

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

REPORT

SELECT COMMITTEE ON ESTIMATES 1999-2000

APPROPRIATION BILL 1999-2000

June 1999

RESOLUTION OF APPOINTMENT

On 22 April 1999 the ACT Legislative Assembly resolved that:

- (1) a Select Committee on Estimates 1999 -2000 be appointed to examine the expenditure proposals contained in the Appropriation Bill 1999-2000 and any revenue estimates proposed by the Government in the 1999;
- (2) the Committee be composed of:
 - (a) one Member to be nominated by the Government;
 - (b) two Members to be nominated by the Opposition; and
 - (c) two Members to be nominated by either the Independent Members or the ACT Greens;to be notified in writing to the Speaker by 4.30pm on Thursday, 22 April 1999;
- (3) the Committee report by 22 June 1999 in respect of the Appropriation Bill 1999-2000;
- (4) if the Assembly is not sitting when the Committee has completed its inquiry, the Committee may send the relevant report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, publication and circulation;
- (5) the Committee is authorised to release copies of its reports, prior to the Speaker or Deputy Speaker authorising its printing, publication and circulation and pursuant to embargo conditions and to persons to be determined by the Committee,
- (6) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

COMMITTEE MEMBERSHIP

Mr Simon Corbell MLA (Chair)

Mr Dave Rugendyke MLA (Deputy Chair)

Mr Harold Hird MLA

Mr Ted Quinlan MLA

Ms Kerrie Tucker MLA

Secretary

Bill Symington

Assistant Secretaries

Fiona Clapin

Judith Henderson

David Skinner

Rod Power

Administrative Assistant

Kim Blackburn

CONTENTS

RESOLUTION OF APPOINTMENT	I
COMMITTEE MEMBERSHIP	I
CONTENTS	III
1. INTRODUCTION	1
Committee's function	1
Role and powers of the committee	1
Estimates process.....	2
2. GENERAL ISSUES.....	4
Aims of the budget	4
Budget Day Presentation & Promulgation	6
Budget Information Content.....	7
Principal Measures Statements	8
Comparability of budget material and transparency	9
Benchmarking.....	10
Superannuation and insurance provision.....	10
Indigenous issues.....	11
Year 2000 compliance and the community sector	11
Community consultation	12
3. CHIEF MINISTER'S DEPARTMENT	13
Bruce Stadium re-development	13
ACT Auditor-General – independent role.....	19
CanDeliver.....	19
Gaming taxes	20
Overhead costs.....	20
ACTEW	21

Sale of the Streetlighting System	22
Feel the Power of Canberra campaign.....	22
Canberra Tourism and Events Corporation (CTEC).....	23
Exhibition Park in Canberra (EPIC).....	24
Cultural Facilities Corporation	25
General rates	25
Waste collection and water abstraction charge	26
Competition policy	26
Totalcare	27
Canberra strategic plan	27
4. DEPARTMENT OF EDUCATION AND COMMUNITY SERVICES	29
Teacher renewal program	29
Secondary college funding	30
Schools drug strategy.....	32
Cleaning.....	32
Use of pesticides at school properties	33
Canberra Institute of Technology (CIT).....	35
Courses for Koomarri students	36
Family Services	36
Non-government schools.....	36
Sport and recreation.....	37
5. DEPARTMENT OF HEALTH AND COMMUNITY CARE	39
The Canberra Hospital operating deficit	39
Public hospital waiting lists.....	41
Unmet need in aged and disability services	41
Hepatitis C	42
Community and Health Services Complaints Commissioner	43

Child and adolescent mental health.....	44
Mental health/housing	44
Development of quality standards for mental health contracts	45
Aboriginal health strategic plan.....	45
Responses to the <i>Bringing them Home</i> report and the <i>Royal Commission into Aboriginal Deaths in Custody</i>	45
ACT Hospice	45
Cross-cultural awareness	45
6. DEPARTMENT OF JUSTICE AND COMMUNITY SAFETY	47
Criminal injuries compensation scheme.....	47
Aboriginal Justice	47
Official Visitor to Belconnen Remand Centre (BRC).....	48
Improvements at Belconnen Remand Centre	49
Firefighters.....	49
Performance information on AFP	50
Bruce Stadium - role of the Government Solicitor's Office	51
Privacy Commissioner.....	51
Supreme Court - disabled access	52
7. DEPARTMENT OF URBAN SERVICES.....	53
Valuing assets	53
“Contestability”	54
Redundancies.....	56
Bids for work by in-house units	58
Consultation.....	59
Timeliness measure	59
Environment budget	60
Hypothecation of the water abstraction charge	60
Pollutant loading fee.....	61

Rural residential development.....	61
Rehabilitation of roads.....	63
Bruce Stadium roadworks	64
Inspections of buildings by PALM	64
Acton ferry terminal	65
Minister's call-in power in relation to the Capitol cinema.....	65
Section master plans	66
Change of use charge.....	66
ACT Housing.....	67
Uriarra village.....	70
ACTION	70
Appreciation	72
ATTACHMENT 1.....	73
BRUCE STADIUM PROPOSED CORPORATE AND FINANCIAL STRUCTURE.....	73
ATTACHMENT 2.....	74
BRUCE STADIUM OPERATING ARRANGEMENTS	74
ATTACHMENT 3 DEPARTMENTS EXAMINED AT PUBLIC HEARINGS	75
ATTACHMENT 4 COMMUNITY ORGANISATIONS AND INDIVIDUALS APPEARING AT PUBLIC HEARINGS	76
DISSENT BY HAROLD HIRD MLA	ERROR! BOOK

SUMMARY OF RECOMMENDATIONS

Recommendation 1

1.14. The committee recommends that:

- (I) the Assembly invite the Standing Committee on Administration and procedure to examine the possibility of formulating Standing Orders for the Assembly which provide for Government agencies to respond, within a period determined by Standing and Select Committees of the Assembly, to questions placed on notice during and in relation to committee hearings and inquiries; and**
- (ii) the Government ensure that agencies are aware of the need for the committee to be fully and speedily informed on the matters which arise during the estimates process.**

Recommendation 2

2.10. The committee recommends that the Government:

- (i) develop as a matter of utmost priority, a strategic social plan for the ACT, to be used to target and address the continuing deterioration in social conditions and in the provision of social services, and that the plan be used in developing the guidelines for budget priorities and goals, and assessing those goals against other, financial measures; and**
- (ii) produce an annual report on the impact of social, fiscal and economic policy on those who are in greatest need.**

Recommendation 3

2.16. The committee recommends that the Government undertake to provide a fully resourced lock-up facility for Opposition and cross-bench members to analyse the budget papers as a priority equal to that of providing a lock-up for media representatives.

Recommendation 4

2.20. The committee recommends that generic budget line items which form greater than 5% of the total grouping to which they belong be accompanied by tables or notes which disclose the constituent elements forming that item.

Recommendation 5

2.25. The committee recommends that:

- (i) figures provided in Output Statements be reconciled to summary figures in Operating Statements;**
- (ii) to ensure that the level of deliverables and services purchased can be accurately compared, the Principal Measures statements in future budgets record the expected end of year result for the financial year prior to the current year budget; and**

(iii) the Financial Management Act section 12, subsection 4, be amended to require the estimated end of year output results to be included, the amendment to provide that a proposed budget shall be prepared in a form that facilitates a comparison, in respect of outputs, between the budget for the department for the previous financial year, the expected end of year results for the department and the proposed budget.

Recommendation 6

2.32. The committee recommends that the Government assess and continue to trial means of presenting budgetary support documentation in a form which will enable the estimates committee to more readily reference the material provided in agency purchase agreements, statements of intent and ownership agreements to the budget papers.

Recommendation 7

2.36. The committee recommends that:

- (i) the Chief Minister's Department develop appropriate benchmarks, consistent with those for other departments and agencies and the Department's leadership role within the ACT Public Service; and
- (ii) all benchmarking data for departments and agencies be subject to review by the Auditor General for relevance, accuracy and practicability.

Recommendation 8

2.43. The committee recommends that the Government:

- (i) consult widely with the ACT Aboriginal community and peak indigenous organisations to ensure that the whole of government policy, when released, reflects the needs and aspirations of the ACT Aboriginal community;
- (ii) resource the consultation process adequately; and
- (iii) monitor procedures to ensure that all government agencies comply with any final recommendations arising from the consultation process.

Recommendation 9

2.45. The committee recommends that, in the event that community sector computers and systems are found not to be year 2000 compliant, the Government provide resources to enable them to become compliant.

Recommendation 10

2.47. The committee recommends that the Government include in the Consultation Protocol a statement which commits agencies to adhering to the Protocol in the Purchase Agreement and that there be a measure in the budget papers to show how well this has been achieved.

Recommendation 11

3.32. The committee recommends that the Assembly;

(1) as a matter of urgency and in the interests of the good governance of the Territory, call on the Government to:

(a) establish, to the satisfaction of the Assembly, the legality of all financing arrangements relating to the Bruce Stadium re-development;

(b) justify to the Assembly, as a matter of urgency, the promulgation on 19 May 1999 of retrospective guidelines under section 67(2) of the Financial Management Act 1996;

(c) inform the Assembly, in relation to the Bruce Stadium re-development and its financing, and as a matter of urgency, whether the provisions of the Public Sector Management Act 1996 have been breached in any particulars and, if so, what, if any, action is to be taken as a result;

(d) inform the Assembly, as a matter of urgency, whether any Ministers, officials or others in contractual arrangements with the ACT Government and its agencies are liable for any unlawful actions in relation to the financing arrangements relating to the Bruce Stadium re-development, and if not, the authority for there being no liability; and

(e) provide to the Assembly, as a matter of urgency, an itemisation of expenditures on the Stadium, details of cost overruns, an assessment of the final cost of the Stadium re-development and the costs of any items for which no original allowance was made;

(2) appoint the Estimates Committee to examine and report to the Assembly on the proposed amendments to the Appropriation Bill 1999-2000; and

(3) not proceed with consideration of the proposed amendments to the Appropriation Bill 1999-2000 until the Government has provided all

documentation relating to the Bruce Stadium re-development, and the Estimates Committee has reported on the proposed amendments.

Recommendation 12

3.40. The committee recommends that the Assembly:

(i) take account of the non-appropriated payment of \$500,000 to CanDeliver in 1998-99 in its consideration of the committee's recommendation above in relation to the Bruce Stadium non-appropriated payments; and

(ii) require the Government to introduce legislation to provide additional appropriation to cover the \$500,000 non-appropriated payment.

Recommendation 13

3.48. The committee recommends that the Assembly require the Government to secure the agreement of the Assembly to any amalgamation between ACTEW and any other utility provider.

Recommendation 14

3.51. The committee recommends that any proposal to pipe water interstate be referred to the Assembly for consideration.

Recommendation 15

3.62. The committee recommends that the Government enter into negotiations with the NSW Government to secure reciprocal bus licensing arrangements with a view to assisting the development of tourism in the ACT and the NSW south-east region in particular.

Recommendation 16

3.65. The committee recommends that the Government either delete the requirement for CTEC to encourage ecologically sustainable development within the tourism industry or provide the agency with the necessary resources to do so.

Recommendation 17

3.67. The committee recommends that the Government:

- (i)** undertake comprehensive monitoring of noise impacts on the suburbs adjacent to EPIC; and
- (ii)** present to the Assembly for its consideration a statement on the Government's policy on the extent to which noisy events will be allowed at EPIC.

Recommendation 18

3.72. The committee recommends that the Government bring forward a paper outlining its philosophy in relation to general rates, the paper to include an indication of an upper limit, in real terms, of the fixed component of rating formulae.

Recommendation 19

3.76. The committee recommends that:

- (i)** the Commissioner for the Environment be requested to undertake an inquiry into the adequacy of the management of the ACT's water supply catchments; and
- (ii)** the Government investigate, and inform the Assembly, on the possibility of including in rates notices details of waste collection charges and incentives to reduce this charge through waste reduction.

Recommendation 20

3.78. The committee recommends that:

- (i)** the Competition Policy Forum be reconvened to inquire into the adequacy of the legislation review process particularly from the public interest perspective; and

(ii) the Government fully implement those recommendations relating to the establishment of an independent competition and regulatory commission contained in the October 1998 Portfolio Committee Report No 1 *Report on an Independent Council on Competition Policy* of the Standing Committee for the Chief Minister's Portfolio.

Recommendation 21

3.80. The committee recommends that the Commissioner for the Environment be requested to report on a standard, appropriately modelled to meet the needs of the ACT, including the health impacts, for monitoring emissions from the Totalcare incinerator at Mitchell

Recommendation 22

3.84. The committee recommends that the Government bring to the Assembly for its consideration a separate document outlining the Government's proposal for a strategic plan for Canberra, in line with the December 1996 resolution of the Assembly.

Recommendation 23

4.11. The committee recommends that teachers taking a voluntary redundancy under the Teacher Renewal Program be granted a payout consistent with what they would receive under a normal voluntary redundancy program.

Recommendation 24

4.23. The committee recommends that the Teacher Renewal Program not be funded at the expense of teaching resources for secondary colleges.

Recommendation 25

4.30. The committee recommends that in consultation with the ACT Chamber of Commerce and Industry and the Liquor Hospitality and Miscellaneous Workers' Union, the Department of Education and Community Services develop a strategy to ensure that all school cleaning contracts comply with award, occupational health and safety and insurance requirements.

Recommendation 26

4.40. The committee recommends that by 30 September 1999, the Department of Education and Community Services provide the Commissioner for the Environment with an update on how it has implemented the recommendations of *The Investigation into the ACT Government's use of chemicals for pest control* and that the Commissioner respond.

Recommendation 27

4.47. The committee recommends that funds realised from the sale of St Anne's Convent be directed into educational programs or educational facilities at the CIT.

Recommendation 28

4.60. The committee recommends that the Government clarify expenditure on the upgrade of Phillip and Manuka ovals and advise the Assembly of how the unrequired funds allocated for temporary seating at Bruce Stadium are to be used.

Recommendation 29

5.11. The committee recommends that on a trial basis for the first six months of the next financial year, the Government provide the Assembly with monthly, detailed information about projected savings and revenues of The Canberra Hospital, the basis of these projections, how they affect the operating deficit and how any savings are likely to affect patient care.

Recommendation 30

5.27. The committee recommends that the Department of Health and Community Care further investigate the legal and equity issues raised by Dr Simms with a view to re-examining the current compensation model for medically acquired Hepatitis C.

Recommendation 31

5.28. The committee recommends that the Government further investigate the appropriateness of categorising Hepatitis C sufferers into different groups for the purposes of education.

Recommendation 32

5.33. The committee recommends that the Government review the funding levels of the complaints office with regard to the extent that the office is unable to operate effectively.

Recommendation 33

5.39. The committee recommends that the Government provide a report to the Assembly within three months addressing the concerns raised in the review on child and adolescent mental health services.

Recommendation 34

5.41. The committee recommends that the rights of people with mental illness be considered prior to the implementation of any proposed changes to public housing policy, and that they be considered by the Assembly committee inquiry proposed in recommendation 63 below.

Recommendation 35

5.43. The committee recommends that service level agreements between the Department of Health and Community Care and the Department and The Canberra Hospital list standards under quality indicators.

Recommendation 36

5.46. The committee recommends that the Minister for Health and Community Care provide the Assembly with an overview regarding what has been undertaken to date and a list of any issues not yet satisfied in relation to recommendations arising from the *Bringing them Home* report and the *Royal Commission into Aboriginal Deaths in Custody*.

Recommendation 37

5.50. The committee recommends that the Government:

- (i)** develop a series of workplace-based training programs for the ACT Public Service on indigenous and cross-cultural awareness and that, as a minimum, the programs be a compulsory part of training for all Government departments and agencies; and
- (ii)** monitor and evaluate the impact of the programs and report to the Assembly on the outcomes.

Recommendation 38

6.5. The committee recommends that the Government:

- (i)** consult widely, including with the local Land Council, with Aboriginal-specific services, with local Aboriginal elders, and in the Aboriginal media to seek nominations from members of the local Aboriginal community for the AJAC; and
- (ii)** resource the AJAC sufficiently so that it can actually fund programs which will progress the recommendations of the Royal Commission into Black Deaths in Custody.

Recommendation 39

6.11. The committee recommends that the relevant legislation be amended to require that an annual report by the Official Visitor to BRC be presented to the Assembly and included in the Department of Justice and Community Safety's annual report.

Recommendation 40

6.16. The committee recommends that the Government provide a commitment to the Assembly that the standards of safety and responsiveness for firefighters will not be jeopardised as part of any wage negotiations.

Recommendation 41

6.19. The committee recommends that the Government provide quarterly reports to the Standing Committee on Justice and Community Safety on the progress of negotiations with the AFP in either a written or oral form, depending on the preference of that committee.

Recommendation 42

6.25. The committee recommends the Government document its working arrangements with the Privacy Commissioner in a Memorandum of Understanding similar to the one existing with the Ombudsman's office.

Recommendation 43

6.28. The committee recommends the Minister for Justice and Community Safety investigate mechanisms for ensuring ACT courts become wheelchair friendly.

Recommendation 44

6.30. The committee recommends that:

(i) the AFP control and operate speed and red light cameras and that relevant agencies such as the NRMA should be consulted in the placement of these cameras; and

(ii) the AFP not have the power to delegate this function to other agencies without the approval of the ACT Legislative Assembly.

Recommendation 45

7.7. The committee recommends that the government, in the October 1999 sittings, advise the Assembly about the progress it has made in developing a methodology which appropriately values the Territory's natural assets and which ensures the right pricing signals are given to the purchasers of services and the community generally. Further, that the government ensure this methodology is used in the 2000-01 Budget Papers.

Recommendation 46

7.14. The committee recommends that the government provide the Assembly with more detailed justification for the alleged savings in the Department of Urban Services flowing from market testing; and that the government assure the Assembly that the results of market testing will not lead to a reduction in the standard of service delivery by the department.

Recommendation 47

7.16. The committee recommends that the government ensure that, where the process of "contestability" leads to the government entering into contractual arrangements with service providers, these contracts be publicly accessible and accountable.

Recommendation 48

7.28. The committee recommends that, in order to achieve the desired outcome without threatening the viability of the department, the government reconsider funding redundancies in the Department of Urban Services by way of a way of an internal loan and, instead, utilise a capital injection.

Recommendation 49

7.29. The committee recommends that the government provide detailed information about how the present policy of loans by OFM to other government departments will affect the on-going capacity of those departments to deliver programs to the community.

Recommendation 50

7.33. The committee recommends that the department extend every encouragement to Cityscape Services to bid for work (both inside and outside the government) in order for it to maintain, and even extend, its operations.

Recommendation 51

7.37. The committee recommends that the Minister for Urban Services require the same standard of outcome, with respect to the timeliness of service, for the public as for himself.

Recommendation 52

7.40. The committee recommends that future Budget Papers include expenditure details for each measure listed in the environment section of Budget paper No.3, along with a summary of total expenditure on the environment.

Recommendation 53

7.42. The committee recommends that the government establish a clear policy applying to the grant of money to peak coordinating bodies (such as the Conservation Council), which should be treated separately to project funding.

Recommendation 54

7.45. The committee recommends that the Commissioner for the Environment be asked to assess the adequacy of management of the Territory's water catchment and to identify the appropriateness of hypothecating the water abstraction charge.

Recommendation 55

7.47. The committee recommends that the government provide full details to the Assembly of the application and rates of the pollutant loading fee for its consideration before the introduction of the fee on 1 July 2000.

