community Services, legislation to provide for a portable long service leave scheme for the community and childcare sectors. I acknowledge the work done by members of the Greens party who have been dealing with and talking to people in the community sector about this particular initiative. I thank them very much for that.

Mr Speaker, the time has arrived. The Long Service Leave (Community Sector) Amendment Bill amends the act by including a schedule specific to the community services sector to establish a mandatory portable long service leave scheme for its workers and employer organisations.

This bill is consistent with a key recommendation made by the ACT community sector task force in its 2006 report for the ACT government to legislate a mandatory portable long service leave scheme for the sector.

The bill defines the ACT community sector consistently with the definition in the national classification of community services. The schedule created by the bill sets long service leave entitlements for eligible employees at a fixed rate of leave for every year of service up to five years employment in the sector. It describes the contribution that is required by employers to cover workers' entitlement for their ongoing service.

The scheme will be administered by the new amalgamated Long Service Leave Authority. The authority estimates the scheme's establishment costs as a one-off cost of $350,000. An actuary study to identify the cost of the scheme was undertaken and found that these establishment costs "should adequately cover the costs of both the basic benefit and ongoing administration of the scheme".

Driving the development of this particular scheme is the government's recognition of the increasing demand placed on the community sector's services, and the impacts this has on its workforce. The scheme will support community sector workers in a number of ways. It will protect the basic entitlement to long service leave for all community sector workers, even where this is accrued by service to multiple

organisations, similar to government workers' entitlements to long service leave even if accrued by service to multiple government agencies. The scheme acknowledges loyalty to the sector rather than just one organisation, thus enhancing mobility and facilitating the creation of a sustainable career path.

The proposed scheme is strongly supported by unions and employees as an appropriate strengthening of workers' entitlements in the sector. During the consultation process, broad support was expressed for implementing a scheme that was mandatory, and one that is broadly defined. This legislation reflects this call for broad application.

The scheme will cover community sector and childcare sector workers. The scheme will be applied across different organisational structures, for profit and not for profit, and in both community and private sectors. It will also be made available across different working arrangements, including full time, part time, casual and short tenure arrangements such as contracting. Under the legislation, the scheme will include organisations whose funding sources can include the ACT and the commonwealth government.

The ACT government is committed to implementing the scheme in the best interests of the community services sector and its employees. A primary focus for the introduction of this scheme is to promote loyalty of employees to this sector, which I anticipate will in turn lead to a more sustainable sector.

I expect that the scheme will also assist in the development of more career options for community sector workers and, by helping to facilitate movement between organisations, potentially provide more variety in work and greater prospects for promotion. The scheme will assist workers to optimise their work-life balance by enabling them to take breaks between positions while retaining their attachment to the sector. In these many varied ways, I expect that this scheme will support the community sector in retaining a skilled workforce that fosters a more sustainable community sector in the ACT.

As part of the government's integrated approach to support sector viability, the introduction of the scheme is being augmented by the government's industrial relations review of the community sector. The purpose of this review is to identify current wages and conditions of community sector workers and provide industrial relations advice to the sector. The outcome of the review is intended to work in concert with associated reforms, including the community services sector scheme.

I would like to express my appreciation to the staff of the Department of Disability, Housing and Community Services, particularly those in the community services element of the agency, for their assistance and dedication in bringing this forward. I would also like to say a big thank you to the Office of Industrial Relations—to Louise Gilding, John Rees, Meg Brighton and Robert Gotts—and to other people like Jodie. Thank you very much for your work; it has been fantastic.

The bill proposes that the scheme will commence on 1 July 2010. I commend the Long Service Leave (Community Sector) Amendment Bill 2009 to the Assembly.

Debate (on motion by **Ms Hunter**) adjourned to the next sitting

Workers Compensation (Default Insurance Fund) Amendment Bill 2009 (No 2)

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

Title read by Clerk.

MR HARGREAVES (Brindabella—Minister for Disability and Housing, Minister for Ageing, Minister for Multicultural Affairs, Minister for Industrial Relations and Minister for Corrections) (10.13): I move:

> That this bill be agreed to in principle.

The Workers Compensation (Default Insurance Fund) Amendment Bill 2009 (No 2) is directed towards refining the operation of the default insurance fund within the ACT private sector workers compensation scheme to ensure that it remains a sustainable and viable safety net for injured workers. The bill will amend the Workers Compensation Act 1951 to restore the uninsured employer arm of the fund to its original statutory purpose and introduce revised funding arrangements for the fund which align with standard insurance practices.

As I previously advised this Assembly, the fund was created in 2006 as a result of the merger between two entities: the workers compensation nominal insurer and the workers compensation supplementation fund. The uninsured employer arm of the fund now performs the functions of the nominal insurer and provides a safety net of protection to workers who suffer a work-related injury but would otherwise be denied access to their statutory entitlements because of their employer's failure to maintain appropriate workers compensation insurance arrangements. Simply put, the intent of the fund is to ensure that injured workers whose employers fail to take out a policy are not disadvantaged because of their circumstances and are treated the same as injured workers whose employer held a policy of insurance.

Unfortunately, earlier amendments in 2005 to the Workers Compensation Act have resulted in unintended anomalies that have moved the uninsured employer arm of the fund far beyond its intended purpose. Most significantly, eligibility to claim against this arm of the fund has been significantly broadened. One practical consequence is that some principal contractors are avoiding their responsibility to ensure that their subcontractors have appropriate workers compensation policies. Instead, when the cost of an uninsured subcontractor's claim falls upon their policy, they seek indemnity from the fund. This shifts the burden from its rightful place and onto the shoulders of those employers who do comply with their obligations, who supported the fund via a levy and who do have a policy in place.

Clearly, the ability of principal contractors to avoid their statutory responsibility in these circumstances undermines the compliance objectives inherent in the Workers

Compensation Act and results in an inequitable allocation of risk across the employee market. Every claim made against the fund by principal contractors in these circumstances represents an increased cost to those compliant employers within the territory. For these reasons, this bill proposes a range of improvements that will restore the uninsured employer arm of the fund to its intended role—that of a safety net to ensure that injured workers have access to adequate and timely compensation benefits.

Importantly, the changes proposed will not affect the ability of injured workers to access other entitlements in respect of any work-related injury. The proposed amendments will bring home to roost that the responsibility of ensuring ACT workers are protected in the event of suffering a work-related injury lies with principal contractors and subcontractors, thereby ensuring that noncompliant employers do not receive an advantage over those employers who satisfy their workers compensation obligations under law.

The introduction of these amendments is further intended to improve the efficient and effective management of the fund with a view to ensuring its sustained operation. To further this goal, the bill introduces amendments that will implement a revised funding model through which the fund raises capital to fund liabilities that arise from claims of uninsured employers. These amendments are important on several grounds. Firstly, the amendments will bring the funding model into line with standard insurance practice in recognition of the fact that the fund operates in the shoes of an insurer within the ACT workers compensation scheme.

In addition, the amendments will ensure that the fund operates in a manner that is sustainable and consistent with the principles of robust credential management. Finally, the amendments will allow the fund to build sufficient reserves to meet its liabilities that arise through the actions of those employers who fail to protect their workers. Detail regarding implementation of the funding model will be the subject of further consultation with the industry.

In conclusion, the Workers Compensation (Default Insurance Fund) Amendment Bill 2009 (No 2) will assist to ensure the DI fund operates in a fair and equitable manner across the employer market and that it remains a viable safety net for injured workers well into the future.

I would like to express my appreciation to Robert Gotts, Meg Brighton, John Rees and Louise Gilding from the Office of Industrial Relations for their assistance in not only compiling this piece of legislation but also conducting the consultation process across the two sectors—that of the employer and that of the employee.

I note for the record the encouragement we have received from the chamber of commerce and industry. The chief executive, Dr Peters, indicated that his members are very keen to make sure that employers carry their full responsibility in respect of compensation in the event of an injury to their employees.

I also note the support of Mr John Miller, from the Master Builders Association, who has indicated that most of their members are compliant, and proudly so. There are

some members of the MBA, however, who are not compliant, and it is the position of the MBA that the compliant members are carrying the financial burden of those noncompliant members. They are supportive of this legislation going forward. Of course, I also recognise the support we received from the CFMEU and a raft of other unions which have at-risk occupations, such as the ANF and the SDA, notably Mr Athol Williams, who I know has been voluble in his support for the bill. I commend the bill to the Assembly.

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

Education Amendment Bill 2009

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

Title read by Clerk.

MR BARR (Molonglo—Minister for Education and Training, Minister for Children and Young People, Minister for Planning and Minister for Tourism, Sport and Recreation) (10.21): I move:

> That this bill be agreed to in principle.

Today I am introducing the Education Amendment Bill 2009, and I will discuss, firstly, the amendments and the current legislative framework, the role and purpose of suspensions within our schools and, finally, the programs and policies which support students and their families. This amendment to the Education Act fulfils Labor's election commitment to better support principals, teachers and schools by developing options for tougher suspensions.

Principals know their schools and they know their students. That is why the proposed amendment gives the Chief Executive of the Department of Education and Training and the Director of the Catholic Education Office the power to delegate their existing authority to school principals to suspend students for up to 10 days. This delegated power currently exists in the legislation but is limited to five days. It is important to give school principals the flexibility to manage issues as they arise in their schools.

School executive directors in both the department of education and the Catholic Education Office also know their schools. They know the students and the teachers in these schools. This is why this amendment also devolves power to these senior executive officers responsible for schools in the ACT. Specifically, this amendment gives the chief executive and the Catholic education director the option to delegate their authority to transfer students to another school to the senior executive officers of the department and the Catholic Education Office.

We invited the Catholic systemic schools to join us in these reforms. Their inclusion in these amendments will contribute to consistent practices between the two school systems. These amendments do not apply to the independent schools sector. Principals at independent schools in the ACT already have the authority to suspend students for

a period of up to 20 days. These reforms give principals more authority to manage the suspension process and reflect what the community wants.

Bullying, harassment and violence is unacceptable behaviour in our schools. It is also unacceptable behaviour in our communities. As I have said before, bullying is a community issue. When bullying stops in the wider community, we will see it stop in schools. This reform today has been made as a result of direct representations from the Canberra community. The government believe that we must ensure that schools are safe learning environments. In addition to giving principals more authority, we are implementing strategies to improve a student's successful transition back to school or into alternative education programs and settings.

The authority to suspend, exclude or transfer a student enrolled in an ACT public school rests with the Chief Executive of the Department of Education and Training. Currently, the chief executive can delegate his authority to suspend a student for up to five days to the principal of the school. Likewise, the authority to suspend or exclude students in a Catholic systemic school rests with the Director of the Catholic Education Office. Again, the director can delegate the authority to principals to suspend for up to five days. The authority to suspend students in independent schools rests with the principal of that independent school. As I said, they have the discretion to suspend for up to 20 days. In comparison to all other states and territories, principals in ACT public schools have delegated authority to suspend for the shortest time period. For example, principals in New South Wales, Queensland, Northern Territory, Victoria and South Australia have delegated authority to suspend for up to 20 days.

These reforms are about giving principals the appropriate authority to make decisions that reflect community standards and expectations. Suspension is, indeed, a serious sanction and is one of the range of strategies to address serious misbehaviour in schools. A number of policies and programs guide the way schools deal with incidents of misbehaviour. Many of these strategies aim to prevent such behaviour from occurring in the first place. In considering this proposal it, is important we have a clear understanding of why it may be necessary to suspend a student. We all know that most schools experience situations from time to time where it is necessary to suspend a student.

First and foremost, as far as our philosophy and practices go in the ACT, suspension is not just about punishment. The purposes for which a student might be suspended are threefold. Firstly, it is to restore immediate safety to the school environment and to other students and staff in the school or classroom. The second is to allow time for the school to review a particular incident, assess their response and to identify and put in place strategies to support the suspended student and their family. The third is to send a clear message to the school community about the significance of the behaviour and to send a message to the student that behaviour which is violent or inappropriate has consequences.

When a serious incident occurs in a school, the way the school responds sends a strong message to the community. When a student is suspended, the message very clearly is that antisocial behaviour is not tolerated in the school and the school takes

very seriously its responsibility for the safety and wellbeing of everyone in the school. It is a signal to the wider community about the expectations of behaviour within the school. It is also a signal about the protection of the right of all students to learn and teachers to teach in a safe environment. A period of suspension gives the student time to reflect on their behaviour and to accept responsibility for their actions.

I want to emphasise the point that the decision to suspend is not made lightly, or without the support of other policies and programs. ACT public schools are guided by the providing safe schools P-12 policy. This policy requires schools to consult with their community and to develop procedures which promote safe and supportive learning environments. Schools clearly articulate expectations of behaviour in the school and, importantly, they outline the consequences of breaches of these expectations. These safe schools policies are supported by pastoral care coordinators and youth support workers in every high school and school counsellors in every public school.

In addition, the ACT government formed the safe schools task force which brings together key stakeholders and provides advice regarding student safety in ACT schools. We are working hard to make all ACT schools safe. In 2008 the school satisfaction survey of students, staff and parents recorded high satisfaction with aspects of schooling relating to student support and students feeling safe. The survey revealed a substantial increase across primary and secondary years in student and staff satisfaction with the level of support they receive in relation to bullying or harassment issues.

I want to emphasise that students who are suspended are always supported. It is important to note the current safeguards, including the right for the student to be consulted, appeal rights and the right to continue an education program while suspended, remain unchanged. A student will still have the opportunity to comment on the information or material the principal intends to use in making the decision to suspend. A student will still be given information about the process to enable them to meaningfully participate and will be able to appeal the decision.

Schools work closely with students who are suspended and their families. Prior to the student's return, the school undertakes a significant amount of work to ensure a student's successful re-engagement with learning. However, this can take time. It may involve coordination with other agencies, both within and external to government. Parents, carers and the student need to be included in this process. Successful return to school requires the full support of those closest to the student.

These amendments give principals more authority and flexibility to manage suspensions in their schools. Principals are on the ground every day and are best placed to make these decisions. These reforms will build on a principal's capacity to appropriately manage antisocial behaviour and apply proportionate sanctions. Finally, I remind members of the Assembly that suspension is about dealing with the most serious incidents of antisocial behaviour in schools by ensuring safety within a school environment, providing support to the suspended student and their family, and, importantly, reassuring the community about the safety of schools and upholding community expectations about acceptable and appropriate behaviour. I commend the bill to the Assembly.

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

Campaign finance reform

Pursuant to standing order 128, Mr Seselja fixed the next day of sitting for the moving of the motion.

Education, Training and Youth Affairs—Standing Committee
Report 2

MS BRESNAN (Brindabella) (10:31): I present the following report:

> Education, Training and Youth Affairs—Standing Committee—Report 2—*School closures and reform of the ACT education system 2006,* dated 11 September 2009, including dissenting comments *(Ms Bresnan)*, additional comments *(Ms Burch)* and additional comments *(Mr Hanson)*, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

Today I have tabled the report of the Standing Committee on Education, Training and Youth Affairs entitled *School closures and reform of the ACT education system 2006.* First off I would like to thank the committee secretary, Sandra Lilburn, for her strength and forbearance throughout the entire process of this inquiry. Dr Lilburn went above and beyond the call of duty and I cannot thank her enough for all her hard work.

I would like to thank my fellow committee members, Mr Jeremy Hanson and Ms Joy Burch. I would also like to thank the many people who took the time to make the effort to give evidence to the committee, including people from the school community.

This inquiry, which commenced in February this year, received 76 submissions from 31 witnesses. Most people saw the inquiry as an opportunity to tell the committee of their experiences of the *Towards 2020: renewing our schools* reform process, which resulted in a significant restructure of the act.

Members will also be aware this restructure resulted in the closure of a number of primary and preschools. While the community heard that there had been benefits resulting from the restructure, many of the views expressed during the inquiry were, as was expected, critical of the government's decision to close schools.

While the inquiry has been criticised by some as looking to the past, the committee was more interested in the administrative and decision-making lessons that could be learned from this experience: what could be done better; what needs to be done now; what were the key themes?

The report makes a number of findings and recommendations. The findings included that while there was a need for reform and that some positive benefits had arisen from the Towards 2020 reform process, the public discussion required for such a major adjustment of the ACT public education system did not meet the standard required for genuine consultation. The committee found that without prior indication that a substantial change to the ACT education system was required, the need for such extensive reforms were not expected or well understood by the ACT community.

The consultation criteria were not clear to members of the community and consequently many believed that the reforms to the school system were solely motivated by the ACT government's financial concerns. Based on the evidence provided by many members of the community who will be most affected by these changes, the consultation process resulted in a number of negative impacts on the community.

The committee finds that there were inconsistencies in the evidence base supporting the Towards 2020 reform proposal, including adequacy of the assessment of the social impact, appropriate school size, veracity of the demographic and other statistical information, and vocational outcomes.

The committee finds that while having accepted the minister's position that the requirements of the Education Act in relation to the closure of a school were met, good public administration principles would suggest that a major restructure required a more strategic community engagement process.

The committee also found that the provisions in the Education Act were not adequate for a major restructure of the education system as was undertaken as part of the Towards 2020 program. The committee believes that a more sophisticated public administration approach to sustainable public schooling is required—one which includes a citizen-centred approach to decision making about the services that most affect people's lives.

I would also like to read out a number of the key recommendations from the report. The committee recommends that the delays associated with the heritage assessment of the Flynn primary school site be investigated by the ACT government and resolved as soon as possible. The committee recommends that the ACT government urgently liaise with the representatives of the John Flynn community group or other members of the Flynn community to negotiate the viability of alternative proposals for the closed school site.

The committee recommends that the democratic rationale of the citizen-centred governance model be incorporated into the government's community consultation and engagement guidelines and that it should report to the Legislative Assembly on the progress. The committee recommends that the ACT government develop comprehensive public guidelines for the conduct of public social impact assessments for any closures or amalgamations of ACT schools and similar high impact government services decisions.

The committee recommends that, based on the demographic, educational, social and economic evidence presented during the inquiry, the government immediately commence the process to reopen the Hall and Tharwa primary schools.

The education minister's responsibilities regarding school education in the ACT are prescribed in the Education Act. This inquiry has led me to consider quite closely what the legislative framework means when it comes to closing schools. Section 20(5) of the Education Act reads:

> Before closing or amalgamating a government school, the minister must—
>
> (a) have regard to the educational, financial and social impact on students at the school, the students families and the general school community …

In the limited time I have available here, I reflect on how, through this inquiry, we see the minister for education had regard to these impacts on students, families and the general school communities, as he was required to do.

I look closely at the evidence presented by the department and pay particular regard to the evidence the minister himself gave at a public hearing of the committee. It does not seem to show close scrutiny of the educational impact on students of the closure or reorganisation of the schools.

It is fair to say, however, that the argument was made, both directly and indirectly, that school closures were needed in order to ensure all students had an opportunity to experience successful learning, given—it was asserted—that the best size for a primary school is around 300 to 400 students.

There was no substantial evidence presented to the committee in support of this argument. Nor, as other witnesses pointed out, were the ongoing learning experiences of students at those small schools raised with them as a factor through the consultation and closing process. The only research that was offered by the department and the minister in support of this argument was a summary paper prepared by the very highly regarded Dr Brian Caldwell. The paper has been referred to in public documents on numerous occasions and invoked by the department in its submission.

More significantly, it was also included as key supporting evidence in the statement of reason that the government was legally required to produce for several of the school closures. It was the minister's view that these statements met the full legal requirements under the Education Act. Therefore, what is in them is particularly important. For example, the line which Mr Barr used to justify his decision to close Hall school reads:

> … based on the recent Australian study by Professor Brian Caldwell—

then identified in a footnote as *Research on school size: an educational transformations briefing paper*—

> the appropriate and effective size for a primary school is between 300 and 400 students.

But this is not an Australian study. It was a summary note on American research which found in favour of small schools. The committee wrote to Professor Caldwell asking about the provenance of the research paper and its relevance to the ACT. Professor Caldwell informed the committee that he had:

> … not advised on the applicability of these research findings on school size in the ACT or Australian context. More particularly there is no evidence to support a conclusion that primary schools of less than 300-400 students are necessarily less educationally effective because of their size.

To formally decide to close a school on the basis of a document which in every sense is not what you claim it to be would appear to indicate a failure of rigour and process. In other words, the key educational justification that the minister offered the committee and the Canberra community for closing so many schools was a hollow one. It makes me question the level of regard given to the educational impact these decisions would have on students that the Education Act requires.

Similarly, I was surprised at the lack of any real social impact analysis. I raised the matter with the minister in a public hearing of the committee and was advised to refer to the statements of reasons. Those statements make some cursory acknowledgement of community concern regarding the social impact of school closures. They do not provide evidence of any deeper analysis of the impacts.

When I questioned the minister on the methodology that he employed in having regard to the social impact on students at the school, the students' families and the general school community, the committee was advised that he had "nothing further to add to what was provided in accordance with the Education Act and the Administrative Decisions (Judicial Review) Act".

When decisions of such local significance are taken and when the relevant legislation requires due regard to be paid to the range of social impacts of those decisions, to simply dodge the question as to how that impact was considered was feeble to say the least. It is certainly profoundly insulting to those communities who are still feeling those social impacts.

Consequently, the committee sought advice from an expert in social impact analysis. Dr Ziller was not familiar with the Towards 2020 proposal. That was important because the committee was seeking guidance on the discipline and structure that should be brought to a professional social impact analysis, unaffected by personal views of the need or impact of the decisions themselves.

I refer members to the committee report and the transcript of the hearing in July. Dr Ziller described a detailed, thoughtful process that would look at the make-up of communities in fine detail, carefully consider the objectives and potential impacts of proposals, and use the process both to guide community engagement and to shape any mitigation strategies.

In regard to the document which the minister pointed to as the evidence of this consideration of social impact, Dr Ziller's comment was simply that she "could not

tell whether the summary was based on three volumes of analysis or half an hour's chat with the head of the department". Given the minister's firm assertion that the statements of reasons were the evidence, there are many in the community who would question what the analysis actually included.

A key finding of this report in terms of looking forward is for more comprehensive, supported community engagement and decision-making processes or else we risk similar community disillusion and loss of faith in government.

I wish to make a few comments on Ms Burch's dissenting report. I have to say I was extremely disappointed by the tone Ms Burch has decided to take in her additional comments. I am quite astonished that Ms Burch could participate so thoughtfully and constructively in the inquiry for such a long time, agree to about three-quarters of the report's recommendations, and firmly but respectfully disagree with others, only to provide a dissenting report of such a manic and contemptuous nature.

I must say it does sound like Ms Burch has been channelling the minister for education. It is disappointing that Ms Burch has described the report as "so lacking in substance" when a great deal of thought, hard work and research has gone into producing this report, not just by committee members but by the secretariat.

Ms Burch also agreed to the report and, as noted previously, the majority of the recommendations and could have at any stage raised her own recommendations and findings. Any imputations also reflect on Ms Burch's own judgement. Ms Burch has made a number of statements about members of the committee which I need to address, as her recollection of events appears to be different from mine.

Ms Burch has stated in relation to recommendation 13 on reopening Hall and Tharwa schools that it was only in the final minutes of deliberations that this recommendation was included. In fact, on 7 August when the committee first discussed issues to include in the report, I raised this as a recommendation or point I would include in the report. I also noted this in our first report deliberation.

It is also a shame that Ms Burch did not bring her recommendation No 1 to the committee for consideration. The committee has all along recognised the efforts of the department of education, school principals, teachers and all those involved in assisting students' transition, and it is highly likely the committee would have agreed to include this in the report.

I also seem to have a different recollection from Ms Burch regarding the proposed amendments to the Education Act. It is my recollection that a number of submissions and witnesses spoke in support of extending the time frame for consultation on school closures. My dissenting comments in support of the proposed amendments outline the importance of conducting a two-phase consultation process over 18 months. By conducting an initial consultation on the actual proposal, the community could provide input into the terms of the second phase and be better informed about the criteria being used to support the government's agenda and be more confident in the veracity of the evidence used to support the agenda.

In the Towards 2020 proposal, the understandable concern that some communities had in regard to the possible closure of their schools was intense. The public interest focused on community issues. Consequently, there was much less critical analysis of the scale and shape of the reform proposal itself.

While many of the concerns raised were about the way the consultation was conducted, there were also many consecutive concerns raised about the time frame. This included that announcing school closures and conducting consultation all within a six-month time frame gave the school communities very little time to gather information and prepare a case for their schools to remain open. Families also had to deal with the prospect of finding a new school at the same time as dealing with these challenges.

Ms Burch has stated that there was broad support for Towards 2020. However, she has only quoted two groups, and one of those groups selectively. The Australian Education Union, while recognising the general reasoning behind closing schools, also raised significant concerns about the way the process was done. Other groups included ACTCOSS, ACT Playgroups Association, various P&C associations and the Canberra Preschool Society.

I would also like to make some general comments or observations on the tabling of reports recently. While I recognise that once a report is tabled members are able to comment on all aspects of the inquiry, it has been surprising the level to which some members have taken this. Committee deliberations were conducted in a collegiate manner in an atmosphere of trust. I am concerned that if we are seeing this manner of conducting deliberations no longer adhered to, this will affect reports and deliberations in the future.

MS BURCH (Brindabella) (10.47): I would like to note my appreciation to the committee secretariat, especially Sandra Lilburn, for her assistance and support. I would also like to thank organisations, groups and individuals who provided submissions and took the time to participate.

My dissenting report has been tabled. It is clear that my view is that this inquiry was politically driven—

Mrs Dunne: You’re in politics, sweetie. What do you think it would be?

MS BURCH: with the Liberals and Greens choosing to look back to the past rather than looking forward to the future of the ACT education system.

Mr Seselja: There used to be a tradition of backbenchers being mildly critical of government.

Mrs Dunne: Not when it comes to Andrew the precious.

MS BURCH: Despite their best efforts to focus on the negatives that they could find, we have ended up with a report that is a massive endorsement of the decisions that were made at the time.

Mr Hanson: The community had no concerns at all, did they, Joy?

MS BURCH: It shows that there was broad support for Towards 2020 by the community. Beyond this endorsement of the government's decision—

Mr Hanson: We heard a lot of that in the 76 submissions.

Mr Corbell: On a point of order, Madam Assistant Speaker: the Liberal Party are adopting a strategy in this place of always interjecting when it is anyone other than themselves speaking.

Mr Seselja: Rubbish! You were interjecting when Ms Bresnan was speaking.

Mr Corbell: Ms Bresnan was heard in relative silence.

Mr Coe: Apart from when you interjected, Simon.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Members of the opposition, please be quiet now.

Mr Corbell: The Liberal Party are just illustrating my point.

MS BURCH: Can we stop the clock while this continues?

MADAM ASSISTANT SPEAKER: Yes. Stop the clock, please.

Mr Corbell: I ask for a call for order to allow Ms Burch to present her speech on this matter.

Mr Seselja: On the point of order, Madam Assistant Speaker: Mr Corbell was interjecting when Ms Bresnan was speaking. The level of interjection has been relatively mild. He is being overly sensitive. In this place some level of interjection is generally allowed provided the volume does not get over the top and it does not go too far.

Mr Corbell: I could not hear Ms Burch.

MADAM ASSISTANT SPEAKER: I think this has been a good reminder for all members. Ms Burch, please now proceed.

MS BURCH: Thank you. Beyond this endorsement of the government's decision, this report does little more than recommend a range of reviews on decisions that were made in 2006. The report has 15 recommendations. However, it is just one that asks to reopen schools. Those schools are Hall and Tharwa. After months of committee meetings and hearings, school visits and so on, it is only one recommendation that calls for the immediate reopening of Hall and Tharwa schools.

In reality, what recommendation 13 actually shows is that the opposition parties believe that, of the 23 schools that were closed by the government, only two should be

reopened. That is effectively saying that the government has made the right decision in over 90 per cent of school closures. That is 90 per cent of getting it right.

Mr Hanson: You know I support Cook and Flynn. You were in the committee meeting when I discussed it.

MS BURCH: This means that the committee found that the ACT government got it right, that the government reform was necessary and that the reforms, as significant and as broad as they were, were right.

Mr Seselja: You need to be accurate when you speak, Joy.

MADAM ASSISTANT SPEAKER: Members of the opposition, please let Ms Burch speak. You will have a chance in a minute.

MS BURCH: This means that the committee found that the ACT government got it right—that the government reform was necessary; that the reforms, as significant and broad as they were, were right and positioned the ACT for the future; and that the ACT government made the right decision.

We have learnt that the ACT education experts support Towards 2020 and recognise and value the opportunities provided through Towards 2020. This is captured by the ACT Principals Association, whose representative stated:

> The association's view is that we have a very positive view of that.

He was referring to school closures. He continued:

> We believe that the opportunity to revitalise public education, offer a range of different options for parents to choose from … and all of those sorts of things were a very positive move forward for ACT public education.

Despite the doom and gloom of some witnesses—indeed, there were some heartfelt stories there; I will give them that—following the announcement of Towards 2020 decisions and the closure of preschools and seven primary schools, the annual satisfaction survey of staff, parents and students in 2007 showed a continuing high level of satisfaction in public schooling in the ACT. Nine out of 10 primary school and eight out of 10 high school parents and carers expressed satisfaction with their children's school and education. In addition, nine out of 10 school staff expressed satisfaction with their workplaces. It is important to note that almost half of the primary schools surveyed that year had enrolled students from schools or preschools that had closed at the end of 2006. So there was 90 per cent satisfaction with the schools from the schools that had students from closed schools.

In short, the overwhelming majority of the ACT school community are satisfied with their school and the ACT government's education reform.

It is disappointing that the committee spent little time considering what would have happened if the reforms had not happened, but, when asked, Mr Barr did make extensive comments. His comments included this:

> We would have continued to see a bleeding of enrolments to the private sector …
> We would have continued to have seen the inefficient allocation of resources.

Mr Hanson: How about his comments about Ms Gallagher not being able to get the job done?

MS BURCH: Some time earlier this year we saw the tabling of the ACT public education census—

Mr Hanson: How about those comments, Andrew?

MADAM ASSISTANT SPEAKER: Mr Hanson, please! I cannot hear Ms Burch.

MS BURCH: Stop the clock. Every time he interjects I want the clock stopped.

MADAM ASSISTANT SPEAKER: Ms Burch, please resume.

MS BURCH: Furthermore, how can one have a report asking for a range of reviews and assessments of school closures to take place and then pre-empt the outcome of any such investigation by arguing in the very same report that certain schools should be reopened without any social impact assessment—without any evidence, without any further consultation: just go in and reopen?

Mr Seselja: Without any evidence!

Mr Hanson: Just a little bit of evidence presented to the committee, Ms Burch.

MS BURCH: It contradicts their own report findings.

Mr Corbell: On a point of order, Madam Assistant Speaker: the opposition have continually interjected throughout Ms Burch's speech.

MADAM ASSISTANT SPEAKER: Stop the clock, please.

Mr Corbell: There has not been a minute of her speech when there has not been an interjection from those opposite. Clearly they are trying to drown out Ms Burch. They are trying to intimidate her; they are trying to make it difficult for her to present.

Mr Hanson: We know you're not answering Katy's questions.

Mr Corbell: They persist even now, Madam Assistant Speaker. They are trying to intimidate Ms Burch; they are trying to prevent her from giving her speech on a contentious issue when she is entitled to express her view. I ask you to draw members' attention to the standing orders; she is entitled to be heard in silence.

MADAM ASSISTANT SPEAKER: Members of the opposition, Mr Corbell is correct. Ms Burch is entitled to be heard in silence, as we all are. Please hear her out for the next nine minutes and 10 seconds.

MS BURCH: I think I was saying that this inquiry and the recommendations are a clear endorsement that the government's Towards 2020 policy was indeed right. I would also like to point out that at no point could the opposition or Greens explain how they would go about reversing Towards 2020 or how they would explain to the schools, teachers and parents the loss of resources from their schools that would be required if the closed schools were reopened.

The Greens' education bill amendments called for longer consultation. However, this amendment gained little support. In fact, it is not a recommendation in the final report. The ACT Principals Association commented:

> The majority of our association would think that around six months was long enough … factors, like seepage, demoralisation, all of that kind of thing, would be exacerbated if it was longer …

The opposition and the Greens have made comment about the perceived lack of a social impact assessment. Indeed, there are a number of recommendations and comments that refer to the need for an SIA. However, in reviewing comments made by the independent expert brought in by the committee, Dr Alison Ziller, she made comment along the lines that a social impact assessment is not a clear-cut process, nor does it provide an answer.

Indeed, comments by Dr Ziller—I did value her contribution—need to be balanced by the fact that, on her own admission, she "did not read the original case from the proponents" and she had only a "brief, cursory look at some of the materials on the website". She said:

> … but I am not here to comment on the facts of the matter before you—

the committee. In her evidence, Dr Ziller commented:

> … social impact assessment is not a proof, and people sometimes trip over that hurdle.

As stated, a number of recommendations contained in this report call for additional reviews or social impact assessments to be undertaken by the government. But there is not a single mention of the potential financial cost of undertaking such additional investigations. How many dollars would it cost to perform on one school, let alone on 23 former schools? Or would they also choose to go and do impact studies where students are now enjoying new schools, new friends, new learning opportunities? How much are the opposition parties willing to spend to look backwards when the overwhelming majority of students, families and teachers affected by these changes are happy in their new schools?

Opposition members interjecting—

MS BURCH: Madam Assistant Speaker, the Leader of the Opposition often claims in this place that he cannot be heard. I cannot be heard. Can we stop the clock and ask them to be quiet?

MADAM ASSISTANT SPEAKER: Ms Burch, I think in this case you are being a bit too sensitive.

MS BURCH: So next time the opposition asks—

MADAM ASSISTANT SPEAKER: There is a level of interjection, unfortunately.

MS BURCH: Finally, then, I make comment on the outstanding efforts of those involved in assisting the students and their families to make the transition to their new schools. During the inquiry process, through submissions, the witnesses and visits to schools, it was made absolutely clear to me that the principals, teachers and staff at the schools went to extraordinary lengths to make the new students welcome. When given the opportunity to visit Miles Franklin, Melba Copland and Torrens primary on 28 July this year, the committee heard many stories of the great efforts to welcome students. It was also excellent to hear of parents of the new students integrating so well into their new school communities.

Comments given to the committee by educators who were on the front line throughout the closure process, assisting the children and parents, include the following:

> … our experiences have only been positives. We had a range of programs in place. We paired the new kids up in classes, we had a welcome bbq. The parents were a little anxious at the very start but that disappeared in days.

Let me give another quote:

> The kids are very active and enthusiastic. It's wonderful to see. The Hall mums run the canteen now and hold most of the positions on the board, they've really taken to it.

Let me quote from another school:

> Overall, it seems like the families were given plenty of time to prepare for the change and have adapted very well. We had a program called new kids on the block which really welcomed them.

And finally, let me quote from another school:

> … you have to understand the effort local schools have put into setting kids the transitioning kids up for success. There's been so much work done at every stage. We went on visits with parents, principles acted like mentors, we had group sessions, we really dispelled their fears. The teachers have been especially great.

It seems that those opposite are not interested in hearing positive stories. They are just interested in continued doom, gloom and mischief.

Perhaps unsurprisingly, these great efforts from those involved appear to have been missed entirely by my committee colleagues. I think I did raise it, and there was very

little enthusiasm by those opposite. I think I was told, "No, but the truth is somewhere in between; it cannot be those good stories."

I acknowledge, though, how disappointing it must have been for members of the opposition parties when they got out there on the ground and the stories they heard were overwhelmingly positive. It must have been very inconvenient. The scribbling in the notebooks could be nothing but positive praise.

But then this inquiry was never about the facts; it was always about looking to the past, scraping up old news and having a statement at the end of this day. They pre-empted it. Their outcome was predictable from what they articulated all the way through.

It is disappointing that this report does not encompass the positive stories that the committee heard when they were out there. I will not let the great efforts of so many of the teachers and staff at schools go unrecognised, so I make the following recommendation:

> That the Legislative Assembly commend the Department of Education, school principals, teachers, and all those involved in assisting students with the transition to their new schools for their excellent efforts in ensuring that the wellbeing of each individual student was treated with paramount importance.

Whilst Ms Bresnan was correct—it did not go to the committee—I have now articulated it here. I call on members of the Assembly to comment on that recommendation. Will they indeed commend the efforts by those who assisted students moving in or are they willing to dismiss that? I call on members to show their hand on that. I would be very interested to know.

The other comment Ms Bresnan went to was this. I think her microphone may not be working 100 per cent; maybe that is why she was in a new position. There was some commentary around committee deliberation. I too shared those thoughts at one point—up until the last sitting, when a member of the opposition shared with the Assembly the deliberations of the committee. I did check with the powers that be to see if that was a reasonable thing to do. I was told that was fine and reasonable and that, once a committee is closed, deliberations—

Members interjecting—

MS BURCH: Mrs Dunne knows very well that she shared deliberations of the committee outside the committee room. There was some chortle and humour from the other side. The opposition have let that rabbit out of the bag, and they continue to do that.

Finally, let me say that this report endorses Towards 2020, and the school community and the broader Canberra community say we got it right. Twenty-three schools closed; two are in the report to reopen. That is an overwhelming success for Towards 2020.

MR HANSON (Molonglo) (11.03): Before I comment on the report, I must refer to the comments that have been made by the other members of the committee. Firstly,

I concur fully with Ms Bresnan's comments. I think that she did a good job as the chair of the committee and I think that the comments that she has made today are largely as I would have said. I commend you for those comments. We have had a couple of minor disagreements with regard to the period of consultation—I will go into that later—and we have had some discussion and disagreement about the number of schools that should be reopened. I came to a decision that it was four of the schools and Ms Bresnan said two.

Turning to Ms Burch's comments, they were just remarkable. She said that this was a political exercise. Her speech was more or less a remarkable political rant. To have such a political rant and then go and sit in the gallery rather than resume her chair where she could face the comments is remarkable. I am glad she is coming back. She said that it was a political exercise. Those comments were bizarre.

