



Jeremy Hanson CSC MLA

Australian Capital Territory

Member for Molonglo

Opposition Whip

Shadow Minister for Health, Police, Indigenous Affairs, Veterans' Affairs and Corrections

Ms. Meredith Hunter MLA
Chair
Select Committee on Privileges
ACT Legislative Assembly

For Information: Tom Duncan, Clerk

Dear Ms. ~~Hunter~~, *Meredith*,

Thank you for your letter dated 3 July 2009 inviting me to provide the Select Committee on Privileges with any information pertinent to the inquiry's terms of reference. Accordingly, I have attached a written submission for the Committee's consideration.

In your letter you ask that I express any concerns I might have about the manner in which evidence will be heard by the Committee. I would point out that this matter has been the subject of significant media coverage. A number of public statements have been made by various MLA's in relation to this matter including a press release from Ms Gallagher that is included in my submission.

I believe the nature of these comments makes it imperative that the Committee conduct its affairs publicly where it can. Accordingly, I would like to be given the opportunity to present my evidence in a public hearing.

Should the Committee require any additional information, or have any questions, please do not hesitate to contact me on (02) 6205 0133.

Yours sincerely,

A handwritten signature in black ink, appearing to read "J. Hanson", with a long horizontal line extending to the right.

Jeremy Hanson, CSC, MLA

20 July 2009

MR JEREMY HANSON, CSC, MLA
STATEMENT TO
THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY
SELECT COMMITTEE ON PRIVILEGES

"Labor believes in ministers taking responsibility and public servants being able to do their job. Ministers must take responsibility for their administrations; this is the bedrock of our Westminster system of government." (Federal Labor Election Policy 2007)

Introduction

1. This Submission will outline to the Legislative Assembly Select Committee on Privileges the sequence of events that led me to raise a matter of privilege in the Assembly and my request that the Committee be established.

2. In order to address the terms of reference of this Committee it is necessary to outline the full sequence of events pertaining to this matter in detail. This Submission will also provide the Committee with extensive evidence and examples of precedent to support my case.

3. I will prove the following to the Committee;

- a. **Firstly**, that the Minister for Health Ms Gallagher, the ACT Health CEO Mr Cormack, and a senior ACT Health Official Mr O'Donoghue misled me and others, including the Budget Estimates Committee.
- b. **Secondly**, that the Freedom of Information Act 1989 was used inappropriately to exempt information that could have otherwise caused political embarrassment to the ACT Government.
- c. **Thirdly**, that my Press release entitled "Another Gallagher Cover-Up" was based on strong evidence that such a cover-up had occurred.
- d. **Fourthly**, that in accordance with our Westminster System of democracy, my Press release was appropriately directed to the Minister for Health and not to any other individual.
- e. **Fifthly**, that in accordance with established practice under the Westminster system of government, the Minister should have responded to my press release rather than a public official.
- f. **Sixthly**, that by writing to me in the way that he did, and by advising me that I should retract my press release the CEO of ACT Health Mr Mark Cormack was attempting to interfere with and influence my ability to perform my responsibilities as an MLA.

4. This is an issue that I believe does go to the heart of the Westminster system of government and the ability of non-executive members of the Assembly to perform their duties free from interference and improper influence.

5. In particular I refer to Chapter 25 of Standing Orders for the Legislative Assembly which states that "...a person shall not improperly interfere with ... the free performance by a Member of the Member's duties as a Member." Nor shall a person by "threat of any kind...influence a Member in the Member's conduct as a Member"

Background Facts

6. Over a number of years leading up to 2008, the Stanhope Government announced that they were planning to establish an indigenous drug and alcohol rehabilitation facility known as the 'Bush Healing Farm'.

7. In March 2008 the Stanhope Government identified a site at Paddy's River, Tharwa, known as Miowera, and commenced the process to purchase the property with the intent of establishing the Bush Healing Farm at that location.

8. On 9 July 2008, the owners of the property adjacent to Miowera wrote by email to the Chief Minister stating that "*We have been informed of the possibility of a drug and alcohol rehabilitation facility being built at Miowerra and have grave concerns about such a development*". In outlining their concerns the owner stated that "*We had hoped to contribute to the agricultural aesthetic and tourism of the area by establishing a vineyard and ultimately, with government approval, cellar door sales and possibly a bed and breakfast establishment.*"

9. They went further to say "*Since purchasing our property, we have outlaid significant sums of money and time to establish the first of what we hoped, would be several plantings of vines.*" A copy of the email is provided as Attachment A.

10. Around September or October 2008 the neighbours of Miowera met with Mr Ross O'Donoghue from ACT Health and discussed issues relating to their plans for a vineyard, cellar door and bed and breakfast.

11. In a press release on 3 March 2009, the Government announced that they had purchased the site for the purpose of establishing an indigenous drug and alcohol rehabilitation facility. The release included the statement that:

"The new site at "Miowera", on Paddy's River Road Tharwa, meets all the criteria set by the ACT Government and the Aboriginal and Torres Strait Islander reference group," Ms Gallagher said.

12. However, information provided to Ms Gallagher in a Ministerial brief attached to this submission as Attachment B, states that the facility actually requires the site to be; "*away from main roads (eg. away from licensed premises).*" It is clear therefore that revelations that a cellar door was planned for the property next door would be politically embarrassing for the Government and ACT Health.

Initial Media Reports

13. On 4 March 2009 a story was published in the Canberra Times. The following is an extract:

Planned detox farm just a stroll to winery

BY MICHAEL INMAN

5/03/2009 12:00:00 AM

Indigenous alcoholics will be forced to confront their demons within sight of a winery. It has been revealed a proposed \$11.8 million, 16-bed bush healing centre to help Aborigines with drug and alcohol problems, unveiled by the ACT Government on Tuesday, will be built on a property adjoining the Tidbinbilla Vineyard.

While the vineyard on the Tidbinbilla Road, near Tharwa, is yet to start producing wine, it plans to begin commercial operations in 2010, a year before the completion of the bush healing farm.

ACT Opposition Leader Zed Seselja pounced on the revelations, accusing the ACT Government of a planning bungle.

"This is a classic example of what happens when you don't plan properly. [ACT Health Minister] Katy Gallagher has announced her bush healing farm apparently without knowing it will be built next to a vineyard, with the possibility of a cellar door operation within walking distance," Mr Seselja said.

"After getting the planning process so wrong with the first site, you might have expected the Government to be more cautious with their second choice."

"Instead, we have spent a million dollars to buy land for a drug and alcohol rehabilitation centre next door to a potential winery."

"It would seem that residents of the rehab centre may even have to drive through the vineyard to get to the proposed site."

14. The story also ran widely on the radio and on blog sites such as RiotACT and had clearly become an issue of significant political sensitivity. Mr Seselja the leader of the ACT Opposition, was running a successful political attack on the Government's planning processes based on the allegations of a winery being planned next door to an alcohol rehabilitation facility.

Briefing from ACT Health

15. On 6 March 2009, as a result of concerns raised about the ACT Government planning process in acquiring the property Miowera, Mr Zed Seselja requested documents related to the purchase be provided to him under Freedom of Information Legislation.

16. On 17 April 2009 two Liberal Party staff and I received an ACT Health departmental briefing from Mr O'Donoghue and Mr Cormack. Towards the end of the briefing Mr Cormack was asked about the media reports in the Canberra Times that a winery was proposed to be established on the property adjacent to the Bush healing farm. Both Mr Cormack and Mr O'Donoghue were adamant that there were no proposals they were aware of and that it was essentially a 'media beat up'.

17. I do not recall the exact form of words, but the staff members and I were given the clear impression that the media reports about a proposed winery and a cellar door next to Bush Healing Farm were spurious.

Estimates Committee Hearings - Questions and Answers

18. During Budget Estimates hearings on 19 May 2009, the subject of the Bush Healing Farm was again raised.

19. During the hearings of 21 May numerous questions were again asked regarding the planning process for the Bush Healing Farm. During the questioning I reviewed a copy of the email sent to the Chief Minister by the neighbours of Miowera that had been provided to the Opposition. The email clearly contradicted what we had been told at the briefing by Mr Cormack and Mr O'Donoghue and so I took the opportunity to clarify the issue of the winery and the contradiction:

MR HANSON: "When this was all going on, as well, there were allegations about a plan for a cellar door next door? We discussed this in the briefing as well. Can you extrapolate on those plans for the cellar door?"

Mr Cormack: "There were not any."

20. Let me repeat that. "There were not any." This was a categorical and unambiguous denial, and based on the evidence I had, it was clearly inaccurate, incomplete and misleading. This is the same sort of categorical and unequivocal denial that we had faced in the briefing of 17 April. I therefore pushed Mr Cormack for a more honest response.

MR HANSON: "There have never been any plans?"

Mr Cormack: "There was a media report when we had our briefing with you. We referred to recent media reports that had come up about the time that this came up in the media most recently. We undertook the necessary checks and established that there had been no DA for a winery, no DA for a cellar door. The person may have had an individual desire to have a winery and a cellar door—a noble aspiration, I would have thought—but in this case, when we did our searches, there was no evidence of that."

21. Mr Cormack again denied any knowledge of the neighbours' plans. However, the Chief Minister had received a letter from the neighbours that had been passed to ACT Health outlining those plans and Mr O'Donoghue had spoken with them himself. He was fully aware that the owners did have an aspiration and have a desire,

and that they had plans because he was aware that they had written to the Chief Minister outlining those plans.

22. The fact that there was no Development Application (DA) is totally irrelevant and in my view is deliberately misleading. A DA is not necessary to have such a plan. Indeed, the Bush Healing Farm itself does not have a DA but it would be entirely accurate to say there are plans and desires and aspirations:

23. Let me turn now to what Mr O'Donoghue said:

Mr O'Donoghue: "Mr Hanson, as I said to you on Tuesday, or as I answered the question on Tuesday, viticulture is a permitted use of a rural lease—that is, the growing of grapes—but a business of the nature of a winery or a cellar door operation would require a specific development application for that purpose. Our searches looked for any relevant development applications on neighbouring properties, and there were no such development applications for that type of business."

24. Listening to that response it appeared that Mr O'Donoghue was totally unaware of plans or aspirations for a winery. It was difficult to believe that he had in fact read a letter written to the Chief Minister outlining such proposals and difficult to believe that he had discussed the issue face to face with the property owners. He simply omitted that information.

25. These officials were also acutely aware of the political sensitivities and opportunity for political damage to the Government that an admission would potentially result in. I had asked the question twice in Estimates hearings, and in the briefing of 17 April 2009 but they did not admit that they were in fact fully aware of plans that the neighbours of Miowera had for a cellar door.

26. Let me now go to Ms Gallagher's role in this issue. She also denies any knowledge of plans for a winery.

MR HANSON: "No, it is just that it was raised in the media. No. Where I am going is that it was raised in the media. We did not make these allegations raised in the media that there were plans for a winery next door. The briefing I received, and I think yesterday, said no, there were no plans for a winery next door."

Ms Gallagher: "As far as we are aware."

27. She said that "as far as we are aware" there are no plans for a winery. She states that no one is aware of the neighbours' plans. This is a clear denial not only on her behalf but I assume she by saying 'we' means her Department. This is despite the fact that she was actually aware of the neighbours' intentions.

28. At that point I raised the issue of the email that I had. I essentially pointed out to them that I now had evidence that the neighbours did indeed have plans and that the Minister and Mr Cormack had misled the Estimates Committee.

MR HANSON: "I have correspondence dated 9 July from the owners of that property to the Chief Minister. It says: "We had hoped to contribute to the agricultural, aesthetic and tourism of the area by establishing a vineyard and ultimately, with government approval, cellar door sales and possibly a bed and breakfast establishment."

29. After this evidence was presented the following exchange occurred:

MR SMYTH: "...but in consultation, when this issue arose out of the email, what action did the government take in addressing the concerns of the next-door neighbour?"

Ms Gallagher: "Ross, you went out and met him, didn't you?"

Mr O'Donoghue: "I did indeed. During September and October of 2008, I personally went out and made arrangements to speak with all the neighbouring leaseholders. Those concerns were raised by that particular couple who had aspirations to have a future bed and breakfast or cellar door operation..."

30. So once the evidence was presented the story changed. Once it is made obvious that we have evidence, the Minister shows that she is aware of what is going on to the extent that she is aware of the briefings that have been given by her official Mr O'Donoghue on the matter. She demonstrated an intimate level of knowledge in direct contradiction to saying that "as far as we are aware" no one knew of any plans.

31. Mr O'Donoghue had listened to Mr Cormack deny the matter categorically and state that there was no evidence of aspirations for a Cellar Door and he had listened to his Minister say she was not aware of any plans. He remained mute despite the fact that he had met face to face with the neighbours of Miowera and had read their letter.

32. There is no way that this could be viewed in any other way, Mr Cormack and Mr O'Donoghue had withheld information and misled me in the briefing and then they, along with the Minister, misled the Estimates Committee.

FOI Exemptions

33. In preparation for the Estimates hearings Mr Seselja's staff had provided Opposition members with a briefing pack containing a number of the documents released to him under FOI. As we were going through this line of questioning, I compared my uncensored copy of the email with the version released under FOI that was in my briefing pack. A copy of the FOI version and the covering emails is attached as Attachment C.

34. The covering emails from the Chief Minister's Department and ACT health officials requested that the email be referred to the Minister for Health, "Please refer to Min for Health with ack from COS".

