



Legislative Assembly for the ACT

SELECT COMMITTEE ON ESTIMATES 2005-2006

## **Appropriation Bill 2005-2006**

**Part 2: Additional comments and  
dissenting report**

JUNE 2005

ATTACHMENT 1 – ADDITIONAL COMMENTS  
FROM DEB FOSKEY MLA

## **Additional comments**

Deb Foskey, ACT Greens Member of Molonglo

## **Budget Priorities**

I am concerned by the Government's 2005/06 budget priorities. Although the government made an election promise in 2004 to provide \$10 million to social housing, the Minister for Disability, Housing and Community Services failed to bid for this funding in the 2005/06 budget process. Instead of keeping this election promise, the Government decided to deliver a number of other capital investments such as the Arboretum and the Dragway. I draw the government's attention to the many budget submissions and Estimates transcripts from community groups stressing the need for additional investment in public housing and the social impact of the current lack of affordable housing in the ACT on individuals and services such as SAAP and mental health services.

*Recommendation:* That the fulfillment of the government's election promise of \$10 million investment in Housing ACT be prioritized and expensive, inessential projects such as the arboretum and dragway be reconsidered.

## **Budget Presentation**

The presentation of the Estimates Report has room for improvement.

The report lacks a chapter dealing with whole-of-government policy issues such as housing affordability, sustainability, water management and poverty proofing of the budget. The advantage of a whole of government approach is that it would provide scope for holistic measures across agencies and avoid sectoral indicators. However to achieve such an analysis of the next budget, another week would be required between the Assembly sitting week in May and the tabling of the estimates committee report in June.

*Recommendation:* That the Administration and Procedures Committee, in setting the sitting pattern for 2006, allocate an extra week between the sitting week in which the budget is handed down and when the Estimates committee report is presented.

## **Environment**

### *The dragway*

During the Estimates process, it became evident that the building of the dragway appears to be a foregone conclusion, and the sole area of environmental concern being considered is the issue of noise levels, with the Government indicating that it was prepared to waive existing regulations to enable the dragway to be placed in its preferred location.

Recommendation: That the full range of issues related to the location of the dragway be taken into account, including cost, environmental impacts, traffic issues, effects on the amenity of neighbours, and that time be allowed for full, consultative and transparent consideration of all these issues and the decision about whether or not to go ahead be made in relation to other priorities.

## **Water**

ACTEW clarified through the Estimates hearings that it is responsible for implementing aspects of the Think water Act water Strategy. However there is insufficient separation between ACTEW's role as the principal water supplier and its role in providing policy advice.

Recommendation: That policy advice on water issues should sit with either Environment ACT as the water resource manager under the Water Resources Act or the Office of Sustainability as it now has responsibility for water policy issues.

## **Energy Efficiency**

I was disappointed that the Government reneged on its election commitment to fund energy efficiency measures in ACT public housing and government buildings. The Government also committed to spending \$5 million in schools to increase energy efficiency but the budget provides only \$1 million towards this program.

These measures would have produced savings to the Government over the medium to long terms and assisted in lowering the proportion of carbon

dioxide we contribute to the atmosphere, thus helping us to meet our greenhouse gas emission reduction targets.

Recommendation: The Committee recommends that these programs be allocated the promised funds as soon as possible and that the delivery of the program be centrally coordinated by the Office of Sustainability.

Recommendation: That the Government develop a full program and timetable for ensuring that the ACT public housing stock is retrofitted for energy and water efficiency.

Recommendation: That these programs be allocated promised funds as soon as possible and that the delivery of the program be centrally coordinated by the Office for Sustainability.

## **Planning**

The Government reported through the Estimates hearings the progress it was making towards introducing a Building Sustainability Index (BASIX). This Index will require all new residential developments to meet a certain level of sustainability before a development approval will be granted. I was pleased to see progress being made in this area, but am also frustrated that in 2005 there are no mandatory energy efficiency standards for new commercial buildings.

Recommendation: That the Government take all steps necessary to ensure that BASIX and the proposed new standards for Commercial buildings are introduced as soon as possible.



**ATTACHMENT 2 – ADDITIONAL COMMENTS  
FROM KARIN MACDONALD MLA AND MARY  
PORTER MLA**

## **Additional Comments**

Government Members Karin MacDonald and Mary Porter

### Clause 4.8

The Government members oppose this clause because when clarified by Government officials (correspondence to the Committee Secretary, 15 June 2005) it was not evident that the number of staff had increased as is asserted in this clause.

### Clause 10.8

The Government members would refer readers to Corrected Proof transcript for 27 May 2005, page 890, to appreciate the reasons as to why the Non-government Schools Education Council could not be convened prior to Budget deliberation

Karin MacDonald

Mary Porter

**DISSENTING REPORT – RICHARD MULCAHY  
MLA AND ZED SESELJA MLA**

**SELECT COMMITTEE ON ESTIMATES 2005-06**

**APPROPRIATION BILL 2005-06**

**DISSENTING REPORT BY**

**RICHARD MULCAHY MLA AND ZED SESELJA MLA**

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## **1. Introduction**

1.1 The budget is the Government's most important document because of what it reveals about the administration's nature and priorities. Behind the rhetoric and media spin, the Government's actual record and intentions are displayed in numbers and the relationship between them.

1.2 The role of the Estimates Committee is to examine and report on the Government's taxing and spending plans. However, in 2005, the Government effectively 'stacked' the Committee which, as a result, failed to assess a large number of budget items.

1.3 This report sets out the reasons Mr Richard Mulcahy and Mr Zed Seselja dissent from the Report of the majority of the Estimates Committee on the 2005-06 Budget. Essentially, the majority report fails to address the major deficiencies of the Government as revealed in its Budget.

## **2. Budget reveals Government's deficiencies**

2.1 Major Government deficiencies include in particular:

- the persistent failure to control expenditure;
- the profligate use of revenue windfalls;
- the related increase in taxes and charges to be paid by ACT residents and businesses;
- incremental spending instead of re-setting priorities;
- the failure to allocate expenditure to high priority community needs;

- the waste of scarce public funds on items of essentially passing interest and ideological indulgence of little use to the vast majority of the community;
- the lack of proper provision for the future, with several programs under-funded;
- failure of the Government to abide by its laws; and
- the difficulty faced by the Committee in analysing the Budget because of deficiencies in the Budget's presentation, including a lack of transparency and the absence of historical data on expenditure and revenue.

### **3. Excessive expenditure**

3.1 The present ACT Government has a history of failing to keep expenditures within limits set in successive budgets. The Government's 2005-06 Budget continues this failure. After three years during which government expenditure increased by no less than 21 per cent, expenditure is estimated to increase by a further five per cent. Moreover, recent Budget expenditure outcomes have exceeded Budget estimates by \$688 million – an average over-run of more than seven per cent per year. If this pattern of Budget outcomes exceeding Budget estimates continues, the actual increase in expenditure in 2005-06 is likely to exceed five per cent by a considerable amount.

3.2 The Treasurer claims that there are good reasons for the over-runs that now amount to \$688 million blow-out in expenditure during the four years ending 2004-05. The Opposition recognises that some exceptional situations – notably the response to the Gallop Report – have resulted in some unexpected expenditure. Nonetheless, when such situations arise in a period of continuing economic growth, it is incumbent on governments to redouble

their efforts to find savings in other outlays in order to protect the Budget bottom line. There is little evidence of such efforts in this Budget.

3.3 The attempt by the Treasurer to justify the over-run in expenditure reveals the flaw of incrementalism in the Government's economic management, namely treating all new expenditure as additions to existing spending with no re-setting of priorities and little attempt to stay within an overall expenditure limit.

3.4 The ACT has a number of essential needs that the public sector is best placed to provide. Good government and good budgets, however, involve clear setting of priorities. Functions, such as community safety, education, health, aged care facilities, transport and assistance to those in genuine need should be the focus of the government's expenditures. Programs of less importance, while seemingly desirable if considered in isolation, cannot be regarded as sufficiently urgent to pursue in the short term. Even in those areas where government has a legitimate role, it is important to ensure that services are delivered as efficiently as possible. The difficulty that is often involved in this process does not excuse a half-hearted approach to the establishment of priorities.

3.5 The majority Committee Report fails to observe that this Budget does not address properly these key ingredients of good governance. Expenditures have not always been targeted to high priority activities. Some key components of expenditure have been under-estimated and, as a result, there is little likelihood that the recent deterioration in the operating results of the general government sector will be reversed on the scale forecast in the Budget. The ACT's taxpayers deserve better. The Committee's report should

provide some indication of how a better outcome can be achieved. It does not.

3.6 Items of expenditure that we have identified as being of low priority at present (when current spending is exceeding current revenue by \$356 million, BP3 p 338) include the following:

- the decision to allocate \$12 million for an International Arboretum;
- the decision to spend the \$10 million saved on the upgrade of the Convention Centre;
- \$2.8 million spent on ACTEW Corporation employee expenses should be reviewed, especially the seemingly excessive remuneration paid to the Chief Executive;
- \$1.7 million allocated for improvements to Phillip Oval;
- \$7.3 million to be spent on the Human Rights Commission and associated functions in 2005-06;
- the cost of the Chief Minister's decision to intervene in the Bushfires Inquest in an attempt to avoid the prospect of an adverse finding against him, which already has reached a minimum of \$1.5 million;
- rapid expansion in the cost and size of the Government's 'communications unit';
- the decision to build a specific roadway for a bus service from Belconnen to Civic, at a cost possibly in excess of \$100 million with negligible time savings for commuters;
- the decision to allocate \$6.7 million for a real time information system on bus arrivals despite claims of a 99% punctuality rate;
- the \$2.065 million funding of the Community Inclusion Fund and Board in 2005-06 [Ms Hudson, 16 May, Hansard, p29]

3.7 There is also clearly scope for administrative savings, such as within the Health portfolio, where ACT expenditure is significantly above the national average. According to the Australian Institute of Health and Welfare the cost of ACT hospitals on a case-mix adjusted basis is about 30 per cent higher than the national average. On that basis, Canberra's public hospitals are spending \$104 million more than the average of other similar hospitals in Australia for doing the same job. That amounts to a \$104 million burden on ACT ratepayers to pay for the hospitals' inefficiency. The Minister said he was working on this problem, but could offer no plan for tackling the causes of inefficiency and offered no hope of securing better value for the taxpayers' dollar.

3.8 Administration costs in the ACT's public hospitals are \$14 million higher than those in comparable hospitals elsewhere in Australia. The Minister for Health has stated that he has no reason to dispute these figures (Hansard, 19 May, p 304). His Chief Executive said that the Health Department and ACT Treasury are not relaxed about the matter (Hansard, 19 May, p 305) – a clear indication that there is room for savings. The Government says it intends to reduce these gaps in comparative costs, but is not moving quickly to do so and fails to show how it will do so.

3.9 Compounding the impact of high and rising health expenditure is the Government's failure to recover the full cost of providing services to NSW patients. In response to a question on notice from Mr Mulcahy, the Minister stated (30 May 2005) that the shortfall in cost recovery for the ACT in 2005-06 is estimated to be \$11.244 million, following a shortfall of \$14.028 million in 2004-05.

3.10 Savings in administrative costs in other areas would also help to contain the growth of expenditure. An instance that arose during the Committee's hearing on 20 May concerns the taxi subsidy scheme. It was disclosed during the hearings that a subsidy of \$760,000 for taxi services for persons with a disability incurred an additional cost of \$200,000 for administration. [2004-05 BP3 (p127) and 2005-06 BP3 (p133)].

3.11 The taxi voucher system has been a very high volume scheme as it was based on a \$2 voucher system. It was reviewed in 2003-04 in order to establish a method of developing a system (2005-06 BP3, p133), reflecting 50 per cent of the taxi fare for regular users and 75 per cent of the fare for people in wheel chairs. A lift fee of \$8.50 for each time the lift is used was also introduced this year.

3.12 Thirteen thousand \$2 vouchers are issued, and used, monthly. People with temporary disabilities made 100 applications for vouchers monthly. A \$200,000 administration cost on top of a \$760,000 program is extraordinarily large and reflects the government's inability to control expenditure.

#### **4. Revenue windfalls wasted**

4.1 The ACT Government has benefited from unsustainably rapid growth in some of its revenues. Over the past four years, actual revenue has been \$900 million more than the Government estimated. In particular, there has been a major housing boom that has resulted in unusually large increases in stamp duty. There has also been a boom in household spending, financed in part by substantial borrowing, which has resulted in abnormal growth in GST-based revenue flows to the Government.

4.2 Mr Byron of the ACT Property Council pointed out (*Hansard*, 23 May 2005, p 546) “the ACT will get \$231.4 million of extra GST over and above the guaranteed amount [over the Budget estimates period]”.

