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Legislative Assembly for the Australian Capital Territory

The Government's 1998-99 Draft Capital Works Program

Report No.4 of the Standing Committee on Urban Services

July 1998

Resolution of appointment

On 28 April 1998 the Legislative Assembly for the Australian Capital Territory resolved to establish a general purpose standing committee, called the Standing Committee on Urban Services, to inquire into and report on:

planning and lease management, road and transport services, housing and housing assistance, government purchasing and public utilities purchasing, electricity industry and regulation, construction industry policy, parks and forests, private sector employment inspectorate, building services, environment, heritage and municipal services and any other matter under the responsibility of the portfolio minister.

And on 28 May 1998 the Legislative Assembly resolved:

If the Assembly is not sitting when the Standing Committee on Urban Services has completed its inquiry into the Government's 1998-99 Draft Capital Works Program, the Committee may send its report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, circulation and publication.

Minutes of Proceedings (Fourth Assembly) 1998

Committee Membership

Mr Harold Hird MLA (Chair)

Mr David Rugendyke MLA (Deputy Chair)

Mr Simon Corbell MLA (appointed on 25 June 1998, replacing Mr Wayne Berry MLA who was discharged on the same day)

Secretary: Mr Rod Power

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LIST OF RECOMMENDATIONS

The committee recommends:

1. that the government provide details about the extent of community consultation associated with projects that did not make the Draft Capital Works Program (para 2.9)
2. that the government ensure refurbishment of the former Health building in Moore Street proceed as quickly as possible so as to bring it up to appropriate occupational health and safety standards (para 5.22)
3. that the government act urgently to ensure the level of expenditure devoted to maintaining and rehabilitating the ACT's roads is appropriate to ensure that the value of the asset is maintained. This requires the government to develop a program of expenditure for future years that reflects the fact that roads are a key Budget item (para 5.35)
4. that the government do everything possible to facilitate the future release of a call tender schedule for works projects - recognising that such a schedule assists planning by local industry as well as by government officials (para 5.43)
5. that the Belconnen pool be built;
 - that the government be prepared to re-allocate funds within the 1998-99 Budget to facilitate construction of the pool (in the case of a satisfactory outcome of the further financial and other tests)
 - that the government finalise the terms of reference for further assessment of the Belconnen pool (including its financial feasibility and the public benefits test) as a matter of urgent priority; and
 - that a copy of the final report be provided to the Assembly by the Chief Minister and released for public comment prior to any further decisions being made on the pool;
 - further, should the Legislative Assembly deem it appropriate for the Standing Committee on Urban Services to facilitate comment by members of the public (by instituting a committee inquiry), then this committee is willing to undertake this task (para 5.55).

1. BACKGROUND

1.1. On 19 May 1998 the Chief Minister referred the government's 1998-99 Draft Capital Works Program to the committee 'for consideration'. The material contained in the Chief Minister's letter of referral included the following:

- an *Overview* of the 1998-99 Draft Capital Works Program (which notes that the proposed capital works of \$86.9m 'represents 12% of total gross fixed capital expenditure for the Territory'. By contrast, the Commonwealth's proposed expenditure on capital works in the ACT represents 22% of capital expenditure - amounting to \$473.9m in 1998-2001 - and the private sector's expenditure on capital works represents 66% of total expenditure)
- a status report on the 1997-98 capital works program (this shows changes in works programming and timing, budget variations and revised estimates for the 1997-98 year)
- a copy of proposals for future years that have been identified by agencies (the Chief Minister emphasised that these proposals have not been endorsed by the government at this stage; therefore, she asked that the committee treat this matter as confidential)
- a reference to the fact that agencies have been directed to provide detailed information to the committee on their proposals (such information to include summaries of the 'business cases' for each proposal, listing the project's risks, timetable, and consultation process)
- a reference to her request to ACT Housing and to ACTEW Corporation to provide information to the committee on their capital works programs (this information was subsequently made available)
- a statement that, 'given the timing of the 1998-99 Budget (23 June 1998), it is proposed that the draft program be included in the Budget. However, this will not preclude any recommendations the committee may have from being addressed following the Budget'.