MR HANSON: "Can I just ask this, then. In the FOI that was provided on this issue, on a copy of the letter, why is it that the words "cellar door" were blacked out? What

was the rationale behind blacking that out in the FOI that was provided? The original correspondence reads: "The aim was establishing a vineyard and ultimately, with government approval, cellar door sales and possibly a bed and breakfast establishment." "What was the rationale behind blacking that out-"

35. Mr Cormack took the question on notice.

36. After the estimates hearings I reviewed the documents in more detail and discovered that the words Cellar Door, Bed and Breakfast and Vineyard had been exempted under Section 41 of the FOI Act 1989 as shown in the ACT Health Schedule of Documents (Folio 305-307) provided at Attachment D. Section 41 of the Act states that:

"A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person)."

37. Ms Gallagher provided confirmation of this in her response to my Question on notice.

Ms Gallagher: *"The answer to the Member's question is as follows:"*

"All Freedom of Information requests are considered against the relevant sections of the Freedom of Information Act 1989, which has provisions to exempt the release of certain information"

"In this instance, this information was included in correspondence received from a third party. ACT Health determined that it would not be appropriate to release this information under section 41 of the Act (Documents affecting personal privacy)."

"Under this section it is stipulated: 'A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person.'"

"In this instance, the exempted information would have identified the author of the correspondence, due to its specific nature."

38. However, the email still contained information that even more clearly identified the location of the author's property, that being: "I am writing to voice concern over the proposed purchase by the ACT Government of the property 'Miowera' which adjoins our property located at [text exempted]". The fact it has vines established on it and is the only such property in the area would have identified the owners more so than any future plans they had for the future: "since purchasing our property, we have outlaid significant sums of money and time to establish the first of what we hoped, would be several plantings of vines." The rationale for censoring the words 'cellar door', 'vineyard' and 'bed and breakfast' was highly inappropriate and not in accordance with the Act. This is highlighted by other far more revealing but less politically sensitive information that was left uncensored.

39. What made this even more bizarre is that the Minister and Health officials spent so long denying that there were any plans, and then used the rationale that the words were exempted under FOI because revealing their plans would clearly identify the authors of the email! This contradiction in their argument serves again to highlight the misuse of FOI process in this case.

40. I have reviewed the full folio of documents released under FOI in this matter and consider that special attention was drawn to this particular document. In other documents mobile phone numbers and names were left uncensored and even documents where the full names of the previous property owners of Miowera were left uncensored.

41. I point to the following examples of inconsistency should you wish to review the folio; Folio 24, Folio 25, Folio 91, Folio 109(e), Folio 109(i), Folio 109(o), Folio 252, Folio 261(b), and Folio 267. The documents are attached as Attachments E to M respectively.

42. When recalled to estimates on 9 June, Ms Gallagher excused the blacking-out of the words cellar door, vineyard and bed and breakfast with the assertion that;

Ms Gallagher: "Again, this is from my understanding, and Mr Cormack can go to the requirements of the Act—that they related to third-party information, that permission had been sought to release that information, that permission was not granted or feedback was not provided, so Health erred on the side of caution by not releasing that information in time to get the FOI into whoever's office it was at that time on the timetable that was required."

43. I have checked with the authors of the email and they have told me that there was never any contact from ACT Health about FOI. They have checked their emails and records and have absolutely no recollection of any contact being made by ACT Health in relation to this or any other FOI matter. You may consider that the Minister should present some evidence that an attempt was made by ACT Health to contact them. If she is unable to do so then she should correct the record.

44. I noted that the individual signing off on the FOI was Mr O'Donoghue. This in itself calls into question the independence of the FOI process given that Mr O'Donoghue had previously been in the briefing where the issue had been discussed and had been involved at that stage in denials that there were any plans for a cellar door or vineyard.

The Press Release and Ministerial Responsibility

45. Based on the denials and omissions made by Mr O'Donoghue, Mr Cormack and the Minister, I believed that this issue warranted further explanation. As the Minister had been involved in the estimates proceedings and as she had intimate knowledge of the matter and as she, under the Westminster system of Government, is responsible and accountable for the administration of her Department, I released a press release calling on her to explain. The press release titled 'Another Gallagher Cover Up' was clearly targeted at the Minister and stated: "The Minister for Health, Katy Gallagher, has to explain why documents relating to the winery being built next

to the proposed Bush Healing Farm were censored to remove mention of the cellar door and winery." A copy of my press release is provided as Attachment N.

46. You will note that I called on the 'Minister for Health, Katy Gallagher' to explain, not anyone else, and certainly not any ACT Health Official. It is entirely appropriate for shadow ministers to hold ministers to account and not public servants. This goes to the heart of the Westminster system of government and the principle of ministerial accountability.

47. I refer you to the Ministerial code of conduct 2004 that says under the section dealing with Principles of Accountability, "*Ministers are individually accountable to the Assembly for the administration of their Departments and Agencies.*"

48. Further under the section relations with the Public Service, "*Ministers have responsibility for the operations and performance of their departments and agencies in accordance with the provisions of the Public Sector Management Act.*"

49. The Public Sector Management Act 1994 - Sect 28B - 'Effect of contracts on responsibilities of Ministers', makes it clear that nothing in a contract under section 28 (a chief executives engagement) shall be taken to derogate in any way from the responsibility of the minister administering an administrative unit.

50. In her speech to the Institute of Public Administration on 20th September 2007 Penny Wong outlined the Labor Party's policy on ministerial accountability and the public service at the last Federal election:

"Labor believes in ministers taking responsibility and public servants being able to do their job. Ministers must take responsibility for their administrations; this is the bedrock of our Westminster system of government. But I would argue there has been a steady erosion of the Westminster system over the past eleven years. For us, in Labor, this is not an abstract philosophical argument. A nation's people need to have confidence in their government - and in their system of government - or divisions begin to open up in our community. Cynicism builds about the government's motivations, doubts grow about whose interests are being served, and we lose trust in each other. So our objective is clear: we want to reverse the trend of buck-passing by the Executive." (Labor Party Website Policy Page archived 2007)

51. This is a bi-partisan position and the Guide on Key Elements of Ministerial Responsibility issued by the Prime Minister in 1998 provides the following view of decisions that may have been delegated to departmental officers.

"While the delegate will take direct responsibility for individual decisions taken under delegated power, the minister may still be held to account for the overall adequacy of the decision-making arrangements and the achievement of acceptable standards."

52. I have also reviewed the common definition of ministerial responsibility. The most easily accessible and common source of such definitions is Wikipedia, the online encyclopaedia. It provides a clear layman's explanation of what ministerial responsibility is:

“Ministerial responsibility or Individual ministerial responsibility is a constitutional convention in governments using the Westminster System that a cabinet minister bears the ultimate responsibility for the actions of their ministry or department...”

“This means that if waste, corruption, or any other misbehaviour is found to have occurred within a ministry, the minister is responsible even if the minister had no knowledge of the actions. A minister is ultimately responsible for all actions by a minister....”

“The principle is considered essential as it is seen to guarantee that an elected official is answerable for every single government decision. It is also important to motivate ministers to closely scrutinize the activities within their departments... The reverse of ministerial responsibility is that civil servants are not supposed to take credit for the successes of their department, allowing the government to claim them.”

53. As is commonly understood, public servants are not supposed to take credit for the successes of their department and nor should public servants take the blame for any failures of their department. This is very clear. This is a very well understood aspect of the Westminster system of government which our Legislative Assembly adheres to.

54. There has also been some broad misunderstanding or indeed some intentional misinformation from ministers throughout this process that ministers are not responsible or accountable for the administration of Freedom of Information within their departments. I have reviewed the FOI Act 1989, Hansard and the public record in detail and have confirmed that minister's are indeed accountable.

55. The FOI Act 1989 states that FOI exemption can be made *“by the Minister, by the CEO or by an officer delegated with that responsibility by the Minister or the CEO.”*

56. I point to the Auditor General's comments from his audit report of 2001 into Freedom of Information Act in the ACT. In the report he finds that:

“The Audit would note that the responsibilities of ministers and chief executives in regard to the Act are not adequately met simply by issuing written authorisations to decision makers. They must ensure that authorised officers are capable of administering the Act and that the decisions of authorised officers are monitored effectively.” (B4.15)

“The Audit would further note that the responsibilities of ministers and chief executives in regard to authorising decision makers are not adequately met simply by authorising senior officials to exercise decision making powers under the Act.” (B4.17)

57. The Auditor General clearly understood that there is Ministerial responsibility and accountability in relation to FOI. He used the phrase 'Ministers and Chief Executives' twice. Not 'Ministers or Chief Executives.'

Matters of Precedent

58. Mr Corbell outlined his view of ministerial responsibility and accountability in relation to FOI on 11 Feb 2009, when debating FOI legislation in the Assembly.

"The amendment recognises the paramount importance of the relationship between a minister and his or her public sector advisers. The doctrine of ministerial responsibility dictates that ministers, individually, and cabinet, collectively, are responsible and accountable."

"Ministers need to be briefed about what their departments are doing. They need to know if problems exist and how those problems might be dealt with."

59. So Mr Corbell said quite clearly in a debate relating to FOI that; *"The doctrine of ministerial responsibility dictates that ministers, individually, and cabinet, collectively, are responsible and accountable."*

60. I also draw parallels with my release and that of Mr Corbell who in 2001 on the eve of the election found fault with an FOI release from a Territory owned Corporation. A copy is provided at Attachment O.

61. Mr Corbell was critical of the fact documents are not being released under FOI by a Territory Owned Corporation and alleged that they had something to hide. He held the Chief Minister responsible, drawing the conclusion; *"So much for Gary Humphries often touted but seldom practised policy of openness and transparency of government"*

62. Mr Corbell questioned the Chief Minister's openness and transparency because he understood that it is ministers who are accountable. What would Mr Corbell have done if the head of ACTTAB requested that Mr Corbell should withdraw this press release? He seemed to understand Ministerial responsibility very differently in 2001.

63. The then Leader of the opposition, Jon Stanhope said in the 2001 election campaign on 14 March in his publicly released document 'A Code for Good Government' that

"Labor rejects the corruption, for instance, of the Freedom of Information process that has characterised the years of the Carnell-Humphries Governments, a corruption of process that saw my legitimate request for information about the Bruce Stadium redevelopment denied all the way to the Administrative Appeals Tribunal."

64. Mr Stanhope's assertion is that these were issues of corruption concerning FOI requests. He talked about a corruption of process and named the Chief Minister. I will leave it to the Committee to assess whether Mr Stanhope was correct in using the language he did by alleging corruption, far stronger language than that used in my own press release. The point is though that he was holding government ministers to account for a perceived problem in the process of FOI. He did so because this is usual practice in a Westminster parliamentary democracy.

65. There are numerous examples across other Australian parliaments of opposition and cross bench members who have been dissatisfied with FOI responses and have held relevant Ministers to account.

66. Let me cite the example of Federal Senator Christine Milne from the Greens in the case of an FOI request she made to the Federal Department of the Environment, Water Heritage and the Arts. The FOI request was rejected by the Department, in this case by an officer of the Department, the First Assistant Secretary of the Approvals and Wildlife Division. The letter providing this response was sent to her on 24 July 2008.

67. In response on 21 August 08 (Attachment P), Senator Milne released a press statement titled:

"Garrett must release critical CSIRO pulp mill report: stop protecting Gunns."

68. In her press release she stated;

"Since when has the Commonwealth Environment Minister seen himself as the protector of the interests of big business at the expense of the environment and the public interest?"

"What about the public interest in how much pollution the Pulp Mill will pump out, Peter?"

70. On 27 August 2008 (Attachment Q) she stated in relation to this case that:

"I think it is cowardice on behalf of the Government to blame a departmental officer when the minister is clearly making a decision to prevent the public having this document in the public interest."

"Ultimately, it is the houses of parliament that determine what can and cannot be released and I will be asking the minister to release these documents," Senator Milne said.

71. Senator Milne considered that in this FOI case the Minister needed to be held to account for protecting big business at the expense of the environment and the public interest. She used the same doctrine of ministerial accountability that I did in my press release.

72. I assume that she did not receive a letter in response from the Secretary of the Department of the Environment, Heritage and the Arts requesting that she withdraw her press release because he considered it was accusing him and his Departmental officials of *"Protecting big business and the environment at the expense of the public interest."* I can only imagine Senator Milne's response if she had.

73. Based on the background to this issue, the evidence that I had both in terms of the untruths and omissions, and the documentary evidence I had, my press release was appropriate in its content.

74. It was also appropriate in terms of to whom it was addressed, that being the Minister. This is made clear relative to her responsibilities under the Ministerial Code

of Conduct 2004, normal practice of the Westminster System and indeed the extensive precedent set by this Government.

75. I stand by my assertion that the FOI process was used improperly and it was for the Minister to respond.

76. What I have detailed so far is background information but before I move to the inappropriate letter I received from Mr Cormack let me summarise what had occurred to that point.

- a. On 15 July 2008 the neighbours of Miowera, the site of the alcohol rehab facility known as the Bush Healing Farm, had written to Mr Stanhope advising him of their intention to develop their property including plans for a cellar door, vineyard and bed and breakfast.
- b. In September or October 2008 the neighbours had had discussions with Mr O'Donoghue from ACT Health.
- c. On 5 March 09, the Canberra Times and other media outlets ran the story that there were plans for a cellar door next to the Bush Healing Farm and Mr Seselja strongly attacked the Government's planning processes.
- d. On 17 April 2009, in a briefing to the Opposition, ACT Health officials denied knowledge of plans for a cellar door.
- e. On 8 May 2009, the Neighbours' email was released to the Opposition under FOI Legislation with the words Cellar Door, Vineyard and Bed and Breakfast obscured.
- f. On 21 May 2009 in Budget Estimate Hearings ACT Health Officials and the Minister denied that there were plans for a cellar door next to the Bush Healing Farm.
- g. On 21 May 2009, I released a Press Release calling the Minister to account for what, on strong evidence, appeared to be a cover-up of politically sensitive information.

