Review of Auditor-General's Report No 7 of 2002

Financial Audits with Years Ending to 30 June 2002

Report No 6

Standing Committee on Public Accounts

September 2003

Legislative Assembly for the Australian Capital Territory

Committee membership

Mr Brendan Smyth, MLA (Chair)

Ms Karin MacDonald, MLA (Deputy Chair)

Ms Kerrie Tucker, MLA

Secretariat support

Secretary:	Ms Stephanie Mikac
Administration:	Mrs Judy Moutia

For further information:

Telephone: (02) 6205 0136

Facsimile: (02) 6205 0432

Email: committees@act.gov.au

Post: GPO Box 1020
CANBERRA ACT 2601

Website: www.legassembly.act.gov.au/committees

Resolution of appointment

The Standing Committee on Public Accounts was appointed by the Legislative Assembly on 11 December 2001 to:

(i) examine:

- (A) the accounts of the receipts and expenditure of the Australian Capital Territory;
- (B) the financial affairs of authorities of the Australian Capital Territory; and
- (C) all reports of the Auditor-General which have been presented to the Assembly;

(ii) report to the Assembly, with such comments as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Assembly should be directed;

(iii) inquire into any question in connection with the public accounts which is referred to it by the Assembly and to report to the Assembly on that question; and

(iv) examine matters relating to economic and business development, small business, tourism, market and regulatory reform, public sector management, taxation and revenue and sustainability.

Terms of reference

To examine Auditor-General's Report No 7 of 2002: Financial Audits with Years Ending to 30 June 2002 and report to the Legislative Assembly.

Conduct of the inquiry

The Committee held two public hearings and heard from Mr John A Parkinson, ACT Auditor-General on 12 February 2003 and from Mr Ted Quinlan, MLA, Treasurer on 23 April 2003.

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Summary of recommendations

The Committee recommends that:

(1) the Legislative Assembly notes the findings of Auditor-General's Report No 7 of 2002: Financial Audits with Years Ending to 30 June 2002. In particular, the Committee highlights the findings in relation to agencies where there is non compliance with the *Financial Management Act 1996* (FMA), non management of financial operations to Budget and incursion of loss. Agencies need to be reminded that compliance with the FMA is a fundamental tenant of good governance;

(2) an independent review of the FMA be undertaken;

(3) in particular, section 18 of the FMA providing for the Treasurer's Advance be reviewed to clarify the purpose and use of the Treasurer's Advance;

(4) regulations be established for the use of the Treasurer's Advance; and

(5) other issues identified by the Auditor-General's Report in relation to individual agencies be addressed by relevant agencies.

1. Introduction

1.1. Auditor-General's Report No 7 of 2002: Financial Audits with Years Ending to 30 June 2002 was presented to the Legislative Assembly on 11 December 2002[1].

1.2. The report examines the Australian Capital Territory's financial statements for the year ended 30 June 2002 and also the financial statements of Territory agencies for the years ended between 31 December 2001 and 30 June 2002[2].

1.3. The Auditor-General made 22 recommendations based on audited findings of the financial statements examined. As has been the practice with similar audits in previous years, the Audit provided comment about financial statements in relation to Territory agencies.

1.4. The Auditor-General's Report drew significant attention to the qualified audit report of the Territory's financial statements and the financial statements of the general government sector. This focus included general comment about financial reporting and audit in the ACT public sector[3]. More specifically, comment and analysis was provided about the process, timing and presentation of agencies' financial statements and performance reports; analysis of agencies' performance against Budgets; compliance with the relevant accounting standard; an update of Management Discussion and Analysis (MD & A) reporting (as included in agencies' annual reports); and progress of the review of and agency compliance with the *Financial Management Act 1996*, including section 18, which provides for the Treasurer's Advance. There was also analysis and comment about specific audit reports of Territory agencies. The Auditor-General's Report provided comment on all Territory agencies and divided them into two categories. The first category raised matters relating to specific Territory agencies in relation to the incurring of losses, the non management of financial operations to Budget and non compliance with the Financial Management Act. The second category included agencies not dealt with in the first category and where the findings were not as significant as those in the first category.

2. Overview

2.1. The Standing Committee on Public Accounts examined the following aspects of Auditor-General's Report No 7 of 2002: Financial Audits with Years Ending to 30 June 2002: the Territory's consolidated financial statements and accompanying audit opinions; the Department of Treasury's review of the *Financial Management Act 1996*; section 18 of the *Financial Management Act 1996* providing for the Treasurer's Advance; and broadly, the audit results of other agencies to which specific attention had been drawn by the Auditor-General's Report.

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[1] Legislative Assembly for the ACT, Fifth Assembly, Minutes of Proceedings No 42, Wednesday, 11 December 2002, p 473.
[2] Auditor-General's Report No 7 of 2002, p 1.
[3] Ibid.

3. The Territory's consolidated financial statements and accompanying audit opinions

3.1. Auditing of the Territory's consolidated financial statements[4] (as required under the *Financial Management Act 1996*) resulted in a qualified audit opinion[5] being issued by the Auditor-General on 4 November 2002 and later tabled in the Legislative Assembly on 14 November 2002[6].

3.2. The qualified audit opinion was issued due to non compliance with Australian Accounting Standards, in particular the accounting standard which provides for '*Financial Reporting by Governments*', (AAS 31)[7].

3.3. Under the Financial Management Act, Government departments are also required to prepare financial statements in addition to Budget papers[8] and statements of performance. One qualified[9] audit opinion was also issued on the Superannuation Unit's financial statements. The qualified audit opinion was issued for non compliance with Australian Accounting Standard 29 (AAS 29) which provides for '*Financial Reporting by Government Departments*'[10].

3.4. In addition,…'**a qualified audit opinion was issued on ACTEW's financial statements for non compliance with the Australian Accounting Standard AASB 1016 'Accounting for Investments in Associates' regarding ACTEW's accounting for its investment in TransACT**[11]

The audit opinion was also qualified in relation to additional disclosures made by the directors in the Directors' Declaration and accompanying notes to the financial statements on ACTEW's accounting for assets that were received free of charge'[12].

3.5. As a result of the qualified audit opinion issued on the Superannuation Unit's financial statements, there was a flow on effect to the Territory's financial statements and the general government sector[13].

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[4] The Territory's consolidated financial statements as audited did not include those reporting agencies that are not Government controlled in addition to certain boards and trusts. The Auditor-General has stated that non inclusion of these agencies does not have an effect on the Territory's overall result, Auditor-General's Report No 7 of 2002, pp 11-12.
[5] The audit opinion issued … 'considers whether the financial statements comply with the provisions of the legislation that apply directly to the financial statements. The auditor is not required to form an opinion on whether the reporting agency has generally complied with legislation', Ibid, pp 10-11 & 38.
[6] Paper titled: *Consolidated Annual Financial Statements for the 2001-2002 Financial Year*, presented pursuant to section 25 of the Financial Management Act, Legislative Assembly for the ACT, Fifth Assembly, Minutes of Proceedings No. 37, Thursday, 14 November 2002, p 383.
[7] Auditor-General's Report No 7 of 2002, p 11.
[8] Legislative Assembly for the ACT, Fourth Assembly, Minutes of Proceedings No 123, Tuesday, 1 May 2001, p 1349.
[9] The audit opinion issued was an 'except for' opinion, Auditor-General's Report No 7 of 2002, p74.
[10] Auditor-General's Report No 7 of 2002, p 13.
[11] Ibid., p 132.
[12] Ibid.
[13] Ibid., p 74.