1.2. *The Chief Minister's letter and its accompanying **Overview** statement are reproduced at Appendix I to this report.*

1.3. The committee thanks the Chief Minister, and other Ministers, for making officials available to brief the committee and respond to questions. The committee also thanks the officials who provided oral and written testimony in the course of the inquiry.

The Government's 1998-99 Draft Capital Works Program

2. THE 1998-99 DRAFT CAPITAL WORKS PROGRAM

2.1. The Chief Minister's letter included an attachment which listed the actual works proposed for 1998-99 (called Attachment A in the Chief Minister's letter). *This document is reproduced at Appendix II to this report.* It first sets out the financing requirements for the Draft Program and then provides a summary of new works by department.

2.2. Following the order of the papers in Appendix II, the key features of the government's Draft Program are set out below.

Department of Justice and Community Safety

- tender preparation for a prison in the ACT (\$500,000)
- forward design for Police and Emergency Services infrastructure improvement program (\$250,000)

Chief Minister's Department

- construct stage 2 of the Nara Park (\$550,000)
- feasibility study for Visual Arts Facilities (\$25,000)
- Gungahlin Development Authority - forward design of Southern Boulevard (\$300,000)
- Gold Creek Golf Course - construct club facilities (\$3m)
- Kingston Foreshores - feasibility studies (\$300,000); forward design for water supply and sewerage relocation stage 1 (\$120,000); demolition projects (\$580,000)

Department of Urban Services

- construct Mitchell resource recovery and transfer station (\$7.1m of which \$3.1 is to be spent in 1998-99)
- feasibility study of augmenting Griffith stormwater system (\$70,000)
- replace Downstream Weir at Casuarina Sands (\$500,000)
- construct Tidbinbilla Nature Reserve Regional Visitor Centre (\$800,000, of which \$600,000 is to be spent in 1998-99)
- Johnson Drive/Monaro Highway roundabout (\$310,000)
- Haydon Drive/Battye St (\$300,000)
- feasibility study of Majura Road/Monaro Highway/Pialligo Ave (\$30,000)
- refurbish local centres (\$3.5m)
- refurbish city places (\$1.9m)
- construct Weston Creek Youth Recreation Facilities stage 2 (\$270,000)
- playground safety improvements (\$370,000)
- Ngunnawal Lakeside infrastructure (\$420,000)
- Gold Creek tourist area O'Hanlon Place upgrade stage 1 (\$745,000 of which \$400,000 is to be spent in 1998-99)

- civil engineering works to service the wine tourism facility site at Lyneham, in accord with the Memorandum of Understanding between the government and BRL Hardy Limited (\$500,000)
- waste management site at Gungahlin (\$1.5m of which \$1m is to be spent in 1998-99)
- forward design of Conder 4A road connections and floodway (\$150,000)
- forward design of Bruce infrastructure (\$105,000)
- feasibility study of review of ACTION interchanges (\$60,000)
- construct bus priority measures (\$600,000)
- ACT Forests public use works (\$200,000)

Department of Education and Community Services

- transportable classrooms (\$500,000)
- minor new works (\$1.6m)
- older schools refurbishment (\$2m, of which \$1m is to be spent in 1998-99)
- glazing upgrade of Erindale Centre (\$1.485m)
- hydrotherapy pool at Koomarri School (\$879,000, of which \$295,000 is to be spent in 1998-99)
- forward design of upgrading specialist science areas (\$100,000)
- forward design of upgrading technology specialist areas (\$170,000)
- forward design of building access improvements (\$45,000)
- construct Hall Showground remedial works (\$440,000)
- upgrade Football Park (Phillip) and Manuka Oval (\$7.2m, of which \$4.5 is to be spent in 1998-99)
- floodlighting of sports grounds (\$290,000)
- grant to construct headquarters of Canberra and District Rugby League Football Club (\$1.7m)
- grant to construct administration and training centre for ACT Rugby Union (\$1.5m)
- feasibility study of Lanyon Valley recreational needs (\$25,000)
- feasibility study of Belconnen Pool (\$200,000)