Recommendation 56

7.56. The committee recommends that, in light of the complete inadequacy of the government's justification for the fundamental change of land use that is represented by the move to rural residential development, the government not proceed with its proposals; further, that the whole issue of rural residential development be referred to the Standing Committee on Urban Services for inquiry and report.

Recommendation 57

7.59. The committee recommends that the government develop and bring forward in the capital works program a program of planned expenditure on road rehabilitation extending over several years.

Recommendation 58

7.65. The committee recommends that a detailed evaluation be made of PALM's move to private certification of building work, in order to ensure that a high standard of work is maintained.

Recommendation 59

7.67. The committee recommends that the government provide a full public briefing to the Standing Committee on Urban Services on the problems surrounding the Acton ferry terminal.

Recommendation 60

7.70. The committee recommends that the Minister for Urban Services table guidelines in the Assembly as to when it is considered appropriate to use the call-in powers to assess development applications.

Recommendation 61

7.72. The committee recommends that PALM undertake the development of section master plans in a logical geographic sequence so that the process for planning adjacent parts of a suburb can be undertaken together—so long as this does not restrict or delay requests for section master plans in other areas of the B11 and B12 areas.

Recommendation 62

7.75. The committee recommends that all of the issues raised by the Nichols report into the change of use charge be referred to the Assembly's Standing Committee for Urban Services for urgent examination and report to the Assembly in time for the issue to be resolved by the last sittings of 1999.

Recommendation 63

7.82. The committee recommends that the Government's proposed changes to public housing policy be referred to an Assembly committee for inquiry and report, and that no changes to the current policies should take place until after that report has been considered by the Assembly.

Recommendation 64

7.90. The committee recommends that the government urgently bring to the Assembly a detailed accommodation strategy for young people in the ACT.

Recommendation 65

7.93. The committee recommends that ACT Housing develop new criteria—in conjunction with agencies such as women’s refuges and the Domestic Violence Crisis Service—to apply to women tenants who have been subject to domestic violence in their ACT Housing residence, in order to ensure that such women are not seriously disadvantaged.

Recommendation 66

7.95. The committee recommends that the government not proceed with the closure of Uriarra village and carefully consider the proposal by the residents to purchase their existing homes in order to revitalise Uriarra village.

Recommendation 67

7.100. The committee recommends that the government bring to the Assembly any proposal to sell and lease back the ACTION bus fleet, in order to enable wide debate on the proposal.

Recommendation 68

7.102. The committee recommends that the market survey of ACTION be widened to elicit information about why people may not be using the network as well as information from existing bus passengers.

1. INTRODUCTION

Committee's function

- 1.1. The Appropriation Bill 1999 -2000 was presented on 4 May 1999.
- 1.2. Public hearings were held on 9 days between 24 May and 4 June during which Ministers, accompanied by officials of departments and agencies, gave evidence. Details of departments and agencies examined by the committee are given in attachment 3.
- 1.3. In accordance with the standing orders of the Assembly, Members of the Assembly who were not members of the committee attended the hearings and, by leave of the committee, questioned witnesses.
- 1.4. Last year the estimates committee for the first time invited members of the public and community bodies and organisations to put views to the committee about the budget and its implications for them. On that occasion 14 groups and individuals met with the committee. The committee extended a similar invitation this year. As a consequence, some 18 organisations and individuals addressed the committee about their concerns. Details of these organisations and individuals are given in attachment 4.
- 1.5. Community consultation has greatly assisted the committee and proven to be a valuable means of assessing the effects of the budget at the community and individual level. The committee expresses its appreciation to those who were able to participate in this way.

Role and powers of the committee

- 1.6. During the committee hearings the committee was challenged on its ability to raise questions about the Bruce Stadium re-development which is not mentioned in the budget. The Chief Minister commented that while questions about the Stadium would be answered, the Stadium does not fall within the terms of reference of the committee.¹ The inference was that other agencies of Government not specifically mentioned in the budget are also beyond the reach of the committee's terms of reference.
- 1.7. Similar assertions about the committee's ability to pursue specific issues have been made in previous years, and the persistence with which the point is made caused the committee to establish an authoritative basis for its role and powers by seeking the advice of the Clerk of the Assembly.
- 1.8. The Clerk has advised that the practice of the House of Representatives (to which the Assembly is linked by standing order 275) is that the formal authority over

¹ Transcript (trans) estimates hearings p97

proceedings of standing and select committees lies with the chair and the committee itself. The Clerk went to observe that a fundamental role of the Assembly is to seek information and, if it is seen as necessary, to bring governments to account and to bring onto view areas of concern. Accordingly, the Clerk advised the Estimates Committee within its terms of reference:²

is not precluded from questioning the adequacy of the expenditure and revenues proposals referred and any liabilities to which the Territory may be exposed should it see fit. This could include the adequacy of the appropriation sought for the relevant department and the potential liability to the Territory arising out of the Stadium redevelopment. It is also my understanding that Territory employees have an administrative role and certain responsibilities in relation to the redevelopment proposals and this must be a relevant issue.

Estimates process

1.9. The estimates process is arguably one of the most important vehicles for scrutinising the government of the day and holding it to account for its management of the economy and the welfare of the ACT community.

1.10. Of necessity the estimates committee must be intrusive, searching and dogged in assessing the government's performance and in its approach to obtaining information which, in the normal course, is not usually available to Members of the Assembly in any detail and when sought through questioning and debate in the Assembly itself may not be readily forthcoming.

1.11. It follows that the committee will use the forms available to it in seeking information relevant to the accounts of the ACT and the activities of agencies dependent upon the appropriations. Thus, where agencies are unable to respond in detail to questioning in committee hearings, those questions are taken on notice and are required to be responded to within a relatively short time frame to be of value to the committee in making its report to the Assembly. Similarly, questions put on notice are required to be answered quickly.

1.12. There is purpose in these requirements which do not seem to be fully understood by some agencies, particularly government business enterprises which are not normally directly exposed to the exigencies of the Assembly.

1.13. The committee this year had an extremely short time to examine and report on the appropriations. Its task was not made easier by those agencies which failed to take seriously the committee's need to be informed. Accordingly, the committee will be obliged to consider what sanctions should apply to those agencies which wilfully frustrate the committee in its endeavours in the future.

Recommendation 1

1.14. The committee recommends that:

² Clerk ACT Legislative Assembly letter to committee chair dated 18 June 1999

(I) the Assembly invite the Standing Committee on Administration and procedure to examine the possibility of formulating Standing Orders for the Assembly which provide for Government agencies to respond, within a period determined by Standing and Select Committees of the Assembly, to questions placed on notice during and in relation to committee hearings and inquiries; and

(ii) the Government ensure that agencies are aware of the need for the committee to be fully and speedily informed on the matters which arise during the estimates process.

2. GENERAL ISSUES

Aims of the budget

2.1. The committee has significant concerns about the broader social implications the Government's budget objectives have on the Canberra community.

2.2. In particular the committee is concerned that the Government is not adequately addressing the social capital and citizenship issues currently facing the ACT community. This is particularly highlighted by the government's stated objective of achieving a balanced budget. While the committee agrees that it is an important financial objective to achieve a balanced budget, it also strongly believes that that must be married with the attainment of social goals and provision of services to the Community. The committee is concerned that the government's single focus on a balanced budget regardless of the social implications is creating a significant social deficit in the Territory.

2.3. This was highlighted to the committee in a number of ways during the committee's public hearings. The first of these was in relation to evidence given by the ACT Council of Social Service (ACTCOSS), where Ms Morgain indicated;

“our enduring concern is there is no link being drawn between the financial management strategy and good social conditions. Now, if that link were able to be drawn we would be congratulating the balanced budget. But given that it cannot be drawn, and given that in fact there is an increasing disquiet within the community about social conditions then my argument is it is incumbent upon government to illustrate that this has been achieved while still meeting critical social needs, and I think it is the latter that has been drawn into question. And I have to say I think it has been significantly drawn into question and the reason it has is because this Government has not demonstrated a strong social policy capacity..”³

2.4. The committee agrees with this point. It was further highlighted to the committee by ACTCOSS which advised that the trend of the government had been to focus on those measures of financial performance as measures of good governance and leave it at that and further stated.

“...the Council has increasingly been developing a concern that financial measures are not only acting to obscure other values but that in fact it has now reached a point where that is sufficient to tick off good governments, and we are deeply worried about this because we consider that good governance includes responsibility for social conditions. And our enduring

³ trans p1075

concern is there is no link being drawn between the financial management strategy and good social conditions...”⁴

2.5. The committee again agrees with this view and, following the large number of submissions raising significant social issues of unmet need in the educational, public housing and youth affairs areas, amongst others, finds that there is a pressing need to formulate budget strategies which address significant social issues facing the Territory. In particular the committee’s attention was drawn to the lack of a strategic planning document for the City, which took account of social issues and which directed the harnessing of the Territory’s resources towards addressing these issues. Because of the government’s focus on measures of a financial nature in the development of its overall budgetary philosophy, the committee believes the government should act as a matter of urgency to develop an overarching strategic plan to address the growing social deficit of the City.

2.6. Another aspect of the government’s emphasis on purely financial measures, which further highlighted this point, was brought out by ACTCOSS who further stated:

‘The Council is terribly concerned that there appears to be a trend in political life by which we tend to be measuring the performance of our governments against financial measures... [This trend] acts to obscure the true role of government and the legislature which is to balance social authorities and to redistribute resources appropriately and we feel that to some extent that has been lost...’⁵ The Council considers the Budget is ‘regressive in nature’ because of its dependence on increases in fees and charges—which many poorer people cannot pay—and its reduction ‘in expenditures which are largely taken to mean the meeting of social needs’.⁶ The Council calls for detailed examination of needs before expenditures on social services are reduced.⁷ It adds: ‘a balanced Budget that is built on a social liability is of no value... [and] good governance includes responsibility for social conditions. Our enduring concern is there is no link being drawn between the financial management strategy and good social conditions’.⁸ Further: ‘The accrual accounting model is a great model if you want to know exactly where you are so far as material things are concerned, but it leaves a massive gap when it comes to social things because they are not measured’.⁹

2.7. Within the committee there was concern that consultation should be a fundamental part of the way in which government agencies conduct their activities.

⁴ *ibid*

⁵ *trans* p1070

⁶ *ibid* p1071

⁷ *ibid* p1072

⁸ *ibid* p1075

⁹ *ibid*

There was a view that agencies should adhere to a consultation protocol and it was noted that this could be done through the ownership agreements.¹⁰

2.8. There was also concern that there was not a transparent or consultative approach taken to assessing the equity implications of new revenue measures announced in the budget and that in fact a number of these measures could be seen to be regressive.

2.9. Again the committee finds itself in agreement with the view put forward by ACTCOSS and firmly believes that unless these issues are addressed in a comprehensive and urgent way by the government, the resulting social deficit will have costly and divisive impacts on the ACT overall.

Recommendation 2

2.10. The committee recommends that the Government:

- (i) develop as a matter of utmost priority, a strategic social plan for the ACT, to be used to target and address the continuing deterioration in social conditions and in the provision of social services, and that the plan be used in developing the guidelines for budget priorities and goals, and assessing those goals against other, financial measures; and**
- (ii) produce an annual report on the impact of social, fiscal and economic policy on those who are in greatest need.**

Budget Day Presentation & Promulgation

2.11. Analysing the budget is one of the most onerous tasks for the opposition parties in any parliament. An important process in other parliaments is the use of a Budget lock-up for Opposition members in which members of the bureaucracy can provide a briefing on the budget.

2.12. The Government's budget presentation strategy has been to provide a media only lock-up on budget day. Selectively, some members of the cross benches have been provided with advance briefings. While this year there was an improvement in that each Opposition MLA received a set of budget papers just prior to their release, this was basically a token effort compared to briefings to the media and others.

2.13. The approach ensures that the media is fully aware of, at least, the Government's summary of the Budget and has had the chance to seek points of clarification. Particular cross bench members have had even greater opportunity to digest some of the particularities of the Budget. Meanwhile the Opposition has the

¹⁰ *ibid* p154

absolute minimum time to absorb its contents in order to make public comment at the time the budget is most topical.

2.14. In public debate this system provides maximum advantage to the Government, but militates heavily against informed debate and the fundamental principle of accountability.

2.15. Accordingly the committee will recommend that the budget presentation process be altered to include access to a lock-up for all non-government members, as in the Federal Parliament. The benefits of this system would flow through to the Estimates process, reducing the need for trivial points of clarification in Estimates hearings.

Recommendation 3

2.16. The committee recommends that the Government undertake to provide a fully resourced lock-up facility for Opposition and cross-bench members to analyse the budget papers as a priority equal to that of providing a lock-up for media representatives.

Budget Information Content

2.17. For very sound reasons the Budget employs standardised presentation of statements and associated tables of outcomes etc. The down side of standardised format is a loss of essential detail in some instances. Line items such as “Administrative Expenses”, “Other Expenses” and “Other Revenues” sometimes represent very significant proportions of an Operating Statement, but are often accompanied by no further explanation.

2.18. Other Revenues are broken down to some degree in the Revenue Section of Budget Paper 3, however explanatory information is, at best, variable throughout the Budget. Notes do not consistently meet accounting standards, but are a step in the right direction.¹¹

2.19. In order to provide for reasonable analysis and comparison, the committee believes that all generic line items that make up a material proportion of a section of a budget statement should be accompanied by expanded detail in the associated commentary and/or notes. There ought to be the maximum uniformity as is possible in this presentation and it should be included in the same pages as the relevant statement or table.¹²

¹¹ Budget paper (BP) no3 p216 for example

¹² as with most agency operating statements

Recommendation 4

2.20. The committee recommends that generic budget line items which form greater than 5% of the total grouping to which they belong be accompanied by tables or notes which disclose the constituent elements forming that item.

Principal Measures Statements

2.21. Information provided in these statements is diminished in at least two ways.

2.22. Firstly, often the prior year's expenditures in a group of "Outputs" do not add up to figures included in the lowest level of summarising Operating Statement provided. Accounting or administrative changes from year to year are the usual explanation.¹³

2.23. Secondly, although expected outcomes for the previous year have been compiled at the Operating Statement level, this does not flow through to "Principal Measures" tables. The data must be available to enable the budget to be prepared. Comparative analysis would be much easier if the presentation of principal measures included original budget figures, expected outcomes and the new budget figures. The Chief Minister's assertion that later presentation in annual reports is sufficient is not accepted.

2.24. The Financial Management Act [Section 12, (1)(e) and (4)] establishes that the budget for a department should be prepared in a form that facilitates a comparison between budgets. The committee believes that it is plain common sense that informed comparison must include expected results for the previous year. Already monetary expectations are included - why not those for outcomes? The relevant subsections of the Financial Management Act are in need of amendment.

Recommendation 5

2.25. The committee recommends that:

(i) figures provided in Output Statements be reconciled to summary figures in Operating Statements;

(ii) to ensure that the level of deliverables and services purchased can be accurately compared, the Principal Measures statements in future budgets record the expected end of year result for the financial year prior to the current year budget; and

¹³ as is the case with most agency principal measures statements

(iii) the Financial Management Act section 12, subsection 4, be amended to require the estimated end of year output results to be included, the amendment to provide that a proposed budget shall be prepared in a form that facilitates a comparison, in respect of outputs, between the budget for the department for the previous financial year, the expected end of year results for the department and the proposed budget.

Comparability of budget material and transparency

2.26. Previous estimates committees experienced difficulty in reconciling budget appropriations with those provided in the previous year.

2.27. As a result of a recommendation by the 1998-1999 estimates committee the current budget includes notes to the budget statements which incorporate an operating statement for each agency showing significant variations.

2.28. The committee welcomed this initiative which, in combination with ownership and purchase agreements, has assisted to some extent in the examination of agency appropriations. Nevertheless, the number of source documents which need to be consulted presents difficulties for the committee in correlating agency operations and their performances and thus acts as a barrier in achieving a full scrutiny of those agencies.

2.29. The manner in which principal measures are presented in the budget papers remains problematic, not allowing meaningful comparisons to be made between 1998-99 and 1999-2000.

2.30. Because the 1999-2000 targets are compared with unrevised 1998-99 budgeted expenses, it is impossible for those examining the budget papers to discern the magnitude and location of variations from one year to another. The 1998-99 figures are often considerably out of date.

2.31. The committee considers that this problem was particularly apparent in the Department of Health and Community Care budget papers and that it is at odds with the 'full monty' approach extolled by the Treasurer in the budget speech.

Recommendation 6

2.32. The committee recommends that the Government assess and continue to trial means of presenting budgetary support documentation in a form which will enable the estimates committee to more readily reference the material provided in agency purchase agreements, statements of intent and ownership agreements to the budget papers.

Benchmarking

2.33. The committee pursued several lines of questioning on benchmarking and the source of information or benchmark partners. Benchmarking information at the end of Budget Paper 4 was useful, however it was concerning to observe that several important areas were not benchmarked, the Chief Minister's Department included.

2.34. It seems that benchmarks are being applied to other departments by the Chief Minister's Department, via the Office of Financial Management (OFM), but no investigation has been made into setting benchmarks for the Chief Minister's Department.

2.35. The committee considers that the Chief Minister's Department should lead by example, and be subject to benchmarking as per the claim on page 2 of the Ownership Agreement which refers to the implementation of benchmarking to ensure the Department is operating efficiently.

Recommendation 7

2.36. The committee recommends that:

- (i) the Chief Minister's Department develop appropriate benchmarks, consistent with those for other departments and agencies and the Department's leadership role within the ACT Public Service; and**
- (ii) all benchmarking data for departments and agencies be subject to review by the Auditor General for relevance, accuracy and practicability.**

Superannuation and insurance provision

2.37. Central to this budget is the \$300 m capital repatriation from Actew¹⁴ and, very importantly, the Government's reneging on last year's commitment to provide \$200 m over three years to the Superannuation Provision Unit.

2.38. In presenting the Budget the Chief Minister justified the capital repatriation as adoption of a recommendation of the Assembly Select Committee on the Territory's Superannuation Commitments.¹⁵ The committee considers this a serious misrepresentation on the part of the Treasurer, as the Select Committee in question recommended options that each included a set of measures, none of which stood alone. All presumed that the Government would honour its commitments of just one year ago to provide \$200 m in three years.

2.39. The capital repatriation from Actew can, in no way, justify the dishonouring of last budget's commitments or its responsibility to make provisions from its

¹⁴ BP no3 p4

¹⁵ Debates of the Assembly 4 May 1999, p31

budgets. In terms of provision for superannuation, the Government has failed miserably. It has the worst record since the advent of Self-Government.

2.40. By not facing its responsibilities to provide funds from its own budget, the Government will effectively waste the value of the Actew capital repatriation. This is short-term thinking, and is disturbingly consistent with other short-term measures of recent years that have seen assets sold or capital funds expended to meet recurrent expenditure.

2.41. As importantly, the committee notes that the \$300m from ACTEW is an abnormal item and the degree of leakage identified by the estimates committee last year¹⁶ has effectively exhausted the funds to be contributed to the funding of the superannuation liability in both the previous and the current financial years.¹⁷

Indigenous issues

2.42. The committee notes that the Government made a commitment in the 1998-99 budget to developing a strategy on Aboriginal and Torres Strait Islander policy initiatives and projects.¹⁸ During the current estimates hearings the Government acknowledged that it has yet to develop a whole of government and integrated approach to indigenous policy.¹⁹

Recommendation 8

2.43. The committee recommends that the Government:

- (i) consult widely with the ACT Aboriginal community and peak indigenous organisations to ensure that the whole of government policy, when released, reflects the needs and aspirations of the ACT Aboriginal community;**
- (ii) resource the consultation process adequately; and**
- (iii) monitor procedures to ensure that all government agencies comply with any final recommendations arising from the consultation process.**

Year 2000 compliance and the community sector

2.44. The committee noted that the Government has met several times with the community sector about ensuring their computer systems are year 2000 compliant.

