

**Select Committee on Estimates 2010–2011**

# Appropriation Bill 2010- 2011

**Volume 2: Dissenting Report**

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**Appropriation Bill 2010-11**

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Dissenting Report**

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## TABLE OF CONTENTS

1. EXECUTIVE SUMMARY .....	3
2. RECOMMENDATIONS .....	9
3. BUDGET OVERVIEW .....	28
3.1. Waste and Mismanagement .....	28
3.2. Impact on Families .....	32
3.3. The Real State of the ACT Economy .....	34
3.4. ACT Government Revenue – Highest Ever .....	40
3.5. ACT Government Expenditure .....	42
3.6. Treasury Portfolio .....	44
3.7. Health .....	52
3.8. Chief Minister’s Portfolio .....	65
3.9. TAMS .....	71
3.10. Education .....	83
3.11. Environment .....	88
3.12. Justice and Community Safety .....	93
3.13. Police .....	106
3.14. Auditor General .....	109
3.15. Disability Services .....	112
3.16. Multicultural Affairs .....	115
3.17. Community Services .....	117
3.18. ACTPLA .....	126
3.19. Land and Property Services .....	130
3.20. Tourism, Sport, Recreation and Gaming .....	133

# 1. EXECUTIVE SUMMARY

As a single house parliament, the Committee system is a vital forum for in-depth scrutiny and accountability in the ACT government. Committees are tasked to undertake the same examination that an upper house would otherwise be required to conduct.

The Select Committee on Estimates is in many ways the most important of those committees, required to look at each area of government spending, and at the probity of the predictions and analysis the Government has undertaken to justify that expenditure.

The system has the potential for failing that duty when three of the five members tasked with examining the Government's budget, expenditure and probity are in fact members of the coalition that makes up the Government.

The main Committee report is a case in point of a Committee failing to take the evidence presented and report it in an open, accountable fashion. The report fails to address, and in many cases even include, significant criticisms of the Government. The report fails to comment upon, or even note, many examples of Ministers giving evidence which was then contradicted by Government officials or by extrinsic written evidence. The Report fails to adequately address the revelations that the Treasury economic projections were so unreliable that a recall was required.

The main issues of concern that this dissenting report addresses are as follows.

## **1. Unreliable Budget Forecasts.**

The forecasts by Treasury are a threshold issue, the basis upon which all other assumptions are based and all other decisions predicated.

It was revealed during the Committee hearings that some of the most fundamental projections provided by Treasury were not only inaccurate but could not be accurate based on the current knowledge.

For example, the employment rates stated were so low against actual numbers reported that a massive loss of jobs was the only way the projections could have been accurate. As this is plainly not the case, those projections are so inaccurate as to be un-useable and, as noted, were the basis of the Treasury recall.

It should be noted that this recall, based on inaccurate Treasury projections, was unable to be attended by the Treasurer as she had taken leave during the Estimates period.

It is apparent from analysis of actual reported figures that the presented Budget papers present such a flawed and unsupportable view that the entire basis of the budget is questionable. The main Report has failed to address this very important and very basic fact.

## **2. Sanitised evidence.**

In several instances, the main Report omits or obscures important evidence given during Estimates Hearings.

For example, the evidence that the failure of support for Kinship carers, which was described as 'institutionalised abuse,' was referred to in the main report as a 'discussion about appropriation.'

Major areas of discussion were covered with a list of bullet points that referred to the Hansard without any analysis or recommendations for outcomes.

It should be noted that evidence to the committee does not mean the Committee must accept that position, however the Committee report should

be an open reflection of the evidence presented. If a conclusion is reached which is at odds with that presentation, the Committee should put forward the reasons for that decision in the face of critical testimony.

It is not appropriate for the report to 'sanitise' the evidence in order to make the Minister's position seem more reasonable, or to absolve the Committee from its task of scrutinising the Government and holding them accountable to the evidence put before the Committee.

### **3. Protection of Ministers.**

In several instances, Ministers' evidence was contradicted by written evidence chains, as noted throughout this dissenting report.

The main report fails to adequately address the seriousness of this issue, nor provide recommendations to ensure that Ministers take their responsibility to the Committee and the Community seriously.

Some of the contradictory evidence is so severe that wilful misleading or rank incompetence are the only available explanations.

As stated, the Committee is a vital aspect of government accountability in a single house parliament, and through it Ministers are accountable to the people and parliament of the ACT.

This report deals with these instances in turn and provides recommendations to enforce genuine accountability.

### **4. Failure to answer questions.**

There were a large number of questions taken on notice during these hearings. Whilst taking questions on notice is a legitimate aspect to a

Committee hearing, it is based on the requirement and responsibility of those taking questions on notice to then actually answer those questions.

In many instances, questions asked during hearings but taken on notice were either submitted past the deadlines or not at all. Many were returned with a curt paragraph explaining that the Minister had decided that they would not permit the use of their resources to answer the questions.

Taking a question on notice is designed to allow an accurate response to be presented, not for a question to remain unanswered, or to avoid scrutiny.

The behaviour of a government that deems questions from Committees to be below their dignity or importance is a denial of the importance of scrutiny in a single house parliament.

The main report fails to address this blatant defiance of the Committee.

## **5. Conduct of the Hearings and the Role of the Chair.**

It should also be noted that the Committee chair in very many instances stepped in to stop scrutiny of Ministers, especially when the Ministers were facing questions over evidence contradicted by other written evidence.

As the Committee's prime role is scrutiny, this seems to be contradictory to its purpose.

The Chair, Ms Meredith Hunter, explicitly stated that she believed previous committees were 'too broad' in the questioning of the government's budget. However, that shows a fundamental misunderstanding of the purpose of the Committee. There were several instances of the Chair appearing to limit scrutiny of the government where possible, for example ruling Questions on Notice unilaterally out of order, restrictive order of proceedings, and most notably in the Chair's draft report.

Its primary role is scrutiny. Its main objective is to question. Its purpose is to test the probity of the information put to taxpayers about the expenditure of the entire ACT budget. It is the main opportunity to put those decisions to the test.

The 'dot point' draft, which offered no analysis, no criticism and no meaningful recommendations, was a failure in this duty.

## **6. Lack of Analysis and Recommendations in the Main Report.**

The main report, being based on a dot-point index of Hansard, provides scant scrutiny or analysis of the government's programs or proposals.

Major areas of the budget, including the flawed assumptions that were the subject of the recall, were brushed over. Evidence critical of the government was sanitised beyond the point of recognition. Ministers were protected during questioning and pampered in their requests to avoid answering.

One of the worst concerns is the ineffectual language used in the final recommendations. These recommendations have been diluted to such a point as to be meaningless.

The main report fails in every major aspect required of it: to probingly question the government, to expose flaws presented by those concerned, to undertake in-depth critical analysis, and to provide meaningful recommendations to maintain accountability in the Executive.

This dissenting report seeks to address these fundamental flaws in the main report. Although lengthy, it is not intended to cover every single line in the budget or the main report, but to provide the main areas of discussion and scrutiny so plainly lacking in the main report.



As such, it is a lengthy document, but this in-depth work is an absolute necessity given the abject failure of the main report to address these issues in any substantive way.

## **2.RECOMMENDATIONS**

- 1. Recommendation: before committing to discretionary spending on projects such as the Arboretum, the ACT Government should ensure that all the basic needs of the community are being met.**
- 2. Recommendation: given their importance to the Community, the Government should divert funding from the Arboretum to the replacement of street trees to maintain the unique look and feel of Canberra's suburbs.**
- 3. Recommendation: Treasury review its forecasting methods to ensure that it is using the most up to date forecasts for budgeting purposes, particularly employment figures.**
- 4. Recommendation: that the Treasurer provide a corrected analysis of the effect of the global economic and financial crisis on revenue estimates for the ACT.**
- 5. Recommendation: that the Treasurer provide urgent and detailed advice to the Assembly on how each department and agency will allocate its appropriation prior to any vote on the appropriation bills.**
- 6. Recommendation: that each Minister provide to the Estimates Committee in future budgets a more detailed breakdown of expenditure for each department or agency to provide more accountability and to provide certainty to the Assembly as to what activities the Department will undertake.**
- 7. Recommendation: that the Department of Treasury review its costing methodologies for each budget to ensure that**

departments have developed internal budgets prior to budget funding being approved by Cabinet.

8. **Recommendation:** the Treasurer immediately investigate how the change of use “deal” was developed, including who was involved, and who in the ACT Government gave their approval for it to be entered into, and report back to the Assembly by the end of the August sittings.
9. **Recommendation:** Immediately provide an assessment to the Assembly of the incidence of the change of use tax, and inform ACT homebuyers about how much additional money they pay due as a result of the tax by no later than the August sittings. The Treasurer, as part of that assessment, should also provide advice to the Assembly on the extent of the disincentive that the tax provides to urban densification, and options for consideration by the Assembly.
10. **Recommendation:** the ACT Government, in collaboration with the Investment Advisory Board, evaluate the merits of obtaining research from specialist research organisations to support the decision making processes for investing SPA funds.
11. **Recommendation:** the budget papers provide an analysis of the various aggregates, particularly the TBA, as set out in the table in the relevant budget paper.
12. **Recommendation:** It is recommended that the ACT Insurance Authority continue to work closely with all ACT Government agencies to enhance risk management and claims management processes.
13. **Recommendation:** that the Board of ACTEW ensure that their papers are of the highest quality and all efforts are taken to

**avoid confusion of terms both in their papers and in public discussion.**

- 14. Recommendation: that the Government undertake a case study of the management of the major water security infrastructure projects with a view to developing policies and guidelines for future major infrastructure projects to ensure the community is kept as fully informed as reasonably possible during the development and delivery of those projects.**
- 15. Recommendation: that the Treasurer answer the outstanding question on notice 1 and questions taken on notice 207 – 213 by the end of sitting on 24 June**
- 16. Recommendation: that ACTEW conduct a review of the cost and effectiveness of its public information campaigns and transmit the results of the review to the Legislative Assembly.**
- 17. Recommendation: the Minister for Gaming and Racing provide an analysis to the Legislative Assembly of the implications of the Federal Court decisions for the funding of the racing industry in the ACT and its implications for ACTTAB.**
- 18. Recommendation: that the Minister review the process ACT Health uses for communicating with patients in order to prevent further communication breakdowns.**
- 19. Recommendation: that cancer services be reviewed to determine actual level of patient shortfall.**
- 20. Recommendation: that the Minister provide the Assembly with a realistic cost estimate and completion date for all**

**infrastructure planned under the Capital Asset Development Plan.**

- 21. Recommendation. that the Minister investigates concerns raised by Calvary Hospital Staff, including the Medical Staff Council, and provide the Assembly with a report on the substance of the staffs' concerns and the action she intends to take to address those concerns.**
- 22. Recommendation: that the Minister conduct a review into reporting procedures in ACT Health to ensure data is not being arranged to present a misleading appraisal.**
- 23. Recommendation: that ACT Health immediately publicly release the results of staff culture surveys conducted in the past five years.**
- 24. Recommendation: that the decision to release all or parts of the investigation into bullying at the Obstetrics department of TCH be made by an independent body separate to the Minister and the Government in order that its contents are not withheld inappropriately simply to prevent information that may be politically damaging to the Minister.**
- 25. Recommendation: a full judicial inquiry be established to examine claims of bullying in all areas of ACT Health.**
- 26. Recommendation: that at the earliest opportunity, the Government provide the Assembly with a report on the structure, scope, purpose and detailed costs of the Local Hospital Networks and the associated Governing Council.**
- 27. Recommendation: that the Minister provide the Assembly with the detailed Treasury and Health analysis that supports the**

**decision to surrender in the order of 50% of the Territories GST to the Commonwealth.**

- 28. Recommendation: that the ACT Government review communication procedures and protocols relating to COAG meetings and agreements to ensure that the community is not being misled or misinformed. Changes to GST revenue numbers should be precise and public.**
- 29. Recommendation: that the ACT Government provide the Assembly with the strategy for meeting the benchmark targets provided for elective surgery and emergency department waiting times as part of the National Health and Hospital Reforms.**
- 30. Recommendation. that the Government inform the Assembly what capital infrastructure will now be provided by 60% Commonwealth funding and whether this would be sourced from the GST pool or separately.**
- 31. Recommendation. that the government's plans to purchase Calvary Hospital be reassessed in light of the National Health and Hospital Reforms.**
- 32. Recommendation: the work of the demographer should include a focus on population movements within the ACT and examine the changing structure of the population to better inform service delivery Departments such as DHCS and the Department of Education and Training.**
- 33. Recommendation: that, by the last sitting day in August 2010, the Government advise the Assembly on its plans for the future use of the former Nolan Gallery at Lanyon, including: any concepts; preferred options; the processes of public**

consultation to be engaged; the restoration or refurbishment that will be required; and the associated costs.

34. **Recommendation:** It is recommended that funding for Business and Economic Development reviewed to ensure adequate support for small business.
35. **Recommendation:** that the Minister for Business and Economic Development table in the Legislative Assembly before the commencement of the budget debate the “clean economy” paper.
36. **Recommendation:** that the Minister for Business and Economic Development table in the Legislative Assembly by the last sitting day in August 2010 the list of plans to be developed and the timetable for their release to deliver *Capital Development: Towards Our Second Century*.
37. **Recommendation:** that the Minister for Business and Economic Development inform the Legislative Assembly of the outcome of the roundtable concerning the ACT Film Investment Fund as soon as possible after the roundtable.
38. **Recommendation:** that the ACT Government go back to the drawing board with infrastructure planning and produce a comprehensive and robust infrastructure plan
39. **Recommendation:** that the Government support the Canberra Liberals Infrastructure Bill.
40. **Recommendation:** the Government immediately review the funding model for the RSPCA with a view to providing the Society and its staff with certainty for the future to allow it to continue its important work.

- 41. Recommendation: The ACT Government should apologise in writing to the ACT public servants who had their privacy breached by the security breach of W:drive.**
- 42. Recommendation: The Terms of Reference for Reports worth \$50,000 or more should be tabled in the Legislative Assembly on an on-going basis.**
- 43. Recommendation: That the Public Accounts Committee inquire into the cost structure and service delivery standards of InTACT.**
- 44. Recommendation: Given there are private sector operators that provide the services that the Capital Linen Service provides, the Government should consider whether the Service should continue to operate as a Government owned and operated service.**
- 45. Recommendation: The Government should publish the financial performance of each service included in Enterprise Services in the Budget papers.**
- 46. Recommendation: the Government should confirm the sequence of events and what correspondence the Department has had with quarry licensees.**
- 47. Recommendation: the Government should clarify the lease arrangements for the quarries in Pialligo.**
- 48. Recommendation: When the scope of a Roads ACT project changes, the revised scope should be included on the TAMS website.**
- 49. Recommendation: The Government should accurately determine the scope of tasks to be undertaken by external**



**consultants so that the information supplied by the consultant to Roads ACT does not require extensive additional work.**

- 50. Recommendation: The ACT Government should better manage the timing of roadworks in the Territory to ensure works are rolled out in a managed and planned manner.**
- 51. Recommendation: Point-to-point speed cameras should only be installed if they are proven to reduce accidents, fatalities and make roads safer.**
- 52. Recommendation: Point-to-point speed cameras should only be installed at locations that are known to be trouble-spots for speed related accidents.**
- 53. Recommendation: ACTION should engage closely with current ticket providers to ensure that as many agents as possible are able to sell credit for tickets.**
- 54. Recommendation: ACTION should engage in discussions with private bus operators in the region about better integration of their services and ticketing systems.**
- 55. Recommendation: ACTION should better manage current and future ticketing systems to ensure forgone revenue is minimised.**
- 56. Recommendation: ACTION should undertake assessments about ticket validator failures as an on-going process.**
- 57. Recommendation: The Government should not use anecdotal evidence to justify disappointing results for accountability indicators.**

- 58. Recommendation: The Government should not cite 'commercial-in-confidence' as an excuse to avoid publishing information which is of public interest.**
- 59. Recommendation: the Government needs to look into how economies of scale in education will impact on small service providers and how this will impact on ACT businesses.**
- 60. Recommendation: A unified and aligned best-practice risk management strategy/guideline be developed and implemented for issues involving harm to students and staff and damage to school property, including a periodic review of the Critical Incident Guidelines, and conduct a risk audit of the schools system.**
- 61. Recommendation: that the Government provide further details on how the efficiency dividend and staff cuts, the National curriculum and its impact on staffing, and teacher remuneration will impact on the ACT education system.**
- 62. Recommendation: Develop a more concrete definition and criteria for 'innovation'.**
- 63. Recommendation: That the Department of Environment, Climate Change Energy and Water monitor the noise from the Northbourne Avenue roadworks and report to the Assembly on what action it took to mitigate the noise late at night and in the early hours of the morning.**
- 64. Recommendation: that the Minister seek further clarification on the status of the installation of the Canberra Stadium solar panels, and confirm that the system was operational when it was opened in December 2009. If the system wasn't, the Minister should inform the Assembly as to whether any safety breaches occurred when he opened the facility.**

- 65. Recommendation: That, by the last sitting day in August 2010, the government table a plan for the implementation of the transfer of all water management responsibilities from the Commonwealth to the Territory, including: the costs of implementation; what equipment will require to be installed; the number of water users that will require to be licensed; and the revenue streams that will flow under the new arrangements for both one-off licence fees and on-going extraction charges.**
- 66. Recommendation: [In relation to the Review of the Nature Conservation Act 1908] That, by the sitting day 1 July 2010, the minister advise the Assembly of the target dates for the following actions: Release of the discussion paper; Closing date for public submissions in response to the discussion paper; Release of draft legislation for public comment; Closing date for public comment on the draft legislation; Introduction of a Bill to the Assembly; the expenditure on the review project in each of the financial years 2004-05, 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10 to date; the estimated ACT Government staff time expended on the project in each of the financial years 2004-05, 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10 to date, and the estimated cost to complete the review project to the point of introducing a Bill to the Assembly.**
- 67. Recommendation: [In relation to the review of the Unit Titles Act 2001] That the Attorney-General immediately review the terms of reference in consultation with other relevant stakeholders, including but not limited to ACTPLA, the Owners Corporation Network, other ministers as relevant and the Opposition and Cross-bench parties.**
- 68. Recommendation: That the Attorney-General immediately pursue his undertaking to explore methods for direct contact with unit owners and occupiers, including sending information**

**with rates notices (to contact unit owners) and using the information held by the Office of Rental Bonds within the Office of Regulatory Services (to contact unit tenants)**

- 69. Recommendation: by the last sitting day in August 2010 report to the Assembly on the: final version of the terms of reference following the consultative review; and methods by which direct contact will be made to unit owners and occupiers to advise them of the consultative processes for the review of the Act.**
- 70. Recommendation: that the Minister provide the Assembly with a detailed explanation of why and when remandees are mixed with sentenced prisoners and the Government's plans to mitigate the safety and human rights concerns that this situation causes.**
- 71. Recommendation: that the Government review funding arrangements for the Human Rights Commissioner in order to allow her to conduct a Human Rights Audit of the AMC or outline to the Assembly how the Government intends to provide evidence to assure the community that the AMC is human rights compliant on an ongoing basis.**
- 72. Recommendation: the Minister report to the Assembly how the basic functions of the prison have been allowed to so comprehensively fail and what the Minister is doing to fix the situation.**
- 73. Recommendation: that the Minister for Emergency Services clarify for the record when he first received and saw the Emergency Services in the ACT: Station Relocation Feasibility Study.**

74. **Recommendation:** It is recommended that the Minister for Emergency Services clarify for the record the reason for the United Firefighters Union's objection to the implementation of the *Emergency Services in the ACT: Station Relocation Feasibility Study*.
75. **Recommendation:** It is recommended that the Minister for Emergency Services table the *Emergency Services in the ACT: Station Relocation Feasibility Study* in the Legislative Assembly before the commencement of the budget debate.
76. **Recommendation:** It is recommended that the Minister for Emergency Services table in the Legislative Assembly before the commencement of the budget debate the list of "plenty of projects" completed on time and on budget and the updated total cost of the new Emergency Services Headquarters at Fairbairn and at Hume.
77. **Recommendation** that the Government provide the Assembly with an update on the trial of suburban policing consultative committees, including the details of the trial, the date for completion of the trial, and the progress of the trial to date.
78. **Recommendation:** that the Government provide the Assembly with evidence that name and shaming convicted drink drivers has worked successfully as a deterrent in other jurisdictions.
79. **Recommendation:** that the Assembly pass the *Road Transport (Alcohol and Drugs) (Random Drug Testing) Amendment Bill 2009* currently tabled and support anti drug driving laws in the ACT.
80. **Recommendation:** It is recommended that the Independent Competition and Regulatory Commission conduct an inquiry into the possible extension of the feed in tariff to generators of more than 30 kW of electricity.