Department of Health and Community Care

- minor new works at Canberra Hospital (\$600,000)
- minor new works at Calvary Hospital (\$234,000)
- minor new works for ACT Community Care (\$414,000)
- energy management project at Canberra Hospital (\$2.6m of which \$200,000 is to be spent in 1998-99)
- modify Building 15 Psychiatry Unit at Canberra Hospital (\$2.0m)
- construct extended care facility at Canberra Hospital - Mental Health (\$2.0m, of which \$1.0m is to be spent in 1998-99)
- replan non-inpatient clinical areas at Calvary Hospital (\$9.7m, of which \$3.0m is to be spent in 1998-99)
- replace chillers and water cooled towers at Calvary Hospital (\$555,000)

- upgrade fire services in wards at Calvary Hospital (\$1.2m)
- feasibility study of medi-hotel accommodation at Canberra Hospital (\$50,000)
- feasibility study of refurbishing the kitchen at Canberra Hospital (\$60,000)
- feasibility study of replacing boilers and other equipment at Calvary Hospital (\$30,000)

Split between new works and works in progress

2.3. The Draft Program sets out a program of new capital works worth \$66.5m which will complement works-in-progress of \$46.4m.

Categories of new works

2.4. The new works (worth \$66.5m) are split into three broad categories: feasibility studies totalling \$0.9m; forward design works totalling \$1.3m; and construction works worth \$64.3m.

Financing the 1998-99 Draft Capital Works Program

2.5. The *Overview* shows that the new works will be financed from the following sources:

- from the Budget directly: \$35.1m
- from the Budget in the form of grants: \$3.2m
- from the Budget in the form of loans: \$2.1m
- Non-Budget financing \$3.1m.

2.6. The total of the above is \$43.5m. The *Overview* states that 'the estimated financing requirement for new works in 1998-99 is \$40.5m'. The difference between these two figures is the amount of non-Budget financing (rounded down).

The government's response to past recommendations of the committee considering capital works

2.7. The *Overview* outlines the government's response to recommendations of this committee's predecessor (the Standing Committee on Planning and Environment). These include:

- providing information on projects that were deleted from the Draft Program
- identifying the split of capital works between construction of new assets and refurbishment of new assets ('In the 1998-99 Draft Program, financing of \$29m has been allocated to the construction of new assets. The remaining \$37m is allocated to the refurbishment of existing assets')
- providing an assessment of past projects to see if they have delivered the benefits expected of them ('It is proposed to conduct a sample audit of the

1997-98 program at the completion of 1997-98, and a report will be provided to the committee')

- identifying the projects that are linked to the Olympic Games ("Details of all initiatives, recurrent and capital, associated with the 2000 Olympics are to be included in Budget Paper No.3 in 1998-99').

2.8. The present committee considers that the first dot point above reflects only part of the recommendation of the Standing Committee on Planning and Environment. As well as recommending that the government provide information on projects that were unsuccessfully put forward by agencies, that committee recommended that it 'be informed about the extent of community consultation associated with projects that did not make the Draft Program'.

2.9. Although the government agreed to this recommendation, there is no information in the 1998-99 Draft Capital Works Program about the extent of community consultation associated with projects that did not make it on to the program. The committee reiterates the recommendation of its predecessor:

- **that the government provide details about the extent of community consultation associated with projects that did not make the Draft Capital Works Program.**

Other changes to handling capital works announced by the government

2.10. The *Overview* states that 'all projects over \$0.25m are to be accompanied by a project implementation plan... [and] chief executives will be responsible for reporting... any significant departure from the agreed time frames'. This action indicates the government's serious concern to ensure that expenditure by agencies is tightly monitored.