4.3 There has also been a large increase in revenue from land sales in the ACT, which is estimated to amount to \$174 million in 2005-06 and \$194 million in 2008-09, compared with less than \$100 million in 2002-03 (2005-06 BP 4, p 500, 2003-04 BP 4, p 407). This practice of attempting to balance a budget by relying on land sales is an unusual approach to budgeting, adopted only by the ACT and Victoria. Indeed, the Treasurer has said that the inclusion of land sales and financial asset revaluations as revenue was a difference between the ACT and “most other jurisdictions” (*Hansard*, 17 May 2005, p94)].

4.4 Including land sales as annual revenue is akin to selling a paddock of the farm every year and calling it income. That gives a misleading picture of the financial health of the business and is also clearly unsustainable. Asset sales are normally treated as financing items rather than as items that flow into the budget deficit or surplus. It is only by use of this ‘unusual’ approach that the Government has been able to present the 2005-06 deficit as ‘only’ \$91 million. If land sales and financial asset revaluations had been treated in the usual way (as financing items) other jurisdictions in the main favour, as does the Grants Commission, the deficit would be \$356 million, as shown in the Government’s own Government Financial Statistics. We also note, in passing, that the prison is being financed from annual revenue. That is to say, the Government is consistent on both sides of the ledger, but wrong on both.

4.5 Not surprisingly these accounting anomalies in the ACT Budget are currently under study by Treasury with a view to achieving a harmonised

approach across Australia and internationally. As noted in BP3 (page 23), “The AASB is undertaking a project, in conjunction with Australian Treasuries, to enable harmonisation of financial reporting currently required under both Generally Accepted Accounting Principles and Government Finance Statistics. The project is yet to be completed but *is likely to substantially change the format of the future financial reports*” (emphasis added). Whatever the outcome of that study, however, it would be unwise to assume that the ACT Government will not continue to sell land at high levels in circumstances of weakening demand in order to generate some cash to fund its excessive spending.

4.6 A prudent administration would have accepted the unsustainable nature of some of the revenue growth we have seen over the past few years and set its spending at levels which could be financed in circumstances of slower revenue growth. The ACT Government has not behaved in that way, continuing to raise expenditure at a profligate rate. The Treasurer has tried to hide behind claims that the revenue boom was unforeseeable and therefore the additional expenditures were in order. Whether it was foreseeable or not, any informed observer would have realised the unsustainable nature of the growth in revenue – up 47 per cent in the five years to 2004-05 [2005-06 BP3, p 3, 2000-01 BP3, p 3]. The Committee’s Report should note this failure, even if only for future reference. However, it has been ignored.

## **5. Pervasive government**

5.1 Since the commencement of ACT self-government in 1988-89, total expenditure of ACT governments has increased by 167 per cent, from \$1.1 billion to the estimated \$2.8 billion in 2005-06. A large component of that increase has occurred recently. Expenditure budgeted for 2005-06 will be 46

per cent higher than in 2000-01 [1998-90 BP2, p 33, 2001-02 BP3, p 54, 2005-06 BP3, p 39].

5.2 There is a strong tendency within the Stanhope Government to believe that it must respond to requests for a widespread role across the ACT. This is, in fact, what it does – as indicated by the rapid growth of public spending. The big government approach is clearly evident in the number of programs included in the Budget for Departments and Territory Authorities and Corporations.

5.3 The 2005-06 Budget Paper No 4 shows program outputs for each of the Government's 18 Departments. In 2005-06, the Budget includes no fewer than 75 such outputs. These range from Sustainability (Chief Minister) through Sport, Recreation and Racing Sector Development (Department of Economic Development) to Protection of Rights (Department of Justice and Community Safety).

5.4 Within these programs, of course, is the Chief Minister's ideological agenda, including the Human Rights Commission and the Community Inclusion Board. This indulgent left-wing agenda constitutes a poor use of public funds. The Community Inclusion Board's role appears to be to tell the Government how to listen to Canberrans. Even though the expenditure on this agenda is not large, it must be weighed against the possible community benefits, which we see as miniscule at best. Moreover, when the leadership wastes taxpayers' funds in this way it sends a message to other Ministers that such indulgence is acceptable, and invites the public to make more demands on the public purse to support their own sectional interests.

## 6. Increase in taxes and charges

6.1 The rapid growth of Budget expenditure, together with the slower growth forecast for the ACT economy, means that the Government is absorbing a larger proportion of the community's available resources. In other words, the Government prefers to keep the rates, taxes and fees paid by ACT citizens higher in order to pursue its high-spending, ideological agenda. Between 2002-03 and 2004-05, Government revenue from taxes, fees and fines and user charges paid by the community increased by 14 per cent [2005-06 BP3, p39, 2004-05 BP3, p22]. It is estimated to increase by 6 per cent in 2005-06 and by a further 19 per cent over the subsequent three years. On this basis, these taxes and charges will have increased by 43 per cent in the space of six years.

6.2 These developments put paid to the Government's pronouncement in its 2003 Economic White Paper that the Government intended to make the ACT economy more diversified, with a larger private sector and reduced reliance on government employment. The Economic White Paper states: "The ACT Government is committed to encouraging stronger and more resilient industries and enterprises, diverse and secure employment opportunities. We recognise that the strength of our economy will ultimately depend on the quality, innovation and efficiency of our private sector and institutions." [*The Economic White Paper for the Australian Capital Territory*, 2003, p 30]. Yet in practice the ACT Government has been moving in the opposite direction. As noted above, according to the Budget estimates, general government sector total expenses in 2005-06 will be 46 per cent higher than in 2000-01. Over the same period, ACT gross state product is estimated to increase by only 32%. In other words, the ACT Government will be absorbing a greater proportion of total ACT output.

6.3 In this context, Mr Miller of the Canberra Business Council pointed to the impact on businesses of the failure to raise the threshold for payroll tax. He noted that:

“The threshold for payroll tax...not being indexed means that more and more businesses are being captured into that net. Whilst we may have only a certain number of businesses paying payroll tax, we think that it is a severe problem if we continue to frighten off larger businesses. Either it needs to be indexed or some other things done to tackle the issue of payroll tax as a disincentive for business” [*Hansard*, 23 May, p 534].

6.4 Against the background of the larger than guaranteed increase in GST revenue, Mr Byron of the ACT Property Council said that the Government:

“...should be able to abolish all these nine taxes” [listed in the 1999 Intergovernmental Agreement between the Commonwealth and the States and territories].

He went on to say that the Government:

“should be able to abolish all these nine taxes. Yet our industry is most concerned that Ted Quinlan has identified the removal of only a few of them, and only on a very staged basis. The cost to the ACT over those four years is \$13 million. Business will be paying double taxation.

“The most important of those taxes to remove is stamp duty on commercial conveyances...it directly affects our industry...[and] independently, objectively, it has been assessed as the most inefficient.

The other side of the coin means that the economy and all people in the ACT gain the most in terms of jobs and new economic activity through its removal.

“The removal of that tax would cost \$33 million, and the Commonwealth is offering a guarantee that the revenue will be underwritten, if we do the deal now.” [Hansard, 23 May, p546-7].

6.5 In response to a question from Mr Mulcahy, Mr Byron pointed out that the 6.75 per cent conveyancing duty was hampering the renewal of old property in Civic because existing institutional investors holding that property would need to be bought out. If the subsequent developer then sold the property, the total conveyancing on the renewal could double to 13.5 per cent [*Hansard*, 23 May, p 547].

6.6 The Government’s policy of “maintaining taxation rates in line with NSW” [BP3, p115] means that the burden of taxation in the ACT will generally be higher than all States/Territories in Australia other than NSW. Notwithstanding the Government’s words about encouraging private sector investment in the ACT, it’s actions clearly show that it is not prepared to make the ACT a preferred location. If the Government meant what it said it would create an investment climate more favourable than competitive locations.

6.7 We consider it a matter of great concern that the majority of the Committee failed to understand the adverse impact of high and rising taxes and charges. The majority report’s omission of this relationship and discussion of its consequences for living standards in the ACT is a major flaw.

## 7. Spending priorities

7.1 As noted, we acknowledge that the ACT has a number of essential needs the public sector is best placed to provide. Good government and good budgets, however, involve clear setting of priorities. Essential functions, such as community safety, education, health and transport should be the focus of government. The Government needs to look critically at programs, which, while desirable, cannot be regarded as sufficiently urgent to pursue in the short term. Even in these areas, it is important to ensure that services are delivered as efficiently as possible. The difficulty that is often involved in this process does not excuse a half-hearted approach to the establishment of priorities.

7.2 We believe that the majority report does not address properly these key ingredients of good governance. Expenditures have not always been targeted to high priority activities. A clear indication of this was provided by Mr Stuparich of the St Vincent de Paul Society, who told the Committee on 23 May, that

“We see that the needs of these [poor and homeless] people that we see day to day are far greater than the needs for certain large expenditures on sporting facilities” [Hansard, p 553].

## **8. Misplaced priorities: International Arboretum – Chief Minister’s monument building?**

8.1 We believe – as did our colleagues in 2004 – that the Government should not proceed with the International Arboretum and Gardens project when the funds allocated to it could and should be spent on more pressing issues.

8.2 The 2004-05 Budget provided \$10m capital funding over three years for the project. The 2005-06 Budget (BP3, p219) lists additional capital funding for the project of \$2m (allocated for 2006-07). BP3 (p167) also lists recurrent costs of operating the International Arboretum of \$2.1m to 2008-09. It should also be noted that the ACIL Tasman Preliminary Assessment of expenditure and revenue for the proposed Arboretum (provided by the Chief Minister on 3 June 2005 in response to a question on notice from Mr Smyth) assumed that a total of \$20 million of capital expenditure would be needed over the Budget estimates period, rather than the \$12 million provided by the Government.

8.3 However, the Budget Papers also list items in which further funding for the Arboretum is directly canvassed or implied:

- CMD’s Strategic Projects Implementation initiative allocates \$2.2m in expenses (BP3, p173). The initiative “will provide for feasibility, planning and implementation tasks associated with a range of Shaping Our Territory projects, including ... the establishment of Canberra International Arboretum and Gardens *and other priority government projects.*” (Emphasis added.)
- Output class 1.2 – Strategic Implementation and Projects – allocates \$3,370,000 for assessing “the feasibility, planning and

implementation of *specific high priority or critical Government projects or initiatives.*" (BP4, p28: emphasis added).

- In addition, the Department of Treasury is allocated \$2.5m for the Sustainable Infrastructure Fund. This "supports incorporation of enhanced sustainability elements in broader capital works activities." (BP3, 213).
- Questioned by Mr Seselja on the management structure of the project, the Chief Minister replied:

"I do not know, in terms of ultimate management structures, what the best structure is. They are the sorts of decisions that we need to pursue ... At this stage my inclination, and this is just an intuitive position, is that the arboretum and its gardens should be governed in its construction and its operation should be a management responsibility, probably of a statutory authority. I would expect that that would be peopled, staffed, probably almost exclusively by senior members of Canberra's private and community sector." (*Estimates* proof copy, 23 May 2005, p 500.)

8.4 Asked about future financial requirements, the Chief Minister responded:

"We have supported [the Arboretum] to the tune of \$12 million. There is a whole range of additional expenditures that could be made, depending on the ultimate vision and the decisions that are made." (*Estimates* 23 May 2005: p. 501.)

8.5 Apart from disquiet at the cavalier approach to both management and finance displayed by the Chief Minister, we have serious reservations about the wisdom of committing at least \$14.1 million of public funds to a project which – given the outlook for water supply – seems, to say the least, unwise. In any event, it is yet another example of the Government's ambitions exceeding its capacity to fund them.

8.6 The Arboretum is to cover 250ha. This is a very large parcel of land. For example, it is more than six times larger than the developed area of the Australian National Botanic Gardens (and close to three times their total area).

8.7 The question that obviously arises is this: what can \$12 million or \$14 million achieve in respect of the establishment, development and maintenance of the proposed International Arboretum when one considers the cost of similar developments elsewhere?

8.8 To see why, it is only necessary to note the costs of much smaller facilities. The Australian National Botanic Gardens, for example, had a total operations budget in 2003-04 of \$8.3 million, comprised mainly of employee costs and \$0.43 million of capital works for specific projects.

8.9 The size of the US National Arboretum is equivalent to about 70 per cent of the size of the proposed ACT International Arboretum. Its budget in fiscal year 2004 was \$US12.38 million. This is equivalent to \$A16.3 million at the current exchange rate. By comparison, the ACT Government has allocated on average only about \$0.5 million per year for running costs at the International Arboretum over the period to 2008-09. This is surely inadequate for the task involved.

8.10 These two cases are, of course, national undertakings – in the case of the US, in particular, supported by a much larger population than that of the ACT. This fact, of itself, casts serious doubt on the idea of expecting ACT ratepayers to finance the establishment, development and maintenance of an enormous arboretum. The Minister for Economic Development's statement to the Committee that he has no doubt that the Arboretum "will be a fantastic attraction for the ACT" (*Hansard*, 18 May 2005, p 232) is no more than a pipedream. It is more likely to be a fantastic burden on ACT taxpayers.