The Veiled Threat from Mr Cormack

77. It was in this context that I received a letter from Mr Cormack that is provided as Attachment R. I was surprised in the extreme that he had written to me in response to a press release that had clearly called the Minister to account. In fact my press release used the very specific language that "*The Minister for Health, Katy Gallagher, has to explain why documents relating to the winery being built next to the proposed Bush Healing Farm were censored...*"

78. In his letter Mr Cormack stated that "*I categorically reject as baseless and untrue any allegation that I or any of the ACT Health officers responsible for dealing with this FOI application have participated in a "cover up" or "misuse of process"*."

79. My press release contained no such allegation about Mr Cormack or any ACT Health Official. The only person mentioned was the Minister and given my very specific language it is obvious that she was the target of my concerns.

80. As the evidence indicates, I was concerned there may indeed have been some inappropriate actions taken by ACT Health officials but I did not say so in my press release which was appropriately targeted only at the Minister.

81. I was particularly concerned that Mr Cormack was making certain requests of me which, had I complied, would have interfered with my ability to question the Minister and my call for an explanation from her. He stated that:

"In light of the above I believe that it is appropriate that you withdraw this allegation, and this is best done by withdrawing the media release in its current form. I believe that it is also appropriate that you take appropriate steps to clarify your published statement."

82. Given that I had made no allegation against him or any official, the suggestion that I withdraw my media release would obviously have prevented me from pursuing this matter fully and appropriately. I was very concerned by the statement that:

"While ever this matter remains unclarified by you, the reputation of the integrity of myself and that of the officers responsible for managing this FOI process has the potential to be unfairly called into question."

83. The inference was that he and other departmental officials were somehow being defamed by me and that if I stood by my press release, and did not make a clarifying statement, then I was continuing to defame them. In my view this was a veiled threat of potential impending legal action that was an attempt to influence me.

84. I discussed this matter with my colleagues, a number of whom have legal training. They agreed that his letter contained the veiled threat that I had defamed Mr Cormack and he would take further action if I did not withdraw my press release and make a clarifying statement.

85. In order to substantiate this view I sought professional legal advice. This advice was provided to me by a solicitor, who agreed that in his opinion, the letter from Mr Cormack implied that I was guilty of having defamed him, and contained the veiled threat of further action if I did not comply with Mr Cormack's requests.

86. The advice I was provided also concluded that there was in fact no case of defamation for me to answer.

87. My concern that Mr Cormack's letter was threatening legal action if I did not follow his requests was confirmed retrospectively by the Chief Minister, who said in the Assembly on Tuesday 16 June 2009.

".... he wrote to Mr Hanson in a polite and professional way to seek to address. Namely, "Mr Hanson you are wrong". You have defamed me. You have defamed my officers, I would appreciate it if you desisted."

88. The judgement of the Chief Minister is exactly as I feared, and confirms the opinion that the letter was alleging that I had defamed departmental officials and if I did not desist then I would face legal action. What the Chief Minister went on to say clearly illustrated the views of his Government and why I have pursued this matter. He said:

"What he should have said in this letter is that "If you do not desist then I will sue you," and I will support him in that".

89. In her own press release 'New Lows from the Liberals with their Grubby Politics', Ms Gallagher, refers to my press release as a "statement with unsubstantiated, slanderous claims about a public servant". A copy of Ms Gallagher's press release is provided as Attachment S.

90. My press release was directed solely at the Minister and no one else, the attempts by Mr Cormack, Ms Gallagher, and the Chief Minister to assert otherwise is simply wrong. There has been no defamation by me of any ACT Health officials. In fact my press release makes absolutely no mention of any ACT Health officials. Consistent with the Westminster system, my issue was with the Minister alone.

91. Opposition and Cross-Bench members before me have regularly put out press releases directly targeting various Ministers for failures in their departments, failures for which they may have had no direct involvement. Almost every time a minister is criticised, a public servant could probably be identified amongst his or her colleagues as the one most involved in the process.

92. To assert that individual public servants are defamed because they may consider criticism of their minister to reflect badly on them with their colleagues is absurd. However, Mr Stanhope made this assertion in the Assembly. His rationale for why I have defamed Mr Cormack or some other ACT Health official is as follows.

"That is why I say this is actionable. Because those public servants are identified to their colleagues." (Hansard 16 Jun 09)

93. I have not actually identified any public servant but the Chief Minister's rationale would leave an MLA open to libel action on almost every occasion a Minister was criticised by an opposition or cross-bench member.

94. Any reasonable reading of my press release could not lead the reader to question what I was doing other than publicly holding the minister to account and demanding that she respond. To extrapolate otherwise is entirely wrong. My response to Mr Cormack is provided as Attachment T.

Action taken on Receipt of the Letter

95. So what were my options? To comply with Mr Cormack's requests and allow him to interfere with and influence my duties as an MLA, or to stand my ground on this matter of principle.

96. I decided that it was important that I not acquiesce to Mr Cormack's veiled threats, as by doing so it would establish a dangerous precedent and send a clear message to the ACT Public Service that they can influence political accountability by threatening personal defamation.

97. Opposition and cross bench MLA's must be free to publicly criticise the government and the executive robustly, without fear and without interference and improper influence. Our democratic system is reliant on it.

98. The implications for all non-executive members of the Assembly are significant, and in considering how to proceed I took into consideration the context of the issue and matters of precedent. I also sought extensive advice including from the Clerk of the Assembly, Mr Tom Duncan.

99. Several facts convinced me that I should pursue this matter to its fullest extent as a matter of privilege.

- a. **Firstly**, the seriousness of the original issue itself, that being the improper use of the FOI process to cover up politically embarrassing information.
- b. **Secondly**, the letter from Mr Cormack which, had I complied with it, would have interfered and influenced my ability to hold the Government to Account.
- c. **Thirdly**, throughout the estimates hearings there were several accounts of inappropriate actions between senior public servants and the Labor Party that gave me concern that this was not an isolated incident. This included the use of the Canberra Hospital by the Labor Party for party political purposes without "due process or record keeping" (Budget Estimates Report Recommendation 56 refers).
- d. **Fourthly**, that this was not the first time an incident of this nature concerning Mr Cormack had occurred. Mr Cormack had previously written a letter to Mrs Burke the previous Shadow Health Minister criticising a media release. I don't have a copy of the letter but have a copy of the ABC media reports of this event titled '*ACT opposition 'warned away' from criticising health system*'. Mrs Burke is reported in the media as saying that "*the letters are alarming and it is the first time the head of a department has written to her in such a way.*" A copy is provided as Attachment U.
- e. **Fifthly**, that incidents of ACT Health Officials behaving inappropriately to assist and protect the Labor Government and being found in Contempt of the Assembly have occurred previously. I refer to a finding of contempt against officials from ACT Health which was made by a Privileges Committee of this Assembly in 2003. I refer to p 318, section 17.29 and appendix 16 of the Companion to the Standing Orders. In this case a document was distributed throughout the senior management of ACT Health by two ACT Health Officials advising ACT Health officials appearing before the Legislative Assembly Budget Estimates hearings how

to "manipulate the proceedings, avoid answering questions, present information selectively, and make party political points." Two individuals were disciplined in this case and the Privileges Committee report also states that:

"The greater concern of the committee is the fact that 29 recipients of the document including the Acting Chief Executive of ACT Health did not respond to the document at the time of circulation/publication." (3.55.)

100. I believe that these are matters that may need to be addressed by the Ombudsman and I will consider referring this matter to him in due course for further investigation.

101. However, a number of matters extend beyond the Ombudsman's responsibilities with regard to the Assembly's Standing Orders, and it was in this context that I decided to proceed with this issue as a matter of Privilege.

102. I consider this a matter of principle and a matter that goes to the heart of the ability of non-executive MLA's to do their job effectively. This goes to the heart of scrutiny of the Executive and this goes to the heart of the independence of the ACT Public Service.

The Government's Response

103. I believe that Mr Cormack has a case to answer, but more broadly, responsibility should also be apportioned to the Government and its Ministers. If public servants have erred and behaved inappropriately then I believe it is largely due to a culture created by this Government.

104. Ms Gallagher's press release titled 'New Lows from the Liberals with their Grubby Politics' (Attachment S) provides a poignant example. Distributed within hours of the Assembly's decision to refer this matter to a privileges committee, the Minister publicly pre-judged the outcome of this Committee and declared that *"This motion makes a joke of the ACT Legislative Assembly."* She has also maintained the entirely false premise that my press release that actually called on her to explain certain actions was somehow "slandorous" and "sledged" public servants.

105. It is evident from the Minister's press release that she fully supports ACT Public Servants writing to Liberal and Greens MLA's to request that they retract press releases that public servants may consider offensive. The tacit encouragement she is giving to public servants to follow Mr Cormack's lead through her press release is inappropriate and is another demonstration of how this Government has allowed, and even encouraged, a blurring of the lines between the Labor Party, the Government and the Public Service.

106. Of note, her press release was distributed throughout the ACT Public Service from an ACT Government email address. The copy I received came from a staff member at the Canberra Hospital.

107. It is without doubt an entirely political press release. She has publicly inflamed an already sensitive issue, attacked me personally, attacked the Liberal Party and Greens Party, ridiculed the decisions of the Assembly, and pre-judged this Committee's inquiry. I accept that this is the nature of politics but it is wholly hypocritical for the Minister to take offence from my original press release and then issue such a document.

108. Allegations have also been made by the Government that this is a "*deliberate agenda, a plan, a plot hatched by the Liberal Party and the Greens to blacken the name of the Chief Executive of the Department of Health and his department*" (Simon Corbell, Hansard 16 June 2009).

109. There has been no collusion between the Greens and the Liberals on this matter as has been alleged by Mr Corbell. I will highlight some of those false allegations he made in the Assembly on 16 June 2009:

"And I know the Liberals and the Greens do not want to talk about it, Mr Speaker, but that is what is going on. It is a deliberate political plot to blacken the name of a senior public servant without any good reason." (Hansard 16 June 2009)

110. Mr Corbell further alleged:

"I think the Greens are out of their league on this matter and they are conniving with the Liberal Party in a political stunt that seeks to threaten, intimidate public servants who have the temerity to point out to members of the opposition where they are factually incorrect". (Hansard 16 June 2009)

111. He further alleged:

"...the Greens and the Liberals really are shaping up, if they are successful today, and I hope that they are not, but they are shaping up to establish this kangaroo court, to persecute a senior public servant who seeks to draw a member's attention to the truth. That is what this is today. By threat and intimidation, which is what this motion is today, they are sending a clear message to all public servants, "Do not tell us the truth, do not tell us what it is you think or believe to be accurate. If we find it objectionable, we are going to establish a select committee of Privileges into you". (Hansard 16 June 2009)

Conclusion

112. My intent is the opposite what Mr Corbell has alleged. I wish to send a clear message that non-executive members of the assembly will not be threatened or intimidated.

113. It is the Government that practices threat and intimidation and has sent a clear message to public servants "do not tell the truth, do not tell us what you think or believe to be accurate." The Chief Minister sent that message loud and clear to the Auditor General only recently.

114. This is obviously unpalatable and confronting issue but it cannot be swept under the carpet. It is simply wrong for a senior bureaucrat to attempt to influence and interfere with an MLA in the conduct of performing their democratically elected responsibilities, and that is what occurred.

115. My message to the public servants of the ACT is it is your duty to tell the truth. It is your responsibility to tell us what you think, and to be accurate.

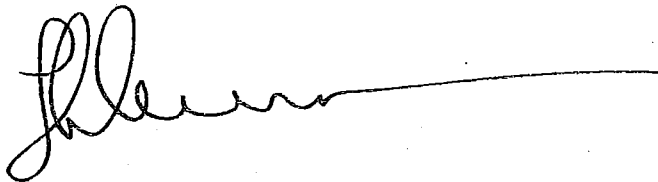
116. We will support you. We will protect you. We will put an end to the inappropriate blurring of the lines between the Executive and the Public Service and the Labor Party.

117. We will hold Ministers to account for their responsibilities. We will not directly contact you inappropriately as you should not contact us directly inappropriately.

118. The cover-up, and there is compelling evidence that there was one, is for the Minister to account for, and for her alone. This is how the Westminster system works, this is the principle behind my press release, and this is what I stand by today.

119. I appeal to the Committee to act in the best interests of our democratic systems. If you fail the test today, then what public servant will ever again feel that it is their duty to tell the truth, to be accurate, or tell us what they think?

120. We are at a crossroads and it is with you to take the highroad of accountability. Your decisions made in this committee will reverberate throughout the Government, the Assembly and the ACT Public Service at large. You have the opportunity to embolden democracy or weaken it. To demand accountability or acquiesce to intimidation – and it is for you to decide.

A handwritten signature in black ink, appearing to read 'Jeremy Hanson', with a long horizontal line extending to the right.