3.6. The Auditor-General found that

'**The Territory's financial statements and the financial statements of the General Government Sector were qualified with an 'except for' audit opinion due to the incorrect recognition of an 'Unrealised Gain from Actuarial Review of Employee Superannuation Entitlements' as a liability and for the inaccurate recording of the superannuation expense**'[14].

3.7. In relation to the Territory's Financial Statements the Auditor-General found that:

'**Had the Territory's financial statements correctly reported the superannuation expense, an operating surplus of only $12m would have been reported instead of an operating surplus of $75m. The prior year operating surplus would have been $35m instead of the reported surplus of $100m**[15]; and

Due to the incorrect recognition of an 'Unrealised Gain from Actuarial Review of Employee Superannuation Entitlements' as a liability, total liabilities reported in the Territory's Statement of Financial Position were overstated by $146m and net assets understated by the same amount. Prior year's total liabilities were overstated by $209m and net assets understated by the same amount'[16].

3.8. In relation to the General Government Sector's Financial Statements, the Auditor-General found that:

'**Had the financial statements of the General Government Sector correctly reported the superannuation expense, an operating deficit of $34m would have been reported instead of an operating surplus of $29m. The prior year operating surplus would have been $1m instead of the reported surplus of $66m**[17]; and that

Due to the incorrect recognition of an 'Unrealised Gain from Actuarial Review of Employee Superannuation Entitlements' as a liability, total liabilities reported in the Statement of Financial Position of the General Government Sector were overstated by $146m and net assets understated by the same amount. Prior year's total liabilities were overstated by $209m and net assets understated by the same amount'[18].

3.9. The Government responded by stating that each of the three qualified audit opinions issued by the Auditor-General (those for the Territory's Financial Statements, the Superannuation Unit and ACTEW Corporation) … 'involved differing interpretations of the Australian Accounting Standards. The Government

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[14] Ibid., p 73.
[15] Ibid.
[16] Ibid.
[17] Ibid.
[18] Ibid., p 74.

maintained that the …'Territory's operating surplus for 2001-2002 was $100 m[illion], which was an improvement of $72 m[illion] on the budgeted result of $28 m[illion]'[19].

3.10. In relation to the treatment of accounting standards the Government stated that … 'Each area' … 'disagrees with the Auditor-General's interpretation and has sought independent advice to support the view'[20]. The legal advice obtained by ACTEW supported the original approach taken[21]. Advice obtained by the Superannuation Unit stated that the unit… 'is complying with Australian Accounting Standards in relation to the measurement of the superannuation liability and that various treatments will exist in regard to the reporting of superannuation liabilities until a Standard is introduced which specifically addresses this issue'[22]. In relation to this later advice, the Auditor-General's report stated that … 'on the basis of the Audit's evaluation of the Australian Accounting Standards, the Audit cannot agree with the conclusions reached by Treasury and the accounting firm'[23].

3.11. The current Accounting Standard used to record superannuation liabilities … 'is based on a hybrid of an International Accounting Standard (originating from the USA[24]) and is consistent with the practice adopted and accepted by the Auditor-General in previous years[25]. The Auditor-General's agreement on the use of the hybridised Accounting Standard was made before … 'any other jurisdiction had gone fully to accrual accounting. Since then all other jurisdictions except for the Northern Territory have gone to accrual accounting and …[so]…have to account for …movements in…liability. No [Australian] jurisdiction has adopted the overseas standard. The Auditor-General is of the view that the standard is also … 'against the accounting concepts as they [currently] exist'[26].

3.12. The Auditor-General further stated that he advised the Department of Treasury of his current opinion of the hybridised accounting standard and that they declined to change the standards used. Consequently a qualified audit opinion on the financial statements was issued[27]. Continued adherence to the accounting standards currently used by the Superannuation Unit in the treatment of superannuation liabilities will continue to attract a qualified audit opinion from the Auditor-General[28].

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[19] Government Submission to the Standing Committee on Public Accounts: In Response to Auditor-General's Report No. 7 of 2002 "Financial Audits with Years Ending to 30 June 2002", 10 April 2003, p 2.
[20] Ibid.
[21] Ibid., p 11.
[22] Ibid., pp 15-16.
[23] Auditor-General's Report No 7 of 2002, p 77.
[24] Mr Quinlan, MLA, Treasurer, Transcript of Evidence, Standing Committee on Public Accounts, Reference: Review of Auditor-General's Report No 7 of 2002: Financial Audits with Years Ending to 30 June 2002, Wednesday, 23 April 2003, p 32.
[25] Government Submission, op. cit., p 15.
[26] Mr John A Parkinson, ACT Auditor-General, Transcript of Evidence, Standing Committee on Public Accounts, Reference: Review of Auditor-General's Report No 7 of 2002: Financial Audits with Years Ending to 30 June 2002, Wednesday, 12 February 2003, p 9.
[27] Ibid.
[28] Ibid., p 11.

3.13. The Government agreed that the issue relating to the use of the specified accounting standards needs to be addressed[29]. The Government has referred various accounting standards used in determining superannuation liabilities to the Australian Accounting Standards Board. The Board is expected to make a ruling by mid October 2003[30]. Harmonisation of International Accounting Standards in relation to the treatment of superannuation liabilities is expected to be finalised by 2005[31].

Committee comment

3.14. The Committee remains concerned about the Government's response to the decision of the Auditor-General to qualify the Territory's financial statements. The Committee notes that the issue of financial statements being qualified is a serious matter. As the Auditor-General commented, auditors do not qualify financial statements lightly[32]. The Auditor-General sees qualifying financial statements as sending … 'a very important signal that matters relating to the credibility of the financial results are being put forward to the community'[33].

3.15. The Committee acknowledges that there are differing views about the nature of the matters on which the qualifications were based – that is, in relation to the valuation of superannuation liabilities and associated expenses. At the same time, the Committee is aware that the Auditor-General is not able to agree with the conclusions reached by the Department of Treasury nor by the private sector accounting firm. The Auditor-General reiterated to the Committee that the differing views about accounting standards must be reconciled so that the Territory's financial statements are not subject to any future qualifications[34].

3.16. Therefore, it remains for the various parties involved in the preparation of the Territory's financial statements and in the audit of these statements to establish an agreed position on the matters that are in dispute. The Committee understands that some of these disputed matters may be resolved when the Australian Accounting Standards Board has finalised its consideration of some Standards that relate to these matters. The Committee will retain a close interest in this matter.

4. Review of the Financial Management Act

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[29] Government Submission, op. cit., p 16.
[30] Mr Quinlan, MLA, Treasurer, Transcript of Evidence, op. cit., pp 32-33.
[31] Government Submission, op.cit., p 16.
[32] Mr John A Parkinson, Transcript of evidence, op. cit., p 8.
[33] Ibid.
[34] Ibid., p 11.