8.11 The Chief Minister mentioned to the Committee that the International Arboretum would include gardens:

"Underpinning the decision is, of course, a determination to broaden the range of attractions to make us a more popular destination, and to add something new and potentially very exciting to a whole new market. The older market is particularly interested in arboreta and gardens." (*Hansard*, 16 May 2005, p 22)

8.12 That would add further to the costs of the venture – more staff, more maintenance, more water, and much else besides. An indication of the costs involved can be gained by looking at the outlays of the Hunter Valley Gardens – a venue again supported by a larger population than that of the ACT.

8.13 Redevelopment of the site for the Hunter Valley Gardens began in 1998. During the next five years, more than 800,000 cubic metres of soil had to be moved and 100,000 cubic metres of topsoil added to establish 25 hectares of gardens. On a conservative estimate of \$50 per cubic metre this would have

involved expenditure of \$45 million. This is the approximate cost of merely basic preparatory work. Yet the Government has begun by talking of \$12 million being sufficient to create an International Arboretum, which would be ten times the size of the Hunter Valley Gardens. Hunter Valley Gardens is a privately owned business venture. Fees (eg \$18 per adult) are charged for entry. The Stanhope Government envisages similar entry charges for visitors to the proposed Arboretum – on top of the undoubtedly vast collective cost to ACT taxpayers. As for revenue that might be obtained, the ACIL Tasman study prepared for the Government assumes total visitor numbers of 600,000 by 2009-10. This could be optimistic, given that it is at the upper end of the current number of visitors to the US National Arboretum, which has been fully developed for decades.

8.14 The Chief Minister stated for the first time on 23 May that the Government would be entering into “a genuine partnership with the private sector” on the Arboretum. He went on to say:

“We are talking here about a major project, a significant tourist attraction, which I believe will become self-funding and, through its operations, generate a significant return to the ACT. In that context we should utilise the best entrepreneurs amongst us.” (*Hansard*, 23 May 2005, pp 499-500).

8.15 This is policy-making on the run, accompanied by unsubstantiated assertions about financial returns to the ACT. Even the ACIL Tasman report on the project prepared for the Government is understandably equivocal about these returns because many aspects of the project are yet to be determined.

8.16 In short, the International Arboretum proposal does not represent a responsible use of scarce revenue or resources. There are much higher – and more environmentally justifiable – priorities to be pursued in improving the ACT environment or in other portfolios.

8.17 By comparison with the \$2.1 million to be allocated up to financial year 2008-09, the street tree enhancement maintenance program will receive only \$290,000 for each year over this period; and the program for removing dead urban trees is allocated \$500,000 for 2005-06, after which it will stop.

8.18 Other sensible alternative allocations could have been for

- saving a few species (cf BP3: p. 287: “delivering and implementing multi-species conservation strategies”);
- eradicating weeds (cf BP3: p. 287: “focusing and significantly adjusting vertebrate pest and weed control activities”);
- tackling erosion in the lower Cotter catchment;
- fixing the fences between the reserves and rural leases; and
- providing all Canberrans with water and energy saving devices or equipment.

8.19 The Committee’s Report should have acknowledged these alternatives.

## **9. Misplaced priorities – broken election promise to increase public housing**

9.1 Another example of misplaced priorities is the Government’s decision to discard its election promise to increase the public housing stock in favour of other expenditure.

9.2 The Stanhope Labor Government committed (during the 2004 election) \$10 million each year for the next three years for capital injections for the purchase and/or construction of stock for Housing ACT.

9.3 It is now clear that this so-called 'promise' was purely to win the political support of certain community organisations, and to match calls from the ACT Greens. With the election safely out of the way the Government no longer feels the need to honour that promise and, instead, feels free to fund more self-indulgent projects like the Arboretum, a dedicated busway between Civic and Belconnen, the expanded Human Rights Commission and a prison.

9.4 Another reason cited for dropping its promise to increase the stock of public housing was the delay in constructing the Gungahlin Drive Extension. This, the Government says, requires an additional call on capital funds because of a price escalation and the associated costs of the legal proceedings that were causing the delay in construction. The Government has decided that the request for the \$10 million for capital injection into public housing will have to remain a secondary focus.

9.5 The following exchange illustrates the ease with which the Government felt it could walk away from its election commitment:

**MR SESELJA:** You made a commitment for the last election to \$10 million each year for three years to be injected into capital works and public housing stock. I don't see it anywhere in the budget. Is it there?

**Mr Hargreaves:** No.

**MR SESELJA:** Why not?

**Mr Hargreaves:** The department, within housing, has a business approach to its stock for replacing, replenishing and rejigging it. For example, if we have a waiting list and we have some stock in a really old suburb and somebody leaves it, we can sell it and buy 1½ properties out of that money. There is a business-like approach to it. As part of that business-like approach we're going to be spending \$52½ million in this coming year. We all know that this is a particularly austere year. The reason it's austere is that, if you have a look at the amounts we've expended over time for Gallop, McLeod and Vardon - add all of those together and take them off the deficit—you'll find there was a significant surplus. But, lo and behold, there isn't one; there's a significant deficit.

I considered that Housing ACT, with its rather superior business-like approach to providing accommodation to those who really need it, could exist on that \$52 million. I didn't particularly feel—and remember these are cabinet decisions, so I'm part of a collective—like

asking for \$62½ million. If that meant I couldn't going to happen. No, it is not there; however, I can tell you that next year, as the Treasurer has indicated in the outyears, won't be anywhere near as austere as this. The year after that won't be even as austere as that one. I shall be taking a submission back to the cabinet for the 2006-07 year for an increase, for that \$10 million. You also have to understand that, in the context of the capital expenditure landscape, we spend about \$100 million.

For example, because the Gungahlin Drive extension has been delayed, we have experienced an undue call on our capital funds due to price escalation, quite apart from the idiotic idea of paying out quite a number of thousands of dollars every week while this thing is played out in the arena. You can quote that in your press releases if you like. I'm quite happy to repeat it myself.

**MR SESELJA:** It might be helpful, before you make promises at elections, to put all those qualifiers to the people. You might want to say, "We'll commit \$10 million as long as we get this funding and as long as our priorities don't change in the next three or four months."

**Mr Hargreaves:** I agree with you absolutely.

**THE CHAIR:** The question, Mr Seselja.

**Mr Hargreaves:** That's why the people spoke in October last year.

**MR SESELJA:** They believed your promises, and you're breaking them already. It's taken you all of five minutes.

9.6 Given the likelihood of another three budgets falling into the 'red' and the Minister's indication that there will be 'price escalations' for other capital works projects currently under way, in addition to the blow-out in construction costs of the Gungahlin Drive Extension, it is clear that within the 6<sup>th</sup> Assembly the Stanhope Government will be fiscally incapable of delivering on one of its major 2004 election commitments – i.e. \$10 million per year for three years to increase the public housing stock.

9.7 It has become evident that the Government did not foresee that it could not meet what, presumably, was an independently costed election commitment of \$10 million per year, over three years, for a capital injection for public housing. In addition, the Department has reduced significantly the allocation of 'own-sourced revenues' to fund non-appropriated new works for 2005-06, thereby leaving itself in the untenable position of being unable to meet the objectives set out in the 2003-08 Asset Management Strategy concerning adequate refurbishment and replenishment, where necessary, of public housing stock.

9.8 The Stanhope Government will not be able to adequately manage the public housing asset base by withdrawing the funding that is apparently required to improve the 'asset' and deliver homes to applicants on the public housing waiting lists.

## **10. Misplaced priorities – failure to provide Community Fire Units**

10.1 Another example of misplaced priorities is the lack of funding in the 2005-06 ACT Budget to continue the expansion of the Community Fire Unit (CFU). The Government is funding a number of non-essential activities such as the International Arboretum, and a Real Time Information System for buses, while ignoring the fact that the creation of the CFU capability was a fundamental priority arising out of the lessons of the 2003 bushfires – one which should be given the highest priority.

10.2 The bushfire threat has not disappeared. Even after the recent rains (June 2005) the ACT is still feeling the impact of severe drought conditions. While the 2003 fire disaster consumed a large proportion of the massive fire fuel hazard load, much of that load remains. The bushfire index, a measure of risk, is as high as it was in 2002.

10.3 In the aftermath of the January 2003 bushfire disaster, an assessment was made of over 20 suburbs. It was determined that a minimum of 80 CFUs was needed to adequately protect the ACT community. Thus far only 28 CFU

units have been established, with an indefinite wait for an expected 58 additional units.

10.4 The Emergency Services Minister explanation for his failure to deliver the required CFUs was that “the program simply missed out in Budget Cabinet deliberations”. He demonstrated his unwillingness to take responsibility for emergency management by indicating, in the Estimates hearings, that any delay in bringing on line the remainder of the CFUs “presents no concern”.

10.5 The Minister made unsupported assertions to the Committee and the media that the Rural Fire Services could cover the areas now allocated to CFUs. However, the CFUs were developed to introduce another vital 'layer of defence' to the strategic bushfire defences of the ACT. Contrary to the Minister's remarks in Estimates, the Rural Fire Service cannot always be called upon to protect the urban fringe. The purpose of the CFUs in that event is to provide an immediate response while they await the Fire Brigade to respond in more force and with greater capability.

10.6 The Government has also failed to provide funding for a new Emergency Services Authority (ESA) Headquarters or – at least, as a far cheaper but effective option - a much needed major upgrade of the existing ESA facility at Curtin – another major recommendation of the McLeod inquiry.

## **11. Misplaced priorities: infrastructure and maintenance**

11.1 The Government's approach to the funding of new infrastructure involves the use of current revenue, rather than borrowing. This is the case, for example, with the proposed ACT Correctional Facility. The ACT has a good credit rating and could undertake capital raisings readily. The general government sector's debt ratio is 18% - relatively low by comparison with that of other States and the Northern Territory.

11.2 Reliance on current revenue to finance assets used over several years raises at least two problems. First, it has the disadvantage of burdening current taxpayers with the cost of those assets, while advantaging subsequent generations who will benefit from their availability. As a guiding principle, the cost of providing an asset should be spread over its life and be borne by the beneficiaries. Secondly, to the extent that current revenue is diverted to the financing of asset creation, those in need of assistance through expenditure programs might receive less than would otherwise be the case.

11.3 This is an area of concern to people in the ACT. Mr Dawes of the Master Builders' Association told the Committee that

“over the last few years, there have been severe underspends each year on the capital works program” (Hansard, 23 May, p 528).

11.4 He also said that maintenance programs on infrastructure were not being addressed adequately.

11.5 Mr Miller of the Canberra Business Council said:

“The ACT does need a long-term program to maintain and upgrade the existing capital works budget...” (Hansard, 23 May, p534).

11.6 He went on to say that

“...we believe that borrowing against the ACT’s AAA rating is an entirely appropriate means of funding major capital works that will provide long-term returns to the territory” (p534).

11.7 From economic and intergenerational aspects, the Government’s policy is deficient. More use of borrowing should be made by the Government to finance assets, which provide a positive return over several years. Of course, expenditure on maintenance of public assets is properly funded from recurrent revenue.

**12. Misplaced priorities: assistance to private businesses and business risks**

12.1 The Government operates a number of schemes to provide assistance to private businesses in the ACT. These include the Knowledge Fund, the Business Development Fund, the ACT Business Incentive Fund, the Export Growth Program, the Industry Capability Network, the Business Springboard Program, the Business Acceleration Program, the Canberra Business Advisory Service, the Priority Industry Sectors Program, screenACTion, the Racing Development Fund, the ACT Tourism Corporation, the New Enterprise Incentive Scheme, the National Convention Centre, Exhibition Park and the Small Business Commissioner.

12.2 The Government has also made a \$10 million repayable grant to the ANU for the establishment of the ANU MTAA Super Venture Partnership (VCPL). This is a venture capital fund. The Funding Deed for this project has yet to be made public. (See answer provided by the Minister for Economic Development and Business on 1 June 2005 in response to a question on notice from Mr Seselja).

12.3 Some of the schemes are essentially administrative, providing free advice to, or facilitation of meetings for, the business sector. Other schemes are more substantive, involving the use of significant budget revenue. Among this group are programs that expose ratepayers to financial and market risks, but it is not clear that such programs represent a wise use of budget resources. There might be a role for them in circumstances where market failure requires government intervention. Even then, however, it is

important to ensure that such intervention is successful. This requires rigorous evaluation of programs.

12.4 The stated purpose of the Knowledge Fund, to which the Government has committed \$21.5 million over seven years, is to “provide a strategic mix of grant and equity funding to enhance the creation, use and diffusion of knowledge in the ACT economy” (2002-03 BP3, p164). The Knowledge Fund is a performance-based program. Unless businesses meet designated milestones, they do not receive their anticipated grants. As far as it goes, this is sensible. In terms of results from the Fund, a good deal hangs on the requirements of the milestones, which appear to be relatively undemanding. In addition, from an equity point of view, such grants can be problematic. Essentially, the grants are provided on a first-come, first-served basis, which might not mean that the best applications are those that receive the grants.