- 81. Recommendation: that the ACT Government meet with the ACT elected body and report back to the Assembly with action they will be taking to address the view of the chair of the elected body that the allocation of funds directed to Indigenous people in the ACT is 'horrific'.**
- 82. Recommendation: It is recommended that the ACT Legislative Assembly approve the annual appropriation for the ACT Auditor-General.**
- 83. Recommendation: It is recommended that funding be appropriated to the ACT Auditor-General such that, by 2012-13, the budget of the Office is funded to the extent of 50 per cent from fees for financial audits and 50 per cent from an annual appropriation.**
- 84. Recommendation: It is recommended that, by 2013-14, the appropriation provided to the ACT Auditor-General be sufficient to enable a minimum of 12 performance audits to be conducted each year.**
- 85. Recommendation: That the government shelve the "virtual" district court initiative while it conducts a full consultation on its 2010 Access to Justice Initiative.**
- 86. Recommendation: That the Government report to the Assembly on the financial impact of this scheme on disability organisations and actions to be initiated to address issues that arise.**
- 87. Recommendation: [in relation to Portability of Long Service Leave Authority] that the Minister clarify her statements in**

**light of the apparently contradictory statements made by Mr Collins.**

- 88. Recommendations: That before contracts for the next festival are finalised, the Minister provide relevant staff with development opportunities to address the identified finance knowledge gap, develop formal Festival management guidelines based on 'lessons learnt' and report to the Assembly on the status of the previous two recommendations.**
- 89. Recommendations: that the Minister immediately commission a formal process to assess the impact of the portable long service leave scheme for community organisations on expenditure levels and cash flows of those organisations caught by the scheme.**
- 90. Recommendation: hat the Government immediately confirm with all community organisations caught by the portable long service scheme that funding assistance will be provided to organisations that can demonstrate financial stress arising from implementation of the scheme, and precisely the amount of that assistance to provide certainty for community groups dealing with government imposed changes.**
- 91. Recommendation: That, by the last sitting day for 2010 the minister table a master plan that outlines what the government will do to assist not-for-profit childcare providers to comply with the new standards; and**
- 92. ensure all not-for-profit providers are aware of the new standards and the implications of those new standards for them.**
- 93. Recommendation: That, by the last sitting day in August 2010, the minister report to the Assembly as to whether she is**

satisfied as to whether the claim of 'institutionalised abuse' of grandparents and kinship carers and the children in their care is substantiated or not, including detail of the depth and breadth of the department's internal investigation and the enquiries the minister has made of carers and their representative groups.

94. **Recommendation:** That, by the last sitting day in August 2010, the Minister assure the Assembly that the whole appropriation (\$800,000 over four years) for grandparent and kinship carers will be directed to NGO-provided services as promised in 2008.
95. **Recommendation:** that the Minister fund the position of a carer liaison officer from the general appropriation and therefore restore those funds (\$240,000 over four years) to the funding for NGO-provided services for grandparents and kinship carers of \$800,000 over four years, as promised in 2008.
96. **Recommendation:** that the Minister immediately institute a review of the services provided by the Office of Children Youth and Family Support (OCYFS) to grandparent and kinship carers to determine the difference in training, support and allowances actually provided to foster carers and kinship carers; and the level and extent of unmet need for service provision to kinship carers.
97. **Recommendation:** Consider the provision of new accountability indicators for 'Complaints finalised within a nominated time'.
98. **Recommendation:** Develop and publish a clear process for handling complaints that involve multiple government agencies regarding anti-social tenants that



- 99. Recommendation: Clarify the process for making a complaint about Housing ACT tenants and publish it in fact-sheet format.**
- 100. Recommendation: That, by the last sitting day in 2010, the Government table a plan for the future use of the former Flynn primary school, including an indication of the community consultation undertaken in that process; evidence in particular that the Flynn Community Group has been fully engaged in that process and their proposals have been given due consideration; the estimated costs to refurbish and restore the facility ready for its future use; and the proposed timetable for implementation of the plan.**
- 101. Recommendation: That, the plan [in recommendation 100] mentioned above, should also outline the number of childcare places and advice on the intended provider.**
- 102. Recommendation: That, the Minister guarantee that the childcare places developed at Flynn will all be new childcare places, not just substitution of places from existing facilities that might be forced to relocate.**
- 103. Recommendation: [in relation to Bimberi Youth Justice Centre] That, by the last sitting day in 2010, the Government table a report as to the action taken and the cost to reduce or eliminate the risk of security breaches; and improve personal safety for officers.**
- 104. Recommendation: That by the end of sitting on 24 June the Minister fully answer the questions asked by Mrs Dunne which were taken on notice in relation to an alleged spitting incident between a custodial officer and a detainee with hepatitis B.**

- 105. Recommendation: That the Standing Committee on Planning, Public Works and Territory and Municipal Services conduct a review of the problems associated with building certification and warranty as they relate to residential buildings.**
- 106. Recommendation: That the Minister clearly outline a timetable for the sale of Blocks 8 & 10 Section 34, Hawker.**
- 107. Recommendation: That the Minister initiate a master planning process for the whole Hawker retail and commercial precinct.**
- 108. Recommendation: that the Minister consult with the community before proceeding with proposals.**
- 109. Recommendation: ACTPLA include in its annual report on each legal case where any decision by ACTPLA is overturned, the cost of each case and the reasons for the outcome.**
- 110. Recommendation: that the Minister present to the Assembly a detailed business case for the whole of government office project.**
- 111. Recommendation: the government outline how it will reduce the significant delays between when land is released to the market and when dwellings are able to be constructed.**
- 112. Recommendation: that the Government provides the Assembly with a detailed report of drought proofing measures that have been undertaken, and corresponding list of fields that have been brought back online.**
- 113. Recommendation: Communicate to community sporting groups and peak organisations on the status of local fields and future plans to bring these fields back to operational use.**

- 114. Recommendation: that a review be conducted to look into the viability of CRIP initiatives in relation to demand pressures for community sporting fields.**
- 115. Recommendation: that a review be conducted to ascertain whether present funding levels are adequate. The process should involve key stakeholders and the findings be conveyed to community sports organisations and groups.**
- 116. Recommendation: It is recommended that the ACT Government correct the commentary relating to the status of the Exhibition Park Corporation.**
- 117. Recommendation: It is recommended that appropriate advice be obtained about the application of the change of use charge to any redevelopment projects that are proposed by the Exhibition Park Corporation.**
- 118. Recommendation: that the powers of the ACT Gambling and Racing Commission be reviewed so that inquiries being undertaken by the Commission are not unnecessarily restricted.**
- 119. Recommendation: that a review be conducted into the finding that the Labor Party tried to influence the sale of the Labor Clubs.**
- 120. Recommendation: It is recommended that the Minister for Tourism have developed and tabled in the Legislative Assembly by the first sitting day in 2011 the plan for new attractions in the ACT.**

- 121. Recommendation: It is recommended that the Minister for Tourism have developed and tabled in the Legislative Assembly by the first sitting day in 2011 the plan for new events in the ACT.**
  
- 122. Recommendation: It is recommended that the Minister for Tourism have developed and tabled in the Legislative Assembly by the first sitting day in 2011 the plan for the accommodation sector in the ACT.**
  
- 123. Recommendation: It is recommended that the Minister for Tourism table in the Legislative Assembly before the commencement of the budget debate a detailed summary of and the business case for the new Autumn event.**

## **3. BUDGET OVERVIEW**

### **3.1. WASTE AND MISMANAGEMENT**

Ultimately it is taxpayers who suffer when governments do not manage their budgets well.

Without efficient budget management, the quality of basic and core services is poor, and taxes are higher than they would otherwise need to be.

As will be demonstrated, the ACT is under no revenue stress. In fact, revenues are higher than predicted in past budgets and income streams are stronger than ever.

However, the ACT Government continues to increase its spending at an even higher rate than the larger than expected incomes, let alone the predicted income levels.

A significant feature of the Labor Government has been the prevalence of wasteful spending on projects and activities that should not have such a high priority. It is clear that this Government has yet to understand that money, like water, is not an unlimited resource.

The most prominent instance of poor budget management and wasteful expenditure in this Budget is the indulgence of spending an additional \$26 million on the Arboretum – this represents around \$75 for every man, woman and child in Canberra. It is difficult to accept that, while the Government claims to be in some financial difficulty and is seeking significant savings, that it could attach such a high priority to spending \$26 million on a project that will not enhance the delivery of basic and core services to ACT taxpayers.

And this poor decision making happens in many portfolios, and within many different funding envelopes. In this Budget the Government has allocated

\$100,000 to conduct a feasibility study into a shopfront in Gungahlin. Why does this government need \$100,000 to identify a shopfront for a core Government service that the taxpaying community in Gungahlin is crying out for?

Wasteful expenditure by this Government is not a new phenomenon. It has demonstrated time and time again that it knows how to blow taxpayers money. For example; the blatant mismanagement of the Gungahlin Drive Extension (GDE) and wasteful second round of disruption being caused by the duplication, millions of dollars being spent on ACTION buses that carry no passengers, the installation of artwork on the GDE and the Alexander Maconochie Centre which is in the order of \$850,000, the design of a busway that didn't eventuate, Firelink, Weston Creek Cottage, the list goes on.

The Government has not only exercised poor judgement in its decision making as demonstrated by the Arboretum, but it has also shown that it lacks the ability to manage programs within budget. Once again, there are many examples. The blowout of the Cotter Dam by around a quarter of a billion dollars, the mismanagement of the construction of the Alexander Maconochie Centre, the escalation of costs of the multi-story car park at the Canberra Hospital, the mismanagement of the installation of solar panels at Canberra Stadium.

The ACT's Auditor-General released a report early in June 2010, called Delivery of Budget Initiatives, in which there is an analysis of a range of recurrent programs and capital works projects in which **spending has not been undertaken efficiently or effectively.**

The Auditor-General found that, over the past two financial years, the agencies that were reviewed had an average underspend of 40.1 per cent per year.

The Auditor-General also found that, **out of 20 capital works projects that were evaluated, nine of these projects (or 45 per cent of the total) ‘were not completed on time and/or within budget’.**<sup>1</sup>

It is clear that the ACT Government needs to urgently re-evaluate its budget prioritisation process. The Chief Minister’s obsession with the Arboretum is costing Canberra’s taxpayers quality core services that they deserve.

### **3.1.1. National Arboretum Canberra and Street Trees**

This Budget included \$26 million to continue the development of the National Arboretum Canberra. This includes \$23.45 million in capital and related expenses, and \$2.89 million for operational and maintenance funding from 2012-13.

In an environment where the Government is failing to deliver adequate services in areas such as Health, child protection, disability support, and municipal services, it is difficult to understand why spending \$26 million on the Arboretum can be justified against other priorities in the Budget.

We do not believe that the decision to prioritise this level of spending on the Arboretum to be consistent with the principles of good governance and management of taxpayers funds whilst ever the Budget remains in the red.

**Recommendation: Before committing to discretionary spending on projects such as the Arboretum, the ACT Government should ensure that all the basic needs of the community are being met.**

In the Budget, the ACT Government has slashed its spending on the replacement of street trees by \$11.2 million over the next four years<sup>2</sup>. Street trees play a very important role in defining Canberra. Canberra is known as the ‘bush capital’ in part due to the prevalence of street trees.

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<sup>1</sup> Auditor-General’s Report, *Delivery of Budget Initiatives*, Report No. 3/2010, June 2010

<sup>2</sup> 2010-11 Budget Paper No. 4, page 78.

They improve the look of our neighbourhoods, and create a very pleasant environment in which to live, particularly as suburbs mature.

Many residents have expressed to us their concerns over the removal and non-replacement of street trees over many years. We believe that Canberrans would derive more benefit from having street trees replaced that all Canberrans would enjoy, rather than from having money spent on the National Arboretum Canberra.

**Recommendation: Given their importance to the Community, the Government should divert funding from the Arboretum to the replacement of street trees to maintain the unique look and feel of Canberra's suburbs.**

The Government is responsible for managing spending. Despite record revenues it is planning to deliver record deficits. The long list of cost blow outs, mismanagement, inefficiencies and poor priorities grows every year. This year a number of spending measures again show that nothing has changed, including \$26m extra for the arboretum, the LDA spending over \$500,000 on landscaping at the Bonner Display Village, excessive amounts on feasibility studies, Monergy expenditure, more money on self promotion, \$560,000 on a water tank and some toilets, \$500,000 from failing to collect bus fares and money for statues of Labor Prime Ministers are just some of the obvious examples. The refusal again by a number of Ministers to answer basic questions about what actually makes up the budget means that much of the wasteful expenditure in this budget will only become apparent as the year goes on.



## 3.2. Impact on Families

**This is a Budget which will impact heavily on families, particularly those who live in Canberra's outer suburbs, as the only available means to offset the government's wasteful expenditure program.**

At its core is a massive tax on home and apartment buyers and renters. The so called 'change of use' charge is actually a tax on homes, and is budgeted to hit property owners with an expected slug of over \$89 million dollars.

There is a significant increase on all the families using cars; car parking revenue is expected to increase by 30%, 21% extra in parking fines and 27% on traffic infringements.

There will be increases in bus fares.

There is no money allocated to recruit, support and retain GPs. There is nothing to address the critical shortage in radiology that has seen ACT patients forced to go interstate.

Recent figures show our waiting times are the worst in the country and getting worse.

Our infrastructure is nearly at a standstill, and our buses travel the globe every week running with no passengers.

Yet the government has found \$26.3 million for the Arboretum.

Of all the infrastructure we need, the arboretum is not high on the list, yet it is the second highest spend in this budget.

When assessing this budget – any budget – the prime factor should be how it affects the lives on the community, what services are being delivered and which are falling short.

This budget has very significant impacts on families in an everyday sense, and is a failure of priority, of policy, of implementation, and of responsibility.

### 3.3. The Real State of the ACT Economy

The ACT economy is strong and has been largely insulated from the effects of the GFC. Employment, Gross State Product and Final State Demand and other indicators remain positive.

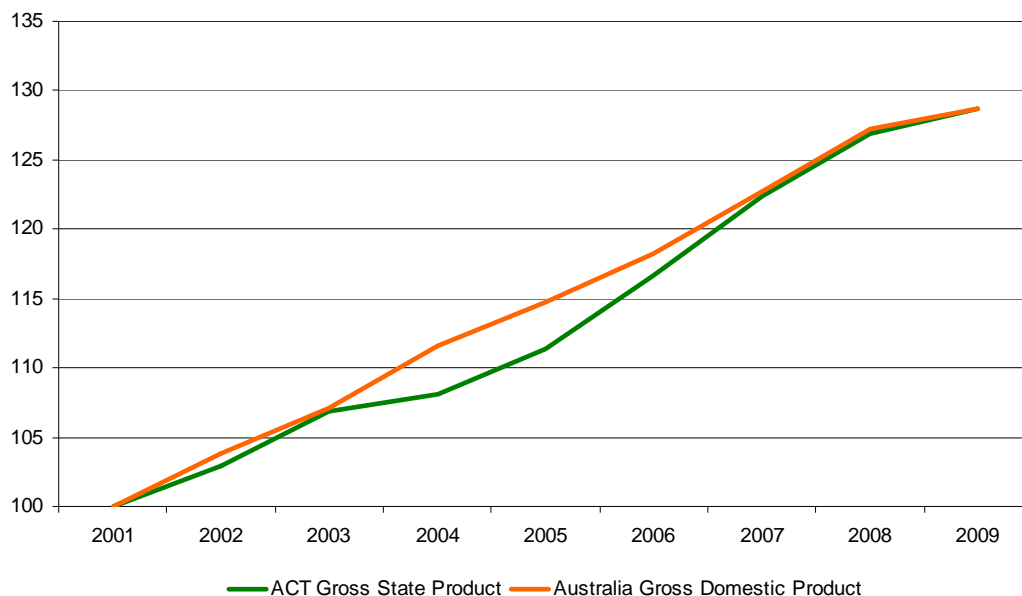
However, the budget uses incorrect employment figures and underestimates revenue that can be demonstrated to be false by examining other data.

#### 3.3.1. Economic Indicators

Economic growth has been strong throughout the second half of 2009 and it appears to be returning to trend growth relatively quickly in line with the rest of the Australian economy following the GFC.

Since 2001, the ACT economy has grown in line with the Australian economy, with the exception of the 2004-05 period when the growth rate of the Commonwealth Public Service slowed.

**ACT Gross State Product and Australian Gross Domestic Product  
(base year 2001-02)**

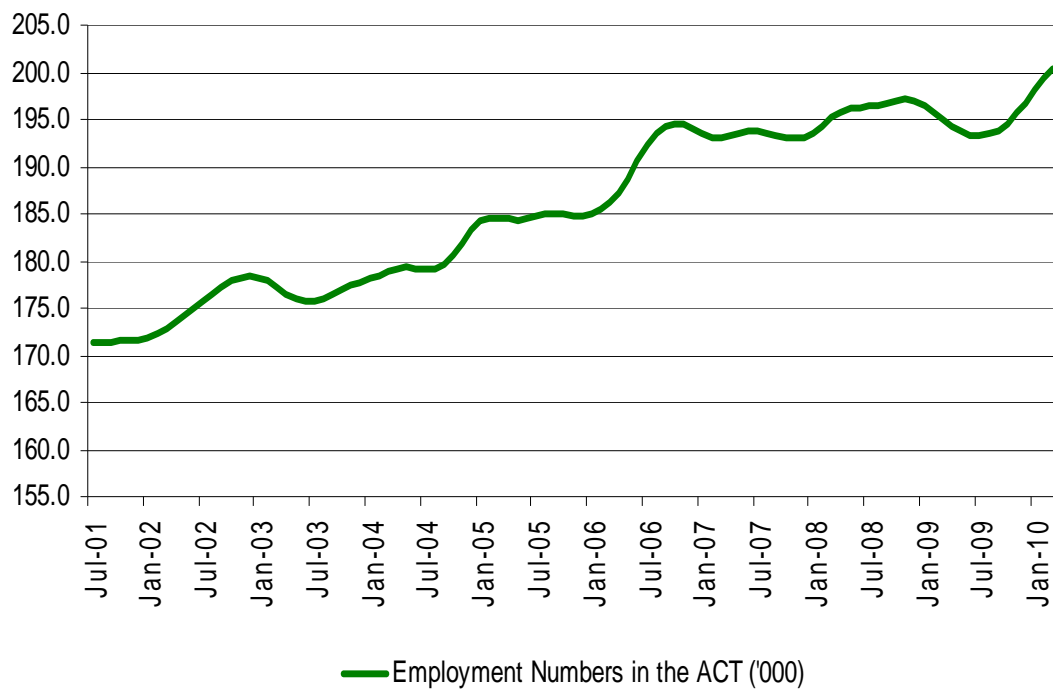


### 3.3.2. Strong Employment.

Employment numbers within the ACT has returned to pre-GFC levels in trend terms. Although the slow-down in the growth of the Commonwealth Public Service in 2010-11 may slow economic growth in the ACT, there is little evidence of that impacting the current employment rates.

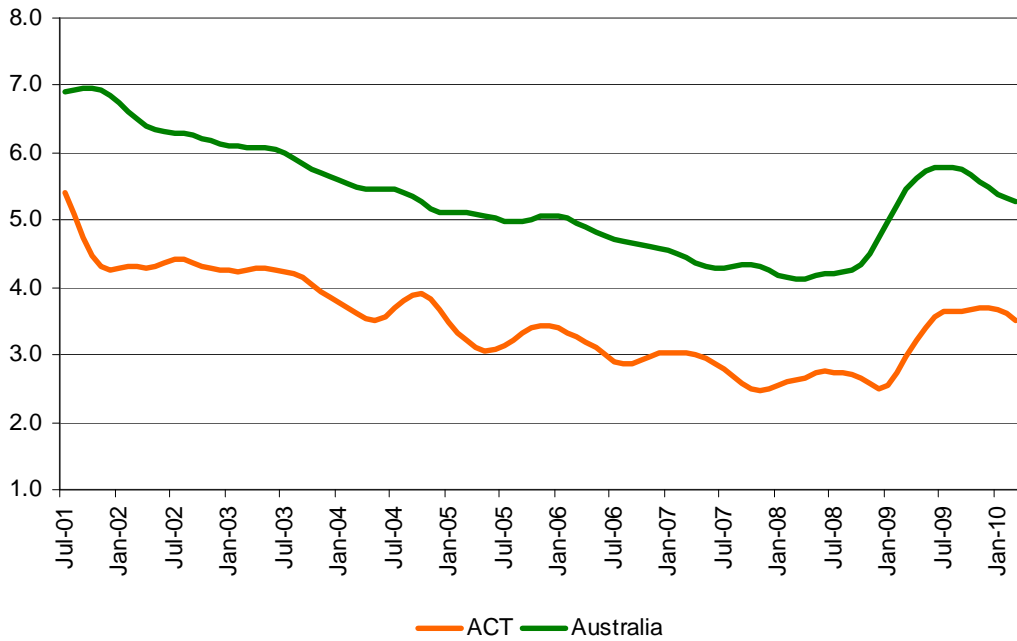
In fact, employment numbers in the ACT are strong, with total employment reaching 200,000 people for the first time in March 2010 in trend terms.