4.1. The Auditor-General has examined the *Financial Management Act 1996* (FMA) in three consecutive reports[35] and in each report recommended that the FMA be reviewed in relation to various findings[36]. On the Auditor-General's recommendation, the Department of Treasury undertook a review of the FMA. The review resulted in various amending Bills to the FMA being presented to the Legislative Assembly and consequently passed. Since 2001, as a result of the Department of Treasury's review of the FMA, the Legislative Assembly has passed four Bills amending the principal Act[37].

4.2. The *Financial Management Amendment Act 2001 (No 3)*[38] amended the FMA in relation …'to the borrowing and investment activities of Territory Authorities; the definition of public money, the payment of interest to Territory authorities, the placing of loans, and the preparation of financial statements'[39]. The *Financial Management Amendment Act 2001 (No 4)*[40] amended the FMA in relation to supplementary Budget papers and the Treasurer's Advance[41]. The *Financial Management Amendment Act 2002*[42] amended the FMA in relation to the …'regulatory framework for the fiscal operations of the Territory'[43]. And the *Financial Management Amendment Act 2003*[44] amended the FMA in relation to … 'departmental budgets and the type of permissible investments for public moneys'[45].

4.3. The Auditor-General's Report identified a range of 'significant issues' highlighted by Auditor-General's Report No 1 of 2001, which have not been subsequently included in the FMA. The main concerns as listed were:

- 'The Act does not contain a section or part that clearly sets out the roles and accountabilities of Ministers and Chief Executives for Departmental financial operations;

- Territory Authority Boards are not responsible for Authorities' financial management or reporting;

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[35] Auditor-General's Report No 1 of 2001; Auditor-General's Report No 11 of 2001 and Auditor-General's Report No 7 of 2002.
[36] Auditor-General's Report No 7 of 2002, p 32.
[37] Ibid., p 33.
[38] Presented to the Legislative Assembly as the Financial Management Amendment Bill 2001 (No 3) on 9 August 2001 and passed on 30 August 2001.
[39] Scrutiny Report No 12 of 2001, Standing Committee on Legal Affairs (Incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee), dated 17 August 2001, p 1.
[40] Presented to the Legislative Assembly as the Financial Management Amendment Bill 2001 (No 4) on 11 December 2001 and passed with amendment on 13 December 2001.
[41] Scrutiny Report No 1, Standing Committee on Legal Affairs (Performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee), dated 12 December 2001, p 1.
[42] Presented to the Legislative Assembly as the Financial Management Amendment Bill 2002 on 22 August 2002 and passed on 26 September 2002.
[43] Scrutiny Report No 18, Standing Committee on Legal Affairs (Performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee), dated 27 August 2002, p 1.
[44] Presented to the Legislative Assembly as the Financial Management Amendment Bill 2003 on 3 April 2003 and passed on 8 May 2003.
[45] Scrutiny Report No 31, Standing Committee on Legal Affairs (Performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee), dated 11 August 2003, p 1.

- The implementation of the concept of net cash appropriations in an accrual based environment needs to be re-examined;

- The definition of capital injection needs to be clarified; and

- The definition of what the Territory can invest in needs to be clarified'[46].

4.4. The Auditor-General's Report acknowledges that… '**a range of useful improvements have been made to the FMA as a result of** …**Treasury's review of the FMA**'[47]. However, the Auditor-General's Report states … 'that little change has occurred to the Territory's conceptual model for financial management since 1996 (with the exception of Government's decision in 2002 to move from a purchaser/provider arrangement in some areas to a funder/provider arrangement). The model was mostly developed in 1995, which is seven years ago. The Audit's strong view is that a critical examination of the effectiveness and efficiency of the conceptual model is well overdue'[48]….and…'that the fundamental review of the FMA that Treasury indicated would be performed in its response to Auditor-General's Report No 1 of 2001 has not occurred and based on Treasury advice, will not occur in the foreseeable future'[49].

4.5. The Department of Treasury stated that it had undertaken in consultation with the Auditor-General, a very detailed review of the FMA, and this review is still in progress[50]. The Auditor-General's Report, in concluding that there were doubts about the fundamental review being undertaken noted that until Treasury undertook a more detailed review of the FMA … 'significant problems with the FMA will continue to be identified'[51]. One such problem highlighted was that of section 18 of the FMA providing for the Treasurer's Advance.

Committee comment

4.6. The Committee is somewhat bemused by the comments that have been made about the review of the FMA. The Auditor-General has been concerned over a number of years that the FMA requires review[52]. Moreover, despite the amendments that have been made to this Act over the last two years, the Auditor-General was still of the view that significant issues relating to the … 'effectiveness and efficiency of the conceptual model' remain to be considered[53].

4.7. The Department of Treasury advised the Audit that the review of the FMA … 'is substantially completed'[54]. Further, the Treasurer advised the Committee that he

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[46] Auditor-General's Report No 7 of 2002, p 33.
[47] Ibid.
[48] Ibid., p 37.
[49] Ibid.
[50] Transcript of Evidence, Standing Committee on Public Accounts, Reference: Review of Auditor-General's Report No 7 of 2002: Financial Audits with Years Ending to 30 June 2002, Wednesday, 23 April 2003, p 60.
[51] Auditor-General's Report No 7 of 2002, p 37.
[52] Ibid., pp 32.
[53] Ibid., p 37.
[54] Ibid., 32.

was not aware that the Auditor-General had any …'major issue' with the FMA[55]. Nevertheless, there still appears to be some ambivalence about the Government's position as, in evidence presented to the Committee, both the Treasurer and the Department of Treasury acknowledged that resources were still being devoted to considering the FMA and the broader financial framework[56].

4.8. It is evident that there is an issue about what is meant by a 'fundamental review'. In some contexts, it appears that this is the FMA while, in other contexts, it is the broader Territory financial framework that is being referred to. The Committee notes that there are outstanding issues both with the FMA and with the broader financial framework that appear to require further consideration. In relation to the FMA, there are such matters as the clarification of section 18. At a broader level, there are such matters as the Territory's conceptual model for financial administration and the review of outputs and performance measures.

4.9. There is no doubt that a number of useful amendments have been made to the FMA over the last two years. However, the Committee believes that there are important issues relating to the FMA and to the broader matter of the financial administration of the Territory that warrant continuing consideration by all relevant organisations. In particular, the Committee notes the nature and complexity of reporting requirements placed on the ACT Government not only by the FMA but also by other legislation. While the intentions of all these requirements may appear desirable, the ultimate effect is to create an increasingly complex management task for a questionable benefit in terms of reports prepared and information that is provided.