For her to say that the opposition—and I am going through some of her comments—have left the Flynn and Cook communities behind and that we only focused on Tharwa and Hall is amazing. Read my comments. You were in the committee meetings when I said very clearly that I support the reopening of those schools. I am not sure how I left those schools behind.

I notice you talk about the doom and gloom of some witnesses. Yes, indeed, many witnesses appearing before the committee were expressing doom and gloom and disappointment, and the disheartening expressions that we heard were manifold—to the extent that we had people crying in the committee room. And Ms Burch's dismissal of the Hall and Tharwa communities as simply boutique schools was quite remarkable.

I do not know whether this is Ms Burch's move on Mr Hargreaves. Clearly, his is the job she is eyeing off in a move to the frontbench, but if this is the level of performance we are going to see from Ms Burch, having sat through that committee since February, then it is absolutely disgraceful.

I turn now to the substance of the issue, and that is the report. I share with Ms Bresnan strong regard for the efforts of Dr Sandra Lilburn. She did an outstanding job. And I thank Ms Bresnan for her committee leadership. Until I read these comments, I would have also thanked Ms Burch because I share Ms Bresnan's comments that her behaviour in the committee is entirely inconsistent with the comments that she has provided here today and in the report. I do not know whether Mr Barr got to you in the intervening period or quite what happened, Ms Burch, but it is quite remarkable.

I also acknowledge the raft of submissions that we received, 76, which is extensive. So when we hear that there was no evidence, I suggest you go and read those submissions, Ms Burch. There were 31 individuals and groups who appeared before the committee.

I also extend my praise to the teachers and the administrative staff who have been at the front line and have had to deal with these changes. The opposition have supported some of the changes that have been made, although we have been critical of others, and there is no doubt that the teachers and the administrative staff have borne the brunt. I do extend to them my admiration.

It is obvious from all of the submissions and all of the evidence that there are a number of lessons that can be learned from this process—extensive lessons. There are some dissenting comments that have been provided. Reading Ms Burch's comments, I am somewhat surprised by the extent of those, because throughout the process there was broad agreement, and certainly there has been between the opposition and the crossbench, on the bulk of the findings in the report.

I will go through some of the highlights in the report today. I would like to go into more detail but, obviously, I do not have time. But the first lesson that needs to be learnt from this is that if you are going to close 23 schools, if you are going to have a whole shake-up of the education system, then it is probably a good idea to take that to an election. But what you do not do is say, "No, we are not going to close any schools," and then six weeks later start a process of closing 23 schools and wonder why there would be some doom and gloom in the community, why there would be some expressions of distrust and disillusionment with the government.

That is the first finding. If you go to key finding No 1 in the report, you will see there:

> The Committee finds that there had been no prior indication that a substantial change to the ACT education system was required with the result that such extensive reforms were not expected or well understood by the ACT community.

It was the first mistake that the government made and everything thereafter compounded that mistake. And the recommendation that flows out of that in the report, recommendation 8, is that if you are going to do it again, if you are going to have mass school closures, you had better take it to an election; you had better not go to an election saying, "No, no school closures," and then come back and close them.

The other aspect is that this was clearly linked to the budgetary position. We would like to know more about the functional review—we have been denied it—but we know that the ACT's budget position was dire and that they needed to close a bunch of schools. A lot of the information released under freedom of information shows that their investigations were about how much can be got from each school site and so on.

What then happened was that the budget position came back into the black, largely through the efforts, I must admit, of the Howard government and the GST revenue. As a result, what happened was that the school closures were linked to budgetary measures. Then what has happened subsequently is the government has tried to stick on this whole "it is about educational reform" afterwards, but the cat was out of the bag. A lot of the process then has been flawed by trying to bolt on educational reform to what was clearly just an effort to make budgetary savings.

The evidence base that was used to support this flawed process was also found to be inconsistent and the statistics used, the evidence used, across a range of issues—and I refer you to key finding 5—was flawed; the demographic analysis was inadequate; it did not look far enough; and it did not look in sufficient detail into particular suburbs and particular areas. Ms Bresnan has already commented on the social impact in detail.

In regard to the appropriate school size, they used an analysis that said that you should not have small schools. That was an analysis from the United States. Probably a school size in New York is somewhat different from a school size in the village of Hall or Tharwa. So the evidence that was used was used inconsistently and, in some cases, inappropriately.

The consultation process was flawed. I think everybody in the community is aware of that. Ms Bresnan covered that eloquently in her remarks. But I refer you to key findings 3, 4 and 6, which go through the detail about the flawed consultation process. If I have time I will come back to that a little later.

But in terms of looking to the future—and Ms Burch made comments about that—if you do go to the key findings, there are a number of recommendations, findings that came out at the committee inquiry, on how that process could be improved. Certainly, if you are going to look to the future and if you are going to address how mistakes can be rectified, you do have to analyse those mistakes, Ms Burch.

Numerous schools came to us and presented evidence. In particular, I note the schools of Flynn, Cook, Hall and Tharwa. We do not know who else out there has been essentially closed down by this process, who has not had an opportunity to comment, who did not think that they wanted to participate, but certainly those school communities presented extensive evidence that led to a recommendation from the committee, and I refer you to recommendation 13:

> The Committee recommends that, based on the demographic, educational, social and economic evidence presented during the Inquiry, that the Government immediately commences the process to reopen the Hall and Tharwa Primary Schools.

Mr Corbell: None of these schools took the opportunity. No other school community of the 20 other schools took the opportunity. None of the others; no other schools.

MR HANSON: Obviously this is the same Mr Corbell that cried so foul over interjections. You can prattle on, my friend. I will not object to your mindless analysis.

Mr Seselja: Jeremy can handle it all right. Jeremy can handle interjections.

Mr Corbell: A little bit of interjection is all right, according to Zed.

MR HANSON: I do not need Mr Seselja to stand up and defend me, thank you very much.

If you actually look at the evidence that was presented by those four schools, it led to the decision that was made by the majority of the committee that the Hall and Tharwa schools should be reopened. If you go through some of the evidence, what has happened to the fabric of those communities is disgraceful. Those schools actually formed the heart of those communities. They are village communities. They do not have the same culture that we have in other schools in other areas where you get a lot

of people coming from out of area that do not have, necessarily, a connection to the community that is as strong.

But what has happened in those two villages has had an effect on the entire community, not just on the parents and not just on the children. And Ms Burch's description of those schools as boutique schools, I thought, was particularly outrageous.

I went further in my dissenting comments, based on the evidence that was presented with regard to the Flynn and Cook schools. I invite you to read my dissenting comments. I notice that Ms Burch says that we only considered that two schools should be reopened. She is fully aware that we support four being reopened. That was discussed in the committee and is in my additional comments. I will read it for her so that she can have no doubt. My additional key finding was:

> That the evidence presented to the Committee during the Inquiry provided sufficient demographic, educational, social, and economic arguments to support the case that the Cook, Flynn, Tharwa and Hall Primary Schools should not have been closed by the ACT Government, and that these schools should be reopened.

My additional recommendation was:

> I recommend that based on the demographic, educational, social and economic evidence presented during the Inquiry, that the Government immediately commences the process to reopen the Cook, Flynn Primary Schools.

The other schools are already in the recommendations. So if there is any doubt left on whether it is two or whether it is four, I hope I have cleared that up.

There are also particular issues for the Flynn school and the heritage of the site. I recommend that anybody in the Assembly go out and see what has happened to that heritage site. And it is disgraceful. It is boarded up; it has been sprayed with graffiti; the lights are smashed; it is not being cared for. So what was once a jewel in the crown of that community, which was the heart of the community, is now an eyesore and a blight on the community, based on the way it has been treated.

I urgently call on the government—it is certainly one of the recommendations in the committee report—to get on with the heritage assessment for the Flynn primary school and make sure that that site is kept as a community asset. Although I support it being reopened as a primary school, the Flynn community have actually got a number of other options on how they want it to be used. As a priority, let me say that they want it reopened as a school but they have also come up with a number of alternative proposals to make sure that it is kept as a community asset. Thus far they have been ignored by the government. What I would be calling on the government to do is sit down with the Flynn community, go through their proposals, which are very reasonable and which are very articulate, and make sure that, if that site is not going to be a school, then at least it is there as a viable and worthwhile community asset.

The case for Cook was also compelling. Their school should not have been closed and there is a compelling case that it should be reopened. It will be problematic because in

the intervening process a number of other users have been identified for that site and that is going to cause a conflict. To reopen the school on the same site now would disadvantage a number of other users who have been identified. So it will be problematic. That is an issue that will need to be worked through. I recognise that but it does not mean that we should not have a primary school there for the Cook community, as there once was.

Despite Ms Burch's comments, I do hope that the government take this report seriously and that they acknowledge that mistakes were made right from the inception, through the election process, where they should have taken it to the electorate, to the people of Canberra, through the consultation process, through the flawed evidence and through the errant, wrong decisions that were made. So I call on the government to take it seriously, to take the politics out of it.

I do not think it has been a politically motivated exercise. This has come largely from the community. If you read the bulk of the 76 submissions, you will find that there is very strong community outrage at what the government did and very strong community support for those schools to be reopened.

So the process that you need to follow, Mr Barr, now is less about telling people to get out of your way and chasing the photo opportunity but actually to go back, look at the decisions that you made, consider in detail the mistakes you made, and reopen the four schools in addition to taking on board the other recommendations that are contained in this report.

MR SESELJA (Molonglo—Leader of the Opposition) (11.18): I commend the committee for the report. It brings some sort of closure to one of the sorriest chapters in political history in the ACT. This was the sorry story of a government and a Labor Party that went to an election promising not to close schools. They promised not to close schools and, six weeks later, they turned around and started breaching that promise. Six weeks later! That is how good a Labor Party promise is—six weeks.

It was the most fundamental reform and fundamental disruption to our education system in the ACT and they did not have the courage, the guts, the honesty or the decency to take it to the people by taking it to an election. Instead they said, "We won't close any schools." That was what Ms Gallagher said through her spokesman. She said, "We will not be closing any schools." And how long did it take them? Six weeks. Six weeks is how good a promise is from Katy Gallagher and the Labor Party in the ACT. And it is interesting that Ms Gallagher is not here to defend her record and her legacy on this issue.

This is a sorry and sordid tale of a Labor Party that betrayed the trust of the ACT community. When they went to the election in 2004, what did they say? They said: "We will not close any schools in the next term of government. We won't close them in 2005, 2006, 2007 or 2008." Six weeks later, they started the process of closing schools.

Mr Hanson: Shame!

MR SESELJA: It is a shameful and sorry saga. I note that Ms Burch did not even bother to defend that aspect, because even to Ms Burch, who is sent out there to defend whatever the government does, that betrayal, that dishonest approach to politics, is something that even she cannot defend, because it is indefensible. We have never heard a reasonable explanation as to why this government went to the 2004 election promising not to close schools and, six weeks later, turned around and started that process.

This goes to the heart of the integrity of the ACT Labor Party and the integrity of this government. If you cannot be trusted on something as fundamental as a hand-on-heart promise not to close schools before an election, if you turn around and breach that so fundamentally, not with one school, not with two schools, but with 23 schools, how can you be trusted on anything else? What can the community trust the ACT Labor Party on? I am sure that, at the 2012 election, they will have all sorts of promises on things they are going to do. But how can anyone trust them if they cannot be trusted on the fundamental issue of education and on such a significant issue as school closures?

We see the attitude of this government to some of these communities. We have seen it to the people of Tharwa on so many issues. We see it to the people of Hall, to the people of Flynn, to the people of Cook, and, indeed, to so many other communities which have had their hearts ripped out. We saw the dismissal of their concerns in Ms Burch's presentation. "Boutique schools", I think, is the language that she apparently uses to describe some of these schools. We have heard Mr Barr refer to certain schools as "blazer schools". So there is always a pejorative label for the school communities that do not agree, for whatever reason, with the Labor Party, or who the Labor Party, for whatever reason, does not like.

This is a significant piece of work from this committee and I commend them for it. There were many submissions. And despite the rosy picture that Ms Burch tries to paint, there is still a lot of anger. Have people moved on? Yes, many of them have. They have to; they have no choice but to move on. They did not want to; they did not want to be taken out of their school communities but they responded, they were resilient and they got on with life. But does that make it right that such a fundamental change to our education system should be done through such covert means, that it should be done without being honest about it in an election? Is that a reasonable approach to public policy?

If this was really about reform of the education system, as the minister now claims, wouldn't you proudly take it to an election? Wouldn't you proudly say: "We want to reform the education system; that's going to be our number one priority in the next term of government. And by the way, that will include closing some schools"? That would be the honest approach, but it was not the approach they took because that was never what it was about.

As Mr Hanson put it so succinctly, this was a knee-jerk reaction to a bad budgetary situation. They threw their promises out the window and, in their knee-jerk reaction, not only did they rush it and get it wrong, not only did they gild the lily on the reasons,

but they pitted community against community. This became a fight between communities as to which school would remain and which school would close. And it has been a sorry saga. It has been handled terribly by this government. It has gone to the heart of their integrity regarding how they can be trusted at future elections. But it also goes to the heart of how they treat communities.

They make judgements, and it is an easy judgement electorally for them to make on Hall or Tharwa. That is an easy electoral judgement because they count the votes and they say: "Well, there aren't that many voters in Hall or Tharwa. We don't need to worry too much about those communities." And that is the judgement they make. They have done the electoral maths and said: "We don't need to worry about those communities. We will simply dismiss them."

We have a government that has been shown to not care about these communities. We have a government that has shown that it cannot be trusted on education or on any other fundamental promise. We have a government which cannot be trusted on education. We have a government that has shown itself to be fundamentally dishonest on this issue. That is at the heart of this issue.

They can debate whether certain schools with certain lower enrolments were viable in the long run. That is a reasonable debate to have as a community. That is a debate we should have, and an open one. But do not go to an election when that debate is actually raised and say: "No, we're not going to close them. We are not going to close one school." In fact, in the debate, the government tried to portray it as the opposition that was going to close the schools; that it was the opposition's secret plan to close all the schools. So not only did they deny it, not only did they fundamentally go back on their core promise, but they were even dishonest at the time of the debate. They tried to say it was someone else's plan. This is what they do—they project their own foibles, their own flaws. And that is what they did in this case.

This has been a sordid and dishonest exercise. It is an exercise which reflects very poorly on the ACT Labor Party. It is a process which has not treated the community well. And we still see it in the attitude of Ms Burch, and no doubt when we hear from Mr Barr. The attitude is "Well, they don't really matter; they should get over it; they should just get over it." We say that you should not treat communities like that. You should be honest with communities. If you have to make a tough decision, have the guts and the decency to take it to an election and allow the people to decide. Do not sneak it in after an election, and that is really the story that comes out of this report.

Communities have suffered. Have many moved on? Yes, they have. They have no choice but to do so. But there is the ability to redress some of the damage that has been done. The trust will be difficult to get back. But some of the damage can be redressed. You can look at some of the communities—Cook, Hall, Tharwa and Flynn. You can look at Flynn and the projected enrolments they have had, the birth rate in the suburb and the fact that Flynn really has nothing else other than a school. But when they closed that school, there was nothing left. They ripped the heart out of it. There was no other community facility when they closed the school in Flynn.

That is what they did not take into account. They did not take into account that the enrolments in Flynn were actually reasonable. There were a number of reasons why

Flynn should not have been closed, and why it should be reopened. This is a government that clearly are not willing to do that. They fixed their decision either before or very soon after the election. But whenever they made the decision, they did not handle it in an honest way. They fundamentally breached faith with the community. *(Time expired.)*

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

Standing and temporary orders—suspension

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

> That so much of the standing and temporary orders be suspended as would prevent order of the day No 4, Assembly business, Standing Committee on Justice and Community Safety—Report 2—Crimes (Murder) Amendment Bill 2008—Motion that report be noted, being called on following the consideration of order of the day No 1, Executive business, Crimes (Murder) Amendment Bill 2008.

Crimes (Murder) Amendment Bill 2008

[Cognate paper:
Justice and Community Safety—Standing Committee report 2]

Detail stage

Clause 1.

Debate resumed from 10 February 2009.

MADAM DEPUTY SPEAKER: I understand that it is the wish of the Assembly to debate this order of the day concurrently with Assembly business order of the day No 4 relating to the report of the Standing Committee on Justice and Community Safety in relation to this bill. There being no objection to this course being followed, I remind members that, in debating order of the day No 1, executive business, they also may address their remarks to order of the day No 4, Assembly business.

Motion (by **Mr Rattenbury**) put:

> That debate be adjourned.

The Assembly voted—

Ayes 4	Noes 13	
Ms Bresnan	Mr Barr	Mr Hanson
Ms Hunter	Ms Burch	Mr Hargreaves
Ms Le Couteur	Mr Coe	Ms Porter
Mr Rattenbury	Mr Corbell	Mr Seselja
	Mr Doszpot	Mr Smyth
	Mrs Dunne	Mr Stanhope
	Ms Gallagher	

Question so resolved in the negative.

MR RATTENBURY (Molonglo) (11.35): The reason I sought an adjournment was that I think it is useful to consider this both in the context of the history of the bill and also where we are up to with it today. This proposed change to significantly expand the definition of murder was a single line in Labor's last election statement. When it was tabled, it came with a short, one-page explanatory statement made to the Assembly in support of the government's bill. Both the Liberal Party and the Greens voted together to send the government's bill to a committee, which the government, I might note, did not support. I find it interesting in itself that the government thought it had it so right the first time round that it did not need the committee process and it vehemently opposed it.

The committee process was a very useful one and it had the opportunity to draw out some of the evidence and explore this bill in some detail, which I think was a valuable process. Whilst I am not on the justice and community safety committee, I was able to attend one of the hearings—I missed the second, unfortunately, but I read the *Hansard*—and that process of going to the committee was very enlightening. It drew out that the stated community concern on which the government was justifying this amendment to the murder provision was actually quite a different thing.

What we learnt from the committee process was that the real concern in fact lay largely around sentencing issues. A large number of the witnesses that came in used cases from the ACT over the last decade roughly—certainly some of the most recent cases—where they were agitated by the apparent leniency of the sentencing in light of the facts of the case. This was quite instructive for the committee, because it showed us where the point of community concern lay.

When the committee reported, they noted that there may be issues with the scope of the operation of the bill and proposed the adoption of an alternatively worded Western Australian murder provision to guard against some of those potential concerns. They also made a number of recommendations about sentencing, reflecting the evidence that I have already spoken about. The committee basically found that the maximum sentences for manslaughter were seen to be too low and that that was the source of community concern.

In light of that committee report, which the Greens at the time said we support, we waited to see what the government's response was. Since late last week we have been contacting the attorney's office asking what the government intended to do in response to the committee's report, particularly once we saw that the Crimes (Murder) Amendment Bill 2008 was on the program for this week. We could not get answers from the attorney's office. They put us off: "Yes, we're amending it. No, we're not amending it. We're not sure. The minister's overseas. We'll get back to you." Finally, on Tuesday we discovered that in fact the government was tabling a response to one part of the committee's report. So on Tuesday afternoon, less than 48 hours ago, the government tabled a very substantial response to one part of the committee's report.

I think that is a thoughtful paper, and I appreciate the government tabling that response and the accompanying letter from the DPP. That has been very handy for us

to be able to consider. But I think what the government identified was that the committee report raised a significant number of questions about the impact on our courts of the adoption of the West Australian provision. Essentially, the concept of picking up a Western Australian provision and using it in ACT legislation is problematic, according to the government's response, because of the lack of ACT case law on the particular use of words. The point here is that those words have no legal history in the ACT, there is no jurisprudence around them, and I think it is right of the government to raise those concerns. It is a useful and thoughtful response to the situation that we are discussing.

All of that comes to why I sought an adjournment of the debate today. I think the redefinition of the crime of murder is an incredibly serious issue, and I spoke about this when we first debated this bill. I think it should be dealt with in a careful and considered way. A decision such as this should be based on as much evidence as is possible after full time for consideration. We do now have much better information and evidence, particularly having gone through the valuable committee process. The committee's research and recommendations have set out a case, and we now have the government's response to one of the five recommendations. It is important to note that it is only one of five.

What we have not had is adequate time to responsibly consider the issues in light of the government's response. It was tabled only 48 hours ago, and it is a very considered and considerable legal exposition which, frankly, takes some time to consider. Of course, 48 hours is no time frame for deciding on the appropriate definition of murder; it is no time to consult with community organisations; it is no time to go back to those who gave very compelling evidence to the committee about real concerns with this, Civil Liberties Australia amongst them. I know a former member of this place, Mr Bernard Collaery, himself an experienced lawyer and a former attorney, raised significant issues in the hearing process.

I would like to be able to go back and talk to some of those people in light of the government's response, which was delivered less than 48 hours ago, to this chamber. I can read the report in 48 hours, except that I thought we were adjourning the debate today, so I did not bother doing it last night in its entirety. But 48 hours is certainly not time to say to a community organisation: "Here's a substantial government response. Can you please give us some feedback before we push it through the chamber on Thursday morning?" The Greens want to be able to implement the best reforms in the Assembly in all possible areas, and when it comes to things as vitally important as the definition of murder, we are doubly concerned to ensure we are getting the very best results.

Unfortunately we have reached a point where we are going to push this through. I understand the Liberal Party are also going to support it today. We did ask to have the debate adjourned. We gave an undertaking that we would be prepared for the October sitting. I think it is reasonable enough to do it over a couple of weeks, but, unfortunately, we have not been supported in that request by the other members of the chamber today.

It may be, in light of the attorney's response tabled in the Assembly on Tuesday, that the path the government has proposed is the only path, but I am not convinced of that

at this stage. In light of the committee's recommendation, which did identify a possible alternative pathway, and the government's very considerable response to that, there is still a live question of what is the best way to proceed.

The other element I would add here is that I have thought very seriously this morning about bringing on further amendments to this bill. Frankly, with having to do it today, I must confess that I have not been able to consider this as deeply as I would like to.

One of the other recommendations in the committee's report is that we increase the penalty for manslaughter. I think that is an important part of thinking about this package overall. What the committee identified was the real point of community concern—the community was not coming in and saying, "The definition of murder is not what we, as a community, expect it to be." They were saying, "We're not getting the penalties, the sentencing, that we expect."

When looking at this issue as a whole, we have to work out what is the goal here. It is unclear what the goal is. The goal seems to be to be seen to be doing something, because it is unclear whether this change in the definition of murder would even have changed any of the cases in the last decade that have, according to some of the witnesses before the committee, been of such significant concern. As I said, I thought about increasing the penalty to manslaughter, but when I really thought about it, I thought that, from a point of integrity, I cannot do that. These are serious issues, and we should have more time to consider this.

Rushing down here this morning with an amendment to change that penalty would be inconsistent with my own thinking on this approach, so I am not going to bring forward that amendment today, despite the fact that the Greens think it probably is the right thing to do. Certainly, I foreshadow that we will now go away and consider a private member's bill to deal with that recommendation of the committee, but I am going to take some time to consider this in light of the fact that the government is going to force through this change to the murder law today, rather than just waiting three or four short weeks to the next sitting period and giving us the time to consider the government's response. That is why I sought an adjournment to the debate today, and I regret that the Assembly has not seen fit to support that suggestion.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (11.44): I think it is timely that the Assembly consider this bill today. Firstly, contrary to the assertions made by Mr Rattenbury, this bill has been on the table in this place since December last year. It has been in the Assembly now for 10 months. The government is not rushing anything.

Secondly, there has been a detailed committee inquiry, and a broad range of evidence has been provided in relation to that inquiry. There has been a government response to the committee's key recommendation, which is the definition that should be in place to deal with these particular provisions—that is, where someone causes injury to another person that results in their death, and how that should be defined in the murder offence.

The government rejects absolutely any suggestion of an attempt to ram this legislation through the Assembly. It has been on the table in the Assembly for 10 months. At the heart of it, this is not a complex change. I appreciate members' caution and the seriousness with which they treat this issue, as they should. But at the heart of it, this is not a complex change.

The offence of murder in our legal history is one that has the longest continuity. The heart of the offence, its essence, has remained the same for centuries. Any change must be carefully constructed in the context of the jurisdiction's body of law.

I recognise that the standing committee, in its report, has recommended a specific set of words to amend the government's bill and, in particular, to omit clause 5. This recommendation is, in the government's view, ill conceived. Taking this step will damage the statutory language of the offence and inevitably lead to the Assembly having to consider it again prematurely.

The committee recommended that I should move an amendment that replaces the words in clause 4 "intending to cause serious harm to any person" with the words "intending to cause a bodily injury of such a nature as to endanger, or be likely to endanger, the life of the person killed or another person". The committee also recommends that I move to omit clause 5 of the government bill. This amendment would leave the offence without any statutory definition. For those reasons, I will not be moving that amendment.

The government has indicated that it will respond to the other recommendations in the committee's report, in full, in due course. What I have done is table a government response to specifically address recommendation 5 of the committee's report. This response sets out in detail the arguments I am about to make for enacting the bill in its current form, not in the form recommended by the commitee.

Turning to the committee's recommendation, it borrows from recommendation 7 of the Western Australian Law Reform Commission report *Review of the law of homicide*, published in 2007. It is important to note that the Western Australian report's recommendation is a reconfiguration of the existing words in section 279 of the Western Australian Criminal Code. The language is consistent with Western Australian statute law and case law.

However, the committee's recommendation to insert specific words from Western Australia is fundamentally flawed, for these reasons:

- firstly, it would require the ACT's legal system to start from scratch with the concept of bodily injury, a concept that has no modern legal history in the ACT;

- secondly, it would transplant Western Australian words into the ACT statute book but would inherently give the words a different meaning from the Western Australian context, while the ACT statute book would contain none of the terminology or definitions used in the Western Australian code;

- thirdly, the concept would be applied and interpreted in isolation from Western Australian case law; and
- fourthly, the new Western Australian provision was only made in 2008 and no cases testing the new law have been decided.

The High Court has consistently identified the common law offence of murder as follows:

- (a) an intention to cause the death of, or grievous bodily harm to, any person, whether such person is the person actually killed or not; or
- (b) knowledge or recklessness that an act which causes death will probably cause the death of, or grievous bodily harm to, some person, whether such person is the person actually killed or not.

The old terms of the common law have been made into statute law in most jurisdictions in Australia. Each criminal statute in the states and territories is based upon a different method of drafting the same variations of the offence. In Australia there are now four methodologies informing the construction of criminal offences, including murder:

- the common law, which, as we recognise, is many centuries old and established in case law;
- the statutory compilation of common law, which dates from the mid 1800s to the 1900s, such as the New South Wales Crimes Act 1900 and the ACT Crimes Act 1900;
- the criminal code developed by Sir Samuel Griffith, called the Griffith code, which Queensland established from 1899 onwards; and
- the commonwealth code, established by the commonwealth from 1995 via the Criminal Code 1995.

Different states and territories rely on different elements of these four constructions for the common law offence of murder. Victoria and South Australia rely on the common law to inform the offence. Queensland, Western Australia, the Northern Territory and Tasmania adopted statutes based upon Griffith's code. But New South Wales and the ACT use the Crimes Act 1900. The ACT and the Northern Territory are adopting the commonwealth code incrementally. Of course the commonwealth uses the commonwealth code. Currently two methodologies work side by side in the ACT: the statutory version of common law from 1900 and the commonwealth code methodology, which commenced in the ACT in 2002 by the Criminal Code 2002.

Just prior to full self-government, the commonwealth amended the ACT's Crimes Act 1900 to remove the element of murder involving intent to cause grievous bodily harm. Consequently, the offence of murder currently contained in the Crimes Act only

applies if the offender intends to cause the death of someone or is reckless to the probability of causing the death of someone. And this is where the ACT is different—different from every other jurisdiction in the country and different from the common law definition of murder—and it is that issue which the government wants to fix.

We believe that the murder offence in the territory should not be substantially different from the offence of murder as it applies in New South Wales—in Queanbeyan, for example—or in any other state or territory, and that is what this bill is designed to fix. It is a straightforward and sensible reform that will bring the law of murder into line with every other part of Australia.

Although drafted using different historical methodologies, every jurisdiction, apart from Western Australia and the commonwealth, has a form of murder that is informed by the original common law of intent to cause grievous bodily harm. Consequently, cases tried in the ACT that meet the factual threshold of a death as a consequence of intending to cause grievous bodily harm are tried on the basis of manslaughter rather than murder, as they would be in other jurisdictions. I reiterate: that is the issue that we are trying to address.

I would now like to turn in some detail to the committee's fifth recommendation and the risks on that. The committee's recommendation borrows from recommendation 7 of the Western Australian report. The Western Australian report's recommendation is a reconfiguration of the existing words in section 279 of the Western Australian Criminal Code.

The committee's recommendation to insert specific words from Western Australia is, in the government's view, flawed. The imposition of a new term "bodily injury" in the ACT jurisdiction would mean that the courts would have to establish new jurisprudence on the term. It is also likely that defence and prosecution practitioners will need to develop significant submissions on the term for each new case before ACT courts.

The term "bodily injury" has no statutory definition in Western Australia. The term is informed by Western Australian case law. There is no statutory method to apply the Western Australian jurisprudence to ACT law, nor is there a way of articulating the Western Australian law in a manner consistent with ACT law without using the language already contemplated in the government bill.

The term "bodily injury" has jurisprudence in Western Australia and other states and the Northern Territory that use the Griffith criminal code but not in the ACT. The Western Australian Criminal Code has particular provisions dealing with issues such as the meaning of intent and motive, the notion of acts and omissions, insanity, intoxication and so on. While these provisions are similar to the concepts in the ACT's Criminal Code, they are not the same. Transplanting the Western Australian words into the ACT statute book would inherently give the words a different meaning from the Western Australian context.

As I mentioned earlier, the Western Australian parliament passed this new law in 2008. The Western Australian Office of the Director of Public Prosecutions has advised that at this time no cases have been tried that test the new provisions.

The committee also recommends omitting clause 5 of the government's bill, which is the statutory definition of serious harm. This implies that the committee is recommending that the meaning of bodily injury in its proposed amendment would be informed by case law rather than a statutory definition. Omitting the statutory definition and using a term foreign to ACT jurisprudence will run the risk of making it very difficult for the court to settle an appropriate meaning for bodily injury.

At common law in Australia, supreme courts of states and territories do pay significant deference to each other's decisions. However, the starting point of statute law is of course the statute itself and the judicial interpretation of it. The ACT Supreme Court recognition of Western Australian Supreme Court jurisprudence would be difficult in the absence of the same or very similar legislation being considered. These are the risks inherent in the committee's recommendation, and it is for these reasons the government believes it cannot be agreed to.

I would like to turn to the issue of Northern Territory case law. As I mentioned earlier, the Northern Territory and the ACT are adopting the commonwealth Criminal Code incrementally. The Northern Territory provisions dealing with murder came into effect on 20 December 2006. Serious harm in the Northern Territory is defined in almost exact terms as the definition of serious harm in the government's bill.

In March 2009, the Northern Territory Court of Criminal Appeal heard the case of Ladd v the Queen, which was an appeal involving murder on the basis of intent to cause serious harm. In the case of Ladd, the appellant made submissions that comprehensively challenged the Northern Territory statutory offence and, in particular, murder on the basis of intent to cause serious harm.

So that particular provision as proposed by the ACT was challenged effectively in that Northern Territory case. And the court found that the definition of serious harm had the same practical meaning as the previous iteration of the Northern Territory law. The court also decided that the new offence of murder, if the person intends to cause death or serious harm, works along the same lines as the common law offence. In short, this case provides strong evidence that the formulation in the government's bill is sound and is applicable in the ACT. It has been tested in another jurisdiction which has the same basis for its murder law as the ACT does.

Let us turn to some other issues in the committee's report. The committee's report makes a lot of the homicide report by the Law Reform Commission of Western Australia. The committee sets aside the United Kingdom report which in fact supported intention to cause grievous bodily harm as within the ambit of murder. I would like to talk a little more about that in a moment.

However, in short, the committee's approach is a selective one in how it presents the deliberations and findings of the Western Australian report. The committee's selection gives the impression that intent to cause grievous bodily harm as a threshold for murder is regarded as inherently wrong. In fact, the Western Australian court itself noted on page 83 that an intention to kill and an intention to cause an injury likely to endanger life are morally equivalent. That was the Western Australian report's own

conclusion. What the commission advocated against was an intention to cause a permanent injury to health as a mental element of murder.

In relation to the United Kingdom Law Commission report on murder, manslaughter and infanticide, which was published in 2006, the committee suggests that the report does not recommend including an intent to commit serious harm in the offence of murder. But this is not the case. In fact, the United Kingdom report supports the government's view on the issue. The United Kingdom report states on page 32 that the commissioners recommend that:

> … second degree murder should encompass … killings intended to cause serious injury …

So the United Kingdom report did say that killings intended to cause injury should be considered as a form of murder.

Mr Seselja: Second-degree murder.

MR CORBELL: Second-degree murder but murder nevertheless. The committee cites the early pages of the UK commission's report but fails to take note of paragraph 122, which states that the commissioners "do not recommend that killing through an intention to do serious injury should simply be regarded as manslaughter". The committee goes on to say:

> Manslaughter is an inadequate label for a killing committed with that degree of culpability.

I think that is an important point. Recommendation 9.6 on page 172 of the UK report clearly places intention to cause serious injury in the offence of murder.

Our standing committee did not refer to the Irish Law Reform Commission report on homicide, published in 2008. Again, the Irish Law Reform Commission supports the government's approach; namely, that intention to cause serious injury should be retained as a fault element for murder. That report states:

> The Commission still believes that those who intentionally inflict serious injury on others cannot deny the latent knowledge they possess about the fragility of the human body.

For all of these reasons, the government believes its original bill is the right approach for the ACT. I would like to thank the committee for its detailed inquiry and for the opportunity to appear before it. I recognise that there are a range of views in the legal profession about this bill, as there are in the broader community. But I believe absolutely and fundamentally that people in Canberra expect the law of murder to be on the same basis as a murder offence in Queanbeyan, in Goulburn, in Yass, in Cooma or in any other part of the country.

That is the issue which the ACT is seeking to address. It is not a radical reform and it is consistent with the common law. It is consistent with the common law view of murder. That is what the government is advocating.

The policy of the majority of the states and the Northern Territory also supports that view, and the work of the UK Law Commission and the Irish Law Reform Commission further supports that view. For that reason, I urge the Assembly to pass the bill in its current form.

I know that the Liberal Party has raised the issue of the DPP's advice to me on this matter. The DPP's advice is, in whole, contained in the government response. Nevertheless, I am happy to make that advice public, and I will table that later in the debate.

MRS DUNNE (Ginninderra) (12.03): The Liberal opposition will be supporting the bill as it currently stands and it does so after considerable reflection on the matters. It is interesting that today and on Tuesday the attorney gave a lengthy exposition on why this bill should be passed in this form. I compliment the minister; I did write to him earlier in the day, saying that I would make these comments. I thought that the paper that he presented the other day in response to recommendation 5 of the committee's report was a substantial one. It addressed the issues that were of concern to me, and again today the attorney has dwelt on those matters at some length.

I said in my correspondence with the attorney earlier in the day that it would have been helpful if these matters had been brought to the Assembly's attention and to the committee's attention a lot earlier in the piece. We have to remember that when the attorney introduced the bill back in December last year—I think Ms Porter was a bit horrified that I had done a word count—he used 244 words to introduce this change to the Crimes Act, and had almost no arguments for it. What we have seen here today and what we heard on Tuesday was a cogent and coherent argument for why we should be doing this.

The trouble is that we did not hear it in December last year. Perhaps if we had heard it in December last year this bill may have been passed a lot earlier. Perhaps if we had heard it in December last year there may not have been an inquiry. I cannot tell. Perhaps we should not go back and re-prosecute; I have criticised people in this debate for trying to re-prosecute cases that are passed, so I should be consistent like Mr Rattenbury has said that he is being consistent.

I welcome the comments and the government's response to recommendation 5 that were tabled the other day, which give a clear way forward. The recommendation of the standing committee in a sense had two bob each way. It asked the government to consider a form of words, and I think that the minister has considered that form of words and has given a considered response. I accept his response and, on the basis of that, the Liberal opposition will be supporting the bill as it currently stands.

I also welcome the attorney's undertaking to make public the advice of the DPP. I also realise that most of that is already contained in the response, but for completeness sake and for the sense of openness and accountability it is a good way to go. It was raised with me yesterday, and I know it was raised with other members as well, that Civil Liberties Australia had actually asked for that advice and the minister had declined to provide it. On the basis of that, I have asked the minister and he has now agreed to do that and I welcome that.

It goes to show, not just in this case but in other cases, that it does not hurt to provide that advice in an open way so that people can see what your thinking was. It is interesting that, whilst this is a privileged document, the attorney has agreed to waive the privilege and the sky has not fallen.

There has been a lot of debate and a lot of discussion over this. I take the point that Mr Rattenbury made: we have had this government response for only two days. Minister, you cannot say, "It has been on the table for 10 months and therefore we should debate it." The last available piece of information, the bit that makes the final piece of the puzzle, has been with us for two days. It is a complex document. I am satisfied with it. I think that we can go on with it, but there is no point sort of smacking people around and saying, "Well, we have known that this was coming up and you should toe the line." It has been available for only two days. While the Liberal opposition is comfortable with that, I can understand some of the points made by Mr Rattenbury.

I would seek at the end of this cognate debate on this to again adjourn the debate on the committee report because there are still four recommendations outstanding and I would welcome a speedy response from the government on those things.