JEREMY HANSON, CSC, MLA

20 July 2009

Attachments:

- A. Email from Neighbours' of Miowera dated 15 July 2008
- B. Ministerial Brief - Aboriginal and Torres Strait Islander Drug rehabilitation Facility
- C. FOI version of covering emails and of email from Neighbours' of Miowera dated 15 July 2008.
- D. ACT Health Schedule of FOI Documents
- E. FOI Folio document 24
- F. FOI Folio document 25
- G. FOI Folio document 91
- H. FOI Folio document 109 (e)
- I. FOI Folio document 109 (i)
- J. FOI Folio document 109 (o)
- K. FOI Folio document 252
- L. FOI Folio document 261 (b)
- M. FOI Folio document 267
- N. Hanson Press Release 'Another Gallagher Cover Up'
- O. Corbell FOI Press Release from 2001
- P. Sen Christine Milne Press Release of 21 August 2008
- Q. Sen Christine Milne Press Release of 27 August 2008
- R. Letter from Mr Cormack to Mr Hanson dated 25 May 2009
- S. Gallagher Press Release - '*NEW LOWS FROM THE LIBERALS WITH THEIR GRUBBY POLITICS*' dated 16 June 2009
- T. Letter from Mr Hanson to Mr Cormack of 28 May 2009
- U. ABC Report *ACT opposition 'warned away' from criticising health system*, of 8 September 2007

From: **Wales Kate** <waleskate@gmail.com>
Date: Wed, Jul 9, 2008 at 4:28 PM
Subject: Proposed purpose 'Miowera' Tidbinbilla Road, Via Tharwa
To: stanhope@act.gov.au

Dear Sir,

Re: Proposed purchase and purpose of 'Miowera', Tidbinbilla Road, Via Tharwa

I am writing to voice concern over the proposed purchase by the A.C.T. Government of the property 'Miowera' which adjoins our property located at 615 Tidbinbilla Road. We have been informed of the possibility of a drug and alcohol rehabilitation facility being built at 'Miowera' and we have grave concerns about such a development.

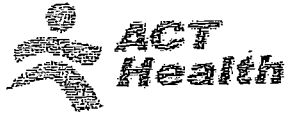
My husband and I purchased our property in 2000 not only because we sought a rural lifestyle within a strong, established farming community, but also because of its situation on one of the main tourist routes in the Territory. We had hoped to contribute to the agricultural aesthetic and tourism of the area by establishing a vineyard and ultimately, with government approval, cellar door sales and possibly a Bed and Breakfast establishment. Our aim is to further encourage visitors to this beautiful area. After the devastation of the 2003 bush fires we considered this goal to be even more important to the district in general. Since purchasing our property, we have outlaid significant sums of money and time to establish the first of what we hoped, would be several plantings of vines.

Since the fires of 2003, much government effort and money has gone into successfully developing the Tidbinbilla area as a family friendly, 'back to nature' tourist destination. With this in mind, I hope you can appreciate that a drug and alcohol rehabilitation centre would certainly detract from this now established reputation.

I look forward to hearing from you in the near future.

Regards,

Kate Wales



CORRESPONDENCE CLEARANCE

SUBJECT: Min Brief - Aboriginal and Torres Strait Islander Drug Rehabilitation Facility

NUMBER: COR08/2033 (MINOR) 418 DATE DUE: -----

Chief Executive, ACT Health: [Signature] Date: 25/3/01

Deputy Chief Executive, ACT Health: ----- Date: -----

Director, Executive Coordination: [Signature] Date: 24/3/08

ACT Chief Nurse / Allied Health Advisor: ----- Date: -----

Chief Information Officer, Information Services Branch: ----- Date: -----

Director, Communications and Marketing: ----- Date: -----

Director, Financial and Risk Management Branch: ----- Date: -----

Director, Capital Region Cancer Service: ----- Date: -----

Director, Mental Health ACT: ----- Date: -----

Director, Patient Safety & Quality Unit: ----- Date: -----

Exec Director, Government Relations and Planning: ----- Date: -----

Exec Director, Policy: [Signature] Date: 18/3/08

Exec Director, Business and Infrastructure: ----- Date: -----

Exec Director, Aged Care and Rehab. Service: ----- Date: -----

Exec Director, Human Resource Management Branch: ----- Date: -----

Exec Director / Chief Health Officer, Population Health: ----- Date: -----

General Manager, Community Health: ----- Date: -----

General Manager, The Canberra Hospital: ----- Date: -----

Contact Officer: Helene Delany Phone: 50909



MINISTERIAL BRIEF

GPO Box 825 Canberra ACT 2601
Website: www.health.act.gov.au
ABN: 82 049 056 234

To: Katy Gallagher MLA, Minister for Health
Subject: Aboriginal and Torres Strait Islander Drug Rehabilitation Facility
Through: Mark Cormack, Chief Executive

[Handwritten signature] 25/3/08

Purpose of Brief

2. To provide you with an update on progress of the Reference Group established in October 2007 to progress planning for an Aboriginal and Torres Strait Islander Rehabilitation Facility.

Issues/Background

3. In October 2007 senior officials from ACT Health and the Department of Disability, Housing and Community Services met with key stakeholders from the Aboriginal and Torres Strait Islander community to seek support for progressing the work required to establish a service, including work on a service model, sites and governance arrangements.
4. Consultant Mel Miller who has extensive experience in the alcohol and other drug area was contracted to work with the Reference Group as a facilitator. Membership of the Group includes:
 - Paul Brandy (ACT COAG Trials Indigenous Working Group)
 - Roslyn Brown (ACT COAG Trials Indigenous Working Group)
 - Helene Delany (Alcohol & Other Drugs Policy, ACT Health)
 - Fred Monaghan (Gugan Gulwan Youth Aboriginal Corporation)
 - Agnes Shea (Ngunnawal Elders Council)
 - Josephine Smith (Aboriginal Health Unit, ACT Health)
 - Julie Tongs (Winnunga Nimmitjyah Aboriginal Health Services)
 - Nick Manikis (Department of Disability, Housing and Community Services)
 - Ross O'Donoghue (Policy Division, ACT Health)

Secretariat: Inez Nimpuno (Aboriginal Health Unit, ACT Health)
Vladimir Williams (Aboriginal Health Unit, ACT Health)

5. Mel Miller has subsequently met with the group three times. Two further meetings are planned on the 27th March and the 18th April 2008.
6. ACT Health has been provided additional appropriation of \$5.212 million through the 2007-2008 Appropriation Bill (No. 2). The funding included an allocation for both capital and operational expenses to establish a rehabilitation program for up to 16 participants.

Service Model

7. Over the past six months, thinking about the potential service model by members of the Reference Group has evolved from some of the original planning outlined in the Procurement Feasibility Study completed in December 2005 by MERRIMA Design and NSW Government Architect's Office on behalf of ACT Health. The scale of the service has been reduced from the recommended 40 places in the Feasibility Study to 16 places. Attention has been given to focussing on the importance of the overall treatment goal being to attract and retain as many people in treatment as possible, given the strong correlation between retention in treatment and good treatment outcomes. Attention has also be given to reviewing the components of the service model as articulated in the Procurement Feasibility Study and further refining the details of the model in accordance with the evidence as to the most effective interventions and treatment programs.
8. The group has acknowledged some of the rigid views about drug and alcohol treatment held by different groups in the community and the importance of some professional education and community education to promote the overall treatment goals and components of the service model. Key components of the service discussed have been:
 - i. The model would not be that of a traditional highly structured therapeutic community, nor that of a 12 step working farm rehabilitation facility. Although the Feasibility Study recommended a 'culturally appropriate form of the therapeutic community model approach' references to what was meant by this were not made explicit in the Study other than to describe a service that was therapeutic. Current advice is that the idea of learning about self, culture, family and community through respectful interactions with elders and with country could be the antithesis of the core therapeutic mechanisms of highly structured therapeutic communities. The matter therefore will require some more detailed examination in conjunction with experts in the field.
 - ii. The service should be based on the principles of harm reduction and the treatment goals should be a combination of abstinence and harm reduction with a strong focus on the individual. Clients should be a drug free during treatment with the exception of smoking of tobacco and access to medically prescribed treatment such as pharmacotherapy for addiction and drug treatments for mental health problems. This contrasts with Feasibility Study which indicated that as a general rule it was envisaged that ongoing use of medication would not be permitted.
 - iii. The need or otherwise for detoxification prior to admission would be a clinical decision for each individual based on clear assessment criteria. This contrasts with the Feasibility Study which indicated there would appear to be a need for a culturally appropriate detoxification centre to allow individuals to detox prior to being admitted to the rehabilitation program.
 - iv. Length of stay would be individually determined but on average clients would stay for 6-12 months.
 - v. The program would target those 18 years and over. It is recognised that the inclusion of children in the facility would need careful thought and further planning.
 - vi. Decisions on accepting court referrals would need to be guided by policies, assessment protocols and formal pathways. *Only self admission?*
 - vii. For the service to be an integral and integrated part of the alcohol and other drug health system, personnel required for the service would include access to all the necessary members of multi disciplinary health teams eg. qualified medical practitioners, nurses, psychologists and indigenous alcohol and other drug workers.
 - viii. There would be memorandums of understanding with aboriginal medical services, other community controlled organisations and with mainstream detoxification, hospital and mental health services.
 - ix. The focus of the service would be a model of best practice for rehabilitation type services, targeted for clients, their families and the community. The program would include a strong focus on case management and equip clients for relapse prevention and management. To further ensure that abstinence is sustained, the community would be educated about their role in sustaining rehabilitation outcomes for their families and friends who have undergone rehabilitation.
 - x. External providers would visit the facility to offer ancillary services such as life skills training, vocational training, numeracy and literacy education and facilitation of peer education.

Review Feasibility

Only what models have?

Need to be under in community

Site

- 9. The Reference Group identified very similar criteria to that identified in the Feasibility Study to inform the process of site selection, that is quality land, valued by both the government and community elders, cultural requirements (eg not a known man's sacred site), relatively close proximity to emergency medical treatment whilst also being away from main roads (eg. away from licensed premises) and sufficient space to accommodate sports facilities and accommodation for single women and single men as well as families. *next*
- 10. Given the intention that all clients are clinically assessed as being medically stable prior to admission to the rehabilitation service, site options within 30 minutes driving time of a major hospital were considered feasible in the Feasibility Study and have also been considered feasible during the more recent deliberations with Reference Group members.
- 11. The group has met with officers from ACTPLA and TaMS and the two sites available that most closely reflect these criteria are Ingledene - Block 108 Tennant ACT and Jedbinbilla - Block 60 Paddys River. ACT Health has also formally written to ACTPLA and TaMS at the request of the Reference Group seeking clarification as to whether there may be any other sites coming available that could also be considered. The time delay of gaining an amendment to the Territory Plan to utilise either of the two sites has been estimated by ACTPLA to be at least a year. This could impact significantly on the project in terms of the end point of operating a new service. However, the twelve months could also be utilised potentially to commence plantings on the preferred site and work with the architects on the detailed planning. It could also allow for the government tender to include a requirement to partner with CIT and employ and train Aboriginal and Torres Strait Islander people in the construction of the facility. The potential time delay has not been a major concern for the community representatives to date. *next*

Governance

- 12. The most significant priority to date for the Aboriginal and Torres Strait Islander members of the Reference Group has been to finalise governance arrangements for the new service. Members are very mindful of the risks for them of negotiating any details with government officials of a service model and / or site given the likely diversity of views on these matters within their own communities. Community members have not been supportive of either the government operating the service or an existing non-government organisation operating the service. In essence their interest is in working in partnership with the government to progress this and don't see either of those options as a partnership. This presents difficulties for ACT Health given the intention that ACT Health operate the facility at least during the first few years. Advice is currently being sought on behalf of the group as to what governance options may be optimal given these circumstances. These deliberations are consistent with the Feasibility Study's recommendations in so far as the Study recommended the facility be operated under the auspices of ACT Health with an advisory community representative board. The Study envisaged transfer of governance from ACT Health to the Board over a yet to be determined period of time. ACT Health continues to seek advice on governance options from the Department of Justice and Community Safety. *who will run the centre?*
- 13. A key challenge for the project is to now define in more detail the components of the service model for the program in accordance with the evidence and in conjunction with experts in the area and the broader alcohol and other drug sector. Site selection is also a priority given the potential delays likely to be incurred in making changes to the Territory Plan depending on the site selected. Community representatives on the Reference Group do not think their membership on that group provides them with the authority they require to progress the community consultations required in relation to these matters given both the diversity and rigidity of views held by different groups in the community and these groups' potential influence on the ACT Government and ultimate decision making about the new service. *Progress?*

14. It is proposed that the Reference Group seeks to form an advisory community representative board to assist with the next phase of the project's development. This could be facilitated by your proposed meeting with the Reference Group on 18 April 2008.