**ACT Total Employment Numbers**



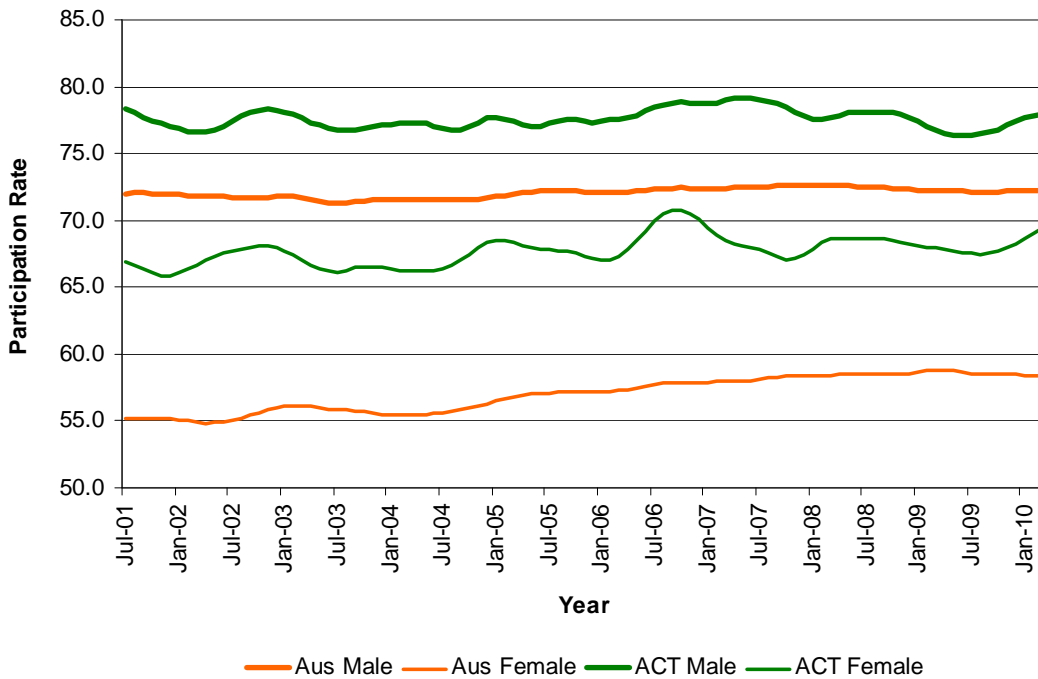
Unemployment however remains relatively high compared to recent periods, but this is consistent with the broader Australian economy.

### ACT and Australian Unemployment Rates



Furthermore, the labour force participation rate in the ACT economy remains strong, and has improved with the recent improvement in economic growth. This has kept the unemployment rate relatively high.

### Labour Force Participation Rate



### 3.3.3. Strong Employment Forecasts

The Budget Papers contain the following economic forecasts

**Table 7.1.1  
Economic Forecasts, Year-Average Percentage Change**

	Actual	Forecasts <sup>1</sup>		Projections <sup>1,2</sup>		
	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
<b>ACT</b>						
Gross State Product	1.4	1	2	3¼	3¼	3¼
Employment	0.7	-¼	1	1¾	1¾	1¾
State Final Demand	0.7	3¼	1	5¼	5¼	5¼
Consumer Price Index	3.4	2¼	2½	2½	2½	2½
Wage Price Index	3.9	3¼	3½	4	4	4
Population <sup>3</sup>	1.8	1¾	1¾	1¼	1¼	1¼
<b>Australia</b>						
Gross Domestic Product <sup>4</sup>	1.1	1½	2¾	4	4	4

**Notes:**

1. Forecasts and projections are rounded to a ¼ of a percentage point to reflect the relative level of accuracy used in forecasting economic parameters. This is standard forecasting practice used by governments throughout Australia.
2. Projections are based on long-run averages and are provided for planning purposes only. They do not reflect an expectation (forecast) of actual outcomes. Projections have been updated to reflect changes in the long-run trends.
3. For population forecasts, the 31 December estimate is used to represent the average population for the financial year. As such, the forecast growth is based on the growth from one December to the next, rather than 'year average' as with all other forecasts.
4. Commonwealth Government forecasts are provided in the 2009-10 Mid-Year Economic and Fiscal Outlook published in November 2009.

### 3.3.4. Incorrect Employment figures in the Budget.

The forecast of most interest in this table to the Committee was the forecast of employment growth in the ACT. Given the very strong growth in employment throughout all of 2009-10, this estimate appears to be so pessimistic as to be unrealistic.

Treasury have used a 'year average' percentage change method to show the change in the number of people employed from one financial year to the next. For 2009-10, Treasury have forecast that the average level of employment in 2009-10 would drop by -0.25 per cent from the average employment level in 2008-09.

The average level of employment in 2008-09 (full and part time) was 195 700<sup>3</sup>. The average level of employment in 2009-10 from July 2009 to February 2010 was 195.6. This represents a drop of only 0.00063 per cent.

Questions on notice indicate that these figures are in fact incorrect, and this was the reason for the Treasury recall to explain the discrepancy between evidence given in committee and the facts as discovered in the papers.

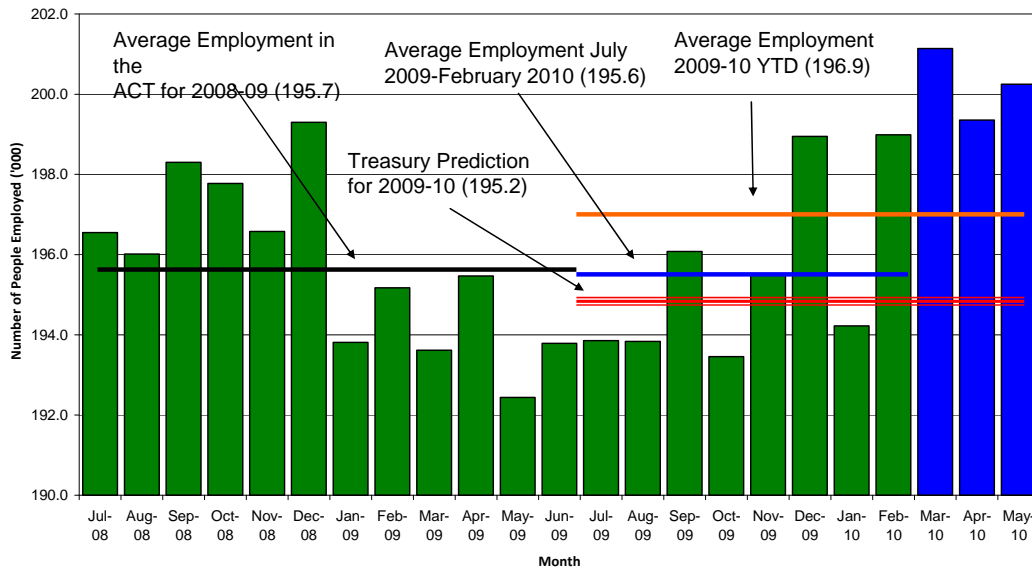
Treasury indicated to the Committee that the February figures were the most recent that were available when the economic forecasts were made prior to the Budget.

Despite the very small drop, Treasury were forecasting that employment would fall from 2008-09 to 2009-10 by negative 0.25 per cent. For this forecast to be accurate, employment in the ACT would have had to have fallen to 194,200 in March 2010, and stayed at this level until the end of 2009-10, an unsustainable prediction.

### **3.3.5. Underestimated Payroll Tax.**

Treasury confirmed in the recall hearing on 31 May 2010 that there is a correlation between employment growth and growth in the collection of payroll tax. This being the case, the significantly underestimated growth in employment in the ACT will mean that the ACT Government can expect to collect more payroll tax revenue than has been forecast in the Budget.

Full and Part Time Employment in the ACT (Original Data)



### 3.3.6. Underestimated State Final Demand

There are further concerns about the estimates for growth in State Final Demand in 2009-10.

The growth in State Final Demand in the first six months of 2009-10 was around 5 per cent, yet the Treasury forecast published in the Budget was for growth in state final demand in 2009-10 was for 3¾ per cent growth.

Treasury confirmed that negative growth in the final two quarters is quite possible, yet it conceded in answers to questions on notice that employment in the ACT would rise.

These two conclusions appear to contradict each other – it would be unlikely that state final demand would fall if employment growth were strong.

**Recommendation: Treasury review its forecasting methods to ensure that it is using the most up to date forecasts for budgeting purposes, particularly employment figures.**



## **3.4. ACT GOVERNMENT REVENUE – HIGHEST EVER**

**Through increased revenues that are higher even than those predicted before the GFC, and the highest taxation of any government on record, the current government has the highest ever income available to run their budget.**

**However, the government still claims to have ‘lost’ revenue to justify deficits and debts. These claims do not withstand scrutiny.**

### **3.4.1. Overstating lost revenue.**

In the 2009-10 ACT Budget, the Labor Government argued that the global economic and financial crisis had resulted in a reduction of \$1.051 billion in the major revenue lines over the 2008-09 financial year, the budget estimates for 2009-10 to 2012-13.

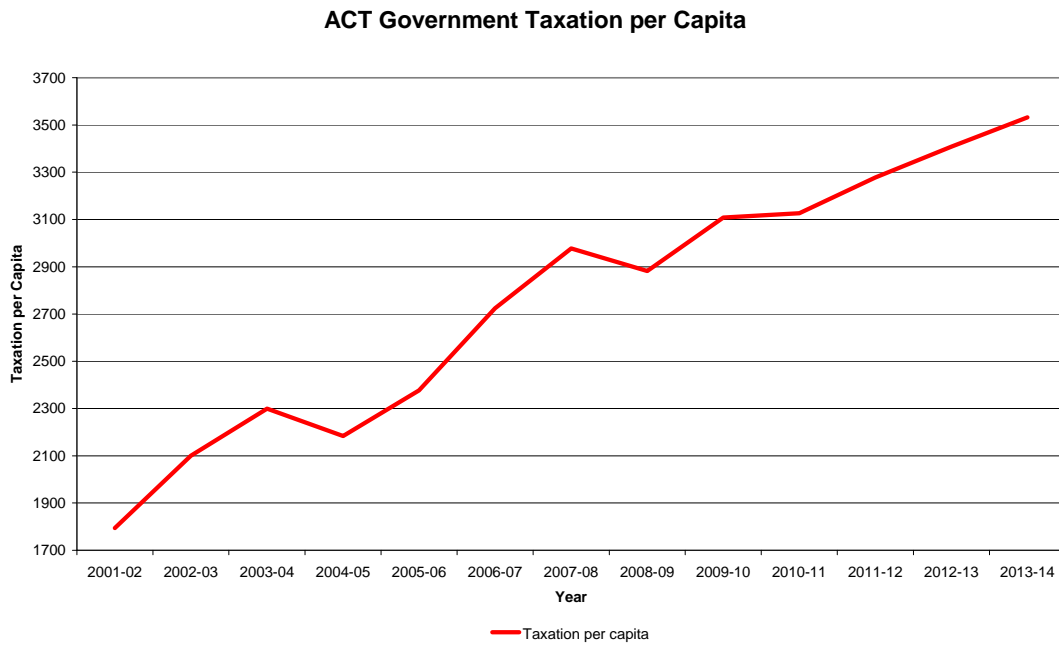
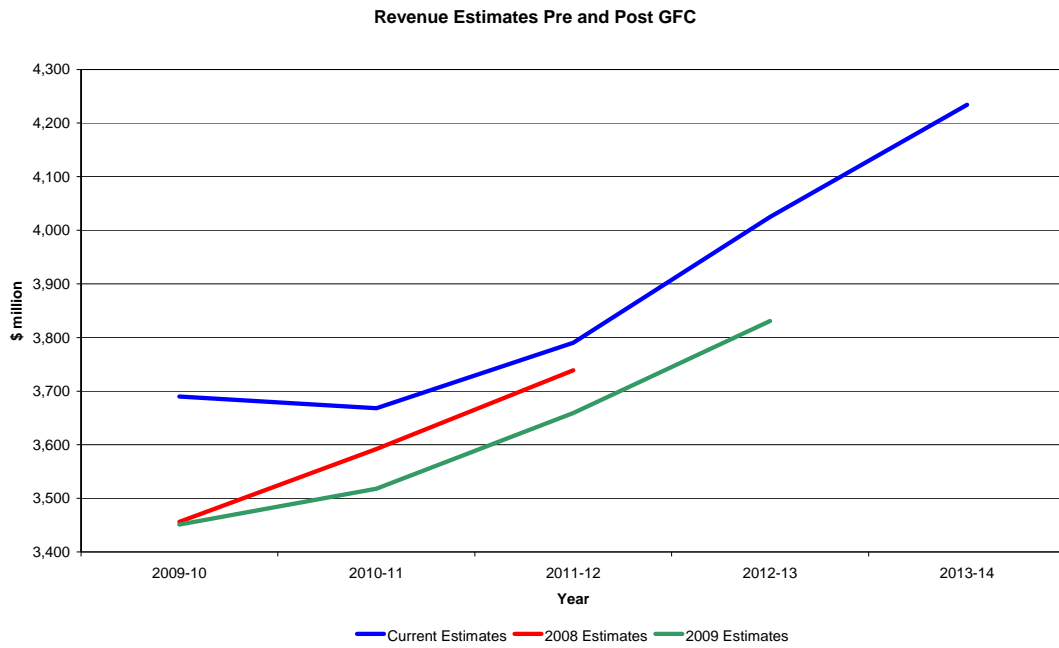
The Government’s revenue forecasts in this Budget now exceed those forecasts for the current years that were presented in previous Budgets. The Government’s own budget papers therefore show that its revenue streams have recovered from the Global Financial Crisis (see chart over page).

In other words, the revenue for 2010-11 will be higher than forecast by the Government in the 2008-09 Budget, (pre-GFC) and higher than forecast by the Government in the 2009-10 Budget. This is the highest amount of revenue ever forecast by the ACT Government.

This is driven in part by the very high level of taxation per capita which is outlined in the chart over the page (in nominal terms).

**Recommendation: that the Treasurer provide a corrected analysis of the effect of the global economic and financial crisis on revenue estimates for the ACT.**

## Increase in ACT Government Revenue 2008-09 to 2010-11



## **3.5. ACT GOVERNMENT EXPENDITURE**

### **3.5.1. Overview on Expenditure**

**While the government receives the highest revenues on record, the expenditure increase is outstripping even the highest predicted growth in revenues. The increased expenditure is not matched by either increased revenue or savings.**

The net impact of expenditure initiatives in this Budget is \$238.2 million over four years. This includes \$337.5 million in extra expenditure initiatives but is offset by only \$99.3 million.

It is clear from the Government's own figures that it has not exercised fiscal constraint.

### **3.5.2. Ministers unable to detail how budget to be spent.**

Further, the ACT Government has not provided clear and adequate explanations of how the additional \$238.2 million will be spent.

We asked each Minister about the level of spending in specific areas of the each Department and Agency in their portfolio. While some agencies were able to provide quite detailed information, many were unable to provide any information as internal budgets had not yet been determined for the 2010-11 financial year, or the Government was not willing to provide the information.

It is unclear why agencies would not be aware at this late stage as to how their budgets will be allocated for 2010-11. It is worrying that departments and agencies would have received an envelope of Budget funding which is not yet allocated. We therefore cannot be certain that Minister's made robust decisions around funding, and we cannot be certain that each department and agency has received an appropriate level of funding to undertake their functions.

It is therefore not clear from the budget papers in which specific areas departments and agencies are spending their budgets.

For example, the Department of Environment, Climate Change, Energy and Water was unable to provide any advice to the Committee on how much of its 2010-11 appropriation will be spent on advertising as “*internal budgets are yet to be finalised*”<sup>4</sup>. As a consequence, the Assembly is being asked to vote on an appropriation bill for which the Government has not yet decided how it will spend the money.

More information is required to reconcile the apparent discrepancy between the extra funding and the lack of savings. This factor alone seems to be the most significant contributor to the deficits. On a base analysis, it seems to be more directly linked to simply increased spending without concurrent restraint.

**Recommendation: That the Treasurer provide urgent and detailed advice to the Assembly on how each department and agency will allocate its appropriation prior to any vote on the appropriation bills.**

**Recommendation: That each Minister provide to the Estimates Committee in future budgets a more detailed breakdown of expenditure for each department or agency to provide more accountability and to provide certainty to the Assembly as to what activities the Department will undertake.**

**Recommendation: That the Department of Treasury review its costing methodologies for each budget to ensure that departments have developed internal budgets prior to budget funding being approved by Cabinet.**

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<sup>4</sup> Question on Notice 377

## 3.6. Treasury Portfolio

The government intends to gather significant funds from a tax on home developments, claiming a “deal” has allowed the tax to remain uncollected until now. However, the Minister could not detail this claim, nor outline what impact this would have on home prices despite Treasury officials saying that homeowners could pay more.

There are other areas where the Committee heard contradictory or inconsistent evidence and raised questions that have not been adequately answered.

### 3.6.1. Change of Use Charge – a ‘deal’.

It was clarified by the Treasurer to the Committee that the Change of Use Charge, which is a tax on development in the ACT, has not been collected properly since sometime in 2003. The Treasurer informed the Committee that:

*During that work it became clear that a situation had emerged, only in relation to residential leases, where a flat fee had been agreed regardless of the type or value of the development or the lease that was being varied<sup>5</sup>.*

When question how this situation came about, the Treasurer further revealed that:

*As to whose fault it is, we have not got to that yet. I do not have the answer. I do not have the answer for you. There is no document that exists that we have identified at this point in time that would indicate how this deal was made and who was involved.<sup>6</sup>*

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<sup>5</sup> Estimates Hansard p 177

<sup>6</sup> Estimates Hansard p 179

Further evidence was provided by Treasury officials that the 'deal' consisted of a flat fee for various developments being paid as a change of use charge. For example, Khalid Ahmed provided evidence to the Committee that:

*The only thing is that, if you look at the data over a couple of years, it appears that for all dual-occupancy developments the uplift in value was calculated to be \$5,000; for multi-units, it was \$1,500; and for townhouses it was \$2,500. Odd, but the process seemed to have been followed.<sup>7</sup>*

It is not clear to the Committee how this arrangement or deal came about, and who made the decision to implement it.

**Recommendation:**

**The Treasurer immediately investigate how the change of use "deal" was developed, including who was involved, and who in the ACT Government gave their approval for it to be entered into, and report back to the Assembly by the end of the August sittings.**

### **3.6.2. Change of Use – a tax on homes**

**The Change of Use charge is a tax that is levied on property development in the ACT. Therefore, it has the potential to distort the housing market, and may impact on the prices that people pay for their homes.**

The Government has acknowledged this by its policy to waive the charge for service station sites in order to provide an incentive to have them redeveloped.

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<sup>7</sup> Estimates Hansard p 181

The Treasurer said in relation to this policy:

**Ms Gallagher:** *For the redevelopment of the petrol station sites, it is to facilitate the redevelopment of those sites in a quick manner.*<sup>8</sup>

Logic would therefore suggest that the change of use charge would impact the housing industry. However, the Treasurer does not believe that the Government's change of use tax impacts on the price of housing:

**MR SMYTH:** *But if you use that logic, then what is the impact of collecting the change of use charges outlined in the budget on housing developments, on redevelopments and densification projects in the city?*

**Ms Gallagher:** *This is an argument that will be put by developers, I presume, that this makes their developments marginal. **We do not accept that.***

Mr Ahmed, of Treasury, could not support the Minister's statements. When asked, he answered:

**Mr Ahmed:** *This could go three ways. It could be passed forward, it could be passed backward or it could hit the developers' own bottom line.*

It is clear from this testimony that the ACT Government does not understand the housing market, particularly the elasticities which would ultimately determine where the incidence of the tax would lie. The Government should not be making any changes to the change of use charge until it does have a clear understanding of the impact of its policies. Without this understanding, it may be engaging in policies that have significant unintended consequences. This would be of particular concern to the Land Development Agency, who commented to the Committee at a later hearing that

*“We are also looking at doing further investigative work about other potential development opportunities for infill”.*<sup>9</sup>

**Recommendation: Immediately provide an assessment to the Assembly of the incidence of the change of use tax, and inform ACT homebuyers about how much additional money they pay due as a result of the tax by no later than the August sittings. The Treasurer, as part of that assessment, should also provide advice to the Assembly on the extent of the disincentive that the tax provides to urban densification, and options for consideration by the Assembly.**

### **3.6.3. Superannuation Provision Account**

The consideration of the Superannuation Provision Account (SPA) dealt at some length with the issue of assets or asset classes in which the SPA invests. A particular focus of this discussion concerned the conduct of research into environmental, social and governance (ESG) issues. The ESG criteria will assist fund managers to incorporate a broader range of responsible and sustainable criteria into investment decision making.

Evidence was presented that a number of Australian superannuation fund managers have established a dedicated research facility to develop appropriate ESG criteria to complement traditional investment criteria. Treasury commented that a concern with ESG matters is to *“actually get good research on what the issues are”*.<sup>10</sup>

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<sup>8</sup> Estimates Hansard page 185

<sup>9</sup> Estimates Hansard page 1382

<sup>10</sup> Estimates Hansard, 17 May 2010, p 262



**Recommendation: The ACT Government, in collaboration with the Investment Advisory Board, evaluate the merits of obtaining research from specialist research organisations to support the decision making processes for investing SPA funds.**

### **3.6.4. Territory Banking Account**

The Territory Banking Account (TBA) provides high level details of movements in the ACT Government's cash balances and other aggregates. A proper understanding of this information is essential to gain a clear picture of trends in movements in these aggregates.

The usual approach in the budget papers, however, is simply to present this information and to not provide commentary or analysis.<sup>11</sup> This does not assist in gaining a full appreciation of the annual budget and of the trends in key aggregates within the budget.