I note Mr Rattenbury's comments in relation to amendments to the penalty for manslaughter. I am glad that he has not brought it forward today because, although the committee has made a specific recommendation in relation to manslaughter and a more general recommendation in relation to sentencing, it would be inappropriate for us to rush it through without further consultation with the community. The Liberal opposition have begun that process of consultation on sentencing and we will continue to do that. It would have been perhaps precipitate to bring it forward today, if not contrary to the standing orders, but this is something that on the back of the committee recommendations there would be substantial support for in the Assembly and I think it would be a welcome reform. On that note, I think that the minister in his very lengthy statement has covered all the issues, and the Liberal opposition are happy to support the bill.

Clause 1 agreed to.

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

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (12.11): I now table the following paper:

> Crimes (Murder) Amendment Bill 2008—copy of letter to the Attorney-General from Jon White, Director of Public Prosecutions, dated 8 September 2009.

Mrs Dunne, and earlier Mr Rattenbury, raised the issue of recommendation 3 of the committee, which relates to moving the maximum penalty for manslaughter offences from 26 years to 31 years for aggravated offences and from 20 years to 25 years for normal manslaughter offences. Whilst the government has not formally responded, I

can foreshadow that I would envisage the government agreeing to that recommendation. The advice I have is that it is consistent with the changes that are being envisaged to the Criminal Code in any event in relation to the maximum penalty, so that is something which the government believes it would be in a position to support. That will of course be confirmed in the government response.

I should also indicate that the government's response will deal with the other issues outlined in the committee's report. I note the comments in relation to sentencing and I note the comments in relation to a law reform review process. Those are issues the government will be happy to respond to in detail and I envisage the government will respond within the normal time frame, within three months of the committee's report being tabled.

Remainder of bill as a whole agreed to.

Bill agreed to.

Justice and Community Safety—Standing Committee
Report 2

Debate resumed from 27 August 2009, on motion by **Mrs Dunne**:

> That the report be noted.

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

Crimes (Assumed Identities) Bill 2009

Debate resumed from 20 August 2009, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MRS DUNNE (Ginninderra) (12.14): The opposition will be supporting this bill, which seeks to provide legislative authorisation for approved undercover law enforcement operations. These operations would use assumed identities and fictitious documentation and other evidence to combat organised crime and to work more efficiently in concert with other jurisdictions.

As noted in the explanatory memorandum, the bill will create a statutory framework for the authorisation of assumed identities; the lawful provision of fictitious documentation by relevant government and non-government entities; the lawful amendment of relevant records to support fictitious documentation; the protection of law enforcement officers, agencies and other authorised operatives from civil or criminal action arising from the lawful creation or use of assumed identities; the mutual recognition of laws in other corresponding jurisdictions; and compliance and monitoring of the use of assumed identities.

I note too that the FOI Act and the Territory Records Act will not apply to this bill. This seems a reasonable approach, given the nature of the work that this bill

contemplates, but it is something we would wish to monitor. Part 6 of the bill overcomes this to some extent, providing for reporting, record keeping and inspection by the Ombudsman.

There are two primary advantages of this bill. They are to provide the legal basis for law enforcement agencies to carry out undercover operations and for cross-jurisdictional operations where the participating jurisdictions have corresponding laws.

The bill draws upon the model bill that was included in the *Cross-border investigative powers for law enforcement* report of November 2003 of the joint working group established by the Standing Committee of Attorneys-General and the Australasian Police Ministers Council. It also draws upon the conclusions of the ACT government's report of June this year on serious organised crime.

An important matter to consider in relation to how this bill operates goes to whether an operation using an assumed identity results in entrapping a person to commit a criminal offence or improperly inducing a person to commit an offence. Such an action would deny the person the right to a fair trial under the Human Rights Act 2004. The same questions arose when the Assembly considered the Crimes (Controlled Operations) Act 2008. It was noted at that time, and it is noted in the explanatory memorandum, that the controlled operations act did not modify the law in relation to entrapment or improper police inducement. Nor does this bill seek to modify that law. This is covered in clause 6, which sets out the purpose of the bill as being:

> … to facilitate, for law enforcement purposes, investigations and intelligence gathering in relation to criminal activity, including investigations extending beyond the ACT.

An officer of a law enforcement agency, being ACT Policing or the Australian Crime Commission—or someone else, who must be supervised by a law enforcement officer—can only acquire and/or use an assumed identity with the authorisation of the agency's chief officer. The chief officer can delegate powers to a defined senior officer of the law enforcement agency. Only four delegations per agency can be in force at any one time.

This bill sets out the processes for application, decision, review and cancellation of assumed identity authorisations, including the kinds of fictitious documentation and other evidence that may be obtained. The Supreme Court, in closed session, is required to authorise fictitious entries, and cancellations thereof, in the register of births, deaths and marriages. For other forms of evidence of assumed identity, the chief officer can make requests of government agencies, which must comply, or non-government agencies, which may comply. It also provides criminal and civil immunity for authorised persons, provided they acquire and use the identities honestly and without recklessness.

An interesting element, articulated at clause 29, is that an authorised person must not engage in conduct that requires a qualification that the person does not hold, regardless of whether or not that person holds fictitious evidence of that qualification.

It means that if you have a fictitious medical degree you cannot undertake surgery. I am a little concerned that this potentially could put an undercover person in a difficult situation if the expertise that a fictitious qualification might convey is tested and that this may result in potentially blowing his cover.

Part 5 of the bill provides for cross-jurisdictional cooperation and associated legal protections under a theme of mutual recognition where corresponding laws are in place. This would enable the ACT to work with other jurisdictions, and vice versa, in undercover operations. I note from the attorney's presentation speech that all states, except New South Wales and Western Australia, and the commonwealth have corresponding laws in place. The most likely collaboration for the ACT would be with New South Wales and the commonwealth. So I hope the attorney is strongly advocating to his New South Wales counterpart that they press the go button as soon as possible. I hope also that, in the case of the commonwealth, the attorney is suggesting to his counterpart up on the hill that he progress the passage of his bill without delay.

Division 6.1 of the bill sets out the penalties for misuse of assumed identities and the unauthorised disclosure of information about assumed identities, including deliberate or reckless actions in relation thereto. I note that there are some restrictions on the way in which authorisations can be monitored. This is done in such a way as to ensure, presumably, that what has happened in Victoria is not repeated here, where bad pennies in organisations can compromise undercover or secure investigations.

Division 6.2 sets out the reporting requirements, including annual reports to the minister, as well as the kind of material to be excluded from the report before it is tabled in the Assembly. I did consider that we might amend the bill in this area so that those reports might be made on a more confidential basis, say to the Standing Committee on Justice and Community Safety. But I will pull back from that at this stage because I think that this is a new bill and if we find that there are problems with security I am sure that the attorney will come back to us with appropriate amendments to ensure the security and safety of people involved in this.

Division 6.2 also sets out the law enforcement agency's record-keeping requirements. It also requires a six-monthly audit of the records while an authority is in place and an audit at least once every six months after it ends or is cancelled. It also grants the Ombudsman the right to full access to the records for inspection and requires the Ombudsman to report under the Annual Reports Act, while excluding defined pieces of identifying information.

Part 7 of the bill sets out the chief officer's powers to delegate functions and provides that the executive may make regulations. The scrutiny of bills committee raised three matters in relation to this, two of which it recommended that the minister address, and I look forward to hearing those comments. The first of these relates to whether or not the bill should displace the Freedom of Information Act and the Territory Records Act. The committee asked whether this engages the right to freedom of expression under the Human Rights Act.

Whilst taking off my scrutiny of bills hat and putting on my shadow Attorney-General and my FOI advocate hat, I think the approach taken in the bill is a reasonable one

given the high level of security that is needed. If these matters were subject to FOI, even the revealing of the existence of particular documents on an FOI schedule, even if the documents themselves would be exempt, could jeopardise the safety of law enforcement officers, and I am not prepared to countenance that. There was active discussion the other day about whether or not, if matters were subject to the FOI Act, FOI officers would deliberately lie about the existence of documents. I would never want to place officers in a situation where they felt that that was necessary.

I think it is appropriate, in these circumstances, that this act be exempt from the Freedom of Information Act. That does not mean that I am a wholesale advocate of exempting matters. It is not a sell-out; do not worry.

The second matter raised by the scrutiny of bills committee was whether it is appropriate that government and non-government agencies be granted immunity from criminal liability in relation to the creation of false information to support a false identity. The committee asks whether such an approach violates the rule of law in the sense that all are equal under the law and all are subject to the law. It questions whether there is a need for law enforcement officers to engage in illegal activities as part of investigations.

Whilst I have not yet seen the attorney's response to the issues raised by the scrutiny of bills committee, I do not consider that these issues should prevent passage of the bill. Nevertheless, I acknowledge that they are worth the government's consideration and clarification if the need arises.

I took the opportunity to consult with relevant stakeholders in the legal profession to seek their views. In the time available to us, which was only three weeks, only one organisation, Civil Liberties Australia, raised issues; it raised two issues. The first relates to the offence of disclosure of the identity of undercover operatives. The organisation believes the provisions in clause 37 are too broad, go beyond the intent of the bill and should be amended. The example given was where a partner in a criminal activity tells his accomplice that a third person involved in the activity is an undercover operative. The organisation suggests that this may expose the first person to a criminal offence carrying a 10-year penalty.

The Liberal opposition have considered this and we think that this is an issue that should be remarked upon here. We do not believe that someone who may be convicted of a low level crime should have such a substantial penalty imposed on top of the conviction for the original crime. But at this stage the Liberal opposition are not disposed to amend the legislation. I think this is something that needs to be monitored.

Civil Liberties Australia also raised with us the question whether this might have implications for the media and authors, even many years down the track, who might be exposed to a criminal offence by reporting on an assumed identity. But, on consideration—and I think Mr Hanson made this point to me this morning—often organised crime has a very long memory and there have been instances where, even if the undercover officer himself may be well out of the way, may even be deceased, retribution has been brought to bear on other people's families. On balance, while sharing some concerns with Civil Liberties Australia, I think that overall we should be active for the safety of people involved in this very dangerous work.

These are matters worth considering, and this is why I have raised them. I hope that Civil Liberties Australia have expressed these views to other members in this place as well.

In these days of heightened security requirements, not only in our own community but across the planet, measures like those that this bill contemplates are important for continuing community safety. There is much work to do but this bill, along with the Crimes (Controlled Operations) Act that the Assembly passed last year, goes some way towards addressing the need. I commend the government's work in this area and look forward to further initiatives that may come along.

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

Sitting suspended from 12.28 to 2 pm.

Questions without notice

Cotter Dam—cost

MR SESELJA: My question is to the Treasurer. Treasurer, how much will Actew now have to borrow to fund the enlargement of the Cotter Dam following the quarter of a billion dollar blow-out? Treasurer, how much interest will Actew have to pay to service this debt over the life of the loan?

MS GALLAGHER: I do not have the details of how much they will need to borrow. I said in question time on Tuesday that they already have approval to borrow $350 million, which they have not exceeded. It is not expected that they would need to borrow until the financial year 2010-11. So the details of how much they have to borrow are not clear at this point in time, based on the fact that their need to borrow will not be for some 12 to 18 months. But Treasury is working very closely with Actew, as Treasury will be undertaking the borrowings. When that becomes clear and finalised, at some point in the future, I am happy to make that information public. Indeed, it is, as I table that in the Assembly.

MR SPEAKER: Mr Seselja, a supplementary question?

MR SESELJA: Treasurer, what will be the term of this loan and what interest rate has been used to calculate the projections?

MS GALLAGHER: The $350 million or the projected borrowings?

Mr Seselja: Projected borrowings.

MS GALLAGHER: Who knows where interest rates will be in 12 to 18 months. The terms of the loan have not been finalised because no additional undertaking will need to be made for some 12 to 18 months. When that is finalised—and I can say that Treasury will be looking for the lowest interest and the best loan possible for the territory, as they do with any of the borrowings they undertake—I will be happy to make that information public.

Mr Seselja: Do you know the length of the loan, though—the loan repayment period?

MS GALLAGHER: Again, because the loan has not been agreed to, the duration of the loan and the interest rate of the loan have not been finalised. Sometimes short-term borrowings are better depending on the rate of interest that is being asked for. It is difficult to answer the question because it has not reached the point where those decisions have been taken. When they are, I will be very happy to inform the Assembly; indeed, I think I am required to.

MR SPEAKER: Mr Smyth, a supplementary question?

MR SMYTH: Thank you, Mr Speaker. Treasurer, what will be the total cost of the Cotter Dam enlargement, including the interest to be paid?

MS GALLAGHER: I think I just answered that. The total cost of the dam at this point is $363 million. As to any additional borrowings that need to be undertaken, those arrangements will be finalised in the next—

Mr Smyth: The $363 million includes interest?

MS GALLAGHER: No, that is the total cost of the dam. I cannot stand here and give you a figure on any interest payable on a loan that has not been entered into.

MR SPEAKER: I call Ms Burch to ask a supplementary.

MS BURCH: Thank you, Mr Speaker. Treasurer, given that it is the loan and interest that has been asked about, can you tell us whether this would have any effect on our balance sheet or the budget bottom line?

MS GALLAGHER: What I can say is that the fact we have a AAA credit rating assists us in terms of getting the best deal possible for the borrowings that we will undertake on behalf of the utility in Actew. I think when we look at the borrowings of the ACT government, the majority of the borrowings have been undertaken on behalf of Actew.

Any additional borrowings that we need to undertake for the dam in the future I am told, whilst it will come close to something that Standard & Poor's would be interested in—and I think they have indicated that in their commentary on the budget issued on 5 May—at this point in time the fact that we have a AAA credit rating, the fact that we want to keep a AAA credit rating, means that certainly assists us in terms of getting the best deal for our borrowings in the future.

Cotter Dam—project management

MR SMYTH: My question is to the Treasurer and shareholder in Actew. Treasurer, we understand, as you have said, that the delivery of the Cotter Dam project is being managed under an alliance model. Treasurer, can you describe how the alliance model works and outline the benefits of using the model for the taxpayers of the ACT?

MR SPEAKER: Treasurer?

Mr Seselja: They're unclear.

MS GALLAGHER: I think we made it clear yesterday that I would take questions as they related to the Treasury portfolio and for my responsibilities under the TOC Act and that the Minister for the Environment, Climate Change and Water would take questions as they relate to the delivery of water security projects and water policy in general.

Mr Seselja: Actually, you didn't. It wasn't clear at all.

MS GALLAGHER: This is something that you did not seem to understand yesterday.

Mr Smyth: How about the alliance model?

MS GALLAGHER: Indeed, and this is why the question is relevant to my portfolio in that you have asked a question about the alliance delivery model. As I understand it, the alliance delivery model is a model that has been used for a number of dam upgrades in particular. It is a procurement method whereby Actew, in this instance, collaborates with one or two or three other partners to share the risks and the responsibilities of delivering the capital project. My understanding is and my advice is that 83 per cent of the alliance models undertaken for major projects have come in on or under budget.

Actew made the decision after rigorous analysis that the alliance model was a model which was a suitable model to use for the enlarged Cotter Dam. In terms of its advice to me as Treasurer, Treasury are supportive of this model for the enlarged Cotter Dam.

MR SPEAKER: Mr Smyth, a supplementary question?

MR SMYTH: Treasurer, how did the government and Actew ultimately decide upon the alliance model of project management for the Cotter Dam enlargement? Which other models were considered?

MS GALLAGHER: The alliance model was a matter for the board, which the board determined, in advice to me, from Treasury, after their own analysis—and we were not the decision makers in this instance—that this is a suitable procurement methodology for the delivery of the enlarged Cotter Dam. I will be interested if Mr Smyth has any views about alternative methods of procurement for it.

MR SPEAKER: Mr Seselja, a supplementary?

MR SESELJA: Thank you, Mr Speaker. What are the risks of using the alliance model, Treasurer?

MS GALLAGHER: I think the risks are that the project does not come in on budget. I imagine that would be the major risk. The companies involved—and I do not have a

full list of the partners; GHD is one of them, but I am sure we can provide you with that—have signed contracts which share the risks and responsibilities for delivery of the enlarged Cotter Dam project. Advice to me—and I am happy to look at what information I can assist the opposition with in terms of specifics provided to me by Treasury—is that Actew looked at all the different methods of delivering this project and the alliance model was the one that they settled on. As I said, this was a matter for the board.

MRS DUNNE: Supplementary question. Minister, can you identify the water security projects in this or other jurisdictions that have successfully used the alliance model and have come in under budget?

MS GALLAGHER: Yes, I think I can provide that information. I can give you a couple of examples where the alliance model has been used in Victoria, in the Eildon Dam upgrade; in Queensland in the Heinz Dam upgrade, the Ross River Dam upgrade, the Awoonga Dam raising, the Toowoomba pipeline and the Wivenhoe Dam upgrade. I have certainly seen somewhere—I think it might have been in some information Actew provided me with—that 83 per cent of alliance delivery models came in on or under budget. If I can provide any further information, I will.

Schools—truancy

MS HUNTER: My question is to the minister for education. Are there procedures in ACT government schools to comply with section 35(1) of the Education Act 2004, and that is to encourage students to attend school regularly and to help parents to encourage their children to attend school? Is it consistently applied across ACT government schools? And how are these procedures enforced?

MR BARR: Yes, the Education Act is consistently applied across government schools, and I am happy to provide the detail of how the education department seeks to work with other government agencies, most particularly the police, in relation to non-attendance. I know there has been a case this year already on enforcement of that provision, and I will provide that detail for the member.

MR SPEAKER: Ms Hunter, a supplementary question?

MS HUNTER: How are parents informed about these truancy procedures and are they informed about procedures before there is an instance of truancy?

MR BARR: Through one of the smart schools: smart students projects that the government funded in the 2006-07 budget, an SMS alert system was put in place for parents. The roll is marked at school and if the student is not present then an SMS alert can be sent to the parent or guardian alerting them to that fact. That can be nearly a real-time indication to parents that their son or daughter is not attending school.

There are other electronic roll-marking methods that are available across the ACT public education system. And we need to put some context around this issue: it is a very small number of students who are not regularly attending school. Schools work very closely with those students and with their parents or guardians to ensure that students are in fact attending school and attending all the classes.

So there are a range of methods that are used, but we are taking advantage of new technology such as the SMS messaging system to send a very quick notification to parents that their son or daughter is not attending school.

MR SPEAKER: I call Ms Porter to ask a supplementary question.

MS PORTER: Thank you, Mr Speaker. My question to the minister is: how are parents generally informed about education policy and how is the new SMS messaging system working?

MR SPEAKER: Can you repeat the question, Ms Porter?

MS PORTER: Sorry, did you not hear it?

MR SPEAKER: I wanted to check the relevance of your question, Ms Porter.

MS PORTER: Okay. I believe the question was about school policy and how parents are informed.

MR SPEAKER: Can you just re-read the question?

MS PORTER: Yes, I will. I am happy to do that. How are parents generally informed about school education policy and how is this new SMS system working?

MR BARR: I thank Ms Porter for the question. As I said, the use of SMS technology is part of the $20 million smart schools: smart students project that was rolled out as part of the 2006-07 ACT budget. It was one of the many elements of the major reform to the education system that occurred during that period. In fact, we are reaping many of the benefits of that investment in new technology in a range of areas within our school system, and particularly in relation to being able to advise parents quickly of issues around student attendance, for example.

Also, as Ms Porter has asked, in terms of broader communication with parents, the use of new technologies, such as myclasses and some of the other web-based initiatives that schools have in place now as a result of that significant capital infrastructure investment in ICT technology for schools, has meant that communication between schools and parents is made a lot easier and certainly much more cost effective for schools. It means that information can be quickly communicated to parents around attendance but also around school policies, excursions and those sorts of general day-to-day activities.

MR SPEAKER: Ms Bresnan, a supplementary?

MS BRESNAN: Thank you, Mr Speaker. Is SMS messaging used in high schools, primary schools and colleges, and where it is not used, how are parents informed?

MR BARR: The rollout of the new technology has been progressive across schools. The focus in the first instance was in colleges and high schools—so in high school

particularly, as under current ACT legislation attendance at college is not compulsory. The most particular use of the SMS technology has been in high schools, but with the funding that was made available in the 2007-08 budget to continue the rollout of the broadband network into our primary schools, the availability of that technology is extending across all ACT public schools. At the conclusion of the project, I am advised by the education department that it will be possible for parents in all ACT public schools to register for an SMS alert if their son or daughter is not attending school. In the absence of that technology, schools would use more traditional methods, such as making a phone call.

Cotter Dam—cost

MRS DUNNE: My question is to the Treasurer and relates to the management of and governance arrangements for territory-owned corporations. Treasurer, as a shareholder of Actew, and as the minister responsible for policy relating to territory-owned corporations, what lessons have you learned about the management of corporations following the quarter of a billion dollar blow-out of the Cotter Dam enlargement project?

MS GALLAGHER: Well, I have learned that the territory-owned corporation in this instance has done all the due diligence and extensive planning studies to finalise the exact costs before proceeding with such a project of major significance to the territory. I think that with the information that will be provided to the Assembly later today you will be able to see the amount of work that has gone into the detailed analysis of water security options for the ACT community and the work that has gone into ensuring that the enlarged Cotter Dam actually provides us with the water security that our community expects and deserves. The processes in place are thorough and adequate. Mrs Dunne, I am very confident that the processes that are in place in terms of communicating with the shareholders and in terms of informing the government at the earliest opportunity of the final costs of this significant project worked in this case.

MR SPEAKER: A supplementary question, Mrs Dunne?

MRS DUNNE: Treasurer, what changes, if any, will be made to the government's arrangements for territory-owned corporations following this quarter of a billion dollar blow-out in costs?

MS GALLAGHER: None that I am aware of. I look forward to Mrs Dunne's amendments to the TOC Act if she has some ideas that she believes will ensure that when a TOC goes through this detailed planning they have the figure before they start any of the work to actually identify the final costs—that they should know the final costs before they go through the process. I will look to see how you craft that amendment, Mrs Dunne. It will be very interesting to see.

In terms of the shareholders' responsibilities, we are in close contact with Actew. They provide us with information as we require it and we will keep in very close discussions with them as this project of major significance is commenced and built in the territory. As to any specific amendments to the TOC Act, I cannot think of any that would have addressed the issue that the opposition seems so concerned about.

MR SPEAKER: Mr Smyth?

MR SMYTH: A supplementary, thank you, Mr Speaker. Treasurer, what directions will you and the other shareholder be making under the Territory-owned Corporations Act to Actew to ensure better project management, better coordination of services, better integration and better financial management?

MS GALLAGHER: In relation to the enlarged Cotter Dam project? None.

MS HUNTER: Supplementary question.

MR SPEAKER: Ms Hunter.

MS HUNTER: Thank you, Mr Speaker. What processes will the government put in place to ensure that there is more information made available about the nature and accuracy of the cost estimates provided to the public for major infrastructure projects?

MS GALLAGHER: Thank you, Mr Speaker. I thank Ms Hunter for the supplementary question. Information will be provided to the Assembly in accordance with the resolution of the Assembly of yesterday.

If your question is more general around how we provide that, I think when you go back and you have a look—and I think Mr Rattenbury picked up on this in his media comments on the day—the original cost estimates provided dating back to April 2005, July 2007, indeed April 2008 and in indeed pretty much every public comment throughout that process leading up to the announcement in late August of the finalised costs, there were always significant caveats put on those costs around potentials for increases to the cost estimate at the time.

I am interested, and I am happy to take advice from the Assembly if they believe there are better ways to estimate the final cost prior to undertaking all the detailed work that had to be undertaken to get to that end point. I think it is a very difficult ask of any organisation, of any business, to actually say, before you actually understand exactly the process that needs to be undertaken and the environment you are working in and the costs of the environmental remediation measures that need to be put in place because of this, that you need to understand that prior to actually doing the work.

It is an incredibly difficult ask to have of anybody. I think the chief executive and the chair of Actew Corporation were very clear in every public statement, including every appearance at estimates and public accounts committees, that there were expected to be significant cost increases as this work was undertaken and finalised.

Cotter Dam—briefings

MR DOSZPOT: My question is to the Treasurer, and it relates to the briefings you, as shareholder of Actew Corporation, received from Actew, Treasury or any other government agency in relation to the enlargement of Cotter Dam. Treasurer, in question time on Tuesday you said:

> We had been briefed … The shareholders received the minutes of the board's consideration of various matters. I had also been briefed by my department, Treasury, on their discussions with Actew. Indeed, I had met with Actew. Yes, I think I was being kept updated at regular intervals.

Treasurer, did any of those briefings relate to technical matters, such as geotechnical studies or construction materials? If yes, what was the nature of those matters and how did you respond?

MS GALLAGHER: Again, the information I will provide to the Assembly this afternoon will go to some of the questions that you have, Mr Doszpot. In terms of the briefing I had from Actew, and indeed Treasury, yes, I understood that those studies were being undertaken. That was part of the reason to have the briefing. They said, "This is the work we are actually doing to finalise the costs of the enlarged Cotter Dam."

In relation to the minutes of the board meetings that were provided to me and my other shareholder, I will have to take that part of the question on notice because I will have to review the minutes of the board that they forwarded to us. But certainly the technical aspects of the work that was being undertaken were explained to me.

As to the final cost of the results of that work, my previous answers in relation to being told this in the week of 20 August remain.

MR SPEAKER: Mr Doszpot, a supplementary question?

MR DOSZPOT: Treasurer, did any of those briefings relate to the various increases in the cost estimates since the Chief Minister's announcement in 2007 that the dam would cost $145 million? If yes, what advice was given and how did you respond?

MS GALLAGHER: I think we have said a number of times in here that, yes, we were given an indication. Indeed, in December 2008 the indication was that the $145 million price tag, plus a 50 to 70 per cent caveat put on that in terms of potential increases in costs, was a public figure. I think Mr Seselja yesterday said he understood that figure was in the *Canberra Times* at the end of May or the beginning of May.

We were given an indication, certainly, that the costs were increasing and that Actew were finalising the detailed planning and environmental studies undertaken to get to that end point. Indeed, we were advised that they were having an independent analysis come in to check that work, to make sure that their costings would hold up. I was certainly informed of that as well. In my discussions with Treasury, I said to Treasury I was very pleased that they were having that independent analysis come in, to have a look at the cost increases, to run their ruler over it and to make sure that those costs that Actew were seeing in terms of the finalised figures would hold up in terms of scrutiny and the final cost of the enlarged Cotter Dam. So, yes, we were told that.

But as to the exact figure, I do not really know where you are heading with this. Yes, the government knew, and I think every Assembly member knew, that the cost of the

dam was increasing as they finalised the work. I think everybody who was providing public comment on this was saying that. As to the final figure, I think it became clear—the board were advised, I think on 21 August, as we were advised a few days later.

MR SPEAKER: Ms Porter, a supplementary question?

MS PORTER: Treasurer, can you confirm the separate responsibilities of portfolio ministers and voting shareholders in relation to Actew?

Ms GALLAGHER: Yes, I can. It does appear that the opposition, particularly in the role of the voting shareholders, seem to believe that we must have a much more active role in terms of the decision-making process of territory-owned corporations. For the information of the Assembly, I can confirm that the role of the voting shareholder is responsible for appointing directors. We must approve the acquisition or disposal of any main undertaking or asset and the forming or ceasing of a subsidiary, significant partnership trust or unincorporated joint venture. We may issue directions to perform or cease to perform an activity or to comply with a general government policy. We must determine the financial distribution policy, for example, the dividend policy of the TOC to the government, and we may request financial statements, performance reports and any other information about the TOC or the subsidiary. We may comment on the draft statements of corporate intent—indeed, I am tabling them this afternoon. We have the only votes at a general meeting of the company, including the annual general meeting, and we must ensure that the constitution of a TOC has relevant provisions as specified by the TOC Act.

Those responsibilities are very clear, and I think the opposition is trying to blur the role between the voting shareholder and the role of directors of territory-owned corporations, specifically in relation to Actew, in terms of perpetuating a public line that we have much more direct control over the day-to-day management affairs of Actew than we have or are allowed to have under the Corporations Act.

MR SPEAKER: Mr Seselja, a supplementary question?

MR SESELJA: Treasurer, when was Actew first advised that the costs had blown out beyond the $246 million revealed on 30 May?

MS GALLAGHER: I will have to take that on notice. I know that it went to their board meeting. I believe their board meeting was on 21 August. I may be wrong on that. They certainly had a meeting on the 26th. I think it may have gone to a board meeting before that, but if not—I will check. It is probably best for the information of members of the Assembly that I get the exact date and come back to you.

Education—early childhood

MS PORTER: My question is to the Minister for Education and Training. Can the minister advise the Assembly of the progress of the government's program of investment in and reform of early childhood development and explain how the Canberra community will benefit from these investments and reforms?

MR BARR: I thank Ms Porter for the question and welcome her back to the chamber. On Saturday I did have the great pleasure of officially opening three of our new early childhood schools, at Southern Cross in Scullin, at Narrabundah and at Isabella Plains. These are the cornerstones of our investment in early childhood education. Each community held an open day to mark their official opening and each open day attracted many hundreds of Canberrans who were keen to see the centres, which are at the forefront of early childhood education in Australia and indeed in the world.

These schools are regional hubs, providing integrated services for children from birth to eight years of age and of course they provide quality education—great education, Mr Speaker—for the earliest years. They are, in short, inviting and friendly one-stop shops providing excellent services to ACT kids and their families.

It is very pleasing to see the strong growth in enrolments in each of these schools. Southern Cross has a current enrolment of 155, Narrabundah 106 and Isabella Plains currently 86. The word is obviously spreading in Tuggeranong, because Isabella Plains is expecting its number of enrolments next year to be 145 and it is growing every day.

These schools are valued members of their communities. At Isabella Plains, parents and community groups are making regular use of the community space available; it is the same at Narrabundah and Southern Cross. The centres are all offering innovative education programs. At Southern Cross, students learn about literacy and numeracy and appropriate social interaction at what is, I am reliably informed, the busiest school café in the ACT, the Bright Star Cafe at Southern Cross.

The schools also cater for kids with special needs. At a recent visit to Isabella Plains, I had the pleasure of seeing how staff are working so effectively with children with special needs and we look forward to the completion of the sensory garden for kids with special needs at Southern Cross. At Narrabundah, workers who were on the site during its renovation were invited into the classroom to show kids how to mix cement and to talk to the students about their jobs. These are just some of the examples of how staff at our early childhood schools are finding new and interesting ways for their students to learn.

The five early childhood schools in the ACT will also be involved in a 20-day artists in residency program. This will see five professional artists work with students in enhancing creative learning through the arts—more innovation and another great example of education innovation in those early childhood years.

These schools are based on the fact that the early years are the most important in any child's education. This makes them an extremely valuable tool in helping Indigenous students to reach their full potential. The Narrabundah early childhood school includes a Koori preschool program for Aboriginal and Torres Strait Islander children aged from three to five.

The childcare element of each of these new schools is also very important. The childcare is provided by the Creche and Kindergarten Association, C&K, who have

been providing excellent childcare for more than 100 years. We are pleased to have such quality childcare professionals on board in each of these early childhood schools.

These are great schools. They ensure that every child learns. These are schools that the staff are proud of and that their communities are proud of. This was very clear from the great turnout at the community open days on the weekend. I would like to congratulate the principals and staff and also Kathy Melsom and her team at the department of education who have worked so hard to ensure that these new schools are established. We look forward to the official opening of the Lyons early childhood school in the new year.

MR SPEAKER: Ms Porter, a supplementary question?

MS PORTER: Can the minister advise the Assembly how the territory government is working with the federal Labor government to advance this agenda for the benefit of all Canberra children?

MR BARR: We know that the quality of learning experiences during the early years of a child's life really do set the stage for future learning and development; so it is very pleasing today that the federal Minister for Early Childhood Education, Child Care and Youth, Kate Ellis, announced that the ACT will receive nearly $13½ million to build on our world-class early childhood education system.

Since 2006, the ACT has led the way, providing 12 hours of free, quality preschool education per week. This has led to nearly 90 per cent of eligible students attending preschool in the ACT. This partnership with the commonwealth will see the number of free hours increased to 15 per week. In cooperation with the Rudd Labor government, we have been able to ensure that, from 2009, the early childhood schools have been able to provide 15 hours of free preschool per week.

In 2010, with this new funding, eight additional schools, including Charnwood-Dunlop, Ngunnawal, Florey, Kingsford Smith, North Ainslie, Richardson, Gilmore and Caroline Chisholm will be able to offer the 15-hour commitment. The remainder of the schools will move into this new 15-hour provision over the course of the program that extends until 2013.

Because the government is interested in every child in every school we will also be providing funding for the Holy Family early learning and care centre in Gowrie to be set up as a preschool service—again, proof that the old public versus private debate in education really is over. This will be a pilot looking at service integration and support for child care centres that have children not accessing government-funded preschool services.

This commonwealth support is a vote of confidence in ACT Labor's education policy. It is a vote of confidence in staff who work with young Canberrans in preschools across the ACT.

MR SPEAKER: Mr Doszpot, a supplementary question?

MR DOSZPOT: Will the minister accept the recommendation made by the education commission to reopen Hall and Tharwa schools?

MR BARR: I am not aware that the education commission has made such a recommendation.

MR SPEAKER: Supplementary question, Ms Burch?

MS BURCH: Can the minister advise the Assembly of the community reaction to the government's reforms?

MR BARR: I can say that the community reaction to our new early childhood schools has been very positive. Enrolments are very strong and they are growing. One would suspect that within the next two or three years these schools will be fully subscribed. Many hundreds of people turned up last weekend for the official opening, and I am pleased to acknowledge that members of this place were in attendance.

It was great to see Ms Hunter at the Southern Cross school. Ms Burch was at Isabella Plains. Ms Porter was ill and sent her apologies to the Southern Cross school. It was even pleasing to see that Brendan Nelson was welcomed to the Isabella Plains school on Saturday.

Mr Smyth: What?

MR BARR: Actually, it was Brendan Smyth who attended. It is unfortunate that the shadow minister for education did not see fit to attend any of the openings of this very important event.

Thank you very much to those members who did show their strong support on Saturday. For many on the other side of the chamber, it has been belated support for the early childhood model, but it was good to see a Brendan from the Liberal Party in attendance.

In reflecting on which Brendan it was, it is worth noting that Dr Nelson has today been appointed as an ambassador for this country, proof pudding that there is life after politics for Brendans from the Liberal Party. Perhaps this one over here might well consider he could make a greater contribution to the people of the ACT in some other role.

Waste—management

MS LE COUTEUR: My question is to the Minister for Territory and Municipal Services. When I asked recently about the potential conflict of interest because Thiess runs the Mugga Lane tip, weighbridge and reusables site, you said you would "find it very surprising". However, the 2004 Auditor-General's report on ACT waste found—and I quote:

> A conflict of interest exists for the business that has the contract for managing both the operation of the weighbridge and the Mugga Lane landfill.

Is the Auditor-General wrong?

MR STANHOPE: Is the Auditor-General wrong? I must say I am not sure I could recall a single instance where it has ever crossed my mind that the Auditor-General might be wrong, on anything.

Ms Le Couteur, following your question, I did take advice on the issue you raised in relation to a perceived or actual conflict of interest in regard to the arrangements applying to Thiess in its dual roles in the management of waste services and in recovery and recycling. The advice I have received from TAMS, from Waste ACT, in relation to the issue, and in relation most specifically to Thiess at ACT waste recovery services at Mugga and Mitchell, was that there was no conflict of interest, that the nature of the arrangements militated very much against there being a conflict of interest and that the way in which the contractual arrangements had been constructed ensured that there was not a conflict of interest.

I have received that advice, Ms Le Couteur. I must say I am not quite sure why, if I had received it, I would not have provided it or tabled it. I will have a look at the form in which it was received. I would be more than happy to provide you with the advice, the explanation and the rationale that I have received, the basis of the advice in relation to this issue, which assured me and gave me the comfort that I think is sufficient to not believe that there is any issue in relation to conflict between the dual roles of Thiess in regard to waste and recycling. I have received that advice, I have received that assurance, and I am more than happy to provide the rationale, the justification and the explanation to you, in the hope that it will also deal with your concerns.

MR SPEAKER: Ms Le Couteur, a supplementary question?

MS LE COUTEUR: Thank you, Mr Speaker. I understand that Thiess receives a higher rate of payment if it sends over 200,000 tonnes of waste to landfill. Last year I understand it sent 214,000 tonnes to landfill. Is this not an incentive for Thiess to send waste to landfill rather than diverting it?

MR STANHOPE: Thank you, Ms Le Couteur. This was, indeed, at the heart of the question you asked and on which I sought additional information. I do not think I do have it with me, but I have advice, Ms Le Couteur, as I have just indicated to you, which addresses the very issue that you have raised about how could it be, when you have one organisation with two contracts—one to actually provide a waste service and the other to provide a recovery service—that there is not an inherent conflict of interest in that that particular contractor, in this case, Theiss, would not deliberately take recyclable goods to landfill because there was an apparent financial benefit to it doing so.

I do not have the details committed to memory of the contractual arrangements with Thiess in relation to waste and in relation to recycling to be able to provide that to you here and now. But advice to me exists as to why there is not an incentive, in the context of the actual contract under which the services are provided, for Thiess to take

recyclable goods to landfill. That is the advice I have. I found the explanation convincing, I accepted it, and I am more than happy to provide the written explanation to you. But it does require some explanation of the contractual arrangement, and I simply do not have that in my head.

MR SPEAKER: Ms Bresnan, a supplementary question?

MS BRESNAN: Thank you, Mr Speaker. How can you be sure that you are receiving reliable data given that the Auditor-General's report also said that the conflict of interest caused by a single operator at the tip creates risks for the reliability of data on waste recycling and costs?

MR STANHOPE: Really I am repeating myself, Mr Speaker. I had advice on it. I did not commit the advice to memory. I am more than happy to provide the advice to the members of the Greens.

Ms Le Couteur: Mr Speaker—

MR SPEAKER: Ms Le Couteur, I am sorry but you cannot ask a further question. The standing order says "other members", not the original member. Ms Porter?

MS PORTER: Thank you. Can the Chief Minister explain, in relation to the management of waste in the ACT, how the various elements are managed as landfill and recyclables?