2.11. Also, the government is stipulating that all construction contracts must include 'penalty (default) clauses for cost over-runs... [and] reward-sharing arrangements... for cost savings'.

2.12. Further, the government will require agencies 'to accept greater responsibility for the management of associated risks, including making provision for contingencies in the planning stage'. Also, agencies will be discouraged from artificially staging capital works projects in order to obtain 'short-term budget considerations'.

2.13. And 'all projects approved in previous years (works-in-progress) but for which construction contracts have not been let by 30 June of the relevant program year will be treated as having lapsed'.

2.14. In addition, the government is moving to more critically review the asset base of each agency to encourage the funding of new works 'from the existing

balance sheets of agencies, including through the disposal of surplus or under-utilised assets'.

3. COMMITTEE ACTIVITY

3.1. Following receipt of the Chief Minister's referral of the Draft Program (dated 19 May 1998), the committee met on 22 May to be privately briefed on the nature of the documents. The briefing was provided by the Office of Financial Management (OFM). The committee authorised the publication of all documents.

3.2. In order to maximise the opportunity for public input into its proceedings, the committee issued a media release inviting members of the public to contact the committee to obtain copies of the Draft Program and to advise the committee secretary if they wished to address the committee in person. As well, the committee inserted advertisements inviting public input in the following newspapers: *Canberra Times* (Saturday 23 May), *Chronicle* (26 May) and *Valley View* (26 May).

3.3. The committee held public hearings on 29 May, 5 June and 12 June 1998.

3.4. On 29 May the Under-Treasurer and other officials spoke to the *Overview* statement; then officials of the Chief Minister's Department appeared before the committee. These included representatives of the Office of Business Development and Tourism, artsACT, Exhibition Park in Canberra, Gungahlin Development Authority, Gold Creek Golf Course and Interim Kingston Foreshore Development Authority.

3.5. Also, the Chief Executive and senior officials of the Department of Justice and Community Safety spoke to their part of the Draft Program (which included corrective services and emergency services). They were followed by senior officers of the Department of Education and Community Services.

3.6. On 5 June the committee heard from officials of the Department of Health and Community Care - including representatives of Canberra Hospital and Calvary Hospital. The committee then heard the chief executive and another officer of the Department of Urban Services.

3.7. The following members of the public were heard on 5 June:

- parent representatives of Koomarri School
- the president and another office-holder of Belconnen Community Council
- the president of ACT Athletics
- the president and another office-holder of Pedal Power ACT
- a representative of Gorman House Arts Centre
- representatives of the Master Builders Association of the ACT.

3.8. At the public hearing on 12 June the committee heard from the managing director and general manager of Totalcare. It then heard from the ACT's Under-Treasurer and an officer of the ACT Competitive Neutrality Complaints Unit (which is located within OFM). Finally, the committee heard from the director and other officers of the Office of Asset Management (also located within OFM).

3.9. *A detailed list of those who appeared at the public hearings is at Appendix III of this report.*

3.10. In response to matters raised at the public hearings, many of the above officials undertook to provide supplementary material to the committee.

Supplementary material

3.11. The supplementary material provided to the committee included the following documents:

from the Department of Justice and Community Safety:

- correspondence from the Chief Executive dated 3 June 1998 providing additional information about facilities for washing down fire trucks at fire stations; and about consultation with the Australian Federal Police Association in relation to proposed minor new works
- a paper headed 'draft at 12/12/97' *The future correctional needs of the ACT to the year 2020 - evaluation of the current system and alternatives*
- copy of the discussion paper (dated 1996) entitled *The possible establishment of a correctional facility in the ACT*

from the Chief Minister's Department:

- from artsACT - information about the Public Art Program (including a list of projects that have been completed), the Public Art Officer and the Public Art Committee
- regarding Harcourt Hill: the current value of available sites and the value of work performed by Thiess Contractors Pty Ltd
- regarding the Kingston Foreshore Development: amount of government expenditure to date
- regarding consultants: a list of consultants used to date in the 1997-98 Capital Works Program
- an explanation of the size of the forward design program
- an indication of the usefulness of a call tender schedule.