Media

15. No media attention is expected at this time.

Recommendations

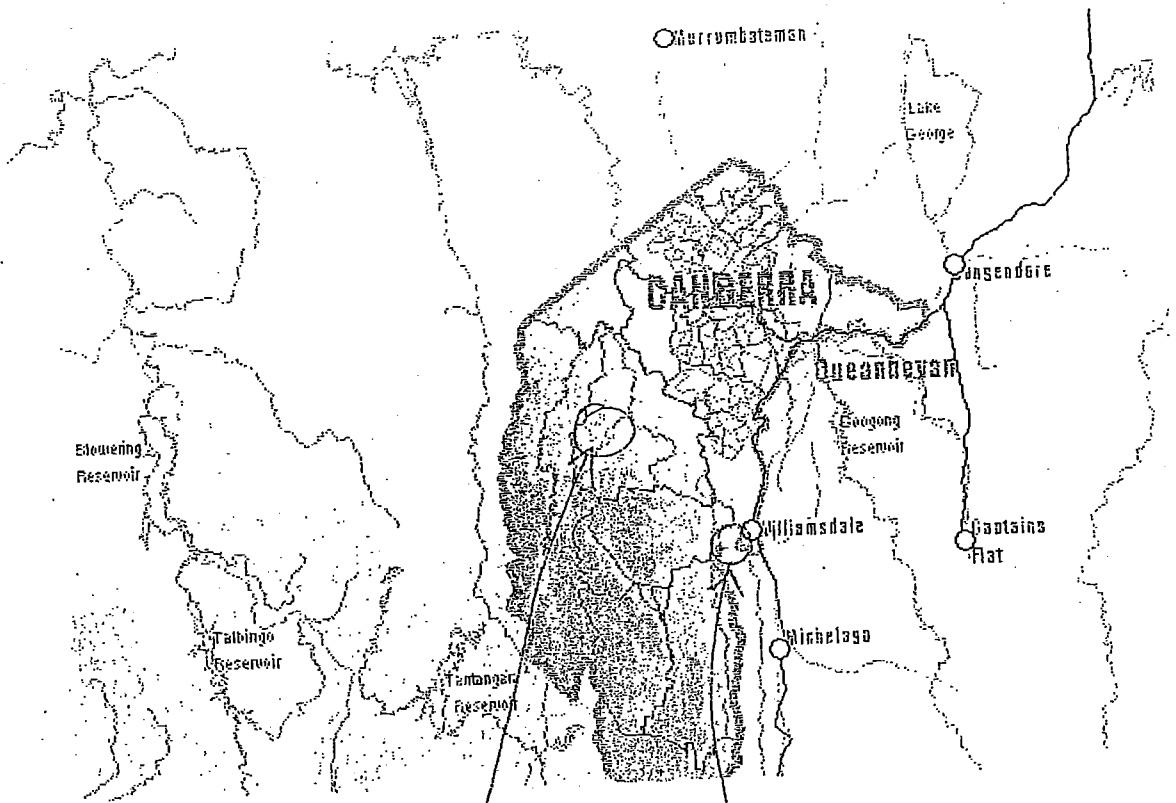
16. That you
• note the information contained in this brief;

Ross O'Donoghue
Executive Director
Policy Division
ROD 18/3/08

Action Officer: Helene Delany
Phone: 50909

AGREED / NOT AGREED / NOTED / PLEASE DISCUSS

Katy Gallagher 114108
Katy Gallagher MLA



Block 60
Saddlersville
Paddys River

Block 108 - Tennant

C 1303/08

305

Henriksen, Samara

From: Wilson, Chris
Sent: Tuesday, 15 July 2008 4:49 PM
To: Henriksen, Samara
Subject: FW: Proposed purpose "Miowera' Tidbinbilla Road, Via Tharwa

Samara,

Please refer to Min for Health with ack from COS.

Chris

Manager
Chief Minister's Support and Protocol
Chief Minister's Department
Level 2, ACT Legislative Assembly Bldg
Ph: (02) 620 50192
Fax: (02) 620 50289
Email: chris.wilson@act.gov.au

From: Carey, Megan
Sent: Tuesday, 15 July 2008 3:00 PM
To: Wilson, Chris
Subject: RE: Proposed purpose "Miowera' Tidbinbilla Road, Via Tharwa

yes it is. would you like to forward on to me?

From: Wilson, Chris
Sent: Tuesday, 15 July 2008 2:24 PM
To: Carey, Megan
Subject: FW: Proposed purpose "Miowera' Tidbinbilla Road, Via Tharwa

Megan,

Please see below email. Is the drug and alcohol rehabilitation facility referred to in the email a Health proposal?

Chris

Manager
Chief Minister's Support and Protocol
Chief Minister's Department
Level 2, ACT Legislative Assembly Bldg
Ph: (02) 620 50192
Fax: (02) 620 50289
Email: chris.wilson@act.gov.au

1450 3 02 7
306

From: Cashen, Clinton
Sent: Friday, 11 July 2008 3:37 PM
To: Wilson, Chris
Subject: RE: Proposed purpose "Miowera' Tidbinbilla Road, Via Tharwa

I think this is one for Health or Community Services.
Sorry again for the delay.

From: Wilson, Chris
Sent: Wednesday, 9 July 2008 5:49 PM
To: Cashen, Clinton
Subject: FW: Proposed purpose "Miowera' Tidbinbilla Road, Via Tharwa

Hi Clinton,

Is this yours or LDA?

Chris
x50192

From: Lustri, Chantelle **On Behalf Of** STANHOPE
Sent: Wednesday, 9 July 2008 4:15 PM
To: [REDACTED]
Subject: RE: Proposed purpose "Miowera' Tidbinbilla Road, Via Tharwa

Dear [REDACTED]

Thank you for your email to the Chief Minister, your correspondence is currently receiving attention.

Kind regards

Chantelle Lustri

Personal Assistant
Office of the Chief Minister
Phone: (02) 6205 0104
Fax: (02) 6205 0433

From: [REDACTED]
Sent: Wednesday, 9 July 2008 3:29 PM
To: STANHOPE
Subject: Proposed purpose "Miowera' Tidbinbilla Road, Via Tharwa

Dear Sir,

Re: Proposed purchase and purpose of 'Miowera', Tidbinbilla Road, Via Tharwa

37

I am writing to voice concern over the proposed purchase by the A.C.T. Government of the property "Miowera" which adjoins our property located at [REDACTED]. We have been informed of the possibility of a drug and alcohol rehabilitation facility being built at 'Miowera' and we have grave concerns about such a development.

My husband and I purchased our property in 2000 not only because we sought a rural lifestyle within a strong, established farming community, but also because of its situation on one of the main tourist routes in the Territory. We had hoped to contribute to the agricultural aesthetic and tourism of the area by establishing a [REDACTED] and ultimately, with government approval, [REDACTED] and possibly a [REDACTED] establishment. Our aim is to further encourage visitors to this beautiful area. After the devastation of the 2003 bush fires we considered this goal to be even more important to the district in general. Since purchasing our property, we have outlaid significant sums of money and time to establish the first of what we hoped, would be several plantings of vines.

Since the fires of 2003, much government effort and money has gone into successfully developing the Tidbinbilla area as a family friendly, 'back to nature' tourist destination. With this in mind, I hope you can appreciate that a drug and alcohol rehabilitation centre would certainly detract from this now established reputation.

I look forward to hearing from you in the near future.

Regards,

[REDACTED]

ACT HEALTH SCHEDULE OF DOCUMENTS

Freedom of Information Request 09/07 - Seselja

FOLIO	ITEM	DATE	STATUS
1-2	Departmental email exchange with contractor	17.03.08	Partial Release s.41
3	Departmental email exchange with contractor	18.03.08	Partial Release s.41
4-9	Departmental Ministerial Brief	25.03.08	Full Release
10-12	Departmental email exchange with contractor	26.03.08	Partial Release s.41
13-16	Departmental email exchange with contractor	28.03.08	Partial Release s.41 and out of scope
17	Departmental email exchange with clients	28.03.08	Partial Release s.41
18-22	Reference Group minutes	28.03.08	Partial Release s.41 and out of scope
23-25	Internal departmental email	31.03.08	Partial Release s.41
26	Email to another ACT Government Department	31.03.08	Full Release
27	Departmental email to clients	31.03.08	Partial Release s.41
28-29	Departmental email exchange with clients	02.04.08	Partial Release s.41
30-31	Departmental email exchange with clients	02.04.08	Partial Release s.41
32-34	Departmental email exchange with clients	02.04.08	Partial Release s.41
35	Meeting booking with another ACT Department	14.04.08	Full Release
36-37	Departmental email exchange with real estate agent	17.04.08	Partial Release s.41
38 (a-as)	Rural lease sale document	05.02.08	Exempt s.43
39	Departmental email exchange with real estate agent	17.04.08	Partial Release s.41
40-51	Rural lease document		Exempt s.43
52-55	Departmental email exchange with real estate agent	17.04.08	Partial Release s.41
56-62	Report from contractor	Undated	Full Release

63	Email from contractor	01.05.08	Partial Release s.39 & s.41
64	Internal departmental email	01.05.08	Full Release
65-68	Departmental Ministerial Brief	12.05.08	Partial Release Out of scope
69-75	Draft departmental Ministerial Briefs	Undated	Exempt s.36
76 (a-g)	Contractor's report rating potential sites	Undated	Full Release
77-80	Departmental email exchange with real estate agent	19.05.08	Partial Release s.41
81	Reference Group meeting agenda	19.05.08	Full Release
82-86	Reference Group meeting minutes	19.05.08	Partial Release s.39 & out of scope
87	Departmental email to Commonwealth Department	21.05.08	Full Release
88-90	Departmental Ministerial Brief	22.05.08	Full Release
91-94	Departmental email exchange with contractor	23.05.08	Partial Release s.41 & out of scope
95-96	Departmental email exchange with other ACT Government Department	23.05.08	Partial Release s.41
97-99	Letter to other ACT Government Department	23.05.08	Full Release
100-101	Departmental email exchange with real estate agent with attached Land Management Agreement	27.05.08	Partial Release s.41
102-103	Departmental email exchange with other ACT Department with attached map	27.05.08	Full Release
104-105	Departmental email exchange with client	29.05.08	Partial Release s.39 & s.41
106-107	Departmental email exchange with client	29.05.08	Partial Release s.41
108-109	Departmental email exchange with contractor and real estate agent	02.06.08	Full Release
110 (a-ab)	Valuation	02.06.08	Partial Release s.39 (b)
111-112	Departmental email exchange with other ACT Government Department	06.06.08	Partial Release s.41

113-114	Departmental email exchange with other ACT Government Department	06.06.08	Full Release
115-116	Departmental email exchange with other ACT Government Department	10.06.08	Full Release
117	Email from other Government Department	10.06.08	Partial Release s.41
118	Email from Government Solicitor's Office to Department	13.06.08	Exempt s.42
119-121	Departmental email exchange with other ACT Government Department	13.06.08	Partial Release s.41
122-123	Departmental email exchange with other ACT Government Department	20.06.08	Partial Release s.41
124 (a-aa)	Departmental email to Government Solicitor's Office with attachment	23.06.08	Partial Release s.41
125	Email from other Government department	24.06.08	Full Release
126 (a)	Departmental letter to other Government agency	24.06.08	Full Release
127-128	Email from Government Solicitor's Office to Department	24.06.08	Exempt s.42
129	Departmental email to other Government department	24.06.08	Full Release
130-132	Departmental email exchange with real estate	24.06.08	Partial Release s.41
133-134	Departmental email exchange with Government Solicitor's Office	24.06.08	Exempt s.42
135-137	Departmental email exchange with real estate	24.06.08	Partial Release s.41
138	Email exchange between Department and Government Solicitor's Office	24.06.08	Exempt s.42
139	Internal email referencing Government Solicitor's Office advice	24.06.08	Exempt s.42
140-145	Departmental email exchange with Government Solicitor's Office	24.06.08	Exempt s.42
146-147	Departmental email to Government Solicitor's Office	25.06.08	Exempt s.42

148-149	Email exchange between Department and Government Solicitor's Office	25.06.08	Exempt s.42
150-151	Email exchange between Department and other ACT Government Department	25.06.08	Full Release
152 (a-at)	Email from Government Solicitor's Office with attachment	26.06.08	Exempt s.42 and s.39
153-154	Email exchange between Department and Government Solicitor's Office	26.06.08	Exempt s.42
155-159	Email exchange between Department and Government Solicitor's Office	26.06.08	Exempt s.42
160-161 (a-al)	Email exchange between Department and Government Solicitor's Office with attachment	27.06.08	Exempt s.42 and s.39
162-164	Email exchange between Department and Government Solicitor's Office and other ACT Government department	25.06.08	Partial Release s.42
165-166	Departmental email exchange with other ACT Government department	30.06.08	Full Release
167	Internal Departmental email	30.06.08	Full Release
168	Internal Departmental email	30.06.08	Full Release
169-172 (a-b)	Internal Departmental email with attached Departmental Minute	30.06.08	Partial Release s.41
173	Departmental email to Government Solicitor's Office	30.06.08	Exempt s.42
174 174 (a)	Email from other Government department	30.06.08	Full Release
175 175 (a)	Email from other Government department	30.06.08	Full Release
176-178	Draft departmental Ministerial Brief	Undated	Exempt s.36
179-187	Draft Procurement Plan minute	03.07.08	Exempt s.36
188-190	Draft departmental Ministerial Brief	02.07.08	Exempt s.36
191-194	Departmental Ministerial Brief	10.07.08	Full Release
195-232	Departmental financial report	03.07.08	Exempt s.39
233-236	Email exchange between Department and Government Solicitor's Office	04.07.08	Exempt s.42

237-240	Letter from Department to Government Solicitor's Office seeking legal advice	02.07.08	Exempt s.42
241-243	Internal Departmental email exchange in response to complaint from member of the public	07.07.08	Partial Release s.41
244-247	Departmental Minute	07.07.08	Full Release
248	Internal departmental email	07.07.08	Full Release
249-253	Internal departmental email exchange in response to complaint from member of the public	07.07.08	Partial Release s.41
254-257	Departmental email exchange with other ACT Government Department	05.05.08	Partial Release s.41
258	Internal Departmental email	07.07.08	Full Release
259	Departmental financial document	20.06.08	Exempt s.39
260 (a-z)	Property valuation report	02.06.08	Full Release
261-261f	Departmental Ministerial Brief	08.07.08	Partial Release s.41
262-264	Departmental email exchange in response to complaint from member of the public	08.07.08	Partial Release s.41
265-267	Departmental email exchange in response to complaint from member of the public	08.07.08	Partial Release s.41
268-271	Request for Procurement brief	08.07.08	Full Release
272-273	Departmental email exchange with other ACT Government Department	08.07.08	Partial Release s.41
274	Government Solicitor's Office's email exchange with other ACT Department	08.07.08	Exempt s.42
275 (a-i)	Departmental email exchange with other ACT Government Department with draft procurement plan minute attached	08.07.08	Partial Release s.36 & s.41
276 276 (a-au)	Email from other ACT Government Department	09.07.08	Partial Release s.41
277	Departmental email exchange with other ACT Department	09.07.08	Partial Release s.41
278	Departmental email exchange with Government Solicitor's Office	09.07.08	Exempt s.42