**Recommendation: The budget papers provide an analysis of the various aggregates, particularly the TBA, as set out in the table in the relevant budget paper.**

### **3.6.5. ACT Insurance Authority**

The ACT Insurance Authority (IA) performs an increasingly important role in ensuring that the ACT is properly protected and insured against a range of risks. As the IA develops more expertise, it has the capacity to work with ACT Government agencies to improve its risk assessment, risk management and claims identification. As the IA noted in evidence, it is always possible to make improvements in each of these areas.

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<sup>11</sup> Refer, for example, to 2010-11 Budget Paper No. 3, p 210, Table 6.1.1.

The IA received a capital injection during 2009-10 of \$10 million with a further injection of \$10 million postulated for 2010-11; \$5 million of the 2009-10 injection was returned to Budget. The financial estimates for 2010-11 show that the cash position of the IA should improve from \$211 million to \$252 million.

**Recommendation: It is recommended that the ACT Insurance Authority continue to work closely with all ACT Government agencies to enhance risk management and claims management processes.**

### **3.6.6. ACTEW**

**We acknowledge and recognise the importance of the major water security projects to secure the ACT's water supply. However, we note there has been considerable controversy over the lack of openness and transparency of the development of the projects and their costs over that time, which has led to community suspicion and confusion as to whether the projects represent value for money.**

We note the ongoing issues associated with the major water security projects, particularly the cost increases for the enlarged Cotter Dam and the Murrumbidgee-to-Googong pipeline since 2005 and the adoption of the alliance model for delivery of those projects.

An element of the community suspicion and confusion arises because of the excessive use of technical terminology and a lack of information in ordinary language that explains how projects of this nature develop over time.

We are concerned that board papers made available to members of the Legislative Assembly do not reflect the rigour expected from papers that are designed to inform decision makers about the costs of significant projects. We are also concerned at the number of times over the past year officials

have used the terms total project cost and total outturn cost interchangeably and in a confusing way.

**Recommendation: That the Board of ACTEW ensure that their papers are of the highest quality and all efforts are taken to avoid confusion of terms both in their papers and in public discussion.**

We note the various announcements of estimated costs from 2005, accepted by the community in good faith, but which lacked detail about the cost components and what components have not been included.

**Recommendation: That the Government undertake a case study of the management of the major water security infrastructure projects with a view to developing policies and guidelines for future major infrastructure projects to ensure the community is kept as fully informed as reasonably possible during the development and delivery of those projects.**

We note that the Treasurer was asked a series of questions about the cost of water security projects and information she received via ACTEW board papers. The Treasurer took all these questions on notice. The Treasurer subsequently went on leave before answering these questions and they remain unanswered at the time of the preparation of this Report.

**Recommendation: That the Treasurer answer the outstanding question on notice 1 and questions taken on notice 207 – 213 by the end of sitting on 24 June.**

We note that ACTEW spent \$840,000 in 2009/10 on its public information campaign 'Save Water for Life' and it proposes to spend \$861,000 in 2010/11.

**Recommendation: That ACTEW conduct a review of the cost and effectiveness of its public information campaigns and transmit the results of the review to the Legislative Assembly.**

## **ACTTAB Limited**

A significant issue confronting ACTTAB is the change in the funding arrangements for the racing industry in the ACT, such as the introduction of the race fields fee.

On 17 June 2010, the Federal Court handed down two apparently contradictory decisions that affect the imposition of race fields fees. While the decision in the case of *Sportsbet* determined that the fees were discriminatory, the decision in the case of *Betfair* was that the fees were not discriminatory<sup>12</sup>. The decision in *Sportsbet* also determined that the enabling legislation in NSW was not invalid.

**Recommendation: The Minister for Gaming and Racing provide an analysis to the Legislative Assembly of the implications of the Federal Court decisions for the funding of the racing industry in the ACT and its implications for ACTTAB.**

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<sup>12</sup> The two decisions of the Federal Court are: *Sportsbet Pty Ltd v New South Wales* [2010] FCA 604 (16 June 2010) and *Betfair Pty Ltd v Racing New South Wales* [2010] FCA 603 (16 June 2010)

## **3.7. Health**

**As the single largest proportion of the ACT Budget, there is concern that the ACT government is failing provide services even to the standard of the national average. There are particular concerns in delivering cancer services, addressing access block and elective surgery.**

**With the loss of GST revenue and lack of detail on the proposed Federal changes, there are concerns with future health plans, including the National Health and Hospital Reforms, the government's plans to purchase Calvary Hospital and the Capital Asset Development Plan.**

### **3.7.1. Cancer services**

The concerns relating to cancer services focused on delays and access issues for breast screening where the screening rates were likely to fall short of the strategic indicator target for 2009-10 of 65 percent, and the strategic indicator for cervical cancer which is below the national average. The problems experienced by patients accessing radiography was also discussed, including the staff shortfalls requiring patients to travel interstate for treatment and a breakdown in communications between cancer patients and ACT Health.

It is vitally important to the future of ACT health services that shortfalls in critical service areas such as cancer services be addressed as a matter of urgency.

**Recommendation: that the Minister review the process ACT Health uses for communicating with patients in order to prevent further communication breakdowns.**

**Recommendation: that cancer services be reviewed to determine actual level of patient shortfall.**

### **3.7.2. Failure to meet Capital Infrastructure spend**

The Committee discussed the extensive amount of rollovers of capital projects in ACT Health that was in the order of \$50 million on the back of \$57 million in the previous financial year.

Projects subject to delay and/or cost blow out included the Aboriginal & Torres Strait Islander Drug and Alcohol Unit (Bush Healing Farm), the Car Park at the Canberra Hospital (TCH), the Women's and Children's Hospital, the Adult Mental Health Inpatient Facility, the Secure Adult Mental Health Unit and the Gungahlin Health Centre.

The Minister provided various excuses as to why the various projects had been delayed or subject to cost blow out but gave the Committee little confidence that the projects would not be subject to further delay or cost increases. The Minister was also unable to articulate when the Capital Asset Development Plan would be complete.

**Recommendation: That the Minister provide the Assembly with a realistic cost estimate and completion date for all infrastructure planned under the Capital Asset Development Plan.**

### **3.7.3. Uncertainty on Calvary Hospital Purchase**

The Committee discussed the government's failed proposal to purchase Calvary Hospital and the ongoing negotiations with the Little Company of Mary Health Care (LCMHC) Limited. The discussions focussed on the negative consequences that the botched sale process has had on staff and the resulting concerns that had been raised to the Minister by organisations such as the Calvary Medical Staff Council.

**Recommendation. That the Minister investigates concerns raised by Calvary Hospital Staff, including the Medical Staff Council, and provide**

**the Assembly with a report on the substance of the staffs' concerns and the action she intends to take to address those concerns.**

### **3.7.4. E-Health**

The Committee discussed the status of the Government's E- Health plans and was provided an outline of various projects. Some concerns were raised about the fact that the company who provided the scoping project for ACT Health and the design of the E-Health system (Orion Health Pty Ltd) was also eligible to tender for delivery of those systems. Questions were asked regarding the probity of this process and whether other companies who tendered for E-Health contracts with ACT Health would be provided with the same information that Orion Health had produced and or had access to.

### **3.7.5. Access Block not being addressed**

Poor access block for patients over 75 (Strategic indicator 10) was discussed by the Committee and the deteriorating figure was in part explained by the Minister as due to misreporting of data by Calvary Hospital that had previously made access block appear better than was actually the case. Access block generally as well as for Mental Health patients remain below targets.

Access block has a significant impact on Emergency Department waiting times, and general efficient running of patient services. The problem is recognised throughout the industry and the indications that data is being misrepresented is of great concern.

**Recommendation: That the Minister conduct a review into reporting procedures in ACT Health to ensure data is not being arranged to present a misleading appraisal.**

### **3.7.6. Bullying and Culture Surveys to be public**

The committee discussed the allegations of bullying that had been made at the Obstetrics Department of TCH as well as concerns that the culture of bullying and harassment was more widespread within ACT Health.

Mr Hanson requested that the staff culture survey that was recently conducted by ACT Health be released to provide the committee with evidence of the extent of the culture of bullying within ACT Health, however this was refused despite acknowledgement from the Acting Chief Executive of ACT Health that bullying and harassment was raised in the survey.

***MR HANSON:** Were there any areas of concern around bullying within ACT Health?*

***DR BROWN:** Bullying and harassment have been raised as an issue in the survey....*

The Minister's refusal to release the document centred on concerns that information contained within the survey could be potentially damaging.

***MR HANSON:** There are a lot of allegations about bullying and problems with the staff culture in ACT Health. I think it is appropriate that, if a staff culture survey has been conducted, it would be provided. I have asked for it repeatedly.*

***MS GALLAGHER:** Yes, and shared with Mr Hanson to go and scaremonger around the city with it.*

***MR HANSON:** If it says good things, what is the problem?*

As the survey would provide some clarity as to the extent of bullying and harassment in ACT Health, the reasons provided by the Minister as to why the latest or subsequent culture surveys would not be released was inadequate.

**Recommendation: That ACT Health immediately publicly release the results of staff culture surveys conducted in the past five years.**



### **3.7.7. Bullying and Clinical Review of Obstetrics not to remain secret**

The Committee also raised questions regarding the investigation into bullying at the Obstetrics Department as well as the clinical review into Obstetrics services in response to what was described by the Minister previously as the “10 year war in Obstetrics”. The Minister gave assurances that the clinical review would be publicly released but refused to say that the bullying review would be publicly released as it was conducted under the *Public Interest Disclosure Act*.

**MS GALLAGHER:** *I have given a commitment that we will release the clinical review as soon as possible. I do not see any problem with that. I think the public interest disclosure review—and this is speaking without knowing what that review has found or anything like that—may be more difficult to release to the public. If there are individual names raised in that, I imagine—and I am only trying to imagine—there will be views of those individuals about what information they would like to be made public.*

As the allegations of bullying at TCH were subject to significant attention in the community as well as debate in the ACT Assembly, as the Minister initially refused to accept there were any legitimate complaints, and as the Government was criticised by doctors as well as the AMA and the National College of Obstetricians and Gynaecologists for the process it followed, the Minister may have some conflict of interest should she be involved in any decision to withhold the investigation.

It is our view that a review must be independent and open, and the indication by the Minister that the review would be held and kept in secret, it is apparent that this does little to alleviate the problem or address the concerns. The purpose of this review was to address the issue and be seen to address the issue to regain public confidence. If the Minister intends to hide behind the process and use it as a means to cover up problems rather than address

them, the Assembly should insist upon a full judicial review to restore confidence in the administration of our public health system.

**Recommendation: That the decision to release all or parts of the investigation into bullying at the Obstetrics department of TCH be made by an independent body separate to the Minister and the Government in order that its contents are not withheld inappropriately simply to prevent information that may be politically damaging to the Minister.**

**Recommendation: A full judicial inquiry be established to examine claims of bullying in all areas of ACT Health.**

### **3.7.8. Uncertainty about the National Health and Hospital Reform**

The Minister was unable to answer several questions relating to the detail of the planned reforms and was unable to articulate how significant elements of the plan would be implemented. She was also unable to outline the benefits of elements of the plan such as the Local Hospital Networks (LAN).

It was apparent to the Committee that much of the plan was either not mature or that the Minister lacked an understanding of the detail of the plan and its objectives. Particular areas of concern raised by the Committee included the LANs, the amount of GST to be surrendered by the ACT, the targets set by the Commonwealth for elective surgery and the funding model for planned capital infrastructure.

It has since been revealed that the centrepiece for the proposed reform, the independent body to manage the funds, seems unlikely to eventuate. This adds to the uncertainty of the proposal despite the agreement by the government to relinquish over 50% of the Territory's GST.

### 3.7.9. Uncertainty of Local Hospital Networks

Although the ACT Government has committed to establishing a Local Hospital Network (LHN), there was some confusion and ambiguity regarding the structure, scope, purpose and costs associated with the LHN and the associated Governing Council. The Minister was unable to detail how the LHN would create any efficiencies or enhanced effectiveness in the ACT hospital system and it was unclear how duplication in health bureaucracy would be avoided.

This was in part acknowledged by the Minister who stated that with regard to the LAN:

*“We have not worked through all of the detail of that and how it would operate.”<sup>13</sup>*

It is unacceptable that the ACT government signed up to such a significant agreement without any apparent understanding of the detail.

**Recommendation: That at the earliest opportunity, the Government provide the Assembly with a report on the structure, scope, purpose and detailed costs of the Local Hospital Networks and the associated Governing Council.**

### 3.7.10. GST Payments Surrendered by the ACT - amount

It was revealed that the ACT would surrender 48.9% of GST payments to the Commonwealth in FY 2011/12 to fund the National Health and Hospital Reform and that this amount would increase to 51.34% in 2013/14. The Minister was unable to show where this figure had been publicly

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<sup>13</sup> Estimates Hansard p 303

demonstrated, while there were several instances of a much smaller amount being reported publicly without correction. Again, it seemed that the Minister was using a ‘fine print’ argument in the face of the biggest reduction in GST revenue in the Territory’s history.

Further, it has been revealed that the Federal component of the agreement is far from certain or settled, and indeed the ‘independent body’ mooted to administer the GST hand-back would not in fact eventuate. This places the ACT in a situation where over half of the Territory’s GST revenue has been abandoned, with little or no assurances of what would be returned, or how it would be administered. This can only be viewed as not protecting the Territory’s interest at best and reckless at worst.

This is substantially more than the amount surrendered by other States and Territories. The underlying analysis and rationale for surrendering significantly more GST than other jurisdictions was not provided to the committee.

The Minister was initially unsure of the details and provided the following response to the committee.

*I think it is about 47 per cent. That is the last figure I saw; it is certainly in the 40 per cent range. It is around the detail of that; I will get it for you. About 47 per cent of the GST payments will go to the local hospital network.<sup>14</sup>*

**Recommendation: That the Minister provide the Assembly with the detailed Treasury and Health analysis that supports the decision to surrender in the order of 50% of the Territories GST to the Commonwealth.**

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<sup>14</sup> Estimates Hansard p 314

### **3.7.11. GST Payments Surrendered by the ACT – failure to inform the public**

The fact that over 50% of the ACT's GST is to be surrendered to the Commonwealth was revealed for the first time during the estimates hearings. The non-government members of the Committee were all under the impression that 30% GST figure that had been discussed by the Prime Minister in the lead up to COAG was the amount to be surrendered.

This failure in communicating such a significant element of the reforms was either a breakdown in the Government's communications process or was an intentional act to omit a sensitive fact that the ACT was surrendering 20% more GST than other States and territories. The ACT Government's communications immediately prior and following COAG, including press releases that made no mention of the higher GST figure, and the Minister's failure to correct the record when the 30% figure was quoted, all contributed to this failure in communications and indicate that it was an intentional omission.

The Minister's claims that a 47% of GST had been widely reported in the media were shown to be false.

***MR SESELJA:** Do you want to clarify the record, then, for us, because on Monday you said to us it was widely reported in the media. You have not been able to show anywhere where it has been reported in the media that it was 47 per cent.*

Other than the transcript of a media interview on radio that pre-dated the COAG agreement where the Minister had speculated that the GST might be in the order of upwards of 40% but that it would be high risk to agree to such an amount, there was no report in the media other than the widely reported 30% figure.

After constant questioning from the committee and other MLA's about why she had not published the 47% figure and why she had stated that the figure

had been widely reported, the Minister called on the Chair (Ms Hunter) to close down the scrutiny of her by the Committee on this issue.

***MR HANSON:** So you have said it may be about 40 per cent but that would be high risk, in one media interview. You have not mentioned the 47 per cent figure. You have said maybe, maybe, maybe. So how is that widely reported, minister?*

***MS GALLAGHER:** Ms Hunter, I am not sure this is a useful exercise of the committee. I have answered everything I need to answer around this.*

The result of the failure in communications was that committee members, non-government Assembly members, and the broader community were all misled to believe that the COAG agreement involved the surrender of 30% rather than over 50% GST.

There was further discussion about the fact that the GST revenue was not in fact being 'withheld', which is at clear odds with the comments from the federal Minister and all mainstream media outlets. Once again, there is a major discrepancy between information being provided by the Minister in the Committee and the information circulating in the wider community.

Given the obvious importance of such a significant reduction in GST revenue, complete candour is required and should be insisted upon by the Committee and the community.

**Recommendation: that the ACT Government review communication procedures and protocols relating to COAG meetings and agreements to ensure that the community is not being misled or misinformed. Changes to GST revenue numbers should be precise and public.**

### **3.7.12. Elective Surgery and Emergency Department Targets – worst in the country**

The requirement for the ACT to meet certain benchmarks for both elective surgery and emergency departments in order to secure elements of the Commonwealth funding was discussed by the committee.

**The ACT currently has the worst results for elective surgery in that nation** and according to the AIHW Hospital statistics report of 17 June 2010, the median wait time for elective surgery in the ACT is 75 days which is a deteriorating figure since the previous report issued a year ago and is double the national average of 34 days.

**The median wait time for elective surgery in the ACT is the longest in the nation** with the next worst 31 days less. The waiting time for patients in the longer wait categories had also deteriorated so that patients seen at the 90<sup>th</sup> percentile were waiting on average 378 days which is longer than anywhere else other than Tasmania and 158 days longer than the national average.

Given that waiting times for elective surgery in the ACT are so poor and that the ACT is currently failing to meet a number of the benchmarks that have been set it therefore potentially stands to lose some of the funding that has already been estimated to be provided by the Commonwealth.

Although the ACT Government has committed to meeting the benchmarks, it is not made clear by the Minister how those benchmarks will be achieved or what the scale of the penalties would be if those benchmarks were not achieved.

Similarly, emergency department waiting times in the ACT remain at unsatisfactory levels for urgent category 3 and semi urgent category 4 patients.

**Recommendation: that the ACT Government provide the Assembly with the strategy for meeting the benchmark targets provided for elective surgery and emergency department waiting times as part of the National Health and Hospital Reforms.**

### **3.7.13. Lack of Detail on Planned Capital Expenditure**

The Minister explained that the Commonwealth would now fund 60% of “*planned capital*” but was unable to provide the committee with details of this program, stating that “*We have not been given a lot of detail on the Capital*”.<sup>15</sup>

The Minister was also unsure if the 60% of capital expenditure that would be met by additional money provided by the Commonwealth or would come from the pool provided by the ACT surrendering its GST, stating that “it has not been subject to those discussions”.<sup>16</sup>

It was also unclear if the Government’s \$1billion Capital Asset Development Plan was “Planned Capital” in the context of the National Health and Hospital Reform. The amount of capital funding that is unclear who will be providing is therefore in the order of \$600 million.

**Recommendation. That the Government inform the Assembly what capital infrastructure will now be provided by 60% Commonwealth funding and whether this would be sourced from the GST pool or separately.**

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<sup>15</sup> Estimates Hansard p329

<sup>16</sup> Estimates Hansard p330



### **3.7.14. Impact of Health Reforms on the Government's Calvary Purchase**

The Committee discussed the Government's failed proposal to purchase Calvary Hospital and the ongoing negotiations with the Little Company of Mary Health Care (LCMHC) limited. The discussions focussed on the negative consequences the botched sale process had had on staff and the resulting concerns that had been raised to the Minister by organisations such as the Calvary medical staff Council.

The impact of the funding for 'planned capital' on Government's proposal to purchase Calvary hospital was discussed by the Committee but not resolved. As Calvary hospital upgrades planned by the government of \$200 million are part of the CADP they may now be subject 60% Commonwealth funding pending the response to the previous recommendation. If this is the case then the Treasury analysis and the rationale for purchasing Calvary Hospital may no longer be valid if 60% of the funding is to be provided by the Commonwealth.

**Recommendation. That the government's plans to purchase Calvary Hospital be reassessed in light of the National Health and Hospital Reforms.**

## 3.8. Chief Minister's Portfolio

### 3.8.1. Demographics

It is not clear to the Committee that the work of the ACT's demographer is being considered properly by other Departments in the consideration of their respective policy development. When asked by the Committee what specific works the demographer did in relation to the ACT, CMD noted that:

*The demographer is undertaking, obviously, the population projection arrangements. We have indicated that they will be updating the two standard ones, some of which are the longer term ones as well as more detailed suburb-specific population projections. We are also engaging them to look at some of the Torres Strait and Aboriginal demographic details for the ACT. We are also looking at questions of ageing population and trying to get a better drill-down in terms of the demographic impact of an ageing population.<sup>17</sup>*

The work of the demographer is an important role in providing advice to not only Ministers, but also other government Department and agencies.

For example, the Department of Disability, Housing and Community Services does not have a clear policy for the development of more childcare centres as it is simply not aware where the demand for childcare centres is, and would benefit therefore from receiving advice from the demographer.

**Recommendation: The work of the demographer should include a focus on population movements within the ACT and examine the changing structure of the population to better inform service delivery Departments such as DHCS and the Department of Education and Training.**

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<sup>17</sup> Estimates Hansard p 583

### **3.8.2. Cultural Facilities Corporation and Arts**

We note that Lady Mary Nolan has requested return of the works that the Nolan Foundation previously had been loaned to the Commonwealth.

Since the Estimates Committee hearings in 2009, there has been little indication of the Government's proposals for future use of the former Nolan Gallery at Lanyon.