5. The Treasurer's Advance

5.1. In Chapter 7: Compliance with the *Financial Management Act 1996* (FMA), the Auditor-General outlines the … 'actual and possible breaches of the [FMA] noted' during the course of the auditing of the 2001-2002 financial statements[57]. The Auditor-General made two significant findings in relation to compliance with the FMA:

> **'Housing received $10m from the Treasurer's Advance in June 2002. The Audit view is that this was a misuse of the Treasurer's Advance and its legality could also be questioned.**
>
> **The Central Financing Unit possibly did not comply with the FMA in relation to the use of its Departmental banking account to process some**

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[55] Mr Quinlan, MLA, Treasurer, Transcript of Evidence, op. cit., p 60.
[56] Transcript of evidence, Wednesday, 23 April 2003, op. cit., p 60.
[57] Auditor-General's Report No 7 of 2002, p 38.

Territorial transactions. This potential breach was also reported last year'[58].

5.2. The Committee was particularly concerned about the first finding. When questioned by the Committee about his findings in relation to the Treasurer's Advance, the Auditor-General responded by explaining that:

'The underlying concept of the Treasurer's Advance in all jurisdictions that operate similar systems as the ACT is of a safety valve for situations where essential expenditures are required to be incurred which could not have been foreseen at the time the Budget was prepared. An essential part of this is that the expenditure must be necessary – that is, it must be necessary to be made. In a cash system, this would mean needing the actual cash payments to be made, not just recognising that cash payments need to be made somewhere down the track. It requires the payments to actually be made'[59].

5.3. Section 18 of the *Financial Management Act 1996* provides for and defines the Treasurer's Advance. Section 18(1) states that the Treasurer's Advance can be used for:

(1)Expenditure that is—

(a) in excess of the amount specifically appropriated for expenditure of that kind; or

(b) not provided for by any appropriation;

may be authorised, in writing, by the Treasurer provided that—

(c) the need for the expenditure could not reasonably have been foreseen at the time of presentation to the Legislative Assembly of the bill for the first Appropriation Act relating to the financial year in which the expenditure is to happen; and

(d) the total expenditure authorised under this subsection in any financial year does not exceed the amount appropriated for that year for this section[60].

5.4. The Auditor-General continued by explaining that the way the FMA defines an appropriation as legally spent is… 'when it is drawn out of the CFU's (Central Financial Unit) bank account and transferred to another departmental bank account. That of course defies logic because the appropriations are for the purpose of spending on services or spending on wages or spending on something. They are not for the purposes of transferring from one bank account to another'. The Auditor-General questioned the legality of the use of the Treasurer's Advance in this context, as … 'money had been drawn from CFU's account and placed into Housing's account. So arguably in a strict legal sense, it had been expended, but it did not have to be

[58] Ibid.
[59] Transcript of Evidence, Standing Committee on Public Accounts, Reference: Review of Auditor-General's Report No 7 of 2002: Financial Audits with Years Ending to 30 June 2002, Wednesday, 12 February 2003, p 1.
[60] Section 18(1) of the *Financial Management Act 1996*.

expended at that point… as housing had nothing to spend it on'[61]. And so …'in this situation, there was no requirement to make a payment, and no services had been delivered. It is true that it had been recognised that some payments would have to be made somewhere down the track, but no contracts had been entered into, no services had been provided and no payments were required. Therefore, I believe it is clear that the underlying concept of the Treasurer's Advance, which is to meet unforeseen urgent payments, was not met in this case'[62].

5.5. On 11 December 2002, following presentation to the Legislative Assembly of the Auditor-General's Report No 7 of 2002, the Treasurer tabled a document titled 'ACT Housing-Fire Safety Upgrades-Estimate of Cost to Rectify Deficiencies'[63]. This document estimated the total cost of fire safety upgrade to be $16 million[64]. When asked by the Committee if the whole amount of $10 million (as provided for by the Treasurer's Advance) had been expended on fire safety issues, the Treasurer responded by saying that … 'Not quite [but] Yes, a large lump of it'[65]. Officers from the Department of Urban Services were also asked about how much of the $16 million had been spent [and would]…it be only $2.1 million by the end of this (2002-2003) financial year?'[66]. The response was … 'Yes. We never intended to spend the second $6 million until the next financial year anyway because we had that $10 million. So a lot of the work [that] has been done is on scoping, getting technical advice and engaging appropriate fire services to determine the best enhancements for fire safety'[67].

5.6. When questioned about the use of the $10 million provided for by the Treasurer's Advance for social housing and later for fire safety, the Treasurer advised that he had given verbal instructions to the Chief Executive of the Department of Treasury to make … 'damn sure…that when we completed the current financial year, which was the past financial year, we had no carries forward, we had expended all of the necessary expenditure in the year, that I really didn't want to be picking up the tab in the now current financial year for the immediate past financial year in any way'. The Treasurer explained that … 'it wasn't a formal missive, …it was beat the bushes and make sure you pay all your accounts. I want to make sure that we have, in fact, spent every cent in the year [and] that it was appropriate to spend it[68].

5.7. When asked further about who put the issue of $10 million for fire safety in public housing on Cabinet's agenda, the Treasurer responded by saying it … 'came up in Cabinet with the Under Treasurer of the time…[and] it was something that was

[61] Auditor-General, Transcript of evidence, 12 February 2003, p 2.
[62] Auditor-General, Transcript of Evidence, 12 February 2003, p2.
[63] Legislative Assembly for the ACT, Fifth Assembly, Minutes of Proceedings, No 42, Tuesday, 11 December 2002, p 473.
[64] ACT Housing Fire Safety Upgrades Estimate of Cost to Rectify Deficiencies as tabled in the Legislative Assembly on Tuesday, 11 December 2002.
[65] Hansard, 23 April 2003, p 51.
[66] Hansard of the Legislative Assembly for the ACT, Select Committee on Estimates, Wednesday, 21 May 2003, p 219.
[67] Ibid.
[68] Treasurer, Transcript of evidence, 23 April 2003, p 35.

put forward. I can't remember whether there were bits of paper, exactly, or the input of the appropriate Minister, Bill Wood, or not. I don't actually recall the by-play because it was, "That's easy. Done. Move on" '[69].

5.8. The Committee's understanding of the use of the $10 million is informed by emails that were obtained by the Chair under the Freedom of Information Act.

5.9. Of particular interest to the Committee was an email circulated within Urban Services that stated …

> *'We have been approached by Treasury to take up $10m this year as service purchase payments, I presume following the outcome of Budget Cabinet III last week. I am happy to do this although, have indicated that as we can not spend this money until next year and 2003-04, I would prefer to record the money as income in advance.*
>
> *I assume that also as the money has not been appropriated under Appropriation No 3 and is due to come to us this year, that the money will be forwarded from the Treasurer's Advance. My understanding is that we are writing a Submission to Alan Thompson advising of the need for urgent expenditures to be undertaken for fire safety and building code compliance, but that any formal submission to the Treasurer seeking the Treasurer's Advance will be written by the Purchaser/Corporate. A copy of our Submission will be available in draft form this afternoon or early tomorrow'[70].*

5.10. The Committee notes that the email indicates that the Department of Treasury approached Housing to take the amount of $10 million and that Housing responded by indicating that it would be unable to spend the amount in the 2001-2002 financial year. The email also made mention in the present tense of the drafting of a submission relating to fire safety and building code compliance. This implies that the submission that the Treasurer would have relied upon for justifying the expenditure of the $10 million on fire safety was written **after** the decision to grant the $10 million was made.