279-292	Letter to Department from Government Solicitor's Office	09.07.08	Exempt s.42
293	Email to Department from consultant	10.07.09	Partial Release s.41
294	Email to Department from Government Solicitor's Office	10.07.09	Exempt s.42
295-296	Departmental email exchange with other ACT Government Department	10.07.08	Partial Release s.41
297-298	Departmental email exchange with contractor	11.07.08	Partial Release s.41
299	Internal Departmental email	11.07.08	Full Release
300-301	Departmental email exchange with contractor	14.07.08	Partial Release s.39 & S41
302-304	Lease conveyancing enquiry	14.07.08	Full Release
305-307	Departmental email exchange with other ACT Government Department in response to complaint from member of the public	15.07.08	Partial Release s.41
308-309	Departmental email exchange with Government Solicitor's Office	17.07.08	Exempt s.42
310-312	Departmental email exchange with contractor	17.07.08	Partial Release s.39 & s.41
313-315	Departmental email exchange with Government Solicitor's Office	21.07.08	Exempt s.42
316-318	Heritage advice	24.07.09	Full Release
319-320	Letter to Government Solicitor's Office from other ACT Government Department	22.07.09	Full Release
321	Departmental email exchange with contractor	22.07.08	Partial Release s.41
322	Departmental email to contractor	22.07.08	Partial Release s.41
323-325	Departmental email exchange with Government Solicitor's Office and other ACT Government Department	22.07.08	Exempt s.42
326-327	Departmental email exchange with Government Solicitor's Office and other ACT Government Department	24.07.08	Exempt s.42
328	Departmental financial document	25.07.08	Exempt s.39

329-332(a-ax)	Departmental email exchange with contractor with Land Management Agreement attached	25.07.08	Partial Release s.41
333-334	Departmental email exchange with Government Solicitor's Office and client	25.07.08	Exempt s.42
335-337	Departmental email exchange with contractor	28.07.08	Partial Release s.41
338-341	Departmental email exchange with contractor	28.07.08	Partial Release s.41
342-345	Departmental email exchange with other ACT Government Department	28.07.09	Partial Release s.41
346-350	Departmental email exchange with other ACT Government Department	29.07.09	Partial Release s.41
351-353	Departmental email exchange with contractor	29.07.08	Partial Release s.41 & S.43
354	Email to Department from Government Solicitor's Office	29.07.08	Exempt s.42
355	Departmental email exchange with other ACT Department	30.07.09	Partial Release s.41
356-358	Departmental email exchange with Government Solicitor's Office	30.07.08	Exempt s.42
359-362	Departmental email exchange with other ACT Government Department	30.07.09	Partial Release s.39
363	Email to Department from Government Solicitor's Office	31.07.08	Exempt s.42
364-370	Departmental email exchange with Government Solicitor's Office	30.07.08	Exempt s.42
371	Email to Department from Government Solicitor's Office	31.07.08	Exempt s.42
372 372 (a- au)	Land Management Agreement	Jul 2008	Full Release
	Contract of sale	29.07.08	Exempt s.43
385-390	Rural Lease document	22.06.06	Exempt s.43
391-393	Departmental email exchange with Government Solicitor's Office	01.08.08	Exempt s.42
394-395	Departmental email exchange with clients	01.01.08	Partial Release s.41

396	Agenda for Reference Group meeting	08.08.08	Full Release
397-399	Minister's letter to complainant	06.08.08	Partial Release s.41
400-401	Chief Minister's letter to complainant	18.08.08	Partial Release s.41
402	Departmental financial document	06.08.08	Exempt s.39
403-405	Departmental email exchange with other ACT Government Department in response to complaint from member of the public	06.08.08	Partial Release s.41
406-407	Chief Minister's letter to complainant	10.07.08	Partial Release s.41
408-412	Departmental email exchange with contractor	06.08.08	Partial Release s.41
413-415	Departmental email exchange with other ACT Government Department in response to complaint from member of the public	06.08.08	Partial Release s.41
416-417	Chief Minister's letter to complainant	10.07.08	Partial Release s.41
418	Departmental email exchange with Government Solicitor's Office	07.08.08	Exempt s.42
419-424	Government Solicitor's Office's letter to Department	07.08.08	Exempt s.42
425-429	Reference Group minutes	08.08.08	Partial Release s.41
430-431	Departmental email exchange with other ACT Government Department	08.07.08	Exempt s.43
432-441	Government Solicitor's Office's letter to Department	07.08.08	Exempt s.42
442-446	Departmental email exchange with real estate agent	12.01.08	Partial Release s.41
447-449	Departmental email exchange with other ACT Government Department	08.07.08	Partial Release s.41
450	Departmental financial document	12.08.08	Exempt s.39
451	Departmental email exchange with other ACT Government Department	13.08.08	Partial Release s.41
452-457	Chief Minister's letter to complainant	13.08.08	Partial Release s.36 & s.41
458	Email to Department from other ACT Government Department	14.08.08	Full Release
459-463	Departmental Ministerial Brief	08.07.08	Full Release

464-467	Government Solicitor's Office's briefing to Department	15.08.08	Exempt s.42
468-487	Government Solicitor's Office's briefing to Department	21.08.08	Partial Release & s.42 & s.43
488-490	Departmental Ministerial Brief	26.08.08	Full Release
491	Departmental email to complainant	27.08.08	Partial Release s.41
492-497	Departmental email exchange with Government Solicitor's Office and other ACT Department	27.08.08	Exempt s.42
498	Departmental email exchange with Government Solicitor's Office	30.08.08	Exempt s.42
499 499 (a-az)	Deed of variation of contract	29.08.08	Exempt s.43
500-502	Client contact details	30.08.08	Exempt s.41
503	Departmental email to complainant	28.08.08	Partial Release s.41
504-506	Departmental email exchange with Government Solicitor's Office	27.8.09	Exempt s.42

From: O'Donoghue, Ross
Sent: Monday, 31 March 2008 1:19 PM
To: Smith, Josephine
Subject: RE: Miowera, Tharwa

Jo, I will come if the diary allows. By the way, I am on leave from 14-21 April. Can we re-schedule the next Ref group till after I come back? I would like to attend as we may be "on a roll". regards

Ross O'Donoghue
Executive Director - Policy Division

Go for 2&5® - For good health, it's recommended you eat at least 2 serves of fruit and 5 serves of vegies every day. For tips on how to get extra fruit and vegies in your day visit the Go for 2&5® website at www.gofor2and5.com.au.

-----Original Message-----

From: Smith, Josephine
Sent: Monday, 31 March 2008 12:15 PM
To: O'Donoghue, Ross
Subject: RE: Miowera, Tharwa

Hi Ross,

Did you want to go out and visit Miowera (property on the private market that may be suitable for the residential rehabilitation service) with the Aboriginal Reference Group next week? We are looking at going out on Monday 7 April in the afternoon or Friday 11 April sometime.

Josephine Smith
A/g Manager
Aboriginal & Torres Strait Islander Health Unit
Policy Division
ACT Health
Ph: 6207 9172
Fax: 6205 0866
josephine.smith@act.gov.au

-----Original Message-----

From: Smith, Josephine
Sent: Monday, 31 March 2008 12:06 PM
To: Delany, Helene
Cc: Nimpuno, Inez
Subject: RE: Miowera, Tharwa

I called the agent and have scheduled a tentative visit on Friday 11 April. I called Agnes and let her know that the property is owned by the Dunlops. She has asked me to call Ros and Fred and make a time to visit the property on either Monday 7 April after lunch or sometime on Friday 11 April. I will call Ros and Fred and organise a time. Who else do you think should be at the visit? I think we should try and keep the group as small as possible. Do you want to come? If so, does anytime on those two days suit you better?

Inez, Can you please give me contact details for Ros and Fred.

Josephine Smith
A/g Manager
Aboriginal & Torres Strait Islander Health Unit
Policy Division
ACT Health
Ph: 6207 9172
Fax: 6205 0866
josephine.smith@act.gov.au

-----Original Message-----

From: Delany, Helene
Sent: Monday, 31 March 2008 10:50 AM
To: Smith, Josephine
Subject: FW: Miowera, Tharwa

J
Agnes O'Shea just phoned. She wanted to apologise for not coming along on Friday. She met up with Ros yesterday and had a look at the link to this site. She is thinking Friday 11th might suit her and Ros for the site visit but you would need to check with Fred and then confirm with all. (next Monday is no good for Agnes) She has asked whether we could ring the agent and find out who owns the property currently. I indicated the agent may not be willing to disclose this but I thought we could ask the question anyway.
Are you happy to follow this up with the agent and ring Agnes to let her know the answer (even if you can't get a name from the agent just ring her back to let her know you can't)
She gave me her contact details to let hwe know: ph: 62 92 2239 mobile: 0404 725222

I am off from lunchtime tomorrow for the rest of the week.

Thanks
H

-----Original Message-----

From: Smith, Josephine
Sent: Friday, 28 March 2008 1:15 PM
To: 'rosb@netspeed.net.au'; 'fred@gugan-gulwan.com.au'
Cc: Delany, Helene
Subject: Miowera, Tharwa

Hi Fred and Roslyn,

Here is the link to the property on the private market that we discussed this morning (Miowera at Tharwa).

<http://peterblackshaw.com/cgi-bin/p2?a=dp&i=16058>

I have called the agent to find out whether it is still on the market. There was no answer but I have left a message. If it is still on the market we could organise a site visit, Kip Tanner has indicated that he would be willing to join us if you think it would be appropriate. If a site visit is something you would like us to organise, what is your availability for the week of Monday 7 to Friday 11 April?

Meanwhile, as discussed today, Ross O'Donoughue will take the option of buying property on the private market to the appropriate people in government for consideration.

Regards

Josephine Smith
A/g Manager
Aboriginal & Torres Strait Islander Health Unit
Policy Division
ACT Health
Ph: 6207 9172
Fax: 6205 0866
josephine.smith@act.gov.au

(a)

Smith, Josephine

From: Tanner, Kip @ Canberra [Kip.Tanner@cbre.com.au]
Sent: Friday, 23 May 2008 9:20 AM
To: Smith, Josephine
Subject: RE: Sale "Miowera"

This is getting ridiculous...

Our next suggestion is Jeff Whitman from PRP valuers (02) 6257-7112

Regards,

Kip Tanner | Environmental Engineer
CB Richard Ellis (V) Pty Ltd | CBRE Consulting
Level 1, 11 Lonsdale Street | Braddon, ACT 2612 | GPO Box 1987 | Canberra, ACT 2601
T 61 2 6232 2717 | F 61 2 6232 2730 [REDACTED]
kip.tanner@cbre.com.au | www.cbre.com.au
Please consider the environment before printing this email.

From: Smith, Josephine [mailto:Josephine.Smith@act.gov.au]
Sent: Thursday, 22 May 2008 4:33 PM
To: Tanner, Kip @ Canberra
Subject: RE: Sale "Miowera"

Thanks Kip. I just called him and unfortunately he is leaving for the U.S.A. to visit his newly arrived grand-daughter and will not return until end June. Any other suggestions?

Josephine Smith

Alg Manager
Aboriginal & Torres Strait Islander Health Unit
Policy Division
ACT Health
Ph: 6207 9172
Fax: 6205 0866
josephine.smith@act.gov.au

-----Original Message-----

From: Tanner, Kip @ Canberra [mailto:Kip.Tanner@cbre.com.au]
Sent: Thursday, 22 May 2008 3:32 PM
To: Smith, Josephine
Subject: RE: Sale "Miowera"

Hi Jo,

Try Noel McCann on [REDACTED] for the valuation.

Regards,

Kip Tanner | Environmental Engineer
CB Richard Ellis (V) Pty Ltd | CBRE Consulting
Level 1, 11 Lonsdale Street | Braddon, ACT 2612 | GPO Box 1987 | Canberra, ACT 2601
T 61 2 6232 2717 | F 61 2 6232 2730 [REDACTED]
kip.tanner@cbre.com.au | www.cbre.com.au
Please consider the environment before printing this email.



425 Paddy's River Road, 'Mowera', Tharwa ACT

LOCATION

The property is located on the northern side of the Paddy's River Road (signposted as the Tidbinbilla Road), situated on the western side of the Murrumbidgee River in the vicinity of the District of Tuggeranong and Tharwa Village ACT. The property has easy sealed road access to Canberra City and is within 20 kilometres of the Tuggeranong Town Centre. Surrounding development generally comprises other rural leases. The Village of Tharwa with its general store petrol bowser is 13kms to the south east, and access to Canberra is over Point Hut Crossing at the Murrumbidgee River adjacent to the suburb of Gordon. Entry to the property is by a dirt road approx. 1.3km in length from the Paddy's River Road.

TITLE DETAILS

Residue unexpired of a Crown Lease Volume 1774, Folio 66 being Block 241, on Deposited Plan 8276, District of Paddy's River, Australian Capital Territory granted for a term of 99 years commencing 12 November 2005 (copy attached).

The registered proprietors are:

Iain Stirling Dunlop

Helen Margaret Christensen Dunlop

as Joint Tenants

Land Rent 5 cents if and when demanded

Area 368.6 ha or thereabouts

A copy of the Title Search is attached

STATUTORY ASSESSMENT AND CHARGES

For Statutory purposes the Crown Lease (land) has a 2007 Unimproved Value of \$132,500. General rates are assessed using an Average Unimproved Value (AUV) which is the average of the assessed unimproved values as at 1 January 2005, 2006, 2007. The value is assessed annually to calculate this AUV on a rolling average basis. Current statutory charges for the subject property are set out below:

We understand the AUV is \$132,000.

General Rates \$395.47 per annum

The General Rate includes a rural property fixed charge of \$85.00, and the Fire and Emergency Services Levy of \$87.40.

Land Tax We understand that land tax is not usually levied on ACT RURAL LEASE PROPERTIES.