In those hearings the then Committee heard<sup>18</sup>:

*Well, we will consider a range of possible re-uses of the Nolan Gallery building ... Those uses could include developing the building as a visitor interpretation centre for Lanyon or other uses in the immediate term, possibly for staff office accommodation.*

**Recommendation: That, by the last sitting day in August 2010, the Government advise the Assembly on its plans for the future use of the former Nolan Gallery at Lanyon, including: any concepts; preferred options; the processes of public consultation to be engaged; the restoration or refurbishment that will be required; and the associated costs.**

### **3.8.3. Business and Industry Development**

The Committee was informed that the budget for this output class had been reduced by \$800,000 as a number of programs had ceased.

When asked why the business budget had been reduced by 10 per cent, the Chief Minister was unaware that it had been reduced:

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<sup>18</sup> Estimates Hansard p 409

**MR SMYTH:** *So why have you reduced the business budget by 10 per cent?*

**Mr Stanhope:** *I would have to take advice on exactly what the reduction—I must say that I cannot recall a conscious decision in relation to that*<sup>19</sup>

The Chief Minister was also unaware that he had described the ACT's economic future as 'precarious':

**MR SMYTH:** *So it has gone down by \$800,000?*

**Ms Nesar:** *That is right.*

**MR SMYTH:** *Okay. What is the thinking behind reducing funding for business by \$800,000 when you yourself, Chief Minister, just a few days ago admitted that the economy was still in a precarious position? Let me quote it properly: "The ACT's economic future is precarious."*

**Mr Stanhope:** *I am not sure about precarious, but—*

**MR SMYTH:** *It is in your press release, Chief Minister.*

**Mr Stanhope:** *Precarious?*<sup>20</sup>

It is unfortunate that the Minister responsible for the economic development of the ACT is unaware that he described the economic state of the ACT as 'precarious'.

Given this statement, it is even harder to understand why he has then cut the business budget and is unaware of that. It speaks volumes about the level of interest of this Minister in this portfolio.

**Recommendation: It is recommended that funding for Business and Economic Development reviewed to ensure adequate support for small business.**

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<sup>19</sup> Estimates Committee Hansard p 632

<sup>20</sup> Estimates Committee Hansard p 632 and the Chief Minister's Media Release of 13 May 2010.

Members asked questions of the Chief Minister as to the progress of the report commissioned by the Government on the development of the “clean economy” paper for the ACT. <sup>21</sup>

It was clear from the discussion that the report has been received by the Department and is therefore available to the Minister

**Recommendation: That the Minister for Business and Economic Development table in the Legislative Assembly before the commencement of the budget debate the “clean economy” paper.**

The Government’s business strategy *Capital Development: Towards Our Second Century* was the subject of discussion. A number of plans were discussed including the education export plan, a creative arts plan and the film industry.

**Recommendation: That the Minister for Business and Economic Development table in the Legislative Assembly by the last sitting day in August 2010 the list of plans to be developed and the timetable for their release to deliver *Capital Development: Towards Our Second Century*.**

The Chief Minister was questioned about the initiative to establish a Film Investment Fund for the ACT. The Committee was told that the Chief Minister was to hold a roundtable with the Filmmakers Network and ScreenACT. <sup>22</sup>

**Recommendation: That the Minister for Business and Economic Development inform the Legislative Assembly of the outcome of the roundtable concerning the ACT Film Investment Fund as soon as possible after the roundtable.**

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<sup>21</sup> Hansard, 19 May 2010, page 624

<sup>22</sup> Estimates Hansard p 625

### **3.8.4. Infrastructure**

During the hearings, the Chief Minister indicated that an ACT Government Infrastructure Plan would be released soon. The 'plan' was released on 1 June 2010. It became clear when the 'plan' was released why the Government had delayed its release, as it did not withstand scrutiny. The 'plan' was riddled with errors and was almost universally condemned. The 'plan' is one of the worst pieces of policy ever released by an ACT Government.

**Recommendation: That the ACT Government go back to the drawing board with infrastructure planning and produce a comprehensive and robust infrastructure plan.**

**Recommendation: That the Government support the Canberra Liberals' Infrastructure Canberra Bill.**

### **3.8.5. RSPCA**

The Committee heard from the RSPCA on the first day of hearings.

Mr Michael Linke, Chief Executive Officer, noted in his opening statement:

*In terms of our funding base, our need for funding and our operational expenditure have more than doubled in the last five years, and we have enjoyed some increased funding from the government. Our funding has increased from about \$200,000 a year to a peak last year of \$780,000, which included a \$100,000 emergency payment as a result of the global financial crisis.*

*We submitted a budget proposal to the ACT government seeking similar funding this year. We have been advised that our core funding will not increase but there will be other avenues to add additional funding to try and match that level of \$780,000 in the 2009-10 financial*

*year. So we are hoping that that funding is matched in the coming year.*<sup>23</sup>

Mr Linke further noted that:

*I would prefer to have core funding and have some certainty around the funding. It allows me then to put in place a strategic plan for our staff and gives my staff certainty.*

The RSPCA plays a vital role within the community. It is concerning that it does not have adequate certainty around its funding, especially for the staff who work tirelessly for the RSPCA.

**Recommendation: The Government immediately review the funding model for the RSPCA with a view to providing the Society and its staff with certainty for the future to allow it to continue its important work.**

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<sup>23</sup> Estimates Hansard p 49

## 3.9. TAMS

### 3.9.1. Shared Services /InTACT/Government Security

Mr Stanhope took on notice a request to table the terms of Reference for a Walter Turnbull study into security arrangements within the ACT Government. The investigation came about due to a number of personnel and cabinet documents being available on the ACT Government shared drive (*W:drive*).

When asked about the security breach:

*Mr Kegel: The permissions on that were not as tight as they should have been. There was public key information in there, which was why it was able to be accessed from other users as well. Again, it was a very embarrassing event for InTACT and the security team<sup>24</sup>*

The Minister for Territory and Municipal Services stated that InTACT maintains audit logs for internet usage for a period of seven years.<sup>25</sup>

Given the nature of the data made available in the breach, and the breadth of the breach over the entire workforce of the ACT public service, it would seem basic privacy and governance issues had not been met.

**Recommendation: The ACT Government should apologise in writing to the ACT public servants who had their privacy breached by the security breach of W:drive..**

**Recommendation: The Terms of Reference for Reports worth \$50,000 or more should be tabled in the Legislative Assembly on an on-going basis.**

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<sup>24</sup> Estimates Hansard p 1514



It emerged during hearings that a number of portfolios are looking to InTACT to find savings. The Committee also heard that the charges levied by InTACT for basic items such as blackberries appeared to be excessive. It is clear that the Government has in recent years not bothered to find savings from this agency, costing the taxpayer millions of dollars.

**Recommendation: That the Public Accounts Committee inquire into the cost structure and service delivery standards of InTACT.**

### 3.9.2. Enterprise Services

The financial performance of the Capital Linen Service was provided to the Estimates Committee through an answer to question on notice 599.

	2005-06	2006-07	2007-08	2008-09	2009-10
	Actual	Actual	Actual	Actual	Estimated Outcome
	\$	\$	\$	\$	\$
PROFIT & LOSS					
Revenue	9,609,767	10,938,458	11,253,163	11,695,271	11,631,973
Expenses	11,644,823	10,460,887	11,038,606	11,756,651	11,138,615
Net Operating Result	-2,035,056	477,571	214,557	-61,380	493,358

The financial performance of each service within Enterprise Services is not provided in the Budget Papers.

**Recommendation: Given there are private sector operators that provide the services that the Capital Linen Service provides, the Government should consider whether the Service should continue to operate as a Government owned and operated service.**

**Recommendation: The Government should publish the financial performance of each service included in Enterprise Services in the Budget papers.**

### **3.9.3. Parks, Conservation and Lands**

For a number of years, licensees of the quarries in Pialligo have sought to clarify the status of their leases. The concerned parties have been unable to come to agreement, but there was disagreement between the Chief Minister's statements and that of officials:

***MR SMYTH:** The Chief Minister said we are awaiting a response but you said we have not spoken with them for six months. Which is it?*

***MR BYLES:** The last information provided to the Chief Minister was that we were awaiting a response.*

***MR SMYTH:** Is that in response to the correspondence from six months ago?*

***MR BYLES:** That was the information provided to the chief. I would have to take that question on notice, Mr Smyth, and provide advice to the committee.<sup>26</sup>*

On page 683, Mr Smyth added to the discussion:

***MR SMYTH:** Before we do that, Chief Minister, I have found the correspondence from your office concerning the lease at Pialligo. You will understand my surprise when you said you were waiting on a response for six months; it was five or six months ago that you might have to take unilateral action.*

*The email states that the proponent was made an offer. It was not until September 2009 that the proponent indicated that he would be willing to accept the two-block proposal. Senior managers have since been*

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<sup>26</sup> Estimates Hansard p 675

*working to identify the legislative and logistical requirements that will be applied to the new licence which they will shortly provide as a draft to the quarry operators. This will include advice of an appropriate licence fee determined by the Australian Valuation Office. Correspondence to the owner confirming this offer and associated conditions is currently being prepared and will be forwarded to him together with advice from the AVO when it is received.*

*So I am at a loss as to the three stories that we have—the one you mentioned, the one that the public servant mentioned and one that is in this email from your staff. I will write to you and I will send you back a copy of this and perhaps we can have it teed up for next Friday when you return.*

**Recommendation: the Government should confirm the sequence of events and what correspondence the Department has had with quarry licensees.**

**Recommendation: the Government should clarify the lease arrangements for the quarries in Pialligo.**

### **3.9.4. Roads ACT**

The Committee heard about changes to the scope of the different stages of the duplication of the Gungahlin Drive Extension<sup>27</sup>. There were vagaries about what work was being undertaken for each contract and the amount that would be spent on landscaping.

**Recommendation: When the scope of a Roads ACT project changes, the revised scope should be included on the TAMS website.**

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<sup>27</sup> Estimates Hansard p 690

Through a question on notice by Mr Coe<sup>28</sup>, the Government advised that the following roads were studied using the warrant system from 2008 to 2010 (to date):

- Antill Street – Northbourne Avenue to Phillip Avenue only
- Clive Steele Avenue
- Copland Drive
- Flinders Way
- Hambidge Crescent
- Heidelberg Street
- Majura Avenue
- Marshall Street, Farrer
- Phillip Avenue – Antill Street to Madigan Street only
- Spofforth Street
- Starke Street

Whilst maintenance or construction work was identified for each location, the Government still has not undertaken the desired work. In a Canberra Times article of 13 June 2010, A Roads ACT spokesman said on this issue:

*"The finalisation of the reports by the consultant took longer than planned because Roads ACT questioned the benefits of some of the solutions proposed...It is important to ensure that the works proposed will definitely have a positive impact upon the ranking of each road - it will improve safety, or by reducing accidents, or it will reduce the speed of traffic or the volume of traffic."*

**Recommendation: The Government should accurately determine the scope of tasks to be undertaken by external consultants so that the information supplied by the consultant to Roads ACT does not require extensive additional work.**

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<sup>28</sup> QON E10-321

**Recommendation: The ACT Government should better manage the timing of roadworks in the Territory to ensure works are rolled out in a managed and planned manner.**

The Minister for Transport stated in response to a question on notice from Mr Coe<sup>29</sup> that point-to-point speed cameras will be installed on Hindmarsh Drive, Gungahlin Drive and Parkes Way and will require *'amendment to legislation, including consideration of privacy, human rights and record keeping implications from the use, storage and disclosure of electronic data'*.

Mr Coe asked whether the times for which a motorist can travel between the points without fear of being penalised will be published on a Government website. In response, the Minister said *'The Government will consider this suggestion as part of the awareness program to support the introduction of point to point safety cameras.'*

**Recommendation: Point-to-point speed cameras should only be installed if they are proven to reduce accidents, fatalities and make roads safer.**

**Recommendation: Point-to-point speed cameras should only be installed at locations that are known to be trouble-spots for speed related accidents.**

### **3.9.5. ACTION**

With the introduction of the new ticketing system, there are concerns that there will not be many vendors that sell credit for customer's smart cards.

***MR COE:** Finally, on the ticketing system, there must be 30, 40, I am guessing, ticket providers in Belconnen alone that sell ACTION tickets*

*at the moment. I understand it is going down to three in Belconnen. Is that correct?*

**MR ELLIOTT:** *I would have to take that on notice. Certainly, there has been a review of the way that ticketing access is provided. There was a tendering process. Various agencies tendered.*

In other jurisdictions, many agents are licenced to sell tickets to public transport services, and there is doubt whether these efficiencies will be included in the system proposed by ACTION.

*MR ELLIOT: Our primary focus is to get people uploading on the internet, through the call centre or through shops. And that is how people will be able to do it.<sup>30</sup>*

Although Mr Elliot indicated it was a matter of 'balance' it is a sound view that options should be discussed prior to a system being installed and ensuring the greatest convenience and efficiency, rather than wait for a system to be running only to discover the system is not meeting the needs of the operators or the patron and require expensive alteration or replacement.

**Recommendation: ACTION should engage closely with current ticket providers to ensure that as many agents as possible are able to sell credit for tickets.**

**Recommendation: ACTION should engage in discussions with private bus operators in the region about better integration of their services and ticketing systems.**

Due to the state of the existing ticket machines, a considerable amount of money has been forgone due to ticket machine validation failures. For the

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<sup>29</sup> QON E10-334

<sup>30</sup> Estimates Hansard p 707-708

financial year to April 2010, it is estimated 575, 000 passengers have travelled free-of-charge due to faulty ticket machines. In 2009-10 April YTD it is estimated that \$547,000 in revenue has been lost as a result of faulty ticket machines. The Government was unable to calculate the lost revenue in previous years.<sup>31</sup>

**Recommendation: ACTION should better manage current and future ticketing systems to ensure forgone revenue is minimised.**

**Recommendation: ACTION should undertake assessments about ticket validator failures as an on-going process.**

According to the ACTION website (accessed 16 June 2010) the following are agents to sell ACTION tickets in Belconnen:

- ACT ABS Social Club, Benjamin Way
- Bruce C.I.T. Bookshop
- Cassidy's Department Store, Jamison Centre
- Charnwood Newsagency, Charnwood Place
- Cook friendly Grocer, Cook Shopping Centre
- Evatt IGA, Heydon Place
- Evatt Newsagency
- Florey Newsagency
- Hawker Newsagency, Hawker Place
- Higgins Newsagency, Higgins Place
- Holt IGA, Beaurepaire Crescent
- Jamison Newsagency, Bowman Street
- Kaleen Festival Supermarket, Gwydir Square
- Kaleen News and Greetings, Kaleen Discount Centre
- Kippax Fair Newsagency, Hardwick Cres
- McKellar Supermarket, Dumas St
- News Xpress Belconnen, Ground floor , Belconnen Mall

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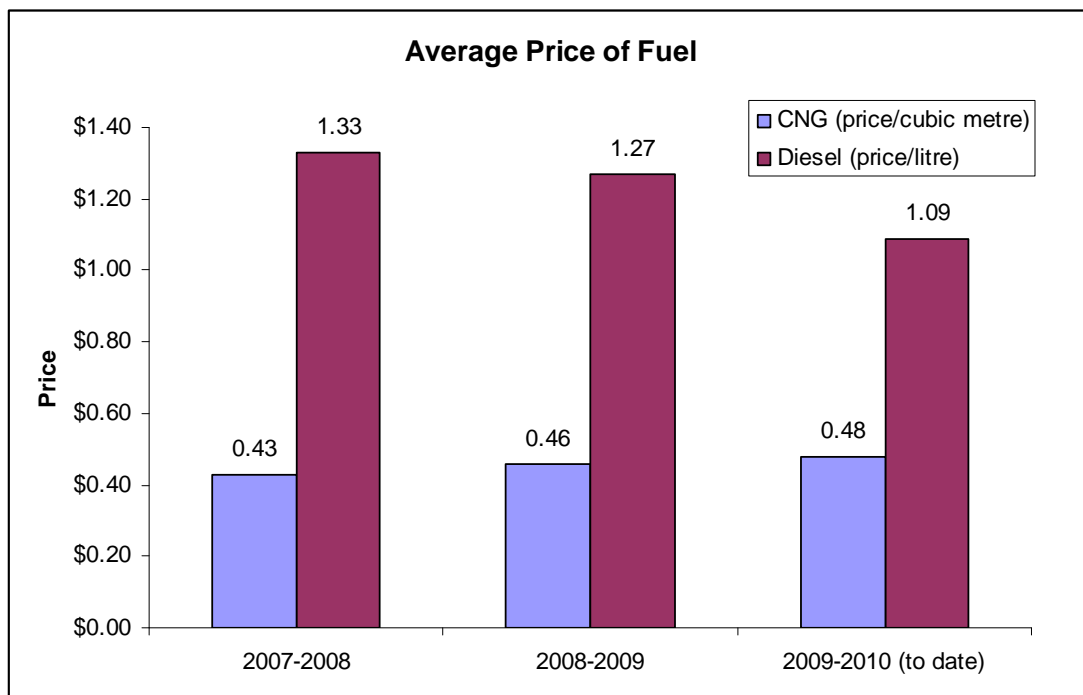
<sup>31</sup> QON E10-330

- Newsfront Newsagency, Middle Level, Belconnen Mall
- Spence IGA, Glassy Place
- University of Canberra Union

When the new ticketing system comes into effect, only five agents have been contracted to provide smartcard reload services in Belconnen. A further 11 existing ticket agents will be invited to sell preloaded smartcards.<sup>32</sup>

Recommendation: The Government should ensure that as many vendors as possible are able to provide smartcard reload services across Canberra.

Through information obtained through questions on notice<sup>33</sup>, ACTION has seen a decline in the cost of diesel but an increase in the price of Compressed Natural Gas.



On page 113 of Budget Paper 4, the Government sites 'Mode share shift targets have not been achieved due to the combined impact of lower than expected petrol prices when compared with the same period last year and

<sup>32</sup> QON E10 – 446



ticket validator failures.’ However, in a question on notice<sup>34</sup> which asked about what modelling ACTION undertake regarding the usage of buses as it related to unleaded petrol prices, the Minister for Transport said:

*No specific modelling is undertaken. However, it has been observed that there is a correlation between unleaded petrol price rises and patronage (that is, when unleaded petrol rises, a rise in patronage generally follows).*

**Recommendation: The Government should not use anecdotal evidence to justify disappointing results for accountability indicators.**

Mr Coe submitted a question on notice regarding benchmarking of ACTION services. The question asked in 2010<sup>35</sup> was the same as the question asked in 2009<sup>36</sup>. However, the answers received differed considerably.

Question 1 was:

*Why is this information considered Commercial in Confidence, given in the past such benchmarking has been completed and published?*

2009 Answer:

*The information on benchmarking of ACTION bus services is considered commercial in confidence as it contains information about private sector operators in the industry. ACTION's benchmarking information has not been published in the past.*

Compare this with the 2010 Answer:

*The Commercial-in-Confidence nature of the INDEC Benchmarking Report relates to the inclusion of confidential*

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<sup>33</sup> QON E-10-331

<sup>34</sup> QON E-10-331

<sup>35</sup> QON 326

<sup>36</sup> QON 239

*activity and financial data of other operators. INDEC have confirmed that this particular benchmarking report has never been published in the past. However, in the interest of accountability this year the Government requested a copy of the Benchmarking Report which excluded “commercial in confidence” sensitive information. A copy of this report is now publically available. Please find a copy attached.*

Question 2 was:

*Why are we unable to get average performance benchmarking of private and public operators as a summary of benchmarking performance?*

2009 Answer:

*The average performance benchmarks are not available as the consultant conducting the benchmarking for bus operators around Australia requires all participants to maintain information as commercial in confidence.*

Compare this with the 2010 Answer:

*This particular report is produced in a standard format each year for comparative purposes. The report identifies a notional ‘weighted efficient benchmark’ or ‘best practice operator’ and ACTION is then compared with this. By definition a ‘benchmark’ operator is the most efficient and effective, not the average. Accordingly, the benchmarking report identifies and compares ACTION with the ‘best practice’ operator, not the average performance across operators.*

Answers that are so widely different indicates a lack of candour in the responses. It also raises whether ‘Commercial in Confidence’ is merely a catchphrase used to avoid scrutiny.

**Recommendation: The Government should not cite 'commercial-in-confidence' as an excuse to avoid publishing information which is of public interest.**

## 3.10. Education

### 3.10.1. Economies of Scale exclude smaller ACT businesses

The ACT Government identified creating economies of scale as a way of uncovering \$18 million worth of efficiencies from 2011-2014. It was anticipated that many of these scale efficiencies would be found in such functions like ICT and cleaning contracts. The Government also identified a reduction in FTE Central Office staff by 35 people in FY2010-11, which they say is made possible because of efficiency initiatives such as the implementation of ICT-based management systems.

When asked where the savings will come from, the Minister responded with:

*... centralising some functions that are currently being undertaken by schools. ICT is one of them. Cleaning contracts is another.<sup>37</sup>*

In essence, the focus will be on generating larger whole-of-education type contracts as opposed to individual school-based contracts. This was further confirmed by the Minister:

*We would, in fact, put out larger contracts rather than individual school-based contracts, as has been the case.*

The need to uncover efficiencies has largely been due to the ACT Labor Government's lack of fiscal prudence. As this report's earlier discussion on the current state of the economy shows, Government revenues have been robust largely through the GFC but have been negated by the Government's expenditures.

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<sup>37</sup> Estimates Hansard p 718

That said, the Opposition feels that by focussing on larger region-based contracts, this may decrease the ability of present small businesses who may not be able to compete in larger contracts. The model proposed by the ACT Government is similar to the Commonwealth Government's move towards whole-of-government contracts, which had the effect of excluding smaller ACT based companies from tendering.