5.11. The Treasurer responded to this information by saying, … 'The Territory at the time owned a legacy of undone maintenance at 30 June 2002. As I have conceded, and happily do so, it might not have raised eyebrows and not perturbed the auditor had we used the process of just setting up a provision and recognising it because – this is one of the responsibilities you have if you're putting the books together – if you know that the Territory has a liability, effectively, then you're duty bound to recognise it. If you don't recognise that liability you are overstating the wealth and the strength of the Territory at 30 June 2002. As I said, there might have been different ways of doing it that mightn't have perturbed people. I didn't anticipate that this would, in fact, perturb people and happily did it, didn't hide it and put the report into the Assembly'[71]. The Treasurer further stated that… 'if it might have been done differently, then I'm happy to be advised so'[72]. The Treasurer also

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[69] Ibid, p 36.
[70] Transcript of evidence, 23 April 2003, p 38.
[71] Ibid., p 39.
[72] Ibid., p 38.

stated… 'In hindsight, it might have been better, because people wouldn't have been so hot and bothered about it, to have just written a journal entry that said "Provision for improvement of fire safety in public housing" and then debited expenditure for the year'[73].

5.12. In a response to Alan Thompson, Chief Executive, Department of Urban Services, Howard Ronaldson, the Under Treasurer at the time indicated that addressing issues relating to fire safety in ACT Housing's multi-unit complexes and to meet current Building Code of Australia standards could be undertaken through the existing housing budget. The Under Treasurer stated that an additional $10 million was being provided to Housing in the 2001-2002 financial year. The purpose of this amount was for a capital injection by way of a Treasurer's Advance. It is further stated that the 'additional funding is for social housing' and that 'An appropriate split of funds between public housing and community housing needs to be determined… in consultation with the Treasury'[74].

5.13. The Treasurer responded to this issue by stating that … 'I have to say I have no knowledge of people talking about spending the money on social housing versus maintenance, because if the question of social housing came up, we'd have to say that that would be a positive policy issue and a decision taken, albeit it has to relate to the period to which the policy relates'[75].

5.14. On 11 December 2002, following tabling of Auditor-General's Report No 7 of 2002: Financial Audits with Years Ending to 30 June 2002, the Treasurer made a statement in the Legislative Assembly. In his statement, the Treasurer stated… 'Under advice from Treasury to Cabinet, the Government applied $10 million of unexpended Treasurer's Advance to an urgent maintenance need in relation to fire safety within public housing. This was done late in the financial year when the urgent need was communicated to Cabinet. As Treasurer, I take responsibility for that decision'[76].

5.15. In other email correspondence dated 12 June 2002, between officers from the Department of Treasury and officers from the Department of Urban Services, there is reference to using $10 million for community housing[77]. The Treasurer, when asked if he had any knowledge whatsoever of Cabinet or himself putting aside $10 million of the Treasurer's Advance before 30 May for social housing, the Treasurer responded by saying … 'I've got no real recollection of that. It might have been discussed'. The Treasurer was uncertain if the decision was part of Budget Cabinet III on or about 21 May 2002[78].

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[73] Ibid., p 39.
[74] FOI letter received by the Chair of the Standing Committee on Public Accounts dated 4 June 2002 from the Under Treasurer, Mr Howard Ronaldson to Mr Alan Thompson, Chief Executive, Department of Urban Services.
[75] Transcript of evidence, 23 April 2003, p 41.
[76] Hansard of the Legislative Assembly for the ACT, Fifth Assembly, Tuesday, 11 December 2002, p 4257.
[77] Email no 7, dated 13 June 2002, received under the Freedom of Information Act.
[78] Ibid., p 42.

5.16. Further on 11 December 2002, the Treasurer stated… 'I am advised that in discussions with officials the Auditor-General did not broach the subject of changed accounting treatment other than as expenditure in the 2001-02 year. At no time was there a suggestion that the expenditure should be treated as a prepayment to transfer the actual cost into 2002-03'[79].

5.17. In email correspondence between the Department of Urban Services and the Department of Treasury, several officers suggest that the amount of $10 million should take the form of a prepayment[80].

5.18. The Treasurer concluded his speech to the Legislative Assembly on 11 December 2002 by stating… 'In conclusion, the Government acted promptly to address an urgent problem related to fire safety in public housing, using available funds. This was a matter, effectively, of life and limb. It was also an issue that had direct parallels in previous years, including 2000-01[81].

Committee comment

5.19. The Committee is concerned that the process that led to this amount allocated under the Treasurer's Advance that appeared to have been initially for social housing and then for fire safety issues, has contravened section 18 of the *Financial Management Act 1996* as these items were not unforeseen expenses. The Committee is of the opinion that had the need for $10 million to address fire safety issues in multi-unit complexes been unforeseen then the payment for the item would actually have been made by ACT Housing and the amount not just been transferred from the CFU's account to ACT Housing's account. Legal advice obtained by Housing Policy and Planning on 23 May 2002, in relation to BCA fire standards in public housing multi-unit complexes advised the 'implementation of a management plan to cause buildings to comply with the current BCA fire standards to minimise the potential liability of the Territory'[82]. The Committee finds it unreasonable to suggest that the Under Treasurer could make the error to confuse social housing with fire safety issues when he wrote to the Chief Executive of Urban Services. In addition, the explanation in evidence given by the Treasurer in relation to the use of the Treasurer's Advance for fire safety issues in ACT Housing multi-unit complexes was inadequate.

5.20. The Committee acknowledges the view of the Auditor-General that there was a misuse of the Treasurer's Advance and that in other jurisdictions such a use of it would be illegal[83]. The Committee believes the current Act is sufficiently vague to leave the legal status of the expenditure open. The Committee also notes that the

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[79] Hansard of the Legislative Assembly, Tuesday, 11 December 2002, p 4257.
[80] Email no 3, dated 23 May 2002 and email no 1, dated 28 May 2002, received under the Freedom of Information Act.
[81] Hansard of the Legislative Assembly for the ACT, Fifth Assembly, Tuesday, 11 December 2002, p 4258.
[82] Australian Capital Territory Government Solicitor, Compliance with BCA Fire Standards Advice, dated 23 May 2002, obtained by Chair of the Standing Committee on Public Accounts through the Freedom of Information Act, pp 7 & 8.
[83] Transcript of Evidence, 12 February 2003, p 1.

Auditor-General acknowledged in evidence given that he undertook a financial audit. He stated that … ‘A financial Audit is a comparison of accounts with the accounting standards, not with the law’[84].

5.21. Similarly to the Auditor-General, the Committee is also concerned that the whole amount of the Treasurer’s Advance in 2001-2002 was not used for its intended purpose. In particular, the Treasurer’s Advance should not be used where the funds drawn from this advance are not spent substantially on the matter for which they were intended before the end of the financial year.

5.22. As Auditor-General’s Report No 11 of 2001 also found evidence of non compliance with the FMA in relation to the use of the Treasurer’s Advance[85], the Committee believes there is substantial evidence to warrant amendment of the FMA in relation to the Treasurer’s Advance.