MR STANHOPE: I must say I had trouble understanding Ms Porter, through what I hope was not a swine-flu induced—

Ms Porter: Do you want me to repeat the question?

MR STANHOPE: I thank Ms Porter for her question. I am not quite sure which element of waste I might go to in the time I have available.

The ACT, in the policies it has pursued variously since self-government, has actually created for us the enviable position, I think within the world, that in a major metropolitan city of this size we have the most successful recycling facility and record certainly of any place in Australia and, in the context of the world, one of the most enviable and successful records of achievement in relation to reducing waste to landfill and in achieving recycling rates. We have, for a number of years now, exceeded 70 per cent of all waste to landfill or waste collected being effectively recycled. It is an enviable record.

Any discussions or any perceived criticisms in this place in relation to this government's record of achievement in relation to waste or to recycling services and their success need to be a discussion undertaken in the context that we have by far, by a country mile, the best record in relation to recycling in Australia and amongst the best in the world.

ACTION bus service—occupational health and safety

MR HANSON: My question is to the Minister for Industrial Relations and relates to occupational health and safety. Minister, on Thursday, 10 September 2009, the *Canberra Times* reported on a case of an ACTION driver who pleaded guilty to a high-range drink-driving offence on 30 April. The Chief Magistrate said:

> We have only God to thank that no one was seriously injured, because this really could have been an unmitigated disaster.

In the six months since the incident, what measures have you taken to ensure that ACTION's occupational health and safety policies are working?

MR HARGREAVES: The day-to-day administration of workplace occupational safety matters rests with the Minister for Territory and Municipal Services.

Mr Smyth: But you have overarching responsibility.

MR SPEAKER: Chief Minister, do you wish to take the question up?

MR HARGREAVES: That is the answer.

MR SPEAKER: Mr Hanson to ask a supplementary.

MR HANSON: Minister, what occupational health and safety assessments have you made of all ACT government employees involved in driving government vehicles.

MR HARGREAVES: The enforcement of compliance against, for and with occupational health and safety standards rests with the Office of Regulatory Services, which sits within the portfolio of the Attorney-General.

MR SPEAKER: Mr Coe, a supplementary question?

MR COE: Thank you, Mr Speaker.

Members interjecting—

MR SPEAKER: Order! Mr Coe has the floor.

MR COE: Minister, is ACTION's sifting process that allowed this driver to continue working consistent with government occupational health and safety requirements?

MR HARGREAVES: I have answered that question.

MR SPEAKER: Mr Coe, a supplementary question?

MR COE: Thank you, Mr Speaker. Minister, are the ACT's occupational health and safety standards satisfactory for the broader transport sector?

MR HARGREAVES: On that point, Mr Speaker, I indicated earlier on in answer to a question from Mr Hanson saying the same thing: the responsibility for that does not rest with me; it rests with another minister.

Schools—sizes

MS BRESNAN: My question is to the minister for education and concerns the education committee report tabled today. Minister, key evidence you used to support the school closures was a document by Professor Caldwell, based on US research on school size. It is interesting to note that Professor Caldwell had not spoken to the ACT government about this research and that his document comes up as number one when someone does a search on school size research in Google Australia. Minister, can you please advise what research you did and assure the chamber that your office did not simply use a Google search to conduct research analysis?

MR BARR: The Department of Education and Training undertook a broad range of assessments in relation to the totality of the towards 2020 policy. There is an extensive amount of research available on a number of different education models and a number of different education factors that were considered in bringing forward the policy in its initial public release in 2006.

To go to the detail of Ms Bresnan's question around the international research in relation to school size, this is something that we did discuss at some length during the committee hearings. What is interesting in the context of this debate is that the argument that has been put forward by some is that small schools, undefined, deliver a better outcome than large schools, undefined. With respect to the context of any international research, and most particularly that which Professor Caldwell and his team relied on in presenting their particular summary paper in relation to school size, the size of schools in an international context is much larger than is the case in the ACT. A large school overseas has sometimes up to 3,000 to 4,000 students. A small school in an overseas context is perhaps very similar to what would be a large school in the ACT context.

We spent a fair amount of time in the committee hearings having arguments in relation to what was meant when someone talked about a small school versus a large school in the context of this international research. To put it into some perspective, a primary school in the ACT with between 200 and 400 students would be in the mid-range, heading towards large, in the context of the ACT education system. But in any international context, and certainly even in an Australian context, in other metropolitan areas, that would be towards the smaller end of a school size.

In the semantics around this debate, it is often the case that people say one thing and think they are arguing very passionately for small schools when in fact they are arguing exactly the position that the ACT government adopted—that is, and as backed up by the ACT principals association in their evidence to the committee, a good size for a primary school is between about 200 and 400 students, and in the context of a high school, somewhere between about 600 and 1,000.

Mr Speaker, lo and behold, if you do an analysis of the ACT public education system at the moment, the vast majority of primary schools fall between that 200 and 400 size and the vast majority of high schools fall between 600 and 1,000. And in the context of all of the international research, they would be defined as small schools. In the context of the ACT, and where our public system was at in 2006, with respect to schools with enrolments of 25, 67, 71 or 78, or in the case of high schools, with about 250 enrolments, they are beyond small; they are micro. They are tiny schools.

I go back to the original point I made: one would not want to misinterpret international data and seek to put your own view on what constitutes a small school in a national context or an international context.

Opposition members interjecting—

MR BARR: We see from the constant interjections of those opposite that they have no interest in significant educational matters.

MR SPEAKER: Ms Bresnan to ask a supplementary question.

MS BRESNAN: Thank you, Mr Speaker. Minister, why in the statement of reasons did you say Professor Caldwell's work was Australian research when quite clearly it is US research?

MR BARR: Professor Caldwell is an Australian.

MR SPEAKER: Mr Doszpot, a supplementary question?

MR DOSZPOT: Will the minister accept the recommendation of the education committee to reopen the two small schools of Hall and Tharwa?

MR BARR: What I have indicated is that the government will respond in detail to the committee's report in due course. I imagine that that response will be tabled in the Assembly at some point before the end of this calendar year.

The commitment I have given is that the government will not take one cent away from any ACT public school in their capital works program or any of their ongoing funding. Not one cent from any capital works project, any school renewal project or any ongoing recurrent funding will be taken from any ACT public school in order to fund the black hole that has been created by the Liberal Party's position in relation to this matter.

The Liberal policy as outlined in that committee report would require the expenditure of around $10 million in up-front capital to re-establish the four schools, as is Liberal Party policy now and as was taken to the election, and between about $300,000 and $700,000 per year, depending on the individual school, in recurrent costs.

I very categorically stated that the government will not take one cent away from another school in order to fund the recommendations that have come forth in this

committee inquiry and report. It is certainly the government's intention to continue our capital works program as announced, so we will not be diverting any money from any existing project to meet the recommendations of that committee inquiry.

Future allocations of education funding will be the subject of future budget deliberations.

MR SPEAKER: Ms Hunter, a supplementary question?

MS HUNTER: Minister, did you not realise that this key evidence of Professor Caldwell's that you used argued for small schools, not against, and can you reassure the Assembly that you actually read this document before using it to justify closing small schools?

MR BARR: Yes, Mr Speaker, and the point I made in my response to Ms Bresnan is, in fact, there was a considerable amount of confusion—that clearly still remains in the eyes of the Greens—in relation to international research in support of small schools. In the context of the size of schools nationally and internationally, ACT schools are small. ACT schools are small. The schools that were closed as part of the Towards 2020 process were smaller than small. Some had as few as 25 enrolments.

It is worth noting that throughout all of this highly politicised process, at the end of the witch-hunt and the end of the political circus, those opposite and the Greens have endorsed 90 per cent of the government's reform agenda in relation to the public education system. I will take that as a ringing endorsement, through gritted teeth, it is worth noting. The tone of the report was through gritted teeth, but they had to concede that it has been a positive thing for the ACT education system, that the reform was needed and that it was supported by educational professionals. One need only go to the evidence of the ACT Principals Association and the Australian Education Union, who indicated there was a clear need for change, to see that. Change has occurred; it is good for the public education system. How it must have hurt those opposite to see public education enrolments increase in 2009, because we know how much they hate public schools.

Youth justice

MR COE: My question is to the Minister for Children and Young People. I refer to the article in today's *Canberra Times* entitled "Case against thieves collapses". Was the outcome of this case an intended or unintended consequence of the Children and Young People Act 2008?

MR CORBELL: Those relevant provisions of the Children and Young People Act are within my portfolio responsibilities as Attorney-General. The decision of the court is a matter that I am seeking advice on. What I would say is that the structure of the legislation is such that it is designed to strike an appropriate balance between the need for punishment where people commit crimes and cause injury and an impact on the community and also the need to recognise that we should avoid institutionalising young people in the criminal justice system for the rest of their life and that the emphasis should be on rehabilitation and on ensuring that people, particularly young people, do not become career criminals.

That is the balance that is endeavoured to be struck in the legislation. Whether that is achieved in this particular instance is a matter that I am seeking some advice on. I am not at a point at this stage to say whether there is any inherent structural difficulty with the legislation or whether it is simply the view of the magistrate and the court in relation to this particular case, but I am seeking further advice on the matter. I believe it is important to reiterate that we must strike the balance between punishment and rehabilitation, particularly so for young people, and it is appropriate to put the emphasis on rehabilitation for young offenders.

MR SPEAKER: Mr Coe, your supplementary question.

MR COE: Yes, my supplementary question is to the minister rather than to the attorney. What implications does this have for youth justice in the ACT?

MR CORBELL: These are matters around the application of the act as it operates in the children's court in the Magistrates Court; so it is appropriate that I try to answer your question, Mr Coe.

What does it mean for the broader operations of youth justice in the territory? I do not believe at this point in time you can extrapolate any more significant impact on the operation of youth justice in the territory. I think we need to properly examine all the facts of the case and then reach a conclusion as to whether or not there are, indeed, broader legislative impacts. At this point in time I am not in a position to do that and I think we should be cautious about leaping to conclusions on this matter at this time.

MS BURCH: Supplementary question. Can the minister tell the Assembly about the role of restorative justice in the context of youth justice in the ACT?

MR CORBELL: I thank Ms Burch for the question. Restorative justice does perform an important role in the overall context of the youth justice framework for the territory. We have a very good success rate in restorative justice for young people. We have a 60 per cent success rate in terms of avoiding recidivist behaviour through the restorative justice mechanisms that are deployed in my department and across government more broadly.

There is more work to be done, I must say, in relation to restorative justice as it relates to young Indigenous offenders. Young Indigenous offenders do not participate in the restorative justice framework to the same extent that non-Indigenous young offenders do and we need to work to improve the participation of young Indigenous offenders in the restorative justice framework.

That is a matter that my colleague Ms Porter has been particularly vocal on and has made many representations to me on. It is a matter that I have asked my department to do further work on. I am hopeful that we will be able to put in place some additional measures to encourage and facilitate the involvement of young Indigenous offenders in the restorative justice process as an alternative to the traditional criminal justice court-based decisions.

Housing—construction

MS BURCH: My question is to the minister for housing. You announced yesterday the $67 million ACT component of stage 2 of the commonwealth government's social housing stimulus package. Could you please advise the Assembly what effect this investment will have on the ACT?

MR HARGREAVES: I thank Ms Burch for the question. Yesterday I announced the successful stage 2 projects of the Rudd government's economic stimulus package. Stage 2 of the national building economic stimulus package will provide 293 new public and community housing properties in the ACT, at a cost of $76 million. The number of homes purchased or constructed under stages 1 and 2 will now total 350. Of these, 115 dwellings will be built by or for community housing providers and 155 will be constructed especially for older Canberrans.

The stimulus package has provided the ACT with an unprecedented opportunity to provide suitably located quality accommodation for older Canberrans and yesterday I announced that, under stage 2, community facilities land will be utilised for the construction of 132 two-bedroom units, providing supported accommodation for older people. In fact, we have been able to capitalise on the stimulus funding to increase the number of older persons units to a level that was more than required by us of the commonwealth.

With the rapidly ageing demographic in Canberra, there is an increasing demand for well-located two-bedroom properties in both the public and private sectors. This will enable ageing in place, offering security, independence and uninterrupted family and social connections—something, as I have said, which is very important to older Canberrans.

Finally, community housing has also received a massive boost under stage 2 of the stimulus. The successful stage 2 community housing providers are the Salvation Army, St Margaret's Uniting Church, Community Housing Canberra, BlueCHP, which is an organisation formed from five regional New South Wales community housing providers, and Eco.

All houses in stage 2 and all of those, where possible, in stage 1 will have six-star energy ratings, with specific sustainability inclusions. Many will be built to a universal design. It was the decision of this government to extend the stage 2 requirements on this to stage 1 properties. Thirty-three of the 57 stage 1 properties are being worked on, with one already completed in Tallara Parkway, Narrabundah. The ACT government too is making significant contribution to this unprecedented construction partnership both in land and investments totalling $11.9 million.

This is a social and economic opportunity that will deliver deep and lasting rewards for all Canberrans, and I am gobsmacked that the Liberal Party voted against the stimulus package in the federal parliament—opposition for opposition's sake at the federal level too, it seems. I strongly urge the Canberra Liberals to advise their federal leader, Mr 16 per cent popularity, of the error of his decision.

MR SPEAKER: Ms Burch, a supplementary question?

MS BURCH: Can the minister advise the Assembly of other benefits of the stage 2 investment?

MR HARGREAVES: I am happy to expand on that. One of the reasons for the stimulus package was to support jobs. Federal Treasury has estimated that 15,000 jobs nationally will be supported by the stimulus, which translates into hundreds of jobs in the ACT. Stage 2 will provide a huge economic boost to the ACT building and construction industry, creating jobs for our builders, plumbers, carpenters, electricians, brickies, carpet layers, kitchen manufacturers and many other related trades.

The OECD employment outlook says that Australia's fiscal stimulus package seems to have had a strong effect in cushioning the decline in employment caused by the global economic downturn. It has been publicly supported by organisations such as ACTCOSS, ACT Shelter and the HIA, who can see the benefits it will have for the ACT.

I thank the Greens for supporting the stimulus package, but I ask Ms Le Couteur to talk to those people who will benefit from having their jobs supported, to the people being moved out of homelessness and to ageing Canberrans who will be able to age in place and then tell us whether she really still thinks that the stimulus package is—I use her words—a Rudd government re-election package. I can see the discomfort over that side of the room.

The Liberals, are trying, of course, as they do, to deflect scrutiny from the fact that the federal Liberals voted against the stimulus package. They voted against the benefits it will have for social housing in addressing homelessness and disadvantage. What are you going to say to homeless Canberrans, Mr Coe? These guys voted against the benefits it will have for helping ageing Canberrans to age in place? What are you going to say to ageing Canberrans about that, Mr Seselja? Most importantly, the federal Libs voted against the benefits it will have for supporting and protecting jobs in the ACT. Shame, shame, shame. So those opposite should hang their heads in shame and tell the people of Canberra why the Liberal Party voted against the package. *(Time expired.)*

MR SPEAKER: Ms Le Couteur, a supplementary question?

MS LE COUTEUR: I understand that none of these developments were around town centres or inner Canberra. When will ACT Housing be able to do redevelopment in those areas?

MR HARGREAVES: Ms Le Couteur is wrong. There will be developments in and around town centres. One that comes to mind instantly is the Mount Neighbour school precinct. There will be older persons units in there. It is less than 200 metres from the Kambah village. If those opposite are saying, "Can we have them in the middle of Civic?" the short answer is yes. There will be some pop up in Braddon less than a kilometre from the centre of the nation's capital.

MR SPEAKER: Mr Coe, a supplementary question?

MR COE: Minister, was Havelock Housing included as a provider in the estimates package, round 2? If not, is it because the ACT government provided advice to the federal government that they should not be?

MR HARGREAVES: The government, as a result of the incredibly extensive consultation process, actually received an enormous number of proposals for the provision of community and other types of social housing.

The rules about what would be approved and what would not be approved was that all of the proposals would be evaluated by the ACT government. In fact, those proposals that were evaluated were put forward to the commonwealth with our endorsement. The rules, though, were that all proposals, whether they were supported or otherwise by the ACT government, were to be put to the federal government.

The actual rules of the stimulus package were that the commonwealth will have the final say in the matter.

Mr Coe: Mr Speaker, I raise a point of order on relevance. We are now half way into the answer and he has not answered the question about whether Havelock Housing was one of the approved providers.

MR HARGREAVES: Mr Speaker, I was trying to tell those opposite, against very significant interjection, that it is the federal government's decision on all proposals put forward, including that from Havelock House. All proposals were duly put forward to the federal government for their consideration and they have approved those particular proposals that I have announced.

If, in fact, a particular proponent put up a proposal that would not fly in the eyes of the federal government, it did not receive support. The federal government has the final say on whether they got it. Mr Coe can build as many straw men as he likes.

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

Supplementary answers to questions without notice
Waste—management
Pace Farm—battery hens

MR STANHOPE: If it is appropriate now, I wish to clarify a couple of answers and provide some additional information.

Ms Le Couteur asked me a question today on contractual arrangements in relation to Thiess. I have in fact provided information to Ms Le Couteur in the last few weeks in relation to the advice provided to me by TAMS about this particular issue. I actually set out in that letter the explanation provided to me by TAMS, an explanation which I had accepted and which I have conveyed to Ms Le Couteur.

But in the context of the question, I can now actually provide the detail of that. It appears that Ms Le Couteur does not accept my advice or the advice of TAMS, or is not satisfied with it. It might have been more helpful to me in the question today if Ms Le Couteur had said, "I have received your advice and I simply do not accept that it is valid or true." I think we might then have proceeded from there but I will now provide, for the information of other members, the advice that was provided to me and which I have previously provided to Ms Le Couteur but which she quite clearly does not accept.

This is what I have advised Ms Le Couteur so I will read the information for other members. The Department of Territory and Municipal Services has advised me that Thiess operates the landfill under contract C07226. The contract pricing for the operational landfill provides that Thiess is paid according to the amount of material sent to the landfill.

This reflects the fact that there are higher operational costs involved in processing more waste. It is not designed to provide the landfill operator with a greater level of profit for processing more waste. Thiess already receives the maximum rate because total waste to landfill is above 200,000 tonnes per annum. This means that Thiess's rate can only be affected by the operation of the reusable facilities if those facilities are capable of diverting an additional 14,000 tonnes of material.

In 2007-08, the reusable facilities diverted a total of 1,716 tonnes from landfill. TAMS has informed me that the facilities could not be expected to divert waste at such a level—in other words, an additional 12,000 tonnes—that it would affect Thiess's landfill operations rate. On this basis, I do not believe that the current arrangement would provide Thiess with any financial incentive to cause more material to be sent to landfill. There is, therefore, no conflict of interest in these arrangements.

Your second question related to a foreseen conflict of interest allowing Thiess to operate both the landfill and the materials recovery facility under contract. TAMS advised that Thiess operates the materials recovery facility under contract C82456. That contract provides effective financial incentives for Thiess to minimise waste from the MRF to landfill. The environment performance at the MRF gives me confidence that those financial incentives are working.

Independent and environmental consultants APC Environmental Management undertook a residual waste audit for the materials recovery facility in May 2009—in other words, a few months ago. That report by those independent environmental consultants shows that the materials recovery facility is processing approximately 55,700 tonnes of waste material per annum. Of that, only 1,300 tonnes, or 2.3 per cent of potentially recycled material, is sent for landfill.

According to APC Environmental Management, through this independent audit, they believe, and I quote, "This exceeds accepted best practice standards for MRFs and is an excellent achievement."

The 2009 audit report is not yet publicly available but will appear on the TAMS website shortly under links and publications. The address is provided to

Ms Le Couteur. Previous audit reports can also be found on the website. I trust this information is of assistance. I regret, Ms Le Couteur, if it was not.

On a further matter, Mr Speaker—

Mr Seselja: Chief Minister, could I ask that you table that?

MR STANHOPE: I would be more than happy to do that. You can get a copy from Ms Le Couteur, too. I table the following paper:

> Landfill and reusables facility contracts—Copy of letter to Ms Le Couteur from the Minister for Territory and Municipal Services.

Just on another matter, Mr Speaker, yesterday I was asked a question by Ms Le Couteur in relation to cage door sizes as opposed to floor space. In my response to that question I devoted my answer essentially to issues around space. I think that in that context the answer I gave might not have been complete. It related to space, not cage door size, and I have asked the department for additional information on the questions that Ms Le Couteur asked on the implications of cage door sizes at Parkwood. I will provide that information for Ms Le Couteur in the Assembly when I have received it.

Cotter Dam—cost

MR CORBELL: I provide some further advice in relation to questions that have been asked of me in question time this week. Yesterday Mrs Dunne asked me a question in relation to the costs of the Cotter Dam project and whether the $363 million figure included costs for remediation. She also asked what the ongoing running costs were for the enlarged dam.

The answer to Mrs Dunne's question is that the costs of remediation are included in the $363 million figure. The cost of that particular element is $2.65 million for reinstatement of disturbed areas, native seed collection, planting, tube stock and topsoil. In relation to operational costs, these are not included in the $363 million figure.

The reason for this is that ActewAGL will have responsibility to operate the dams under ANCOLD guidelines. Based on these standards, costs for maintenance and surveillance will be approximately $1 million per year. In addition to this are costs for pumping and water treatment. These costs will depend on usage of the dam, which is related to future climate conditions, but they are expected to average $1.5 million per year. The ICRC determination has an allowance for operational costs for water security major projects.

Also in the Assembly yesterday, Mr Seselja asked me a question in which he asserted that Mr Sullivan, the Managing Director of Actew, had asserted in an estimates committee hearing of 18 May that the cost of the Cotter Dam—

Members interjecting—

MR SPEAKER: Order! Mr Corbell is providing information.

MR CORBELL: I will start again, Mr Speaker. In the Assembly yesterday, Mr Seselja asked me a question in which he asserted that Mr Sullivan, the Managing Director of Actew, had asserted in an estimates committee hearing on 18 May 2009 that the cost of the Cotter Dam could be 30 per cent higher than the 2008 estimate of $145 million. I am advised that Mr Sullivan did not say that. Mr Sullivan, in the estimates committee hearing, said:

> In early 2008 the ICRC accepted an estimated cost of $145 million. We are working on an estimate of costs that we warned in that report could be 30 per cent higher than that again.

In December 2008 Actew Corporation reported to the government that the increase in price could be of the order of 50 to 70 per cent higher than the $145 million figure. This report was released publicly in March this year. The *Canberra Times* asked Mr Sullivan about the estimate of the cost of the dam as a result and he said that Actew had, in their most recent report, alerted that the price could be as high as 50 to 70 per cent higher.

Mr Seselja also asked what had happened between 18 May and 30 May this year. I am advised by Mr Sullivan that, in regard to this matter, nothing happened.

Papers

Mr Speaker presented the following papers:

> Ethics and Integrity Adviser for Members of the Legislative Assembly for the Australian Capital Territory, pursuant to the resolution of the Assembly of 10 April 2008, as amended 21 August 2008—Report for the period 25 June 2008 to 30 June 2009.
>
> Committee reports—Schedule of Government responses—September 2009.

Territory-owned Corporations Act—statements of corporate intent
Papers and statement by minister

MS GALLAGHER (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women): For the information of members, I present the following papers:

> Territory-owned Corporations Act, pursuant to subsection 19(3)—Statements of Corporate Intent—
>
> ACTEW Corporation Ltd—2009/10 to 2012/13.
>
> ACTTAB—1 July 2009 to 30 June 2010.
>
> Rhodium Asset Solutions—2009-2010, dated July 2009.

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

Leave granted.

MS GALLAGHER: In accordance with section 19(3) of the Territory-owned Corporations Act, I hereby present the statements of corporate intent of the three territory-owned corporations, Rhodium Asset Solutions, Actew Corporation and ACTTAB.

The statements of corporate intent signal the overall strategic direction of the respective territory-owned corporations as determined by each board. These statements are high-level documents setting out the commercial objectives, a description of the main undertakings and an outline of the nature and scope of activities, business and corporate strategies, and performance targets.

As in the private sector, it is one of the main functions of the board to identify the strategic direction that the company should take and to set the strategic objectives to be implemented by management. This is reinforced by the requirement under the Territory-owned Corporations Act that decisions made by the directors relating to the operation of the company are made in accordance with the statement of corporate intent.

These documents are drafted each year by the board of each corporation and submitted to the voting shareholders for comment. Any suggested changes proposed by the shareholders must be considered by the board and consultation must take place around any of those with which the board does not agree.

It is not incumbent upon the board, however, to accept and reflect suggestions from the voting shareholders with which they do not agree. This reinforces the distinction between the role of the board and the government shareholders. The statement of corporate intent is a document produced by and belonging to the board. It is important to take note of these fundamental points which underpin the government's framework for territory-owned corporations.

Territory-owned corporations are formed under the commonwealth Corporations Act. This is an important fact that should not be overlooked as there does not appear to be a sound understanding in the public, the media and even the Assembly of the respective roles and obligations of directors and shareholders under the Corporations Act.

Indeed, the directors are subject to strict legal sanctions if they fail to comply with the requirements of the Corporations Act. This applies in particular to their fiduciary obligations to act in the best interests of the company itself. This corporate form is identical to that of private sector companies and one of the key principles of its application to territory-owned corporations is that this structure provides a clear separation in roles and responsibilities between the board of directors and the government.

The overriding structural objective has always been to clearly remove the government from, and allow the board to focus on, the day-to-day direction and management of the corporation. This is fundamentally the same model that applies to any incorporated company, whether it is publicly or privately owned.

Of course, the voting shareholders have the responsibility to appoint the board. Voting shareholders can also have the ability to issue directions to the board. However, these powers are seldom called upon and must be exercised in a transparent and open way in keeping with the disclosure requirements contained in the Territory-owned Corporations Act.

Certain activities—for instance, the divestment or cessation of a main undertaking by the corporation—are also subject to Assembly approval. In summary, the board manages the business and formulates the strategic objectives. The shareholders, for their part, elect the members of the board specifically for this purpose, while retaining the right to replace the board, and under certain conditions within the strict bounds of the law, to intervene to determine certain issues.

Essentially, the shareholders of an incorporated company, even if they are government shareholders, do not normally exert control over the day-to-day operations of the company. Mr Speaker, I trust my comments will assist in providing a better understanding of the governance framework that applies to territory-owned companies, including the status and purpose of the statements of corporate intent.

I will now briefly comment on each of the statements of corporate intent. As of 1 July 2009, Rhodium had about 1,700 remaining leases maturing out to 2015. As members may recall, the government made a decision last year to wind down Rhodium Asset Solutions.

This Assembly also agreed on 10 February 2009 that Rhodium could divest itself of its main undertakings, including the ACT government fleet contract and various leasing and financing arrangements. As a result, Rhodium's main objective now is to complete the wind-down as soon as possible and the board has set 31 March 2010 as the target date. It is understandable, therefore, that Rhodium does not have long-term business strategies, targets or performance measures.

Rhodium has engaged a service provider to manage the company during the wind-down, which includes the specific objective of facilitating the transfer of all remaining leases and finalising the trade debtor book by 31 October 2009. Rhodium has commenced a strategy that provides two options to divest the remaining leases. The first option involves transferring the remaining ACT government operating leases to an ACT government department and maintaining the existing financing arrangements through Westpac. However, the terms between the three parties have not yet been agreed.

The other option involves transferring the remaining leases to another leasing company. Whether this proposal will be successful depends on the terms of any offer to be made following due diligence. If this strategy does not succeed, Rhodium will

consider alternative options to complete the wind-down, including extending the existing management contract agreement or possibly engaging another leasing company to manage down the remaining leases on a fee-for-service basis.

The Actew statement of corporate intent articulates its strategic direction and the various activities that it considers to be high priority. These activities include implementing a diversified portfolio of water supply options for the territory with a view to improving the security of supply. I will speak later on the particular projects that make up that activity.

Actew also intends to implement carbon abatement strategies to minimise and offset greenhouse gas emissions associated with the water security projects. Actew will continue to manage the permanent water conservation measures and temporary water restrictions, and will review those measures and restrictions in light of the prevailing drought conditions and what we can expect in the future.

Actew will be working with government towards further reductions in per capita mains water usage and in the review of the think water, act water strategy. Water supply catchment management activities will be undertaken to ensure water quality is protected and the governance and administrative arrangements around those catchments will be reviewed in conjunction with government.

As I alluded to in previous comments, Actew's top priority is to improve future water security for the territory in the face of persistent drought and climate change. Actew has recently finalised costs for the three main water security infrastructure projects that have been agreed by the government.

The costs to complete each of these important infrastructure projects are $363 million to enlarge Cotter Dam, $150 million to pipe water from the Murrumbidgee River to store in the Googong reservoir and $38 million to transfer water to the ACT from the Snowy Mountains via the Tantangara reservoir.

The statement of corporate intent does not include these final costs as this information was not available when the statement was being finalised by the Actew board. Collectively, these projects represent the largest infrastructure projects undertaken in the territory since self-government.

In addition to these water supply security projects, Actew will also be undertaking a strategic review of the sewerage system to maximise the capacity of the existing network and to look at the latest best practice standards and industry directions in this essential service. The work will continue too on investigating the means by which think water, act water targets for the use of recycled water can best be achieved.

Environmental priorities include the protection of the endangered and threatened fish species in the Cotter reservoir and river as well as working with the Environmental Protection Authority to ascertain appropriate environmental flow conditions in our waterways. Significant environmental monitoring and reporting activities surrounding the territory's waterways and reservoirs will also continue to be a priority for Actew.

The energy side of Actew's investments also provides a number of priority activities, including the work around establishing a second major supply point for electricity into the territory and work assisting government in developing an environment that supports the use of alternative power sources to address greenhouse gas abatement policies. Actew will also continue to support telecommunications services in the territory through its investment in TransACT.

During 2008-09, ACTTAB successfully managed a number of significant business challenges, including retaining access to the Tabcorp race betting pool, at least until 2012, and forming part of the new combined sports betting pool with Tote Tasmania, Racing and Wagering Western Australia and Centrebet International Ltd.

The ACTTAB board has developed six business and corporate strategies to address the risk to the operating result. These strategies are as follows:

- to deliver a diverse suite of products through implementing a new integrated betting system, new joint venture sports betting arrangements, and building on synergies with potential partners to expand the product range and market share of ACTTAB's services;

- to strengthen and maintain relationships with key stakeholders through securing long term its pooling arrangements, enhanced communications and servicing to the retail distribution network, and enhancing brand awareness and loyalty;

- to ensure the capability of ACTTAB's people through a revised corporate structure, enhanced organisational capacity and succession planning, and a greater technical capacity to support existing products and service delivery mechanisms, as well as adopt emerging channels;

- to enhance ACTTAB's profile through promotion of its role and longevity of success and corporate citizenship;

- to maintain an accessible distribution network through enhanced efficacy and cost efficiency of delivery channels and improved venue image and presentation; and

- to minimise harm attributable to problem gambling through the responsible delivery of products to customers.

As the smallest TAB in the country, ACTTAB continues to face a number of risks in its current operating environment and based on current projections is expected to experience declining profitability. To this end, the government will continue to closely monitor ACTTAB's financial and businesss outlook during 2009-10 and seek regular advice from the board, consistent with appropriate governance and oversight arrangements.

I commend the statements of corporate intent to the Assembly.

Paper

Ms Gallagher presented the following paper:

> Capital Works Report—2008-09 Supplementary Appropriation No 3—Delivery of the Local Initiatives Package.

Cotter Dam—call-in powers
Paper and statement by minister

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

> Planning and Development Act, pursuant to subsection 161(2)—Statement regarding exercise of call-in powers—Development application No 200915041—Blocks 12, 13, 18 District of Cotter River; Blocks 29, 34, 35, 39 District of Coree; Blocks 80, 178, 179, 200, 213, 283, 284, 322, 323 District of Paddy's River, dated 16 September 2009.

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

Leave granted.

MR BARR: On 26 August 2009, I directed, under section 158 of the Planning and Development Act 2007, the ACT Planning and Land Authority to refer to me development application No 200915041—the enlargement of the Cotter reservoir and associated works.

The development application sought approval for, among other things, the construction of a main dam and associated engineering infrastructure required for the operation, including an intake tower and pipe work and construction of two saddle dams. On 15 September 2009, I informed the Planning and Land Authority that I had decided to consider the development application. This notice has been notified on the legislation register. On 16 September 2009, I approved the application using my powers under section 162 of the Planning and Development Act.

In deciding the application, I gave careful consideration to the requirements of the territory plan and the considerable advice of the contributing entities. I also gave consideration to the nine representations received by the Planning and Land Authority during the public notification period of the development application in July 2009.

I have imposed conditions requiring further information on noise management, landscaping, the decommissioning of the existing dam and details of signage and recreation area management. I have imposed conditions that require auditing and compliance monitoring and tracking of all conditions of approval and requiring that the construction be consistent with the requirements of the Australian National Committee on Large Dams and the commonwealth Department of the Environment,

Water, Heritage and the Arts and the contributing entities. I have also applied a specific condition which requires ongoing community information, consultation and involvement for the life of the project.

The Planning and Development Act 2007 provides for specific criteria in relation to the exercise of the call-in power. I have used my call-in powers in this instance because I consider the proposal will provide a substantial public benefit. I consider the proposal will provide a substantial public benefit as the enlargement of the Cotter reservoir will enhance water security within the ACT and the surrounding region. Water security has been identified as a major project within the operations of Actew and supported by the ACT government.

To investigate the sustainable water future for the ACT, several projects enlisted by Actew and the ACT government were initiated between 2004 and 2007. The objectives identified from the research and planning included the need to increase efficiencies in the use of water and to provide a long-term and reliable source of water for the ACT region.

The enlargement of the Cotter Dam project was announced by the ACT government in October 2007 as one of the initiatives to secure the regional water supply. The enlarged Cotter Dam project was chosen by Actew as a high priority option for the following reasons. It delivers similar amounts of water to those amounts projected for the large Tennent Dam option, but at around 40 per cent less in terms of the capital cost. It will draw water from a more reliable catchment than the Tennent catchment or the Googong catchment. It will catch much of the water that the existing Cotter Dam cannot store, like the overflow from storm events and environmental flows. It has the lowest impact on threatened fish populations of any of the dam options. It will make use of the existing pump station and water treatment plant.

The enlargement of the Cotter Dam will improve the storage and the reliability and stability of water supply capabilities in Canberra and the region. This development will contribute to Actew’s supply and management of safe, secure and sustainable water supply for the ACT and the region.

Section 161(2) of the Planning and Development Act specifies that, if I decide a development application, I must table a statement in the Assembly not later than three sitting days after the day of the decision. As required by the act and for the benefit of members, I table a statement providing a description of the development, details of the land on which the development is proposed to take place, the name of the applicant, the details of my decision and grounds for the decision.

MS LE COUTEUR (Molonglo), by leave: I repeat that the Greens believe that call-ins on development should not just be notified; they should be disallowable instruments. While I am very pleased that this time the planning minister did not spend a lot of time talking about taking the politics out of planning, one of the things that we are concerned about is that things like this call-in actually put the politics into the wrong part of the planning. Politics is involved in planning, but it should be involved in working out the aims and the objectives of the plans rather than the actual implementation of individual projects. The call-in powers put the politics into the wrong bit, the implementation bit, not the actual planning aim part of it.

So if we are going to make these decisions in a political fashion then we should make them disallowable so that democracy has a possibility. I am really quite bemused and surprised that the minister felt this particular project needed to be called in. So far we have had two calls-in—this and the hospital project.

Both of these were large projects. I am not aware of any significant opposition to them, and certainly neither the opposition nor the Greens actually have expressed opposition to the projects per se. Certainly there has been considerable questioning about the amount of money being spent on it, but I have not heard anybody here in the last three days express the view that the Cotter Dam project should not go ahead. So I am really unsure on what grounds the minister felt that it was necessary to actually have a call-in.

Mr Barr: Substantial public benefit.

MS LE COUTEUR: I am wondering what—

Mr Hanson: Do not interject, Mr Barr. It is most unseemly.

MS LE COUTEUR: the reason is. I am sorry; I missed Mr Hanson's interjection.

Mr Hanson: I was asking Mr Barr to be quiet, Ms Le Couteur. I was trying to listen to what you said. He was being most rude and ungracious in making interjections.

MS LE COUTEUR: I should not be listening,

MADAM ASSISTANT SPEAKER (Ms Burch): Ms Le Couteur, can you continue, please.

MS LE COUTEUR: I am sorry. I am about to be told by Madam Assistant Speaker that I should not be listening to members.

MADAM ASSISTANT SPEAKER: It would be in your interest, I think, Ms Le Couteur.

MS LE COUTEUR: I should be directing my comments, as I will do, to Madam Assistant Speaker.

Why are we having these call-ins? Possibly it is just that the government are not, in fact, building in realistic time lines to the projects and so, as things slip and slip a bit as they go along, they then realise that they do not have time to allow the possibility that there might be an appeal process and so the only thing they can do is call it in, regardless of whether or not there is any likelihood of it.

In conclusion, the Greens cannot see why this call-in is necessary, given the almost universal support for the Cotter Dam project. Again, we would have preferred to see it as a disallowable instrument.

Social housing
Ministerial statement

MR HARGREAVES (Brindabella—Minister for Disability and Housing, Minister for Ageing, Minister for Multicultural Affairs, Minister for Industrial Relations and Minister for Corrections), by leave: For the information of members, I present the following paper:

> Social Housing Stimulus Package—Stage 2—Ministerial statement, 17 September 2009.

It is my pleasure to advise the Assembly that the second and most significant stage of the commonwealth government's social housing stimulus package has been agreed to and was announced at an event at the Assembly yesterday.