**Recommendation: the Government needs to look into how economies of scale in education will impact on small service providers and how this will impact on ACT businesses.**

### **3.10.2. School Safety – clarity needed in reporting**

At present, school and student security seems to be addressed from several angles (fencing, bullying, cyber-bullying, graffiti, violent crimes etc). When asked about the security review process after a violent incident at a school, Ms Baird stated:

*In 2007-08 when the safe schools suite of policies was introduced, there were 75 what you call critical incidents, incidences involving violence. In 2008-09 that number had dropped to 29, and this year we are down to 15. So there is a definite drop in that particular type of episode that you have just mentioned.<sup>38</sup>*

With regards to the decrease of critical incidents (incidents involving violence) initially cited by Ms Baird, she had made a point of clarification stating that she did not mean that these were violent attacks but critical incidents. Upon the Chair seeking a definition of a 'critical incident', Ms Baird explained:

*A critical incident is an incident or series of incidents, which result in significant disruption to a school's normal working day. Also, they may require police attendance. It may be an emergency. The school may*

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<sup>38</sup> Estimates Hansard p 737

*go into lockdown or the school may be evacuated because of a major leak. Those are all classified as critical incidents.*<sup>39</sup>

By applying the same set of guidelines for a violent attack and a major water leak at school, it is distressing that the Government does not see a difference between the two cases beyond the fact that a 'significant disruption to a school's normal working day' has occurred.

In short, it can be inferred that the Government equivocates between violent attacks at school and major leaks. To illustrate the issue, the figures given by the Government may show that critical incidents have decreased due to fewer incidents of such things as major leaks—yet further disaggregation may show that violent attacks at school have in fact increased.

**Recommendation: A unified and aligned best-practice risk management strategy/guideline be developed and implemented for issues involving harm to students and staff and damage to school property, including a periodic review of the Critical Incident Guidelines, and conduct a risk audit of the schools system.**

### **3.10.3. Need For More Information**

Several initiatives mentioned by the Minister were felt wanting on details. For example, on the issue of reward of teacher performance, the Minister provided the following:

*So I think that a restructure is critical. In order to achieve that, though, we need these national professional standards and we need an evidence base to be able to assess teacher performance against. It has got to be more comprehensive than some of the models that have been floated previously, which essentially related to popularity votes amongst students or parents as to who thought were the best teachers.*

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<sup>39</sup> Estimates Hansard p 738

*Those sorts of models will not work. You cannot simply base performance-based pay on test results, for example.*<sup>40</sup>

The Minister concedes that ‘a restructure is critical,’ however, this is contingent on the success of national standards and initiatives. At worst, this critical restructure may be the catalyst for cuts to the teacher workforce, as intimated in the following exchange:

**Mr Seselja:** *So some staff will have to go in order to get these \$18 million savings. What, if anything, will be quarantined from the \$18 million efficiencies?*

**Mr Barr:** *At this point I am not quarantining anything. We will make those decisions based on sound advice from the department over the next few years.*

**Mr Seselja:** *So it will not just be head office; it will be also out of schools. It will involve the teaching staff—*

**Mr Barr:** *I am not ruling out anything at this stage. We will look at all options and make our decisions and our announcements in due course*<sup>41</sup>.

The expected changes to the education system in the ACT provide no certainty beyond the fact that changes are imminent.

**Recommendation: that the Government provide further details on how the efficiency dividend and staff cuts, the National curriculum and its impact on staffing, and teacher remuneration will impact on the ACT education system**

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<sup>40</sup> Estimates Hansard p 713

<sup>40</sup> Estimates Hansard p 717

<sup>41</sup> Estimates Hansard p 717

### 3.10.4. VET and CIT

During estimates, Ms Blom identified the follow as priority industries for training:

*The five industry priorities that were identified last year for the year that we are presently in were the government services industry, construction and property services industry, community services and health, innovation and business skills, and the services industry.<sup>42</sup>*

Of the five priorities, it is felt that 'innovation' was a priority that was opened to being a catch-all element for training initiatives.

Although the spirit of this element is somewhat understood, loosely defined as it currently is, it is uncertain whether 'innovation' in the context provided is a priority industry or method/content of training delivery.

**Recommendation: Develop a more concrete definition and criteria for 'innovation'.**

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<sup>42</sup> Estimates Hansard p 839



## **3.11. Environment**

### **3.11.1. Northbourne Avenue**

The Committee noted the concern of some residents about the level of noise from the current roadworks on Northbourne Avenue. Residents have been concerned about noise late at night. Mr Seselja noted an email he had received from a constituent who complained that the works had kept him awake until well after 1.am on the previous evening.

The Department informed the Committee that, as the road is a major arterial road, roadworks could be undertaken 24 hours a day. The Department noted that it could not try to stop the roadworks, but could ask the contractors to mitigate the noise.

**Recommendation: That the Department of Environment, Climate Change Energy and Water monitor the noise from the Northbourne Avenue roadworks and report to the Assembly on what action it took to mitigate the noise late at night and in the early hours of the morning.**

### **3.11.2. Canberra Stadium Solar Panels**

In December of 2009, the Minister for the Environment, Climate Change and Water opened the solar panel installation at Canberra Stadium.

The project was first announced by the Chief Minister that, as part of the Weathering the Change program, that there would be 200 photovoltaic panels installed at Canberra Stadium which would produce 220,000 hours of electricity. However, the Minister noted to the Committee that this was significantly downgraded and said that:

*“...the assumptions that were initially used in relation to that original announcement expected that the panels could be deployed on the roof*

*of one of the stands at Canberra Stadium. Further detailed technical assessment identified that that was not practical, that the roofs were not capable of holding that weight, and therefore alternative solutions had to be identified. That is why the scope of the project was revised.”<sup>43</sup>*

The Minister further noted that *“The advice given to Government had been poorly conceived”* in an attempt to blame the public service for the downgrading in scope of the project.

FOI documents received by the Opposition from also indicated that when the Minister opened the installation in December 2009, that the solar panels at the Stadium were turned off a week after the opening due to the necessary clearances not been obtained to commission the system.

When questioned whether the system was legally able to be switched on at the time of the opening by the Committee, the Minister took the question on notice. In his subsequent answer, the Minister simply stated that “DECCEW has no regulatory role in this matter.”<sup>44</sup> The question as to whether the system was turned on without proper clearances remains unanswered.

**Recommendation: that the Minister seek further clarification on the status of the installation of the Canberra Stadium solar panels, and confirm that the system was operational when it was opened in December 2009. If the system wasn’t, the Minister should inform the Assembly as to whether any safety breaches occurred when he opened the facility.**

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<sup>43</sup> Estimates Hansard, page 816.

<sup>44</sup> QON 268

### **3.11.3. Transfer of responsibility for water regulation from the Commonwealth**

We note the advice in relation to the transfer from the commonwealth to the ACT of the regulatory regime for water resources.

During the hearings and notwithstanding the Bill currently before the Assembly, the minister was unable to answer questions in relation to matters such as the number of users that would be caught by the new arrangements, whether or not their current usage is metered and what equipment the ACT may need to install.

**Recommendation:** That, by the last sitting day in August 2010, the government table a plan for the implementation of the transfer of all water management responsibilities from the Commonwealth to the Territory, including: the costs of implementation; what equipment will require to be installed; the number of water users that will require to be licensed; and the revenue streams that will flow under the new arrangements for both one-off licence fees and on-going extraction charges.

### **3.11.4. Review of Nature Conservation Act 1980**

We note that, 5½ years after making a 2004 election promise to review the *Nature Conservation Act 1980*, the government has only completed a preliminary analysis. It is apparent the internal consultation phase is still in progress, that a discussion paper will be released “shortly” and a Bill introduced to the Assembly “sometime next year”. It is unclear whether “next year” means next financial year, ie 2010-11, or the calendar year 2011.

Review of the *Nature Conservation Act 1980* was a 2004 election commitment for completion during the Stanhope Government's second term [ie by October 2008].<sup>45</sup> In answer to Questions on Notice, it was revealed that:

*Preliminary analysis commenced in May 2007. This aspect of the review was completed in June 2008. Due to the complicated nature of the review, and the need for extensive internal consultation, it has not yet been finalised. It is anticipated that a discussion paper will be released for public comment shortly.*<sup>46</sup>

*As I stated at the hearing, I am unable give a definitive time frame, but I expect a discussion paper in relation to options for the restructure of the *Nature Conservation Act* will be released shortly for public consultation, and amendments will be brought to the Assembly some time next year.*<sup>47</sup>

We note from the answer to QTON 273 that, in addition to staff time, the review process cost \$25,000 in 2007-08, but note also that this is an incomplete answer to the question, which was "How much has the review cost so far?" This is underscored by the answer given to QTON 272, in which it was stated that "Funding was initially provided for the review of the *Nature Conservation Act 1980* in the 2006-07 financial year."

**Recommendation: That, by the sitting day 1 July 2010, the minister advise the Assembly of the target dates for the following actions:**

- **Release of the discussion paper;**
- **Closing date for public submissions in response to the discussion paper;**
- **Release of draft legislation for public comment;**
- **Closing date for public comment on the draft legislation**
- **Introduction of a Bill to the Assembly.**

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<sup>45</sup> QON 274

<sup>46</sup> QON 270

<sup>47</sup> QON 271

- **the expenditure on the review project in each of the financial years 2004-05, 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10 to date.**
- **the estimated ACT Government staff time expended on the project in each of the financial years 2004-05, 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10 to date.**
- **the estimated cost to complete the review project to the point of introducing a Bill to the Assembly.**

## 3.12. Justice and Community Safety

### 3.12.1. Review of Unit Titles Act 2001

We note the government is to review the *Unit Titles Act 2001*, commencing in September 2010, and that, subsequent to the Estimates Committee hearings, the Attorney-General provided Mrs Dunne with terms of reference for the review under cover of a letter dated 7 June 2010.

The terms of reference do not adequately provide an outline of the scope of the review, merely that it will be an 'operational' one 'to ensure that the legislation is operating effectively'. Importantly, there has been no consultation with stakeholders on the development of the terms of reference. Indeed, the minister, in his evidence, indicated that, at that point, he had not even consulted with the Minister for Planning on the development of the terms of reference.

**MRS DUNNE:** *Will you do that in consultation with Mr Barr?*

**Mr Corbell:** *If necessary. It is not something I have contemplated at this stage. I have responsibility for large parts of the Unit Titles Act?*

**MRS DUNNE:** *Large parts, but not the entire act?*

**Mr Corbell:** *Not all of it. I would expect that terms of reference that are briefed to me would take account of issues involving other relevant ministers and portfolios.<sup>48</sup>*

The terms of reference and their covering letter as provided to Mrs Dunne do not indicate there has been or will be any interaction between or consultation with the Department of Justice and Community Safety and the ACT Planning and Land Authority or any other relevant government departments and agencies.

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<sup>48</sup> Estimates Hansard pp925-6

**Recommendation: That the Attorney-General immediately review the terms of reference in consultation with other relevant stakeholders, including but not limited to ACTPLA, the Owners Corporation Network, other ministers as relevant and the Opposition and Cross-bench parties.**

During the hearings there was considerable discussion on how the government will disseminate information about the review to unit owners and occupiers.

We note the proposed methods of publicising the review as outlined in the terms of reference, however we believe it is important to ensure the maximum number of stakeholders have an opportunity to provide input to the review. This importance is heightened by the following exchange in the hearings:

***MRS DUNNE:** Does that preclude any substantive policy changes as a result of the review? Are we just oiling the gears and giving ourselves a general grease and oil change?*

***Mr Corbell:** It would involve more substantive policy changes only if the review identified that there were problems with the current policy settings.<sup>49</sup>*

And further, by this exchange:

***MRS DUNNE:** Will you listen to the public if they make a contribution?*

***Mr Corbell:** I always listen to the public if they make a contribution.<sup>50</sup>*

It is apparent from the evidence given in the hearings that the government has not adequately explored the options for contacting unit owners and occupiers. Nonetheless we note the minister's undertaking to further explore the possibilities, including using the vehicle of including information in rates notices sent to unit owners, notwithstanding Treasury's reluctance to agree to such a method:

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<sup>49</sup> Estimates Hansard pp925

<sup>50</sup> Estimates Hansard pp927

**MR SMYTH:** Minister, is that perhaps a discussion for cabinet? If the complete list, and apparently the only complete list, is held by Treasury, what would be the objection of the government to using that list for the dissemination of this information?

**Mr Corbell:** It is not something that has been raised at cabinet level, but I would be happy to explore that issue further. I would appreciate there may even be some legislative constraints around that; I do not know. But it is something I would be happy to consider further<sup>51</sup>.

The minister reiterated this undertaking in the following exchange:

**MR RATTENBURY:** It is a difficult task, but Mr Goggs has just indicated that Treasury has the entire list, yet there has been no cross-government discussion to work out how to get access to that list despite the very significant changes.

**Mr Corbell:** There has been discussion, and Treasury have indicated that they do not want to make that available.<sup>52</sup>

**Recommendation:** That the Attorney-General immediately pursue his undertaking to explore methods for direct contact with unit owners and occupiers, including sending information with rates notices (to contact unit owners) and using the information held by the Office of Rental Bonds within the Office of Regulatory Services (to contact unit tenants)

**Recommendation:** by the last sitting day in August 2010 report to the Assembly on the: final version of the terms of reference following the consultative review; and methods by which direct contact will be made to unit owners and occupiers to advise them of the consultative processes for the review of the Act.

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<sup>51</sup> Estimates Hansard pp928

<sup>52</sup> Estimates Hansard pp929



### 3.12.2. Corrections

The Committee discussed issues relating to Corrections ACT in particular the Government's mismanagement of the Alexander Maconochie Centre. Since the pre-emptive opening of the AMC on the eve of the 2008 ACT Election, the AMC has been plagued by a litany of issues relating to safety, security and ineffective Ministerial oversight by the Minister, Simon Corbell.

Although the Minister has previously sought to excuse the litany of failures as 'teething problems', it is clear from the JACS committee report into delays in opening of the AMC that was tabled in the Legislative Assembly, that the Minister was in part culpable for those delays. Issues of concern raised in that report included:

- The delays caused a budget blowout of \$3.5 million as a result of the Government's mismanagement; [Finding No. 25]
- Almost eight months after the prison accepted prisoners, ongoing concerns remain with the security system, and specifically found that defect 2.6 – which relates to the hierarchy of the security system – remains unresolved to this day; [Finding No. 20 & Recommendation 5]
- The prison still does not have a central feature of the security system installed – the Radio Frequency Identification (RFID); [Finding No's. 15 & 16]
- Contrary to Simon Corbell repeatedly blaming the security contractor for the delays '...not all the delays were due to the security system as the Attorney-General has contended.' [Finding No. 22];
- Human rights concerns of remandees and sentenced prisoners were exacerbated because of delays in the opening of the prison; [Finding No's. 7, 8, 9 & 10]

- Despite internal meeting minutes describing various problems as ‘catastrophic system failures’, only one Factory Acceptance Test was conducted on the security system; [Finding No. 19] and
- ‘At the time of the official opening, the Minister for Corrective Services was not well briefed on delays in completing the AMC...’ [Finding No. 11];

The Minister however continued to deny the unanimous findings of the JACS committee were correct stating that;

***Mr Corbell**.....That conclusion by the JACS report, as you know, Mr Hanson, is incorrect. It is incorrect.*

And further:

***Mr Corbell**: As I have already made clear, Madam Chair, the findings of that committee were fundamentally flawed in that they—*

***MRS DUNNE**: That is your assertion.*

***Mr Corbell**: They are fundamentally flawed and it is not my assertion.*

The Minister was unable to explain why a committee report that included a member of his own party made negative findings about him other than to assert that it was a politically motivated report. Despite the contradiction that the committee included a member of the Labor Party, attempts to outline this contradiction by Mr Seselja were muzzled by the Committee Chair.

***MR SESELJA**: Just a quick follow-on from that. Minister, you refer to this report, the unanimous report that you disagree with. You said at the time that it was politically motivated. Do you really believe that a Green, a Labor and a Liberal member all conspired against you in a politically motivated attack?*

**Mr Corbell:** *It is quite clear, Madam Chair, that there was a high level of politics in relation to the outcomes that, in particular, a number of members sought from that and they conflict.*

**MR SESELJA:** *Why do you think Ms Porter was out to get you, Mr Corbell?*

**THE CHAIR:** *Mr Seselja.*

**Mr Corbell:** *They conflict with the findings of the independent arbitrator on who was responsible for the delay in the completion of the prison project.*

**MR SESELJA:** *But why was Ms Porter out to get you politically?*

**THE CHAIR:** *Mr Seselja!*

**MR SESELJA:** *I don't follow the logic.*

The delays and the pre-emptive opening of the AMC no doubt exacerbated the complexity of opening a new prison and the committee also questioned the effect of not providing a Gym or a Chapel at the AMC. Both were in the original scope of the prison that was delivered with less beds than originally it was scoped for. The failure to deliver the AMC with the quantity of beds originally scoped for appeared to the Committee to be a significant contributing factor in the ongoing issues of mixing different categories of prisoners at the AMC, at times in contravention of human rights considerations.

The mixing of prisoners is a safety issue that has allegedly resulted in the rape of a remandee by a sentenced prisoner, but the Minister did not outline a solution to this issue to the committee. The mixing of prisoners is also of concern to the Human Rights Commissioner who stated that;

*'My concerns at the moment are about the operation of the management unit, with the mixing of remandees and sentenced prisoners and protected and mainstream prisoners.'*<sup>53</sup>

**Recommendation: that the Minister provide the Assembly with a detailed explanation of why and when remandees are mixed with sentenced prisoners and the Government’s plans to mitigate the safety and human rights concerns that this situation causes.**

The issue of prisoner lock downs that resulted in a protest by prisoners on the roof of the AMC in April 2010 was also discussed by the committee. In part was caused by staff shortages and rostering problems that could have or should have been prevented. The Minister caused further confusion and concern when he initially told the media no prisoner had been locked down for up to 20 hours but later had to correct the record as this had occurred on at least two separate incidences in the previous month.

Drug use at the AMC was discussed by the committee and the Minister confirmed that a case of Hep-C transmission had occurred at the AMC. The issue of a needle exchange program was discussed but the minister was evasive with regards to the government’s intent to introduce such a program at the AMC or not.

***MR CORBELL:** My view as minister is that we have to take all feasible steps to reduce the likelihood of the transmission of blood-borne viruses, blood-borne disease. The government’s policy is that we look at whether or not a needle syringe program is feasible in the prison and we put it on a process to undertake that assessment.*

The issue of the wrongful release of a prisoner as well as the extended detention of a prisoner raised by the committee. In the words of the prisoner who was wrongfully released at the time;

*“Anyone else could have, murderers, bad armed robbers, they all could have got out, it was that easy”. (Win News 30 April 2010)*

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<sup>53</sup> Estimates Hansard pp966

This is an absolute failure of the most basic management required for correctional facilities. The first and foremost requirement is that those sentenced to custody remain in custody. To allow a sentenced prisoner to simply walk out the door is an obvious and egregious failure and deserves the strongest condemnation.

Concerns were also raised by the committee that certain programs, including rehab programs were not being delivered to female prisoners. This was answered in part but again seemed to an issue with the size and design of the prison.

Other issues discussed included ongoing security system defects, problems with the radio frequency identification system and the cost blowouts at the AMC. Despite the cost blowouts, significant concerns remain that the prison is potentially unsafe and may not be human rights compliant as asserted by the Government.

Dr Watchirs the ACT Human Rights Commissioner gave evidence to the committee that as a result of staffing and funding shortfalls she had been unable to conduct a human rights audit of the AMC

*"I have not conducted an audit since 2007, and there is no capacity to do so."<sup>54</sup>*

The level of mismanagement of even the most basic functions of this facility is of grave concern. Mr Corbell's continued defiance of the Committee, and his repeated statements that do not bear scrutiny are of equal concern. There is no doubt, from an objective perspective, that Mr Corbell is not capable of managing this facility.

**Recommendation: that the Government review funding arrangements for the Human Rights Commissioner in order to allow her to conduct a Human Rights Audit of the AMC or outline to the Assembly how the**

**Government intends to provide evidence to assure the community that the AMC is human rights compliant on an ongoing basis.**

**Recommendation: the Minister report to the Assembly how the basic functions of the prison have been allowed to so comprehensively fail and what the Minister is doing to fix the situation.**

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<sup>54</sup> Estimates Hansard pp967

### 3.12.3. Emergency Services Authority

The Committee questioned the Minister for Emergency Services about the upgrade of Rural Fire Service sheds. The Minister confirmed that the project delivery date had slipped but assured the Committee that the upgrades would be finalised by October this year.

Concerns were raised about the costs of the project and whether or not it represented good value for money. It was raised that some volunteers had likened the expenditure to the Building the Education Revolution fiasco.