5.23. The Committee strongly supports the Auditor-General’s recommendation that amendments be made to the FMA and suitable guidelines and processes be developed to ensure the Treasurer’s Advance provisions in the FMA are clear and fully complied with[86].

6. The audit results of other agencies to which particular attention is drawn

6.1. The Auditor-General’s Report in its examination of the financial statements of Territory agencies and Territory controlled agencies highlighted the results of particular agencies. Comments were made about a number of agencies on such matters as identifying where losses were incurred, where financial operations were not managed to budget and where there was non compliance with the *Financial Management Act 1996*.

6.2. The full list of agencies included in the Auditor-General’s Report can be found at ‘Appendix 1 – Audited Territory agencies’ of this report. The Government responded to the Auditor-General’s Report in relation to: ACTEW Corporation Limited (including reference to TransACT Communications Pty Ltd; ACTION (ACT Internal Omnibus Network) Authority; the Australian International Hotel School; Forests; the Insurance Authority; InTACT; the Superannuation Unit; the Williamsdale Quarry Joint Venture and the Workers’ Compensation Supplementation Fund.

6.3. The following sections set out the Auditor-General’s analysis of various agencies and the Committee’s comments about each of these agencies.

[84] Ibid., p 20.
[85] Auditor-General’s Report No 11 of 2001: Financial Audits with Years Ending to 30 June 2001, dated 11 December 2001, p 25.
[86] Auditor-General’s Report No 7 of 2002, p 41.

ACTEW Corporation Limited (including reference to TransACT Communications Pty Ltd)

6.4. ACTEW Corporation Limited (including reference to TransACT Communications Pty Ltd)[87] received a qualified audit opinion on its financial statements due to non compliance with Australian Accounting Standard AASB 1016. This issue is highlighted in paragraphs 3.4, 3.5, 3.10 and 3.11 of this report. Further comments made about ACTEW Corporation Limited (including reference to TransACT Communications Pty Ltd) in the Auditor-General's Report are related to this issue.

Committee comment

6.5. The Committee is aware of the difference in views between the Auditor-General's report and that of the Government in relation to ACTEW's financial statements. The Committee is conscious of the importance of all Territory organisations (departments, agencies and any other entities) reporting to the Legislative Assembly and the ACT community properly in relation to their operational and financial activities.

6.6. Moreover, the Committee notes that as at 30 June 2002, ACTEW controlled 24.9 per cent of shareholder votes in TransACT[88]. The Auditor-General's report concluded that ACTEW was in a position to have significant influence over TransACT, but … 'did not have the capacity to control TransACT[89]'.

6.7. The Committee observes that the relevant Australian Standard seeks to reflect the reality of commercial experience where one entity can influence the activities of another entity. The Committee agrees with the Auditor-General's report that the situation of ACTEW relative to TransACT appeared to be such that ACTEW could be able to exert 'significant influence' over the activities of TransACT[90]. Consequently, the Committee agrees with the Auditor-General's Report that ACTEW should account for its investment in TransACT using the 'equity method'[91]. The Committee notes that adopting this accounting treatment might have associated implications for ACTEW and for the Territory's financial position, given the dividend that is due to be paid by ACTEW each year to the ACT Government.

ACTION Authority

6.8. The Auditor-General's Report stated of the ACTION (ACT Internal Omnibus Network) Authority that its … 'legislated function to seek to generate profits is

[87] Auditor-General's Report No 7 of 2002, pp 132-133.
[88] Ibid., p 133.
[89] Ibid.
[90] Ibid.
[91] Ibid.

inconsistent with its intended and actual operations' and so recommended that … 'the *ACTION Authority Act 2001* be amended to ensure consistency with the intended and actual operations of the Authority'[92]. The Government acknowledged the views of the Auditor-General and … 'will consult with the Board of [the] ACTION Authority before deciding whether to introduce amendments to the Act[93]. Other issues identified include non issue of a Statement of Intent for its first six months of operation as an Authority[94]. Non issue of a Statement of Intent has not facilitated comparison of financial operations between financial years. This has resulted in non compliance with paragraph 59(2) of the FMA[95]. The Government made no further comment in relation to the ACTION Authority's non compliance with the FMA.

Committee comment

6.9. The Committee is aware of the issues relating to the financial performance of the ACTION Authority and the ways in which this Authority is required to perform under the terms of its charter with the ACT Government. The Committee agrees with the Auditor-General's Report that it is not appropriate for the ACTION Authority to seek to operate as a profit-making entity[96]. The Committee endorses the Auditor-General's conclusion that the ACTION Authority Act should be amended so that the Authority's objectives are consistent with its actual operations[97].

Australian International Hotel School

6.10. Although the Auditor-General issued an unqualified audit opinion on the financial statements of the Australian International Hotel School (AIHS), an emphasis of matter was included in the audit opinion. The emphasis of matter was placed on the … 'inherent uncertainty of the AIHS's continuation'…. 'without reliance on Government support for its continued operations'[98]. The Government responded by noting that the *Hotel School Act 1996* does not require the AIHS to operate profitably, but acknowledged that it… 'would be desirable and was an objective under earlier legislation'[99]. The Government established a Commission of Audit whose purpose it was to provide advice on the viability and future options for the AIHS. In consideration of the large sunk costs associated with the possible closure of the School, the Government also explored the option of a 'closer working arrangement' between the AIHS and the Canberra Institute of Technology (CIT). The aim of this arrangement would have been to achieve economies of scale, reducing the reliance of

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[92] Ibid., p 144.
[93] Government Submission, op. cit., p 11.
[94] This constitutes non compliance with paragraphs 58(1) and consequently 59(2) of the FMA. Paragraph 58(1) requires all Territory agencies to provide a Statement of Intent to the Treasurer. Paragraph 59(2) requires financial statements of an Authority … 'to be prepared in a form that facilitates a comparison between the financial operations of the Authority and the estimates of those operations in the Territory's Statement of Intent'. Auditor-General's Report No 7 of 2002, p 143.
[95] Auditor-General's Report No 7 of 2002, p 143.
[96] Ibid., p 144.
[97] Ibid.
[98] Auditor-General's Report No 7 of 2002, p 145.
[99] Government submission, op. cit., p 12.

the School on ‘significant’ Government subsidies, while allowing it to continue to offer its particular selection of programs[100].

Committee comment

6.11. The Committee is aware that the Government has announced that no further funding will be provided to the School[101]. The Committee also notes that the Government has concluded that it would not be possible for the School to enter into a collaborative arrangement with CIT, although there was not a great deal of evidence given to support that claim. Given events since the hearing, the Committee asks the Government in its response to give full details of what options it explored with CIT and any other organisations. The Committee will monitor developments with the School, given these recent decisions.

6.12. The Committee draws attention to the building and associated land currently occupied by the Hotel Kurrajong. The land and building have been entered in the Register of the National Estate, under the *Australian Heritage Commission Act 1975*. The Committee notes that there are significant implications arising from this listing, particularly for the Commonwealth Government. Any consideration of the future use of the land and building will need to be made in close consultation with the relevant Commonwealth agencies.