TOWN PLANNING

Land uses within the Australian Capital are controlled broadly by the provision of the ACT Territory Plan and more specifically by covenants contained in the relevant Crown Lease document known as the Purpose Clause. The Purpose Clause for the subject property is as follows: clause 3 (a)

'to use the premises only for the purpose of agriculture not including the adjustment of horses and ancillary thereto keeping a maximum of eight (8) horses for personal use and three (3) dwellings'.



- 7 Beltana Road, Pialligo which sold in March 2006 for \$1,300,000. Comprised an older style 3 bedroom cottage on a 3.4 hectare site in this popular district. Also comprised a second 3 bedroom residence, farm office and car accommodation, ex-grain shed, storage area, amenities block, workshop, stables, indoor arena and assorted general purpose sheds.

Comment: In close proximity to Canberra's CBD

B. Direct Comparison – NSW Freehold

Note, although the advent of 99 year ACT Rural Leases has made ACT rural land more comparable to NSW freehold land, this valuer believes that ACT holdings are still less valuable because ACT land is generally not subdividable, and because administrative overheads are seen as onerous particularly in regard to the mandatory farm management plan and its requirements.

- "Kia Ora" Tallagandra Road, Sutton which was due to exchange in July 2004 for \$3,200,000. (However, the selling agent Bob Collis passed away). Comprised two houses one being very substantial the other having some rustic charm and located on approximately 640 hectares (1,600 acres). Located within 8 kilometres of the ACT border. Shows \$5,000/hectare (\$2,000 per acre) improved.

Comment: Zoned rural 1 (a) under the former Yass Shire, which allows for subdivision into 80 hectare allotments subject to application. Superior agricultural land – inferior location. The property was subsequently withdrawn from sale and was offered by another agent with a gross asking price of \$5,315,000 (in 7 separate parcels) however, this was subject to Development Application and Council approval.

- Guise Street, Sutton, which settled on 7 May 2003 for \$2,500,000. A vacant parcel of 324.0 hectares (800 acres) on the Sutton Village border and 20 minutes to Canberra City. Shows \$7,716/hectare or (\$3,125/acre).

Comment: good evidence of what the market is willing to pay for well located property.

- 'Humewood South' Wee Jasper Road, Yass which sold on the 20 December 2003 for \$1,575,000. Located 8 kilometres south of Yass on the Wee Jasper Road and comprised 6 large dams and equipped bore (domestic and stock only) and stable complex with troughs. Gently undulating country with scattered eucalyptus primarily granite based soils which are 75% arable. Also comprised 4 hectares of Lucerne, extensive pasture improvement and a good history of super phosphate application. A well managed property. Area 255 hectares (630 acres) shows \$6,176 per hectare or \$2,500 per acre.

Comment: Considered good evidence of fenced and watered land. Inferior location, less potential i.e. grazing use only.

- "Gidleigh", via Bungendore which sold immediately after public auction on the 20 May 2005 for a reported \$8,000,000. Comprises a part two storey, 1882 stone residence on 2,025 hectares (5,004 acres). The residence comprised 9 bedrooms, 5 bathroom, library/ballroom, two studies, sunroom, garden room and large kitchen. Also comprised 8 farm cottages all rented out, 50 paddocks, good water and all the usual farm infrastructure including stables, 14 stand shearing shed, sheep yards and shearers accommodation.

Reconciliation: Shows \$3,950 per hectare improved or \$1,599 per acre improved. Zoned Rural 1 (a). Inferior land and location.

- "Bellvale", Black Range Road, Yass which sold in November 2006 for \$7,500,000.

AUSTRALIAN CAPITAL TERRITORY

TITLE SEARCH

Paddys River Block 241 on Deposited Plan 8276
Lease commenced on 12/11/2005, granted on 07/12/2005, term of 99 years
Area is 3 square kilometres 68 hectares 6000 square metres or thereabouts

Joint Tenants:
Iain Stirling Dunlop
Helen Margaret Christensen Dunlop
of "Miowera" Paddys River Road via Tharwa ACT

Registered Date	Dealing Number	Description
		Original title is. Volume 1774 Folio 66 Purpose Clause: Refer Crown Lease S.167(5) Land Act 1991: Applies For Term Of Lease S.186C & D Land Act 1991: Refer Crown Lease
22/06/2006	1477176	Application to Register a Crown Lease <i>End of interests</i>

URGENT

Carey, Megan

From: GALLAGHER
Sent: Monday, 7 July 2008 2:45 PM
To: Gallagher, Katy
Cc: Ryan, Brendan; Carey, Megan; Schembri, Karen
Subject: FW: Attn Brendan - ACT Dept Health rural property purchase

*Minister's office aware of
Carson*

Megan, can you send over to health (Ross O'Donoghue) for some response on the points raised in this email. We will need to provide some advice to Andrew Barrs office tomorrow if this matter is made public which it probably will be following this evenings meeting.
thanks
Angie

From: [redacted] [mailto:[redacted]]
Sent: Friday, 4 July 2008 7:13 PM
To: GALLAGHER
Subject: Attn Brendan - ACT Dept Health rural property purchase

Brendan

Thankyou for taking time to fully listen to my (and other ACT Rural Landholders) concerns regarding the purchase of "Miowera". The following is a brief summary of the issues which we feel warrant further consideration:

1. The 900 acre property "Miowera" has been on the Market for approx 6 months. It was listed for tender early in 2008 with tenders due in April. Not one tender was received!
2. I have been advised that a firm offer of \$1,000 per acre i.e. \$900,000 was made on Thursday the 3rd of April to the agent Paul Sutton. This offer was rejected by the Vendors. The agent and the Vendor acknowledge this to be the only firm offer made. In addition, there have been no recent property inspections of Miowera other than ACT dept Health.
3. ACT dept of Health have offered \$1,400,000 or \$1555 per acre. This does not compare favourably with what the market is saying.
4. The last sale of rural Land in the area was a far superior property which sold for \$750 an acre in 2004.
5. The ACT Government only recently resumed Robert Tanners property "Piney Creek" on Uriarra road, a property in a 99 year rural lease area, of similar size, better access, better utilities and would cost the ACT taxpayers \$ZERO
6. "Miowera" has very poor water supply, poor access, crosses a rickety old bridge and in times of heavy rain residents can be flooded in for up to a week at a time.
7. It is clear from our discussion that the services of a qualified rural consultant have not been used to work out a rural property plan which in addition to rural matters combines the ACT Dept Health proposed land use and an associated property budget going forward.
8. There appears to be no detailed SWOT analysis comparing "Miowera" to "Piney Creek". In fact I doubt if ACT Health are aware of "Piney Creek". It is likely that given the number of Rural leases recently vacated that there may well be other suitable blocks which may be available at a \$zero cost.
9. As a past National Landcare finalist (in 2007), vice president of the ACT Rural Landholders Assoc Inc and as owner of the neighbouring property "Tidbinbilla Station" I am very interested and concerned about poor land management practices. To be perfectly honest, the ACT government have proved to be the worst neighbours I have, primarily as a result of a combination of changes in land use, ongoing budgetary constraints which is just part of the system, not the fault of the 'on the ground' ACT govt land managers and employees. Inexperienced management of a rural property combined with lack of adequate funding has the potential to have a severe detrimental impact on other surrounding rural lands.

Health Service, Gugan Gulwan Youth Aboriginal Corporation, Ngunnawal Elders Council and ACT Government representatives.

7. The Service will seek to improve health outcomes for the Aboriginal and Torres Strait Islander community by addressing the complex issues that relate to drug and alcohol abuse and implementing culturally appropriate prevention, education, rehabilitation and outreach programs to address it. A holistic service will be provided that will include a combination of programs that will focus on mind, body and spirit and actively engage the individual and significant others. The Service will target Aboriginal and Torres Strait Islander residents from the ACT and surrounding region aged 18 years and over that require rehabilitation and will have the capacity to accommodate 16 people requiring treatment, including a provision for accommodation for family members.
8. The ACT Government and the Reference Group set site criterion for the proposed service. The main criteria are: quality land valued by Government and Elders; a rural property away from residential areas and unaffected by future suburban development; meets cultural requirements (not a known man's sacred site); has a river or watercourse; sufficient space to allow for accommodation of single women and single men as well as families and big enough to cater for indoor and outdoor recreational facilities; and not more than 30mins drive from a hospital.
9. ACT Health has been attempting to locate a suitable site for the rehabilitation service for a number of years. The Bush Healing Farm Procurement Feasibility Plan 2005 investigated all sites available in the ACT Government land portfolio and identified two ACT Government sites for the rehabilitation facility: Ingledene and Jedbinbilla.
10. In March 2008 the Reference Group, including representation by the United Ngunnawal Elders Council conducted a site visit of Ingledene and Jedbinbilla. Both sites were found to be inappropriate for the establishment of the rehabilitation service. Jedbinbilla was considered unsuitable because of its cultural significance as a male initiation site, which makes it unsuitable for housing Aboriginal women. Ingledene was considered unsuitable due to the lack of river or watercourse on-site, which holds cultural significance for the local Aboriginal population.
11. In 2008, the ACT Planning and Land Authority and Department and Department of Territory and Municipal Services reviewed all available ACT Government land and were unable to find a property that met the necessary criteria.
12. ACTPLA did suggest Stromlo Block 485 (Robert Tanner's property "Piney Creek") for the rehabilitation service. However, the eastern boundary of Stromlo Block 485 is approximately 1-2km away from the currently proposed western boundary of the proposed Molongolo development area, which makes it unsuitable for the rehabilitation facility.
13. In March 2008, the Reference Group were alerted to a property for sale on the private market - 'Miowera', Block 241 Paddy's River, by an independent consultant providing advice on development potential and the potential for animal husbandry and native regeneration on the sites identified in the Procurement Feasibility Study.
14. In April 2008, the Reference Group, including representation by the United Ngunnawal Elders Council conducted a site visit of Miowera. The site met all criteria set by both the ACT Government and the Reference Group. In addition the site was considered culturally appropriate by the United Ngunnawal Elders Council representative.

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- In addition, there have been no recent property inspections of Miowera other than ACT dept Health.
3. ACT dept of Health have offered \$1,400,000 or \$1555 per acre. This does not compare favourably with what the market is saying.
 4. The last sale of rural Land in the area was a far superior property which sold for \$750 an acre in 2004.
 5. The ACT Government only recently resumed Robert Tanners property "Piney Creek" on Uriarra road, a property in a 99 year rural lease area, of similar size, better access, better utilities and would cost the ACT taxpayers \$ZERO
 6. "Miowera" has very poor water supply, poor access, crosses a rickety old bridge and in times of heavy rain residents can be flooded in for up to a week at a time.
 7. It is clear from our discussion that the services of a qualified rural consultant have not been used to work out a rural property plan which in addition to rural matters combines the ACT Dept Health proposed land use and an associated property budget going forward.
 8. There appears to be no detailed SWOT analysis comparing "Miowera" to "Piney Creek". In fact I doubt if ACT Health are aware of "Piney Creek". It is likely that given the number of Rural leases recently vacated that there may well be other suitable blocks which may be available at a \$zero cost.
 9. As a past National Landcare finalist (in 2007), vice president of the ACT Rural Landholders Assoc Inc and as owner of the neighbouring property "Tidbinbilla Station" I am very interested and concerned about poor land management practices. To be perfectly honest, the ACT government have proved to be the worst neighbours I have, primarily as a result of a combination of changes in land use, ongoing budgetary constraints which is just part of the system, not the fault of the 'on the ground' ACT govt land managers and employees. Inexperienced management of a rural property combined with lack of adequate funding has the potential to have a severe detrimental impact on other surrounding rural lands.
 10. The above point is particularly relevant as past and current ACT Drug Rehab centres operate on only on a few acres not 900.

I and others are concerned at the price offered and the apparent lack of due diligence at this point in time. The property has no other buyers at this price and as such there is ample time to review the proposal and undertake due diligence not only on price but also in relation to what other cost and management issues will result from such a purchase.

I have informed the Chief Ministers Office on this matter as I believe it is possible that other persons have approached other MLA's.

A meeting of Rural Landholders is being held on Monday. I will give you a call on Tuesday. In the meantime can you please make sure that Ministerial consent to the lease transfer is not granted at this point in time. My contact numbers again are [REDACTED]

Again thankyou for being considerate and taking time to talk with me and returning my calls during what I know has been a busy week for you.

Regards

[REDACTED]

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Jeremy Hanson, CSC, MLA

Member for Molonglo

Shadow Minister for Health; Police; Indigenous Affairs; Corrections

Media Release

Thursday 21 May 2009

ANOTHER GALLAGHER

COVER UP

The Minister for Health, Katy Gallagher, has to explain why documents relating to the winery being built next to the proposed Bush Healing Farm were censored to remove mention of the cellar door and winery, said Shadow Health Minister Jeremy Hanson.

The Minister had originally suggested that there were no plans to build a winery, cellar door and Bed and Breakfast on the site next to the Bush Healing Farm based on searches of Development Applications.

However, the Opposition has uncovered a document that shows the government was aware of these plans as early as July 2008, when the sale was completed in August of 2008. Worse, the document was censored by the government to try to avoid this embarrassing fact becoming public.

Under FOI, the government released a document dated 9 July 2008 and addressed to the Chief Minister. The identifying details of the person sending the document were properly blacked out. However, material details about the nature of the business were also censored.

The Opposition has now uncovered the uncensored version of this document and discovered that the words 'vineyard' and 'cellar door sales and a Bed and Breakfast establishment' were blacked out. The only rational explanation to remove these words was to cover up the government's embarrassment and there is no legitimate excuse for their removal.

'This shows yet another case of a shameful attempt to cover up the Minister's embarrassment by misuse of process,' said Jeremy.