Stage 2 will provide 293 new public and community housing properties in the ACT at a cost of $76 million. The number of homes purchased or constructed under stages 1 and 2 will now total 350 and, of these, 115 dwellings will be built by or for community housing providers and 155 will be constructed especially for older Canberrans. This, of course, contributes to our commitment with the ACT Greens.

Members will be aware that the commonwealth set firm parameters on the type and function of housing to be constructed under stage 2, parameters that will be met by the territory. The most significant related to reducing concentrations of disadvantage. The ACT is somewhat well placed in this regard thanks, in part, to its history as a government town.

We have a remarkable spread of public housing across Canberra, including public housing located in some of our most centrally located suburbs. The social benefits of this have been widely documented. The majority of public housing stock is, of course, located in single detached houses, salt-and-peppered across Canberra, or in smaller complexes of less than 40 units and are often sought after due to their size and the age of the dwellings. In the case of aged accommodation, the significant advantages of collective security and communality of interests means that larger developments are not only acceptable but desirable.

The stimulus package has provided the ACT with an unprecedented opportunity to provide suitably located, quality accommodation for older Canberrans. Yesterday I announced that under stage 2, community facilities land will be utilised for the construction of 132 two-bedroom units, providing supportive accommodation for older people. The sites include Florey and Macquarie in the north and Rivett, Mount Neighbour, Chapman, Conder and Curtin in the south.

In fact, we have been able to capitalise on the stimulus funding to increase the number of older persons units to a level that was more than required of us by the commonwealth. With a rapidly ageing demographic in Canberra, there is an increasing demand for well-located two-bedroom properties in both the public and private sectors.

Members will be aware that the government released an affordable housing action plan. Research informing the action plan brought forward a significant key message. Older people want to be able to age in their localities, and the use of community facilities land will enable us to deliver this wish for many. The ACT will be able to offer tenants the opportunity to move out of homes that have become too large for their practical requirements and into new two-bedroom properties in the same neighbourhood. This will enable ageing in place, offering security, independence and uninterrupted family and social connections. This is something, as I have said, that is very important to older Canberrans.

These properties will be especially designed for older people, with amenities that include lock-up garages with internal access, enclosed secure courtyards to accommodate pets, private courtyards and raised garden beds and plenty of secure storage. They will be close to transport, shops and community facilities and will have the best energy efficiency ratings available, gas heating and individual water tanks.

Such opportunities to age in place also meet a key commonwealth objective in its approval of stage 2 construction expenditure. By moving to these new two-bedroom properties, older people will be significantly assisting many disadvantaged families who remain on the public housing waiting list because of the unavailability of larger homes. Three and four-bedroom properties will be freed up, housing more families across Canberra in communities that are able to give them support more quickly.

The public meetings on these sites were held last week, and I understand there were certainly comments from residents who were surprised that this community facility land is now being used. Community facility land is not gazetted open space. It is put aside by governments for use for services that will benefit the community. We have talked in this Assembly about the importance of urban consolidation for all sorts of social and economic reasons, including close proximity to transport and shops. Of course, for our older residents this is particularly important. This was also a significant criterion set by the commonwealth for successful stage 2 projects.

Finally, I refer to community housing and the massive boost this form of housing choice will receive under stage 2 of the stimulus. The commonwealth set conditions to enable individual builders, developers and community housing providers to put forward construction proposals. I am delighted to announce that the successful community housing providers are the Salvation Army, St Margaret's Uniting Church, Community Housing Canberra, BlueCHP, which is an organisation formed from five regional New South Wales community housing providers, and ECHO Housing. The commonwealth has required that 75 per cent of these homes are completed by December 2010.

It needs to be noted that all proposals had to be measured against the criteria that the commonwealth set and the final approval is given by the commonwealth. The commonwealth was absolutely adamant when we first started discussing these issues that they would take into account the views of states and territories regarding those proposals, but that the states and territories would not be the final decision makers with regard to proposals.

Overall, Housing ACT will both purchase and build a total of 235 dwellings, with 57 in stage 1 to be completed by June 2010 and 178 in stage 2. In total, as I said at the beginning, this is delivering 350 new social housing dwellings into the ACT. All houses in stage 2 and all of those, where possible, in stage 1 will have six-star energy ratings and specific sustainability inclusions and many will be built for universal design. It was the decision of this government to extend the stage 2 requirements on this to the stage 1 properties. Of the 57 properties being built for stage 1, 33 are under construction, with one already completed in Tallara Parkway, Narrabundah.

One of the reasons for the stimulus package was to create jobs and I can report that, importantly, 30 new workers or those who would otherwise not have had any work are employed on these stage 1 projects. Federal Treasury has advised me that over 15,000 jobs are supported by the stimulus package nationally, and this will translate into hundreds of jobs supported in the ACT. To think that the federal counterparts of those opposite actually voted against the stimulus package and the benefits it has for creating and preserving jobs!

I have referred previously to the huge economic boost the social housing stimulus package has afforded the ACT building and construction industry, creating jobs for our builders, plumbers, carpenters, electricians, brickies, carpet layers, kitchen manufacturers and many other related trades.

Mr Hanson: Yes, yes, yes.

MR HARGREAVES: Interjecting is unseemly, Mr Hanson.

Mr Hanson: Indeed it is. My apologies, minister.

MR HARGREAVES: The ACT government, too, are making a significant contribution to this unprecedented construction partnership, both in land and in investments, totalling $11.9 million. We have been presented with a social and economic opportunity that 12 months ago we would have thought inconceivable. It is an opportunity we have grasped and one that will deliver deep and lasting rewards for all Canberrans.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens), by leave: The ACT Greens welcome the additional financial resources under this appropriation and support the authorisation of expenditure to increase the stock of social housing.

We do believe, however, that we should consider whether there is a need to allocate and spend all the nation building and jobs plan stimulus funds under the tight time frames enforced. The rigid time frames were planned some time ago when we were in the grip of the global financial crisis. Opinion is divided on where we are now in relation to emerging from the global financial crisis. The crisis appears to have not been as severe as previous recessions, and Australia has not felt the same impact as other countries.

Saul Eslake, the program director at the Grattan Institute of the University of Melbourne and the former chief economist at the ANZ bank, said last month in a lecture at the University of Western Australia:

> While I do not support calls for the magnitude of fiscal stimulus to be scaled back, I think there is room for refocusing what remains of it towards longer-term objectives.

He went on to say:

> … in constructing its stimulus packages, the government had made trade-offs between short-term effectiveness in supporting economic activity and jobs and longer-term value for money that seemed entirely appropriate at the time. But it may now be sensible to revisit that trade-off in light of more recent experience.

There have also been questions raised federally with regard to the way in which the stimulus spending has been appropriated. Senator Bob Brown moved a motion calling upon the federal government to have Treasury secretary, Ken Henry, and the Reserve Bank Governor, Glenn Stevens, appear in front of the Senate Economics References Committee to answer questions regarding the validity of the spending measures to date and the anticipated costs and benefits of continuing the stimulus. Specifically, the inquiry will be looking into how well the stimulus spending has worked so far; the costs and benefits of the spending plan for the future; how that future spending could be tweaked; the effect of stimulus spending on interest rates; and the environmental impact of that spending. Senator Brown's motion passed in the Senate unopposed. He called for this inquiry to examine the stimulus spending as he wanted to ensure that taxpayers are not being saddled with unnecessarily high debt.

These deadlines also raise questions of sustainability. Will the social housing projects deliver quality buildings that will be built to best practice in their sustainability rating and serve us well into the future?

Another concern to the Greens is the amount of economic stimulus funds that is being expended through local businesses and contractors. Articles in the media recently suggest that in some states this is not happening and that, in order to meet the deadlines, overseas products and unqualified contractors are being used in the building projects. The government needs to assure the ACT community that as much of the stimulus funding as possible remains in the ACT and that we have quality dwellings at the end of the exercise.

The government must also assure the people of the ACT that discussions with the commonwealth will result in the ACT getting the best value out of the stimulus funding. We need a continued guarantee from the commonwealth that the funding is spent properly under the guidelines as they exist and that as much of the stimulus funding as possible is spent locally, while producing quality improvements to our social housing stock.

The Greens support the authorisation of funding as proposed but will continue to ask questions. We look forward to the results of a federal inquiry which will be made public. It is to hand down its findings by 2 October 2009.

MS LE COUTEUR (Molonglo), by leave: As my colleague Ms Hunter has said, one of the biggest issues with the project has been the timing of it. This has led to quite a number of issues, I suspect. I am very pleased that the department has tried to be as sustainable as possible with the housing, but I have observed that the sustainability has often not included a north-facing orientation.

For the benefit of people who may not have spent a lot of time looking at energy efficiency issues, there is a difference between five and six stars and north facing. The five or six stars are an energy efficiency rating: you can do that solely, if you like, by having sufficient insulation; you do not have to orientate the house north. However, if you do not orientate your house north when you build it, you cannot pick it up afterwards and move it around, so it is really important that this is done.

I have observed—and I have had numerous phone calls and emails from constituents—that, particularly for stage 1 houses, this has not been one of the design criteria. We have not seen the DAs or anything for stage 2, so we cannot tell whether it is for that. I would like to put that on the record: while we are very pleased that the department is planning to move to six stars, we would really like it to ensure that it also moves to a northern orientation.

As I alluded to earlier in my question without notice, another thing that we are concerned about is the location of the projects. We do support ageing in place; obviously this is an excellent idea. But we are concerned that this is one time when the ACT government had a substantial injection of funds from the commonwealth and that even with that money it did not seem to be possible to build significantly in the town centre or inner areas of Canberra, where a large number of public housing tenants are at present. We are concerned that we may be seeing not a beginning but a continuation of the trend to moving public housing further out.

I point out a couple of recent redevelopments where this has happened: Fraser Court in Kingston and Burnie Court in Lyons. Fraser Court was 100 per cent public housing; now, as we all know, it is zero. Lyons was 100 per cent; now it is 10 per cent public housing and five per cent social housing. This is a trend which we were really hoping we would be able to arrest as a result of the additional money from the commonwealth.

Finally, I want to talk about consultation. I have had lots of calls about the stage 1 public housing. The lack of solar orientation is the number one thing, but there is also the lack of water tanks and the spray-on grass which commits the tenants to ongoing lawn maintenance. I am hoping that stage 2 will be better.

Recently I have had calls about the proposals for supportive housing. The proposals in Rivett and Chapman have had particular concerns raised. Chapman has been largely a surprise in the neighbourhood, because it was not an ex-school site so it has not been subject to the previous rounds of community consultation that the other sites have.

I would like to say again that one of the major shames is this: given that the stimulus package seems to be working economically quite well, why can’t we just slow this down a bit so we have the normal amount of community consultation about these

projects? There was certainly unhappiness expressed about the concept that government was holding a community information session rather than a consultation session. I applaud the government for being up-front enough to say that it was a community information session rather than trying to fool people into believing that it was a consultation session.

I would also like to note, with great support, that an intentional community housing project is being funded as part of this. A number of parents of adult children with disability have lobbied for very long to get this, and I am very pleased about it.

As my colleague Ms Hunter said, we are broadly supportive of the program; we would just like you to take a bit longer for it to be done a bit better.

Mr Hargreaves: I seek leave to respond to a couple of important points that Ms Le Couteur raised.

Leave not granted.

Mr Hargreaves: I will suspend standing orders if you want. We have got two responses and two comments on it. There have been comments made; I think I am entitled to respond.

Standing and temporary orders—suspension

MR HARGREAVES (Brindabella—Minister for Disability and Housing, Minister for Ageing, Minister for Multicultural Affairs, Minister for Industrial Relations and Minister for Corrections) (3.54): I move:

> That so much of the standing and temporary orders be suspended as would prevent Mr Hargreaves from making a statement.

I do this in order to respond to some of the points that Ms Le Couteur raised.

MRS DUNNE (Ginninderra) (3.55): The Liberal opposition will be opposing this motion. We now have the situation where leave to make a ministerial statement has morphed out into a three-quarters of an hour debate on public housing. If members want to do that, they should put it on the notice paper and do it in the usual way.

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

MR HARGREAVES (Brindabella—Minister for Disability and Housing, Minister for Ageing, Minister for Multicultural Affairs, Minister for Industrial Relations and Minister for Corrections): I thank the members of the Greens for that support; I will not take very long at all. I did not list everything that was said, but I think I got the gist of it. There were essentially two issues. One concerned the north-facing—

Mr Hanson: Madam Assistant Speaker, on a point of order: could you ask the member to address his comments through you, not directly to the crossbench.

MADAM ASSISTANT SPEAKER (Ms Burch): Thank you, Mr Hanson.

MR HARGREAVES: I thank you for your sage advice, Mr Hanson, through you, Madam Assistant Speaker.

I want to go to, as I understand it, the two signature points that Ms Le Couteur was concerned about. The first was for the north-facing aspect of buildings to complement a six-star rating and not be subsumed within a six-star rating, I understand. The second one was the location of the homes and how we may or may not have used the best opportunity to do environmentally sustainable buildings—and examples within a sensitive community.

Let me go to the first one, the north-facing one. In the context of stage 2, it is a significant feature of how those buildings will be constructed. They will have a six-star rating; that is the minimum. It is also possible that many of them—most of them—will be north facing, but I can say that it is not going to happen that every one of them will be. If we get such things as a clear block—say a school site at Mount Neighbour—and we build a complex, there will, by definition, be some that will not be able to face that way.

What is important for us to know, though, is that, in order to make sure that we do take advantage of sun, we need to make sure that the windows and the internal configuration of the buildings maximise the opportunity for the use of sunlight and solar power. We are aware of that.

That brings me back to the first point that Ms Le Couteur made. The homes in stage 1 were not done from scratch. Predominantly they are refurbs or renovations; "refurb" is probably the better term. So sometimes we are stuck with an existing building. We believe that we have tried to achieve six stars; where we cannot, five stars are the absolute minimum. For example, we will not buy a property that we cannot reconfigure to five stars. If the best we can do is three stars, we are not going to do it; we will not buy that property.

I know at least one example. Ms Le Couteur expressed, or had expressed to her, a concern about the lack of north facing for this particular property. A window was installed to make sure that we did maximise the effect of the north. That is the sort of approach we will take whenever we have got these sorts of properties. And we will, over time, try to go back and bring our existing properties up to date.

I just need to assure Ms Le Couteur and the Greens that we are committed to getting our properties as close to six stars plus as we possibly can. If there is a way in which we can go to seven, we will take it. I think I would like the chamber to record our commitment to doing that. If we fail in that, it will not be for want of trying, because we are trying our best to do it.

In regard to the location under the stimulus package, the significant part of our contribution to the stimulus package is the provision of land, so—

Mr Hanson: You said you would be brief, John.

MR HARGREAVES: I am being brief by Liberal Party standards, Mr Hanson. I think the Liberal Party has got the record for making a speech; it was about 6½ pages long.

The location of the land we have available to us is something which drives the location suitability of the houses we build on it. But we need to understand that is it not green field that we are necessarily looking for. It goes to Ms Le Couteur's question around the location of the town centres. Where we have got the land that we own where we can build, we will take advantage of that. An example is a car park area in Braddon near the old Rex Hotel. It is at the back; it has not been used as a car park for heaven knows how long—10, 15, 20 years. When I used to drink there as a kid, it was not used either; the one in front was. It was used, but not for parking cars. The thing is that that can now be used to provide older persons accommodation to allow—

Mr Hanson: Madam Assistant Speaker, I raise a point of order. You made a ruling that the minister should address—

MADAM ASSISTANT SPEAKER: Should respond.

MR HARGREAVES: I am.

Mr Hanson: But he is clearly not. He has been doing that for the last 10 minutes of his brief speech.

MADAM ASSISTANT SPEAKER: No, just within the last few minutes. He did address me, Mr Hanson. There is no point of order.

MR HARGREAVES: You are making it longer. It is your own fault. You will love the sound of my voice when I am finished.

The thing is that those blocks of land enable us to build older persons units on them to release properties in, say, Ainslie so that older persons can still age in place within the context of Ainslie, Braddon and those sorts of places. Then we can release those homes for more people to go into. So we were actually doing an urban consolidation in that sense.

A similar sort of package applies to the Mount Neighbour precinct because of its proximity to Kambah Village. Madam Assistant Speaker Burch, you would know this; it is your electorate and you live there. You will know that the reason why we did not support the development of older persons accommodation on the Murrumbidgee golf course was that older persons units should be within 400 metres of a major shopping precinct—like Jamison and like Kambah. And that is why we were keen to see the Mount Neighbour precinct done. That is only about 200 metres away, I think.

The choice of location is about whether we have land where something can be built within the time frame, whether or not the land that is available to us has a house to be demolished or moved so that another one can pop up in its place in the time frame.

The commonwealth have dictated the time frame to us. But please be assured that we are not talking about exploding it out in the green field. We are doing urban consolidation, but that brings challenges too.

I take the points that Ms Le Couteur makes; I think they are very valid ones. I thank her for the contribution.

Capital works projects
Discussion of matter of public importance

MADAM ASSISTANT SPEAKER (Ms Burch): Mr Speaker has received letters from Ms Bresnan, Ms Burch, Mr Coe, Mr Doszpot, Mrs Dunne, Mr Hanson, Ms Hunter, Ms Le Couteur, Ms Porter, Mr Seselja and Mr Smyth proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, Mr Speaker has determined that the matter proposed by Mr Hanson be submitted to the Assembly, namely:

> Financial management of capital works projects.

MR HANSON (Molonglo) (4.03): I rise on this matter of public importance today to speak about this government's record on managing capital works projects, particularly the cost blow-outs, the delays, the under-delivery and, indeed, the non-delivery of mismanaged projects because of the Labor Party's ineptness. Having heard the ramblings of the minister for the last 15 minutes on social housing, is it any wonder? Indeed, this government's record on delivering capital works projects is woeful. While this government wastes no time in closing public schools and libraries, when it comes to managing and delivering on public works and major projects on time, on scope or on budget, this government simply cannot do it. It is incapable.

Before I go through some specific examples of this, let me just back up what I am saying with some evidence. What we will look through is the budgets for the duration of this government in terms of what they promised they would be spending and what they did spend.

When this government first came to power in 2001-02, they promised expenditure of $165.5 million and the underspend was $55 million. That is 33 per cent—a third—of the budget that was not spent. In 2002-03, the promised expenditure was $153 million and the underspend was $56 million—37 per cent. They are getting worse, as that is over a third. In 2003-04, the promised expenditure was $169 million—I guess they were trying to play catch-up—and $61 million was not spent. That is 36 per cent. In 2004-05, they really went to town and promised $247 million in capital works. But the underspend was $118 million—48 per cent. Nearly 50 per cent of what was promised by this government to be expended on capital works was not spent. In 2005-06, the budget was $314 million and the underspend was $151 million—48 per cent. In 2006-07, the underspend was $135.3 million—38 per cent—and last year, the 2007-08 budget, the figure was $107.4 million. If you needed any proof or evidence that this government simply cannot deliver on capital works, that demonstrates it clearly at the outset.

But let me now go through some of the detail and bring out some of the examples of where they have gone wrong. Certainly, we would all be aware of the Cotter Dam project. In the last few days it has been somewhat in the forefront of our minds, and I think it is worth looking at this issue. Although we have heard much about it in this place, the community should rightly be concerned. It is a case of missed opportunity, inaction and hesitation, and that has led to poor consequences for the people of the ACT.

The history is that initially the estimate was $120 million. In announcing major water security projects for 2007, the Chief Minister said that the enlargement would cost $145 million. On 18 May this year, we were told the figure was probably 30 per cent higher, which would take the figure to $188 million. On 30 May, at the estimates hearings the Actew CEO said that the cost would be 50 to 70 per cent higher, which would take it to $246 million. But barely three months after that date, on 3 September it was revealed that the cost will now be $363 million. We have increased exponentially on this project since 2005.

A project that was originally estimated to cost $120 million is now to cost $363 million. That is a threefold increase, and it is still an estimate. In question time this week we asked the government to confirm, to guarantee, that there would not be even more increases in this price, but they refused to do so. So that is still an estimate. Based on the current rate of it basically going up threefold in the space of four years, what is the final price going to be on that project?

When it comes to securing our water, it is not just the Cotter Dam that has gone up in price. There is the Googong transfer, and we have seen that a price that was originally slated at between $30 million and $40 million has now increased to an estimated $150 million. That is a significant increase again. The cost increase is not just a figure that is going to go on the budget; this is now a cost increase that is going to be absorbed by the people of the ACT by an increase in their water bills. So from 2013, shortly after the next election, everybody's water bill is going to go up to pay for this government's mismanagement and incompetence. Between those two projects alone, we have seen the original price skyrocket from $160 million in 2005 to $513 million today. That is just remarkable.

Let me turn now to some other examples, and I am certainly glad that Mr Corbell has come down to listen to some of them. I refer to emergency services and the FireLink communications project. This project cost the ACT taxpayer $5 million. Are we using this system? I do not think so. What a shame. What are we using? Whiteboard markers. When we go back to the era of FireLink and look at actually what was said about this wonderful piece of technology that was going to be delivered by this government, we can refer to the comments of Mr Corbell, the minister responsible at the time—Mr Hargreaves had moved on. He had been found somewhat incapable of delivering anything. Mr Corbell said:

> FireLink does work. It is operational currently in RFS and SES. It does work and it is an excellent piece of technology.

Well, bravo! Seven months later the minister turned around and did a complete backflip and dumped the project. He dumped this excellent piece of technology that had cost the ACT taxpayer $5 million.

Moving along but staying within emergency services, I will consider the headquarters, and this was referred to earlier this week. We certainly had some comments from the Auditor-General about her damning findings into what has gone on with the saga—another Hargreaves debacle. The Fairbairn relocation project, which was already criticised for being inappropriate as a location site for the ESA headquarters, was originally costed at $11.6 million. As of 2009, this has risen to a cost of $75.2 million—an astronomical increase. I just do not understand how you go from $11.6 million to $75.2 million. That is more than a $60 million blow-out in a short period of time. It is unacceptable. The provision of basic services goes down elsewhere as a result. Schools will need to be closed to pay for this government's incompetence and inability to manage major infrastructure projects.

So what is the outcome of this? We now have a cost blow-out in the ESA headquarters; we have it in three locations; and we have monthly rent due to rise to $250,000 from July next year. The auditor concluded that, importantly, the decision-making process, particularly the selection of the Fairbairn location, suggested a lack of robustness and due diligence which was required to deliver significant government accommodation projects. And she goes on. The only advantage I can see from this project is that it will be done in three locations, which will give Mr Corbell the opportunity to have three ceremonial openings.

Moving on: the Civic busway project. That was a bit before my time in this place, but it was hailed as a silver bullet to our public transport woes, the missing link, the panacea. Let us see what Mr Corbell had to say about this one:

> Not only will the Belconnen to Civic busway be one of the ACT's most significant infrastructure developments, but it will also be a major factor in changing people's travelling habits, significantly cutting road infrastructure and bus operating costs, reducing noise and air pollution and greenhouse gas emissions and improving accessibility for public transport patrons.

Brilliant! Let us turn away from his rhetoric to the reality. In fact, it has cost the ACT taxpayer, the people of the ACT, $3.5 million in design and planning work, and what did we get? I will wait for the explanation from the minister of what was actually delivered. So for $3.5 million we have no busway.

Moving on from the idea of the busway and the transport corridors and the debacle there, let us talk about the GDE, another fine example of this government's planning and delivery of infrastructure. The only advantage I can see with the delays on the GDE that everyone experiences every morning is that you can sit there and look at Mr Stanhope's wonderful, wasteful artworks on the side of the road. But let me go on. I quote the CEO of the then Department of Urban Services, who said to a parliamentary committee:

> … a two-lane road would provide an extraordinarily good service to people in that part of Canberra for something like 22 hours a day.

Mr Stanhope promised in 2001 to build the road by 2004 with four lanes at a cost of $53 million. He did not actually sign the works contracts until 2005, one year after the whole project should have been finished. The second contract was not started until May 2006. So after the 2001 election, Mr Stanhope and Labor very quickly downsized the road because of the cost increases and the blow-outs.

Ms Hunter: It was a very sad and sorry project from start to finish, really.

MR HANSON: Look, I know that you want to join the Labor Party, Meredith

Ms Hunter: No, no; it's sad and sorry. Everybody made mistakes.

MADAM ASSISTANT SPEAKER (Ms Burch): Mr Hanson, will you address your comments through the chair.

MR HANSON: Indeed, Madam Assistant Speaker; my apologies. Ms Hunter is in continual defence of the Labor Party's mismanagement. Surprising.

Let us talk about the GDE. Who could forget the eve of the 2008 election when the Liberal Party came out and said, "We will duplicate this road. We will finally get the job done." We have the front page of the *City News*, and that night we had the hurried phone calls, the panic response, the ringing up of Channel 9, WIN television, to say, "Quick, quick. We'll do it, we'll do it." They did that as policy on the run, copying the Liberals' policies on the eve of the election. It was a little bit like the school class sizes—average school classes of 21. It was going to cost us $90 million, but it was only going to cost them $20 million. This group have no idea of costings when it comes to major projects.

Another project that is dear to my heart and that of those opposite—Mr Corbell and Mr Hargreaves—is the Alexander Maconochie Centre. I was not at the opening. Did you go to the opening?

Mrs Dunne: No; I did not get a medallion either.

MR HANSON: No, you did not get the medallion. But many people were at the opening, and it gets replayed on the television many times. But, as we know, the prison was not actually ready. So this facility that was meant to have 374 beds was reduced to 300 beds. We were going to have 60 transitional release places, but that was reduced to 15. We were going to have a chapel, but that was not delivered. We were going to have some RFID, but that has not been delivered yet. We were going to have a radar machine that was going to stop drugs and needles from being brought into the jail, but that did not get delivered on time either. It is very unfortunate that this project was reduced in scope by so much.

Mr Hargreaves: You have been in the Army too long; it is not a radar.

MR HANSON: Well, we can have an explanation from you perhaps, minister, on why it was not working. As a result of it not being up and working, we now have drugs, needles, and other illegal paraphernalia in the jail.

I have a range of other examples, and it is a matter of which I select. I have touched on corrections issues, and it is appropriate that I, as the shadow health minister, talk about the Canberra Hospital car park. We have a sad, sad tale from this government. The latest fiasco was the car park, which was meant to cost $29 million but which will now cost $45 million. This was called in because it was going to be frivolous and politically motivated, according Mr Barr. When you actually listen to the community concerns, particularly those from the mental health community, about the way that the car park was going to overshadow the psychiatric adult inpatient unit, you can actually see that it was not because it was frivolous and political; it was actually because this government was so embarrassed about its mismanagement.

I have a whole range of other examples—$57 million in overruns, in actual fact, this year in the health department alone. I would love to go on, but, unfortunately my time has run out. *(Time expired.)*

MR HARGREAVES (Brindabella—Minister for Disability and Housing, Minister for Ageing, Minister for Multicultural Affairs, Minister for Industrial Relations and Minister for Corrections) (4.18): I rise on behalf of Ms Gallagher, the Deputy Chief Minister, to respond. I thank the member for raising this matter of significant importance to the community. There is no doubt that effective management and oversight is important in the delivery of capital projects within scope, time and cost. This certainly includes appropriate financial management of capital works projects.

We have rigorous and established processes in place for the management of budget-funded capital works projects from initiation to implementation. No project is exempt from these processes. The capital works development process is an important mechanism to assist the decision making of the government in the allocation of financial resources to meet emerging demands for new and changed service delivery infrastructure and to maintain the territory's existing asset base. From planning and business case development through to mandatory procurement and project management practices, these robust processes have proved essential in the management and delivery of our capital works program.

For the budget-funded program, no project gets off the ground without being subjected to a string of processes to justify and ensure the proposals are based on a sound and valid assessment of need, available options and accurate costings. Business cases define project scope, options analysis, cost-benefit analysis, risk assessment, contingencies and whole-of-life costings. These are analysed and thoroughly tested.

However, we acknowledge that, despite rigorous planning and assessment processes, some capital projects will, by their nature, carry timing and cost risks. Planning issues, market conditions, the scarcity of labour and materials and unforeseen physical circumstances can impact on costs and delivery. No reasonable amount of pre-planning can completely remove such risks.

The government addresses these issues, as far as practicable, initially. However, it is not uncommon, as the project progresses, for issues to arise at various stages of delivery. These can and do lead to delays in the planned delivery schedule and

escalation of the project costs. This is not a failure of the system; rather it shows that the system works. As issues arise, they are examined and, where appropriate, revisions are made to project construction schedules, the scope of works to be delivered and project budgets. These are processes that all governments and businesses undertake.

It would not be prudent to cut corners and deliver substandard infrastructure to the community just to meet planned construction schedules and budgets. Or is this what those opposite would envisage for the Cotter Dam?

One would have expected that small programs such as those planned by the previous Liberal government would have a greater chance of delivery on time and on budget—if, of course, they had been done properly. The larger programs, such as those budgeted for by this government, inherently carry more risks, as do larger projects.

Yet in percentage terms, our underspends are not much different from those under the Liberal government. The Liberals planned for small programs and found it difficult to deliver even those. We planned for much bigger programs and delivered much bigger programs.

The size of the program matters, and herein lies the true benchmark for comparison of performance. This government's achievements in the area of infrastructure delivery are unparalleled. As has been outlined in the Assembly several times in the last few years, we have a proven track record in delivery, record expenditure, record commitments. A comparison of our delivery of capital works to that of those opposite could not be starker.

Let us once again highlight the facts for members. Before we came to office in 2001, the average annual expenditure on capital works by the Liberal government between 1998-99 and 2000-01 was around $76 million. The average expenditure by the Stanhope government over the last three years was $265 million. That is more than three times as much as the Liberals.

In the 2008-09 financial year, we again improved on our previous expenditure record, with expenditure totalling $296 million, the largest infrastructure spend on record. To put this in perspective, this is over 3½ times more than those opposite achieved in their last year of government. While acknowledging that expenditure underspends were recorded last year, it is important to note that only a handful of large projects accounted for more than half this underspend—in fact, only 10 projects out of over 500 in the total program, to be exact.

Facts demonstrate our record on delivering capital works for the territory. This could not be achieved without the rigorous processes and improvements we have put in place during our time in government to ensure program delivery, including:

- enhanced engagement with industry through a range of regular meetings and forums to assist in the delivery of capital projects;

- reinvigoration of the call tender schedule and its publication on the Procurement Solutions website;

- continual improvement to all procurement documentation and forms for ease of use;
- procurement thresholds that have been simplified to align more appropriately with the industry expectation and ease administrative burden on businesses; and
- improvements to the pre-qualifications scheme, making it easier and more attractive for industry to tender for ACT government works and improve the efficiency of the procurement process.

As I said before, the growth in the capital works program represents a challenge to the government and industry and highlights the need for us to work harder and smarter and, importantly, closer with the private sector.

As part of our management and delivery strategy, the Treasurer has implemented a new capital works reporting regime, with a greater level of detail now being captured and reported at a whole-of-government level. The Treasurer is convening monthly forums with agencies responsible for the delivery of our capital works program and to date she has held three meetings with CFOs, covering issues such as program status, emerging issues and improved ways of working. Through these meetings and enhanced reporting arrangements, we are closely monitoring the progress of each project at key points and will address the program risks with appropriate mitigation strategies as they arise.

To support this process, reports are being provided to the budget committee of cabinet every second month on their progress on delivering the 2009-10 program. These enhanced reporting regimes provide the government with more accurate methods of tracking delivery milestones and performance of capital projects throughout their life cycles. The Treasurer is proposing to reintroduce the tabling of quarterly reports, which will be more relevant and useful for the community and which will provide detail on what is being achieved in project delivery and how our major projects are progressing at various stages.

The government has a strong record on planning, management and delivery of infrastructure. The procurement measures that I have outlined today, in conjunction with recent improvements to our reporting and monitoring processes, will ensure that we continue to deliver quality infrastructure to the community.

The continuing attacks on our performance regarding the delivery and management of capital works simply do not stack up. Just one year's expenditure by this government eclipses the expenditure in a whole term of the Liberal government. We are not sitting back twiddling our thumbs awaiting delivery of projects by industry. We are continuing to work closely and collaboratively with industry on improving project delivery through streamlining procurement processes, enhanced advice and reporting. We are listening to and engaging with industry and we are getting on with the job of delivering those important projects, particularly those under the commonwealth's nation building program.

The Stanhope government's ability to plan and deliver infrastructure projects speaks for itself. Visionary planning and record spending on quality capital works are a legacy of this government.

Despite the continued bantering and interjections of those opposite about the deliverability and management of our capital projects, I can assure the Assembly that this government is much better placed than those opposite to deliver these capital projects. As I highlighted today, we are working to put improvements in place to ensure the continued delivery of quality capital works projects across the territory.

I thank members for the opportunity to once again advise the Assembly on the government's proven track record in financial management delivery of infrastructure projects. We have delivered record capital works programs during our term of government, a record that we will strive to break again in 2009-10.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (4.28): The appropriation of large amounts of taxpayer dollars towards capital works projects is one of the most serious and fundamental tasks of government. The provision of infrastructure through capital works projects is a means for the delivery of goods and services that promote prosperity, growth and wellbeing. Infrastructure is an essential input to virtually all economic activities and it is vital that infrastructure is adequate, allocated to the right areas and used effectively to reduce costs.

The Greens believe that government has a responsibility in relation to the provision of significant infrastructure into the future. However, it is essential that the implementation of long-term accounting is a key component of any capital expenditure. It is vital that we are spending our money on projects which will still be standing, useful and suitable in 50 years time and beyond and that the selection of infrastructure projects best serves the needs of taxpayers.

There is little point spending significant amounts of capital on infrastructure which will be redundant in a decade or two. It is not only a waste of funding but a waste of finite resources. The Gungahlin Drive extension could be used as an example to illustrate such a point.

Before I go into that, I want to pick up on Mr Hanson's snide little comment earlier. I am a very proud member of the Greens party—and do not feel I need to be a member of any other party—and a proud member of the crossbench. The point that I was making was that Gungahlin Drive has had a very sorry history as far as the estimates of costs along the way. Under the previous Liberal government, it was significantly less than when the Labor government came in and as time went on those costs just kept growing.

The Gungahlin Drive extension could be used as an example to illustrate such a point. Many in the community campaigned to spend the funds on light rail. However, opponents believed that this option was too expensive and that roads were cheaper. The reality was that the funding set aside would only be provision enough for a single-lane carriageway and further major capital injection was required to rectify the situation. This example magnifies the need to assess risks comprehensively.

How did the cost of the road accurately compare with what would have been the expenditure on light rail? It is not as simplistic as the cost of light rail versus the cost of the road. Other factors must be accounted for, including the cost of the extra car parks needed in Civic to house the cars that workers from Gungahlin bring into the city each day, the increase of carbon emissions and lead pollution from car exhausts, the additional loss of vegetation on O'Connor Ridge, and the reduction of recreational use of the ridge and Black Mountain nature reserves.

Another point I would like to make is that a full environmental impact assessment of the final route of the Gungahlin Drive extension was not completed. One of the things that upset me so greatly about that was that there was a lot of propaganda at the time that many of the trees on the ridge were regrowth and were useless as far as habitat was concerned. In fact, after many of them had been felled, ANU scientists went in and actually looked at the date of those trees. Many of those trees were 140 years old; several were 200 to 300 years old. We are talking about significant trees and significant habitat trees. These costs were simply not factored into the analysis of expenditure for the Gungahlin Drive extension.

The Majura Parkway project raises similar concerns for the Greens. We believe that it is important to assess the value of this infrastructure project, not just as the building of a single major road but as part of the future transport network that Canberra should be moving towards. The construction of infrastructure, particularly long-lived and expensive infrastructure such as a road, should be consistent with a sustainable transport system that reduces reliance on car travel and offers the community fast, accessible and cost-effective alternatives.

The Cotter Dam and the expanding cost of the project is another example of a capital works project that has attracted some considerable debate. The very significant increase in the cost of the project has not enabled fully informed community participation. The initial cost of the Cotter Dam expansion, when proposed by Actew as one of the water security options, was $120 million. This then increased to $145 million, then to $245 million and on to $363 million. This is quite a considerable jump. In fact, it is more than three times the original cost. The last increase was a massive $118 million. While the government has indicated that they have been receiving regular updates from Actew about the status of the project, this final figure came as quite a shock.

What this case has illustrated is that the ACT government was making major decisions about a very significant amount of capital expenditure without a realistic assessment of possible costs. The public debate about this project did not occur with the full understanding of the costs incurred, which is deeply concerning as this is infrastructure that the people of the ACT had a significant investment in. After all, they will be paying for it.

The process surrounding the dam project raises many questions. Whose fault is it? Is it Actew's for not providing accurate enough cost assessments or is it the government's for not requesting particular aspects of the costings be completed early enough in the debate? Are we as a community comfortable with the processes that

commercial consortia like this one will use to build an estimate of cost? Large-scale projects such as the dam, which operate over long periods of time, remind us that there is an increased need to assess risk comprehensively. The ACT would greatly benefit from reform of infrastructure decision making and governance arrangements, as current practice has the potential to merely waste taxpayers' money.

The Greens are concerned about several aspects of the current process. We are concerned about the management and the timing of the expenditures and with the quality of the expenditures. We are troubled by the lack of disclosure of information about the evaluations undertaken for investment infrastructure programs, as the taxpayers cannot have any real confidence that the debts that are being incurred on major infrastructure projects will not simply require substantially higher taxes in the years to come—taxes not offset by a commensurate flow of benefits from the infrastructure projects undertaken. We are also sceptical about the argument that we must assume that the eventual project cost is usually greater than the total approved project cost; so we will be insisting that government conduct careful and rigorous cost-benefit analyses of future capital works projects.

I do take on board Mr Hargreaves's comments and we do welcome the reintroduction of quarterly reports on major infrastructure projects and we will look forward to looking at those in close detail.