¹⁶ Select committee on estimates 1998-99 p10

¹⁷ trans pp5/8

¹⁸ BP4, p40

¹⁹ trans pp85/86

The committee noted that the Government is issuing work books to the sector in order to test their computers and their systems.²⁰

Recommendation 9

2.45. The committee recommends that, in the event that community sector computers and systems are found not to be year 2000 compliant, the Government provide resources to enable them to become compliant.

Community consultation

2.46. The Government has a Consultation Protocol which it claims all departments use. Concern in the committee that there should be greater accountability regarding how well agencies actually do this.²¹

Recommendation 10

2.47. The committee recommends that the Government include in the Consultation Protocol a statement which commits agencies to adhering to the Protocol in the Purchase Agreement and that there be a measure in the budget papers to show how well this has been achieved.

²⁰ *ibid* p95

²¹ *ibid* p154

3. CHIEF MINISTER'S DEPARTMENT

Bruce Stadium re-development

3.1. It is well known that the Bruce Stadium re-development has been estimated to cost \$27.3m. Last year's Estimates Committee was advised that the re-development would be funded by \$12.3m provided by the ACT Government, a \$7m loan from the private sector to be repaid through operational revenue, and \$8m from the sale of naming rights, corporate suites, food and beverage rights and so on.²² While the previous committee was advised that cost pressures had increased the redevelopment budget such that the private sector would need to fund an additional amount, it was assured that the ACT Government contribution of \$12.3m would not increase and could, in fact, be less.²³ The committee was assured that the private sector could fulfil its part of the development and that its participation could be debt or equity.²⁴

3.2. It was subsequently revealed to the committee that the re-development costs will be around \$33m for construction.²⁵

3.3. However, the Government was unable to provide a bottom line for expenditure. The Government would not concede that the cost of furniture, fittings and equipment (FFE) should be included in the cost, but did indicate that total costs of the re-development (including FFE) would work out at \$1600 per seat for a capacity of 25,000 people.²⁶ A simple calculation shows that on this basis the total cost would be of the order of \$40m.

3.4. The committee was subsequently advised that the above costing per seat of \$1600 did in fact include FFE and that the Department had been misadvised on the point. The committee was advised that revised numbers showed a cost per seat of the Stadium re-development of \$1304.²⁷

3.5. On 10 June 1999, the Chief Minister announced that the Government will bring to the Assembly later in June amendments to the 1999-2000 Appropriation Bill intended to authorise expenditure to meet the full construction cost of the Bruce Stadium, projected to be \$34.6m, and a further \$5m for the operation of the

²² trans estimates committee 1998-99 p68

²³ ibid p1104 et seq

²⁴ ibid p1107

²⁵ Trans pp104,120, 415 for example

²⁶ ibid p113/114 & p140 for example

²⁷ ibid p401

Stadium.²⁸ These figures clearly confirmed the committee's estimate of \$40m for the total cost of the re-development.

3.6. It is public knowledge that the Government had to that point been negotiating with the Commonwealth Bank for a loan arrangement to cover the short fall between the ACT Government contribution to the Stadium re-development and the expected final cost.

Expenditure of non-appropriated funds

3.7. The Government committed \$12.3m towards the re-development of the Bruce Stadium, with funds to be allocated in the Capital Works program over three years as follows:

- 1996-97 \$1.5m
- 1997-98 \$5.558m
- 1998-99 \$5.242m

3.8. By December 1997, the 1997-98 capital injection had been exhausted and the Government restructured the financial arrangements to balance immediate returns and obligations against ongoing costs. As a result between February 1998 and June 1998 funds totalling \$9,714,700 were progressively transferred to the Bruce Stadium Redevelopment Authority under a loan facility from the Central Financing Unit (CFU).²⁹

3.9. On this point, the committee notes that the Bruce Stadium Redevelopment Authority does not exist in any formal sense. Under questioning, it was revealed that the Authority was in reality a senior Departmental officer responsible for the project at the time.³⁰ In effect, the Department loaned money to itself, and the committee can be excused from observing that this could well have been a device to obscure the expenditure of non-appropriated monies by cloaking the expenditure as a loan.

3.10. Legal advice sought by the Government from eminent counsel concluded that, based upon long-standing and established conventions and precedent, funds which were not appropriated by the Assembly, were ultra vires the Financial Management Act 1996 (FMA) and were thus unlawful.³¹

Overnight loan to cover expenditure of non-appropriated funds

3.11. On 30 June 1998, the Government obtained an overnight loan of \$9,715,000 on behalf of Bruce Operations Pty Ltd from the Commonwealth bank in order to

²⁸ Chief Minister media release 10 June 1999

²⁹ Mr R Tracey QC advice 25 May 1999

³⁰ trans p1110 et seq

³¹ Mr Tracey op cit

discharge obligations to the CFU. On 1 July 1998, the CFU repaid the loan to the Commonwealth Bank.³²

3.12. The overnight loan restored funds to the CFU by the last day of the financial year in order to redress the expended funds, which were not appropriated by the Assembly. The committee considers this an acknowledgment by the Government that it did not have the authority to spend funds, which had not been appropriated. In other words, as confirmed by counsel's advice, there was literal compliance with the requirements of section 31(2)(b) of the FMA which provides that the appropriations of the department during the financial year give a financial result at the end of the year that is in accordance with the estimates contained in the budget papers for that year relating to the department.³³ The committee is obliged to conclude that this was a contrived financial arrangement.

3.13. It is to be noted that as the expenditure of \$9,714,700 was unlawful, it follows that the relevant officials responsible for the payments from the CFU in relation to the Stadium re-development cannot be said to have satisfied the obligation imposed on them by section 31(2)(a) of the FMA, which provides that the monies spent by the Department are within the appropriations made for the Department.³⁴

Prescribed investment under the Financial Management Act 1996

3.14. The \$9,714,700 remained as a loan by the CFU to the Chief Minister's Department and the issue is whether the Department had the legal authority to make a loan.

3.15. In this regard counsel advised that the stadium project could have been made a prescribed investment for the purposes of the FMA, a position adopted by the Government to justify the non-appropriated expenditures, if an appropriately worded financial management guideline had been promulgated under section 67(2) of the FMA. In the absence of such guidelines, counsel advised that the non-appropriated expenditures were unlawful.³⁵

3.16. The Assembly will be aware that the Chief Minister subsequently issued a retrospective financial management guideline under section 67(2) of the FMA, dated 19 May 1999, and operative from the date of commencement of section 38 of the FMA (1 July 1997) for the purpose of making prescribed investments under the Act. The guidelines prescribed any Territory owned property in which the Territory has an interest as an investment for the purposes of the FMA.

3.17. However, the committee must draw to the Assembly's attention the ACT Auditor-General's contention that there was no investment capable of being

³² *ibid*

³³ *ibid* p18

³⁴ *ibid* p17

³⁵ *ibid* p22

prescribed.³⁶ The Auditor-General later proffered to the committee the view that section 38 of the FMA was intended to facilitate cash management, generally short term cash management,³⁷ although the Auditor-General noted that available cash arising from an operating surplus over several years and surplus to immediate requirements could be invested long term.³⁸ In this regard, the Auditor-General drew a distinction between a capital injection to facilitate a capital works project (of the nature of the Bruce Stadium re-development) and an investment.³⁹

3.18. It is clear to the committee that the use of Bruce Stadium as an investment vehicle was unlawful. The proposed amendments to the Appropriation Bill 1999-2000 exemplify this. The proposed amendments are, in fact, a concession by the Government that the expenditure of non-appropriated monies was unlawful.

Bruce Stadium corporate and financial structure

3.19. The committee was provided with the diagram at **attachment 1** showing the entities involved in the Bruce Stadium structure. The Australian Sports Commission (ASC) holds the lease on the Stadium and a cascading series of sub leases flow through to the ACT Government to the Bruce Property Trust (BPT) to Bruce Operations Pty Ltd (BOPL).

3.20. Also to be involved was a proposed Bruce Investment Company (BIC), which was to be a subsidiary of the Commonwealth Bank. BIC was to be the vehicle for the Bank's loan for completion of the Stadium re-development, the loan to be made to BPT.⁴⁰

3.21. BPT would charge rental for the Stadium to BOPL, the rental being used to repay the Commonwealth Bank loan. BPT was to employ Trust Company of Australia to undertake the requirements of a trust and to ensure the requirements were met. BOPL has agreements with hirers who, at this time, are the Brumbies and the Raiders. The Canberra Cosmos are expected to become a hirer of the Stadium.⁴¹

3.22. As indicated above, it was the Government's intention that the financial structure be a mix of loans and equity.⁴² The committee was advised that the financial structure would maximise the benefits to the Commonwealth Bank and the ACT Government. In essence, through a series of transactions which are illustrated in attachment 1, the ACT Government would loan \$3,500,000 to BIC which would then loan \$31,800,000 to BPT which would then purchase \$12.3m of Government funded

³⁶ Government brief to Counsel p9

³⁷ Trans p1083

³⁸ *ibid* p1087

³⁹ *ibid* p1086

⁴⁰ *ibid* p99

⁴¹ *ibid*

⁴² *ibid*. Statement by Chief Minister

construction contracts from the ACT Government. The ACT Government would loan \$8,250,000 to BOPL for marketing and fitting out.⁴³

3.23. The committee was advised that there had been agreement by the Prime Minister to extend the Stadium lease to 2024 and on the basis of that exclusivity the Commonwealth Bank was able to go ahead with its investment. The committee was further advised that there is a guarantee that the level of rental payments from BOPL to BPT would be of a sufficient level to make the interest payments to BIC.⁴⁴

3.24. The committee was also advised that what was an investment in a physical asset would now be an investment in a number of loans.⁴⁵ This intention raises the question as to whether the retrospective guideline under section 67(2) of the FMA referred to above does in fact, and regardless of its legality per se, cover loans as distinct from investments.

3.25. The committee notes that the Government subsequently abandoned this intended corporate and financial structure. However, the Assembly could be forgiven for thinking it was an extraordinarily complex and intricate structure for what should have been a relatively straightforward construction project. The committee is forced to conclude that despite the elaborate intended financing arrangement with the Commonwealth Bank it was drawing a very long bow to regard the Bank's intended financial interest as equity in the Stadium as it would have had no risk exposure.

3.26. The Chief Minister also tabled with the committee a document outlining the operating arrangements, as opposed to the financial arrangements, for the Stadium. This document is at **attachment 2**.

Other issues

3.27. In the limited time and resources available to the committee it has not been possible to pursue in any depth a range of other important matters associated with the Stadium and its re-development. Matters such as, the role of officials in terms of fiduciary responsibilities, the extent to which transactions were in accord with the Accounting Policy Manual, the need for the complex corporate and financial structure, waivers on loans, the intended involvement of the private sector, the Olympic arrangements and contracts for catering and other services.

3.28. All are worthy of close scrutiny and consideration by the Assembly.

Conclusion

3.29. The committee's limited examination of the Bruce Stadium re-development leaves it with considerable and serious concerns about the prudential management of the Territory's finances, the legality of various financial transactions and the

⁴³ *ibid* 100

⁴⁴ *ibid* p105

⁴⁵ *ibid*

implications for the governance of the Territory and it recommends appropriate initial action by the Assembly.

3.30. The committee must state the obvious, that the Government has an important obligation to expend public monies in accordance with the law and that it is accountable to the Assembly for such expenditure.

3.31. The situation with the Bruce Stadium has focussed attention on the notion of responsible government, and the committee is unaware of any concept in law that a technical breach of the law absolves an unlawful act.

Recommendation 11

3.32. The committee recommends that the Assembly;

(1) as a matter of urgency and in the interests of the good governance of the Territory, call on the Government to:

(a) establish, to the satisfaction of the Assembly, the legality of all financing arrangements relating to the Bruce Stadium re-development;

(b) justify to the Assembly, as a matter of urgency, the promulgation on 19 May 1999 of retrospective guidelines under section 67(2) of the Financial Management Act 1996;

(c) inform the Assembly, in relation to the Bruce Stadium re-development and its financing, and as a matter of urgency, whether the provisions of the Public Sector Management Act 1996 have been breached in any particulars and, if so, what, if any, action is to be taken as a result;

(d) inform the Assembly, as a matter of urgency, whether any Ministers, officials or others in contractual arrangements with the ACT Government and its agencies are liable for any unlawful actions in relation to the financing arrangements relating to the Bruce Stadium re-development, and if not, the authority for there being no liability; and

(e) provide to the Assembly, as a matter of urgency, an itemisation of expenditures on the Stadium, details of cost overruns, an assessment of the final cost of the Stadium re-development and the costs of any items for which no original allowance was made;

(2) appoint the Estimates Committee to examine and report to the Assembly on the proposed amendments to the Appropriation Bill 1999-2000; and

(3) not proceed with consideration of the proposed amendments to the Appropriation Bill 1999-2000 until the Government has provided all

documentation relating to the Bruce Stadium re-development, and the Estimates Committee has reported on the proposed amendments.

ACT Auditor-General – independent role

3.33. The committee noted with concern that during its examination of the ACT Auditor-General the Chief Minister approached the Auditor-General with a list of questions for the Auditor-General's consideration.

3.34. The Auditor-General is not subject to direction by the Executive or any Minister in the performance of the functions of the Auditor-General,⁴⁶ and the committee viewed the action by the Chief Minister as inappropriate.

CanDeliver

Capitalisation

3.35. The budget provides for a capital injection of \$1m to CanDeliver, rather than a loan, and the committee was advised that this was necessary in order to establish the Corporation's standing in the market such that potential clients are able to assess CanDeliver's capability on the basis that it has a capital base.⁴⁷

3.36. Nevertheless, the committee sees an inherent contradiction in the Government subsidising CanDeliver when it is in the business of potentially tendering for services provided by the Department of Urban Services while that Department is required to meet very tough efficiency measures. The committee comments further on this aspect in section 7 of the report dealing with the Department of Urban Services.

InTact – move to CanDeliver

3.37. In relation to concerns expressed by the committee about the desirability of transferring InTact to CanDeliver when significant IT modernisation is underway and there are Y2K issues to be resolved, the committee was advised that CanDeliver had recommended to Government that, to avoid dislocation at this time, the transfer be delayed until modernisation and Y2K matters have been resolved. The Chief Minister made it clear that InTact in its present form will change and the Government will be looking at its long-term position which could be a move to CanDeliver.⁴⁸

Loan without direct interest return

3.38. The Auditor-General, in response to questions on notice provided by the Chief Minister through the committee advised that a loan of \$500,000 to CanDeliver made in 1998-99 appears to be identical with the Bruce Stadium loans in that it was not in accordance with any legislation. The point made by the Auditor-General was that the

⁴⁶ Auditor-General Act 1996 sec 9

⁴⁷ trans p1138

⁴⁸ ibid p1141

CanDeliver loan could not be reasonably seen as a precedent for the Bruce Stadium loans. The Auditor-General proffered the opinion that for the Bruce Stadium and CanDeliver loans to be consistent with other loans, the Assembly should have appropriated them. The Auditor-General further advised that the CanDeliver loan had not been prescribed under section 38 of the FMA at the time the payment from the Territorial Bank Account occurred and thus it appeared to have been unlawful at the time it was paid.⁴⁹

3.39. As the CanDeliver loan appears to be identical with the Bruce Stadium payments the committee considers it should be taken into account by the Assembly in its consideration of the committee's recommendations on the Bruce Stadium payments.

Recommendation 12

3.40. The committee recommends that the Assembly:

(i) take account of the non-appropriated payment of \$500,000 to CanDeliver in 1998-99 in its consideration of the committee's recommendation above in relation to the Bruce Stadium non-appropriated payments; and

(ii) require the Government to introduce legislation to provide additional appropriation to cover the \$500,000 non-appropriated payment.

Gaming taxes

3.41. Coincident with the Budget is a proposal to impose mandatory levels of contribution to charities and to community activities from the poker machine takings of clubs. There would be a requirement for a total of 5% of net takings to be contributed, with at least 3% going to charities.

3.42. The committee considers that the introduction of this proposal would be inappropriate. However, if the Government continues with the proposal it should consult with the relevant clubs and sporting groups prior to introduction.

Overhead costs

3.43. Throughout the Budget there are repeated references to an increase in overheads ascribed to IT modernisation. In particular the cost of policy advice for ministers has been consistently increased. The committee received no satisfactory answers to questions relating to savings that should accrue from investment in modernisation.

⁴⁹ Auditor-General letter to committee dated 8 June 1999

3.44. The committee is concerned that the total cost of providing policy advice to five ministers is high and is increasing. There does not seem to be the same discipline of cost control over ministerial support that is applied to most areas of the Administration.

ACTEW

Reductions in real costs

3.45. The committee sought advice on the areas of ACTEW which are targeted to achieve the 5% reduction in real costs⁵⁰ and was advised that the cost reductions will come from across the Corporation but generally would be focused on middle and senior management and middle to senior professional and technical grades rather than at operational level. ACTEW indicated that some 45 staff would be involved although early numbers indicated a lesser **number**.⁵¹

Uriarra village – upgrade of water supply

3.46. In response to concerns raised by the Uriarra Forestry Settlement Group about the village water supply, ACTEW advised that in discussion with the Department of Urban Services in another context it had been looking at an upgrade or repairs to the water system. ACTEW further advised that any decision to close off the water supply to the village would be taken by the government and not by ACTEW.⁵² Other aspects of the Uriarra village are discussed in paragraph 7.94 below.

Possible amalgamation with Great Southern Electricity

3.47. The committee was assured that work in relation to a possible amalgamation with Great Southern Electricity went no further than looking at compatibilities and incompatibilities and working out costs rather than implementation.⁵³ The committee considers that any decision about amalgamations between ACTEW and other utilities should be made by the Assembly.

Recommendation 13

3.48. The committee recommends that the Assembly require the Government to secure the agreement of the Assembly to any amalgamation between ACTEW and any other utility provider.

⁵⁰ BP no 4 p357

⁵¹ Trans p449

⁵² ibid p452

⁵³ ibid p455

ACTEW water

3.49. There is a view within the committee that ACTEW should be encouraged to extend the provision of recycled water for irrigation,⁵⁴ and that any proposals to pipe water interstate, for example to Yass or Goulburn⁵⁵ should be referred to the Assembly for approval.

3.50. The committee is concerned about the planning implications of the proposal to pipe water interstate and that it should not be done in any arbitrary way. It could lead to problems with the orderly development of ACT and regional townships and may not be consistent with the sub-region strategy.

Recommendation 14

3.51. The committee recommends that any proposal to pipe water interstate be referred to the Assembly for consideration.

Sale of the Streetlighting System

3.52. The committee notes that the sale of the Territory's streetlighting system to Actew for \$100 million, announced in last year's budget, appears to have been abandoned. The committee is concerned about the inconsistency in the Government's approach to this matter.