from the Department of Urban Services:

- information showing that 87,986 visitors entered Tidbinbilla Nature Reserve since entry fees commenced on 1 July 1997 (compared to 142,560 visitors in 1996-97), and 48,874 of these visited the Visitor Centre (compared to 46,121 visiting the Visitor Centre in 1996-97)

- information that the cost of roadworks in ACT forests for the FAI car rally was \$122,000, of which the FAI rally paid \$88,000 and ACT Forests paid \$34,000
- information that the cost of the Civic Square fountain is \$958,000 and the cost of refurbishing Civic Square [which includes the fountain] is \$2.297m
- information that the deletion of the Fyshwick/Russell/Kingston bicycle path from the Draft Capital Works Program was due to lower priority due to estimated usage
- information in relation to a proposed permanent library at Kippax, namely, at this time 'other newly developing areas in Canberra have a higher priority for a library service ahead of upgrading an existing service in Kippax'
- information that 'the level of funding for roads maintenance has been set on the basis of needs, which are currently being reviewed'
- information that Commonwealth-funded work on the Federal Highway duplication will commence in January 1999 and that duplication works on the Barton Highway are scheduled for 2000-01
- information (to be forwarded) about the buildings which have been rectified under the government's Energy Management Program.

from the Department of Health and Community Care:

- from Calvary Hospital - *Feasibility Study* (of future capital works) and *Business Case* (both dated September 1997)
- copy of the report by Professor Fanning and Mr Kidd (dated December 1997) entitled *Review of the range of secure inpatient services for patients in the ACT*.

4. PUBLIC COMMENT

4.1. This section summarises the key points made by members of the public who contacted the committee in response to its invitation for comment on the government's Draft Capital Works program. The summaries are in alphabetical order.

4.2. The president of **ACT Athletics** expressed concern that a recent feasibility study for a proposed synthetic athletics track at Woden had not led to any funds being set aside for construction in 1998-99.

4.3. Representatives of the **Belconnen Community Council** drew attention to the increase in the cut-off point for minor works (from \$0.1m to \$0.25m). They considered that this would have the effect of reducing the opportunity for community comment on proposed works.

4.4. The Council also called for the list of possible capital works projects for future years to be made public. As noted in chapter 1, the Chief Minister asked the committee to treat this list as confidential - and the committee has complied with this request.

4.5. The Council also called for publication of all requests made to the government for capital works projects in the future. The Council considers that the government should identify those projects that have been rejected and not just those that have been accepted by government.

4.6. The Belconnen Community Council representatives asked the committee to urge the government to start planning for an upgraded Kippax Library.

4.7. The principal issue of concern to the Council was the proposed Belconnen swimming pool. The Council representatives were extremely critical of the adequacy of the process used by, and the findings of, the Competitive Neutrality Complaints Unit. They called upon the government to divert the funds set aside for the further study recommended by that Unit (estimated to cost \$200,000) to immediately start detailed design work.

4.8. Further, the Council representatives drew attention to the absence of any public benefit test in the proposed allocation of \$3m in the Draft Capital Works Program to construct club facilities at Gold Creek Golf Course and the grants of \$1.7m to assist the construction of a headquarters for Canberra and District Rugby League Football Club and \$1.5m to assist the construction of an administration and training centre for ACT Rugby Union.