We need infrastructure that enhances the ability to deliver good services and support economic activity, and the Greens look forward to the government developing a sustainability assessment tool which can be applied to project and program funding proposals to deliver a clear picture of the advantages and disadvantages of major capital works expenditure in the ACT.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (4.35): The planning and delivery of infrastructure through sound financial management of capital works programs is an important function of government. The need to maintain and deliver infrastructure is an important element of service delivery to the community, and of course our capital works programs support economic activity and jobs in the region. So I thank the member for bringing forward this matter, which is of significant importance to the community and to this government.

Much has been made of late of the cost of major water security infrastructure projects, and in particular the enlarged Cotter Dam project and the Murrumbidgee to Googong transfer project. On this side of the Assembly we have openly acknowledged that the price tag for these projects, particularly that for the expanded Cotter Dam, is significantly higher than what we had at first been advised. What we have also been saying, however, is that even at this price these are sensible, prudent and economically responsible capital projects to deliver for the people of Canberra.

This was not a cost blow-out as those opposite would have the community believe. Rather, it was a natural increase in the costs of a significant and highly complex project, reflecting the growing understanding of exactly what was to be delivered and

what was involved in delivering it. It is entirely appropriate that detailed planning, based on extensive engineering and geotechnical investigations, would result in an iterative costing process, with those costs evolving as the full scope of works and final design became known.

We have been asked how we can be confident that the cost as now known will not increase further as the project gets underway. It is important to note on that point that the cost of the project is no longer an estimate, unlike the previous figures. It now forms the basis of a contractual arrangement through which the Bulk Water Alliance will deliver the project.

The government has sought and received assurances from Actew around the delivery of this significant and complex capital project. We are satisfied that the "alliancing" delivery mechanism chosen by Actew provides a high level of mitigation against time and cost escalations, and so too is the managing director of Actew.

Naturally, we have asked, through the voting shareholders, that Actew provide regular and detailed reports on these major water security projects covering the financial performance as well as construction progress. This is sensible, normal practice and one that Actew has fully committed to meet.

Actew's capital works programs are not just those of the major water security projects. Since 2002-03, Actew has actually delivered approximately 240 capital projects, with a total value of over $400 million. In the 2007-08 financial year Actew's general capital works program managed 85 different projects with budgets ranging from $5,000 up to $72 million. So, in fact, Actew's general capital works budget for the past two years has been more than $100 million per annum.

The alliance delivery mechanism has proven successful for Actew. In fact, Actew is delivering nearly $30 million worth of projects aimed at increasing the supply and inter-basin transfers. These have included the installation of ultraviolet treatment infrastructure at the Mount Stromlo water treatment plant, which is the largest plant of its type in Australia. The UV treatment gives Actew greater ability to access water from the Murrumbidgee River for town supply.

Another project completed through an alliance agreement is the Cotter pumping station restoration and recommissioning. I would encourage members to go and look at the restoration of the Cotter pumping station. This historic building has been beautifully restored and there is a wonderful synergy between the history of the building and the fact that it is also still a working pumping station with modern equipment. This has been delivered successfully through an alliance model for the project.

The government, therefore, has a high degree of comfort in Actew's capacity to deliver its capital works projects based on the excellent track record it has demonstrated for delivering capital works projects over many years. Actew develops its capital works program from asset management plans which cover five-year and 20-year programs. A critical element of that track record is the financial management of the program. Actew's capital works program is scrutinised by the Independent

Competition and Regulatory Commission as part of its normal pricing determinations. The capital works program is further scrutinised each year by independent reviewers for technical issues and for comparison to market rates. These reviews have been favourable in the past.

Actew continues to deliver a range of capital works projects annually. Some of these include the following: the lower Molonglo water quality control centre secondary clarifiers upgrade, which provides treatment capacity to minimise the impact of treated water discharged from the plant on the Murrumbidgee River system while also catering for expected population growth; the Googong Dam spillway upgrade, a major upgrade to the spillway to overcome severe erosion and increase the spillway capacity in line with current standards; and the construction of the Murrumbidgee pumping station, a new pumping station designed to increase the amount of water that can be drawn from the Murrumbidgee River.

Other examples of the successful delivery of the current Actew capital works program, some of which are perhaps closer to home for many Canberrans, are the construction of three new reservoirs, trunk mains and pumping stations necessary to provide water to the new suburbs of Crace, Elmgrove and Jacka.

The government monitors, at an appropriate level recognising that Actew is a territory-owned corporation, the delivery of its capital works program.

Opposition members interjecting—

MR CORBELL: They do not like it, Madam Assistant Speaker, because what I have just highlighted is that Actew have successfully delivered major capital works worth over $400 million, more than the total of the Cotter Dam, over the last few years. They have delivered them successfully, in accordance with their budget, and they have delivered them through the alliance model for many of those projects, and done so successfully—the same model that the opposition sought to denigrate and undermine in question time today.

Actew board papers regularly include a standing item on the capital works program, and those papers are provided to the voting shareholders each month. So, based on this track record of delivery and management, and the reporting and monitoring regime that is in place with Actew, through its voting shareholders and to the government as a whole, we remain confident in Actew's ability to deliver its capital works program, and that includes the expanded Cotter Dam proposal.

MR SMYTH (Brindabella) (4.43): It is interesting that the minister, apparently now for Actew, would seek to say that when one asks a question about something the government has control of you are therefore denigrating it. We sought information, and suddenly it is denigration.

The government are very touchy about this whole affair. Yesterday we had the absolute embarrassment of the Deputy Chief Minister and Treasurer, who was not allowed by the Labor Party to actually answer questions.

Mr Seselja: She was gagged.

MR SMYTH: She was gagged on the entire issue, for which she is clearly a shareholder and the minister responsible. Then we had these murky waters appearing where Mr Corbell is now apparently, through being the minister for water, also the minister for Actew. But I thank Mr Corbell for his speech because what it does is confirm that the government is actually responsible for the delivery of programs by Actew. Thank you very much, Mr Corbell, because the matter of public importance is about the financial management of capital works, and Mr Corbell, through his speech, has clearly said, "We are responsible for these things." So we thank you for that confirmation. But it is very interesting how touchy they are.

Mr Corbell said that the government have delivered some projects, done them apparently on time and on budget, and apparently through the alliance method, although which ones were and which ones were not of course were not detailed by Mr Corbell. If he wants leave to table a document that outlines the list of projects from $5,000 to $70 million and which ones were by alliance, we will give him that leave. But we do ask the question: how is it that the dam is now costing the taxpayer half a billion dollars more than the first estimate? We have not heard on the pipeline yet.

Mr Corbell: It is not half a billion dollars more.

MR SMYTH: Not half a billion dollars? How much is it?

Mrs Dunne: It is a quarter of a billion more.

MR SMYTH: A quarter of a billion more?

Mr Corbell: Yes, just the mere fact of a quarter of a billion dollars difference, Mr Smyth. Good one!

MR SMYTH: Well, it is has gone from $145 million to $363 million. You are quite right: a quarter of a billion.

Mr Corbell: Get it right, Mr Smyth. Get it right.

MR SMYTH: But has the whole project gone up by half a billion dollars? That is the question to ask. How much will the pipeline now cost? How much more will the pipeline now cost?

Mr Corbell excuses this by saying it was a natural increase. Say it often enough—"it is a natural increase, Madam Assistant Speaker; it is a natural increase, Ms Hunter"—and it feels natural. It feels good and comes off the tongue. But it does not justify that the work was not done in the first place. And it will be interesting, when the total cost of all these projects comes back, to see by how much the entire project has blown out.

It is good to see that we are going to have another central agency. The ministry for water now controls everything that is done on the water issue. It is a shame, though, that the minister for emergency services, who happens to be the minister for water,

did not talk about the new headquarters project for the emergency services. It is because Mr Corbell has such an appalling record on the delivery of these things. We had the GDE promise of "on time, on budget". Who could forget that?

Of course there is the ACT prison now, the Alexander Maconochie Centre. I do not think I heard him mention that in his speech. I do not think he mentioned the false starts, early openings and false openings. Then of course there was the step-down facility that we announced in March 2001, funded in a budget in 2001 but which was not delivered for five or six years. Then of course there was the new PSU that Mr Corbell announced: "We are going to build a mental health facility with a youth unit." It still has not happened. I think that was announced in 2005.

It is so hard to keep track of all these numbers and all these things. Then of course there was the busway—the busway to nowhere. What did Mr Hargreaves say? "Over my dead body." Well, it still has not been built, so it looks like Mr Hargreaves and the right are winning. There will be no busway reward for Mr Corbell. John is simply going to stay alive to stop the busway.

Of course this does lead us to Mr Hargreaves. Mr Hargreaves delivered his speech in the same sort of tone and time frames in which the government has been delivering capital works. He had 15 minutes, but in his sum total of all of the good efforts of the government in delivery of capital works he did not even make 10. You can stand there and assert, but you had an opportunity to detail it all, and again you failed. There was Tharwa bridge and Tharwa Drive.

Then there is the Treasurer and health minister and the Canberra Hospital multistorey car park. The Treasurer is practically the only person in the history of government, probably across the world, who could not make a car park pay. That is a pretty outstanding achievement, given particularly the use of the car in the ACT. Then of course there is Mr Hargreaves's handling of the upgrade of the airport roads.

You only have to look through this sad litany, Madam Assistant Speaker, to know that this government do not deliver on capital works. They have consistently underspent on capital works, by 37 per cent in 2002-03, by 48 per cent in each of 2004-05 and 2005-06 and by 36 per cent in 2007-08. This is a government that underachieves.

In the four minutes that I have left, let us go to the place that the minister for emergency services dare not go, and that of course would be the new headquarters for the Emergency Services Agency. In a year when in the minister's own words we face potentially a very dangerous season, this project highlights the ineptitude of the Stanhope-Gallagher government. We have seen the pathetic attempts by Mr Corbell to place all the blame on the former authority, but that is repudiated in the report by the Auditor-General, which catalogues the role of government in decision making for this project.

The Auditor-General also catalogues the cost blow-out on this project, the confusion about the nature of the headquarters and the proposal for three sites for the headquarters in place of the original one site. The point was to bring it all together to get that synergy. We heard Mr Corbell say, "You can't do hot training for smoke in

buildings or smoke in planes." But I think that if Mr Corbell went and asked the airport he would find out they have a mock plane out there. They actually practise with real flame and real smoke out there because that is one of the things that airport firemen do, Mr Corbell. That is the problem: this is a minister who makes it patently clear that he will be interested in some things and he ignores others, and we can see this.

Let us go to some of the things that the auditor said. Paragraph 5.21 is worth reading because it does catalogue who is to blame for the shemozzle that is the delivery of the new emergency services headquarters. Paragraph 5.21 starts by saying:

> After receiving ministerial approval—

Let me read that again; let us be clear about this:

> After receiving ministerial approval, the ESA Commissioner exercised what was seen to be his delegation and confirmed a Heads of Agreement for a 10 year lease of Building 183 at Fairbairn. This allowed the ESA commitment to some $11.6 million of base rental, with a 4.5 per cent annual increase, without adequate supporting business cases and details. The capital cost of the necessary fit-out was in addition to this rent.

That is Mr Hargreaves. Let us go on to paragraph 5.22:

> Audit found that the agreement to lease was signed on 15 September …

Indeed it was then modified in October. Paragraph 5.23 says:

> The six buildings had varying lease periods, and the new commitment increased from $11.6 million plus fit-out, to $33.9 million …

Get that time frame: the first lease was signed on 15 September 2005 for $11.6 million. ACT Property Group got involved to provide some assistance and it went from $11.6 million to $33.9 million plus fit-out. That is a good deal for the taxpayer! This is a project that has just morphed and morphed and morphed. It has gone from $11.6 million to a $75 million project for which we do not know the final cost.

The problem is that, when you go to paragraph 5.49—and it is worth reading the paragraph:

> Audit expects the final costs of this project will be much higher, when including the costs of transferring some HQ functions to other sites in Hume and Fyshwick.

And the last sentence in the preceding paragraph says:

> This increased Fairbairn commitment—

so we are increasing the commitment—

> is accompanied by a smaller—

So we are spending more and getting less. Where have I heard that before in regard to this government? It says:

> This … Fairbairn commitment is accompanied by a smaller ESA HQ presence at that site, as several functions are to be located at either Fyshwick or Hume.

This is the problem. This government cannot come to a decision and this government cannot actually make things work when it comes to capital works. Paragraph 5.32 says:

> Audit found evidence available in the ESA in 2005 supporting a cheaper option at Hume.

ESA actually wanted a cheaper option and they wanted it at Hume. The paragraph continues:

> Evidence gathered in more recent times also confirms the 2005 consultant advice that, in addition to other potential operating problems, the Fairbairn HQ option was more expensive than that for Hume. Indeed, some Fairbairn HQ functions are now being moved to Hume because the Hume site is cheaper, and more suitable to some of the ESA operational needs.

There you have it: ESA had a different opinion. But what happened? They got rolled by the minister and when they tried to get out of it—we go to paragraph 5.40—the ACT government stepped in again:

> The ACT Government—

that would be ministers; that would be five of them—

> confirmed the Fairbairn site for the relocation of the ESA HQ in November 2007.

(Time expired.)

MR SESELJA (Molonglo—Leader of the Opposition) (4.54): I am pleased that Mr Corbell is still in the chamber because I would be happy to give him the opportunity to speak again to clarify some issues arising from question time on this issue of the Cotter Dam blow-out. I want to touch on that for a second.

In response to Mr Corbell's additional information, I have reviewed the estimates *Hansard* of 18 May this year. I have not had the opportunity to review *Hansard* for this afternoon as to exactly what Mr Corbell said but he seemed to be suggesting that the assertions as part of my question were incorrect. I would like to read my question from yesterday:

> … Actew Corporation's managing director told the estimates committee on 18 May … that the cost of Cotter Dam could be 30 per cent higher than the 2008 estimate of $145 million. That would take it to $188 million. He said in the *Canberra Times* on 30 May 2009 that the cost would be higher by between

> 50 per cent and 70 per cent. That would take it up to $246 million. Treasurer, what changed in the 12 days between 18 and 30 May … to bring about that cost increase?

In the estimates *Hansard* of 18 May, the only reference that my office has been able to find in relation to this from Mr Sullivan was:

> In early 2008, the ICRC accepted an estimated cost of $145 million. We are working on an estimate of costs that we warned in that report could be 30 per cent higher than that again.

On 18 May, that was what we were told. In the estimates committee we were told they were working on 30 per cent above $145 million. That is about $188 million, which is the figure that I quoted.

It, therefore, comes back to the question which Mr Corbell answered. The question was: "What changed in the 12 days between 18 and 30 May?" On 18 May, we were told 30 per cent above $145 million. On 30 May, in the *Canberra Times*, we saw the figure of $246 million. Mr Corbell said, "Nothing changed." That was his answer. It is his additional answer today.

I would call on the minister to come back and correct the record. He really should do that by the close of business today, having reviewed it, because there is a disparity here. I do not believe that anything in my question was incorrect but if there is something that the minister can point to, I would be happy to correct it.

But from what I could see in the transcript, there was a change between 18 May and 30 May. We were told $188 million, or 30 per cent above $145 million, on 18 May. That was the figure that Actew were working on. On 30 May, it was reported that it was $246 million. Something changed. And we do not know when that changed. We do not know why that changed. But Minister Corbell now needs to come back and actually correct the record and clarify when it became apparent. Was it during the estimates process or was it some other time?

The minister is very defensive on the Cotter Dam blow-out. We do not know who the responsible minister is now because they are going to flip it and flop it, depending on what is convenient at the time, depending on whether they feel they need to defend the Treasurer at any given time or flick it to Mr Corbell.

Of course they want to make it about water policy, where there is absolutely no dispute. Where there is concern and where there is a difference of opinion is why this project has been allowed to blow out so much. Why are we now facing a $363 million price tag for Cotter Dam when we were told originally that it would be in the vicinity of $120 million? A $243 million blow-out, a quarter of a billion dollar blow-out! There are serious questions for the government to answer on that very point.

Some of the questions that we were asking in question time are relevant to that. The government does need to answer exactly how the internal processes are working, how the government is making sure there is not waste in the delivery of this project, how it is ensuring that the governance and the arrangements that are being put in place

are ensuring that taxpayer dollars are protected, that we are getting absolute best value for money.

The cost blow-out to date does not instil us with confidence. It does not instil us with any confidence that it is being managed appropriately. If the blow-out is in the vicinity of 200 per cent from the original estimate, which is what we are looking at at the moment, then it is difficult to have confidence going forward that all of the internal processes, processes that we cannot see, are actually being adequately managed.

The government needs to answer these questions. Mr Corbell needs to come and clarify the record, based on what he said after question time today, and he needs to tell us or the Treasurer needs to tell us what changed between 18 May, when we were told in estimates that it was $188 million—we were told it was 30 per cent above the $145 million figure—and 30 May, when we were told it was $246 million. And then when did it blow out beyond that? There are a range of questions that remain unanswered.

Mr Hanson has gone through the underspends of this government on capital works and it is worth nothing that the capital underspends, of course, have been massive. They have been somewhere between a third and a half of their capital works budget every year. But we have also seen massive blow-outs on individual projects.

So they are spending more on individual projects than they should be. We have seen it with the dam. We saw it with the GDE. We saw it, indeed, with the prison, where we spent more than was originally budgeted but got less. So we are spending more on individual projects but the government is spending less than its target, which means we are getting a hell of a lot less than we bargained for, not just in dollars but in terms of actual deliverables and in actual outcomes.

This is something the government have refused to do anything about. We put it to them even a couple of years ago that structural changes were needed to ensure the more efficient delivery of capital works. And what have we seen since then in terms of structural changes? We have seen nothing. We see the continual underspend. We can see the continual overspend on individual projects, individual projects blowing out, overall capital works targets not being met. The government have not made any hard decisions, not made structural changes that would actually see the better delivery of infrastructure in the territory. What that does, of course, is hold back economic growth. It holds back the delivery of those infrastructure projects that we need.

The Cotter Dam is an example, not just with the blow-out to $363 million but once again the delay that we have seen from this government, the delay for years and years, to the extent that Actew is now warning us again about stage 4 water restrictions. We would not be faced now with stage 4 water restrictions if this government had taken action earlier. They have now had eight years. It has been dry for most of that time.

Any government with any foresight, faced with the drought we have seen, would have said, “We need to plan for the long term.” Even if it does start raining in six months or 12 months, there will be another drought around the corner. We cannot assume that

we will have the ability to go on as we have before. But they did. They took stop-gap measures and they did not meet the challenges.

We saw none of the structural reforms that were needed and that is why we see this massive underspend. In 2007-08, it was $157 million; $135 million in 2006-07; $151 million in 2005-06. This is a massive amount of the budget. So you get this twofold problem, where individual projects are blowing out in costs —

MADAM DEPUTY SPEAKER: Mr Seselja, the time for this matter has expired.

Crimes (Assumed Identities) Bill 2009

Debate resumed.

MR RATTENBURY (Molonglo) (5.03): In the ongoing debate this year around serious and organised crime, the Greens have consistently called for cool-headed, evidence-based strategies that are targeted at addressing serious crime. We have contrasted this type of responsible approach with the alternative, which is to quickly and hastily legislate without thinking through all the consequences.

This bill before the Assembly today sets up the legislative system to support and regulate the use of assumed identities. This bill builds on the system of controlled operations introduced into the ACT last year. Assumed identities will allow for police officers and informants to better infiltrate criminal groups during controlled operations. An assumed identity will be authorised after which false documents will be produced to back up that identity.

Clearly, assumed identities and the associated documentation will improve the success of controlled operations. It will make infiltration of criminal groups a more realistic option and enable our police force to plan a controlled operation with the knowledge that they will have access to assumed identities and the associated documentation. In that way, this bill is the type of targeted strategy that the Greens have been calling for. It adds to existing strategies and will make for better police investigations.

Previously, I have said that the Greens would wait until concrete proposals to address serious crime were put forward before deciding whether or not to support them. But this is one such concrete proposal. The Greens are intending to support this bill in the chamber today. It is targeted at and builds upon existing systems used by the police in the ACT.

The legislative guidance provided in this bill as to when assumed identities can and cannot be issued is valuable and we support the relevant provisions. The alternative is to have a quasi or unofficial system of assumed identities where police cut corners to obtain false identification documents. Such a system is unacceptable and the Greens support the intent of this bill to provide the appropriate system.

As the 1997 New South Wales Royal Commission into the New South Wales Police Service found, where there is no legislative guidance for issuing assumed identities, an unofficial and unaccountable culture is cultivated. This bill ensures that the ACT steers clear of such a culture, and that is a very worthy exercise.

There are a range of important issues thrown up by this bill and I will make some comments on those. The Attorney-General has made it clear that the law of entrapment is not altered by this bill and that is an important point for him to have clarified. We accept that the provisions of this bill do not alter entrapment. However, there are a range of other issues that have not been so clearly and definitively covered, and I raise them now for the sake of completeness.

Firstly, the Freedom of Information Act and the Territory Records Act will not apply to the proposed assumed identities act. The stated rationale for that position is the need to protect police officers and informants operating under an assumed identity from effectively being exposed by an FOI application. That is an understandable motivation and one that the Greens support.

What is less clear, however, is why the existing exemptions available under the FOI Act are not adequate to cover off on this need to protect police officers and informants. In particular, section 37 of the FOI Act exempts documents that would disclose the identity of a confidential source or endanger the life or safety of any person. The Greens do not say that the express exclusion of the FOI Act is unwarranted. The point I make is that the information provided in support of this bill does not make clear why the FOI needs to be expressly excluded beyond the existing exclusions of the FOI Act.

Another issue not dealt with in any depth in the bill or its supporting information is civilian use of assumed identities. Police officers acting under assumed identities are one thing to contemplate but extending the use of assumed identities to civilians raises another range of issues. Of course, the intent is to allow for informants to act under assumed identities and, again, that is an understandable tactic that should be available in the fight against serious crime.

The point I make is that this use of assumed identities is not given much discussion at all in the explanatory statement. You have to go to the papers produced by the joint working group of the Standing Committee of Attorneys-General to be exposed to any discussion or analysis on the use of civilians. What is found there in that joint working group documentation is a discussion of the importance of the police supervision of civilians who have been issued with assumed identities. The position that was taken there was that a certain minimum rank of supervising police officer should be set in the legislation.

This bill does set that appropriate supervision regime and requires that such a police officer be ranking sergeant and above, or in the case of the Australian Crimes Commission, senior investigator and above. That is a responsible provision in the bill that will ensure that civilians operating under assumed identities are appropriately supervised to ensure they are acting in accordance with the conditions of their assumed identity. This issue of supervision was not given any analysis in the supporting material and I think that is a shame for those perhaps looking back later or seeking to interpret provisions of the legislation.

Mrs Dunne flagged this morning a letter she received from Civil Liberties Australia. We also received a similar letter. It raised specific concerns about the operation of the

legislation. I thank the attorney for enabling us to meet with staff from the Department of Justice and Community Safety to talk through these specific issues. I also thank staff from the department for their clear and concise advice and the useful discussion we did have with them.

One of the concerns is of particular importance and I would like to raise it now. I raise it because it points not only to the bill before the Assembly today but also to legislative issues that may come up in the future in the ACT. The issue is one of journalistic reporting of events that are of public importance and in the public interest. This relates to issues of freedom of expression.

The concern that was put to me was that the operation of the proposed section 37 may be too wide and preclude reporting of criminal investigations in the future. The concern was that even once a trial had concluded and the assumed identity had come to an end under section 10, or been cancelled under section 14, journalists would be prevented from reporting the facts of the case. This scenario went beyond the intent of the section, which is to restrict prejudicing a trial.

What we were able to discuss in our meeting with JACS staff was the importance of the word "reveals" in the proposed section 37(1)(a). A lot hinges on that word because after the true identity of the police officer is revealed during the trial when they give evidence, there is nothing to "reveal" any more. What this means is that an element of the crime would not be fulfilled and journalists are able to report on the matter free in the knowledge that they are not committing a crime.

The Greens agree with the operation of this section in that it will preclude reporting in the time up until the assumed identity becomes publicly revealed. The intent of the offence is to ensure that those operating under assumed identities can continue operating under their assumed identity in relation to an investigation up until their identity is revealed at trial.

I flagged earlier that this specific issue raises an important point around legislative changes that we may see introduced in the ACT in the future. The issue is one of suppression of police identities at trial. As I have discussed, the bill before the Assembly today is in line with the work of the joint working group's papers. In particular, the working group has produced a model bill on assumed identities, which this bill today draws on heavily.

There are a number of other closely related model bills in existence, one of which provides for the suppression of the true identity of police officers at trial. I note here for the record that should the government decide to act on these suppression laws, the Greens will be scrutinising this very closely. At this stage, I would have concerns. The suppression of the true identity of someone giving evidence at trial raises questions about the right to a fair trial and in particular the right to know the identity of those accusing you and providing evidence against you.

The heart of the issue is maintaining the credibility and trustworthiness of evidence used at trial. The link to the specific scenario discussed earlier is that if an identity was suppressed at trial then the concerns about journalistic reporting would come to

life again. In that case, there would be something to "reveal" and to report at any time after the trial concludes could be deemed to be an offence.

That is a narrow example of the type of concerns the Greens would have about suppressing police identities at trial. As I have said, I have flagged that now and it may end up being a matter that we discuss in this chamber another day. I trust that we will have quite some discussions in the lead-up to such a bill if it is tabled.

Let me simply conclude by saying that the Greens believe this bill delivers a targeted strategy to work in line with the existing system of controlled operations and the Greens will be supporting this bill in the chamber today.

MS BURCH (Brindabella) (5.13): Assumed identities are an incredibly important tool for any modem police force. An assumed identity is a fictitious identity that is used by a police officer or authorised civilian to investigate an offence or gather intelligence. Assumed identities provide protection for undercover operatives engaged in serious criminal investigations and infiltrating organised crime groups.

The first thing that comes to mind is undercover police working to prosecute drug traffickers. The sophistication of many criminal and corrupt enterprises or the consensual and private nature of some criminals means that relevant evidence and intelligence is unlikely to be obtained by the normal array of investigation strategies. Only by filtering these criminal or corrupt conduct enterprises is it possible to gather the necessary evidence to arrest and prosecute offenders. Infiltrating a drug trafficking enterprise, for example, will usually involve a law enforcement officer negotiating for the supply of drugs or actually buying and taking possession of drugs.

However, police forces are finding that there is overlap in relation to the types of criminal activities targeted during covert operations. Operations are, in many cases, targeting a range of criminal activities, including prohibitive drugs, firearm offences and armed robbery. The experience from around the country shows that these kinds of operations target a broad range of criminal activity such as larceny, intimidating witnesses, kidnapping, sexual assault and bribery of a public official.

One area where assumed identities are becoming critical is in the world of the internet—in particular, the online grooming of young people by paedophiles and the production and trade in images of the sexual abuse of children. Members may have had the opportunity to see the *7.30 Report* on the ABC recently. One of the reports on the *7.30 Report* was about the work of the sexual offences unit of the Victoria Police who work online using assumed identities.

Victoria Police drew attention to this growing crime and noted how important it was to have the ability to detect and investigate adults who groom children online for the purposes of sexual assault. Critical to the work of Victoria Police and for other police forces around the world is the use of assumed identities. National and international coordination is so important to this work, especially in the area of trade in images of child abuse for sexual gratification.

The government's bill will strengthen the collaboration of law enforcement agencies across borders. The bill will enable other jurisdictions with corresponding laws to use

their authorised assumed identities in the ACT, and the ACT to use its assumed identities in other participating jurisdictions. If the Assembly passes this bill, collaboration and joint investigations with Victoria, Queensland, South Australia and Tasmania will be enhanced. The commonwealth government has also introduced a bill based upon the national model. New South Wales and Western Australia are also working towards creating correspondence with other jurisdictions.

The bill will work in synergy with the government's controlled operations law. The combination of the laws will enhance the ability of the police to involve themselves covertly in organised crime, under strict operational control, to gain evidence and intelligence about criminal behaviour. I commend the bill to the Assembly.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (5.17), in reply: I would like to thank members for their support of this bill today. In the 1995 case of Ridgeway v the Queen, the High Court suggested that parliaments should create legislation to enable law enforcement agencies to engage in covert or controlled operations. In this case, the seven justices were deciding if evidence against a person charged with possession of a prohibited import should be dismissed because a police operation facilitated the importation of the drug involved.

Chief Justice Mason, Justice Deane and Justice Dawson said that in the context of investigation strategies that used deception and infiltration, creating law to excuse police from what would be criminal acts was a matter for the legislature, not the courts. Justice Brennan also said that it was for the legislature to impose appropriate conditions on the employment of covert methods. Therefore, the government's Crimes (Assumed Identities) Bill meets the need articulated by the High Court in that decision.

The bill will enable police or an authorised civilian to take an assumed identity. Using the cover of an assumed identity, criminal activity can be investigated or intelligence gathered. Assumed identities provide protection for undercover operatives engaged in serious criminal investigations and infiltrating organised crime groups. The bill works in synergy, as Ms Burch has just observed, with the Crimes (Controlled Operations) Act 2008. This act provides for strict legal and operational control of a controlled operation. I would like to reassure the Assembly that the bill we are debating today also provides for strict legal and operational control of assumed identities.

These requirements include that an authorisation for creating and using an assumed identity can only be made by the highest ranks in ACT Policing or the Australian Crime Commission, that any use of an identity must be in accord with the written authority made under the bill, and that any abuse of an assumed identity by an operative is not protected. Anyone acquiring or using an assumed identity is only protected if they abide by terms of the authority and the provisions of the bill. Anyone abusing an assumed identity for criminal conduct will be liable to prosecution.

The bill also establishes both an internal and independent review process. The heads of ACT Policing and the Australian Crime Commission must conduct an internal

audit of authorities made under the proposed act at least once every six months an authority is in effect and once every six months after an authority ends. A written report of the results of the audit must be kept by the law enforcement agency. ACT Policing and the Australian Crime Commission must also provide a yearly report to the minister on any decisions that make, or consider making, an assumed identity. A de-identified copy of that report is also proposed to be tabled in this Assembly.

The bill establishes independent oversight by the Ombudsman. The Ombudsman may inspect records made under the proposed act. If the Ombudsman inspects the records, then a report on the inspection must be prepared under the terms of the Annual Reports (Government Agencies) Act 2004. This report will also be de-identified to protect operatives, agencies, investigations and potential prosecutions. The Ombudsman's authority in this bill works alongside the authority in the controlled operations act to enable the Ombudsman to examine the interplay of an authority to use an assumed identity with a controlled operation.

A small number of issues have been raised with the government about the bill. The scrutiny of bills report asked about clause 7 of the bill, which states that the Territory Records Act and the Freedom of Information Act would not apply to the proposed act. The government considers that the exclusion of these acts provides police and other operatives using an assumed identity with increased protection from disclosure. Disclosure prior to any trial of an offence is an occupational health and safety issue for police and can also jeopardises investigations.

The scrutiny of bills committee report notes that the exemption in section 37 of the Freedom of lnformation Act would apply. This is true. In every case involving an assumed identity that had not been aired at trial, the exemption would apply. However, the FOI process itself would run the risk of exposing an operation or identity.

It could be argued that the government adopt a blanket policy of not considering or examining any information for potential release in the case of a request that involves a controlled operation or assumed identity. This approach would raise administrative law issues as it would avoid consideration of each application on its merits.

Instead, the government prefers to be absolutely clear on the imperative to protect officers and investigations at the outset and exclude assumed identities from the application of these acts. Any disclosure at all of the use of an assumed identity that is not already public knowledge runs the risk of exposing a controlled operation and hence rendering the operation useless.

The worst-case scenario, of course, is that a police officer's identity is inadvertently exposed, placing that officer at risk as well putting at risk the safety of any people the officer may have formed relationships with while undercover. The government certainly supports accountability of the actions of the executive arm of government. However, in this case the Freedom of Information Act and the Territories Records Act are not appropriate forms of accountability for the reasons I have mentioned.

The bill also contains its own record-keeping requirements and its own accountability measures via the Ombudsman. The scrutiny of bills committee also asked me to

address the issue of the immunity from criminal liability of people who use an assumed identity in accord with the terms of the bill.

The committee referred to section 8 of the Human Rights Act, which deals with the human right to be treated equally before the law and the common law principle of equality before the law. The government's understanding of the scope of section 8 of the Human Rights Act is that the law should be made and applied without irrational discrimination. Any distinctions between people before the law should be based on reasonable and objective criteria.

The government has not been able to identify any international human rights case law that engages the right of equality before the law in relation to laws authorising covert investigations. I would welcome any suggestions of any case law that would elaborate on this issue. The immunity from prosecution in the bill is consistent with other rational powers held by some authorities that would be a criminal or civil offence in the absence of the power.

For example, police may use reasonable force to prevent a crime or apprehend a person. A search warrant may authorise police or other authorities to enter a private premises using force. Police may carry handguns in public. This would be a crime but for their authority to do so. Armed forces are authorised to use lethal force within the boundaries of international law. The use of lethal force without lawful justification is a crime. Doctors and pharmacists are allowed to possess drugs that would otherwise be a criminal offence. These are just a few examples to illustrate the point.

The government holds the view that the conditional authority contemplated by the bill is not an arbitrary power allocated to a person on the basis of their office. The bill would not exempt police officers using assumed identities from the rule of law. Officers would be obliged to obey the constraints of the proposed act in the course of their duty to be able to avail themselves of the protection provided by it. Misuse of that power is a criminal offence. Therefore, the government is satisfied that the bill does not discriminate on an irrational basis. It is both reasonable and objective.

I would like to thank the Assembly and the committee for their consideration of the bill which does provide ACT Policing with modern tools to dismantle organised crime. I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Dangerous Goods (Road Transport) Bill 2009

Debate resumed from 27 August 2009, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR COE (Ginninderra) (5.25): I rise to speak on the Dangerous Goods (Road Transport) Bill 2009. I am pleased that we have the opportunity to debate this legislation today and to bring the ACT's dangerous goods laws into line with those of our interstate colleagues.

This bill is a result of the approach taken to a national transport reform undertaken by the former coalition federal government. The commonwealth has passed the Road Transport Reform (Dangerous Goods) Repeal Act 2009, which will repeal the commonwealth Road Transport Reform (Dangerous Goods) Act 1995. This will allow the ACT to update the laws of the territory to comply with the national scheme developed since the former commonwealth act was passed. It will ensure that the ACT catches up with New South Wales, which has already adopted the model legislation.

The Road Transport Reform (Dangerous Goods) Act 1995 had been replaced by the National Transport Commission (Model Legislation—Transport of Dangerous Goods by Road or Rail) Regulations 2007. These regulations were promulgated by the former Minister for Transport and Regional Services, Mark Vaile, on 26 September 2007.

This is the latest iteration and a new approach taken from 2003 by the commonwealth in relation to national transport reform. The approach includes the development of model legislation by the National Transport Commission and the adoption of this in each jurisdiction. National legislation helps road transport companies to operate efficiently and effectively, with greater certainty as to their responsibilities and with the ability to compete without worrying about the barrier of state borders.

In the past the Productivity Commission has estimated the cost to Australia's GDP of conflicting transport regulations as $2.4 billion. There is still some way to go, and in 2006, despite having pursued heavy vehicle transport reform for a decade, only one-third of the so-called oversize or overmass provisions had been implemented in a nationally consistent way. It is important that we vigorously continue to pursue nationally consistent road transport reform. Our freight task is expected to grow substantially and efficient interstate transport is increasingly important to the national economy.

The bill we debate today, the Dangerous Goods (Road Transport) Bill 2009, does a number of things. In particular, it creates a set of offences in relation to the transport of dangerous goods. It also sets up the framework for the issue of directions, notices, warrants and the power of agencies and authorised people under the act.

The ACT does not have a significant amount of dangerous goods on the road due to the absence of industries that largely depend on the transport of these goods. However, due to the possibility of an incident that may involve death or serious injury, harm to the environment or damage to property or public assets, there is a need for strict regulations and severe penalties for the safety and protection of life and property.

Dangerous goods are divided into a number of classifications. They are class 1 explosives, class 2 gases, class 3 flammable liquids, class 4 flammable substances,

class 5 oxidising substances, class 6 toxic substances, class 7 radioactive material, class 8 corrosive substances, and class 9 miscellaneous dangerous goods.

There are a number of offences in the proposed legislation. The bill creates a range of offences for unlicensed or unsafe transport of dangerous goods. Clause 28 creates the offences for the unlicensed transport of dangerous goods. If regulations require that the transport of dangerous goods be licensed, you commit an offence if you are a prime contractor or a driver and you transport the good. There is also an offence if you consign dangerous goods to a vehicle you know or ought to have reasonably known is unlicensed.

Significant concern has been expressed about the strict liability nature of the offence in subclause 28(1). It is a strict liability offence and the maximum penalty is 500 penalty units or two years imprisonment or both. Given the nature of the offence and the severity of the penalty, the opposition believes that this particular offence should not be a strict liability one, and I will move an amendment to that effect shortly. I will move an amendment to remove the strict liability for the offence in clause 28(1).

Under clause 29, a person commits an offence if they have someone transport dangerous goods and they are not licensed. There are some goods that are too dangerous to be transported by road and if these are transported you commit an offence under clause 30. The goods that are too dangerous to be transported are those including unstable chemicals, those with violent reactions, certain explosives, dangerous toxic emissions or corrosive or flammable gases. A more serious offence in clause 31 applies to the conduct to which clause 30 applies, but then causes death or serious injury when it is either intentional or reckless about causing it.

Clause 33 provides that if you are transporting dangerous goods you are committing an offence if you fail do so safely. A defence is provided within clause 33 if a defendant to a clause 33 charge did all they could, as far as practicable, to ensure the goods were transported in a safe way. The defence also applies if someone over whom the defendant has no control brings about the offence.