Feel the Power of Canberra campaign

3.53. The committee was advised that the Feel the Power campaign had not been embraced by the Canberra community although it is being used in terms of the government's approach to business incentives and the marketing of the ACT to business and offshore.⁵⁶

3.54. The committee was advised that funding for the campaign has been subsumed within the allocation for international development and marketing and that the slogan and the campaign had been developed and, in terms of using the slogan, there is no ongoing expenditure.⁵⁷

3.55. With regard to the Pendon Constructions ex-Polish air force aircraft which had been painted with the Feel the Power of Canberra slogan at a contracted cost to the ACT of \$15,000 conditional upon the aircraft participating in at least seven air shows in 1998,⁵⁸ the committee was advised that the aircraft had not met the conditions of

⁵⁴ *ibid* pp458459

⁵⁵ *ibid* pp455/466

⁵⁶ *ibid* p59

⁵⁷ *ibid* p60

⁵⁸ Select committee on estimates 1998-99 p20

the “contract”. Further, it was revealed that it was the view of the Government Solicitor that it would be difficult to get any money back as the failure to meet the conditions of the contract were beyond the control of the aircraft owner. It was also revealed that there was no formal contract, rather an exchange of letters.⁵⁹

3.56. The committee recognises that it may not be cost effective to seek to obtain a refund of the \$15,000 through litigation. However, the committee is obliged to observe that the process involved in this transaction is in marked contrast to the degree of accountability required of some community organisations which receive smaller amounts than that involved in this case.

Canberra Tourism and Events Corporation (CTEC)

Floriade

3.57. The committee was advised that it cost \$3.4m to run Floriade last year and that gate revenue was about \$500,000, substantially lower than the estimate, largely due to a heavy transference in free family passes, and some conditions imposed by the National Capital Authority in terms of access. The committee noted that following a review of the successful and less so parts of Floriade the operating budget had been reduced.⁶⁰

3.58. The committee was advised that entry fees would be \$10 single, \$15 season pass, \$5 concession, children under 18 free, concession season passes \$10, and coach groups \$5 per passenger. The committee was also advised that Floriade’s life span was an issue and that it was an issue as to whether the festival should be held every second year. The reasoning is that festivals which do not change end up getting smaller and dying over time.⁶¹

Visitor information centre

3.59. The committee was advised that the Centre is going particularly well and, although it had a volunteer team of some 120 to assist at the Centre and at various attractions, and other locations where information centres are set up, CTEC is discussing with the Canberra Institute of Technology (CIT) about operating the Visitors Centre as part of its hospitality training and Tourism Council of Australia accreditation.⁶²

3.60. The Tourism Council of Australia was rather more cautious about the role of CIT in the Visitors Centre, making the point that, with due respect to the abilities of CIT students, using the Centre as a training facility runs the risk of diminishing the ability to provide the level of service expected in relation to information and holiday bookings. The Council sees the Centre as the ACT’s point of sale and that money

⁵⁹ trans pp65/66

⁶⁰ Trans p468

⁶¹ ibid p471

⁶² ibid p473 et seq

spent in generating the inquiry in the first place should not be risked by any service inability to meet demand at the point of sale.⁶³

3.61. The Council drew attention to problems faced by tourism operators with the use of 14 seater busses registered in the ACT. Such vehicles cannot legally trade in NSW unless licensed to do so in that State. Licenses cost about \$3,000 and there is a need to have cross-border recognition of licensed operators.

Recommendation 15

3.62. The committee recommends that the Government enter into negotiations with the NSW Government to secure reciprocal bus licensing arrangements with a view to assisting the development of tourism in the ACT and the NSW south-east region in particular.

Ecologically sustainable tourism

3.63. There is concern within the committee that CTEC is not fulfilling its statutory function to encourage the ecologically sustainable development of the tourism and travel industry.⁶⁴

3.64. The committee considers that the Government has the options of amending CTEC's objectives to delete the requirement or to provide resources to allow CTEC to fulfil its functions.

Recommendation 16

3.65. The committee recommends that the Government either delete the requirement for CTEC to encourage ecologically sustainable development within the tourism industry or provide the agency with the necessary resources to do so.

Exhibition Park in Canberra (EPIC)

3.66. A view was expressed within the committee that EPIC should not accept any new events that will cause noise disturbance to residents of Watson.⁶⁵ The committee notes that EPIC's application to increase its noise credits had been rejected.

⁶³ *ibid* p1079 et seq

⁶⁴ *ibid* pp476/478

⁶⁵ *ibid* pp1129/1130

Recommendation 17

3.67. The committee recommends that the Government:

- (i) undertake comprehensive monitoring of noise impacts on the suburbs adjacent to EPIC; and**
- (ii) present to the Assembly for its consideration a statement on the Government's policy on the extent to which noisy events will be allowed at EPIC.**

Cultural Facilities Corporation

3.68. The committee had the welcome opportunity to discuss arts funding and associated matters with Tuggeranong Community Arts. The committee was advised that there is a need to monitor very closely the condition of the Art Centre building which the group has been managing on behalf of the Government. The Group is concerned that while building defects will be made good by the building contractors during the warranty period, perhaps two or three years down the track the Group may be required to draw upon their modest funding to meet repairs.⁶⁶

3.69. The Group advised the committee that it would maximise every opportunity to utilise building space for commercial return and provide community cultural development, but that it needs assurance that Government will provide financial assistance for the building maintenance and repairs as these costs increase.⁶⁷

General rates

3.70. The committee observes, although the Government set new rating formula factors to generate an increase in gross revenue of 2.5%, that the fixed component for households was increased by \$20, following a \$20 increase last year, and consequently increased that portion of rates accounts by 17% in the space of two years. Increasing the "flag fall" element of the rating formula at this rate is considered to be regressive by the committee.

3.71. The Treasurer could not provide the committee with a targeted upper limit on the fixed component, stating that assessment was a year-to-year process. The committee believes this to be serious deficiency in financial planning.

Recommendation 18

3.72. The committee recommends that the Government bring forward a paper outlining its philosophy in relation to general rates, the paper to

⁶⁶ *ibid* p365

⁶⁷ *ibid* p366/367

include an indication of an upper limit, in real terms, of the fixed component of rating formulae.

Waste collection and water abstraction charge

3.73. The view was expressed within the committee that the Government should make the waste collection charge explicit to ratepayers in their rates notices and that the Government should investigate the introduction of incentives to reduce the charge where reduced levels of waste are put out for collection.⁶⁸

3.74. There was also concern within the committee that the description of the water abstraction charge in the budget papers is misleading in that it gives the impression that the revenue from the charge will be spent on environmental initiatives when in fact the money is going into consolidated revenue.

3.75. The Government advised that funding is already going into catchment management..⁶⁹

Recommendation 19

3.76. The committee recommends that:

- (i) the Commissioner for the Environment be requested to undertake an inquiry into the adequacy of the management of the ACT's water supply catchments; and**
- (ii) the Government investigate, and inform the Assembly, on the possibility of including in rates notices details of waste collection charges and incentives to reduce this charge through waste reduction.**

Competition policy

3.77. There is concern within the committee that there is a lack of consistency across Government departments about the extent of public consultation that is required for particular legislation reviews under competition policy.⁷⁰ However, at present there is no mechanism for a review of this process as the Competition Policy Forum was abolished in 1998 and the new regulatory arrangements are not yet in place.

⁶⁸ *ibid* p80

⁶⁹ *ibid* pp191-195,699-700

⁷⁰ *ibid* pp173/4

Recommendation 20

3.78. The committee recommends that:

- (i) the Competition Policy Forum be reconvened to inquire into the adequacy of the legislation review process particularly from the public interest perspective; and**
- (ii) the Government fully implement those recommendations relating to the establishment of an independent competition and regulatory commission contained in the October 1998 Portfolio Committee Report No 1 *Report on an Independent Council on Competition Policy* of the Standing Committee for the Chief Minister's Portfolio.**

Totalcare

3.79. The committee is concerned about the delay in action by Totalcare in installing pollution control equipment to reduce dioxin emissions when Totalcare had been aware for some time that there were emissions.⁷¹

Recommendation 21

3.80. The committee recommends that the Commissioner for the Environment be requested to report on a standard, appropriately modelled to meet the needs of the ACT, including the health impacts, for monitoring emissions from the Totalcare incinerator at Mitchell

Canberra strategic plan

3.81. In December 1996 the Government tabled the document "Canberra: a Capital Future". On the motion of Mr Moore the Assembly resolved

That this Assembly takes note of the paper as Liberal Party ideology and is not adopted by the Assembly, and further the Government re-do the ACT strategic plan and bring it back to the Assembly with:
a clear commitment to the agreed outcomes of the 1993 Assembly's 2020 report;
the commitment of the Commonwealth to the Strategic Plan for the ACT.

3.82. The Government subsequently hosted the National Capital Futures conference in September 1997 to allow broader community input to the development of a strategic plan for Canberra and the committee was advised that the Government's Strategic Planning Framework which was a feature of the 1998-99 budget strategy

⁷¹ *ibid* pp492/496

provides the overarching context within which agencies develop major sectoral plans, that many of these plans are in place or are being developed.⁷² The Strategic Planning Framework consists of a table of measures of success and a list of key result areas.

3.83. The committee is concerned that while this framework may be useful for the Government in developing its budget, it does not have sufficient detail or comprehensiveness to meet the expectation of the Assembly, as a result of the December 1996 motion, that a revised strategic plan would be developed, building on the “Canberra: a Capital Future” document. Its inclusion in budget papers also means that it is not able to be subject to broader scrutiny independent of the budgetary process.

Recommendation 22

3.84. The committee recommends that the Government bring to the Assembly for its consideration a separate document outlining the Government’s proposal for a strategic plan for Canberra, in line with the December 1996 resolution of the Assembly.

⁷² Chief Minister response to question on notice by Ms Tucker

4. DEPARTMENT OF EDUCATION AND COMMUNITY SERVICES

Teacher renewal program

4.1. An amount of \$0.6 m was set aside in the budget to fund the Teacher Renewal Program. The aim of the program is to create more jobs for beginning teachers by offering a limited number of classroom teachers' early retirement through a retirement incentive program. Initially this program was to target teachers over the age of 45 years.⁷³

4.2. Following concerns expressed by the Discrimination Commissioner, soon after the budget announcement, the Minister announced that the age criteria would no longer apply.⁷⁴

4.3. In the past, the ACT Government funded a program of teacher renewal which was targeted at teachers over a specific age.⁷⁵

4.4. However, since 1996, following the implementation of the full effect of the *Discrimination (Amendment) Act 1994*, it has been unlawful to discriminate against an employee by setting an age for compulsory retirement. (A two-year exemption period applied from the commencement of the Act in 1994).

4.5. The committee was advised that the department had the expectation that the program would be acceptable because it was very similar to a scheme that is currently in place under the enterprise agreement with teachers. The department accepted that there have been changes in the discrimination legislation which it had not been aware of between the time of entering the agreement and the present.⁷⁶

4.6. The committee was further advised that the Department of Education and Community Services did not receive any advice about the possibility of being in breach of the discrimination legislation before the decision was announced to include age 45 as a criterion for the teacher renewal program.⁷⁷

4.7. The committee is surprised that the Government was not aware that changes to the *Discrimination Act 1991* could cause problems for this budget announcement.

4.8. The Minister advised that the Teacher Renewal Program will be funded predominantly from "a more flexible approach to how secondary college staffing

⁷³ Minister for Education, Media release, 4 May 1999

⁷⁴ Transcript, p 810

⁷⁵ *ibid*, p 812, p 1006

⁷⁶ *ibid*, p 810

⁷⁷ *ibid*, p 811

entitlements are managed".⁷⁸ There will be staff reductions in secondary colleges in the year 2000.⁷⁹

4.9. The committee is most concerned that this retirement incentive program is being funded in part by staff cuts.

4.10. The committee understands that teachers who take early retirement under the program will receive a payout of \$30,000 plus a payout of their other entitlements, such as long service leave.⁸⁰ Depending on years of service the \$30,000 payout could be considerably less than the usual payout entitlements. The committee considers that the payout teachers receive under the Teacher Renewal Program should be consistent with what they would receive under a voluntary redundancy program.

Recommendation 23

4.11. The committee recommends that teachers taking a voluntary redundancy under the Teacher Renewal Program be granted a payout consistent with what they would receive under a normal voluntary redundancy program.

Secondary college funding

4.12. There will be a reduction of 270 teaching points, which equates to 13.5 teachers, allocated to colleges from the beginning of the 2000 school year. This reduction will be achieved by changing the enrolment multiplier from 1.531 to 1.493.⁸¹ The reduction will partly fund the Teacher Renewal Program.

4.13. The committee was advised that there are a number of issues that need to be looked into in relation to college staffing and many different ways in which the colleges can adjust to this reduction. Some of these include revised arrangements for the management of casual relief allocations; a single formula for the provision of staff for colleges; and devolution of the relief budget. There are also some issues around staff mobility arrangements. In addition, over the last five years there has been an average reduction in college enrolments of six per cent from February to July.⁸²

4.14. One of the areas where it was claimed adjustments could be made is in the area of the management of casual relief. At present there are two currencies operating for casual relief—points and money. The department told the committee that if the money for casual relief were devolved to colleges they would be able to be more flexible about the relief they buy in. The reason given for this increased flexibility

⁷⁸ Minister for Education, *Media releases*, 4 May 1999

⁷⁹ Transcript, p 818, 819

⁸⁰ *ibid* p 833

⁸¹ *ibid*, p 815

⁸² *ibid*, p816

was that they would not be working in the points currency, which always works to the maximum of the teaching salary scale and always works in terms of a portion of a day, usually a whole day or a half day.⁸³

4.15. The committee understands that with the increased flexibility achieved by devolving the money, colleges would be able to call in relief for shorter periods if necessary, for example for one line a day. The committee supports the concept of increased flexibility for colleges in the management of relief staff, if it results in better educational services for students. However it would not support any changes to the casual relief arrangements which resulted in a decline in educational services for students, a decline in the amount of relief available for colleges, casualisation of the teaching force, or additional administrative responsibilities for colleges.

4.16. The committee questioned the Minister about the effect of the staff reductions on colleges. The Minister was unable to reassure the committee that there will not be any effect. Colleges, it was claimed, make substantial adjustments each semester and therefore it would be very difficult and resource intensive to assess the impact of the staffing reductions.⁸⁴

4.17. The Australian Education Union (AEU) disagreed with the arguments that colleges will be able to deal with this issue with some increased staffing flexibility.⁸⁵ According to the AEU, the reductions represent a loss of opportunities for 250 students, as the teachers who would have taught those classes will not be there, as well as an impact on working conditions for teachers. These cuts are in addition to approximately 32 positions lost in colleges since 1995.⁸⁶

4.18. The committee fails to see how changing the staffing formula for secondary colleges so that it generates fewer teachers will not have a considerable effect on the operations of colleges. For the year 2000 this change in formula will result in 13.5 fewer teachers spread across the eight colleges. This is not insignificant.

4.19. In addition, the provisions of the Common Youth Allowance are expected to have an effect on enrolments in secondary colleges. The committee was told at the hearings that since the Common Youth Allowance was only introduced on 1 April 1999, it is too soon to gain any idea of its full effect. Anecdotal evidence indicates that to date there has not been a big effect.⁸⁷

4.20. The committee was interested to note that while planning to cut staffing to secondary colleges, the Department of Education and Community Services recognises there is a need to provide additional support for students at risk in colleges. The department has been successful in receiving Commonwealth funding for a full service

⁸³ *ibid*, p 818

⁸⁴ *ibid*, p 821

⁸⁵ *ibid*, p 1006

⁸⁶ *ibid*, p 1006

⁸⁷ *ibid*, p 828

schools program for students at risk of not completing year 10 or year 12. This program will commence at the beginning of second semester 1999.⁸⁸ Its tasks are to assess the needs of the client group; to provide assistance in literacy and numeracy; to assist schools and students with suitable programs or alternative placements; to provide professional development for staff working with these students; and to provide motivation, support and assistance to young people to enable them to get their lives back together.⁸⁹

4.21. The committee considers the proposed cuts to secondary college staff are a breach of the Government's election promise not to cut funding from schools.

4.22. Further, the committee believes that the Teacher Renewal Program should not be funded at the expense of secondary college teaching resources.

Recommendation 24

4.23. The committee recommends that the Teacher Renewal Program not be funded at the expense of teaching resources for secondary colleges.

Schools drug strategy

4.24. The committee was pleased to note that the Government has provided an additional \$115,000 to drug education in schools. "Drug education enhanced" is listed as a quality measure in output 1.2—Government high school education and output 1.3—Government secondary college education. While the committee was told that drug education programs will also be enhanced in primary schools,⁹⁰ there is no quality measure in the budget papers reflecting this change. The committee considers that such a quality measure should have been included.

Cleaning

4.25. Under the system of school-based management, each government school is responsible for making arrangements for the cleaning of its premises. The Department of Education and Community Services does offer some assistance to schools such as assisting schools with advertising and with evaluating tenders. There is a standard contract and standard specifications which schools, that wish to take responsibility for all the arrangements themselves, are required to use.⁹¹ The contract conditions require contractors to pay award wages, to abide by occupational health and safety standards, to take out insurance approved by the school for workers' compensation, public liability, and personal sickness or injury.⁹²

⁸⁸ *ibid*, p 828

⁸⁹ *ibid*, p 831

⁹⁰ *ibid*, p875

⁹¹ *ibid*, p 865

⁹² ACT Department of Education and Training, *Cleaning of ACT Government Schools, Request for Quotation/Tender*, p 25

4.26. The Liquor, Hospitality and Miscellaneous Workers' Union (LHMU) and the ACT Chamber of Commerce and Industry both raised concerns about the processes involved in allocating contracts for ACT Government schools.

4.27. The LHMU's concerns related to low award compliance, low regard for occupational health and safety standards, the use of underage workers, non-compliance with basic entitlements such as superannuation and workers compensation and the practice in some instances of cleaners being paid in cash.⁹³

4.28. The Chamber of Commerce and Industry supported the concerns raised by the LHMU and also claimed that, in general, its members are no longer tendering for school cleaning contracts because they cannot compete with operators who do not pay award wages and who do not have the necessary insurance cover.⁹⁴

4.29. The committee raised the issue of the requirements the Department of Education and Community Services has in relation to schools ensuring that cleaners are paid award wages and adhere to occupational health and safety and other mandatory standards. The Minister advised that this is a matter for the employer and to the best of his knowledge there is no requirement for certain employer responsibilities to be part of the contract.⁹⁵ The committee finds this situation completely unsatisfactory.

Recommendation 25

4.30. The committee recommends that in consultation with the ACT Chamber of Commerce and Industry and the Liquor Hospitality and Miscellaneous Workers' Union, the Department of Education and Community Services develop a strategy to ensure that all school cleaning contracts comply with award, occupational health and safety and insurance requirements.

Use of pesticides at school properties

4.31. As with cleaning, under the system of school-based management schools are responsible for organising pest and weed control. Most pest and weed control of school properties is contracted out.⁹⁶

4.32. In relation to weed control, in 1999 there are 15 companies/businesses that have contracts with schools, one of which is Cityscape.⁹⁷

⁹³ *ibid*, p 1062

⁹⁴ *ibid*, p 1067

⁹⁵ *ibid*, p 865, 866

⁹⁶ *ibid*, p 867

⁹⁷ Minister for Education, 11 June 1999, response to question on notice

4.33. In relation to pest control, in 1999, 13 companies/businesses have contracts with schools.⁹⁸

4.34. In his report, of June 1998, *Investigation into the ACT Government's use of chemicals for pest control*, the Commissioner for the Environment expressed concerns about principals as managers of schools and assets having to make decisions about the use of chemicals. At the public hearing, the committee requested an update on how pesticides were being managed. It was advised that the processes that have been in place for the last couple of years are still in place and that the guidelines are considered adequate.⁹⁹

4.35. However, following the hearings the committee was advised that the department is rewriting the contract requirements for pest and weed control. A revised document for pest control in preschools is already in place. The revised contract for pest control in schools will be completed by the end of June 1999. A similar document for weed control will be available by September 1999. The school management manual will also be rewritten to take into account the new contract requirements.¹⁰⁰

4.36. The committee questioned how the Department of Education and Community Services is monitoring the use of pesticides by contractors to ensure that only accredited and highly qualified pest control operators are contracted by schools. It was told that Cityscape as a government operator is required to abide by all pest control requirements.¹⁰¹

4.37. In response to a question on notice concerning details of quality control mechanisms for the use of weed and pest control treatments required by the Department of Education and Community Services, the committee was advised as follows.