4.9. The representatives of Belconnen Community Council expressed strong support for the proposed hydrotherapy pool at Koomarri School; but they noted that this project is no way can be viewed as an alternative to the proposed Belconnen pool, which would serve a far wider public.¹

4.10. The **Gorman House Arts Centre** drew attention to the limited amount of maintenance done in recent years, as well as to the absence of a plan to upgrade the Centre. In particular, the Centre regretted the absence of a clear process to adapt it 'to its changing environment and possibly alter its priorities to suit different kinds of tenants'. The Centre pointed out that the Draft Capital Works Program identifies \$25,000 for a feasibility study into Visual Arts Facilities but it is not clear if this involves Gorman House; and if it does, 'it is important to engage Gorman House from the beginning through to the end of this process'.²

4.11. Parents of children at **Koomarri School** stressed their support for the inclusion of funds to construct a hydrotherapy pool at Koomarri School. The Draft Capital Works Budget shows an amount of \$295,000 for the pool in 1998-99 with a further \$584,000 to be spent in the following year, when the project should be completed.

4.12. The pool will enable Koomarri students to access hydrotherapy to a far greater extent than they do at present. Of a total school body of 88, 'the school is only able to provide five students with hydrotherapy once a week' - and this at pools elsewhere in Canberra.³

4.13. The parent representatives noted that the pool would be available out of school hours for adults with multiple disabilities, people with asthma, people with arthritis and people recovering from strokes and other neurological impairments.

4.14. The parent representatives strongly endorsed the extent of consultation on the project.⁴

4.15. The **Master Builders Association of the ACT** (MBA) called upon the government to recognise the employment and economic significance of the construction industry in the ACT. The MBA's representatives stated that Canberra's well developed consulting and civil engineering expertise is being lost because of lack of work (with the local civil engineering sector reducing by about 60% over the past eighteen months).⁵

¹ Transcript of public hearing held on 5 June 1998

² Correspondence from Mr Marginson (Director), June 1998

³ Correspondence from Mr Kirk (Chair, Koomarri School Board), 25 May 1998

⁴ Transcript of public hearing held on 5 June 1998

⁵ Transcript of public hearing held on 5 June 1998

4.16. In considering this issue, the committee notes the comment of Totalcare's general manager that the trend in capital works in the Territory is increasingly moving toward reusing buildings and rehabilitating basic infrastructure - and away from large-scale projects of the type, for example, of the recent Magistrate's Court complex.⁶

4.17. The MBA also noted the small size of the proposed forward design program shown in the Draft Capital Works Program (which the MBA estimated is only about \$2.2m). This is considerably less than in recent years.

4.18. The committee agrees with the MBA that a solid forward design program is beneficial, in that it enables agencies to quickly substitute another project for one that cannot proceed (for whatever reason) and means that the government can spend all of the money allocated for capital works in the year intended. Further, the local industry is able to plan ahead, knowing the type of projects that are imminent.

4.19. The MBA expressed concern about the level of funding for road maintenance and rehabilitation in the ACT. In terms of the Draft Capital Works Program, only the latter (that is, road rehabilitation, or reconstruction) is directly relevant - as funding for road maintenance comes under the heading of recurrent funding. In this year's Draft Program, there is no allocation for road reconstruction.

4.20. The MBA noted that the Territory's road pavements are worth about \$2b and that most were built over 25 years ago - and hence, are nearing the end of their useful life. The MBA called for an independent investigation of the state of repair of the ACT road system.⁷

4.21. The committee appreciates the point made by an MBA representative (as well as by Totalcare's general manager) that the decision to reconstruct roads can be seen as a judgement between the cost to the public purse (of doing the works) and the cost to the individual motorist (in terms of greater wear and tear on vehicles, higher insurance costs and so on).⁸

4.22. The MBA also drew attention to the preferred use of concrete, rather than hotmix, by NSW road authorities; and stated that if concrete was stipulated in contracts for the forthcoming duplication of the Federal Highway between the Sutton interchange and Watson, local industry would be significantly disadvantaged. This is because hotmix is used for Canberra's roads and so the local construction industry is geared up to supply it. Therefore, a decision to build the new road in concrete will most likely mean that an

⁶ Transcript of public hearing held on 12 June 1998

⁷ Transcript of public hearing held on 5 June 1998

⁸ Transcript of public hearing held on 5 June (Mr Purdon) and on 12 June 1998 (Mr Sullivan)

interstate contractor will get the contract. The MBA considers that the ACT government should encourage the use of hotmix, as well as encourage the use of contracts (for this project) that are of a size able to be comfortably handled by the local industry.