Forests

6.13. The Auditor-General’s Report found that… ‘**Forests incurred a net cost of operations of $3.4 m. Forests has incurred significant net costs for the last several years**’[102]. In 2001, at a cost of $1.75 million the Government restructured ACT Forests … ‘to improve the performance of its commercial forestry operations’[103]. The ‘remaining net cost of operations reflects costs associated with the management of native plantations and nature reserves, and public use activities’. The Government further states that irrespective of the commercial forestry operations, a net cost of operations will always be incurred due to ‘land management and public use activities’[104].

Committee comment

6.14. The Committee notes that a consequence of the January 2003 bushfires is likely to be a reconsideration of the structure and activities of ACT Forests. The Committee does not wish to comment any further until all reviews involving ACT Forests have been completed and the Government has made its decisions arising from those reviews.

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[100] Ibid.
[101] Australian International Hotel School website, www.aihs.edu.au/static.php3?id=81
[102] Auditor-General’s Report No 7 of 2002, p 167.
[103] Government submission, op. cit., pp 12-13.
[104] Ibid., p 13.

Insurance Authority

6.15. The Auditor-General's Report found that the Insurance Authority did not completely manage its financial operations to budget. The reason given was that there was a … 'higher level of claims provisioning than originally anticipated'[105]. The Government responded by stating that there was insufficient claims data to accurately forecast the outstanding claims provisioning when developing the budget. The Government view was that, given the usual duration of the settlement of claims, there is a likelihood of fluctuation over time[106]. The Auditor-General's Report outlined a further concern that… '**The level of reserves currently held is sufficient to cover known claims, however, would be insufficient if an unexpected increase in the number of claims occurred**'[107]. The Government agreed with the finding and stated … 'the Authority purchases reinsurance annually to meet costs arising above predetermined self-insured retention limits for each claim class'[108].

Committee comment

6.16. The Committee notes that the Authority is still at a relatively early point in its establishment. As such, it is still building a complete understanding of all the relevant elements of the Territory's insurance portfolio, including insurance events, claims histories and outstanding insurance claims. The Committee recognises that the Authority will continue to develop its knowledge about the overall Territory insurance situation and that, as this knowledge expands, the Authority will be better placed to estimate such parameters as claims provisioning.

InTACT

6.17. The Auditor-General's Report identified two significant findings in relation to InTACT. These were:

> '**Revenue received as user charges from other Government agencies for provision of IT services ($54.5m) does not cover InTACT's total cost of providing its services ($62.8m). InTACT's ongoing financial viability is therefore dependent on Government appropriations**; and
>
> **The Property, plant and equipment of $39.4m represents a significant proportion (66%) of the total assets reported in InTACT's financial statements as at 30 June 2002. The implementation of an on-line asset**

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[105] Ibid.
[106] Ibid.
[107] Auditor-General's Report No 7 of 2002, p 186.
[108] Government submission, op. cit., p 13.

register system and stocktaking of all non-current assets which commenced in 1999-2000 had not been completed at 30 June 2002'[109].

6.18. The Government provided a response to the first significant finding and commented that InTACT's ongoing financial viability is always dependent on the level of funding appropriated to it through capital or as revenue. Fiscal policy dictates the approach taken[110].

Committee comment

6.19. The Committee was more concerned about the Auditor-General's second finding which related to the management of InTACT's assets. The Auditor-General's Report found that InTACT was behind schedule in completing the development of its on-line assets register. As a consequence, it was still not possible to identify such factors as the nature of all assets and the location of all assets[111]. The Committee notes that InTACT intended to have the assets register completed by the end of 2002-2003[112]. The Committee will retain an interest in this matter.

Superannuation Unit

6.20. The Auditor-General issued a qualified audit opinion on the financial statements of the Superannuation Unit. The qualified audit opinion was issued due to the incorrect recognition of an … 'unrealised gain from actuarial review as a liability and for inaccurately recording the superannuation expense'. As a consequence, the Superannuation Unit reported an operating deficit of $238.9 million instead of a budget deficit of $40.1 million, and a 'prior year deficit of $121.1 million'[113]. The Auditor-General also found that the Superannuation Unit incurred a loss of $83.5 million in the 'net market value of investments'. As a result, and in addition to unexpected increases in superannuation expenses, the Superannuation Unit did not manage its operations to budget. 'Unfunded superannuation liabilities increased from $318 million in 2001 to $507 million in 2002'[114]. Issues relating to the adherence to Australian Accounting Standards and the impact on the financial statements of the Superannuation Unit are discussed in more detail from paragraph 3.6 to paragraph 3.14 of this report.

Committee comment

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[109] Auditor-General's Report No 7 of 2002, p 190.
[110] Government submission, op. cit., p 14.
[111] Auditor-General's Report No 7 of 2003, p 190.
[112] Ibid., p 191.
[113] Ibid., pp 211-212.
[114] Ibid., p 212.

6.21. The Committee has already made a number of comments earlier in this report about the issue of differing interpretations of Accounting Standards and the impact of these differences on the Territory's financial statements. It has been the difference of views over particular 'liabilities' that has been the cause of the Territory's financial statement being qualified[115].

6.22. In relation to the treatment of certain unrealised gains as liabilities in the accounts of the Superannuation Unit, the Committee notes the Auditor-General's clearly stated position[116]. The Committee believes that the content of the relevant Australian Accounting Standard supports the position adopted by the Auditor-General's Report. It appears to be difficult to argue that the amount recorded in the Unrealised Gain account constitutes a liability.

6.23. The Committee is conscious that the matters encompassed by these differences are scheduled to be considered as part of broader developments concerning Australian and International Accounting Standards. As noted by the Department of Treasury in the Auditor-General's Report, this general matter can be considered further during the preparation of the 2002-2003 financial statements. The Committee will retain a close interest in developments affecting this matter.

Williamsdale Quarry Joint Venture

6.24. The Auditor-General identified four significant findings in relation to the Williamsdale Quarry Joint Venture. These were:

> **The proceeds from the sale of the quarry were received directly by the Joint Venture and mainly used to retire finance lease debts of the Joint Venture and Pavement Salvage Holdings.**
>
> **The Joint Venture incurred an operating loss for the year of $8.3m (2001 $4.1m) including a loss on disposal of property, plant and equipment of $4m. Total losses over the life of the project were $12.4m.**
>
> **Total operating expenses of the Joint Venture were $12.7m over the life of the project. Despite holding only a 50% share in the Joint Venture, Totalcare's share of these operating expenses was $11.1m or 87%. The net financial cost to Totalcare of its investment in the Joint Venture was $5.3m.**
>
> **Totalcare elected not to publish the Williamsdale Quarry Joint Venture's financial statements in its annual report. In the Audit's opinion Totalcare**

115 Ibid., pp 212-214.
116 Ibid., p 214.

should have published these financial statements even though there is no legislated requirement to do so[117].