12.5 The provision of funding to an external venture capital fund involves greater risks. There is active private sector provision of venture capital finance. It is not clear that governments need to become involved in this area of activity, especially when more legitimate tasks of government can be left short of funding. The Government already has some unhappy experience in such matters. For instance, the business incubation project, CREEDA, is presently in the hands of a liquidator.

12.6 Moreover, as noted in BP3 (p 22), “The Government [ie the tax-paying community] is exposed to a range of financial, commercial and operational risks through its ownership of corporations and public enterprises” – such as

ACTTAB, ACTEW Corporation and the Australian International Hotel School (AIHS). It is equally not clear that the ACT Government needs to operate such bodies, especially when the investment return from these enterprises is low – and, in some cases, is a loss.

*[The comments cited in paragraph 12.7 below are attributable to Mr Seselja only, as Mr Mulcahy has declared an interest in the matters discussed].*

12.7 The operations of the AIHS have resulted in significant financial costs for ACT taxpayers. \$7.3 million of outstanding loans and interest was waived in 2001-02. Following a report from the Auditor-General, \$11.83 million of debt was converted to equity, increasing the risk exposure of taxpayers. In addition, as at 30 June 2005 the AIHS will have been paid a total of \$6.5 million in operational subsidies (answer provided by the Treasurer on 26 May 2005 in response to a question on notice from Mr Seselja).

12.8 The Government has used the ground of ‘confidentiality provisions’ on which to claim that it is unable to inform ACT taxpayers of the sale price of the Williamsdale Quarry to Pioneer Constructions Material Pty Ltd (answer provided by the Treasurer on 26 May 2005 to question on notice from Mr Seselja). The implication is that the price received was not favourable to the taxpayers and other questions regarding the liquidation of the business remain unanswered to the satisfaction of Members.

12.9 This is of particular concern and appears to go directly against one of the Labor Party's 2001 election commitments to remove the 'cloak of confidentiality' from commercial dealings.

12.10 The Government's ownership of the ACTEW Corporation and its related investments in commercial undertakings such as TransACT has also involved absolute losses for ACT taxpayers – a very poor return relative to the risks they carry. The main loss stems from ACTEW's investment in TransACT, about which the executives of ACTEW Corporation were somewhat equivocal as shown in the following exchange:

**MR SESELJA:** "I do have a general question. Just going to some other probably more boring matters. The estimated operating result of \$57.6 million for 2004-5 is a substantial increase I believe on the results of only \$11.4 million in 2003-4. Was the poorer result in 2003-4 only, or mainly, due to the write-off of investments in TransACT?"

**Mr Luddy:** "Yes that was. The major thing there was the \$40 million, which was the write-off. Well not the write-off, it was actually a write-down in TransACT and we believe that TransACT is being run very well and in future years it is our hope and we firmly believe that that will be written back – the \$40 million."

**MR SESELJA:** "So what is ACTEW's current investment in TransACT?"

**Mr Luddy:** "Our current investment? The amount has been written down to 0 in our books.

**Mr Costello:** "But you're asking what's our shareholding?"

**Mr Luddy:** "24.9 per cent is our shareholding in TransACT.

**MR SESELJA:** "And so you were saying in your earlier answer that you expect the investment to be recovered and the amounts that have been written down?"

**Mr Costello:** "But we do expect it gradually. At least some of that \$40 million will be written back.

**MR SESELJA:** "Over what kind of period would you expect it to be - - -"

**Mr Costello:** "I don't know.

**MR SESELJA:** "It's a medium to long term - - -?"

**Mr Costello:** “Medium to longer term, yes. But it’s certainly in a very different state to what it was 18 months ago...”

**MR MULCAHY:** “Could I just ask a supp on that? Because there’s one thing outstanding there from our – I understood and I certainly had this in a briefing with ActewAGL, but I believe it was mentioned in Annual Reports but I stand to be corrected, but at that point there was no prospect of recovering the capital investment. That although it was now trading in an operational sense in surplus that the view expressed to me was that there’s not a chance of recovering that. Have you had a sudden change of heart or is it looking hopeful now?”

**Mr Costello:** “No, no. Whether we’ll recover all of it, which is after all-

**MR MULCAHY:** “No, no, it was any of it was what I was told at that point.”

**Mr Costello:** “Well maybe we’re just being an optimistic shareholder. But I do believe that it’s going better all the time and I am hopeful that, even if it’s only a positive will appear on the bottom line in the medium to longer term.” (Hansard, 2 June, p14-15).

12.11 ACTEW Corporation has also written off an investment of \$0.363 million in China.

**MR MULCAHY:** "Just a last question. On your China venture which seemed to be going nowhere when we spoke at the Annual Reports. Have you written that off yet or are you going to write it off? What's the plan with that investment?"

**Mr Luddy:** "The China investment it has been written off. And we basically adopted a watching brief, just sort of keeping an eye on the investment because ...(indistinct)..."

**MR MULCAHY:** "My memory was \$5 million, was that correct?"

**Mr Luddy:** "No, no."

**MR MULCAHY:** "\$500,000 was it?"

**Mr Luddy:** "It was only about 363 grand I think from memory." (2 June, p 23)

12.12 Similarly, the ACT Insurance Authority made a loss of \$20 million in 2003-04 and has required capital injections totalling \$33 million in 2004-05 and

2005-06 (answer provided by the Treasurer on 8 June 2005 in response to a question on notice from Dr Foskey).

12.13 It is now unusual for governments to own and operate gaming and racing activities. These activities are not the most appropriate use of taxpayers' resources and there is no shortage of private sector operators willing to run such activities. In the case of ACTTAB, the rate of return to ACT taxpayers is not commensurate with the risk involved; in fact, it is less than 5 per cent on average. The Government could obtain a higher return than that by investing in risk-free interest-bearing bank deposits. Alternatively, it would allow the funds employed by ACTTAB to be reallocated to higher priority community needs – such as additional funding for the important work of the Auditor-General.

12.14 The Government has provided no convincing evidence of the necessity of these assistance programs. It is not sufficient simply to observe that businesses have hired a certain number of employees and that they are paying some taxes. Such observations overlook the need to assess what would have happened anyway in the absence of government assistance. They also overlook the opportunity cost of the funds allocated to these programs – in other words, the alternative uses of those funds.

### **13. Misplaced priorities: ACTEW Corporation**

13.1 It is reasonable to ask whether the high-cost ACTEW Corporation is necessary or whether most of its functions could be relocated to ActewAGL and undertaken by a smaller, less highly paid staff:

**MR MULCAHY:** “Just a last question on this issue Chief Minister or Mr Costello. If ACTEW Corporation, which you’re running and I think you’re remunerated more than \$450,000 a year from what I read in the papers, if that didn’t exist, what impact would that make on the delivery of utility services to the people of Canberra? Would it make any real difference if we just simply had the ActewAGL entity and these other subsidiaries?”

**Mr Costello:** “Well you have us and ActewAGL. I mean someone has to do the strategic work. Someone has to deliver the restrictions, someone has to do the thinking about what’s coming down the track. ActewAGL doesn’t do that. Someone would have to do it.”

**MR MULCAHY:** “But they could do it, couldn’t they? Really?”

**Mr Costello:** “No they can’t. No, no. They would need extra staff, I mean we run pretty lean. There’s only 13 staff in ACTEW plus the drought staff taskforce, which is looking less temporary by the day. But there’s about half a dozen of those. So we’re not exactly grotesquely large.”

**Mr Stanhope:** “In other words Mr Mulcahy, should we sell the rest of ACTEW? Is that essentially your question is it?”

**MR MULCAHY:** “No, my question was what does ACTEW Corporation add to- - -”

**Mr Stanhope:** “The Liberal party is interested in regenerating debate about the sale of ACTEW?”

**MR MULCAHY:** “No, let me help you in your confusion Chief Minister. What I’m wondering is what does ACTEW Corporation, with a very, very highly paid chief executive – what does that contribute to the delivery of electricity and water to the people of Canberra and future dam options?”

**Mr Stanhope:** “I just wanted to get to the nub of your question. It’s about salary- - -”

**MR MULCAHY:** “- - -so that’s the nub of the question Chief Minister more than happy to assist you in clarifying that issue, no problem. (Hansard, 2 June, p12-13).”

13.2 We note that the Chief Minister avoided discussion of how much ACTEW Corporation adds to the value of utility services delivered to the people of the ACT.

#### **14. Failure to provide for future services**

14.1 There is a number of parts of the Budget that do not look credible. In some cases, there is scope to reduce estimated outlays. In others, it appears that inadequate provision has been made for likely expenditure trends. Some of these are discussed below.

#### **15. Insufficient funding for Auditor-General**

15.1 Often governments have an aversion to performance auditing for the obvious reason that it puts pressure on them to improve accountability and the delivery of services. The Stanhope Labor Government appears to be one such example . The Government's denial of adequate resources for the Audit Office in this Budget smacks of self-protection and of putting its own interests ahead of the community's especially in light of support for these resources from a three Party Committee of the Assembly.

15.2 When questioned by the Estimates Committee, the Auditor-General answered in the following terms:

**Ms Pham:** “As you know, we sought some additional funding for three performance auditors to improve our capacity to do performance audits and investigations.

“I understand that the Public Accounts Committee recommended that to the Treasurer. However, the funding was not provided for the 2005-06 budget. Certainly, that causes some concern to me as Auditor-General about our ability to perform our functions in a timely and efficient manner, as we would like to. A number of issues have been referred to our office and a number of significant areas in the ACT government have not yet been subject to audit. I am concerned that without an increase in our capacity to do performance auditing, areas of government activities may not be as efficient or effective, and these areas will go without any audit attention for quite a number of years. At this stage, we have a team of six performance auditors, and three current audits are in place. We have to advise people that we will not be able to commence looking at issues referred to us now for another six to 12 months. Certainly that is not as timely as it should be, but that is the limitation constraint that we have to work under.” [Hansard, 16 May, p67].

15.3 Accordingly, we recommend that the Standing Committee on Public Accounts recommendation for funding of the Auditor-General’s office be implemented.

## **16. Inadequate provision for future services: Health expenditure**

16.1 We are very concerned that the Budget allocation for the Health portfolio is very likely to be insufficient to meet the Government's anticipated expenditure, based on recent trends. Health services are an essential component of budget expenditure. The Health portfolio is the largest item of expenditure in the Budget – estimated to cost \$690 million in 2005-06. This amount is equivalent to more than \$2,000 each year per man, woman and child in the ACT. Moreover, expenditure under the Health portfolio has been increasing rapidly. Between 2002-03 and 2004-05 health expenditure increased by 23 per cent. A further increase of more than 5 per cent is estimated for 2005-06.

16.2 These substantial increases are, however, not the whole story. Budget estimate over-runs – around 5 per cent on average – have been a persistent feature of the Health portfolio in recent years. [BP4, 2001-02 to 2005-06]

16.3 This situation is a matter of great concern for taxpayers. At the same time, weaknesses in the delivery of health services are a major issue for those who are ill and for their families and friends.

16.4 The Committee's Report should have noted the confusion in the Budget about the provision for future expenditure, which bears directly on whether

the Budget allocation is sufficient. On one hand, the Treasurer said in his Budget Speech that:

“it is generally recognised that health costs escalate 7% to 8% each year” [BP1, p2].

16.5 On the other hand, the Budget includes provision for only 4 per cent pa growth in health expenditure over the forward estimates period. We have already expressed our concern about this. The following exchange shows that the Government is neither dealing with the problems of excessive costs in the Health system nor providing for costs which, it admits, have to be met:

**“MR MULCAHY:** To live within the budget framework, given that you have had a 60 per cent increase in health costs over the past five years? We are now being asked to accept that you will achieve a 4 per cent growth.

**Mr Corbell:** The health portfolio, like all other portfolios, must work within the allocations given to it by the government. Certainly the health portfolio faces a broad range of challenges, but I take the view that the portfolio is no different from any other portfolio in the territory government, in so far as it must work to meet, and not exceed, its budget...

**MR MULCAHY:** Yes. Minister, I am still struggling with finding the detail that I require in what you are saying. Your colleague the Treasurer said you were going to achieve those outcomes through administrative savings. Dr Sherbon indicated that about 30 full-time equivalent staff would go. I acknowledge that nearly one in four of your employees are involved in administration, that is, more than 1,000. I do not see those 30 full-time equivalent staff positions in any way achieving the savings that you will need to achieve if you are to get your expenditure levels down from an average of 12 per cent per annum to a growth rate of 4 per cent. What services in the health area will go to enable you to live within the framework that the Treasurer has given you?

**Mr Corbell:** The savings measures for health are clearly spelt out. Equally, the target that we are expected to deliver has been clearly spelt out to me by my Cabinet colleagues and it is spelt out in the Budget papers. It is a savings target with which I agree. Health must contribute to the overall position.

**MR MULCAHY:** There are inconsistencies in your comments and in the Treasurer's comments." (Hansard, 19 May, p280-281)

16.6 There is no doubt that the 2005-06 Budget allocation (average of 4% increase per year over the next four years) for expenditure growth represents a marked shift from the pattern of recent years, when expenditure has increased at an annual rate of almost 15 per cent.