Schools are responsible for monitoring contractor performance and for ensuring compliance with contract conditions.

Schools are advised that they are to use the standard contracts supplied by the department and that programmed servicing of pest control services could lead to excessive use of pesticides. Schools are advised that strategic servicing is the preferred method of providing pest control services.¹⁰²

4.38. The committee was further advised that following the introduction of the new contracts, central office will undertake awareness raising activities with schools. Arrangements will be monitored by the Schools Resources Group (a committee of central office managers and principals which monitors school-based management).

⁹⁸ Minister for Education, 11 June 1999, response to question on notice

⁹⁹ Transcript, p 866

¹⁰⁰ Minister for Education, 11 June 1999, response to question on notice

¹⁰¹ Transcript, p 867

¹⁰² Minister for Education, 11 June 1999, response to question on notice

This group will also investigate introducing a random audit program of school arrangements.¹⁰³

4.39. The committee is pleased to note that its concerns about the use of pesticides in schools have been taken on board and that finally some action is being taken. The committee still expresses its concerns, however, that the Government's approach of school-based management is putting undue pressure on school principals to manage pest control operations at their schools and that there needs to be more central co-ordination and expertise within the department on pest control.

Recommendation 26

4.40. The committee recommends that by 30 September 1999, the Department of Education and Community Services provide the Commissioner for the Environment with an update on how it has implemented the recommendations of *The Investigation into the ACT Government's use of chemicals for pest control* and that the Commissioner respond.

Canberra Institute of Technology (CIT)

Contract staff

4.41. The committee noted that recently the CIT has been advertising positions, which would normally be permanent positions, on a five-year contract basis.

4.42. The committee was advised that this is the case and that the CIT is trying to develop a more flexible staffing profile as a very large percentage of staff are fully tenured.¹⁰⁴

4.43. While the committee understands that the Public Sector Management Act allows for either permanent or contract employment, it questions whether this practice is in accordance with the spirit of the Act.

St Anne's Convent

4.44. The committee noted that for several years the CIT has owned and maintained a building, which since its purchase has been unoccupied. The building, known as St Anne's Convent, which was purchased for almost \$0.8m,¹⁰⁵ was intended to provide a facility for accommodation for international students. Since its purchase there has been significant additional expenditure on building improvements and maintenance.

¹⁰³ ¹⁰³ Minister for Education, 11 June 1999, response to question on notice

¹⁰⁴ Transcript, p 894, 895

¹⁰⁵ *ibid*, p 887

4.45. The committee was told that following an assessment of how the building could be used, the CIT decided to sell it. Tenders for its purchase close on 5 August 1999.¹⁰⁶

4.46. The committee considers that having significant funds tied up in an asset, which is unused for such a long period reflects extremely poor financial management. Over the last few years the CIT has experienced considerable financial pressures and has been forced to rationalise in many areas of expenditure. The funds tied up in the empty building should have been used for improved educational services.

Recommendation 27

4.47. The committee recommends that funds realised from the sale of St Anne's Convent be directed into educational programs or educational facilities at the CIT.

Courses for Koomarri students

4.48. The committee noted that a fee-paying course in hospitality which was offered to Koomarri students was discontinued at short notice at the beginning of 1999. The Minister advised that this was due to a suitable teacher not being available. The committee is pleased to note that the Minister advised that discussions are underway between Koomarri and the CIT regarding the possibility of offering the course in semester 2, 1999. This will again be subject to the availability of a suitable teacher.¹⁰⁷

Family Services

4.49. In discussion about the timeliness targets relating to the timeframes met for investigating notifications, as set out at Output Class 6.1, the Minister agreed that there is a need to examine the descriptions of timeliness in this context.¹⁰⁸ These descriptions would become clearer with a more detailed note.

Non-government schools

4.50. The Association of Parents and Friends of ACT Schools (APFACTS) gave a number of examples where they found the budget papers to be confusing. Overall they found the information was not transparent.¹⁰⁹

4.51. Of particular concern were the following. The reference to \$0.4m¹¹⁰ as additional literacy funding for non-Government schools, which APFACTS claimed in

¹⁰⁶ *ibid*, p 889

¹⁰⁷ Minister for Education, 11 June 1999, response to question on notice.

¹⁰⁸ Transcript, p 925

¹⁰⁹ *ibid*, p 1057

¹¹⁰ Budget Paper No 4, p 248

incorrect.¹¹¹ The reference to additional funding of \$0.150m for students with disabilities in non-government schools, which they claimed is referred to as \$0.10m in other parts of the budget papers.¹¹²

4.52. The committee requests that the Government clarify these matters in its response to the report of the Select Committee on Estimates.

4.53. APFACTS also raised a number of issues related to funding for students with disabilities. The committee suggests that these issues be considered by the Standing Committee on Education's inquiry into educational services for students with a disability.

Sport and recreation

4.54. On the whole the committee found the reporting of the Sport and Recreation output class for the Department of Education and Community Services disappointing. When examining the output statements not only do the panels not add back to the estimated outcome, but also they do not total the amount in the original 1998-99 budget.

4.55. Similarly there are some anomalies in the Academy of Sport. When the line of questioning was pursued relating to the Academy of Sport¹¹³ adequate answers were not provided. For example, the reduction in costs is \$670,500, and the reduction in the GPO is \$490,200. This contradicts the general statement in the budget measures section of Budget Paper 3 that indicates expenditure on the Academy of Sport will only fall by \$100,000.¹¹⁴

4.56. Further, it was difficult for the committee to make comparisons on the cost per athlete between the 98-99 and the 99-00 financial years. The committee was advised in a response to a question on notice that the 98-99 costs included only direct costs, whereas the 99-00 costs include direct and indirect costs.¹¹⁵ The committee would have found it helpful if a note was included explaining this.

4.57. The committee noted that administrative expenses make up approximately 40 per cent of the Sport and Recreation budget, a very high proportion when compared with many other areas. The committee was advised that the administrative expenses category in the Sport and Recreation Operating Statement includes expenses such as grounds maintenance and subsidies to swimming pools. While the committee accepted the explanation given for the high proportion of the budget attributed to administrative expenses, this is another example where a detailed note is needed.

¹¹¹ Transcript, p 1058

¹¹² For example, Minister for Education, *Media Releases*, 4 May 1999

¹¹³ Budget Paper No 4, p 279

¹¹⁴ Budget Paper 3, p 180

¹¹⁵ Minister for Education, 11 June 1999, response to question on notice

4.58. In relation to the upgrade of Phillip and Manuka ovals there was some confusion over exactly how much capital works money was to be spent. In the 1998-99 budget a provision was made for expenditure of \$7.2m, however nothing was spent. In this year's capital works statement¹¹⁶ the amount of expenditure is listed as \$7.2m, but the financing is listed at \$3.7m, leaving \$3.5m that one would expect to be expended later. However the project is scheduled to be completed by June 2000.

4.59. In addition, the committee is unsure of how the funds allocated for temporary seating, that was to be installed at Bruce Stadium, are to be used now that these funds will no longer be needed for their intended purpose. This matter also needs clarification.

Recommendation 28

4.60. The committee recommends that the Government clarify expenditure on the upgrade of Phillip and Manuka ovals and advise the Assembly of how the unrequired funds allocated for temporary seating at Bruce Stadium are to be used.

¹¹⁶ Budget Paper 4, p 284

5. DEPARTMENT OF HEALTH AND COMMUNITY CARE

The Canberra Hospital operating deficit

5.1. The committee was advised that over the last six months there have been significant fluctuations in The Canberra Hospital's projected operating loss above the \$12.3m operating deficit factored into 1998-99 budget¹¹⁷

5.2. The Minister informed the committee that:

In December 1998, The Canberra Hospital projected a worsening in its 1998-1999 operating deficit of \$7m based on financial performance to the end of November 1998. Similarly, the hospital projected—or if you like, forecast—deficit increase of \$10m based on December results¹¹⁸.

5.3. The committee was informed that based on The Canberra Hospital's financial performance for February 1999, the hospital's 1998-99 projected operating deficit was \$4.8m.¹¹⁹ After analysing April's figures, the hospital advised the Government that the published bottom line should be achievable as a result of proposed remedial measures aimed at altering the hospital's revenue and expenditure patterns.¹²⁰

5.4. The committee does not place much reliance on figures that change so dramatically from month to month and questions a methodology that produces such inordinate variations. The committee also questions whether these projections play a useful role in the public debate on the hospital's finances.

5.5. Further, it is concerned about the manner in which the Minister publicised the highest of the projections in an effort to place public pressure on the hospital. While the Minister stood by the appropriateness of this action, he acknowledged that the use of the projections had caused problems stating that, "[it was] a learning process for me with the notion ...[that] ... dealing with projections publicly creates some difficulties".¹²¹

5.6. The committee is also concerned that it has taken the Government such a long time to make progress on the hospital deficit. It is clear to the committee that The

¹¹⁷ Transcript, Wednesday 26 May 1999, p 259, Minister for Health and Community Care, Media Release, 14 May 1999

¹¹⁸ *ibid*, p 219.

¹¹⁹ The Canberra Hospital Operating Statement for the Period ended 31 March 1999 (tabled document No 6) p 1.

¹²⁰ Transcript, p 219.

¹²¹ *ibid*, p 271.

Canberra Hospital has poorly managed its financial resources over the last financial year and, if the figures have any reliability, the hospital appears to have only started playing “catch-up” in recent months.

5.7. The committee is of the view that the current problem of extended elective surgery waiting times and the extent of unmet need in the provision of aged and disability services, highlights the exigency of rectifying the hospital’s operating deficit.

5.8. The committee was advised that a decision to slow down recruitment as a means of generating cost savings has seen approximately 30 positions reduced from the hospital “over the last couple of months”.¹²² The Minister noted that the recruitment slow-down “has not been as effective as I had hoped and my office is going through those figures now looking at what is going on... [to] see if we need to take any further action”.¹²³

5.9. Further, the committee was told that based on the projected operating deficit at the beginning of the financial year, around 120 positions would need to be reduced across the hospital.¹²⁴ At this time, it was identified that the Medical Services SMT (Service Management Team) would need to reduce staffing numbers by 105 in order to come in on budget.¹²⁵ The hospital also noted that there has been \$6m set aside in the budget for voluntary redundancies in the next financial year.¹²⁶

5.10. While the committee considers that it is important for The Canberra Hospital to run its operations within budget, it believes that the Government will need to be extremely careful not to jeopardise patient care through excessive staffing reductions or cuts in service provision.

Recommendation 29

5.11. The committee recommends that on a trial basis for the first six months of the next financial year, the Government provide the Assembly with monthly, detailed information about projected savings and revenues of The Canberra Hospital, the basis of these projections, how they affect the operating deficit and how any savings are likely to affect patient care.

¹²² *ibid*, p 272

¹²³ *ibid*, p 269

¹²⁴ *ibid*, p 265

¹²⁵ *ibid*, p 265

¹²⁶ *ibid*, p 273

Public hospital waiting lists

5.12. The committee noted that at the end of April 1999, 4,744 people were listed as waiting for elective surgery in the ACT public hospital system. At this time, The Canberra Hospital had 3,393 people on the waiting list and Calvary Hospital had 1,351 people on the list.¹²⁷

5.13. The committee is concerned by the fact that between April 1998 and April 1999 there was an increase of 536 long wait patients on the elective surgery waiting list. This represents an approximate increase of 50 per cent in the number of people waiting for surgery beyond clinically acceptable timeframes.¹²⁸

5.14. The Minister informed the committee that as part of an effort to reduce waiting lists and times through increased surgical throughput, the Government has allocated an additional \$3 million for both 1999-2000 and 2000-01.¹²⁹

5.15. The committee supports the Government's focus on reducing the number of long wait patients in category 1 and applauds the recent improvements it has made to this end. However, the committee is concerned that there are still 18 long wait patients on the list in this high-urgency category.¹³⁰

5.16. The committee was extremely concerned to hear that there are 1,694 people waiting for elective surgery beyond clinically recommended timeframes and considers this number unacceptable.¹³¹

5.17. The committee is aware that the Standing Committee on Health and Community Care is in the process of inquiring into the issue of public hospital waiting lists and eagerly awaits its findings.

Unmet need in aged and disability services

5.18. The committee was advised that based on Australian Institute of Health and Welfare figures, the extent of unmet need in the ACT aged and disability services sector is in the order of \$5.5m.¹³² Further, the committee heard that this reflects only current unmet need and that without additional funding the extent of unmet will increase in the future.¹³³

5.19. The Minister submitted that it was the view of stakeholders in the sector that the Federal Government has done the least, in terms of all jurisdictions, to fund unmet

¹²⁷ *ibid*, p 223

¹²⁸ *ibid*.

¹²⁹ *ibid*, p 222; Budget Paper 4 1999-2000, p 93

¹³⁰ *ibid*, p 223

¹³¹ *ibid*

¹³² *ibid*, p 251.

¹³³ *ibid*

need in the provision of aged and disability services.¹³⁴

5.20. The Minister argued that while the ACT Government has put up \$1m in the 1999-2000 budget to reduce unmet need, the Federal Government should at the very least be matching this funding on a two-thirds, one-third basis (two thirds by the Federal Government).¹³⁵

5.21. The committee shares the Minister's frustration that the Commonwealth appears to be dragging its feet in addressing the issue of under-funding in this important area.¹³⁶ The committee is concerned that the Federal Government is not taking this important area of service provision seriously and supports the ACT Government's attempts, along with other state and territory governments, to lobby the Commonwealth for funding to reduce unmet need in the sector.

5.22. With the ACT's population ageing more quickly than the rest of Australia, this should be of particular concern to the ACT Government.

Hepatitis C

5.23. The committee was advised that there are significant legal and equity problems associated with the compensation package for people with medically acquired Hepatitis C.

5.24. According to Dr Simms, Associate Professor at the Australian National University, the 1985 cut-off for eligibility to compensation is arbitrary and unfair in that many people in the ACT contracted the disease from medical sources prior to 1985.¹³⁷

5.25. Dr Simms advised that the compensation package could be the subject of a legal challenge by people who contracted the disease prior to 1985 and submitted that "the current budget heading is in fact inadequate and probably legally quite dodgy".¹³⁸ Dr Simms also questioned the efficacy of not segmenting Hepatitis C sufferers into different groups, such as drug users or gay men, for the purposes of information campaigns and education.¹³⁹

5.26. The committee is of the view that these claims warrant further investigation by the Department of Health and Community Care.

¹³⁴ *ibid*

¹³⁵ *ibid*

¹³⁶ *ibid*

¹³⁷ *ibid*, p 1011

¹³⁸ *ibid*, p 1013.

¹³⁹ *ibid*, p 1014.

Recommendation 30

5.27. The committee recommends that the Department of Health and Community Care further investigate the legal and equity issues raised by Dr Simms with a view to re-examining the current compensation model for medically acquired Hepatitis C.

Recommendation 31

5.28. The committee recommends that the Government further investigate the appropriateness of categorising Hepatitis C sufferers into different groups for the purposes of education.

Community and Health Services Complaints Commissioner

5.29. The committee considers that the Commissioner plays an important role in resolving complaints made against the health and community services sector and in solving the systemic problems that lead to complaints, but is concerned by evidence that the Commissioner's office had been unable to adequately focus on investigating the systems issues that often lie at the bottom of complaints.

5.30. The committee was advised that the Commissioner considers this sort of work to be of the highest importance and indicated that the pressures of catching up on an old case load had meant that the office was unable to do as much of this work as it would have liked.¹⁴⁰

5.31. The Commissioner also noted that it was taking longer than necessary to deal with complaints.¹⁴¹ It appears to the committee that the Commissioner may be insufficiently resourced to operate effectively and within appropriate timeframes.

5.32. The committee is also concerned that there may be some gaps in coverage under the current complaints regime.

Recommendation 32

5.33. The committee recommends that the Government review the funding levels of the complaints office with regard to the extent that the office is unable to operate effectively.

¹⁴⁰ *ibid*, p 305.

¹⁴¹ *ibid*, p 304.

Child and adolescent mental health

5.34. Within the committee there was concern that a report into child and adolescent mental health services conducted by Prof Barry Nurcombe found that there is inadequate resourcing in the sector.

5.35. One senior official from The Canberra Hospital noted that the report showed that there is, “serious under-resourcing in child and adolescent mental health services”.¹⁴²

5.36. Within the committee there is concern about the lack of cross agency coordination in the provision of mental health services for children and adolescents.

5.37. In fact the Minister for Education acknowledged that there was inadequate liaison between different portfolio areas (in particular education and health) in the provision of coordinated services for students with mental health problems.¹⁴³

5.38. Considering the seriousness of this issue and the fact that the crisis of inadequate funding for child and adolescent mental health funding has been raised before in committee inquiries, the committee is of the view that the Government must act immediately to redress the crisis in a substantial way.

Recommendation 33

5.39. The committee recommends that the Government provide a report to the Assembly within three months addressing the concerns raised in the review on child and adolescent mental health services.

Mental health/housing

5.40. There has been a serious lack of consultation over the rights of mentally ill persons in relation to recommended changes to public housing policy. This matter is also relevant to the committee’s discussion on ACT Housing below in the section dealing with the Department of Urban Services.

Recommendation 34

5.41. The committee recommends that the rights of people with mental illness be considered prior to the implementation of any proposed changes to public housing policy, and that they be considered by the Assembly committee inquiry proposed in recommendation 63 below.

¹⁴² ibid p 318.

¹⁴³ ibid p 850

Development of quality standards for mental health contracts

5.42. The committee was informed that the Department is in the process of developing standards for the non-government providers in the mental health services sector.

Recommendation 35

5.43. The committee recommends that service level agreements between the Department of Health and Community Care and the Department and The Canberra Hospital list standards under quality indicators.

Aboriginal health strategic plan

5.44. The committee waits in anticipation for the finalisation of the strategic plan for Aboriginal and Torres Strait Islander Health.

Responses to the *Bringing them Home* report and the *Royal Commission into Aboriginal Deaths in Custody*

5.45. During the estimates hearings it was noted that the Department of Health and Community Care no longer provides a detailed analysis regarding the implementation of responses to these reports.

Recommendation 36

5.46. The committee recommends that the Minister for Health and Community Care provide the Assembly with an overview regarding what has been undertaken to date and a list of any issues not yet satisfied in relation to recommendations arising from the *Bringing them Home* report and the *Royal Commission into Aboriginal Deaths in Custody*.

ACT Hospice

5.47. The Estimates Committee last year expressed the strong view that the Commonwealth Government should accept the continued operation of the hospice at the Acton Peninsula.¹⁴⁴ This matter remains unresolved and the committee urges the ACT Government to bring it to a resolution as a matter of urgency.