4.23. Finally, the MBA called upon the government to re-establish the system of a centralised call tender schedule for capital works, as this 'is an invaluable planning tool for our contractors in terms of business planning'.⁹

4.24. Representatives of **Pedal Power ACT** expressed dismay at the absence of any cycling project in the Draft Capital Works Program. They pointed out that four or five cycling programs were considered at an early stage by the Department of Urban Services but that none survived the department's culling process. The particular project favoured by Pedal Power for the 1998-99 capital works program is a bike path linking Fyshwick with Russell and with Kingston (through the Jerrabomberra Wetlands). This would complete a bike path around East Basin of Lake Burley Griffin (which has attractions for recreational cyclists), as well as facilitate bike access for Russell commuters.¹⁰

⁹ Transcript of public hearing held on 5 June 1998; MBA correspondence to the committee dated 3 June 1998

¹⁰ Transcript of public hearing held on 5 June 1998

5. MATTERS OF CONCERN

5.1. In outlining some matters of concern, the committee wishes to express its appreciation of efforts by successive ACT governments to adopt the recommendations of past Assembly committees in relation to the way capital works are handled. The committee acknowledges that a great deal of improvement has occurred - and that more is foreshadowed (see chapter 2). However, the committee draws attention to eight matters in particular.

The role of government bodies in the capital works process

5.2. The committee became concerned during the public hearings about what appeared to be 'flick-passing' among agencies about which body was responsible for aspects of the capital works process.

5.3. One example concerned the status of the former Health building in Moore Street, City - which Health officials thought was the responsibility of DUS, which then advised the committee that it was really the responsibility of the newly-created Office of Asset Management within the Chief Minister's Department.

5.4. Another example concerned the role of Totalcare. In order to clarify this matter, the committee asked representatives of Totalcare to appear at the public hearings. The committee thanks those officials for making themselves available at short notice.

5.5. In essence, the committee learnt the following.

5.6. There are now four important bodies involved in the capital works process. The first is the individual agency that develops the initial proposal.

5.7. Each agency is responsible for overseeing the whole process of constructing its capital works. While the agency with the greatest number of projects is DUS, some of the most noteworthy projects may lie with other agencies (such as the two hospitals within the Health Department, and the sport and recreation area of the Department of Education and Community Services).

5.8. The second important body is the Office of Financial Management (OFM) within the Chief Minister's Department. OFM is responsible for the Territory's Budget and all financial matters.

5.9. The committee at one stage questioned the Under-Treasurer about whether sufficient central (financial) control of capital works existed, in light of the extensive devolution to agencies. The Under-Treasurer told the committee that his agency rigorously monitored projects and required agencies to report

exceptions to planned timetables and projects. The emphasis was upon central vigilance rather than central control.¹¹

5.10. The third important body is the Office of Asset Management (also within the Chief Minister's Department).

5.11. With respect to the capital works program, OAM coordinates the program within government, prepares the *Overview* statement, and provides guidance to agencies about the appropriate procedures and processes. The coordination role includes serving as chair of the government's Inter-Agency Asset Management Group. OAM also is responsible for accommodation and property services, along with managing surplus assets (such as the Moore Street building). This responsibility used to lie with OFM.¹²

5.12. The fourth important body is Totalcare. It is a Territory-owned corporation that seeks contracts with agencies to undertake work relating to consultancies and the delivery of projects.

5.13. Prior to 1997, the area of Totalcare called 'Totalcare Projects' handled 100% of the program for delivery of capital works - the area was then the 'Works and Services Group' of DUS. In the current capital works program, Totalcare is handling about 80% of the delivery of capital works.¹³

5.14. In its former role as the body delivering capital works, what is now Totalcare accumulated detailed knowledge of the whole capital works program. It also developed a thorough knowledge of the local construction and design industry.