16.7 In other words, even after allowing for plans to increase the efficiency of service delivery, the Government is budgeting for decidedly slower growth in public health care than has been the case. It seems clear to all but the Government that the Budget provisions for the Health portfolio will be exceeded – perhaps by a substantial amount. Indeed, we suspect that the Health Minister has not the slightest intention of meeting the Budget target.

16.8 Yet there is room to far more effectively manage health spending. As the Opposition has pointed out, the cost of Canberra’s public hospitals is 30% higher than for comparable hospitals elsewhere in Australia for doing the same job. The Government says it intends to reduce these gaps, but is not moving quickly to do so and is not able to say how it will do so.

16.9 Also, as noted previously, the ACT is also not recovering the full cost of providing services to NSW patients. In response to a question from Mr Mulcahy taken on notice, the Minister stated [30 May 2005] that the shortfall for the ACT in 2005-06 is estimated to be \$11.244 million, following a shortfall of \$14.028 in 2004-05.

## **17. Inadequate provision for future services: ACT prison**

17.1 There is a number of significant questions hanging over the ACT prison despite the fact the substantive item in the budget paper was inadequately examined during the Estimates Hearing and questions had to be put on notice (Corrective Services Output Class 2, BP4, p340 ). Some questions were asked on 26 May 2005 during Estimates, though the questions were cut off by the Chair who refused to allow a run of questions as soon as they showed signs of revealing the Government's inadequate funding of commitments in the out years. However, some interesting facts were forthcoming.

17.2 What we know is as follows. The Stanhope Government is proposing a prison to be built at Hume and capable of holding 374 prisoners by the end of 2007. The prison was first mooted in 2001 and costed at \$110 million. The Government stated in 2003 that it would cost \$110 million and repeated this in 2004. It is only in the past few months that the Government has conceded that it would cost more than this. The Government first started talking about the escalator effect in the Annual Reports hearings earlier this year and has, in this Budget, included some money to cover the escalator effect – i.e. \$11.7 million in 2006-07 and \$7 million in 2007-08 for correctional facilities escalation (BP4, p351). These estimates bring the currently estimated cost of the facility to \$128.7 million

17.3 This escalation in construction costs shows no sign of stopping, in part because of poor planning. This is another instance of a worrying practice by the Government of presenting the Assembly with unrealistic expenditure estimates that require subsequent revision through additional appropriations and additional pressure to raise taxes.

17.4 The Government [BP 4, Output Class 2 Corrective Services] has allocated in its 2005-06 Budget \$30.78 million for Corrections and its payment for outputs allocated is \$29.04 million. This is an increase on its 2004-05 outcome of approximately one per cent. It is also worthy of note that in the Treasury briefing on Budget Day, the Treasury officials indicated that operating costs for the prison, including staff costs, would come out of the General Government Sector and Territory Unencumbered Cash was mentioned as the source. This was their explanation for why there was no provision in the out years for increased recurrent costs. The General Government Sector Territory Unencumbered Cash appears on page 303 of Budget Paper 3. It falls from \$83 million in 2004-05 to \$24 million in 2006-07, rising to \$42 million in 2007-08. Despite the very significant issues that arise from unencumbered cash reducing from over \$500 million dollars several years ago, it clearly indicates that there might not be enough cash from this source to pay for the increased running costs of the prison.

17.5 During Annual Report hearings, it was indicated that there are approximately 200 people in Corrections at the moment. This seems to be borne out by the amount of money spent in the Budget. Treasury conceded that when the prison was operational, there may well be an increase of up to approximately 300 people in Corrections. Conservatively, this would mean at least another \$10 million in recurrent costs, possibly up to \$15 million. Clearly, the level of unencumbered cash will not be sufficient, so the question remains – how is the prison going to be funded by this Government?

17.6 There are also significant issues regarding the cost of building the prison. The escalation allowance of \$18.4 million, contained in the 2005-06 Budget, seems unrealistically low compared with the known rise in construction costs since the prison was first proposed in 2001. According to the Master Builders' Association (ACT), building costs have increased by 40 per cent since 2001. Since the cost of building the average dwelling in the ACT has gone up from around \$1,000 per square metre before the 2003 bushfire to around \$1,700 per square metre now (+ 70%), the MBA estimate of a 40 per cent increase from 2001 to 2005 in the cost of building a commercial building is very conservative. On the basis of industry trends we would expect the construction cost of the prison to be of the order of \$180 million. However, the Government is clearly incapable of indicating how much the prison is going to cost, both in Annual Reports and in Estimates. In answer to a question on 26 May 2005 on page 14 (Annual Reports), the following interchange took place:

**MR Mulcahy:** "Mr Ryan, thank you. Could you just clarify for the Committee the escalator factor that has taken the cost up to, I think, about \$128 million? Do you know what the escalator factor is? Will it come in now within the Budget, within that Budget of \$128 million in final construct and do you know what the current costs are for the operation of the facility?"

**Mr Ryan:** "Well, as you would appreciate, at this stage, we are still designing the prison and we will not know what it is going to cost until such time as the design is firm and we go to the market and get the tenders and evaluate them. But suffice it to say, we know now, that the

project has gone from \$110 million (not including GST), escalated by another \$18 million, and that is the figure the design team is working on. And at this point there is no reason why that figure should be exceeded. As to what the escalation could be further down the track, I don't know. As to what the formula for that \$18 million is, I am not sure either. That was provided to us through Treasury. I would imagine it would be the figure based on what is happening in the building industry in the ACT, in particular." (*Hansard*, 26 May, p774)

17.7 Mr Ryan went on to say that, "off the top of his head", the cost of running the prison would be close to \$20 million a year (*Hansard*, 26 May, p775). The Acting Attorney General subsequently confirmed this figure on 6 June 2005 in response to a question from Mr Mulcahy taken on notice.

17.8 One thing is perfectly clear: the Government has under provided for the cost of the prison and it has no idea by how much. We estimate that the shortfall is some \$50 million – which will be an additional burden on ACT taxpayers.

17.9 If the ACT is to have a prison, it must be capable of delivering high standards of correctional services, including the separation of remandees from convicted felons, and men from women. There is no reason that the new prison should not be co-located with the new \$40 million juvenile justice facility, providing there is separation between the institutions.

In conclusion, we have only serious unanswered questions. Is the Government going to be prepared to build this prison and pay whatever it takes to have it built or what is it proposing to cut and at what cost? What is the Government going to do in terms of running the prison and will it be able to fund the necessary recurrent costs? If so, how? There seems to be a significant \$10 million plus per annum hole in operating costs that Corrective Services needs to find. The Government has not satisfactorily answered any of these questions. It is a major project for the ACT and the community has a right to know the answers to these questions as a matter of urgency.

17.10 It must also be asked whether the Correctional Facility, even if the current estimate of its cost were met, would be a wise and necessary investment. The present cost of holding ACT prisoners in NSW is about \$8 million pa. This is a modest cost compared with the likely eventual cost of the proposed ACT facility. Even assuming the Government's unrealistically low estimate of construction cost of \$128 million, the cost of financing the capital cost of the prison over 40 years at 5% interest would be \$7.5 million per year. Assuming the Government's estimated running cost of \$20 million per year, it follows that the annual cost of the prison would be at least \$27.5 million, over three times greater than the cost of sending ACT prisoners to NSW prisons (\$8 million). It is also a sad reality that towns with prisons also tend to experience additional and serious social costs.

## **18. Inadequate provision for future services: ACT policing**

18.1 It is often said that Canberra is a safer place in which to live and bring up children than other capital cities and that Canberra does not face the same dramatic deteriorations in law and order seen elsewhere. While that view is generally agreed with, we believe that, along with nation-wide trends, law and order continue to decline in the ACT. Making comparisons with other cities is no excuse to ignore disturbing changes in the ACT.

18.2 While the police have successfully undertaken targeted operations against a number of categories of serious crime and the results of these crackdowns seem to be favourably reflected in statistics (for example, burglary and car theft), strong anecdotal evidence through community and unofficial police feedback illustrates growing crime in other categories – particularly public disorder and hooliganism, assault, vandalism, road rage, burnouts, and so on. But these trends in the less dramatic categories of crime are just as disruptive and, in many cases, just as potentially dangerous as those listed above.

18.3 Police are telling the Opposition, unofficially, that they are overstretched and cannot cover their operational areas. They wish to police effectively through the strategy of '*community policing*' and feel frustrated that they cannot. Meanwhile, the consistent community feedback is that our Police service is invisible and that residents lack confidence that their neighbourhoods, shopping centers and other ACT districts are being properly policed. Residents are saying that hooligan behaviour, property vandalism and personal harassment are on the increase because disorderly people act with impunity – there is not a sufficient police presence to deter such behaviour.

18.4 In Estimates hearings the Police Minister illustrated that he remains in self-denial about the actual *effective* strength of ACT policing. He continues to argue the position that police numbers are not the issue – it is how productive the police service is. He continues to argue that when numbers are examined we should not measure capability by “establishment positions” [*that establishment which might be designed to meet the ACT Policing’s mission statement and associated objectives*]. He believes that the debate should be about changing *full time equivalent* [FTE] strength – which changes daily, depending upon “surge capacity” and the availability of AFP national police assets. We believe that this method of measuring police ‘capability’ (force strength) can only have been dreamed up as a means of denying the obvious – that ACT police is *effectively* under strength.

18.5 In response to a 2005-06 Estimates question on notice, the Police Minister admitted that the ACT was below the national average on police numbers. For the 2003-04 year the national average for sworn staff per 100,000 of population was 225.98. The corresponding ACT figure was only 191.42. This means that ACT is at least 112 police officers short of what is needed to protect the community at the national average standard.

18.6 In the face of evidence to the contrary, the Minister tried to argue that the small number of 33 new police recruited since Labor came to government reflected an effective net increase to the ACT Police strength (having continually stated that the police strength numbers did not matter).

18.7 However, the Minister eventually had to concede to an admission by a public servant that, in reality, 'sworn' police numbers (front line empowered police who actually patrol and respond to community calls) had dropped by 14 since 2001. That is, under the Liberals, *sworn police* numbers were higher. This is inconsistent with Labor's 2001 election promise to increase police numbers to meet the national average.

18.8 It was revealed in Estimates hearings that the number of sworn police officers in the ACT is the lowest in 4 years, when the Committee was advised that the number of sworn officers was only 583.

18.9 The number of sworn police over the past 4 years is as follows:

- 2000-01      597 sworn officers
- 2001-02      602.7 sworn officers
- 2002-03      603.8 sworn officers
- 2003-04      600.8 sworn officers      [*source AFP Annual Reports*]

18.10 Unsworn police officers, although vital to policing operations, are not the front-line of our police force and are unable to perform the full range of duties that sworn officers can. It is unacceptable that police do not often have the resources to respond to and prevent the escalation of violent or threatening incidents.

## **19. Inadequate funding of commitments – dragway**

19.1 Significant concerns were raised about levels of funding for the proposed dragway, a commitment of the ACT Labor Party prior to the 2004 Elections.

19.2 The ALP had promised to commit an amount of \$8 million to the construction, with a completion date of 18 months after the election.

19.3 After reconfirming that the Government would be unable to deliver on its election promise, due to delays in construction, the Chief Minister appeared to renege on his commitment to the dragway. He confirmed that a maximum of \$8 million would be spent to construct the facility, regardless of any increase or escalation in cost.

19.4 Members of the Committee expressed concern at the ability of the Government to deliver a dragway for this level of funding. The Chief Minister, and other Ministers questioned by the Committee, discussed at some length the fact that all capital works projects are subject to cost escalation over the life of the construction, and that the initial announcement on costing was often exceeded. There appeared to be no sense of discipline in cost control. We were left with the distinct impression that the Government knows that it has not provided enough funds for the dragway and is positioning itself to renege on the project:

**Mr Stanhope:** Yes, it does. At this stage, the government intends to spend \$8 million on this project. This is one of those cases where the government will, essentially, cut its cloth to fit the suit. We have committed \$8 million to this project and the project will receive \$8 million. This is not “as long as a piece of string”. This is not one of those projects where we’ve built in an escalator. The government does not intend to spend more than \$8 million on this project.

**MR SESELJA:** You have said that you won’t be increasing the amount and that that \$8 million is set. What kind of standard of dragway is now expected to be delivered, given that \$8 million was allocated in the last budget and it is still \$8 million? I imagine costs would have increased in that time. Are you looking now at making a shorter length of track, or are you looking at cutting back on noise attenuation? What will suffer?

**Mr Stanhope:** At this stage, the issues around the design or the nature of the features that will be incorporated within the dragway have never been decided. Those are issues that will be pursued and finalised through, ultimately, discussion and negotiation with the operators. There is still a whole range of issues around the potential operation, ownership and management of the dragway that haven’t been resolved. None of the issues around size, configuration and management have yet been finalised.

**MR SESELJA:** You would be aware that the proponents, CIDM, had some pretty basic standards, like quarter mile and a number of things.