Cross-cultural awareness

5.48. The Minister for Health and Community Care informed the committee that “we...make sure that the full range of our ... health services are available and are

¹⁴⁴ Committee report p35

sympathetic to the cultural differences between Aboriginal people or cultural differences from other countries”.¹⁴⁵

5.49. However, the committee considers there is room for improving cross-cultural awareness among ACT Government employees in all agencies.

Recommendation 37

5.50. The committee recommends that the Government:

- (i) develop a series of workplace-based training programs for the ACT Public Service on indigenous and cross-cultural awareness and that, as a minimum, the programs be a compulsory part of training for all Government departments and agencies; and**
- (ii) monitor and evaluate the impact of the programs and report to the Assembly on the outcomes.**

¹⁴⁵ Transcript, 26 May 1999, p 235.

6. DEPARTMENT OF JUSTICE AND COMMUNITY SAFETY

Criminal injuries compensation scheme

6.1. The budget documents assume that savings will be made from the reforms to the Criminal Injuries Compensation Scheme. But the Government's proposed reforms to the scheme have not been passed by the Assembly and are currently the subject of a review by the Standing Committee on Justice and Community Safety. There has been considerable community disquiet about elements of the reforms, especially the proposed removal of lump sum compensation payments for pain and suffering, which comprise about 90 per cent of the total financial payments made under the scheme.

6.2. Some committee members alerted the Minister for Justice and Community Safety to the difficulties facing them when considering whether to vote for the Budget when it is predicated on making savings through reforms which they may not find acceptable.¹⁴⁶ The Minister acknowledged that members could disagree with this element of the budget but still vote for the budget as a whole because the legislation to establish the Victims Services Scheme falls outside the budget.¹⁴⁷

Aboriginal Justice

6.3. The committee was pleased to note the establishment of an Aboriginal Justice Advisory Committee (AJAC). This committee has been allocated \$70,000 in the budget, which will be used for secretariat services.

6.4. During the estimates hearings, the Minister for Justice and Community described the process by which the members of AJAC will be appointed.¹⁴⁸ Within the committee there was concern about the process which is very "top-heavy". This process involved the Minister for Justice and Community making recommendations on membership of AJAC to the Aboriginal Consultative Council.

Recommendation 38

6.5. The committee recommends that the Government:

(i) consult widely, including with the local Land Council, with Aboriginal-specific services, with local Aboriginal elders, and in the

¹⁴⁶ Transcript, p 509-516

¹⁴⁷ Transcript, p512

¹⁴⁸ Transcript 28/5, p.518

Aboriginal media to seek nominations from members of the local Aboriginal community for the AJAC; and

(ii) resource the AJAC sufficiently so that it can actually fund programs which will progress the recommendations of the Royal Commission into Black Deaths in Custody.

6.6. The committee also considers it would also be appropriate for AJAC to play a role in the design stage of the ACT prison because of the disproportionate number of indigenous people incarcerated in Belconnen Remand Centre and NSW prisons.

Official Visitor to Belconnen Remand Centre (BRC)

6.7. After some questioning about the statutory reporting requirements for this position, the committee ascertained that the Official Visitor to BRC is not required by legislation to present public reports to the Assembly. This is in contrast to the situation for the Official Visitor to Quamby who is required by legislation to produce public reports, which are included in the Department of Education and Community Services' annual report.

6.8. The Minister for Justice and Community Safety wasn't able to explain this anomaly. Departmental officials pointed out that for a small institution, Belconnen is fairly heavily scrutinised.¹⁴⁹ But the committee did not believe this justifies a difference in reporting requirements between different Official Visitors. In the committee's view, one of the main purposes of the Official Visitor role is to ensure public confidence in the operations of corrections facilities and transparency of Official Visitor activities is an integral part of the role.

6.9. The Discrimination Commissioner said she was interested in examining this anomaly as "if there is a difference in the ... rights of juveniles in detention as compared to adults in detention, then it is something that could raise issues under the Discrimination Act".¹⁵⁰ The Community Advocate believed there was a requirement that the Official Visitor table annual reports for both institutions and was surprised to hear that the Official Visitor didn't produce an annual report on his activities at Belconnen Remand Centre.¹⁵¹

6.10. In response to a Question on Notice, the Minister for Justice and Community Safety advised that the previous Official Visitor, Mr Bill Aldcroft had written to him on three occasions during 1998-99.¹⁵² The Minister also advised that to date he had

¹⁴⁹ Transcript, p569

¹⁵⁰ *ibid*, p. 587

¹⁵¹ *ibid*, p.591

¹⁵² Letter from Minister for Justice and Community Safety to Chair of Estimates Committee, 9 June 1999.

received no written reports or correspondence from the current Official Visitor, Mr Geoff Potts.

Recommendation 39

6.11. The committee recommends that the relevant legislation be amended to require that an annual report by the Official Visitor to BRC be presented to the Assembly and included in the Department of Justice and Community Safety's annual report.

Improvements at Belconnen Remand Centre

6.12. The committee was pleased to receive information from the Community Advocate that she had observed a major improvement in care and maintenance of detainees in the Belconnen Remand Centre following a death in custody.¹⁵³

Firefighters

6.13. The committee gave some consideration to the budget allocation for firefighting. The budget for firefighting in the ACT is consolidated within the emergency services budget.¹⁵⁴ Despite questioning the Minister for Justice and Community Safety about the budget details for firefighting, the committee was unable to ascertain how much money has been set aside for firefighting over the next financial year. This is an example of output-based budgeting not presenting the level of detail required by members of the Legislative Assembly. When questioned on this subject, the Minister for Justice and Community Safety stated he would need very good reasons before he could change the budget presentation and provide this information.¹⁵⁵ The committee believes that Members have every right to receive information which disaggregates different services which come under the umbrella of emergency services if they believe this information is needed for them to scrutinise performance.

6.14. This issue was explored further in discussions with representatives of the United Firefighters Union, who raised concerns regarding 19 unfilled positions.¹⁵⁶ The union informed the committee they had repeatedly sought information on whether funding existed for these 19 unfilled positions but had not received very illuminating information from the Minister. The union's representative stated:

The whole process of funding within the Emergency Services Bureau is not transparent and it would appear each time the issue is raised not

¹⁵³ Transcript, p592

¹⁵⁴ BP, pp230-233.

¹⁵⁵ Transcript, p635.

¹⁵⁶ Transcript, p1045

*only by the union but members of the Assembly they are fobbed off with a different answer on each occasion.*¹⁵⁷

6.15. The issue is of particular relevance for firefighters in the context of enterprise bargaining negotiations. If they do not know what their budget is, how can they know what savings are possible to fund pay rises? It is also a matter of concern that this lack of transparency on the firefighters' budget and possible consolidation of firefighting legislation into the general emergency services legislation may be a forerunner to firefighters losing their distinct identity.

Recommendation 40

6.16. The committee recommends that the Government provide a commitment to the Assembly that the standards of safety and responsiveness for firefighters will not be jeopardised as part of any wage negotiations.

Performance information on AFP

6.17. The committee was most dissatisfied to observe an absence of performance information on community policing in the ACT for the second year in a row. The Minister for Justice and Community Safety claimed that this is because the budget papers are based on the purchaser/provider arrangements and the current arrangements for the AFP are not based on the purchaser/provider model.¹⁵⁸

6.18. Departmental officials advised that negotiations are still underway with the Commonwealth to develop performance indicators.¹⁵⁹ The committee notes that these negotiations were underway a year ago and not much progress appears to have been made. The committee finds it astounding that the ACT Government has in place an arrangement costing over \$50m per year which does include a requirement for the provision of transparent performance information. How can the Government claim it is at the forefront of implementing financial reforms when it cannot negotiate a funding agreement which includes basic performance information?

Recommendation 41

6.19. The committee recommends that the Government provide quarterly reports to the Standing Committee on Justice and Community Safety on the progress of negotiations with the AFP in either a written or oral form, depending on the preference of that committee.

¹⁵⁷ Transcript, p1045

¹⁵⁸ Transcript, p616

¹⁵⁹ Transcript, p617

Bruce Stadium - role of the Government Solicitor's Office

6.20. The committee questioned the Chief Solicitor closely on his role in the provision of legal advice in relation to Bruce Stadium.¹⁶⁰ The committee was informed that the Auditor-General had initially approached the Office of the Chief Solicitor for legal advice on 22 October 1998.¹⁶¹ The Chief Solicitor had initiated the involvement of the Chief Minister's Department on this matter because they were in a potential conflict of interest situation. After some negotiations, it was agreed that independent legal advice would be sought and provided to both the Auditor-General and the Chief Minister's Department.

6.21. The committee is surprised that the decision to brief independent counsel was not made until some 6 months later, in late April 1999.¹⁶² The timeliness target for that office to provide legal advice is 28 days. The committee was informed that the delay was due to the slowness of the Chief Minister's Department in providing information required.

6.22. The committee accepts the Chief Solicitor's decision to seek independent legal advice in response to the conflict of interest issues, but cannot see any justification in delays by the Chief Minister's Department in providing information required.

Privacy Commissioner

6.23. The committee compared the relationship between the Government and the Ombudsman with that of the Government and the Privacy Commissioner. While the Government has a Memorandum of Understanding setting out the terms of the relationship with the Ombudsman, it only has an agreement with the Privacy Commissioner. The committee was informed that the Privacy Commissioner provides services in excess of funding received.¹⁶³

6.24. The committee sees value in formalising the relationship with the Privacy Commissioner with a Memorandum of Understanding so the responsibilities and expectations of each party are clearly understood and transparent.

Recommendation 42

6.25. The committee recommends the Government document its working arrangements with the Privacy Commissioner in a Memorandum of Understanding similar to the one existing with the Ombudsman's office.

¹⁶⁰ Transcript p p576-p584

¹⁶¹ Transcript, p578

¹⁶² Transcript, p 578

¹⁶³ Transcript, pp525-6.

Supreme Court - disabled access

6.26. The committee was advised that the Supreme Court building, which was built in 1963, does not meet the needs of people with disabilities, in particular, people in wheelchairs. Although the building itself has wheelchair access there is no lift within the building, which makes it difficult for people in wheelchairs to get to the Registry on the first floor. In addition there are no disabled toilet facilities in the jury room.¹⁶⁴

6.27. The committee understands that this building does not meet statutory disability standards. In the committee's view, this is a very serious matter requiring remedial action.

Recommendation 43

6.28. The committee recommends the Minister for Justice and Community Safety investigate mechanisms for ensuring ACT courts become wheelchair friendly.

Red-light and speed cameras

6.29. The committee explored the issue of who should control red-light and speed cameras. The AFP Association informed the committee they are fundamentally opposed to anyone other than police officers operating these cameras because of the potential to double-up if two rival organisations are both operating traffic enforcement¹⁶⁵ The committee was also advised that the current legislation clearly states that only police officers may use this equipment.

Recommendation 44

6.30. The committee recommends that:

- (i) the AFP control and operate speed and red light cameras and that relevant agencies such as the NRMA should be consulted in the placement of these cameras; and**
- (ii) the AFP not have the power to delegate this function to other agencies without the approval of the ACT Legislative Assembly.**

¹⁶⁴ Transcript, p534-5

¹⁶⁵ Transcript, p1025.

7. DEPARTMENT OF URBAN SERVICES

Valuing assets

7.1. The Minister informed the committee that Department of Urban Services (DUS) manages “the asset base of the ACT which is... [valued at] some \$5 billion”.¹⁶⁶ However, this includes natural assets (such as Namadgi National Park) which are entered on the accounts at a nominal value of \$1.¹⁶⁷ So essentially the dollar figure for assets is only for built assets.

7.2. While a set of 70 “environment sustainability indicators” has been prepared by Environment ACT—in conjunction with PALM and the Commissioner for the Environment—it is not clear to the committee that these include better ways to value natural assets.¹⁶⁸

7.3. The committee considers it is very important that the government develop a methodology which more accurately values natural assets.

7.4. The overall asset base of DUS has been greatly increased in the 1999-00 accounts because of the transfer of roads, stormwater, public housing from DUS” Territorial accounts to its departmental account.¹⁶⁹ This is in accord with accrual accounting, where “you want to have all of the assets allocated to those operating areas where the operations... [are done]... There is no question that in the short term that will reflect on the bottom line, with a significantly higher cost of depreciation, but also, in the longer term, [it] will send all the right price signals, whether it is to this government or to future governments, about the need to maintain those assets”.¹⁷⁰

7.5. While this is true of built assets, it cannot apply to natural assets whenever they are valued at nominal amounts of \$1. In other words, the existing price signals are distorted overwhelmingly in the direction of built assets rather than natural assets. In the absence of appropriate price signals, DUS is using “regular assessments of the condition of the natural estate”.¹⁷¹

7.6. The committee expresses its concern about the existing distortion in the price signals relating to investment in natural assets as distinct to built assets. The committee is aware that past Estimates Committees have drawn attention to this issue,

¹⁶⁶ p644

¹⁶⁷ M p648

¹⁶⁸ p992

¹⁶⁹ ‘Infrastructure assets totalling \$3.713m [have been transferred] from the Territorial account to the Departmental account as at 1 July 1999’ [Budget Paper No.4 p131]

¹⁷⁰ p646

¹⁷¹ ibid p649

as has the Planning and Environment Committee in the Third Assembly.¹⁷² The committee considers that the use of accrual accounting has made the need for meaningful price signals imperative.

Recommendation 45

7.7. The committee recommends that the government, in the October 1999 sittings, advise the Assembly about the progress it has made in developing a methodology which appropriately values the Territory's natural assets and which ensures the right pricing signals are given to the purchasers of services and the community generally. Further, that the government ensure this methodology is used in the 2000-01 Budget Papers.

“Contestability”

7.8. The term “contestability” features prominently in the Budget Papers. DUS stated that “the first step in any market testing is to specify the services that you are providing. In the past, we have not had a proper specification of the services that are being purchased from the government...” DUS says that this process leads “the business provider [to refine the] way they go about delivering that service [which leads to] efficiency gains”.¹⁷³

7.9. The department noted that “market testing... does not necessarily mean that we are contracting” out.¹⁷⁴ Market testing involves calling for expressions of interest, which gives the department a comparative figure to assess its in-house activity. On this basis, the department plans to save \$2.3m in 1999-00.¹⁷⁵ The department considers this is a “reasonable target to set when you know that an efficiency can be gained”.¹⁷⁶ And further, the figure “would not have been included in [the Budget Papers] unless there was a high degree of confidence about our ability to deliver” the savings.¹⁷⁷

7.10. The Department provided the following information about the activities to be market tested in 1999-00:

- “horticultural and clearing services (calling tenders for a further two regions);

¹⁷² ‘Environmental Accounting for the ACT Government’ Report No.22 of the Standing Committee on Planning and Environment (December 1996)

¹⁷³ p678

¹⁷⁴ ibid

¹⁷⁵ p684

¹⁷⁶ ibid

¹⁷⁷ p685

- ❑ the operation of the ACT's parking management services, including parking enforcement, coin collection and the maintenance of car parks and parking control devices;
- ❑ landfill disposal operations;
- ❑ maintenance and property services within ACT housing;
- ❑ the operation, under licence, of the government's horse-holding paddocks;
- ❑ the maintenance of visitor amenities in parks;
- ❑ domestic animal control services; and
- ❑ mapping and drafting services in PALM"
- ❑ driver licence testing.¹⁷⁸

7.11. The Department added that "benchmarking is also being undertaken across a range of corporate support and lower level regulatory functions across the department. [Further,] the department's corporate services such as personnel and payroll, registry and contracts and purchasing as well as shopfront services and publishing services are being placed on a fee-for-service basis with funds devolved to the purchasers as from 1 July 1999".¹⁷⁹

7.12. The committee considers that the whole process of "market testing" is fundamentally flawed when it rests on so flimsy a foundation as that put forward by the department. No-one can have confidence that savings of the magnitude claimed by the department will flow simply from the exercise of market testing. Far more detailed work needs to be done to determine if particular areas of DUS can be cut back while still delivering the standard of services expected by the community.

7.13. Market testing, when used in the way that DUS uses it in the Budget Papers, appears simply to be a pseudonym for "rationalisation".

Recommendation 46

7.14. The committee recommends that the government provide the Assembly with more detailed justification for the alleged savings in the Department of Urban Services flowing from market testing; and that the government assure the Assembly that the results of market testing will not lead to a reduction in the standard of service delivery by the department.

7.15. The Conservation Council drew the committee's attention to a further issue of concern: "Once services are contracted out, they become a contractual relationship between the government and... [that person]. The contract becomes commercial-in-

¹⁷⁸ Answer to question on notice

¹⁷⁹ *ibid*

confidence and suddenly the community—that has been used to open and accountable arrangements in relation to particularly environmental protection matters—are suddenly blocked out of that kind of discussion. Some of the areas identified for market testing, like the horse paddocks, actually have significant environmental management issues, and we would be very concerned that those kinds of issues are dealt with in a contract between two parties... [leaving] no more opportunity for members of the community who have particular expertise to make comment on those matters”.¹⁸⁰

Recommendation 47

7.16. The committee recommends that the government ensure that, where the process of “contestability” leads to the government entering into contractual arrangements with service providers, these contracts be publicly accessible and accountable.

7.17. The committee was interested to learn that the Minister considers it “a good suggestion” to “contest” the provision of policy advice to himself as Minister. He stated that “it would be appropriate to benchmark against policy units in other governments”.¹⁸¹

7.18. The committee looks forward to the inclusion in future Budget Papers of information about benchmarking of Ministerial policy advice, but would not support putting the provision of policy advice out to tender as this work is quite rightly the work of government departments.

Redundancies

7.19. DUS is planning to lose 183 staff in the next three years.¹⁸² The department has allocated \$10m for payouts to staff identified as redundant.¹⁸³ It has established a “Career Assistance Unit” to manage these staff. The unit will allow staff “to reconsider their options”, aided by professional consultants.¹⁸⁴

7.20. The term “departure lounges” has been used to describe the purpose of this unit. The committee notes that DUS does not consider this term appropriate¹⁸⁵—but the committee considers the term to be wholly appropriate.

7.21. The expected loss of staff is around 12% of present staff numbers. In response to questions, DUS stated that it has a natural turnover rate of about 7½% pa.¹⁸⁶ The

¹⁸⁰ pp370-1

¹⁸¹ p682

¹⁸² DUS *Ownership Agreement* Attachment 3 Staffing Profile [1546 staff in 1989-00, reducing to 1361 staff in 2002-03]

¹⁸³ Budget Paper No.4 p131

¹⁸⁴ p657

¹⁸⁵ p656

balance of staff to be lost will come as a result of “testing contestability”.¹⁸⁷ Further, DUS expects not only to have fewer full-time staff in the future but also to have more seasonal staff.¹⁸⁸

7.22. The committee—following on from its observation about contestability (above)—does not consider that staff savings of this magnitude will necessarily follow from the exercise of market testing.

7.23. The Conservation Council drew the committee’s attention to a further issue involving these redundancies. In noting that they are funded by a \$10m loan to the department, the Conservation Council expressed concern about the detrimental impact of the loan repayments on programs, “particularly in relation to waste management and environmental protection”.¹⁸⁹

7.24. The committee shares this concern.

7.25. The committee considers that the loan (and its repayments) seriously threatens the viability of the department as a key service provider. The department is not a commercial enterprise—it never has been and never will be. It exists to provide essential services to the ACT community that the private sector cannot provide or does not wish to provide. Hence, the requirement for DUS to repay loans to fund redundancies is in striking contrast to the government’s straightforward injection of funds to CanDeliver, which is a Territory-owned corporation expected to run on commercial lines.