6.25. The major issue for the Audit was that Totalcare did not publish any financial statements for the Williamsdale Quarry Joint Venture[118]. As a consequence, the Auditor-General's Report made two recommendations. These were:

'The Annual reports Directions issued by the Chief Minister's Department be amended to require all agencies to include, in their Annual Reports, the audited financial statements of all entities over which they have a 'controlling interest'; and

'As a matter of standard practice joint venture agreements include provisions which require the provision of audited financial statements of the Joint Venture and their inclusion in the Annual Report of the Territory agency that has the 'controlling interest' in the Joint Venture[119]'.

6.26. The Government responded to these recommendations by stating that Australian Accounting Standards already provide for 'mandatory reporting requirements where an entity has a controlling interest in a joint venture'. The Government did not agree that the inclusion of additional financial statements in annual reports would be beneficial[120].

Committee comment

6.27. The Committee notes that Totalcare provided financial statements for the joint venture for 2000-2001 but did not for 2001-2002. The Committee agrees with the Auditor-General's Report that, in the interests of providing the Legislative Assembly and the ACT community with a complete a picture of the activities of Territory entities, relevant financial statements should be published[121].

6.28. The Committee observes that Totalcare had an 87 per cent share of the joint venture's expenses[122] and that this suggests that Totalcare had a substantial level of control over the operations of the joint venture. The Committee is surprised that, given this level of control, the financial statements for the joint venture were not published for 2001-2002[123].

Workers' Compensation Supplementation Fund

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117 Ibid., p 233.
118 Ibid.
119 Ibid., p 234.
120 Government submission, op. cit., p 16.
121 Auditor-General's Report No 7 of 2002, p 233.
122 Ibid.
123 Ibid., pp 233-234.

6.29. Upon examination of the financial statements of the Workers' Compensation Supplementation Fund, the Auditor-General identified three significant findings. These were:

> **The Territory provided $30m to the Fund, during 2000-2001, to meet claims arising from the HIH collapse. During 2001-2002 claims were estimated to be $17.2m, however only $7.3m in claims were paid out;**
>
> **Claims for 2002-2003 are estimated to be $10.4m, therefore funding is sufficient to cover these claims over the next 12 months;** and
>
> **No strategy has presently been implemented for funding the substantial net liability position of the Fund, which was caused by the HIH collapse[124].**

6.30. The Government responded to the third finding by stating that legislation[125] subsequently passed by the Legislative Assembly has enabled… 'the introduction of a surcharge collection method similar to that used in other privately underwritten jurisdictions'. The surcharge may be 'collected monthly, quarterly and/or annually. In addition, the Government is undertaking an actuarial analysis to determine 'whether an implementation strategy for the surcharge is required'.[126]

Committee comment

6.31. The Committee notes the Government's response. The Committee will continue to monitor this situation so that it is in a position to form a view on the strategies being adopted to fund current and emerging liabilities for workers' compensation claims.

7. Concluding statement

7.1. The Committee acknowledges the views and findings of the Auditor-General in his examination of the Territory's consolidated financial statements for the year ending 30 June 2002.

7.2. The Committee notes the different accounting treatments used by various agencies and the impact on the Territory's financial statements in respect of operating results. Particular attention has been paid to the financial statements of ACTEW Corporation Limited (including reference to TransACT Communications Pty Ltd) and the Superannuation Unit and the accounting treatments applied to the reporting of superannuation liabilities.

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[124] Ibid., p 239.
[125] the Workers' Compensation Supplementation Fund Amendment Bill 2002, introduced by the Minister for Industrial Relations on 29 August 2002 and passed by the Legislative Assembly on the 14 November 2002; Legislative Assembly for the ACT, Fifth Assembly, Minutes of Proceedings, No 31, Thursday, 29 August 2002, p 304 and No 37, Thursday, 14 November 2002, p 396.
[126] Government submission, op. cit., p 17.

7.3. The Committee is of the view that the use of the same accounting treatment in subsequent years will facilitate comparison of agency performance between years and create a basis on which to determine performance between agencies, as well as ensuring accountability.

7.4. Other issues arising from the Auditor-General's Report are: progress on the Department of Treasury's review of the FMA; agencies' non compliance with the FMA; and the use of the Treasurer's Advance.

7.5. The Committee agrees that the Department of Treasury's ongoing review of the FMA has been consistent and produced effective changes to the Act despite the Auditor-General having reservations about the financial management model underpinning the current system.

7.6. Given the issues identified by this and previous Auditor-General's Reports, the Committee agrees that the use of, and the circumstances under which the Treasurer's Advance may be used, should be clarified.

7.7. The Committee recommends that:

(1) the Legislative Assembly notes the findings of Auditor-General's Report No 7 of 2002: Financial Audits with Years Ending to 30 June 2002. In particular, the Committee highlights the findings in relation to agencies where there is non compliance with the *Financial Management Act 1996* (FMA), non management of financial operations to Budget and incursion of loss. Agencies need to be reminded that compliance with the FMA is a fundamental tenant of good governance;

(2) an independent review of the FMA be undertaken;

(3) in particular, section 18 of the FMA providing for the Treasurer's Advance be reviewed to clarify the purpose and use of the Treasurer's Advance;

(4) regulations be established for the use of the Treasurer's Advance; and

(5) other issues identified by the Auditor-General's Report in relation to individual agencies be addressed by relevant agencies.

Brendan Smyth, MLA
Chair

25 September 2003

Appendix 1 – Audited Territory agencies[127]

ACTEW Corporation Limited (including reference to TransACT Communications Pty Ltd)

ACTEWAGL China Pty Ltd.

ACTEW Distribution Limited

ACTEWAGL Joint Venture

ACTEW Retail Limited

ACTION (ACT Internal Omnibus Network) Authority

ACTION (ACT Internal Omnibus Network) Authority (Department)

ACTTAB Limited

Agents Board of the ACT

Australian International Hotel School

Bruce Operations Pty Ltd

Building and Construction Industry Training Fund Board

Canberra Business Development Fund

(The) Canberra Hospital

Canberra Institute of Technology

Canberra Public Cemeteries

Canberra Tourism and Events Corporation

Central Financing Unit

Chief Minister's Department

CIT Solutions Pty Ltd.

Cleaning Industry Long Service Leave Board

Community Care

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[127] Auditor-General's Report No 7 of 2002, pp 131-334

Community Housing Canberra Limited

Construction Industry Long Service Leave Board

Cultural Facilities Corporation

Ecowise Environmental Pty Ltd.

Executive

Exhibition Park in Canberra

Forests

Gambling and Racing Commission

Gungahlin Development Authority

Gold Creek Country Club

(Department of) Education, Youth and Family Services

(Department of) Health and Community Care

(Department of) Justice and Community Safety

(Department of) Treasury

(Department of) Urban Services

Health and Community Care Service

HealthPACT

Housing

Independent Competition and Regulatory Commission

Insurance Authority

InTACT

Kingston Foreshore Development Authority

Land and Property

Legal Aid Commission

Legislative Assembly Secretariat

Nicholls Primary School Shared Facilities

Nominal Insurer

Public Trustee for the ACT

Stadiums Authority

Superannuation Unit

TotalCare Industries Limited

University of Canberra

University of Canberra College

Williamsdale Quarry Joint Venture

Workcover

Workers’ Compensation Supplementation Fund