**Mr Stanhope:** Yes.

**MR SESELJA:** Is that likely to suffer?

**Mr Stanhope:** I don't believe that will, but the proponents had far grander plans or possibilities than that as well.

**MR SESELJA:** Those grander possibilities took it out to \$18 million.

**Mr Stanhope:** They did.

**MR SESELJA:** So when we are talking about \$8 million, we are talking fairly basic to start with.

**Mr Stanhope:** We are; absolutely, no dispute.

**MR SESELJA:** So we are now looking at a fairly basic facility that is perhaps unusable.

**Mr Stanhope:** We have allocated \$8 million. If the proponents want to come to me and say, “Too bad” and walk away, that’s their prerogative, but I’ve got a suspicious feeling they won’t do that.

19.5 We believe that the Government will now be faced with two choices in relation to the dragway – construction of a substandard facility, smaller and with fewer facilities than originally proposed, or that the Government will break its election promise and fail to construct the dragway at all.

## **20. Management failures: Health Fringe Benefits Tax**

20.1 While there are many areas of health that are being managed in a questionable way, none represents the comprehensive failure of the Government’s health policies more than ACT Health’s treatment of salary packaging and Fringe Benefits Tax (FBT) exemptions.

20.2 During the Estimates Committee hearing, Mr Smyth tabled an internal ACT Health memo, authored by the Director of the Human Resources Branch, that outlined a decision by the Chief Executive, Tony Sherbon, to extend Fringe Benefits Tax exemptions to all but 87 employees of ACT Health:

“Dr Tony Sherbon has now made a decision to extend the FBT Exempt Status for salary packaging purposes to most areas of ACT Health.

“The Australian Tax Office recently redefined in their rulings (refer to ATO decision ID 2003/40) the definition of a Public Hospital and its employees who will now qualify for the FBT Exempt Status.

“This change allows those employees who are not located ‘on site’ at the Canberra hospital, but whose duties are predominantly for the Canberra Hospital, access to the FBT Exempt status.”

*[Doug Jackman, Director HRM Branch, ACT Health, 28 October 2004]*

20.3 The Committee discussed this decision at length because, as Mr Mulcahy pointed out, it seemed to dramatically misunderstand the relevant Tax Office Ruling:

**MR MULCAHY:** “Well Dr Sherbon, you’ve said that it wasn’t as proscribed (sic) as I have suggested, but I would submit that under subsection 57A, subsection 2 of the ATO ruling that it says in part that; ‘the duties of the employment of the employee are exclusively performed...’ not associated or an extrapolation of what happens in New South Wales; ‘...in connection with a public hospital’ and my concern, Minister, is whether or not you’re in fact complying with your tax obligations, and whether the ATO was consulted on this new

arrangement that was extended following the election.” (Draft Hansard p25)

20.4 The defence presented by ACT Health seemed to hinge on two key points. The first line of defence was that the Department was not relying on the ruling, but rather on the conferring of Deductible Gift Recipient (DGR) status:

**Mr Foster:** “We originally sought approval from the Tax Office for the whole of the Department of Health to be recognised for DGR purposes, deductible gift recipient status, they rejected that on the grounds of they felt that policy functions, that the executive function shouldn’t be part of, seen as a broader public hospital description...so Pricewaterhouse Coopers advised the department that on the basis of that outcome with the Tax Office, that is the granting of the DGR status for the greater component of ACT Health as a public hospital, that exempt salary packaging could be extended to the staff in those areas or those functions, but at the exclusion of the policy functions of Health and the communications and executive function.” (Draft Hansard p25)

20.5 This explanation is clearly ridiculous and contradicted by Mr Jackman’s memo that explicitly refers to the Ruling.

20.6 The second point was that the exemptions were based on NSW Area Health service interpretations:

**Dr Sherbon:** “So if I could just explain; in an Area Health Service, the Area Health Service next door to us the entire area, including the Area Health Service administration office is DGR status positive, it’s conferrable upon those employees. We then drew the comparison between New South Wales and us, and drew a line in our department that says these functions are equivalent to an Area Health Service, because we provide a dual service not only are we a department we’re also a service delivery agency, and then there are other components that are more traditionally in other jurisdictions associated within a central department, notably the executive, executive coordination which is a discreet unit within our department, policy and planning – certainly the policy unit. So other functions like Finance, HR, Population Health, which are in existence in Area Health Services we confer the benefit on the basis of that PWC advice.” (Draft Hansard p25)

20.7 The overall impression gained from the hearing was that ACT Health had employed a consultant to work out a way for DGR status to be applied to ACT Health by comparing it with the NSW Area Health Service. As well as being an ‘apples versus oranges’ comparison, the benchmarking was ill-advised since specific advice from the ATO was not sought.

20.7 The arbitrary nature of the application of the ruling was demonstrated when it was acknowledged that staff in the Nursing and Midwifery office did not qualify under ACT Health’s interpretation of the ruling, but the Finance

unit did. This was despite Dr Sherbon indicating that service delivery staff qualified for the exemption, but those performing policy roles did not.

20.8 While the confusion over whether DGR status or Tax Ruling 2003/40 was the basis of the decision remains, it is inconceivable that the ruling was not referred to at some stage of the decision-making. *The Canberra Times* attempted to clarify with the ATO whether the issue was DGR status or ID 2003/40 and was referred to the ruling.

20.9 On the face of it, the decision to extend the FBT exemption is clearly wrong and may be based on erroneous advice from the consultants and a profound misreading of the ruling.

20.10 This practice puts those employees claiming it at risk of understating their tax obligations and receiving an adverse tax assessment. It is one thing to seek to increase employees' take home pay; it is quite another to engage in tax avoidance.

20.11 At the end of the Committee hearing Dr Sherbon defended his decision in regards to FBT:

**Dr Sherbon:** "I just want to answer, there's a question that's been issued publicly as to whether ACT Health is rorting FBT, can I make it clear that ACT Health does not rort anything, ACT Health is a lawful

organisation under my leadership and there is no roting whatsoever of anything and I'll be referring the matter to the Auditor-General myself as our committee determined." (Draft Hansard p105)

20.12 While the reference to the Auditor General is meant to be reassuring, in our view the matter should be referred to the Commissioner for Taxation. Indeed, specific advice from the Taxation Office should have been sought **before** the decision was made.

20.13 While we await the Auditor-General's and Tax Office advice (assuming it will now be sought), it is worth examining why this sorry event occurred at all. What possessed the Chief Executive to hand out this largesse, worth approximately \$160 per fortnight in real terms, to 98 per cent of ACT Health employees?

20.14 The problem lies in the restructure of ACT Health. Before the Canberra Hospital and Community Care were absorbed into the bureaucracy, the delineations of what was and what was not defined as a Public Benevolent Institution were clear.

20.15 As a result of the blurring of the lines, Dr Sherbon made the error of benchmarking against the NSW Area Health Service. This error was compounded by ACT Health neglecting to seek the advice of the Taxation Office.

20.16 Meanwhile, the question has to be asked: Where was the Minister as his department sought to exploit the tax law? Dr Sherbon again:

**Dr Sherbon:** “The first point to clarify is that the decision was taken by me. The Minister was not briefed, it was a management decision (Draft Hansard p30)... In my last answer I said the Minister was not briefed about this decision; can I point out the Minister was not briefed before I took the decision but he was briefed about the outcome after the decision was made. If I can just clarify that point.” (Draft Hansard p31).

20.17 This lack of Ministerial supervision may continue to see inappropriate arrangements instituted, health services continue to decline and the bureaucracy grow apace.

20.18 This lack of Ministerial responsibility is echoed throughout the Government and, if allowed to continue, will see a continued erosion of the Territory’s standards of management, policy development and service delivery.

## **21. Management failures: deficient processes**

21.1 The Government's planning and approval processes in respect of commercial construction have been widely criticised. The processes are cumbersome, slow-moving and they are often applied inconsistently – sometimes in a discriminatory and less than fully transparent manner.

21.2 For example, the Government changed the rules of the game in respect of Section 84 after the game was played. This is of considerable concern to the business sector. As Mr Miller of the Canberra Business Council said on 23 May (p 535):

“the problem with planning...is the tendency for investment to be withheld until matters are resolved...that area is one that causes particular concern to the business community.”

21.3 Likewise, Ms Carter of the ACT Property Council said on the same day:

“...there has been dissatisfaction over the last couple of years with the way in which planning has happened in Canberra” (p 549).

21.4 It is imperative that, when tenders are called for major works, the specified development scope of that work is clear and not subject to major revision after the award of a contract. To do otherwise, as the Government has done in the case of Section 84 in Civic, is inequitable and might invite legal action against the Government.

21.5 In this case, following a tender process, the Deed of Agreement between the Government and the QIC was signed in October 2001 on the basis that the eventual building on that site would have 100,000 square metres of space. The Government has subsequently approved an additional 35,000 square metres and is considering a request for a further 15,000 square metres (Mr Corbell, 24 May, p646). There can be no doubt that, had the original tender been conducted on the basis that the building could have at least 35 per cent more rentable space, the price bid for the site would have been higher than that paid by the successful tenderer. To that extent, ACT taxpayers have been short-changed. At the same time, the successful tenderer has been given favoured treatment over other bidders.

21.6 The Government must establish and maintain consistent planning and approval frameworks within which businesses are to operate. Without such frameworks, the Government's search for private sector growth will be jeopardised and the Territory's reputation as a place for investment will deteriorate.

## **22. Policy contradictions: Tourism – major events lose resources**

22.1 The Stanhope Labor Government has attempted to make much out of its alleged increased focus on and provision of resources for the tourism industry in the ACT. It is disappointing, therefore, when this rhetoric is not represented by action.

22.2 The tourism industry is a major component of the ACT economy. The industry in the ACT directly accounts for around \$530 million of gross state product and contributes indirectly another \$227 million to the ACT economy. The industry is a significant source of jobs through employing around 11,400 people both directly and indirectly.

22.3 A key component of the Government's strategy for tourism in the ACT has been to increase the focus on major events. To this end, Australian Capital Tourism Corporation (ACTC) has formed an Events Unit, the intention of which is to establish a stronger capability in the planning and management of major events in the ACT and region.

22.4 According to information provided to the Estimates Committee, the total budget for the Unit in 2005-06 will be \$5.5 million, including salaries. The major events to be assisted will include Floriade, the Subaru Rally and a new event – the Brindabella Challenge. (Hansard, 18 May 2005, p221)

22.5 Despite what the Government says, the surprising reality is that there will be a reduction in staffing for this Unit. Hidden in the restructuring of the Corporation and the creation of a number of new and important sounding positions, the number of people working in the Unit will fall from 11 to 10, as the following exchange shows:

**MR SMYTH:** In other words, if I have done the numbers right, you have reduced the number of people who are working in events?

**Mr MacDiarmid:** Yes.

**MR SMYTH:** How much has it gone down by?

**Mr MacDiarmid:** By one person. (Hansard, 18 May 2005, p224)

22.6 Moreover, not only will staffing in the Events Unit be reduced; there is already a significant increase in workload with the Brindabella Challenge – and this does not take into account the imperative placed on the corporation to identify and develop other event opportunities.

22.7 A feature of the annual major events calendar for the ACT has been a gap towards the end of the year. The Brindabella Challenge is being seen as an opportunity to fill that gap by being proposed for early December. Clearly, as with any new major event, considerable development and preparation will be required to make this event a success – both competitively and commercially. Given the importance of providing appropriate resources to establish a new event, it also is extraordinary that the Government is proposing to begin reducing funding for the Challenge after the first year, as the following exchange shows:

**Mr MacDiarmid:** “Our funding for that event from the ACT Government will be \$220,000. The balance of the funding – there is a

budget of about \$380,000 – will come from sponsorship and corporate support.”

**MR SESELJA:** “Is [the Challenge] expected to be funded in the outyears?”

**Mr MacDiarmid:** “Funding from the ACT is progressively declining. Our view is that, if it gets the support we anticipate, it will start to attract a high level of corporate sponsorship...[In 2006-07, funding will be] \$180,000... declining down [sic] to about \$150,000 in the third year.” [Hansard, 18 May 2005, p222]

22.8 As the Chief Executive Officer of the Corporation, Mr MacDiarmid, explains, there is an expectation that both private sector sponsorship and corporate support will be forthcoming for the Challenge. While this may be quite a reasonable expectation, it is unlikely to occur quickly. Mr MacDiarmid commented:

“The expectation of the steering committee is that over time, if it’s as successful as we believe it can be, it should attract national sponsorship support, as opposed to local support.” [Hansard, 18 May 2005, p222]

22.9 The challenge for the Challenge will be to become recognised as a successful event – and this will not happen after only one or two years. An investment of resources will be necessary to achieve this outcome and this investment will need to be sustained through the early years.

22.10 The approach of the Stanhope Labor Government to tourism in the ACT is one of failure: failure to deliver on rhetoric and failure to deliver on resources that are necessary to fulfil intentions.