Media contact: Adam Duke 0438 279 109 or Ian Hagan 0419 287817

Canberra liberals

90% OF DOCUMENTS WITHHELD BY ACTTAB

ACTTAB has withheld 90% of the documents relating to its new headquarters following an FOI request from Lal Minister for Planning, Simon Corbell.

For example, the documents withheld by ACTTAB include the entire file on valuations of the existing ACTTAB site in Dickson.

"This is curious because the expected value for the site is highlighted on p407 of Budget Paper No4", Mr Corbell said.

The site is scheduled for sale in 2002-2003.

"Why are the papers relating to how that figure was determined being withheld", he said.

"As the valuation is highlighted in the Budget Papers (a public document) it is difficult to believe that the background papers the FOI Act", he said.

"It suggests that ACTTAB may have something to hide", Mr Corbell said.

"So much for Gary Humphries often touted by seldom practised policy of openness and transparency of government", he said

The covering letter from ACTTAB also confirms that

"The sensitivity of this situation is exacerbated by the negotiations being still under way between ACTTAB and the Hindmarsh"

"This confirms that ACTTAB is actively pursuing the relocation of its HQ to Fern Hill Park despite the sham intervention of Ga have ACTTAB consider the Gungahlin Town Centre", he said.

"The large number of documents withheld leaves many unanswered questions about the relocation of ACTTAB's HQ", Mr Cor

Statement ends
10 July 2001

Authorised by Simon Corbell, ACT Legislative Assembly, Civic Square, Canberra, ACT 2601



YOU ARE HERE Content / Garrett must release critical CSIRO pulp mill report: stop protecting Gunns

Garrett must release critical CSIRO pulp mill report: stop protecting Gunns



Christine Milne

21/08/2008

Australian Greens Senator Christine Milne today called on Environment Minister Peter Garrett to release a CSIRO report relating to Gunns' intention to dump 64,000 tonnes of effluent into Bass Strait per day and the probabilities of it exceeding the allowable effluent concentration.

Senator Milne's FOI request to release this CSIRO report was rejected on the basis that it may impact on Gunns' commercial interest, after first being blocked on the basis of exorbitant costs and bureaucratic processes.

Senator Milne said, "Gunns financial difficulties and failure to raise the funding for the mill is no reason for the Commonwealth to try to protect it by refusing to release critical information which is in the public interest

"Since when has the Commonwealth Environment Minister seen himself as the protector of the interests of big business at the expense of the environment and the public interest?"

"How outrageous is it for Minister Garrett's Department to refuse to release a report because 'it could mislead the public and create uncertainty, pressure and complexity for Gunns in its dealing with stakeholders, including the general public?"

Senator Milne said, "With Gunns stock in freefall, and rife speculation in the investment community as to the content of scientific studies, this is not the time for the Government to prioritise Gunns' commercial interest over the public interest.

"What about the public interest in how much pollution the Pulp Mill will pump out, Peter?"

"What about the commercial interests of all the businesses in the Tamar Valley whose clean, green and clever brand will be ruined by a dirty, stinking pulp mill?"

"The letter rejecting my FOI request" informed me that third parties, including Gunns, had been consulted as to whether or not to release this document. The fact is Doctor Michael Herzfeld is a coastal environmental modeller with the Marine and Atmospheric Research Section of CSIRO and is a member of the Gunns pulp mill Independent Expert Group. He wrote the report to provide independent scientific and technical input and advice on materials submitted by Gunns. The Report does not belong to Gunns and as a professional scientist Dr Herzfeld will have made clear the assumptions on which he has based his report. For the Commonwealth to invent excuses, such as 'this report is preliminary rather than final' and that it 'was not commissioned' and 'has not been peer reviewed' is an insult to the public intelligence.

As the financial markets are clearly now assessing whether this pulp mill will ever be built, the health or otherwise of Gunns' balance sheets, and not to mention whether it will ever get environmental approval, it is incumbent on the Minister to provide all the information he has to all the players so that every financial analyst is fully informed, Senator Milne concluded."

* The letter is available to download at www.christinemilne.org.au

Contact: Tim Hollo on 0437 587 562

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YOU ARE HERE Content / Labor, Liberals block Canberra release of Pulp Mill document

Labor, Liberals block Canberra release of Pulp Mill document



Christine Milne

27/08/2008

The Federal Government and Opposition joined forces in the Senate today to block Greens' Senator Christine Milne's motion to release documents related to the Gunns Pulp Mill under Freedom of Information.

"It is pretty obvious that the release of these documents would add to the pressure on Gunns in their dealings with stakeholders and the public and I am disappointed that Labor and the Coalition have determined not to allow the public to see this document," Senator Milne said.

"Under the Freedom of Information Act, section 23, the Minister has the power to make a decision himself. I think it is cowardice on behalf of the Government to blame a departmental officer when the minister is clearly making a decision to prevent the public having this document in the public interest."

"Ultimately, it is the houses of parliament that determine what can and cannot be release and I will be asking the minister to release these documents," Senator Milne said.

Further information: Russell Kelly 0438376082

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25/5/09

Chief Executive

Level 3, 11 Moore Street, Canberra City ACT 2601
GPO Box 825 Canberra ACT 2601
Phone: (02) 6205 0825 Fax: (02) 6205 0830
Website: www.health.act.gov.au
ABN: 82 049 056 234

File No:

Mr Jeremy Hanson MLA
Shadow Minister for Health
ACT Legislative Assembly
Canberra ACT 2601

Dear Mr Hanson

Your media release 21 May 2009 "Another Gallagher Cover-up"

I am writing following the issuing by your office and continued publication on the Canberra Liberals website of the above media release.

I wish to make you aware of a number of concerns that I have with the accuracy of the information contained within the release and possible interpretations to be drawn by readers, commentators and the general public arising from the release.

Firstly, the management of matters relating to requests under the Freedom of Information (FOI) Act for documents held by ACT Health rests with ACT Health. The Minister for Health has played no role in the response to any request for access to documents under the FOI ACT, nor did the Minister exercise any decision making capacity in relation to this or any other application. You may not have been aware of this, so I am informing you of this now.

Secondly, any criticism that you or your colleagues have with the handling of any matter dealt with by ACT Health under the FOI Act should be directed to ACT Health in the first instance. As you may be aware the Act has a number of provisions available to applicants to seek a review of any decision taken by an agency in relation to any application. In the matter that you refer to in your media release, ACT Health is not aware of any action that the applicant has taken to formally address any concerns with the handling of this matter by us, consistent with the provisions of the Act. Again, you may not be aware of these provisions, so I am informing you of these provisions now.

Thirdly, you have asserted in writing, published and encouraged the public utterance and broadcasting of the following claim, "*this shows yet another case of a shameful attempt to cover up the Minister's embarrassment by misuse of process*". Given that the Minister has played no role in this FOI application, and that the FOI application process has been handled exclusively by ACT Health, it would be reasonable for a member of the public to assume that ACT Health is the object of your claims of "cover up" and "misuse of process." I am prepared to accept that you may not have intended this interpretation. Nevertheless the interpretation is open to be made by a reasonable person.

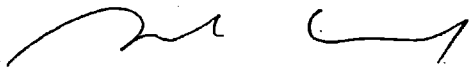
Fourthly, (and for the sake of completeness) I categorically reject as baseless and untrue any allegation that I or any of the ACT Health officers responsible for dealing with this FOI application have participated in a "cover up" or "misuse of process".

In the light of the above I believe that it is appropriate that you withdraw this allegation, and this is best done by withdrawing the media release in its current form. I believe that it is also appropriate that you take appropriate steps to clarify your published statement.

While ever this matter remains unclarified by you, the reputation of the integrity of myself and that of the officers responsible for managing this FOI process has the potential to be unfairly called into question.

I look forward to your response.

Yours sincerely



Mark Cormack
Chief Executive

25 May 2009

From: actgovmedia@act.gov.au [mailto:actgovmedia@act.gov.au]
Sent: Tuesday, 16 June 2009 1:59 PM
To: noreply@chiefminister.act.gov.au
Subject: [ACT GOV MEDIA RELEASE] NEW LOWS FROM THE LIBERALS WITH THEIR GRUBBY POLITICS

NEW LOWS FROM THE LIBERALS WITH THEIR GRUBBY POLITICS

Published: June 16, 2009, 1:59 pm
Section: Katy Gallagher, MLA | Media Releases

The Liberals have sunk to new lows today by using parliamentary privilege to sledge a senior public servant in a bid to score a few cheap political points, ACT Health Minister, Katy Gallagher MLA said.

"This is grubby politics from an arrogant, disrespectful and desperate Opposition who is so misguided it believes that sledging a public servant is a legitimate way to attack the Government," Ms Gallagher said.

"Today's motion by Liberal MLA Jeremy Hanson seeking to refer to the Privileges Committee an alleged breach by a senior ACT Health public servant simply for writing to Mr Hanson to correct the record, is disgraceful."

The Minister said the public servant was responding to false claims in a media release that an Freedom Of Information (FOI) request was "censored" and claims that this showed "yet another case of a shameful attempt to cover up".

"Mr Hanson should be the one embarrassed about this nasty little affair. Clearly Mr Hanson doesn't understand the FOI process. He maintains his media release attacks the Minister only. But by stating that the FOI process undertaken is tantamount to a cover-up, he is saying that health officials, being those decision-makers responsible for FOI rulings, are involved in that "cover-up".

"The public official responded in writing to Mr Hanson in a reasonable and polite manner, drawing to his attention several inaccuracies in Mr Hanson's public statement. It was a reasonable response to a completely unreasonable media release. The official has a right to defend his reputation and that of his staff against public allegations that they were involved in some impropriety.

"Mr Hanson, in response, released his letter and that of the public official to the media because he can't handle someone challenging his opinions or objecting to his views.

"This motion makes a joke of the ACT Legislative Assembly. And the Greens, in supporting this outrageous attack on the professionalism of a respected senior public servant, have lowered themselves to the Liberals' level.

"This is sending the message that any member of this Assembly can put out any statement with unsubstantiated, slanderous claims about a public servant, and that public servant is not permitted to write a letter to that member for fear of being judged by a privileges committee.

"The Liberals and Greens have decided that if someone wants to respond to criticism and unsubstantiated claims against them, they do so with the fear of a privileges committee inquiry being launched against them.

"Mr Hanson thinks it is acceptable to make outrageous and false allegations, email his thoughts out to every media outlet in Canberra and post them on the Internet, but the person who is offended is not allowed to write a letter in response, correcting the record.

"Furthermore, claims that the Government was involved in censoring the FOI because it was embarrassing are wrong. For the record, I couldn't care less if a wine cellar door was opened next to the Bush Healing farm. I don't find it embarrassing at all and I don't believe it compromises what will be a fantastic project.

"It begs the question of why this matter was prioritised over the Estimates Committee report which was meant to be tabled this morning. Is it perhaps that the Committee has nothing of value to say?

"This motion is a waste of the Assembly's time from an Opposition struggling to find relevance. At a time when ACT Health is working around the clock to protect the health of the public from swine flu, and the Government is working on important economic issues, this is what the Greens and the Liberals believe is the best use of the Assembly's time."

Media Contact:

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COPY

Jeremy Hanson CSC MLA

Australian Capital Territory

Liberal Member for Molonglo

Opposition Whip

Shadow Minister for Health, Police, Indigenous Affairs, Veterans' Affairs and Corrections

Mr Mark Cormack
ACT Health
GPO Box 825
CANBERRA CITY ACT 2601

For Information:
Mr. Shane Rattenbury
Speaker

Ms. Katy Gallagher
Minister for Health

Dear Mr. Cormack,

Thank you for your letter of 25 May 2009. I note your concerns and your explanation of ACT Health's role in the matter of Freedom of Information (FOI) material that is the subject of my press release "Another Gallagher Cover-Up".

As you are aware, the Opposition has an uncensored version of the relevant FOI document. This has provided me with sufficient evidence to make the statements contained in my press release.

I remain of the view that Section 41 of the *Freedom of Information Act 1989* was used inappropriately to justify removal of the words 'cellar door', 'bed and breakfast' and 'winery' from the document. In my view, information of a politically sensitive nature has been removed, as opposed to 'personal information' as is required under the Act.

It is my responsibility as a Member of the Legislative Assembly to highlight such issues to the public. Ministerial responsibility requires Ms Gallagher to be accountable for the administration of her Department and I believe that it is quite unreasonable to assert that my comments were in any way directed at you or any other ACT Health official. If you have misinterpreted or extrapolated my comments to that effect then that was unfortunate and erroneous.

If non-executive Members of the Legislative Assembly are to perform their responsibilities of holding the Government to account, and representing the interests of the community, they should not be subjected to letters from departmental officials demanding retraction of statements that are critical of the Government.

I believe your letter is highly inappropriate and request that if you have any grievances in the future that you direct them to the Minister.

Yours sincerely,

Jeremy Hanson, CSC, MLA

28 May 2009



ACT opposition 'warned away' from criticising health system

Posted Sat Sep 8, 2007 10:47am AEST

Australian Capital Territory Opposition health spokeswoman Jacqui Burke says she is under pressure to stop speaking out about problems in Canberra's public hospitals.

Ms Burke has received letters from the chief executive of ACT Health and the Australian Nursing Federation, criticising a recent media release.

She says the letters are alarming and it is the first time the head of a government department has written to her in such a way.

"My concern is now that we see now nurses being told to keep quiet [and] not talk to me," she said.

"I'm being warned not to speak publicly, not to talk about the issues. What is it going to take until we can honestly and openly listen to criticism?"

In a statement, ACT Health chief executive Mark Cormack said Mrs Burke had not been warned off and his letter was to correct factual errors in her press release.

Tags: [government-and-politics](#), [states-and-territories](#), [health](#), [health-policy](#), [act](#)