The issue of the future locations of Emergency Service Agency stations was discussed. A report entitled *Emergency Services in the ACT: Station Relocation Feasibility Study* was commissioned by the ACT Government and was finalised in August 2008. The Minister was asked when he had received the report:

**MR SMYTH:** *When did you receive that report?*

**Mr Corbell:** *I have not yet received the final copy of that report.*

**MR SMYTH:** *You have not received a final copy of the report?*

**Mr Corbell:** *No.*<sup>55</sup>

However the Minister on ABC Radio, on the morning of 31 May 2010, said

*Well, I was briefed on the [Station Relocation Feasibility Study Final] Report around the beginning of 2009 and that was then something that I looked at very closely.*<sup>56</sup>

Minister Corbell also said, in the same interview:

*One of the main problems that emerged once we received the report...*<sup>57</sup>

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<sup>55</sup> Hansard, 25 May 2010, p 1112

<sup>56</sup> Interview with Ross Solly, ABC 666, 31 May 2010

<sup>57</sup> Interview with Ross Solly, ABC 666, 31 May 2010

This statement is a clear contradiction of what the Minister told the Committee.

**Recommendation: that the Minister for Emergency Services clarify for the record when he first received and saw the Emergency Services in the ACT: Station Relocation Feasibility Study.**

The Minister was then asked why the report has not been actioned in the twenty two months since its completion:

**MR SMYTH:** *Why has it taken two years?*

**Mr Corbell:** *This is a complex process and it involves detailed discussion with stakeholders. Obviously the unions, in particular, that represent personnel in the Fire Brigade and ambulance have a strong stake and legitimate interest in where stations are located. It also requires detailed discussion within the Emergency Services Agency. And there is a limited amount of expertise available world wide on the methodologies that are used to determine the most appropriate—there is limited expertise in applying the methodologies to determine the optimum location of emergency service facilities. Mr Crosweller has engaged an international firm to assist in our revision of those methodologies, to make sure that we do have a best-practice approach. All those things have contributed to the time period.*

In the same ABC interview, however, Minister Corbell said:

*One of the main problems that emerged once we received the report was the concerns from fire fighters in particular that the analysis used didn't properly take account of how quickly fire brigades respond to fires.*<sup>58</sup>

Later in the same ABC interview, Mr Ben Sweaney from the union representing the Intensive Care Paramedics, said:



*...we should be acting on the report's recommendations and looking at ambulance stations where they are best placed for the future and now.*

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**Recommendation: It is recommended that the Minister for Emergency Services clarify for the record the reason for the United Firefighters Union's objection to the implementation of the *Emergency Services in the ACT: Station Relocation Feasibility Study*.**

Given the inconsistencies between the answers provided by Minister Corbell to the Committee and the answers the Minister provided to questions on the ABC, one has to question why the Minister has allowed almost two years to pass with still no action on the report's recommendations.

**Recommendation: It is recommended that the Minister for Emergency Services table the *Emergency Services in the ACT: Station Relocation Feasibility Study* in the Legislative Assembly before the commencement of the budget debate.**

The Minister was also asked about the ACT Ambulance Service response times and the data used by the Auditor General.

Questions were asked over the proposed acquisition of a new mobile data system for the ACT emergency services.

Minister Corbell was also questioned over the delays and cost overruns in the delivery of capital works and, in particular, the new Emergency Services Headquarters at Fairbairn and other headquarters' facilities at Hume:

**MR SMYTH:** *Perhaps you will take it on notice. What have you delivered on time and on budget in emergency services since you became the minister?*

**Mr Corbell:** *Plenty of projects, Mr Smyth—*

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<sup>58</sup> Interview with Ross Solly, ABC 666, 31 May 2010

<sup>59</sup> Interview with Ross Solly, ABC 666, 31 May 2010

**MR SMYTH:** Plenty?

**Mr Corbell:** including numerous upgrades to emergency services stations, for a start.

**MR SMYTH:** So you will take that on notice and detail these “plenty of projects”? **Mr Corbell:** I am happy to.<sup>60</sup>

The Minister also took on notice a question concerning the updated final cost of the new Emergency Services Headquarters.

Unfortunately Minister Corbell had not supplied the answers to these Question Taken on Notice when this report was submitted.

**Recommendation:** It is recommended that the Minister for Emergency Services table in the Legislative Assembly before the commencement of the budget debate the list of “plenty of projects” completed on time and on budget and the updated total cost of the new Emergency Services Headquarters at Fairbairn and at Hume.

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<sup>60</sup> Estimates, question taken on notice: QTON 404

### 3.13. Police

The committee heard from the CPO that only three meetings of the suburban policing consultative committees had occurred to date and that the construct was not *“working as optimally as it could be, and that is largely due to the less than enthusiastic approach of the community.”*<sup>61</sup>

As the suburban policing consultative committees are currently under trial it was unclear when the trial would be concluded or what the process would be for the committees moving forward.

**Recommendation that the Government provide the Assembly with an update on the trial of suburban policing consultative committees, including the details of the trial, the date for completion of the trial, and the progress of the trial to date.**

#### 3.13.1. Name and Shame

The CPO gave evidence that he was unaware of any evidence that naming and shaming of convicted drink driving had been successful in any other jurisdiction or would have a deterrent effect.

*“I do not think there is any empirical evidence that suggests that a name and shame campaign actually works in any jurisdiction; in fact, I do not think it has been trialled to that extent. Whilst that will be perhaps an individual deterrent, I actually do not think—and this is just an intuition on my part—that it has a flow-on effect as a deterrent in a generic sense.”*<sup>62</sup>(CPO 25-05-10 P1148)

However name and shame has been proposed by the Chief Minister on a number of occasions in response to high levels of DUI in the ACT.

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<sup>61</sup> Estimates Hansard p1146

<sup>62</sup> Estimates Hansard p1148

**Recommendation: that the Government provide the Assembly with evidence that name and shaming convicted drink drivers has worked successfully as a deterrent in other jurisdictions.**

### **3.13.2. Random Drug Testing**

The CPO provided evidence to the committee that Roadside Random Drug Testing (RRDT) was an effective road safety measure:

*“We believe it is an effective tool in terms of road safety management. We certainly intend to apply this capability, but we would have to do it within existing resources.”<sup>63</sup>*

The CPO also provided evidence that the Victorian model was most suitable for the ACT and model that ACT Policing would like to base the ACT’s RRDT model on.

*“We looked more closely at Victoria. We think that is a model that is probably a little bit closer to what we would like to undertake in the ACT. They have their roadside screening test down to about five or six minutes. That is a rehearsed capability now and it is done relatively cheaply with relatively little restriction on motorists, so we think that model is something we would like to design ours on.”<sup>64</sup>*

**Recommendation: that the Assembly pass the *Road Transport (Alcohol and Drugs) (Random Drug Testing) Amendment Bill 2009* currently tabled and support anti drug driving laws in the ACT.**

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<sup>63</sup> Estimates Hansard p 1149

<sup>64</sup> Estimates Hansard p 1149

### **3.13.3. Independent Competition and Regulatory Commission**

The ACT Government is currently considering extending the feed in tariff regime to encompass the generation of more than 30 kW of electricity. Some economic modelling of the extension of the feed in tariff to incorporate larger generators has shown that there are employment benefits in the shorter term. In the longer term (that is, up to 20 years), however, the modelling reveals that employment, turnover and consumption effects are negative.

**Recommendation: It is recommended that the Independent Competition and Regulatory Commission conduct an inquiry into the possible extension of the feed in tariff to generators of more than 30 kW of electricity.**

### **3.13.4. Indigenous Funding “Horrible”**

The funding for Indigenous programs in the ACT was strongly criticised during hearings.

In giving evidence to the committee, Mr Terry Williams, the chair of the Indigenous stated that;

*“Closing the gap? The gap is only getting wider”<sup>65</sup>*

And:

*“As to the funds that have been put into the budget at the moment, all I can say is that, truly, the allocation of funds directed to Indigenous people in the ACT is horrible.”<sup>66</sup>*

Both statements indicate either a lack of satisfaction with the ACT government’s resources and actions to address issues in the ACT’s

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<sup>65</sup> Estimates Hansard p 13

indigenous community or a breakdown in communication between the Government and the elected body.

**Recommendation: that the ACT Government meet with the ACT elected body and report back to the Assembly with action they will be taking to address the view of the chair of the elected body that the allocation of funds directed to Indigenous people in the ACT is “horrific.”**

### **3.14. Auditor General**

The ACT Auditor-General performs a key role in reporting to the Legislative Assembly about the performance of the ACT Government and of individual agencies. The recent independent review of the Auditor-General’s Office found that the Office “*[provides] an important service in an efficient and effective manner, and that [the taxpayers] are receiving good value from the Office’s use of the taxpayer’s dollar*”.<sup>67</sup>

The resources available to the Auditor-General’s Office, however, are not sufficient to enable the Auditor-General to conduct a more comprehensive assessment of performance through undertaking a greater number of performance audits.

Given the role of the Auditor-General in being independent from direction by the ACT Government, there is merit in the proposal that the funding that should be provided to the Auditor-General should be determined by the Legislative Assembly. Of course, the funding that is ultimately made available to the Auditor-General would be as determined by the government of the day through the usual budgetary processes.

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<sup>66</sup> *ibid*

<sup>67</sup> R J Sendt, *Report on the independent performance audit of the operations of the ACT Auditor-General and the ACT Audit Office*, May 2010.

**Recommendation: It is recommended that the ACT Legislative Assembly approve the annual appropriation for the ACT Auditor-General.**

**Recommendation: It is recommended that funding be appropriated to the ACT Auditor-General such that, by 2012-13, the budget of the Office is funded to the extent of 50 per cent from fees for financial audits and 50 per cent from an annual appropriation.**

**Recommendation: It is recommended that, by 2013-14, the appropriation provided to the ACT Auditor-General be sufficient to enable a minimum of 12 performance audits to be conducted each year.**

### **3.14.1. Virtual District Court**

We note the extensive discussion on the efficacy of the Government's budget provision to establish a "virtual" district court. We note the comment from prominent lawyers and groups representing lawyers against the proposal. Specifically at the hearing Mr Seselja referred to the views of a senior barrister published in the *Canberra Times*:<sup>68</sup>

***MR SESELJA:** Ken Archer, I think, is a former prosecutor in the territory. He raises a number of concerns and I just want to get you to perhaps address some of the concerns that are raised in his letter. ... It is clear that the Supreme Court is not doing all it could to address delays ... This has caused the Government political embarrassment.*

And

***MR SESELJA:** Mr Archer goes on to say that his irritation is shared by just about all the legal profession. What have been the views expressed by the legal profession in relation to this matter?*

***Mr Corbell:** We are currently in a consultation process. I have released a consultation document on the detail of implementation of this*

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<sup>68</sup> Estimates Hansard p 1186

*proposal and issues such as the full jurisdiction of the proposed new district court, how it will relate in terms of appeal matters, a range of other issues. And we are actively seeking feedback from legal profession stakeholders in relation to that. That process is not yet complete.*

**MR SESELJA:** *One final one; he goes on to say:*

*It goes against the government's stated position in relation to advertising for judicial office. It completes the emasculation of the Magistrates Court ... the jurisdiction of which has been decimated by the ACAT disaster as he refers to it. Will this proposal emasculate the Magistrates Court?*

**Mr Corbell:** *I reject those allegations entirely.*

Since then the ACT Law Society and the ACT Bar Association and other commentators have criticised the plan for a virtual district court. The ACT Law Society and the ACT Bar Association instead recommends piloting and evaluating the effectiveness of alternative measures like:

- more bail applications heard in the ACT Magistrates Court;
- increasing the civil jurisdiction of the ACT Magistrates Court to \$100,000; and
- reviewing the Supreme Court's listing and practise arrangements.

We were not satisfied that this initiative was adequately explained or justified in the following respects:

1. whether a formal cost/benefit analysis of the proposed court was undertaken prior to it becoming government policy;
2. what impact establishment of the district court will have on the caseload of the Magistrates Court and the Supreme Court (and Appeals Court);
3. what impact magistrates holding dual magistrate and district court judge commissions will have on caseload and case management, particularly in the Magistrates Court;
4. the lack of consultation with the legal profession in developing the initiative;



5. how the study of a single court system dovetails into the establishment of a third tier of courts in the existing structure; and
6. whether or not to appoint a permanent fifth Supreme Court judge.

We note that the government has prepared a paper *2010 Access to Justice Initiative* which explores a range of initiatives but because the virtual district court has already been accepted as policy the consultation is somewhat lopsided.

The Attorney-General has said that his approach is much cheaper than appointing a fifth supreme court justice, which would cost in the vicinity of \$800,000 per annum.<sup>69</sup>

However, the funding initiatives entitled “District Court Jurisdiction Capacity” and “Additional Jury Courtrooms” will amount to \$2.22m over four year in recurrent expenditure<sup>70</sup> and an additional \$450,000 in capital expenditure. We also note that \$600,000 of this initiative is to appoint an acting supreme court justice for up to nine months. This is another example of contradictory statements being presented to the Committee that require clarification.

**Recommendation: That the government shelve the “virtual” district court initiative while it conducts a full consultation on its 2010 Access to Justice Initiative.**

## **3.15. Disability Services**

### **3.15.1. Portability of Long Service Leave**

It has been noted by organisations such as National Disability Services and ACTCOSS that the portable long service leave scheme has the potential to

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<sup>69</sup> Estimates Hansard p1187

<sup>70</sup> BP 3 p 86

incur additional cost pressures on disability organisations. This was confirmed by Mr Collins in the following exchange:

**MR SESELJA:** *And how will it affect cash flow for some of those organisations? Has that been a concern that has been raised?*

**Mr Collins:** *It will affect their cash flow in the sense that, instead of putting that money away and making provision for that liability, they will actually be paying the levy on a quarterly basis.*

**MR SESELJA:** *There are two ways it will affect things, I suppose, because there are liabilities that may never have been incurred in the past which will now automatically be incurred, and there is also the cash flow on a quarterly basis.*

**Mr Collins:** *That is correct.*<sup>71</sup>

When posed to the Minister for Disability, Housing and Community Services, the Minister stated:

**Ms Burch:** *The actuary report that we have had on portable long service leave across the community sector showed that it is a cost of about 1.6 per cent, which is the same per cent as if an organisation is putting away long service leave entitlement*<sup>72</sup>.

In essence, the Minister's response is that there is no additional cost burden on disability organisations. The Minister's statements appear to be contradicted by Mr Collins' statements.

Further dissection of the matter led to the following exchange:

**Ms Burch:** *We have made a commitment to transitional support, I think.*

**Mr Hehir:** *I think it was in the previous year's budget—there was a sum which was set aside for the implementation, for the long service leave;*

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<sup>71</sup> Estimates Hansard p 568

<sup>72</sup> Estimates Hansard p 1069

*and, as we have worked through that, there is some funding still available there.*

**MR SESELJA:** *How much is that?*

**Mr Hehir:** *Three hundred thousand.*

**MR SESELJA:** *So \$300,000 covers all of these organisations and their extra funding needs?*

**Mr Hehir:** *As we said, we will look at the evidence. We will check with them, we will work with the long service leave board and we will work with the organisations. We will need to see whether that does cover it or not.<sup>73</sup>*

In short, the evidence leads one to believe that the Minister's Department is maintaining a wait-and-see approach as to whether portable long service leave will add to the financial costs of disability organisations.

**Recommendation: That the Government report to the Assembly on the financial impact of this scheme on disability organisations and actions to be initiated to address issues that arise.**

**Recommendation: that the Minister clarify her statements in light of the apparently contradictory statements made by Mr Collins.**

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<sup>73</sup> Estimates Hansard p 1073

## 3.16. Multicultural Affairs

### 3.16.1. \$500,000 cost blow-out

In FY2008-09, the Multicultural Festival experienced a \$500,000 budget blowout. When asked if the Minister had learnt anything from the lessons of the FY2008-09 Festival, the Minister could not give a definitive response, preferring instead to cite satisfaction ratings from the FY2009-10 Festival:

**MR DOSZPOT:** *The question was: what lesson did you learn out of the budget blow-out of the previous year?*

**Ms Burch:** *The lesson I learnt was that it was my commitment to deliver a festival on budget, and that is what I did.*

**MR DOSZPOT:** *And are there any—*

**MR SESELJA:** *You just scaled it down.*<sup>74</sup>

Mr Hubbard provided a fuller explanation of the matter in discussion:

*This year, we reduced the timing of the festival from 10 days down to three; that has a significant impact on the overall costs of hiring of goods and also facilities.*

*From a process point of view, we wrapped around a lot of financial processes. To be fair to the staff in the multicultural area, they just did not have those skills, so the financial expertise was brought in, mainly around things like fixed price contracts. To Nic's credit, he did put a lot of effort into making sure that all the major cost areas were tied up in a fixed price contract.*<sup>75</sup>

In short, the cost blowout of the Festival in FY2008-09 was due to the duration and footprint of the event, which are issues the Government addressed in the last Festival. Another cost driver the Government identified was the lack of

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<sup>74</sup> Estimates Hansard p 1481

financial skills amongst Multicultural Affairs staff in managing the event. This was primarily addressed through the use of fixed price contracts.

That said, it is felt that the use of fixed price contracts to address the issue should be an ancillary risk management measure. The issue of a lack of finance skills amongst the staff is a matter that should still be attended to.

**Recommendations: That before contracts for the next festival are finalised, the Minister provide relevant staff with development opportunities to address the identified finance knowledge gap, develop formal Festival management guidelines based on 'lessons learnt' and report to the Assembly on the status of the previous two recommendations.**

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<sup>75</sup> Estimates Hansard p 1482

## 3.17. Community Services

### 3.17.1. Cost Pressures Facing Community Groups and Portable Long Service leave

The establishment of a portable long service leave scheme for the community sector was met in that sector with a concern. One major concern was the impact that the scheme would have on the management of cash flow for those organisations caught by the scheme.

The Committee heard

*It [the portable long service leave scheme for community organisations] will affect their cash flow in the sense that, instead of putting that money away and making provision for that liability, they will actually be paying the levy on a quarterly basis.<sup>76</sup>*

When asked if an assessment had been made of the impact on community organisations of those cash flow issues, the Committee heard:

*We [the ACT Long Service Leave Authority] had the actuary look into that, but he was unable to make a judgement on that because he does not have the information about the current rates of staff turnover in the sector or obviously by employer and employee. So he is unable to put a cost figure on that amount.<sup>77</sup>*

The Treasurer advised the Committee:

*There has been work done through DHCS to get an understanding of the concerns that have been raised by the employers in the community sector on this. We will monitor it as it rolls out.*

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<sup>76</sup> Estimates Hansard p 569

We note that the Minister for Disability, Housing and Community Services has been asked question in the Assembly in relation to this impact, but that, to date, no satisfactory response has been given.

**Recommendations: that the Minister immediately commission a formal process to assess the impact of the portable long service leave scheme for community organisations on expenditure levels and cash flows of those organisations caught by the scheme.**

**Recommendation: hat the Government immediately confirm with all community organisations caught by the portable long service scheme that funding assistance will be provided to organisations that can demonstrate financial stress arising from implementation of the scheme, and precisely the amount of that assistance to provide certainty for community groups dealing with government imposed changes.**

### **3.17.2. Child Care**

We note that new national standards for childcare will come into force in 2012 relating to child-to-carer ratios and places per square metre.

We note advice, given in evidence that [ref: Hansard, 26 May 2010, p1242]:

*The main change for the ACT is moving from a one-to-five standard worker to child ratio in the nought to twos to a one-to-four ratio in the nought to twos ... In 2012. But 25 per cent of the centres already meet that*

**Recommendation: That, by the last sitting day for 2010 the minister table a master plan that outlines what the government will do to assist not-for-profit childcare providers to comply with the new standards; and ensure all not-for-profit providers are aware of the new standards and the implications of those new standards for them.**

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<sup>77</sup> Estimates Hansard p570

### 3.17.3. Grandparents and Kinship Carers

Among the community groups to present to the Committee was the Grandparent and Kinship Carers Inc. We noted the comments of Marion Le, vice president of Grandparent and Kinship Carers (ACT) Inc, who raised immediate and urgent concerns about the current system and lack of delivery of promised funding from the government:

***Mrs Le:** Do you know how serious I think this is? I spoke out about children in detention, and I said that that was abusive. I believe that what is going on here—this is very strong, and I will stand by it—is abusive. I believe it is systematic and institutionalised abuse. And people do not even see it any more. They are so used to it that they do not see it. It is systemic and it is abusive. It is abusive of the people who are caring for the children. I do not feel myself abused, because I went to court and got orders over the children very quickly. I knew my way through the process, and I am not blood related so I do not have all the emotional baggage that comes with that. But it is abusive. It is very abusive of the carers. It is very, very abusive long term of the children.<sup>78</sup>*

When asked about this ‘institutionalised abuse’, the Minister, in her appearance before the Committee on 27 May said:

***Ms Burch:** I refuted it.*

When asked if she had spoken to Ms Le about her comments she indicated she had not, but her Department had.<sup>79</sup>

This wilful dismissal of evidence from the very body which is being funded is extraordinary, especially given the factual case studies presented to the Committee.

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<sup>78</sup> Estimates Hansard pp 10-11

<sup>79</sup> Estimates Hansard p 1444



**Recommendation: That, by the last sitting day in August 2010, the minister report to the Assembly as to whether she is satisfied as to whether the claim of ‘institutionalised abuse’ of grandparents and kinship carers and the children in their care is substantiated or not, including detail of the depth and breadth of the department’s internal investigation and the enquiries the minister has made of carers and their representative groups.**

### **Failure to deliver on 2008 Election commitment**

In 2008 the Stanhope government promised, if it was re-elected, to provide \$800,000 over four years for a dedicated service run by a non government organisation to provide information, advice and support to grandparents and kinship carers who are caring for children.<sup>80</sup>

To date \$60,000 per year has been set aside for a carer liaison officer in OCYFS and \$20,000 has been given to Marymead for the 2009/10 financial year. The remaining \$120,000 for the 2009/10 financial year is unallocated.