### **23. Policy contradictions: special deals**

23.1 The Minister for Economic Development and Business also presented some seemingly contradictory evidence to the Committee in respect of the Government's involvement in the financing of the ANU/West Civic project. Mr Quinlan stated that

“It probably would not have happened without our agreement; the investors would have taken their money elsewhere.” (*Hansard*, 17 May 2005, p104).

23.2 Subsequently, in response to a question from Mr Stefaniak about assistance to attract business, Mr Quinlan said that:

“Since the good old days of Fujitsu and IBM getting tax breaks, there has been an agreement signed between the states and territories that we don't buy each other's businesses. States and territories don't do

that. That was just a way that we were all getting played off against each other." (*Hansard*, 17 May 2005, p107).

23.3 We see disadvantages in these specific, discriminatory programs. A more fruitful and equitable approach would be to implement generally applicable policies which reduce the cost of operating all businesses in the ACT – for, example, by reducing taxes, by providing efficient infrastructure, by less regulation and by using consistently applied planning and approval processes. Yet, even in terms of its own approach, the Government does not deliver.

#### **24. Policy contradictions: The ACT – not very business friendly**

24.1 The Stanhope Labor Government has now demonstrated its duplicity through a revelation about the failure of the ACT Government to continue funding a significant small business assistance program.

24.2 In the 2004-05 Budget, and amidst much fanfare in the post-Economic White Paper euphoria, the ACT Government announced funding for a suite of programs directed principally at small and micro businesses in the ACT. One of these programs was the Small Business Employment Ready Program – it was allocated \$0.258 million in 2004-05 and \$0.103 million in each of the out-years. (This funding was provided after a pilot of this Program had been run for a couple of years.)

24.3 Evidence of the use of this program and of the benefits that it provided to very small and emerging businesses is that, as business assistance programs go, it was successful. In particular, it assisted these types of businesses to overcome the critical hurdles involved in employing staff for the first time.

24.4 It has now been revealed rather belatedly by the Government that this program has had its funding cut after only one year of operation. This revelation comes after the Government did not provide any information on this cut during the recent Estimates Committee hearings. When a senior officer from the Department of Economic Development was asked about these matters in somewhat general terms, there was not a word about this cut:

**Mr Keogh:** "I'll check [on unspent funds from the export growth program and the knowledge fund]. There are a number of other grant programs and they're all milestone based, exact amounts. The major one is the Knowledge Fund, because it has the largest amount of money in it. But for the export growth program, [and] perhaps some of the business acceleration programs, because they're all milestone based, I can let you know how much is being rolled over from each one." (Hansard, 18 May 2005, p169)

24.5 There is no suggestion in this comment that anything is amiss with the Small Business Employment Ready Program. On the contrary, the clear

inference from these comments is that all of the suite of programs is, and will be, continuing. The decision by the ACT Government to cut funding ignores, however, a number of important factors:

- this program targets a significant sector of business in the ACT – that is, the many thousands of small and micro businesses;
- it repudiates the notion that the ACT is “business friendly”;
- it tackles one of the most significant issues facing small businesses; and
- it ignores the potential for businesses to pay for the services that are received.

24.6 It has been suggested that this Program did not achieve the outcome that was apparently sought by the Government. Even though there had been a pilot of this Program, that would essentially demonstrate only whether the nature of the Program would suit the needs of the target sector of business – that is, smaller businesses – and it would appear that it did.

24.7 The sad fate of the Small Business Employment Ready Program highlights three characteristics of the Stanhope Labor Government:

- (1) its inability to sustain activities that are proving useful to smaller businesses in the ACT;
- (2) its failure to undertake a realistic evaluation of the Program; and

- (3) its failure to consider the potential for the Program to become self-funding through having a fee for service arrangement.

## **25. Breaking its own rules: Compliance with the *Education Act 2004***

25.1 We were very concerned that Education Minister Katy Gallagher disclosed that she had not met her own statutory obligations under the *Education Act 2004*.

25.2 Asked whether she had complied with her responsibility to consult with both government and non-government schools education councils, Ms Gallagher initially stated she was 'not required to consult' the Non-government Schools Education Council and that they had not given her any advice on the Budget. The Minister seemed blithely unaware of her own obligations.

25.3 Section 76 (1) of the Act explicitly states that "before deciding budget priorities for non-government schools each year, the Minister must ask for, and consider the advice of, the Non-government Schools Education Council". Yet Ms Gallagher initially claimed that she had only to consider any advice that might be offered. She did not seem to realise it is her duty to ask for such advice.

25.4 Her excuse was that the new Council was only formally established in March 2005. But the Education Act itself was passed in March 2004 and came into effect in January 2005. The Government had a full nine months to make formal appointments and establish effective communications. It failed to do so.

25.5 Ms Gallagher also claimed that the Council failed to provide any advice and, at any rate, did not meet until 9 May 2005. But as it is her statutory responsibility to ask for such advice in the first place, the Council can hardly be blamed for not responding to a non-existent request. Council members have indicated to the Opposition they would have met earlier had she sought their advice.

25.6 The Minister's sense of responsibility is well conveyed in the following exchange: [*Estimates* proof copy, 27 May 2005, p ]

**“MR MULCAHY:** “What measure of consultations occurred with the Government schools council in relation to the budget?

**Ms Gallagher:** “I didn't meet with GSEC, but that body was a GSEC before the Act came into place. I'm sure they provided me with a submission.

**MR SESELJA:** “Are you able to provide that submission for us?

**Ms Gallagher:** “Well, I don’t know—

**MR SESELJA:** “The Minister said she is sure she received it. I’m just asking that she provide it to the Committee.

**Ms Gallagher:** “These are the cutting issues!

**MR MULCAHY:** “They are important issues.

**MR SESELJA:** “You cannot be blasé about your statutory obligations.”

25.7 Ms Gallagher seems not to know the difference between what she terms 'a requirement to have advice provided' and her legal obligation to obtain advice from specified organisations.

## **26. Breaking its own rules: Ministerial breaches of law**

‘Rule of Law’: The doctrine of law expounded by Dicey, in *Law of the Constitution*, that all men are equal before the law, whether they be officials or not, so that the acts of officials in carrying out the behests of

the executive government are cognisable by the ordinary courts and judged by the ordinary law...[Osborne's concise law dictionary]

26.1 It emerged during the Estimates process that the ACT Government has breached, and is continuing to be in breach of, a number of pieces of legislation that the Government itself introduced. One was the breach of Subsection 76(1) of the *Education Act 2004* outlined above.

26.2 Another breach of ACT legislation, which emerged in the Estimates process, was in relation to the treatment of prisoners at Quamby Detention Centre.

26.3 Subsection 19(2) of the *Human Rights Act 2004* provides that: 'An accused person must be segregated from convicted people, except in exceptional circumstances'.

26.4 The Minister admitted that this law is routinely being breached at Quamby. She expressed concern over this, but stated that the Government was 'doing its best'. This appears to suggest that the Government applies a much lower standard to itself in relation to compliance with the law than it does to other citizens of the Territory.

26.5 The Attorney-General did not appear to share Ms Gallagher's concerns over the breach of the Human Rights Act at Quamby, saying:

**Mr Stanhope:** “This is really quite a simple nonsense, just give me an example of a law that you think that we might not, this is not a criminal code, Mr Seselja. The Human Rights Act doesn’t contain penalties. We’re not actually offending a law.” (emphasis added)

26.6 The Attorney-General’s claim that the Government is not offending a law suggests either a lack of understanding of the law, or a suggestion that the Human Rights Act is somehow not a real law, and therefore compliance with it is not important. This leads to the obvious question – if breaching the Human Rights Act doesn’t amount to offending a law, what is its status?

26.7 The Attorney also appeared to misunderstand how international law applies domestically in Australia

**MR SESELJA:** You brought in the Human Rights Act and you knew then that you would be in breach of it. Why do you continue to breach it?

**Mr Stanhope:** The law did not change with the introduction of the Human Rights Act for us; we introduced into the law of the ACT quite specifically our obligations under the International Covenant on Civil and Political Rights. They were there previously and they have been there for decades.

**MR SESELJA:** But they were not incorporated into domestic law.

**MR SESELJA:** Will you apply the same standard of leniency that you apply to your own government to ordinary ACT citizens attempting to comply with the law, whether it be the Human Rights Act or any other piece of legislation?

**Mr Stanhope:** This is really quite a simple nonsense. Give me an example of a law that you are thinking of. This is not a criminal code. The Human Rights Act does not contain penalties. We are not offending against a law.

**MR SESELJA:** So it is not real; it is just platitudes. This has been the criticism.

*[Hansard 1 June 2005, p.1085]*

26.8 There is also another important principle to be considered. The Government has a role in demonstrating to the community the importance of complying with the law. It undermines community confidence if the Government introduces and has passed in the Assembly laws that it has no intention of complying with. This appears to be the case in relation to this Government and the Human Rights Act.

26.9 The Attorney-General claimed in response to questioning in this area by Liberal Party members of the committee that it was ironic that, having opposed the Human Rights Act, they would highlight his Government's failure to comply with the Act. This once again demonstrated a failure on the part of the Attorney-General to grasp another aspect of the rule of law – ie that citizens and governments are bound by laws whether they agree with them or not. It is therefore perfectly appropriate for Liberal Party members of the committee to hold the Government accountable where it breaches the law, no matter what the relative merits of the law as a whole may be. What is ironic is that the Attorney-General, having touted the Human Rights Act as a great protection for the citizens of Canberra, seems to be quite comfortable with his Government consistently breaching this Act, apparently due to the fact that no offence attaches.

## **27. Breaking its own promises: Quamby Detention Centre**

27.1 We are concerned about the Government's lack of action in relation to the Quamby Detention Centre, and particularly recommendations of the ACT Legislative Assembly's Standing Committee on Community Services and Social Equity Report No. 7, made in August 2004.

27.2 The Government had agreed to adopt the recommendations of the Committee and, in particular, the recommendation that "a social working group be established to examine the advocacy and appropriateness of the programs currently available from Quamby, having specific regard for the

need to have social competence training for detainees, pre-release life school programs and increased opportunities for therapeutic interventions.”

27.3 The Minister for Child, Youth and Family Support was asked during the hearings about the establishment of such a group, and asserted that:

“All of the work you have just read out has been done.”

27.4 When questioned further, the Minister and officials were unable to clarify that a working group had been established to perform the work, despite the Government agreeing to implement the working group. The inability of the Minister and officials to provide the information at the time of the hearing suggest that the group was not formed at that time. If the group had been formed, it is reasonable to suggest that members of the Department would be aware of its formation.

27.5 On providing the Committee with a written answer to the question, members were amazed to see that the first meeting of the working group was scheduled for Monday 6 June 2005, some 7 days after questions around the establishment of the working group had been asked. This answer suggests that the working group was only formed after the question was asked in the Estimates process. If this is the case, the Minister’s answer to the Committee in the hearings would appear to be misleading.

27.6 This is a further illustration of the inability of the Government to make decisions, implement change or reform, or do so in a timely manner.

## **28. Policy inertia: plethora of feasibility studies**

28.1 This Government has made a welter of feasibility studies and consultations, as distinct from responsible action. The 2005-06 Budget again contains several further feasibility studies, thereby helping to create a sellers' market for consultants.

28.2 From BP4, it is possible to identify readily a dozen feasibility studies and forward designs, which involve a cost of more than \$6 million. Given the somewhat opaque nature of this document, that is likely to be an underestimate of this study fest.

## **29. Policy confusion: 'sustainability'**

29.1 The need for serious measures to address environmental problems is widely acknowledged, including by the Opposition. The increasing scarcity of water in our region, the need to economise on use of fossil fuels and the need for regeneration of areas devastated by the recent fires are examples.

29.2 The Government puts itself forward as a champion of these issues. When one look at the Budget documents, however, what we see is essentially vacuous. The notion of 'sustainability' runs throughout the Budget papers. For example, Output Item 1.3 in the Chief Minister's Department shows that for a total cost of \$6 million the object is to "ensure the delivery of the Government's sustainability policy of People Place Prosperity and related sustainability objectives". It goes onto say that:

"Sustainability will:

- provide policy advice to the Chief Minister and Government agencies on matters relating to sustainability;
- manage a range of specific sustainability programs and strategies and their integration across the Territory including Water, Energy and Greenhouse initiatives; and
- promote the Government's sustainability agenda to business, the wider community and within the Government" (2005-06 BP4, p29)

29.3 This figure and the rhetoric must be seen in the context of other Government spending plans, including:

- the Chief Minister's Strategic Projects Implementation initiative (\$2.2 million), which "will provide for feasibility, planning and implementation tasks associated with a range of Shaping Our Territory projects..."