7.26. The Chief Minister justified the injection of funds to CanDeliver on the basis that the organisation has limited capacity to pay in the short-term and so the injection maximises its potential for success.¹⁹⁰ She stated that “CanDeliver has to be able to stand on its own two feet as a Territory-owned corporation”¹⁹¹ and added, with respect to DUS: “The reason for a loan for redundancies [is] to... create the financial rigour in a department to realise that you actually do have to pay it back... to the whole of government”.¹⁹²

7.27. The committee is astonished that an enterprise set up to operate successfully in the commercial world (such as Can Deliver) is not expected to exercise the same sort of financial rigour as a government department established to provide essential services to the Canberra community.

¹⁸⁶ *ibid* p660

¹⁸⁷ *ibid*

¹⁸⁸ p675

¹⁸⁹ p370

¹⁹⁰ pp1136-7

¹⁹¹ *ibid* p1142

¹⁹² *ibid* p1143

Recommendation 48

7.28. The committee recommends that, in order to achieve the desired outcome without threatening the viability of the department, the government reconsider funding redundancies in the Department of Urban Services by way of a way of an internal loan and, instead, utilise a capital injection.

Recommendation 49

7.29. The committee recommends that the government provide detailed information about how the present policy of loans by OFM to other government departments will affect the on-going capacity of those departments to deliver programs to the community.

Bids for work by in-house units

7.30. The committee notes that “contestability” means in-house service providers are required to bid for the work they traditionally have performed. It also means that they are encouraged to seek work outside the department in order to “stay viable”.¹⁹³ The committee was told that 25% of the department’s work is provided to purchasers outside the department.¹⁹⁴

7.31. The committee is concerned that contestability may mean the loss of so much expertise from the department that it no longer has the capacity to perform key tasks and, especially, to assess the calibre of tenders from outside providers. Relating this observation to that part of DUS known as Cityscape Services, the committee was dismayed to learn that the staff of Cityscape is projected to drop by one-third in the next three years (from 204 to 139).¹⁹⁵

7.32. A reduction of this magnitude may easily lead Cityscape to become financially unviable. It also may lead to the government, over time, paying more for service delivery than it does at the moment, because of the opportunity for private contractors to raise their tender prices in the knowledge that the government no longer has the in-house capacity to do the work.

Recommendation 50

7.33. The committee recommends that the department extend every encouragement to Cityscape Services to bid for work (both inside and

¹⁹³ p672

¹⁹⁴ p674

¹⁹⁵ Answer to question on notice

outside the government) in order for it to maintain, and even extend, its operations.

Consultation

7.34. The committee questioned the Minister about the extent of consultation by his department in the lead up to decisions announced in the budget. These decisions included market testing dog control services, maintenance services in the Murrumbidgee River corridor and changes to eligibility criteria within ACT Housing. The Minister noted that governments in the Westminster system did not traditionally consult about the decisions they announce in their Budgets.¹⁹⁶

Timeliness measure

7.35. The committee questioned the Minister about the timeliness measure used in relation to policy advice to himself—where the target figure is 100% of advice delivered on time—and that for the public at government shopfronts, where the target figure is 80% of advice delivered on time.¹⁹⁷ Officers told the committee that the shopfronts achieved a performance response of 89% in the last month (that is, 89% of customers were seen within ten minutes).¹⁹⁸

7.36. Whilst this is pleasing, the committee considers the same target figure—or outcome—should apply to the public as to the Minister. This would mean that the standard of service expected by both the Minister and the public would be consistent.

Recommendation 51

7.37. The committee recommends that the Minister for Urban Services require the same standard of outcome, with respect to the timeliness of service, for the public as for himself.

¹⁹⁶ p682 and pp764-8

¹⁹⁷ Budget Paper No.4 p142 and p149

¹⁹⁸ p668

Environment budget

7.38. The committee is concerned about the absence of any details of actual expenditure in the environment section of Budget Paper No.3.¹⁹⁹ As a result, the committee found it difficult to obtain a clear picture of where money is being spent on the environment. Officers said that the grants program is not treated in the accounts as an expenditure on behalf of the department but, rather, as expenditure on behalf of the Territory.²⁰⁰

7.39. The committee considers that it is important to be able to follow the trend of environmental grants from year to year, and the Budget Papers should facilitate this understanding. It is interesting that the arts area of the Chief Minister's portfolio was able to clearly outline its grants program, whereas DUS could not.

Recommendation 52

7.40. The committee recommends that future Budget Papers include expenditure details for each measure listed in the environment section of Budget paper No.3, along with a summary of total expenditure on the environment.

7.41. Further, the committee considers there is a need to address teething problems with changes to the environmental grants scheme that were made in relation to the 1999-00 grants. (These changes moved the grant program toward project-based grants.) Also, the committee considers that—in order to reflect the broad coordinating role of the Conservation Council in relation to focusing community input on planning, transport, waste management and environment issues—funding for the Council should be considered separately to funding for specific environmental projects.

Recommendation 53

7.42. The committee recommends that the government establish a clear policy applying to the grant of money to peak coordinating bodies (such as the Conservation Council), which should be treated separately to project funding.

Hypothecation of the water abstraction charge

7.43. The committee notes the government's policy decision not to hypothecate the revenue from the new water abstraction charge, despite hypothecating the emergency services levy introduced in 1998 and the ambulance levy. The Conservation Council expressed concern "that there is not a direct relationship between the water abstraction charge, which is an environmental levy, and actual environmental

¹⁹⁹ Budget paper No.3 pp249-272

²⁰⁰ p986

benefit”.²⁰¹ This is despite the suggestion in the Budget Papers that such a connection exists: “[the charge] will fund environmental initiatives in year one and will contribute to the management of water resources and environmental management in subsequent years”.²⁰²

7.44. The committee considers that this terminology is misleading in that it gives the impression that the revenue from the charge will be spent on environmental initiatives when in fact the money is going into consolidated revenue.

Recommendation 54

7.45. The committee recommends that the Commissioner for the Environment be asked to assess the adequacy of management of the Territory’s water catchment and to identify the appropriateness of hypothecating the water abstraction charge.

Pollutant loading fee

7.46. The committee notes that the government proposes to introduce a pollutant loading fee from 1 July 1999. The government advised that the scheme is basically a copy of the NSW scheme but that, as the ACT had little private industry, most of the fee would fall on the operations of Totalcare and ACTEW. In a sense, the government was just taxing its own corporations. The committee expresses its concern that, while a pollutant loading fee is good in principle, it needs to be tailored to the specific circumstances of industry in the ACT.

Recommendation 55

7.47. The committee recommends that the government provide full details to the Assembly of the application and rates of the pollutant loading fee for its consideration before the introduction of the fee on 1 July 2000.

Rural residential development

7.48. The committee questioned the Minister about the rationale for deciding to permit rural residential development at Kinlyside. The Minister referred to the government’s election undertaking to release land for rural residential development,

²⁰¹ p369

²⁰² Budget Paper No.3 p191

based on its belief “that there is a market for it, that it offers a choice that is currently denied the people [in] the ACT”.²⁰³

7.49. The Minister also stated that the rationale was not to obtain a better return on the land than is available on its current proposed use as standard residential.²⁰⁴ The committee notes that this directly contradicts the government’s stated policy on land sales in any other part of the Territory and appears to fly in the face of the government’s emphasis on maximising returns on the Territory’s assets.

7.50. It appeared to some committee members that the consultant engaged by PALM to advise it on rural residential development had conducted only a cursory examination of the north Gungahlin site. In response, the Minister tabled a letter from the consultant affirming confidence in the independence of his consultancy.²⁰⁵

7.51. The Minister informed the committee that no decision had been made about whether the proposed rural residential blocks would be charged rural or residential rates. Nor had any decision been made about the level of municipal services to be provided.²⁰⁶ These matters are currently being examined by an inter-departmental committee (chaired by DUS) with representatives of PALM, ACTEW and the Office of Asset Management.²⁰⁷

7.52. The department stated that it would prepare a preliminary assessment in relation to the Kinlyside development and, further, a draft variation to the Territory Plan will be required.²⁰⁸

7.53. When questioned about the effect on Kinlyside of any decision to site the proposed ACT prison in the area, the Minister stated that, if the current inquiry by an Assembly committee recommended the prison be located at Kinlyside, then the government “would have to look at our plans in the future”. He noted that such a decision could reduce the blocks able to be developed for housing (downward from the 200 blocks suggested in the stage one evaluation).²⁰⁹

7.54. The committee is concerned about a range of issues in relation to this matter:

- there has been no consideration of the impact of the new rural residential policy on future use of the area as part of the “landbank” for future metropolitan growth
- the new policy is inconsistent with the *ACT and Sub-Region Strategy*

²⁰³ p722

²⁰⁴ *ibid*

²⁰⁵ p712

²⁰⁶ p718 and p724 and p972

²⁰⁷ p726

²⁰⁸ p713

²⁰⁹ pp717-8

- the Kinlyside area was not included in the government's land release program
- there is no provision in the Budget for any capital works to be provided in the area, despite the government's assertion that the land be released next year
- there is a clear bush fire risk associated with the proposal, and
- the compromised nature of the consultative study into the proposed development.

7.55. The committee notes the Minister's inability to respond to any of the above points. He simply asserted that the government believed a market existed for this type of development in the ACT.

Recommendation 56

7.56. The committee recommends that, in light of the complete inadequacy of the government's justification for the fundamental change of land use that is represented by the move to rural residential development, the government not proceed with its proposals; further, that the whole issue of rural residential development be referred to the Standing Committee on Urban Services for inquiry and report.

Rehabilitation of roads

7.57. The committee questioned the Minister about the statement in the department's Ownership Agreement under "transport infrastructure" to the effect that a major issue is providing "adequate funding to preserve the capital asset, because arterial roads at the 1989 handover were already at their design life of 20 years".²¹⁰ The department assured the committee that "the amount of money that is in the Budget at the moment is enough to maintain the roads at an adequate standard", though the department added: "it is our intention to bid for a road rehabilitation program in the next capital works program".²¹¹

7.58. Recent reports of the parliamentary committee inquiring into the draft capital works program have drawn attention to the need to boost expenditure on road rehabilitation in order to ensure the Territory's asset base is maintained.

Recommendation 57

7.59. The committee recommends that the government develop and bring forward in the capital works program a program of planned expenditure on road rehabilitation extending over several years.

²¹⁰ *Ownership Agreement* attachment 4 'Asset Management Plan'

²¹¹ pp653-4

Bruce Stadium roadworks

7.60. The committee notes that the government planned in its capital works program to undertake roadworks around Bruce Stadium to improve traffic management. This includes \$800,000 on Olympic traffic management, \$250,000 for extra carparks and \$100,000 for the extension of Braybrooke Street. The committee is concerned that much of this work is occurring on the western side of the AIS in the area that has been reserved in the Territory Plan as the possible western alignment of the John Dedman Parkway. The committee does not want this western alignment to be adversely affected by the roadwork as the Assembly is still considering the most appropriate alignment for the Parkway and a final decision has not yet been made.

Inspections of buildings by PALM

7.61. Budget Paper No.4 shows that the target for “building application assessments and inspections” has dropped from 40,000 in 1998-99 to zero in 1999-00. This is because “building applications... are no longer undertaken following changes to building services after the introduction of private certification”.²¹² The department added: “If you consider 800 development applications in a year perhaps there are 16 which are going to ensure that we do conduct a final inspection of the development, that we are getting the quality outcomes that we desire through the approval process”.²¹³

7.62. When asked if this was “reasonable”, PALM stated that “it is probably more than we are doing at the moment”; and added that it is a “sufficient” number of inspections “to give us an indicator as to whether we are actually... achieving the end result we are looking for”.²¹⁴

7.63. The committee was informed that “the overall expenditure by government on the function of building control reduces by the net amount [of] \$6.879m”, due to private certification. The department intends to review the changes after 12 months, and pointed out that “the general feedback at this stage... is that industry is pleased with... their ability to get speedier customer service”.²¹⁵

7.64. The committee considers that a very close watch should be kept on the standard of building works following the Government’s decision to move to private certification. On face value, the committee does not consider that PALM can be confident that building standards will remain satisfactory, given the very small number of inspections that PALM intends to carry out in the coming year.

²¹² Budget Paper No.4 pp169-170

²¹³ p732

²¹⁴ *ibid*

²¹⁵ *ibid* p733

Recommendation 58

7.65. The committee recommends that a detailed evaluation be made of PALM's move to private certification of building work, in order to ensure that a high standard of work is maintained.

Acton ferry terminal

7.66. The committee asked whether PALM was doing any work in relation to the Acton ferry terminal. The Minister thought it highly unlikely; however, subsequent advice from the department shows that PALM “is advising OAM on leasing provisions for the ferry terminal site”. The written advice from PALM concludes with the following memorable paragraph, which the committee presumes is an illustration of why not much happens in the bureaucracy sometimes: “OAM is seeking concurrence from ACT Government Solicitor about the form of the lease, NCA is seeking internal consents to the matters raised [in the advice], SKC [Smith, Kostyrko & Cohen] is not happy about the length of time the negotiations are taking. PALM is waiting to hear from the other three. A firm conclusion is probably some 4-6 months away”.²¹⁶

Recommendation 59

7.67. The committee recommends that the government provide a full public briefing to the Standing Committee on Urban Services on the problems surrounding the Acton ferry terminal.

Minister's call-in power in relation to the Capitol cinema

7.68. The committee queried the Minister about his use of call-in powers in relation to the Capital Cinema. The Minister stated that he considered his decision was “reasonable”, given that initial objections to the proposal had been met by revisions to the plan and that the Commissioner's conditions had also been met.²¹⁷

7.69. The Minister undertook to provide the committee with the relevant background papers.²¹⁸ Among the papers was information to the effect that the former Minister for Planning used the call-in powers on five occasions and the present Minister has used them twice. The committee considers it would be useful to set some parameters for use of these important powers.

²¹⁶ Response to question on notice

²¹⁷ p742

²¹⁸ *ibid* p745

Recommendation 60

7.70. The committee recommends that the Minister for Urban Services table guidelines in the Assembly as to when it is considered appropriate to use the call-in powers to assess development applications.

Section master plans

7.71. The committee asked the Minister about the section master plans that are currently being prepared for parts of inner north Canberra. The committee expresses concern that the five section master plans currently being prepared are in different parts of Turner, Braddon and Lyneham and that this patchwork approach could lead to difficulties in the future in integrating the plans where they adjoin. There is also a concern that residents in adjoining sections to the ones being planned may miss out on being able to participate in this section planning process even though they would be affected by housing redevelopment close by.

Recommendation 61

7.72. The committee recommends that PALM undertake the development of section master plans in a logical geographic sequence so that the process for planning adjacent parts of a suburb can be undertaken together—so long as this does not restrict or delay requests for section master plans in other areas of the B11 and B12 areas.

Change of use charge

7.73. The committee questioned the Minister about the current review of the change of use charge being conducted by Professor Nichols. The Nichols report was subsequently released by the Minister on 8 June 1999. It recommends that the change of use charge be reduced from the present level of 75% to 50% of the added value created by a change in purpose clause. During 1998-99, “83 leases were varied and 46 of those attracted a change of use charge. On this basis, some 5% of relevant development applications incorporate assessment of the charge”.²¹⁹

7.74. The committee has concerns about the potential loss of government revenue if the change of use charge is reduced to 50%. This issue warrants careful consideration by a committee of the Assembly. The committee acknowledges the urgency of the issue and believes it should be resolved by the end of this year.

²¹⁹ Answer to question on notice

Recommendation 62

7.75. The committee recommends that all of the issues raised by the Nichols report into the change of use charge be referred to the Assembly's Standing Committee for Urban Services for urgent examination and report to the Assembly in time for the issue to be resolved by the last sittings of 1999.

ACT Housing

7.76. The committee closely questioned the Minister about the government's recent changes to tenancy and eligibility criteria. He emphasised that the changes apply only to new tenancy agreements.²²⁰ The changes remove the security of tenure of new tenants (or those existing tenants who initiate a change in tenancy arrangements).

7.77. The group, ACT Shelter, considers the changes "will lead to stigmatisation... We do not want public housing to become only for the most disadvantaged".²²¹ Nor does ACT Shelter favour the "segmentation of the applicants' list".²²² The ACT Council of Social Service also expressed concern about the changes, noting that they were introduced "without any prior discussion with key stakeholders". The changes remove security of tenure for tenants, which "is what makes good public housing". The Council considers that the changes have not been thought through.²²³

7.78. The changes were introduced without extensive community consultation.²²⁴ They have led to considerable confusion and uncertainty among ACT Housing tenants and within the community sector generally. They amount to the most fundamental change to housing policy since self-government.

7.79. The government's claims that no existing tenants will be affected is untrue, since tenants seeking transfer will be treated as new tenants and hence will be subject to the proposed criteria.

7.80. The committee seriously questions the social justice objectives of the government in moving toward a welfare system of housing rather than maintaining a public housing system. It appears that the government fails to recognise that the provision of public housing is a legitimate alternative to the private housing sector.

7.81. The committee is concerned that the major changes to ACT Housing policy were introduced as part of the Budget process rather than arising out of extensive

²²⁰ p762, p768, p960

²²¹ p1028

²²² *ibid* p1029

²²³ p1074

²²⁴ pp764-8

community consultation. The committee considers the proposed changes should be considered by an Assembly committee and that the existing Housing policies should remain in place until after that committee has reported.

Recommendation 63

7.82. The committee recommends that the Government’s proposed changes to public housing policy be referred to an Assembly committee for inquiry and report, and that no changes to the current policies should take place until after that report has been considered by the Assembly.

7.83. The changes will mean that ACT Housing loses the revenue it currently receives from tenants who pay full market rent—this amounts to 23% (or about \$12m) of total rental revenue.²²⁵ Although it is clear this means some reduction in ACT Housing revenue, the actual amount is uncertain—and ACT Housing is doing some preliminary work on this issue at the moment.²²⁶

7.84. The committee was given information about the spot purchase of homes and units by ACT Housing in the past year. The information covered the location of the purchases and their price. Officials told the committee that the spot purchases are one prong of a three-point strategy to improve the performance of ACT Housing—the other strands being internal efficiencies and encouraging the local housing industry to build more homes of the type in demand by clients of ACT Housing.²²⁷

7.85. The committee learnt that ACT Housing expects to reduce its total stock of properties by a small amount in the coming year (from 11,992 to 11,573; or about 11% of Canberra’s total housing stock).²²⁸ This is for two reasons: “the rationalisation of old and inappropriate stock, notably bed-sits” and the “progressive transfer of housing... [to] Canberra Community Housing”.²²⁹ The latter organisation will act as “a wholesaler or a head tenant. They will take out the head lease and apportion it as they see fit in consultation with the board to groups that they think will benefit the community”.²³⁰ They also are acting as the developer in relation to re-development of McPherson Court at O’Connor.²³¹ To date, 43 properties have been handed over and another 59 are on offer. The aim is to transfer about 1000 properties within five years.²³²

²²⁵ p794

²²⁶ p951

²²⁷ p788

²²⁸ *ibid* p770 and p954

²²⁹ p771

²³⁰ p772

²³¹ p776

²³² *ibid* p773

7.86. The committee appreciates the commendable objective of the community housing program. It will be important for the government to have appropriate mechanisms in place to ensure the program operates in the manner intended. To this end, the committee welcomes the fact that a major evaluation of Canberra Community Housing is to take place in the next year.²³³

7.87. However, the committee stresses that the government should not view community housing as a replacement for public housing—for the latter is a fundamental responsibility of government. Community housing should be seen as a supplement, but not an alternative.