The opposition supports the remaining amendments that have been circulated by the Minister for Transport. The omission of proposed section 59(1)(c) will address the concerns raised relating to the potential for self-incrimination from this provision. Amendments 3 through to 5 amend various provisions to require “satisfied on reasonable grounds”. This will ensure that the power is better exercised and that officials should ensure there are reasonable grounds under these provisions. The opposition supports the minister’s amendments and will support the bill.

MS BRESNAN (Brindabella) (5.31): The Greens will be supporting this bill. It is, in effect, a companion to the recently passed Road Transport (Mass, Dimensions and Loading) Act, which, like this bill, is part of the National Transport Commission reform project. This bill is modelled on the commission’s model legislation, with quite a number of amendments that take into account the particular circumstances of the ACT, such as our Human Rights Act. It is a modernisation of the national scheme which reflects recently updated United Nations regulations. It is consistent with the New South Wales scheme, more or less, which, of course, makes sense given the ACT’s location.

This legislation, like the mass, dimensions and loading act, takes a chain of responsibility approach, making drivers, loaders, consignors and the prime contractors variously responsible for the safe handling of dangerous goods on our roads. As with an emerging raft of regulatory regimes, a legal burden is imposed on defendants where they have particular responsibilities. They can be required to demonstrate that they have taken reasonable care. The whole regime of the ACT in regard to work safety and dangerous substances hinges on that approach

The flip side of the safety duty approach is that the legislation is enforced through a raft of fairly low level administrative offences and penalties. I feel for the staff and the members of the scrutiny of bills committee when these bills come before them. There are so many offences, many of which are reasonably strict liability offences, all of which need to be looked at very closely.

I appreciate the work that has gone into the explanatory statement in signalling the rationale behind some of those offences and, indeed, the long discussion on the topic at the front end of the statement. I was reminded by my staff again, and so remind the Assembly, that the legal affairs committee conducted an inquiry into strict liability offences and how they are handled in the ACT legislation a few years ago. I think it is time that the ACT government responded to that report. I note that the government has picked up on and accepted a number of the concerns raised by the scrutiny committee and the Greens will be supporting those amendments.

It is interesting to note that this bill does not capture rail transport, which will be updated later in partnership with New South Wales, which runs the rail service in the ACT. The explanatory statement also makes the point that rail carries significantly less freight than road. That does give us some cause to reflect, however. Just the other day there was a dangerous chemical spill on the Federal Highway. The roads in and out of Canberra are busy and fairly easily blocked.

Shell oil’s decision to shift its fuel transporting activities from rail to road across New South Wales and into the ACT is disappointing. We have been advised that rail is 19 times safer than any other form of land transport and so, while updating the regime that governs the transport of dangerous goods on our roads is desirable, it would actually be better for people and the planet if we used the roads less and used rail more. I thank the department and minister’s staff for the briefing and assistance for this bill.

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts and Heritage) (5.35), in reply: The bill before the Assembly has its origins in intergovernmental agreements entered into with the commonwealth, the states and the territories as far back as 1991. The agreements committed each of the nine jurisdictions to work together in the interests of reforming road transport for the operation of both heavy and light vehicles. The principles endorsed by the parties to the agreements are that there should be improvements to both road safety and transport efficiency, reductions in the cost of administration of road transport and improvements in the effectiveness and efficiency of compliance arrangements.

The former National Road Transport Commission was established to give effect to the agreements. The commission was replaced by the National Transport Commission in 2003. The important part of the National Road Transport Commission's role was to establish a uniform and consistent regularity environment for road transport across the whole nation. The dangerous goods industry is, of course, a national one.

This bill is one of an increasing number of national uniform legislative measures which are to be implemented by each of the states and territories. One of the challenges in such an approach to national legislation is differing approaches in the jurisdictions to matters such as criminal law policy and, in the case of the ACT, that it has a Human Rights Act. This inevitably means there must be some differences between jurisdictions as to how uniform legislation is enacted. However, the key thing is to ensure that the core of the uniform scheme is enacted. To do otherwise obviously negates the significant economic benefits to Australia that would otherwise flow from the uniform scheme. Economic benefits come in many guises, but include reduction in conflicting regularity requirements and the obvious cost-benefits in price to the transport industry.

The first approach to reforming the laws relating to the road transport of dangerous goods was template legislation. The purpose of the legislation was to help the industry operate like one, unencumbered by different jurisdictional requirements that stifle efficiency and productivity and potentially compromise safety and the environment. Under the template approach, legislation was enacted by the commonwealth for operation in the Australian Capital Territory. The intention then was that legislation was to be adopted unchanged by each of the states and the Northern Territory, thus establishing national uniformity. Then, as the template was amended, the law of other jurisdictions would change automatically. However, as I have adverted to above, this approach to the legislation makes little allowance for local differences that do not undermine the integrity of the national scheme.

The template legislation of the Road Transport Reform (Dangerous Goods) Act 1995 of the commonwealth, as was noted in the presentation speech of this bill, is to be repealed by the commonwealth. While the ACT will be the last jurisdiction to update its laws in relation to road carriage of dangerous goods, it has not been practicable for the territory to act in advance of the commonwealth. This is because a commonwealth law overrides an inconsistent territory law. Were this to be enacted and commence before the commonwealth act is repealed, there would two legislative schemes in operation, but the ACT scheme only to the extent that it was not inconsistent with the commonwealth act and the regulations under the commonwealth act.

Consequently, the commencement of the repeal of the commonwealth act and this bill, when it is enacted, will be coordinated at officer level to ensure that these actions effectively happen at the same time to ensure that there is both no overlap between the two sets of legislation and, perhaps more importantly, no gap in the operation of legislation relating to the carriage of dangerous goods by road.

The bill before the Assembly, rather than being template legislation, is based on model legislation which allows for some jurisdictional differences in its

implementation by the states and territories. For example, the bill contains enforcement provisions that reflect the standard provisions for ACT legislation, particularly provisions about the issue of a search warrant and the powers that may be exercised under the warrant. Other examples of local differences are the time within which a prosecution may be commenced for an alleged offence in the period under section 192 of the Legislation Act. The model provision for the recovery of costs in criminal proceedings has not been included in the bill. The ACT's criminal law policy is that the territory should bear its own costs for prosecutions.

In this context I mention to the Assembly the amendments that I will be moving arising from the scrutiny committee's report on the bill. These amendments are essentially reflective of the different legislative standards that apply in the ACT and indicate the value provided by the independent scrutiny of legislation which the committee carries out.

As members will see from my reply to the committee, the government has accepted the major concerns raised by the committee. They are the subject of the amendments which I have circulated and which we will debate in the detail stage. I note that Mr Coe has similarly moved an amendment on an issue that I proposed. I will defer to Mr Coe and support the amendment which he has just now circulated.

The bill, when enacted, will be supported by regulations to be based on model regulations which will deal with things such as transport operation, for example, packaging, labelling and marketing, transport procedures, documentation and emergencies. The duties of the various parties in a dangerous goods road transport transaction, for example, the consignor, prime contractor, loader and driver would also be set out.

The regulations will be supported by the seventh edition of the Australian dangerous goods code. While the regulations will contain the obligations and duties of the various people involved in the transport of dangerous goods, the code is a purely technical document setting out such things as the design approval and use of road tank vehicles for transporting dangerous goods; the standards for the use of freight containers for dangerous goods; the testing of any packaging for dangerous goods; the placarding of loads of dangerous goods with emergency information panels; the segregation of dangerous goods within loads; the provision of emergency information; the requirement for the bulk transfer of dangerous goods and the safety equipment required to be carried by a vehicle carrying dangerous goods.

The important feature of the Australian dangerous goods code is that it ensures that Australia's technical requirements for the road transport of dangerous goods are generally consistent with the recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods. However, the commencement of the new legislation will not immediately render redundant things that are compliant with the previous edition's code, but not complaint with the seventh edition of the code. Clause 501 of the bill provides for a transition period of one year, which will allow for the technical aspects of the carriage of dangerous goods to be brought into line with the seventh edition of the code.

The end result will be that the bill, when enacted, and the Australian dangerous goods code will form a single, comprehensive set of laws for the road transport of dangerous goods. I thank members for their contributions. I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 27, by leave, taken together and agreed to.

Clause 28.

MR COE (Ginninderra) (5:42): I move amendment No 1 circulated in my name *[see schedule 1 at page 4256]*.

As I said in my speech earlier, we think that the strict liability clause is going a bit too far. We seek to remove that clause from the bill.

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts and Heritage) (5:42): As I indicated, the government had proposed an amendment along similar lines, so the government accepts the wisdom of the scrutiny committee in relation to the appropriateness of the strict liability offence in this circumstance. The government will support Mr Coe's amendment.

MS BRESNAN (Brindabella) (5:43): The Greens will also be supporting Mr Coe's amendment. As Mr Stanhope said, the amendments do pick up and address key concerns of the scrutiny of bills committee. We will be supporting them.

Amendment agreed to.

Clause 28, as amended, agreed to.

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

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts and Heritage) (5.43), by leave: I move amendments Nos 2 to 5 circulated in my name together. *[see schedule 2 at page 4256]*. I table a supplementary explanatory statement to the amendments. As I indicated, these amendments arise out of comments made by the scrutiny of bills committee in its review of this particular bill. They are issues that go to respecting common law writing and self-incrimination in the context of a criminal investigation.

Amendment No 3 goes to the recognition that a competent authority must be satisfied on reasonable grounds in relation to matters about which it must be satisfied before

giving an exemption. Amendments Nos 4 and 5 complement amendment No 3 by requiring a competent authority to be satisfied on reasonable grounds before it takes actions under the provisions in those clauses to cancel an exemption. As I said, these amendments arose out of the scrutiny committee's report, and I commend those amendments.

MS BRESNAN (Brindabella) (5.45): As I have already said, the Greens will be supporting these amendments. As has been noted by both Mr Coe and Mr Stanhope, they pick up on concerns raised by the scrutiny of bills committee.

MR COE (Ginninderra) (5.45): The opposition believe these amendments are reasonable, and we will be supporting them.

Amendments agreed to.

Bill as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Cotter Dam
Paper

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services): Before I move the motion to adjourn the house, I present the following paper:

> Letter and attachment from Mark Sullivan, Managing Director, ACTEW Corporation, to the Minister for the Environment, Climate Change and Water, dated 17 September 2009.

Adjournment

Motion by **Mr Corbell** proposed:

> That the Assembly do now adjourn.

Health services
Brindabella Blues Football Club
Attendance at community events
Print handicapped radio
Hockey Canberra

MR DOSZPOT (Brindabella) (5:47): Over the past few weeks I have attended numerous community activities within my shadow portfolio areas of education, disability, sport and recreation, and multicultural affairs and also as chair of the Standing Committee on Health, Community and Social Services. Last Saturday morning at 8.30 I was an invited guest of the Australian Council of Stoma Associations, which held their national seminar here in Canberra at Rydges Lakeside.

I delivered the presentation on behalf of the ACT Legislative Assembly Standing Committee on Health, Community and Social Services regarding our inquiry into primary healthcare services in the ACT. There were around 100 delegates from interstate as well as local ACT delegates, and I would like to compliment the Australian Council of Stoma Associations for their professionalism and the commitment of delegates at this important national seminar. I also thank them for the invitation.

From there onward I went to the presentation of the Brindabella Blues Football Club, a small club of around 800 junior and senior players. In my capacity as shadow minister for sport I presented a few hundred trophies to local juniors and mixed with members of the community and the hardworking committee members of the Brindabella Blues for around three hours. There were no media present; just hardworking members of the community. Thus, not surprisingly, there was no sign of the minister for sport and spin. I was not going to mention this; this was not a point-scoring exercise. I spend a great deal of time with community groups each weekend, but Minister Barr just cannot help himself with his continuous, insidious, gossipy comments, this time that I was obviously not interested in my education portfolio last Saturday.

This afternoon in question time Mr Barr, once again, used his privileged position as a minister to smear and denigrate his colleagues. The virtuous Minister Barr waxed lyrical about his attendance at a photo opportunity that he organised at the opening of the Isabella early childhood school. Talking about photo opportunities, he even had the gall to print his photo on the colour invitations that were sent out in their hundreds. My colleague Brendan Smyth was at the opening, representing me and the Liberal Party. That is all I can say about this minister who continues to disregard the ministerial code of conduct, with the apparent support of his leader and colleagues.

Last week I was guest of Radio 1RPH and its president, Robert Altimore, and his committee. Radio 1RPH provides news and other information needed by people who are print handicapped; they cannot read printed material. It helps these people to overcome their disadvantage by utilising the skills of volunteer readers and administrative supporters to turn print into sound, thus providing the handicapped with a broad range of detailed information which is available in printed form but not provided by other radio and television stations.

The website of 1RPH provides an interesting insight into the services they provide, from which I quote the following information:

> The definition of "print handicapped" covers people who: are blind or visually impaired; paraplegic or quadriplegic; severely affected by arthritis, cerebral palsy, multiple sclerosis or dyslexia; intellectually handicapped or have never learnt to read; from non-English speaking backgrounds who understand but cannot read the language; have suffered a stroke.
>
> An estimated 10% of people in the Canberra Region (30,000) are print handicapped.

> Many illnesses prevent a person from easily reading the printed page by making it impossible for them to turn pages or hold and manipulate books, newspapers and magazines properly.

I was very impressed with the enthusiasm and commitment of Robert Altimore and his committee, who are all unpaid volunteers and who provide a great service to members of our community.

My Liberal Assembly colleague Vicki Dunne and her husband Lyle have been long-term volunteer readers. I also commend their commitment. I have received an invitation to attend an audition to become a volunteer reader, and I would commend my colleagues in the Assembly to give some support to this organisation, possibly as volunteer readers. I will let you know how my audition goes.

Finally, last night my colleague Brendan Smyth and I were guests of the ACT hockey association, Hockey Canberra, at the Hockey Canberra medal presentation night. Once again it was great to see the commitment of the committee and the players of Hockey Canberra as they shared in this night celebrating their achievements over the year. The primary purpose of last night was the awarding of the Brophy and McKay medals. The award winner in the men's division was Dan Hotchkis. *(Time expired.)*

Mr Roland Manderson

MS BRESNAN (Brindabella) (5:52): I speak today with some sadness. This is Roland Manderson's last sitting day at the ACT Legislative Assembly. Roland has become not quite a virtual fixture but a fixture of the ACT Assembly, having worked here since 1999 with Kerrie Tucker and then with Deb Foskey. I am honoured to say that he has also been working with me. It is really hard to say what a loss it is for Roland to be going, but Anglicare are very lucky to be getting him. He will be working there as the deputy director. Our loss is most definitely their gain.

Roland's colourful personality, his humour and his great knowledge are things that will be missed not just in my office but across all of the Greens' offices. I think he will also be missed across the whole of the Assembly. I am sure there are many other members and ministers who will miss the lively debates with Roland over a number of issues which they have had over a number of years.

I have to say again that it has been a real honour having Roland work with me and having worked with Roland. I have to say that, in the early days when the Greens MLAs were all new to this place, having Roland here was invaluable. He was a great help to us all because of his experience, having worked in this place for so long, but also because of his general knowledge about the way the Assembly works and a variety of issues. It will be a very sad day for Bianca and Kate and me when an issue crops up and we cannot say, "We'll just ask Roland."

Once again, I wish Roland all the luck in the world. He is going to be greatly, greatly missed, but I am sure we will still be able to do many lunches and we will bail him up on issues at that time. Good luck, Roland; we will miss you a lot.

Mr Roland Manderson
Canberra Times fun run
Filmlink
Menslink

MR SESELJA (Molonglo—Leader of the Opposition) (5.54): Can I lend my support to the good wishes for Roland Manderson as well. We on the Liberal Party side of the house have always found Roland very good to deal with. I think he adds a lot to the Assembly and he will be a great loss to the Greens, and indeed to the Assembly; so we wish you very well in your future career at Anglicare. Well done.

I would like to speak about a couple of issues. Yesterday I spoke a bit about the fun run and I neglected to mention the winners. I would like to congratulate Anthony Haber, who won the men's and won overall in the time of 30 minutes and 29 seconds—only about 20 minutes in front of me. So it was pretty tight. Well done to Anthony. That is quite an extraordinary time. You would know, Mr Speaker, that three-minute kilometres over 10 kilometres is really moving. That is quite extraordinary.

Indeed, I had the opportunity on Sunday to speak with the women's winner, Hannah Flannery, who did a wonderful job in a time of 37 minutes and 28 seconds. Well done to Hannah. I saw her; she was beaming afterwards; she was very excited about the win. It is quite a wonderful achievement to win, with so many competitors.

I neglected yesterday to also mention the Heart Foundation and the wonderful work they do. They are associated with the *Canberra Times* fun run and, of course, thousands of dollars are raised for the Heart Foundation. Well done to everyone involved.

I would like to briefly also talk about Menslink and the Filmlink workshop which I attended on 5 August this year. Filmlink is a film-making workshop that teaches young people how to make short films. At the workshops, young men, mentorees from Menslink's mentoring young men program, worked alongside their mentors to make very short films. Participants had the opportunity to be cameraman, director, story-boarder, actor, editor or all of these things as they explored the art of film making. And we all enjoyed watching the results of that work. It is, I think, a wonderful opportunity for the young men to get involved.

Menslink is an organisation that I have been involved with for a number of years, in a less formal role these days as a friend of Menslink but as a former Menslink mentor. It is a not-for-profit organisation that promotes the value, wellbeing and social participation of young men and boys. It achieves this through its own dynamic community mentoring, therapeutic professional services and community activities. Its current programs are mentoring young men and the young men's support network, which includes the life coaching service for young men and boys 12 to 25 years of age.

I have always had a lot of time for the work that is done by Menslink, formerly with Richard Shanahan and these days with Glen Cullen and Bryan Duke. They are people

who are very committed to assisting young men, often vulnerable young men, and really giving them pathways in life, giving them mentors and giving them all the assistance that they need.

They make a wonderful contribution to our community; so I would like to place on record, once more, my admiration for the work they do and my gratitude on behalf of the ACT community for the work they do and the contribution they make for the people of the ACT.

Mr Roland Manderson

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (5.58): I am rising to speak in the adjournment debate to also pay tribute to Roland Manderson and to echo some of Ms Bresnan's words. Roland, as she said, has been around the Assembly since 1989. I know that ever since I joined the party and have been running in elections he has been a great supporter, a great mentor and someone that I have really looked up to and admired.

As Amanda said, he is a very colourful character. He is known for his braces; he is known for his shoelaces that never seemed to be tied up; and he is known for that flash of blue in the front of his hair. And I have noticed in the last couple of weeks that that blue has disappeared. Because of the new job, Roland might be smartening up and might finally have some sort of new dress code. But we certainly did enjoy that flash of blue that would fade to green before it was renewed again.

Roland is known for his loyalty and, as Amanda said, his incredible knowledge in so many different areas and his dedication to areas such as the arts. Many of you would know that Roland has a long history of being involved with arts organisations. Being a director of the Canberra Youth Theatre, he was a very important person with that organisation for so long. He has really been, I guess, such a supporter and such an inspiration in the arts community over many years.

Of course, that gave Roland quite theatrical talents that he has displayed on many occasions. At times it has certainly been highly humorous and at other times it can be a little alarming, not taken in the way it was put forward. Roland, in full flight, can be a sight to behold. As well, in this state, he speaks faster than the speed of light. So on some occasions I have waited until he has finished so that then I can ask him to give me the version that can actually be understood by mortals, human beings. And he usually is able to put it into words at a slower pace.

But he certainly, over the years, has been a very loyal member of the Greens, a fantastic staff member. As Amanda also said earlier, in those early days when we found ourselves with four Greens elected after the 2008 election, when we were having to settle into the Assembly and when we realised that we had the balance of power and there was a lot of work and thinking to be done, the staff members who stayed around—and Roland was key among those staff members—were so important to us being able to get through that period.

On behalf of the Greens team here, on behalf of the ACT Greens party, I wish Roland the very best. He will be deputy director of Anglicare Australia. I know that he has

had a passion and a commitment to advocating on behalf of vulnerable and disadvantaged people over the years. So I think this is a fantastic step forward for him. He will be a great advocate at that organisation and they truly are getting somebody who will be a great asset for them.

Thank you so much, Roland. We will miss you. But we look forward to being able to catch up with you in the future. Again, thanks a lot.

Mr Ken Crawford

MS LE COUTEUR (Molonglo) (6.02): This evening I rise to commemorate the life of Ken Crawford, a citizen of Canberra who died in August aged 92. There are quite a number of aspects of our cultural life in Canberra to which he was a contributor that I want to talk about. Early Canberra residents were starved for classical music. There were very few live performances and records were very expensive. Friends would gather in each other's houses to share their recordings. On his first Saturday night in Canberra in April 1941, Ken was invited by Frank Horner, whom he had met at the University of Sydney, to listen to records at the house of Walter Morris in O'Connell Street in Ainslie.

The Canberra Recorded Music Society, a record library, had just then been started by Frank, Wal, Bert York, Len Cole and others, and knowing that Ken was about to arrive in Canberra, Frank had included Ken's Schnabel recording of the Beethoven *Hammerklavier* sonata for their initial recital at the Institute of Anatomy. Ken remained actively involved in the society until the 1990s and was made a life member.

Ken was also involved in organising ABC concerts at the Albert Hall during the war with Wal, Bert and others. In 1957 the same group of musical mates founded the Canberra Chamber Musica Society, which later, of course, became Musica Viva ACT, to bring live chamber music performances to Canberra. He met with and managed many notable groups and remained on the committee until 1975. Many of his favourite stories came from that time.

Fortunately, Ken was encouraged by Mary Jo Capps, the CEO of Musica Viva, to record these stories and other memories, and out of this came a 13-page booklet illustrated by photographs. He and close friend, Don Sams, were both made life members of Musica Viva for their contributions. Mary Jo Capps described Ken as "key to the development of Musica Viva concerts in the ACT and all the cultural and social benefits that have flowed from that".

Like many of his generation and class, Ken felt passionately that education should be freely available to all. As he was not able to attend university full time, so many courses were not open to him, including his preferred one of music. Instead, he worked full time in a very dull job while studying as a full-time evening student over four years for a Bachelor of Economics degree from the University of Sydney, graduating in 1940.

In 1948 Ken studied maths at the Canberra University College, which then became the ANU, under Alex Aitkin, who had also taught him at Canterbury Boys High

School. He developed links with University House from then. He organised the Canberra Chamber Music Society there. He remained interested in the ANU and became a generous benefactor in recent years, especially to Indigenous education and sustainable energy.

Ken's wife, Jean, was passionate about growing Australian plants from the 1950s when that was sufficient to be described as an un-Australian activity. His daughter, Isobel, is a botanist. She describes it that, in sheer self-defence, he became interested in Australian plants and a proud and generous benefactor of the Australian National Botanic Garden. In his retirement, from 1977 to 1991, Ken firstly ran the Lifeline book fair then later, being the statistician, reorganised their collection of statistics.

Ken was a World War II RAAF navigator and flew on 27 missions over Germany until his plane was shot down and he managed to limp back across the channel to England. He was awarded the distinguished flying medal.

Career-wise, before his war service, Ken worked firstly for Nugget Coombs in the Commonwealth Rationing Commission and, subsequently, for the Australian Treasury. After completing a master's thesis at the London School of Economics entitled *The application of sampling to the collection of official statistics* he moved to the Commonwealth Bureau of Census and Statistics, now the Australian Bureau of Statistics, from 1952 to 1977. He rose to become the Director of Census, and he saw as his greatest achievement there putting the 1966 census on computer.

Ken, in summary, was an unassuming quiet achiever. He came from a very large and loving Presbyterian family with high standards who expected their members to contribute to society. He felt sometimes he did not measure up to his better known brothers, historian Max and the economist Jack, later well known to many more as Sir John Crawford. He was a wonderful man and he had two wonderful children.

Mr Roland Manderson
Teachers—quality

MS BURCH (Brindabella) (6.07): I want to convey my regards to Roland. I am new in this Assembly and share the first floor. He was, as they say, one of the colourful characters on the first floor. I will indeed miss his coloured hair and his braces but, more importantly, the whistling along the corridors. So I wish you well, Roland.

I rise in this adjournment debate to talk about the opposition's definition of quality teachers. From time to time when sleep eludes me I gather various journals and papers as good reading material. Recently I was flipping through the pages of one such journal—*Voltairium*—the journal of the ACT Young Liberal Movement, or perhaps the "tiny tories", as they are known.

Normally, such a dreary and backward looking publication would send me gently off to sleep back to an image of the 1950s. But as I was flicking through this particular edition I was unable to fall gently asleep. In fact, it made me more alert and it made me wary of ACT Liberal policy.

Yesterday in this place we heard motherhood statements from the shadow minister for education about how he wants to see better quality teachers in ACT public schools and how he supports our teachers. Unfortunately, this edition, written, no doubt, by a rising star of the "tiny tories", gives us an insight into what the opposition may mean by quality teaching.

On page 8, under the heading "Make education fair" it states:

> … bias in our high schools and university campuses has reached epidemic proportions …

The article calls on young Liberals to dob in a teacher. That is the thrust of the ACT Young Liberal Movement. The onus falls on young Liberals to compile a list of examples. Big Brother—or little brother—is watching; dob in our teachers.

Today when I was driving to work I thought that I would I need to find out a little bit more about this intriguing campaign. Is it a kind of elaborate joke? Are there actually members of the Liberal Party with a sense of humour that goes beyond Facebook slander, or have I accidentally stepped back into the McCarthy era? So I Googled this make education fair campaign and discovered that the Liberals have a whole website about it, a dob in the teacher website. I am proud to announce that the Liberals do actually have a policy. I am not quite sure what it is, other than to dob in a teacher.

I tried to click on the evidence button. It spun me in circles, but I was able to find one example, and I will share that with you. It reads:

> I am a year twelve student and have always been educated in the Public Education system. Since year ten … in geography about the need to sign Kyoto and the ramifications of not signing to the use of Workchoices in legal studies as an example of legislation promoting inequality.

What outrageous accusations those are! A teacher who thinks signing an international agreement to reduce climate change is a good thing. How horrid! How horrid to think that we would do that. What about a negative comment on Work Choices? How unrepresentative! Goodness me. Let us look back to 2007 and see what the Australian community thought of Work Choices. I think it is clear what they thought of Work Choices—they threw it out.

The question for Mr Doszpot is just how he defines a quality teacher. What does he adhere to? I just see this as a thinly disguised code by the federal Liberal leader to reintroduce Work Choices. I see from this evidence that their policy is to teach Liberal Party doctrine or you will be out on your ear. Dob in a teacher is the policy for ACT Young Liberals. They do not support public school teachers in the ACT. How could they if all they want to do is dob them in? Their own publication makes it clear that an ACT Liberal government—heaven forbid that they become a government—would be a danger to every ACT student.

Young Achievement Australia

MR COE (Ginninderra) (6.12): Young Achievement Australia, or YAA, is an organisation founded in 1977 devoted to developing the potential of young

Australians. The organisation is not for profit, non-government and a charitable institution. Their mission is to build partnerships with business, government, education and the community to provide all Australians, particularly our young Australians, with the opportunity to access vital business education programs regardless of location, circumstances, curricula choice, career path or academic strengths.

One of the most successful YAA programs is the business skills program. Groups of 15 to 25-year-olds participate in the program over 24 weeks. During this time they develop their business skills through real-life business experience. The program starts with the establishment of a business and the development of a business plan for the six-month program. The duration of the program sees participants sell shares, develop a product, market and sell the product and participate in professional development.

Participants learn about corporate governance, ethics and law, and directors' duties. At the end of the program they formally wind up the business and return money to shareholders. Having completed the program, participants have a much better understanding of the business world, about corporate governance and responsibility and, of course, teamwork and cooperation.

One of the key events of the YAA calendar is the trade fair. Last Saturday morning I was pleased to be able to visit the Young Achievement Australia trade fair at the Tuggeranong Hyperdome. Each of the groups puts their product on display and competes with other groups to catch the eye of customers and make a sale. There was an impressive diversity of business flair, expertise and creativity on show.

There were 12 groups participating from the ACT, students from secondary schools and tertiary students. Each YAA company must include the letters YA in the title and the groups are named as follows: Cyanide, Disloyal, Himalaya Green, Innovatya, Ya Cuppa, Yaardvark, Yalpha, Yamel, Y-Axis, Ozya, Yappy and Ya Es.

Of course the YAA programs cannot be delivered here in the ACT without the commitment of staff at the local office. Trish Grice is ably assisted by Sam Jackson-Hope and Laura Clark in coordinating activities of the local groups. Both Trish and her staff often go beyond the call of duty to ensure all the groups have the resources and advice they need to make the programs a success. Trish really has been the driving force of YAA here in the ACT and region for many years. She is a real credit to the organisation and to the Canberra community.

The organisation works on the back of volunteers and sponsorships. Some of the volunteers include mentors who attend student company meetings and provide expert advice along the way. There are many companies that support this organisation, and please bear with me as I name a few of the ones involved here in the ACT.

They include the Australian National University, ActewAGL, Nan's Child Care Centre, Bovis Lend Lease, Joy Mining Machinery, the Australian Industry Group, Wollongong City Council, the *Illawarra Mercury*, Goulburn Mulwaree Council, the Chief Minister's Department business and industry development branch, the Department of Education, Employment and Workplace Relations, Wagga Council,

Illawarra Coal, Wollongong City Council, the Australian Taxation Office, Wollongong Defence Materiel Organisation, WD Scott, CA Technologies, Accenture, Rudd Engineering, DMO, BAE Systems, Air Services Australia and the Australian National University.

I would like to congratulate Young Achievement Australia on another very successful year to date which has given many ACT students the opportunity to engage in the unique and invaluable business education that Young Achievement Australia offers. I wish all the students all the best for the upcoming awards night.

Mr Roland Manderson
Legislative Assembly—sitting hours

MR HANSON (Molonglo) (6.16): Farewell, Roland. I note that we are still early tonight. Last night we went over time. I think it is time to put it on the record that we missed a lot of business yesterday that could have been done because we did not sit late. It is time that we sat late on Wednesday nights.

Question resolved in the affirmative.

The Assembly adjourned at 6.17 pm until Tuesday, 13 October 2009, at 10 am.

Schedules of amendments

Schedule 1

Dangerous Goods (Road Transport) Bill 2009

Amendment moved by Mr Coe

1
Clause 28 (4)
Page 19, line 3—

omit

subsections (1) and (3)

substitute

subsection (3)

Schedule 2

Dangerous Goods (Road Transport) Bill 2009

Amendments moved by the Minister for Transport

2
Clause 59 (1) (c), except notes
Page 44, line 15—

omit

3
Clause 151 (2)
Page 116, line 14—a

after

satisfied

insert

on reasonable grounds

4
Clause 155 (1) (a)
Page 118, line 23—

after

satisfied

insert

on reasonable grounds

5
Clause 155 (1) (b)
Page 118, line 25—

after

satisfied

insert

on reasonable grounds

Answers to questions

Government—advertising (Question No 248)

Mr Seselja asked the Chief Minister, upon notice, on 18 August 2009:

How much has been budgeted for (a) advertising and marketing, (b) hospitality and (c) staff training in 2009-2010 for the Chief Minister's Department.

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

(a) The Chief Minister's Department has budgeted $715,014 for Advertising and Marketing in 2009-2010. This includes $11,300 for advertising staff vacancies and $206,666 for Marketing Strategy Development in the areas of Communications, Events and Protocol and the Centenary of Canberra.

(b) The Chief Minister's Department has budgeted $15,700 for Hospitality.

(c) Chief Minister's Department has budgeted $440,558 for Staff Training in 2009-2010, which includes costs for work related seminars and conferences, and contributions towards HECS and approved study.

Government—rental properties (Question No 249)

Mr Seselja asked the Minister for Disability and Housing, upon notice, on 18 August 2009 *(redirected to the Minister for Territory and Municipal Services)*:

(1) How much has been budgeted for rent in the 2009-10 budget for the Minister's department.

(2) What are the details for 2009-10 of any proposed rental properties including (a) costs, (b) length of contract, (c) property size and (d) location.

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

(1) The amount that the Department of Territory and Municipal Services (TAMS) has budgeted for rent in the 2009-10 budget is $11.08m. This includes rent payable to private landlords for leased properties and rent payable to ACT Property Group (TAMS) for government owned properties.

(2) There is only one new rental property agreement for 2009-10 proposed which is the Kingston Library.

(a) Estimated 2009-10 cost is $64,033.20.
(b) Lease is up to 8 years.
(c) Area is 193.23sqm.
(d) Location is Giles Street, Kingston.

Government—rental properties
(Question No 250)

Mr Seselja asked the Minister for Disability and Housing, upon notice, on 18 August 2009:

(1) How much has been budgeted for rent in the 2009-10 budget for the Minister's department.

(2) What are the details for 2009-10 of any proposed rental properties including (a) costs, (b) length of contract, (c) property size and (d) location.

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

The member should note that the response covers the entire Department of Disability, Housing and Community Services, not just the Minister for Disability and Housing portfolio area.

(1) The budget for rent in 2009-10 for the Department of Disability, Housing and Community Services (including Housing ACT) is $5.522 million.

(2) The department does not have any proposals to enter into new rental properties in 2009-10.

Public service—travel costs
(Question No 252)

Mr Seselja asked the Minister for Disability and Housing, upon notice, on 18 August 2009:

(1) How much has been budgeted in 2009-10 for (a) interstate and (b) overseas travel in the Minister's department.

(2) Are any trips planned for 2009-10; if so, what are the details.

(3) What are the objectives of the trips referred to in part (2).

(4) Who from the Minister's (a) office and (b) department will participate in the trips referred to in part (2).

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

The member should note that the response covers the entire Department of Disability, Housing and Community Services, not just the Minister for Disability and Housing portfolio area.

(1) The Department has budgeted $250,000 for interstate travel in 2009-10. The travel budget for Housing ACT for 2009-10 is $95,000 The travel budgets are inclusive of travel to Ministerial meetings, conferences, national working group meetings, staff development opportunities and meetings with interstate counterparts. There is no allocated budget for international travel.

(2) Yes. Details of planned interstate trips for 2009-10 are at Attachment A.

(3) Refer to response to part (2).

(4) Refer to response to part (2).

Date	Meeting	Purpose	Attendees
21/8/09	Housing Ministers Advisory Committee	Advisory Committee to Housing Ministers'	Martin Hehir Maureen Sheehan
28/8/09	Native Title Ministers' Meeting	Meeting of Minister's responsible for Native Title	Brett Phillips
25/9/09	Housing Ministers' Conference	Meeting of Minister's responsible for Housing	Minister Hargreaves Martin Hehir
2/10/09	Minister's Conference on the status of Women (MINCO)	Meeting of Minister's responsible for Women	Minister Gallagher Sandra Lambert Anna Fieldhouse Gabrielle Hummel
5&6/11/09	Community and Disability Services Ministers' Advisory Council	Advisory committee to Community and Disability Services Ministers' Conference	Brett Phillips
6/11/09	Multicultural and Aboriginal and Torres Strait Islander Affairs	Advisory Committee Ministerial Council Meeting	Martin Hehir
24-27/11/09	6th National Housing Conference	National Housing Conference	Minister Hargreaves (not attending) Martin Hehir (tentative) Maureen Sheehan (tentative)

Public service—staff training
(Question No 253)

Mr Seselja asked the Minister for Disability and Housing, upon notice, on 18 August 2009:

(1) How much has been budgeted in 2009-10 for staff training in the Department of Disability, Housing and Community Services.

(2) What are the details for any training courses that are already planned for 2009-10.

(3) What are the (a) objectives and (b) costs of the courses referred to in part (2).

(4) Who from the Minister's (a) office and (b) department will participate in the courses referred to in part (2).

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

The member should note that the response covers the entire Department of Disability, Housing and Community Services, not just the Minister for Disability and Housing portfolio area.

(1) The DHCS training budget for 2009-10 is $1.164m.

(2) The Community Education Training Calendar is available on the DHCS website.

(3) The objective of each course is to support the development of staff skills and knowledge. The cost of courses may be incurred when an external facilitator leads the course.

(4) The staff from the Ministers' offices do not usually participate in departmental courses. The courses are made available to departmental staff, where relevant to their responsibilities.

Energy—concessions (Question No 255)

Ms Hunter asked the Minister for Energy, upon notice, on 18 August 2009:

(1) When will the work being undertaken by the Department of the Environment, Climate Change, Energy and Water on enhancing energy concessions be completed.

(2) When will an improved concessions regime that keeps up with increases in energy prices be implemented.

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

(1) The Department of the Environment, Climate Change, Energy and Water has completed its review of the current energy and water concession regime in conjunction with officers of the Department of Disability, Housing and Community Services. This review is currently being prepared for consideration by Government.

(2) The ACT Government currently provides low income and disadvantaged households with a rebate on energy (gas and electricity) of $194.87 per annum. This represents about 15% of the average ACT household energy bill.

No changes to the scheme have been timetabled.

Public service—email accounts (Question No 256)

Mrs Dunne asked the Chief Minister, upon notice, on 18 August 2009:

(1) What is the Government's policy for email correspondence received and sent by ACT public servants in relation to the (a) file storage of those emails and (b) archival storage of those emails.

(2) In what manner is email correspondence filed or archived (a) electronically, (b) hard copy, (c) both or (d) neither; if neither, why not.

(3) What accession system is used for emails that are filed or archived.

(4) For staff who leave the ACT public service what (a) action are they required to take in relation to the contents of their email accounts prior to their departure and (b) happens to any contents of email accounts not otherwise dealt with prior to their departure.

(5) What arrangements are in place for the retrieval of emails that are put into file or archive storage.

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

(1) The *Territory Records Act 2002* establishes the standards for records management throughout the ACT Government for all government records including emails. Agency Records Management Programs set out the policy and procedures for the management of records within that agency.

(2) Once actioned by the appropriate officer, emails are managed as records according to an agency's Records Management Program.