- Strategic Implementation and Projects (\$3.37 million), for assessing “the feasibility, planning and implementation of specific high priority or critical Government projects or initiatives” (BP4, p28)
- Treasury is allocated \$2.5 million for the Sustainable Infrastructure Fund, which “supports incorporation of enhanced sustainability elements in broader capital works activities”. (BP4, p213)

29.4 These noble objectives do not appear to be as well-founded as they sound. Remarks to the Committee by the Minister for the Environment included the following:

“Issues around sustainability and our understanding of how to achieve sustainability indeed exactly what it is that we mean, are still the subject of debate and argument. And I think even here within the ACT administration, I’m quite prepared to admit is that we are still pursuing answers and pursuing a way forward in relation to our sustainability agenda and I think that’s reflected through the fact that we’re seeking to develop sustainability legislation. I won’t go on, other than to say that there are some questions in relation to sustainability and the sustainability agenda and how we achieve sustainability and how we measure our progress towards sustainability that we are still seeking answers to. But it’s an interesting other debate perhaps for another occasion.”  
(Hansard, 1 June 2005, p15)

29.4 Even a charitable reader could be excused for forming the view that the Stanhope Government plans to outlay substantial amounts of taxpayers’

money – at least \$6 million – on public relations exercises based on nebulous rhetoric, instead of funding specific policies with a clear purpose and practical measures of accountability. Nor is it clear that the Government has the determination to take the unpopular measures, such as use of relative price increases, required to deal with serious issues such as water scarcity.

29.5 In fact, the interaction of ACTEW Corporation and the ICRC has produced a situation where water users in the ACT are being penalised for conserving water. The Government seems incapable of comprehending the role of prices in allocating resources.

### **30. Conduct of Estimates Committee**

30.1 We regrettably feel the need to draw attention to weaknesses in the Committee's process this year.

30.2 It is essential for good governance that the Assembly be able to exercise its role of scrutinising the Executive and keeping it accountable. However, in the case of the 2005-06 Estimates Committee, the Government contrived to 'stack' the Committee and appointed one of its Party members as Chair. She was clearly doing the bidding of Ministers or providing Ministers with a level of protection from the Chair that appeared to even exceed their own expectations or requirements. Accordingly, the capacity of the Estimates Committee to scrutinise the Executive on behalf of the Assembly has been severely compromised by the Government using its numbers with the

compliance of the Green Member who was 'duchessed' with the role of Member of the Committee and Deputy Chair.

30.3 Impartiality is a crucial aspect of chairmanship. This quality was frequently and sadly lacking, as indicated by the following remark:

**THE CHAIR:** "You might like to comment as well, Chief Minister, on our ability to purchase and build buildings and then have Liberal Governments sell off the entire farm." (Hansard, 16 May, p21)

30.4 Apart from the fact that it is the Labor Government that is selling off the farm to give a misleading and unsustainable boost from the sale of land to the Budget's bottom line, the Chair's remark is blatantly partisan and demeaned the conduct of the Estimates hearings.

30.5 The Chair provided protection to Ministers by closing off questions, or moving on to other items when a Minister was less than comfortable. This was the case, for example, when the Minister for Economic Development was being questioned on the tourism budget.

30.6 Then, on 27 May, Mr Mulcahy asked the Minister for Education whether she had complied with Section 76 of the Education Act, which requires her to meet with the Non-government Schools Education Council prior to each Budget.

30.7 The Minister proceeded to answer by recourse to obfuscation, which led Mr Mulcahy and Mr Seselja to ask the Chair for a more definite response from the Minister. The following exchange ensued:

**THE CHAIR:** “Let me deal with this. Mr Mulcahy, you’ve asked that question and Mr Seselja has asked that question in a number of ways a number of times. The Minister has answered those questions.

**MR MULCAHY:** “No she hasn’t, Chair.

**THE CHAIR:** “Yes she has, and as I have explained to you and Mr Seselja and many people who have actually visited this Estimates process in the last 2 weeks, you can’t direct the Minister as to how they answer the question, they just have to answer the question. The way they answer it, if you don’t like it, that’s unfortunate, but you can’t actually direct the Minister how they answer the question.

**MR MULCAHY:** “Chair I’m not seeking to direct the Minister and I appeal to you to stop protecting Ministers from serious issues that are before this Committee that the people of Canberra want answers to, and certainly the non government schools want answers to.

**THE CHAIR:** “Mr Mulcahy, I’ve actually – Mr Mulcahy I’ve ruled on this and we are moving on.

**MR MULCAHY:** “What are you ruling Chair...

**THE CHAIR:** “That- - -

**MR MULCAHY:** “We can’t ask questions to the Ministers...

**THE CHAIR:** “No, that the Minister has answered the question and that we’re moving on.

**MR SESELJA:** “You’re ruling as that she has answered the question...

**Ms Gallagher:** “The issue that Mr Mulcahy asked me was have I taken legal advice on this and my answer was no.

**MR MULCAHY:** “Good.

**Ms Gallagher:** “Now I said that, I have said that three times now Mr Mulcahy, so I don’t know what you don’t understand about that but

no, I have not taken legal advice. And no, I am not required to consult. Read the requirement of the Act.

**MR SESELJA:** "You are required to ask for the considered- - -

**THE CHAIR:** "Order, Mr- - - [*Hansard, 27 May, p25-26*]

30.8 Thus, the Minister did not answer the question of whether she breached Section 76 of the Act. She was merely allowed to assert, incorrectly, that she had not.

30.9 The Chair's bias in this matter is totally unacceptable. For what appear to be party political reasons she placed protection of the Minister above accountability to the Assembly.

30.10 Moreover, during the Committee's discussion of research on gambling problems, Mr Stefaniak objected to not being given a fair opportunity by the Chair to ask questions. This led him to make the following statement:

**MR STEFANIAK:** "I just want to put on the record that I am the Shadow in this area. I find it highly undemocratic that I can't ask one question. I have never seen that occur in an Estimates Committee in all my years in this bloody Assembly. All right?" (*Hansard, 18 May, p260*)

30.11 The bias from the Chair did not stop there. During discussion of the budget for the Emergency Services Authority on 26 May, following some antagonistic, supercilious remarks from the Minister, Mr Pratt asked the Chair if he could point out that the Minister had quoted selectively from an earlier statement by Mr Pratt. The Chair responded in the following way:

**THE CHAIR:** "Questions not points, questions not points. If you have a question to ask of the minister in relation to the ...(indistinct)..."

**MR PRATT:** - - - "and Hansard will record that I also said that McLeod was very very useful ...(inaudible)..."

**THE CHAIR:** "Order Mr Pratt. Mr Pratt come to order. I just said questions, not points."

**MR PRATT:** "So you do not allow Members here to refute issues which are not correctly raised by the Minister, or raised out of context? This is not allowed Chair?"

**MR SESELJA:** "If the Member has been misrepresented he is able to clarify it, surely."

**MR PRATT:** "I thought that if you were misrepresented you were allowed, for the record to clarify the position.

**THE CHAIR:** "Mr Pratt can I suggest that we move

**MR PRATT:** "Okay Chair, perhaps we can take that other issue up privately later." (Hansard, 26 May, p98)

30.12 Likewise, during later discussion of the ESA's budget, Mr Pratt sought to ask a supplementary question. The Chair denied this request on the false ground of insufficient time available to the Committee. The discussion proceeded:

**MR MULCAHY:** "I'm happy to yield to Mr Pratt.

**THE CHAIR:** "No.

**MR MULCAHY:** "You won't let him ask a question?"

**THE CHAIR:** "No, I've ruled on that.

**MR PRATT:** “Chair I think that’s a most disgraceful decision on your part and in fact I’ve got to say this is the most disgraceful performance I’ve ever seen of any Committee Chair in this place, allowing a filibustering Minister protection all day long to carry on with outlandish answers - - -

**THE CHAIR:** “And you want permission Mr Pratt? Mr Pratt have you quite finished?

**MR PRATT:** “This is the worst - this is a poor reflection on the ACT Assembly Chair, and you ought to be ashamed of it.

**THE CHAIR:** “Mr Pratt I refer you to my letter - - -

**MR PRATT:** “So much for a Committee of Inquiry – I’ll take this up with you separately.

**THE CHAIR:** “Mr Pratt, Mr Pratt I refer you to my letter of 25 April, Mr Mulcahy you have a question.” (26 May, p 117-118)

30.13 A similar course of events transpired on 2 June, when the Chair denied Mr Smyth an opportunity to ask a supplementary question during the Committee’s discussion of expenditure on departmental communications

officers (*Hansard*, p33).

30.14 The Chair also adopted a questionable attitude to the naming of external parties during the Committee's hearings. On the one hand, it was regarded as acceptable to name organisations and private corporations. On the other hand, it was not regarded as acceptable to name individuals – even where they had no objection to that being done and where the purpose of a question was lost in the absence of a name.

30.15 It was clear that the Chair's motive in the case outlined below was to seek use suppression of a name to prevent discussion of an issue and thereby protect the Chief Minister. In the event she failed in a comical display of incompetence.

30.16 On 2 June 2005, Mr Seselja sought to ask a question concerning a letter sent to the Executive Director, Environment, Arts and Heritage on 3 February 2004 (*Hansard*, p42-43). On that occasion, the Chair insisted that the author of the letter not be named, even though, as pointed out by Mr Seselja, that made it very difficult for Dr Cooper to identify the matter under question. Mr Mulcahy's subsequent attempt to move that the person's name be included in the record of proceedings so as not to impede the giving of evidence was refused by the Chair. The matter was unresolved temporarily, until the Chief Minister intervened with a view different from that of the Chair. He saw no need to desist from naming the person in question:

**Mr Stanhope:** "...the truth of the matter, is that no Heritage Commissioner officer entered the property and took photographs, that no officer of ACTPLA entered the property and took photographs. That a member of the Heritage Authority did at the invitation of the *[By resolution of the committee, a name was here expunged from the record]* and in the presence of *[By resolution of the committee, a name was here expunged from the record]* took photographs of work which it was- - -

**THE CHAIR:** "Order, Chief Minister- - -

**Mr Stanhope:** "No, this has gone far enough. I think we need to get to the bottom of this and we need to actually know *[By resolution of the committee, a name was here expunged from the record]* - - -

**THE CHAIR:** "Order.

**Mr Stanhope:** "- - -role in relation to this, we need to know the unauthorised work that *[By resolution of the committee, a name was here expunged from the record]* has consistently undertaken- - -

**THE CHAIR:** "Order.

**Mr Stanhope:** “- - -on his property, I think we need to go through item by item, the work that [*By resolution of the committee, a name was here expunged from the record*] has done on his property without approval.

**THE CHAIR:** “Can you please not mention [*By resolution of the committee, a name was here expunged from the record*] name. Please.

**Mr Stanhope:** “No, I won’t, this matter has now been made public by [*By resolution of the committee, a name was here expunged from the record*]...

**MR SESELJA:** “I wasn’t allowed to mention the name but the Chief Minister is allowed to consistently- - -

**THE CHAIR:** “Well I’ve actually asked - No I’ve actually asked.

**MR SESELJA:** “So is it one law for the Chief Minister now another law for Estimates members.

**THE CHAIR:** “I’d ask all of you to come to order Mr Smyth, Mr Seselja and that of course applies to the Minister as well, and I’ve asked all of you to come to order several times. We will move on, Dr Foskey.”

(Hansard 2 June, p46-49)

30.17 The Chief Minister's contempt for the Chair in this fracas set a new low in the standard of behaviour in the Assembly. The Chair was humiliated by the Chief Minister who variously ignored her and treated her with disdain.

30.18 The effectiveness of Estimates was weakened by the Chair who was both incapable of managing the process and clearly trying to protect Ministers when questions became difficult for them. The Chair's inability to run the Committee was highlighted in her giving up with the remark:

"All right, I'll just hand over to the rabble." [Hansard, 23 May 2005, p500]

30.19 At various stages of the Committee deliberations, the Chair of the Committee sought to have any variations on her recommended text provided by members in writing, purportedly to assist in the development of the report.

30.20 We believe that the Chair sought these amendments in writing in an attempt to (i) shield herself and the other Government member from debate over the importance of issues which she had failed to address, and so (ii) conceal their inability to debate salient issues in a clear, concise manner.

30.21 The majority report of the Committee makes recommendations about a consultation strategy for government. This recommendation seems to be heavily skewed to reflect Government policy, rather than a reflection on the

Budget process, or the evidence provided during the weeks of Estimates hearings.

30.22 The Committee's report seeks to make recommendations of this nature in order to avoid the real purpose of the Estimates process, ie to subject the Government of the day to searching questioning and thorough scrutiny, and to make recommendations for the improvement of the Budget. The 2005-06 Estimates Committee has failed because its structure and processes were dominated by the Government.

### **31. RECOMMENDATIONS**

31.1 Defer work on the Busway and the Real-Time Information Services for a saving of \$12.7m.

31.2 Retrieve the \$10m saving on the Convention Centre

31.3 Abolish the Human Rights Commission and Community Inclusion Board; reduce the Protection of Rights budget by around \$2 million to reflect this change whilst retaining other functions such as the Children's Commission and Ombudsman.

31.4 Reallocate \$10 million of savings from the above changes to Police, with the balance of about \$15 million to Health.

**Richard Mulcahy MLA**

**Zed Seselja MLA**