During questioning the Minister could not tell the committee and visiting members whether the unspent funds from the 2009/10 budget would be allocated. Neither could the Minister explain why \$60,000 per year from the money promised for services to be provided by a non-government organisation has been set aside for an officer in OCYFS.

While we recognise that the work of a carer liaison officer might be important we note that the officer provides services to both foster and kinship carers and believe that quarantining \$240,000 out of a total of \$800,000 will severely limit the services that can be provided to a vulnerable group of carers.

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<sup>80</sup> Policy Statement ‘*Children and Young People*’, p6

**Recommendation:** That, by the last sitting day in August 2010, the Minister assure the Assembly that the whole appropriation (\$800,000 over four years) for grandparent and kinship carers will be directed to NGO-provided services as promised in 2008.

**Recommendation:** that the Minister fund the position of a carer liaison officer from the general appropriation and therefore restore those funds (\$240,000 over four years) to the funding for NGO-provided services for grandparents and kinship carers of \$800,000 over four years, as promised in 2008.

Representatives spoke about the unmet needs of Kinship Carers:

*Mrs Le: It is my belief, and it is the belief of our entire committee, that what needs to happen is not the piecemeal funding out there... What I would like to ask is this. Where is this allocation under the new budget? Where is the money going? How is that going to be directed and how long is that going to take to be allocated?<sup>81</sup>*

**Recommendation:** that the Minister immediately institute a review of the services provided by the Office of Children Youth and Family Support (OCYFS) to grandparent and kinship carers to determine the difference in training, support and allowances actually provided to foster carers and kinship carers; and the level and extent of unmet need for service provision to kinship carers.

### 3.17.4. Housing

Problems with housing tenants taking too long to be answered is an issue that has yet to be addressed in any significant manner.

*MR COE: People call up Housing ACT and lodge a complaint, they get a complaint number and they do not hear again, it seems, or they get a response which is really just a holding response. I think Housing ACT really does need to pick up its game and actually have a proper strategy that is clearly articulated to people when they complain.*

*Mr Hehir: I will have to take some of that on notice.<sup>82</sup>*

While it is recognised that this area includes many difficult issues, the inability to articulate a process for managing those issues is of concern.

**Recommendation: Consider the provision of new accountability indicators for ‘Complaints finalised within a nominated time’.**

**Recommendation: Develop and publish a clear process for handling complaints that involve multiple government agencies regarding anti-social tenants that**

**Recommendation: Clarify the process for making a complaint about Housing ACT tenants and publish it in fact-sheet format.**

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<sup>81</sup> Estimates Hansard p 10

<sup>82</sup> Estimates Hansard p 1467

### 3.17.5. The former Flynn primary school

We noted the Government announcement about the establishment of a childcare facility on the site of the former Flynn primary school.

Given the very high level of community concern about the previous approaches to this site, it was concerning that there was no clear consultation path outlined beyond merely stating that there would be one.<sup>83</sup>

Further, in relation to developing a master plan for the future use of the facility, the Committee noted the advice, given in evidence, that

*There is not a provision within the territory plan for a master plan, as such. But we will continue to discuss our approach to the use of the whole building<sup>84</sup>.*

This uncertainty is continuing to cause issues in the Flynn community, and given the long history of poor communication and lack of action on the site, it is not unreasonable to expect a clearer plan of action from the government on this issue.

**Recommendation: That, by the last sitting day in 2010, the Government table a plan for the future use of the former Flynn primary school, including an indication of the community consultation undertaken in that process; evidence in particular that the Flynn Community Group has been fully engaged in that process and their proposals have been given due consideration; the estimated costs to refurbish and restore the facility ready for its future use; and the proposed timetable for implementation of the plan.**

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<sup>83</sup> Estimates Hansard p 1205

<sup>84</sup> Estimates Hansard p 1212

We note that while the Government has announced a childcare facility for the site there is uncertainty about the number of childcare places and who will provide them.

**Recommendation:** That, the plan mentioned above, should also outline the number of childcare places and advice on the intended provider.

**Recommendation:** That, the Minister guarantee that the childcare places developed at Flynn will all be new childcare places, not just substitution of places from existing facilities that might be forced to relocate.

### **3.17.6. Bimberi Youth Justice Centre**

We noted the security breach and officer assault incidents at Bimberi Youth Justice Centre, and various on-going issues at the centre without clear information or resolution from the Minister.

In relation to security breaches:

**MR SMYTH:** *On how many occasions now have youth held at Bimberi ended up on the roof?*

**Mr Hehir:** *Four this financial year.*

In relation to officer assaults:

**MR SESELJA:** *At Bimberi, have there been any incidents of workers at the facility being assaulted? If so, how many?*

**Mr Reid:** *Fourteen<sup>85</sup>.*

**Recommendation:** That, by the last sitting day in 2010, the Government table a report as to the action taken and the cost thereof to:

- reduce or eliminate the risk of security breaches; and
- improve personal safety for officers.

We note that there was a line of questioning that the Minister took on notice about an alleged spitting incident at Bimberi.<sup>86</sup> [re Hansard p P1256]:

**MRS DUNNE:** ...was a custodial officer at Bimberi spat upon by a detainee who has hep B? Has the officer received appropriate counselling and tests? Did that go into the workers compensation system? If it has gone into the workers compensation system, was it dealt with immediately as a workers compensation matter?

**Ms Burch:** We will take that on advice and provide the information as we can.

We note that the Minister in answer to QTON 649 gave an outline of the general policy about how incidents of assault of custodial officers at Bimberi are supposed to be treated. We further note that the specific questions asked by Mrs Dunne have not been answered.

This was another example of a government Minister being unwilling or unable to answer even basic questions about their portfolios for which substantial public monies are being expended.

**Recommendation: That by the end of sitting on 24 June the Minister fully answer the questions asked by Mrs Dunne which were taken on notice in relation to an alleged spitting incident between a custodial officer and a detainee with hepatitis B.**

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<sup>85</sup> Estimates Hansard p 1251

<sup>86</sup> Estimates Hansard p 1256

## 3.18. ACTPLA

### 3.18.1. Unit Plans, Building Certification and Warranty

The Minister for Planning announced, what he has characterised, as a tough, new approach to problems with building certification especially in unit plans. This followed the airing, in the media of concerns about workmanship and warranty in unit plans. There has been subsequent examination of problems as they relate to single dwellings.

These issues are not new and, in part, led to the formation of the Owners' Corporations Network (OCN).

In the media the Chief Planning Executive was quoted as saying *"...if the industry doesn't do something about it, then the government will."*<sup>87</sup>

In the course of the Estimates Inquiry, the OCN wrote to the Chief Minister asking for a judicial inquiry into the problems of building certification and warranty in units plans.

In answer to questions on notice the Minister for planning outlined what had become eleven areas that warrant review. These cover:

- new timeframes for builders warranties
- a building defects fund
- pre-occupancy inspection
- increasing the stages at which inspections are carried
- regulation of tradespeople who undertake waterproofing, etc
- an industry award for quality of workmanship

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<sup>87</sup> ABC Stateline on Friday 21 May 2010

While the proposal for review outlined above is welcome it does not address all the issues. The uncertainty whether the proposed review will cover issues of workmanship. In questioning in it also became clear that any review would be prospective and would not address any of the substantial issues faced by owners and owners corporations who are struggling with repairs and warranties to existing buildings.

**Recommendation: That the Standing Committee on Planning, Public Works and Territory and Municipal Services conduct a review of the problems associated with building certification and warranty as they relate to residential buildings.**

### **3.18.2. Commercial Land Release Hawker**

According to the 2008/09 Land Release Program, Block 8, Section 34, Hawker was planned for auction in March 2009. Following a motion in the Assembly the sale was delayed and a public consultation commenced. The Minister was opposed to consultation on the sight although he did not oppose the motion:

*'We cannot keep consulting all the time on issues... It will just tie us in knots that will cause us economic pain to a point that would not be acceptable'.<sup>88</sup>*

Block 8, Section 34, Hawker was relisted on the 2009/10 Land Release Program. In December 2009 the Consultation report proposed the sale for development of Block 8 & Block 10 Section 34, Hawker.

In February 2010 under pressure on Chief Minister Talkback the Minister made an unscripted decision to remove the block from the land release program.

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<sup>88</sup> Hansard, 25 February 2010 p 1008



*'No land at Hawker will be sold this year and we will reconsider whether or not we put it back on the market'.<sup>89</sup>*

Blocks 8 & 10 Section 34, Hawker are again on the Land Release Program. The Minister confirmed that the blocks will be sold this financial year.<sup>90</sup>

**Recommendation: That the Minister clearly outline a timetable for the sale of Blocks 8 & 10 Section 34, Hawker.**

**Recommendation: That the Minister initiate a master planning process for the whole Hawker retail and commercial precinct.**

**Recommendation: that the Minister consult with the community before proceeding with proposals.**

### **3.18.3. ACTPLA Feasibility Studies**

ACTPLA have been funded in this Budget to undertake six feasibility studies which total \$2.1 million in expenditure over two years.

It is unclear why additional budget funding is required to fund these measures. For example, the ACT Government will spend \$300,000 in 2010-11 to conduct a feasibility study into roads around the Gungahlin Town Centre. The Budget Papers state that the study will investigate the feasibility of implementing road network improvements recommended as part of the Gungahlin Town Centre Transportation Study completed in October 2009.

The Study proposed recommendations to improve access both to, and within, the Gungahlin Town Centre and surrounding existing suburbs, and upcoming land release areas.<sup>91</sup>

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<sup>89</sup> Jon Stanhope Radio 666 Friday 12 February 2010

<sup>90</sup> Estimates Hansard p1414

<sup>91</sup> 2010-11 Budget Paper No.3, page 165.

ACTPLA should already be adequately resourced to conduct such feasibility studies, especially given that the Gungahlin Town Centre Road initiative is one that has been recommended by a previous study.

Study	Funding 2010-11 (\$'000)	Funding 2011-12 (\$'000)
Molonglo – Future Stormwater Management	450	0
Molonglo – East-West Arterial Road and Extension of John Gorton Drive	250	200
Gungahlin Town Centre Roads	300	
Scrivener Dam Upgrade	350	
Woden Valley Stormwater Retardation Basins	150	100
Symonston – Arterial Road	200	100
<b>TOTAL</b>	<b>1,700</b>	<b>400</b>

#### **3.18.4. ACAT/Legal Expenses**

It was noted by ACTPLA in an answer to a question taken on notice that it has spent \$565,467.36 to date in 2009-10 on defending legal cases for ACTPLA. This is significant as it represents a significant proportion of ACTPLA's \$47.9 million budget.

**Recomendation: ACTPLA include in its annual report on each legal case where any decision by ACTPLA is overturned, the cost of each case and the reasons for the outcome.**

## 3.19. Land and Property Services

### 3.19.1. Whole of Government Office Building

The ACT Government has proposed that 3475 ACT Government public servants be collocated in one office building in Civic. It is understood by us that this building would be built on the car park on London Circuit adjacent to the ACT Legislative Assembly, should it go ahead.

The Department of Treasury has received \$3.1 million in the 2010-11 Budget to:

*“progress the proposal to co-locate ACT Government departments and agencies into a new purpose built government office building in Civic. The funding will be used to undertake a market sounding exercise to explore opportunities to enter into partnerships with the private sector to finance and deliver the project. In the event that the project proceeds, the funds will also be used to develop detailed procurement documentation”<sup>92</sup>*

Answers to questions on notice reveal that the ACT Government expects the cost of the building to be in the order of \$300-\$400m. The building would house 3745 officers from 11 Departments and Agencies

Question E10-627 taken on notice also reveals that the difference in annual rent, operating refurbishment, refit, procurement and finance costs of an ACT Government Office and a “business as usual” scenario that included *“relocation/upgrading to current Government environmental standards”<sup>93</sup>*.

It further states that the cost of these two scenarios would be \$47 million annually, while open market leasing of a single office building would cost \$49 million annually.

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<sup>92</sup> ACT 2010-11 Budget Paper No. 3, page 156.

Whilst it is clear from figures presented by the Government that the financial case of the new building is marginal, it is unclear which other benefits would flow to the ACT Government and ACT taxpayers.

The Project appears to have little merit other than the co-location of staff.

Further, LAPS has not considered the broader economic questions with the move, such as the impact this would have on the local economies that public servants currently work, or the impact on Gungahlin which is currently without a significant office tenant.

**ACT Government Public Servants who would be housed in the  
Whole of Government Office Building.**

ACT Health	442
ACT Planning and Land Authority	307
Chief Ministers' Department	203
Department of Environment, Climate Change, Energy and Water	106
Department of Education and Training	222
Department of Housing & Comm Services	664
Department of Justice & Comm Services	600
Land Development Agency	65
Department of Land and Property Services	76
TAMS	568
Department of Treasury	222
<b>TOTAL</b>	<b>3,475</b>

**Recommendation: that the Minister present to the Assembly a detailed business case for the whole of government office project.**

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<sup>93</sup> Questions taken on notice E10-627, Estimates Committee 2010

## **LDA and Land Release Program**

The Government announced in the Budget that it would release 17,000 new blocks.

We are very concerned that this is simply a hollow policy. In answers to questions on notice, the Minister for Land and Property Services indicated that it would be several years until the land will be build ready. The length of time it is taking from the release of the block until the owner moves in will continue to stifle demand in the short term. It will be several years until the expanded release program will have any impact on the housing market.

**Recommendation: the government outline how it will reduce the significant delays between when land is released to the market and when dwellings are able to be constructed.**

## **3.20. Tourism, Sport, Recreation and Gaming**

### **3.20.1. Sports Fields**

The following excerpt shows that approximately 40 fields have been taken offline since 2002.<sup>94</sup>

There are growing concerns by the community sports sector that there is an increasing shortage in community sports fields and that there is insufficient Government interest in bringing these fields back online.

These concerns were further acerbated when the Minister provided the following statement:

*I think there are some that, given that they have been out of circulation for so long, could have an alternative recreation usage<sup>95</sup>.*

**Recommendation: that the Government provides the Assembly with a detailed report of drought proofing measures that have been undertaken, and corresponding list of fields that have been brought back online.**

**Recommendation: Communicate to community sporting groups and peak organisations on the status of local fields and future plans to bring these fields back to operational use.**

**Recommendation: that a review be conducted to look into the viability of CRIP initiatives in relation to demand pressures for community sporting fields.**

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<sup>94</sup> Estimates Hansard p 1342

<sup>95</sup> Estimates Hansard p 1344

### 3.20.2. Lack of Indexed Funding for Sports

It was advised by the Government that 2002 was the last time there was a review of triennial funding. It was confirmed to be in 2002. However, there has not been a corresponding increase in funding, as shown below:

*MR DOSZPOT: When was the last time sports hire rental went up?*

*Ms Marriage: The hire fees go up by CPI each year.*

*THE CHAIR: So why is the grants amount not going up by CPI? Why is it not attracting indexation?*

*Mr Barr: It is just a budget issue.<sup>96</sup>*

The Minister further elaborated that triennial funding was not the only financial support that the sports sector received, and the matter of indexation of costs was merely a numbers game:

*We have not indexed the operational assistance to CPI. Undoubtedly, there would be the argument: why pick CPI; why not pick some other form of indexation? Ultimately it is a budget issue.<sup>97</sup>*

**Recommendation: that a review be conducted to ascertain whether present funding levels are adequate. The process should involve key stakeholders and the findings be conveyed to community sports organisations and groups.**

### 3.20.3. Exhibition Park Corporation

During 2009-10, the Legislative Assembly rejected a proposal from the Labor Government to abolish the Exhibition Park Corporation (EPC). This decision caused the ACT Government to retain a separate analysis and separate accounts for the EPC.

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<sup>96</sup> Estimates Hansard p 1352

In Budget paper No. 4, however, the ACT Government notes: *“The Government subsequently retained EPC as a stand-alone Statutory Authority with its own budget.”*<sup>98</sup> This is incorrect and should be rephrased to reflect the decision of the Assembly.

**Recommendation: It is recommended that the ACT Government correct the commentary relating to the status of the Exhibition Park Corporation.**

The application of the change of use charge was raised in relation to the redevelopment of the EPC site. The potential effect of the change of use charge on any redevelopment at the EPC site needs to be clarified.

**Recommendation: It is recommended that appropriate advice be obtained about the application of the change of use charge to any redevelopment projects that are proposed by the Exhibition Park Corporation.**

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<sup>97</sup> Estimates Hansard p 1353

<sup>98</sup> Refer to 2010-11 Budget Paper No. 4, p 493



### 3.20.4. ACT Gambling and Racing Commission

The ACT Gambling and Racing Commission recently conducted an inquiry into the proposed sale of the Labor Club. During this inquiry, a number of significant issues were raised about the powers of the Commission.

Of most concern, was the finding by the Commission that there was an attempt by the ACT Labor Party and the Federal Labor Party to influence the sale of the clubs. This was indicated in the report by the Commissions:

The Commission found '*there was considerable evidence that **attempts were made to direct and influence the Club's board in relation to the process***'.<sup>99</sup>

This was reinforced by evidence given to the Committee:

**MR SESELJA:** *Thank you. I have a few questions for Mr Jones.*

*Mr Jones, you conducted an investigation into the Labor Club sale, the attempted Labor Club sale, and one of the things you found was that there was considerable evidence that attempts were made to direct and influence the club's board in relation to the process. Who made those attempts to direct and influence the club's board?*

**Mr Jones:** *Greg Jones, Chief Executive, ACT Gambling and Racing Commission. The commission's investigation found that both the national executive of the ALP and the ACT branch of the ALP attempted to influence the decision of the club board, but were unsuccessful.*

**MR SESELJA:** *So this is the national executive, which Kevin Rudd sits on and the local executive, which the Chief Minister sits on?*

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<sup>99</sup> ACT Gambling and Racing Commission, Report of an Investigation into possible breaches of the Gaming machine Act 2004 by the Canberra Labor Club Ltd in respect of the proposed sale of the Canberra Labor Clubs, February 2010, Executive Summary, p3

**Mr Jones:** *I am not sure. I do not recall the exact makeup of the two executives or, you know, who actually sits on the ACT branch, but, yes, it was those organisations, yes.*<sup>100</sup>

These issues included the capacity of the Commission to gain access to all relevant documents and the ability of the Commission to pursue matters of interest that may not fall within the direct responsibilities of the Commission but which are germane to matters being investigated by the Commission.

It further raises very serious questions about the propriety of the Labor Party being the regulator of an Act which prohibits influencing the board of a gaming machine Licenced Club and being found to have actually attempting to do just that at both a national and local level.

**Recommendation: that the powers of the ACT Gambling and Racing Commission be reviewed so that inquiries being undertaken by the Commission are not unnecessarily restricted.**

**Recommendation: that a review be conducted into the finding that the Labor Party tried to influence the sale of the Labor Clubs.**

### **3.20.5. Tourism**

Tourism is one of the major industries in the ACT and any concerns that arise for that industry can have significant consequences for the ACT's economy. It was disturbing to receive evidence that there was little detailed planning that had been undertaken to set out the ACT Government's role in supporting tourism.

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<sup>100</sup> Estimates Hansard May 26 2010

In particular, there appears to be a dearth of planning for key activities within tourism. As well, there are issues related to the split of tourism functions between tourism, communications and events and events across two Departments.

**Recommendation: It is recommended that the Minister for Tourism have developed and tabled in the Legislative Assembly by the first sitting day in 2011 the plan for new attractions in the ACT.**

A critical feature of the structure of tourism activities in the ACT is a clear range of events that take place at particular times throughout the calendar year. The fact that specific events take place at specific times enables these events to build a reputation and become part of the broader national and international tourism agenda.

**Recommendation: It is recommended that the Minister for Tourism have developed and tabled in the Legislative Assembly by the first sitting day in 2011 the plan for new events in the ACT.**

There have been increasing concerns expressed about the availability of appropriate accommodation options in the ACT for people visiting the Territory. In particular, there is growing demand for low cost accommodation for large groups and for people who are travelling on budgets (such as 'grey nomads').

**Recommendation: It is recommended that the Minister for Tourism have developed and tabled in the Legislative Assembly by the first sitting day in 2011 the plan for the accommodation sector in the ACT.**

It is clearly evident that the Labor Government has struggled to make any sense of the Labor Party's promise, made in the 2008 ACT election, to fund a new Autumn tourism event. At the present time, all the ACT appears to be getting is some form of night time event run over a small number of evenings.

**Recommendation: It is recommended that the Minister for Tourism table in the Legislative Assembly before the commencement of the budget debate a detailed summary of and the business case for the new Autumn event.**

The overall management of tourism-related activities in the ACT requires a single focus. This focus will ensure a proper allocation of resources to research, to event development and to marketing and promotion such that Canberra – as Australia’s national capital city – is able to compete against the activities of Sydney and other locations.

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Prepared by Zed Seselja, MLA and Brendan Smyth, MLA

Signed: .....  
Zed Seselja, MLA  
21 June 2010

Signed: .....  
Brendan Smyth, MLA  
21 June 2010