(3) The ACT Government has a comprehensive thesaurus for the management of government records whether in paper or digital format. This facilitates the storage and access to all government records.

(4) ACT government agencies have Exit Procedures. For example in the Department of Territory and Municipal Services public servants are required to work through a thorough Exit Procedures Checklist which is signed off by their Manager. This Checklist aims to ensure that any residual emails and other records are either printed out and filed or transferred to another officer.

(5) Emails like any other government record are covered by approved Records Disposal Schedules which establish how long they are required to be kept as a government record.

Canberra Technology Park
(Question No 257)

Mrs Dunne asked the Minister for Territory and Municipal Services, upon notice, on 18 August 2009:

(1) Who are the head lessees for each lease at (a) Canberra Technology Park and the business incubator facilities at (b) Downer, (c) Narrabundah and (d) Erindale.

(2) When did the leases, referred to in part (1), (a) start and (b) finish.

(3) Are there lease period extension provisions for the leases; if so, what are they.

(4) What are the areas, in square metres, under lease for the leases.

(5) What rent has been paid in terms of the (a) annual rent per-metre and (b) total annual cost for each financial year, or part thereof, of the lease period for the leases.

(6) What lease arrangements are intended after the leases, or any extension thereof, finishes.

(7) What is required of the lessees, under the terms of the leases, for (a) maintenance of and (b) improvements to the property grounds, buildings, services and other facilities.

(8) Have those requirements outlined in part (7) been met; if not, what has not been met and what remedial action has been taken.

(9) In relation to sub-leases (a) what are the head lessees allowed to do, (b) what is the head lessee required to do, including in relation to the provision of services to sub-lessees, and (c) are the head lessees meeting the requirements; if not, what requirements are not being met, and what remedial action is being taken in relation to those unmet requirements.

(10) What lettable areas are available for sub-lease purposes.

(11) Are the properties fully let; if not, what proportion of the sub-lettable area is vacant.

(12) What is being done to maximise occupancy of the sub-lettable area.

(13) Under what circumstances may the Government cancel the lease and resume the property.

(14) Has the Government exercised that right at any time; if so, (a) when, (b) under what circumstances, (c) under what terms and (d) for what financial consideration.

(15) Is the Government engaged at any level in (a) the governance of the head lessees or (b) in the operations of the centre; if so, in what way or to what extent is the Government engaged; if not, why not.

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

(1) (a) The Canberra Technology Park is managed by the Canberra Institute of Technology and as such information on sub-tenancies is not available to the Department of Territory and Municipal Services.

The Downer, Narrabundah and Erindale properties are managed by ACT Property Group (ACTPG), a business unit within the Department of Territory and Municipal Services. There is no 'head lessee' for these properties.

(2) There is no 'head lease' over the facilities that ACT Property Group manage. Individual leases terminate at various times during 2009; and started during 2008 and 2009.

(3) A licence extension is not provided other than a month to month holdover provision upon expiry of the licence period.

(4) Narrabundah includes leased space of 14826sqm. Downer includes leased space of 1286sqm, Erindale includes leased space of 397sqm.

(5) The total annual rent for Narrabundah is $157,242 with an average rental rate of $224.36 per square meter, for Downer $178,886 per annum at an average of $148.29 per square meter and Erindale $82,457 per annum at an average of $207.53 per square meter..

(6) For Downer and Erindale ACTPG intend to offer current tenants a new licence agreement, the terms for which are to be negotiated with the licensees. For Narrabundah, this site has been included by the Land Development Agency in the 2010-11 land release program. It is currently proposed to offer current tenants of Narrabundah space within ACTPG's other Business parks at Downer or Erindale.

(7) ACTPG is financially responsible for the repairs and maintenance and improvements of the building and grounds as per standard landlord responsibilities. Licensees are responsible for maintaining their own fitout and for damage to the building beyond fair wear and tear.

(8) Yes.

(9) There are no subleases for these properties all licences are managed by ACTPG.

(10) All space within the Business parks managed by ACTPG is let by way of licence agreements under an Executive Crown Lease. The vacant areas for each park are included in the attachments.

(11) The properties are not currently fully let. There is 202.1sqm of vacant space in Narrabundah, 698.9sqm in Downer and 365.77sqm in Erindale.

(12) Currently ACTPG is not actively pursuing new tenants because of the intended closure of the Narrabundah Business Park.

(13) Termination of individual licence agreements is possible under early termination provisions by either party giving 6 months written notice or shorter period if both parties agree. Following expiry of the licence term, the monthly occupancy can be terminated by either party giving one month's written notice.

(14) No.

(15) ACTPG undertakes management of Downer, Narrabundah and Erindale. This includes the provision of contracted administrative staff to provide reception and caretaker services for each Park.

Housing Review Committee
(Question No 258)

Mrs Dunne asked the Minister for Disability and Housing, upon notice, on 18 August 2009:

(1) Is the Housing Review Committee still operating; if so, (a) who are the members and (b) what are its terms of reference; if not, (a) when did it cease, (b) why did it cease and (c) has it been replaced by a similar body.

(2) If there is a replacement body for the Housing Review Committee, (a) what is it called, (b) who are the members and (c) what are the terms of reference.

(3) If there is not a replacement body for the Housing Review Committee, how (a) are matters dealt with that previously were dealt with by the committee and (b) is the Government informed about the kinds of issues that the previous committee might have brought forward to the Government.

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

(1) No.
(a) – (c)
The Housing Review Committee ceased on 30 June 2007. The Housing and Tenancy Review Panel (HATRP) was introduced to further strengthen Housing ACT's internal decision making process.

(2) Yes.
(a) The Housing and Tenancy Review Panel (HATRP) replaced the Housing Review Committee.
(b) Housing and Community Services Senior Officers.
(c) A summary of the terms of reference are attached.

(3) N/A

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

Housing—public
(Question No 259)

Mrs Dunne asked the Minister for Disability and Housing, upon notice, on 18 August 2009:

(1) What are the eligibility requirements for a person to gain access to public housing.

(2) What are the specific eligibility requirements relating to income.

(3) What is the definition of income for the purpose of assessing eligibility.

(4) Are payments, such as Centrelink payments, workers compensation payments, victims of crime payments, and other similar kinds of payments included in the definition of income; if so, why.

(5) Under what circumstances are self-employed persons eligible for public housing.

(6) Are self-employed persons able to operate their business from home; if so, under what circumstances; if not, why not.

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

(1) The information is at the Department website www.dhcs.act.gov.au

(2) The information is at the Department website www.dhcs.act.gov.au

(3) Clause 11 of the *Public Rental Housing Assistance Program 2008* defines income for the purposes of assessing eligibility for public housing. The Operation Guideline may be accessed at www.legislation.act.gov.au

(4) These payments are taken into account where they fall into the definition of Clause 11 of the *Public Rental Housing Assistance Program*. Lump sum workers compensation payments and Victims of Crime payments, are taken into account only where there is a component for income lost or foregone.

Housing ACT is required to take these payments into account to comply with the definition of income. The definition of income includes a power for the Commissioner for Social Housing to exempt different forms of income. This is done by Determination which is notified on the ACT Legislation Register.

(5) The information is at the Department website www.dhcs.act.gov.au

(6) Tenants are able to operate a business if it is appropriate for the area in which they reside. Housing ACT requires written notice of a tenant's intention to operate a business. All ACT residents seeking to operate a business from a residential address must seek approval from the ACT Planning & Land Authority under Planning and Development Regulation 2008.

Children—Vardon report (Question No 261)

Mrs Dunne asked the Minister for Children and Young People, upon notice, on 18 August 2009:

(1) Which of the recommendations that the Government committed to implement from the Vardon Report (*The Territory as Parent*) and the Murray-Mackie Study have been implemented.

(2) What has been learned as a result.

(3) Which recommendations remain to be implemented.

(4) Why have they not yet been implemented.

(5) When will they be implemented.

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

I refer the member to the response to Estimates Committee Question on Notice E09-406 and to the six-monthly Status Reports lodged with the ACT Legislative Assembly in February 2005, August 2005 and February 2006. Of the 47 recommendations made in the Vardon Report, to date, 42 have been completed and 5 are underway.

With reference to the Murray Mackie Study, the Progress Report tabled in the ACT Legislative Assembly in April 2008 identified that 50 recommendations were completed and 5 recommendations remain as ongoing processes. Since this time, the remaining recommendations have been completed or partially completed.

Bushfires—back-burning
(Question No 262)

Mrs Dunne asked the Minister for Territory and Municipal Services, upon notice, on 18 August 2009:

(1) How much back-burning, forest litter reduction and other measures were planned to be done during the winter months to mitigate the likelihood of bushfire in the 2009-2010 bushfire season.

(2) How much of the work outlined in part (1) has been completed to date.

(3) What is the timetable for any remaining work and will the planned work be completed before the 2009-2010 bushfire season starts; if not, why not.

(4) How much work was planned to be done to ensure fire trails were accessible before the 2009-2010 bushfire season.

(5) How much of the work outlined in part (5) has been completed to date.

(6) What is the timetable for any remaining work and will the planned work be completed before the 2009-2010 bushfire season starts; if not, why not.

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

(1) All fire management activities undertaken by Territory and Municipal Services (TAMS) are detailed in the annual Bush Fire Operational Plan (BOP). The 2008-2009 BOP identified nearly 400 separate activities aimed at "mitigating the likelihood of bushfire in the 2009-2010 bushfire season". Activities to mitigate the risk of fire are undertaken on a 12 month basis and not solely through the winter months.

(2) The final BOP for 2008-09 resulted in 93% of tasks being commenced or completed. In addition to this, an extra 38 tasks outside the original BOP were also identified and completed.

(3) The activities identified in the 2008-09 BOP included over 4,000 hectares of grazing, 700 hectares of prescribed burning, 6,000 hectares of slashing, over 600 man days of training, 500 hectares of physical removal and 1,000 kilometres of fire trail maintenance and upgrades. Works have already commenced for the 2009-10 BOP.

(4) See answer to question 3.

(5) See answer to question 2.

(6) Any activities that are not completed by the end of the financial year have been included into the 2009-10 BOP. As stated, works continue on a 12 months basis.

Housing—transitional services
(Question No 263)

Ms Hunter asked the Minister for Disability and Housing, upon notice, on 19 August 2009:

(1) How many transitional houses (the stage between crisis accommodation and public housing) are available for women and families in the ACT.

(2) Which community groups are funded to provide transitional services for women.

(3) How much funding is provided for these services in the 2009-10 Budget.

(4) How much funding was provided for these services in (a) 2006, (b) 2007 and (c) 2008.

(5) How many women and families are on the waiting list for this type of accommodation.

(6) What is the expected time spent on the waiting list for these transitional services.

(7) If women and/or families go straight from crisis care to public housing or to other accommodation what support services (such as counselling) are available to them.

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

(1) 21 houses are available for women and children in the Transition Housing Program. In addition there are 136 properties available for women and families that are utilised for crisis or transitional housing.

(2) The following groups are funded to provide transitional services for women:

Beryl Women Inc
Doris Women's refuge
Toora Women Inc
Inanna Inc
Karinya House Home for Mothers and Babies Inc
Northside Community Service
Communities @ Work
St Vincent de Paul Family Service
YWCA
Lowana

(3)-(4)

Service funding for Outreach and Transitional Housing Providers (inc. Indexation, exc. GST)				
	2006-07	**2007-08**	**2008-09**	**2009-10**
Beryl Women Inc	$ 559,689.59	$ 563,801.80	$ 580,152.05	$ 598,427.00
Communities @ Work	$ 153,935.28	$ 156,711.61	$ 161,256.25	$ 166,336.00
Doris Women's Refuge	$ 565,936.25	$ 575,702.31	$ 592,397.68	$ 611,058.00
Inanna Inc	$ 1,368,740.90	$ 1,865,093.80	$ 2,217,353.60	$ 2,250,066.00
Karinya	$ 140,386.48	$ 305,520.77	$ 314,380.87	$ 411,889.00
Lowana Young Women's Service	$ 600,000.35	$ 604,149.51	$ 624,938.88	$ 695,150.00
Northside Community Service	$ 271,143.47	$ 269,286.50	$ 277,095.81	$ 304,805.00
St Vincent de Paul	$ 884,421.34	$ 1,175,104.20	$ 1,240,559.00	$ 1,279,636.56
Toora Women Inc	$ 889,341.00	$ 1,112,195.91	$ 1,288,558.58	$ 1,327,000.00
YWCA	$ 783,374.29	$ 776,939.38	$ 1,191,393.00	$ 855,806.00
Total	**$ 6,216,968.95**	**$ 7,404,505.79**	**$ 8,488,085.72**	**$ 8,500,173.56**

(5) There are no waiting lists for these services.

(6) See answer to question 5.

(7) Support for women and families entering public housing is individualised and focussed on supporting people to maintain their tenancy. This may include financial counselling, drug and alcohol counselling and domestic violence support.

Roads—bus transit lanes
(Question No 267)

Ms Bresnan asked the Minister for Transport, upon notice, on 19 August 2009:

(1) Has the ACT Government undertaken any needs analysis and costings for a bus transit lane on Canberra Avenue; if so, can the Government provide a summary.

(2) Has the ACT Government undertaken any consultation with stakeholders on the need and any formulation of costings for a bus transit lane on Canberra Avenue; if so, can the Minister provide that information to the Assembly.

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

1. The ACT Government undertakes needs analysis for bus transit lanes based on the priorities identified in its *ACT Sustainable Transport Plan (Plan)*. The Plan identified Belconnen to City, Gungahlin to City, Woden to City and Tuggeranong to Woden are a priority over Canberra Avenue which is on the Queanbeyan to Canberra corridor. However, Roads ACT has investigated the feasibility of bus priority measures at intersections including Canberra Avenue (Ipswich and Nyrang Streets) and traffic lights at Canberra Avenue and Giles Street. Roads ACT is also liaising with Deane's Transit Group on a number of other bus priority type improvements on the Queanbeyan to Canberra route. The initial estimate indicates that all the priority improvements would cost in excess $10 million.

2. No. As indicated in the answer to Q1, there has been no costing or needs analysis undertaken in relation to a bus transit lane on Canberra Avenue. However, in the context of developing a long term public transport strategy, including rapid transit corridors, the ACT Government has been consulting with the community extensively through workshops, open forums and on-line consultations.

Canberra Hospital—car park
(Question No 268)

Ms Bresnan asked the Minister for Health, upon notice, on 20 August 2009:

(1) Did the ACT Government ensure that the proposed development of a nine storey carpark at The Canberra Hospital was consistent with the National Health Facility Guidelines prior to the Minister for Health writing to the Minister for Planning requesting that the proposed carpark development be 'called in'; if so, can evidence of this be provided.

(2) Did the ACT Government seek the advice of the Chief Psychiatrist in relation to the proposed development of a nine storey carpark at the Canberra Hospital and anticipated affects on the neighbouring mental health precinct prior to the Minister for Health writing to the Minister for Planning requesting that the proposed carpark development be 'called in'; if so, what was that advice and can a copy of that advice provided.

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

(1) The design of the Adult Acute Mental Health Inpatient Unit (which is adjacent to the carpark) was ongoing at the time of requesting the Minister for Planning to use his 'call in' powers for the carpark Development Application. This design process is still ongoing and the Australasian Health Facility Guidelines are being used to guide this design process, along with the model of care and the siting of the facility itself within the available space. The Australasian Health Facility Guidelines state that:

> "All new work should be informed by these Guidelines, but it will not be possible to apply the guidelines in all situations. Individual projects that involve the reuse of existing assets are often compromised by existing space restrictions or other physical limitations ….. The primary objective of the Guidelines is to achieve a desired performance result or service. Prescriptive limitations, when given, such as exact recommended dimensions or quantities, describe a condition commonly recognised as a practical standard for normal operation. Where specific measurements, capacities or other standards are described, equivalent alternative solutions may be deemed acceptable if it is demonstrated that the intent of the standards has been met and the specific service can be safely and appropriately delivered" (10;405).

The emerging design of the Acute Adult Mental Health Inpatient Unit is extremely conscious of the benefits of open space, sunlight and aspect for the consumers who will use the facility. To maximise access to outdoor areas, the patient areas of the facility will be on the ground level. The new facility will also include extensive external and internal landscaping, green and treed areas, quiet areas, and courtyards.

The facility will be situated to have an outlook towards the three more open view sides of the site, and away from the nearby multi-storey car park. The façade of the multi-storey car park will be designed to make viewing out very difficult. The façade will be perforated to allow natural ventilation, however the size and spacing of the perforations will mean the view from the car park will be very 'pixilated'. This will provide the new Adult Acute Mental Health Inpatient Unit with the required privacy.

(2) The Chief Psychiatrist provided advice into the development of the proposed multi-storey carpark and the Acute Adult Mental Health Inpatient Unit through her involvement in development workshops and value management reviews for the Capital Asset Development Plan Stage 2. These workshops occurred prior to the Minister for Health writing to the Minister for Planning to request the Development Application for the new carpark be "called-in". She raised no objection to either development. This advice was provided in a workshop environment not as formal written advice.

In addition, there has, and continues to be, considerable input from Mental Health ACT staff and mental health carers and consumers into both the design of the carpark and the design of the Acute Adult Mental Health Inpatient Unit. This is evidenced by

the range of features being designed into both the carpark and the Acute Adult Mental Health Inpatient Unit to minimize any possible impacts on the mental health unit from the carpark. For the carpark, these features include the "pixilated" façade to prevent overlooking and avoidance of possible points of self harm. For the mental health unit, these include its orientation towards the more open view sides of the site; the inclusion of extensive external and internal landscaping, green and treed areas, quiet areas, and courtyards; and ensuring no patient bedrooms and living areas are in shadow.

Finance—government expenditure
(Question No 269)

Mr Smyth asked the Treasurer, upon notice, on 20 August 2009:

(1) In relation to section 18 of the Financial Management Act, in Direction No. 2008-09/11, why was (a) $4.218 million provided to 'maintain service levels across the Park, Conservation and Lands portfolio', (b) $1.131 million provided 'to provide payments associated with the management of the Civic and Tuggeranong pools', (c) $0.716 million provided 'for costs associated with maintaining service levels across Public Libraries' and (d) $0.325 million provided for 'increased costs for sportsground mowing'.

(2) What are the details of the 'legal expenses' of $3.2 million that were incurred by the Department of Justice and Community Safety and for which Direction No. 2008-09/12 was issued.

(3) In relation to Direction No. 2008-09/17, why was $90 000 provided for 'costs associated with undertaken the Cotter EIS project'.

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

(1) (a) Funding of $4.218 million was provided to maintain service levels across the Park, Conservation and Land portfolio due to a range of price increases related to service delivery, as well as growth in the area managed under the portfolio. The growth in area and assets managed is attributed to urban open space, parks, playgrounds, trees, and related community infrastructure received from greenfield developments.

(b) Funding of $1.131 million was provided for payments associated with the management of the Civic and Tuggeranong pools due to the finalisation of negotiations under the respective facilities management contracts. Additional funding was also provided on a good faith basis to compensate the facility manager for extended closures as a result of unforeseen delays arising from capital upgrade works completed on the facilities.

(c) Funding of $0.716 million was provided for costs associated with maintaining service levels across public libraries, mainly in order to offset the impact of delays in achieving savings from the implementation of Radio Frequency Identification (RFID) technology across ACT public libraries. Full implementation of RFID has been delayed because of additional work necessary to identify and secure the most cost-effective and functionally appropriate solution.

(d) Funding of $0.325 million was provided for increased costs for sportsground mowing primarily due to operational cost increases associated with equipment, an increased number of sports grounds and seasonal impacts on watering and mowing patterns.

(2) Funding of $3.2 million was provided for Territorial expenses such as damages and settlements, criminal injuries compensation, counsel fees, legal and other related expenses incurred during 2008-09. The quantum of these expenses varies according to the legal matters that arise each year.

This additional expenditure was partially offset by insurance recoveries for matters in which the Territory is indemnified by the ACT Insurance Authority (ACTIA), and other recoveries including: criminal injuries compensation payments recovered from offenders; and the reimbursement of legal expenses through costs orders made in favour of the Territory in various legal proceedings. These recoveries were above budget for the same period but this revenue cannot be used directly by the Department as a funding source due to appropriation provisions that apply to Territorial expenditure under the *Financial Management Act 1996* which does not allow Territorial revenue to be used to pay expenses.

(3) Funding of $90,000 was provided to ACTPLA for costs associated with completing the Cotter Dam Environmental Impact Statement (EIS). The additional funding was required due to the size of the EIS for the Cotter Dam and the workload associated with its timely development.

Children—playground upgrades
(Question No 271)

Mr Coe asked the Minister for Territory and Municipal Services, upon notice, on 20 August 2009:

(1) What is the current classification for upgrade for each of the playgrounds on the list of playgrounds assessed in the most recent Playground Safety Audit.

(2) What is the definition of each of these classifications.

(3) When does the Minister expect to upgrade each of these playgrounds.

(4) What will each of the upgrades include.

(5) What is the current amount of funding earmarked for each of the upgrades of these playgrounds.

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

(1) Playgrounds are currently classified for upgrade based on a 2004 Audit Priority List using a numerical ranking.

(2) The Audit Priority List is a numerical ranking of playgrounds based on a standardised assessment against the Australian and ACT Standards. The position (or classification) of a playground on the Priority List is an indication of the relative priority for upgrade works.

(3) The Playground Safety Program selects playgrounds for upgrade from the top of the Audit Priority List. The number of playgrounds upgraded each year is determined by the available funds. Recent annual funding levels have upgraded approximately between 5 and 15 playgrounds each year.

(4) Playground design is influenced by the outcomes of community consultations undertaken at the time of renewal, existing play opportunities within the playground, other play opportunities provided in the surrounding areas and the available budget.

(5) Funding is allocated from each year's Playground Safety Program budget to the next playgrounds on the priority list with the costs associated with the category level of the playground as follows:
- Local playgrounds $50,000 - $70,000
- Central playgrounds $80,000 - $100,000
- District Park playgrounds $100,000 - $120,000

Government—advertising
(Question No 274)

Mr Hanson asked the Minister for Health, upon notice, on 20 August 2009:

(1) How much money has ACT Health spent on television advertising in the (a) 2008-09 and (b) 2009-10 to date financial years.

(2) What was the nature of the advertising and the relevant ACT Health awareness campaigns, and the cost of each, for the (a) 2008-09 and (b) 2009-10 to date financial years.

(3) Did ACT Health purchase any television advertising known as 'program sponsorship'; if so, what was the cost of each sponsorship for the (a) 2008-09 and (b) 2009-10 to date financial years.

(4) Can the Minister list the advertising subjects and the inclusions of such 'program sponsorships' referred to in part (3) for the (a) 2008-09 and (b) 2009-10 to date financial years.

(5) In relation to parts (3) and (4), was any 'program sponsorship' advertising purchased in which only the ACT Health logo appeared at the beginning, or throughout, or immediately after a program; if so, what was the total cost of such advertising for the (a) 2008-09 and (b) 2009-10 to date financial years.

(6) In relation to parts (3), (4) and (5), if 'program sponsorship' was purchased, on which television channels, and which television programs, did such advertising appear, and can the Minister provide any associated advertising schedules.

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

(1) 2008-09 - $91800.30
2009-10 - $20926.40

(2) 2008-09:
ACT Health is Smoke-Free - $ 6096.00
Your Health-Our Priority - $11097.90
Help Stop the Spread of Flu - $74606.40

2009-10:
Help Stop the Spread of Flu - $20926.40

(3) No. ACT Health did not purchase any television advertising known as ‘program sponsorship’. ACT Health negotiated the placement of advertisements within programs and at times to maximise the reach of our messages. On some occasions, ‘program sponsorship’ advertising was provided without our knowledge or agreement as a free, goodwill gesture on the part of the provider.

(4) No. See response to (3).

(5) No. See response to (3).

(6) No. It was not purchased. See response to (3).

Hospitals—elective surgery
(Question No 275)

Mr Hanson asked the Minister for Health, upon notice, on 20 August 2009:

(1) How many elective surgery procedures, listed by relevant category, were conducted for the year ending June 2009.

(2) How many elective surgery procedures, for each listed relevant category, conducted in the year ending June 2009 were provided late.

(3) What is the benchmark used by ACT Health to determine whether a procedure is conducted late.

(4) How many, in total, provisional dates for all categories of elective surgery were set by ACT Health for the year ending June 2009, specifically, how many letters, in total, were issued to patients accessing elective surgery in the ACT advising them of a provisional date for surgery.

(5) How many pre-admission assessment appointments were cancelled or postponed, including a breakdown of the reasons for the cancellations or postponements, for the year ending June 2009.

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

(1) A total of 10,107 people were removed from the ACT public elective surgery list for surgery by category during 2008-09, comprising:
- 2,865 category one procedures
- 5,059 category two procedures
- 2,183 category three procedures

(2) Of the total number of procedures completed during 2008-09

- 168 category one patients were admitted for surgery with waiting times greater than 30 days
- 2,779 category two patients were admitted for surgery with waiting times greater than 90 days
- 542 category three patients were admitted for surgery with waiting times greater than 365 days

(3) The ACT uses the national benchmarks for waiting times for elective surgery. Clinicians determine the relative urgency of surgery against the current three-tier national elective surgery scale:

- Admission within 30 days desirable for a condition that has the potential to deteriorate quickly to the point that it may become an emergency (category one)
- Admission within 90 days desirable for a condition causing some pain, dysfunction or disability but which is not likely to deteriorate quickly or become an emergency (category two)
- Admission at some time in the future (set at within 365 days by the ACT Government) acceptable for a condition causing minimal or no pain, dysfunction or disability, which is unlikely to deteriorate quickly and which does not have the potential to become an emergency (category three)

(4) 11,106 elective surgery operations were scheduled for 2008-09. In each case, patients received written advice of their scheduled surgery date.

(5) Data is not available on the number of pre-admission appointments cancelled by the hospital. However, it is very unlikely for an appointment to be cancelled by the hospital because where a patient who is scheduled for surgery has their surgery postponed, our hospitals will still provide pre-admission assessments as per the original advice.

ACT Corrective Services—death in custody (Question No 276)

Mr Hanson asked the Minister for Corrections, upon notice, on 20 August 2009:

What is the status of any investigations or responses to the Coroner into the death in custody in the Court Transport Unit in 2008 and have any formal recommendations been agreed to or implemented by ACT Corrective Services.

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

(1) ACT Corrective Services has completed their response to the Coroner's findings into the death in custody in 2008. This response has been forwarded to the Coroner. ACT Corrective Services' actions in relation to recommendations made by the Coroner are outlined in the response to the Coroner. The issues identified by the Coroner had been addressed by ACT Corrective Services by the time the formal findings were handed down, and the recommendations had already been implemented or were in the process of being implemented.

Public service—disabled persons
(Question No 278)

Ms Bresnan asked the Chief Minister, upon notice, on 25 August 2009:

(1) Is the ACT Public Service Employment Framework for People with a Disability, as available at http://www.cmd.act.gov.au/governance/public/publications#D, still in force.

(2) Are there reports available that detail the ACT Government's achievements against this framework; if so, where are they available.

(3) Does the ACT Government have employment guidelines for people with a (a) chronic and (b) mental illness; if so, will the Minister provide copies.

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

(1) Yes, the *ACT Public Service Employment Framework for People with a Disability*, established in 2004, continues to operate.

(2) ACT Government progress in the area of disability employment is regularly reported through the:
- *Commissioner for Public Administration's ACT Public Service Workforce Profile* published annually; and the
- the *Commissioner for Public Administration's Report on the Agency Survey* also published annually.

(3) Each ACTPS Agency has an employee assistance program to assist its staff with mental health issues. An example of one such program is attached.

Agencies also have in place mechanisms to provide staff with a greater level of assistance on a case by case basis. Such initiatives are provided through Agency *Health and Well Being Strategies* which include elements of mental health. An example of the Chief Minister's Department's (CMD) *Health and Well Being Strategy* is attached. This particular document includes participation in the Beyond Blue Study Project recently carried out in CMD which aims to identify areas of concern in relation to the mental health of employees.

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

Health—solariums
(Question No 279)

Ms Bresnan asked the Minister for Health, upon notice, on 25 August 2009:

(1) In relation to solariums and further to the answer to question on notice 236, what is the soonest possible date that Amendment No 4 2009 will be in force in the ACT if the process is followed as set out in the answer.

(2) When will the next Australian Health Ministers Conference be held and will the Amendment No 4 2009 be voted on at this conference; if not, what is the anticipated date that Amendment No 4 2009 will be voted on.

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

(1) I cannot answer this question definitively, and can only really speculate.

Amendment No 4, 2009 to the National Directory for Radiation Protection (the NDRP) on solaria will be considered by Australian Health Ministers Conference (AHMC) out of session. At this time I do not have information as to when that out of session consideration will begin, or when it will conclude. I anticipate that Amendment No 4, 2009 to the NDRP will be eventually passed by AHMC as it was endorsed by the Australian Health Minister's Advisory Council, however I also cannot provide any assurance of that outcome.

If Amendment No 4, 2009 to the NDRP is approved by AHMC the amendment to the NDRP should be made soon afterwards. The NDRP, as amended from time to time, is applied and adopted by the ACT Radiation Protection Act 2006 automatically. I remain hopeful that this process should conclude before the end of 2009.

(2) There was a AHMC meeting on 4 September 2009, however Amendment No 4, 2009 to the NDRP on solaria was not on the agenda for that meeting. I am advised that Amendment No 4, 2009 will be considered by AHMC out of session in the coming months. I am unable to speculate as to when an AHMC decision on Amendment No 4, 2009 will be reached.

Calvary Private Hospital
(Question No 281)

Ms Bresnan asked the Minister for Health, upon notice, on 25 August 2009:

(1) How many Calvary Private Hospital (CPH) executive staff have been transferred to the Public Division in the last three months.

(2) When did these transfers occur.

(3) Why did these transfers occur.

(4) Were the staff able to transfer all of their entitlements.

(5) If these staff choose redundancies in the next 12 months, will the ACT Government be responsible for the financial costs associated.

(6) What is the anticipated total financial cost to the ACT Government if all of these staff choose redundancies in the next 12 months.

(7) What other CPH staff are able to transfer to ACT Government employment and transfer all of their entitlements.

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

(1) No Calvary Private Hospital (CPH) executive staff have been transferred to the Public Division in the last three months.

(2) Not applicable

(3) Not applicable

(4) Not applicable

(5) Not applicable

(6) Not applicable

(7) Staff of Calvary Private Hospital are not entitled to transfer into ACT Government employment. However, if they apply for positions through a merit process and are successful, there are provisions for them to have prior service with Calvary Private Hospital recognised for personal leave and long service leave purposes.

Housing—public
(Question No 282)

Ms Bresnan asked the Minister for Disability and Housing, upon notice, on 26 August 2009:

(1) Has an implementation strategy been developed to roll out the Australian Government funding of $6.4 million for the maintenance and upgrade to social housing dwellings in the ACT.

(2) If an implementation strategy has been developed, has a priority list of properties in the ACT been finalised and included as a part of this strategy.

(3) Can the Minister advise if the list referred to in part (2) includes aged peoples public housing, including properties in Wyselaskie Circuit, Kambah.

(4) Can the Minister advise the most recent date that maintenance and/or any upgrades were undertaken on public housing properties in Wyselaskie Circuit, Kambah.

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

1. Yes.

2. Yes.

3. No aged persons public housing or properties in Wyselaskie Circuit are included.

4. June 2009.

Economy—poverty proofing
(Question No 285)

Ms Bresnan asked the Chief Minister, upon notice, on 27 August 2009:

(1) What commitments has the ACT Government made to advancing poverty proofing of its policies noting the Chief Minister's Department June 2008 paper entitled *Development of a Poverty Impact Analysis approach in the ACT*.

(2) What are the anticipated ACT Government timelines and steps to progressing this matter in the future.

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

(1) The 2008 paper *Development of a Poverty Impact Analysis Approach in the ACT* will inform the development of a triple bottom line assessment framework. This framework will assist to embed sustainability into the decision making process, in line with commitments made in the ACT government sustainability policy.
The *Development of a Poverty Impact Analysis Approach in the ACT* paper is available through the CMD website at: www.cmd.act.gov.au/community-inclusion/home

(2) It is anticipated that the triple bottom line assessment framework will be ready for Government consideration by the end of 2009.

Government—advertising (Question No 292)

Mr Coe asked the Chief Minister, upon notice, on 27 August 2009:

(1) What is the breakdown of the cost of production including (a) design and (b) printing of the *Cabinet in the Community* postcard, featuring photos of the cabinet ministers, distributed to Gungahlin residents.

(2) How many postcards were printed.

(3) How many households received the postcard and to which suburbs were they distributed.

(4) How and when were the postcards distributed.

(5) What was the cost of distribution.

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

(1) Design - $455 (ex GST)
Printing - $682 (ex GST)

(2) 14,200

(3) 13,900 distributed through Amaroo, Forde , Franklin, Ngunnawal, Nicholls, Harrison, Palmerston and Town Centre.

(4) Distribution was by a Canberra pamphlet distribution business. Distribution occurred on Monday 17th and Tuesday 18th August 2009.

(5) $735 (ex GST)

Finance—strategic budget review (Question No 293)

Mr Coe asked the Minister for Territory and Municipal Services, upon notice, on 27 August 2009:

For each of the 22 recommendations in the Strategic Budget Review, Department of Territory and Municipal Services dated 9 December 2008 (a) what actions have been undertaken to implement each recommendation; if no actions have been taken, why not, (b) is any further action planned to implement each recommendation, (c) when will the recommendations be fully implemented, (d) when will a review of the effectiveness of any actions be undertaken and (e) what is the cost of implementing each recommendation.

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

As agreed by the Assembly on 26 August 2009, the Government will table a report on the progress of the implementation of the Strategic Budget Review.

Heritage—historic places and objects (Question No 305)

Ms Le Couteur asked the Minister for the Arts and Heritage, upon notice, on 27 August 2009:

(1) Did the Heritage Council have a backlog of 320 historic places and objects nominated to the register in 2007-08; if so, (a) what plans does the Heritage Council have to clear this backlog and (b) when does the Heritage Council expect the backlog to be cleared.

(2) Has a consultant been engaged to undertake some of the assessment work that is necessary to deal with that backlog; if so, (a) who is the consultant engaged, (b) for how long will their services be required and (c) what is the expected cost of the consultant's services.

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

(1) The Heritage Council established a project in 2007-08 to prioritise and process the backlog of about 320 historic places and objects nominated to the Register over many years.

Having examined the list of nominated places, the Heritage Council gave priority to the assessment of private properties to give owners certainty in relation to how they can develop their properties.

Since this time 37 places/objects have been assessed against the heritage significance criteria as required under the *Heritage Act 2004* (the Act) and presented to the Heritage Council for decisions. Of these 37:

- 22 places have progressed to full registration;
- 2 places are currently at provisional registration status; and
- 13 places were rejected from inclusion in the Provisional Register by the Heritage Council.

A further 48 nominations on National Land, and therefore under the National Capital Authority's control, are in the process of being removed from the Register and moved across to a non-statutory list. These include places of interest to Canberra's story, but not on Territory land.

Many of the places nominated to the register have remained at a nominated status for over 10 years. These nominations are accompanied by little or no information as they were nominated prior to the *Heritage Act 2004*. For a nomination to be considered under the Act, it must be submitted in the appropriate form to the Heritage Council and include a statement about its heritage significance and a detailed assessment against each of the heritage significance criteria.

To clear the backlog, the Heritage Council and the Heritage Unit are:

- Assessing the level of information provided with the remaining 235 nominations with a view to returning incomplete nominations to nominators with the invitation to consider re-nominating places with the level of detail required under the Act. This will allow for a more streamlined assessment of nominations against heritage significance criteria; and

- Work with other agencies to assess nominations which require prompt decision. These include the Weston Creek Caretaker's Cottage (TAMS), Northbourne Flats (DHCS), Tralee and Couranga Homestead (LDA) and Goldcreek Homestead (TAMS).

(2) Sixteen places nominated to the Heritage Register for their natural values by the Conservation Council (ACT Region) under various rounds of the ACT Heritage Grants Program are currently undergoing assessment. The Heritage Unit has contracted Dr David Shorthouse to undertake an independent assessment of nominations relating to the natural environment.

Given the complexity of issues and mixed land ownership of some of the natural nominations the hours for this assignment are subject to negotiation between the Heritage Unit and Dr Shorthouse. It is also anticipated that multiple workshops with interested parties during the public consultation period (should the Heritage Council decide to provisionally register these nominations) may require further services.

Bicycles—monitoring (Question No 306)

Ms Le Couteur asked the Minister for Territory and Municipal Services, upon notice, on 27 August 2009:

(1) What monitoring is the ACT Government undertaking to establish cyclist numbers on main transport routes.

(2) Which routes are being monitored.

(3) What is this data being used for and will the Minister provide the data when it becomes available.

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

1) Roads ACT has a program of collection, collation and reporting of traffic related data. As part of this monitoring process Roads ACT have measured cycle volumes on both main community path routes and on-road cycle lanes The counts are undertaken approximately every two years.

2) A network of counting sites covering all of Canberra has been established. Major paths as well as a cordon around each town centre are included. On-road lanes on Major arterial roads are also counted. There are 40 locations on paths and 23 locations on roads.

3) Roads ACT use this information to monitor the safety and operating conditions in the ACT and in determining future work priorities. In recent years the data has been collated into an internal departmental report. The last report is dated April 2008 and the next report is expected by April 2010. Copies of the reports have been provided to members of Roads ACT Bicycle Advisory Group which includes representatives of cycling associations and Government agencies involved in cycle infrastructure management and planning. The reports are also available to interested members of the public.

Attachments
ACT Bicycle Volumes 2007 – 2008, *Roads ACT, April 2008*
ACT Bicycle Volumes 2006 – 2007, *Roads ACT, May 2007*

(Copies of the attachments are available at the Chamber Support Office).