7.88. The committee was disappointed to learn that ACT Housing is only now examining the particular accommodation strategy that is appropriate for young people. The Youth Coalition emphasised its support for such a strategy to be in place, noting that “the growing under-employment of young people who have to take on part-time and casual work will make them particularly vulnerable under the new limited tenure arrangements”.²³⁴

7.89. The committee is disappointed that, while the need for a detailed accommodation strategy was shown some time ago, the government is only now proceeding to develop such a strategy.

Recommendation 64

7.90. The committee recommends that the government urgently bring to the Assembly a detailed accommodation strategy for young people in the ACT.

7.91. The committee questioned the Minister about the procedure followed by ACT Housing in the event of damage to a house occupied by a woman but whose ex-partner is responsible for the damage. Officials stated that, if somebody is invited to a tenant’s home and they cause damage, then the tenant is responsible for that damage – unless there is a domestic violence order out on the person and the tenant reports the damage to the police. In this case, ACT Housing will repair the damage.²³⁵

7.92. The committee appreciates that some women are reluctant to seek help from the police and/or do not take out domestic violence orders, for reasons that include fear, lack of confidence, lack of knowledge of legal avenues, isolation et cetera. As a result, some women end up having to pay for damage caused by an ex-partner—as well as developing a history as a bad tenant.

²³³ *ibid*

²³⁴ p1052

²³⁵ pp799-800

Recommendation 65

7.93. The committee recommends that ACT Housing develop new criteria—in conjunction with agencies such as women’s refuges and the Domestic Violence Crisis Service—to apply to women tenants who have been subject to domestic violence in their ACT Housing residence, in order to ensure that such women are not seriously disadvantaged.

Uriarra village

7.94. The committee questioned the Minister about the future of Uriarra Village, especially in light of government estimates that upgrading work on the existing residences could cost \$2m.²³⁶ ACTEW has been asked for a more detailed estimate to be provided by the end of June.²³⁷ Residents of Uriarra consider that a more realistic estimate of upgrading works is “less than half a million” to upgrade the water and sewerage systems.²³⁸ The residents have proposed “that the settlement be revitalised as a village and the tenants be able to purchase their own homes”.²³⁹ They stated that Ministers Humphries and Stefaniak supported the examination of their proposal.²⁴⁰ It appears to the committee that the government has not acted in good faith with respect to the residents of Uriarra Village.

Recommendation 66

7.95. The committee recommends that the government not proceed with the closure of Uriarra village and carefully consider the proposal by the residents to purchase their existing homes in order to revitalise Uriarra village.

ACTION

7.96. The committee learnt that ACTION is committed to working with DUS and the Chief Minister’s Department to establish a statutory authority as soon as possible.²⁴¹ While ACTION’s preferred structure is that of a Territory-owned corporation, it accepts that a statutory authority structure will facilitate the change to a more efficient public transport provider, involving benchmarking “against the private

²³⁶ p780

²³⁷ Answer to question on notice

²³⁸ p377

²³⁹ *ibid* p376

²⁴⁰ *ibid*

²⁴¹ p967

sector and public transport across the nation”.²⁴² The committee was informed that the government expects ACTION to increase its revenue from fares from 24% at present to 29% next year and possibly up to 55% in future years.²⁴³

7.97. ACTION stated that “in recent years ACTION has had a major difficulty balancing its budget and in the previous two years has had to sell its assets to balance the books”.²⁴⁴ It is discussing with OFM the possible sale and lease back of buses.²⁴⁵

7.98. The committee notes that the government attempted to sell the bus fleet once before, but without success—due to legal difficulties with the Tax Office. Therefore, the committee considers it is appropriate that any further developments should take place in consultation with the Legislative Assembly. The committee also wishes to see that, in any new bus purchases, ACTION gives a high importance to purchasing vehicles with the least pollution emissions.

7.99. The committee was informed that, in the coming year, ACTION is preparing “a fleet replacement strategy for the next 15, 20 years”.²⁴⁶ The committee welcomes the preparation of a long-term fleet replacement strategy. However, the committee would be very concerned if budget difficulties led ACTION to sell and then lease back its bus fleet.

Recommendation 67

7.100. The committee recommends that the government bring to the Assembly any proposal to sell and lease back the ACTION bus fleet, in order to enable wide debate on the proposal.

7.101. DUS is about to commission a survey “of how people have responded to the new [ACTION] network”, including the new fare system.²⁴⁷ The survey has two components: an on-board survey of around 6000 passengers and a phone survey of about 800 people.²⁴⁸ However, the committee considers it would still be useful to obtain information about why people are not using the service as well as information about the adequacy of the service as seen by existing passengers.

²⁴² p968

²⁴³ pp968-9

²⁴⁴ p977

²⁴⁵ ibid

²⁴⁶ ibid p978

²⁴⁷ p965

²⁴⁸ p966

Recommendation 68

7.102. The committee recommends that the market survey of ACTION be widened to elicit information about why people may not be using the network as well as information from existing bus passengers.

Appreciation

7.103. The committee appreciates the compliment it received from the Minister for Urban Services, who stated: “I would like to say thank you for the way that [the Estimates process] has been conducted... I have seen lots of Estimates, both up on the Hill and down here, and would compliment you on the style and I think the important way that the committee has got into the budget”.²⁴⁹

Simon Corbell MLA

Chair

²⁴⁹ *ibid* p800

ATTACHMENT 1

BRUCE STADIUM PROPOSED CORPORATE AND FINANCIAL STRUCTURE

ATTACHMENT 2

BRUCE STADIUM OPERATING ARRANGEMENTS

ATTACHMENT 3 DEPARTMENTS EXAMINED AT PUBLIC HEARINGS

MONDAY 24 MAY 1999

Chief Minister's Department

TUESDAY 25 MAY 1999

Chief Minister's Department

WEDNESDAY 26 MAY 1999

Department of Health and Community Care

THURSDAY 27 MAY 1999

Community organisations and individuals

Chief Minister's Department

FRIDAY 28 MAY 1999

Department of Justice and Community Safety

TUESDAY 1 JUNE 1999

Department of Urban Services

WEDNESDAY 2 JUNE 1999

Department of education and Community Services

THURSDAY 3 JUNE 1999

Department of Urban Services

Community organisations and individuals

FRIDAY 4 JUNE 1999

ACT Auditor-General

Chief Ministers Department

ATTACHMENT 4 COMMUNITY ORGANISATIONS AND INDIVIDUALS APPEARING AT PUBLIC HEARINGS

Conservation Council of the South-East region and Canberra

Turner Senior Citizens

Tuggeranong Community Arts Association

Uriarra Forestry Settlement group

Dr C Doy

Volunteering ACT

Australian Education Union ACT Branch

Dr M Simms

Mr H Selby & Ms P Costello

Australian Federal Police Association ACT Branch

ACT Shelter

Council on the Ageing

North Canberra Community Council

United Firefighters Union

Youth Coalition

Association of Parents & Friends of ACT Schools

Liquor, Hospitality & Miscellaneous Workers Union

Chamber of Commerce & Industry

ACTCOSS

Tourism Council of Australia ACT Branch

DISSENT BY HAROLD HIRD MLA

FROM THE REPORT OF

THE SELECT COMMITTEE ON ESTIMATES ON

THE 1999-2000 APPROPRIATION BILL

I wish to record my dissent from the following paragraphs of the report.

Paragraphs 1.6 – Roles and powers of the committee

The committee has ignored the point clarified by the government that a financial structure was being put in place that limited the government's contribution for the Bruce Stadium redevelopment to \$12.3m. As the committee is well aware, the reason that the entity within that structure would not be consolidated into the budget was because the money was already appropriated in previous budgets. Accordingly there was no appropriation for Bruce Stadium in the current bill.

Paragraphs 1.9 – Estimates processes

It is well known that all agencies and those that appear before the Estimates committee take the process seriously and spend an inordinate amount of time in preparing for the hearings so that they may fully comply with the needs of the committee. The comment that agencies failed to take seriously the committee's needs is gratuitous and untrue. The best that can be said – which the committee fails to say – is that the short time frame indicates that perhaps it is timely for the process of estimates be reviewed and more agency specific reviews to be conducted by portfolio committees.

Paragraphs 2.1-2.9 – Aims of the budget and

Recommendation 2

It is ridiculous and wilfully untrue of the committee to assert that the government has a single focus on a balanced budget regardless of the social implications. This is the sort of unsubstantiated cant which discredits the Estimates process and the MLAs who recite such nonsense.

It was made clear to the committee that the elimination of the Territory's operating loss is high on the government's agenda because of the need for improved social and community outcomes. As the government said in the budget supplementary paper *A Clever Caring Community*, "Indeed, responsible financial management is the only way that these outcomes have been and can continue to be achieved." So, despite the committee's attempted 'spin' to the contrary, a balanced budget is not an end in itself; rather it is the means by which funds become available on a sustainable basis for higher quality services being made available to more people.

The committee's so-called 'concern' that there is " ..no strategic thinking about the issues of social justice and equity" discredits the committee because the statement is blatantly and deliberately untrue.

Despite its feigned ignorance of the government's strategy for social and equity issues, the committee is aware of the government's planning framework which operates at three levels:

1. strategic planning which sets out the government's longer term vision of a Clever Caring Capital;
2. the plan for desired outcomes and KRAs (Key Result Areas) to be achieved; and
3. the annual budget process which sets out the specific outputs and performance measures which will contribute to the desired outcomes and KRAs.

At the strategic planning level this government has done far more than any other in the ACT to ensure that community views and aspirations are taken into account. Specific purpose strategic plans, which align with and support

the vision and intended outcomes, are developed in consultation with the community and in particular with the relevant customer base. There are usually several consultation phases for each plan.

To improve community consultation and ensure that customers needs are taken into account the government established the Customer Involvement Unit 2½ years ago. Over the past year the number of consultation strategies planned and developed by government agencies increased by 330%. That makes a mockery of the committee's call for consultation to be a fundamental part of the way in which government agencies conduct their activities!

I therefore believe that paragraphs 2.1 to 2.9 should be deleted and I dissent from Recommendation 2

Paragraphs 2.11-2.15 – Budget day presentation and promulgation, and Recommendation 3

The assertions – and therefore conclusions – are false. A phone call to any Member of the House of Representatives or Senate would have easily clarified that budget lockups are not provided to non government members in the Federal Parliament. Only accredited media personnel attend the budget lock up with government officials to assist. Opposition members and cross benchers do not attend a lock up.

Also, in the ACT members of the cross bench were not given greater opportunity to digest the budget than members of the Opposition.

Since Recommendation 3 has no basis in fact I oppose it and dissent from it.

Paragraphs 2.33-2.35 – Benchmarking

Recommendation 7

There have been several, but not all, agencies that have been benchmarked throughout the comparative benchmarking framework introduced last budget into the ACT. The strategy has been to begin by benchmarking those entities which have been the major cause of the operating loss.

The process of comparative based pricing and benchmarking throughout the ACT government will continue year on year. Not only will benchmarking be performed against external providers but also on an inter and intra agency basis. Departments such as CMD which are principally policy providers and advisers will be benchmarked across other relevant areas of government as will the majority of functions that each entity performs, a lot of which is conducted through competitive review and outsourcing.

The notion that benchmarking data should be audited by the Auditor-General reflects the committee's ignorance of the purpose and methods of benchmarking and unfamiliarity with the role of the Auditor-General. Since benchmarking data are the outcome of price negotiations between the purchaser and the provider, a price determined can be compared with another but it would be totally pointless to subject it to audit. External auditors play the role of assessing the accuracy, completeness and validity of transactions disclosed in financial statements, but their role is not to determine what is a fair price. They merely report on true and fair disclosure. How price is determined and at what level is solely the responsibility of the entities involved.

I therefore oppose and dissent from Recommendation 7.

2.37-2.41 – Superannuation and Insurance Provision

The amount of misinformation in these paragraphs is alarming. It is a matter of great concern that the committee has obviously refused to listen to the evidence provided and is either unwilling or incapable of understanding a simple table of cashflows .

The committee's conclusions are erroneous, misleading and the comments gratuitous. Since the committee has been advised by the Shadow Treasurer on these matters, it can only be assumed that he has either no understanding of them or has chosen to be deliberately perverse in his analysis of the superannuation liability.

The fact that the committee's comments – which add nothing to an understanding of superannuation and misrepresent the current situation in the

ACT – lead to no recommendations is proof that the committee has nothing to offer on this topic.

3.1-3.31 – Chief Ministers Department

The paragraphs are proof of the Estimates committee's failure to understand the key features of the budget, hence its attempt to create a diversion out of the financing of Bruce Stadium.

The facts of the Bruce Stadium redevelopment are simple. It was announced from day one that private sector participation would be sought in the redevelopment, with the government's contribution to construction costs limited to \$12.3 million. Whether this participation was an up front capital contribution, or a loan serviced by capital contribution and operational revenue, is a matter of degree not concept. In fact, there was always to be a loan as the committee acknowledges. The short term project financing from the CFU, as the documentation shows, was approved. However, there was an administrative defect in the form of that approval and the government has apologised for the administrative deficiency. Contrary to the committee's allegation, the overnight loan was not to cover an unlawful act, but was as per the conditions of the approval.

The committee should not make allegations it knows to be false. It knows that the loan was not a device to obscure the expenditure of non appropriated monies and was fully disclosed in numerous places, including the end of year financial statements which were scrutinised by the Estimates committee in late 1998. The committee knows that there was no improper or unlawful motive. The people concerned acted, as they have always done, believing that they did so fully within the law. The only area of legitimate criticism is that the normally high standards of administration and process control achieved by the department were not met on this occasion. However, it was not so much that officers acted without diligence or improperly, but rather they relied on long standing practice. The point is that practice had changed considerably with the new financial management and Auditor-General legislation.

The corporate and financial structure for Bruce Stadium is not extraordinarily complex and intricate. Indeed it is normal business practice but, significantly, is outside the limited experience of members of the committee. Whilst the financing structure for the project might have seemed complex to non specialists, it employed well used and understood approaches in the project and infrastructure industry.

It must be emphasised that the reason the government has brought forward to this year's appropriation a bill relating to Bruce Stadium is not an admission that the previous methodology was unlawful or unworkable, but merely to accommodate the preference of some Members of the Assembly for a budget funded model.

The committee's ignorance of accepted business practice or its determination not to understand the financing of Bruce Stadium not surprisingly has led to its exaggerated conclusion of "serious concerns" about the prudent financial management of the Territory's finances. Under this government the territory has continually made progress to address the territory's previous parlous financial situation. It is the committee's duty to put the technical breach of law into perspective and not to try to create confusion, doubt and uncertainty.

I believe the committee has been misleading and irresponsible. Accordingly I disassociate myself from paragraphs 3.1 to 3.31. They should be deleted.

Recommendation 11 – Bruce Stadium financing arrangements

I oppose and dissent from Recommendation 11 for the following reasons.

1a & b The government has publicly released the legal advice of the eminent counsel in administrative law. This advice clearly and unequivocally states that the transactions relating to the previous structure are legal. The retrospective guideline was issued on the advice of parliamentary counsel and there is nothing to indicate that this was defective. If a government becomes informed that an action is possibly unlawful it has no alternative but to address that situation.

1c This is a self contradictory recommendation as the Assembly has not accepted the government's legal advice obtained from an eminent QC, parliamentary counsel and the Chief Solicitor's office, nor external advice received from entities such as the Australian Securities and Investment Corporation. The transparent fishing exercise implicit in paragraph c will serve no useful purpose.

1d This is another meaningless recommendation couched in phraseology meant to sensationalise all matters pertaining to Bruce Stadium. In fact, a possible breach of contract is now seen as unlawful.

1e Another gratuitous recommendation, as the Assembly has already passed a motion calling for documents relating to Bruce Stadium. These are being delivered.

2 & 3 For a committee that claims to have “serious concerns” with the financing of Bruce Stadium it seems incongruous that a recommendation to delay implementation of the committee’s preferred financing structure be made.

Recommendation 12 – CanDeliver

The committee is wrong in its comments and recommendation.

Transactions such as the Bruce Stadium financing arrangement and the loan to CanDeliver have been handled according to long-standing practice.

Independent legal advice provided by Victorian QC Richard Tracey has established that guidelines needed to be put in place to ensure the legality of these and a range of other transactions.

The Territory Owned Corporations Act allows the Treasurer, on behalf of the Territory, to lend money to a TOC or a subsidiary on such terms and conditions as the Treasurer determines by instrument.

The committee appears to have been confused by the fact that the Candeliver loan was used as an example to illustrate the point that several loans made previously by the current and former governments had not required an interest return on the investments.

Recommendation 12 reflects a misunderstanding by the committee so I dissent from it.

Recommendation 20 – Competition Policy

I reject and dissent from this recommendation because the now defunct Competition Policy Forum was a failure. The Forum rarely met and its few reports made little contribution to public policy issues. In any case the government is establishing the Independent Competition and Regulatory Commission to investigate and report on competitive neutrality complaints and, where necessary, the impact of commercial arrangements on the public interest.

Paragraphs 4.12-4.22 – Secondary college funding

Recommendation 24

There is no reduction in funding to colleges (see page 258 of Budget Paper No 4). The overall funding to government schools has increased by \$6.5 million for 1999-2000, following an increase of \$45.2 million in the current year, more than meeting the government's election commitment. The government must be able to shift resources to reflect changing needs and priorities. I therefore oppose and dissent from Recommendation 24.

Recommendation 53 – Grants to bodies such as the Conservation Council

This recommendation is a poorly disguised attempt by a friend at court to grant special privileges to a favoured interest group. The Conservation Council is just another lobby group and is no more deserving of special government funding than any other lobby group.

I oppose and dissent from recommendation 53.

Recommendation 56 – Rural Residential Development

I reject and dissent from the committee's recommendation against rural residential development because it fails to take account of the following three compelling reasons.

The first is choice. There are people in the ACT who prefer a rural lifestyle, but the only opportunity for this is across the border in NSW. It is disappointing to note the arrogance of some committee members who have no interest in providing for a lifestyle which is different from their own.

The second is forgone rates revenue. People who would prefer to live in the ACT, but have to live in NSW if they want a rural lifestyle, do not pay rates in the ACT but still use ACT services. It would, obviously make sense to provide for those people to live in the ACT and thereby expand the ACT's revenue base.

The third is more efficient land use. The flaw in the committee's argument against rural residential development is the (wrong) assumption that the only alternative to conventional urban development is the existing use for grazing. Clearly, it makes no sense to deny rural residential development and retain it for grazing on the grounds that one day in the distant future it may be required for urban development.

It is strange that the committee prefers to retain a lower valued use (grazing), and less revenue for the ACT, than allow a higher valued use (rural residential).

Recommendation 63 – Public Housing

I reject and dissent from the recommendation on public housing because it reflects Labor's old fashioned prejudice against home owners. The impact of the committee's recommendation would be to make public housing available to all comers, including those who could easily afford their own home. It does not seem to concern the committee that if you have a regular job and are on a high income you can keep out another person who is unemployed and needs help with housing.

In the government's view that is not fair. The government's policy – in contrast to the attitude of the committee – is to target fairer public housing

assistance so that it is delivered more efficiently and equitably to people most in need. It is a sign of a responsible public housing management program – and a socially responsible government – that periodic reviews of housing eligibility are carried out in the ACT to ensure that those whose personal circumstances improve have less opportunity for exploiting the system to the detriment of those most in need.

Harold Hird MLA