5.15. In performing the first of these tasks, Works and Services maintained detailed records of government assets. These records appear to have been transferred to Totalcare rather than to have remained with DUS or with another government agency. Thus, the committee's request for information about the buildings which were rectified under the government's Energy Management Program received this response from DUS: 'A search of Totalcare project files has been requested to assemble the Energy Management Program details'.

5.16. The committee accepts that, in this case, DUS was asked about a specific program that extended across the whole of government and which was DUS's direct responsibility. In the future, the committee understands that OAM will be in a position to address such whole-of-government questions.

¹¹ Transcript of public hearing held on 29 May 1998

¹² Transcript of public hearing held on 12 June 1998

¹³ Transcript of public hearing held on 12 June 1998

5.17. Of course, on most matters, each individual agency will carry the responsibility for managing its own assets. As noted in chapter 2, the government is moving to more critically review the asset base of each agency - including a review of surplus or under-utilised assets.

5.18. The committee expects that each agency in the future will be able to answer questions about the assets under its control, as well as answer questions about the status report on work-in-progress. At the same time, it is important that the ACT administration retain comprehensive technical knowledge of the manner in which capital works are delivered along with a full record of all the government's physical assets.

The future of the former Health building in Moore Street

5.19. The committee was told by the Office of Asset Management that this building was handed over to DUS from the Health Department in 1997; DUS then looked at options for the building and decided to call for expressions of interest in its sale (along with the QEII site next door). The Legislative Assembly resolved that the government should not proceed with the expression of interest, and so the responsibility for the building passed to the Office of Financial Management and, more recently, to the Office of Asset Management (OAM).

5.20. OAM told the committee that the building is well past the normal life at which a major refurbishment would be required. Over \$105,000 is being spent this year to replace the carpet on the ground floor and, during 1998-99, the third floor will be refurbished. At a later time, work will be required on the lifts, air-conditioning and the roof membrane. Eventually, the whole building will be upgraded.¹⁴

5.21. The committee commends the government for not proceeding with the sale of the building, thus enabling it to continue to provide a wide range of community health facilities in the Civic area.

5.22. The committee recommends:

- **that the government ensure refurbishment of the former Health building in Moore Street proceed as quickly as possible so as to bring it up to appropriate occupational health and safety standards.**

¹⁴ Transcript of public hearing held on 12 June 1998

Handling possible conflicts of interest regarding the use of consultants

5.23. The committee asked for, and was provided with, a list of consultants used in the current year's capital works program (1997-98). The committee asked for information about the way that departments addressed the possibility that, for example, a consultant engaged to do a feasibility study might also be able to contract for some of the eventual construction work.

5.24. The Office of Asset Management advised the committee that it requires consultants to declare any perceived or real conflicts of interest and uses probity advisers to assist its dealings with consultants. Totalcare described its internal processes in considerable detail.¹⁵

5.25. The committee considers that this issue warrants careful attention by the government at all times.

Future capital works projects

5.26. The committee is concerned about two matters bearing on future capital works. The first concerns the size of the forward design program, which is very small when compared to previous years. The Office of Asset Management provided the following supplementary information:

The forward design component of the 1998-99 Draft Capital Works program is \$1.785m.

The amount of forward design varies between years depending on the timing, status and size of proposals proceeding through the capital works program.

On average over the last three years, expenditure on forward design proposals have been \$2.6m per year. The average expenditure per proposal was in the order of \$0.2m.

In 1997-98, the level of forward design work was well above the average of previous years and that prosed for 1998-99. This was due to the inclusion of the Belconnen Leisure Centre (\$1.49m) and the Manuka Oval Redevelopment (\$0.80m).

By excluding these, the average forward design expenditure sponsored each year is approximately \$1.9m.

5.27. The committee appreciates that this supplementary information puts the proposed forward design program in context.

5.28. The second matter bearing on future capital works relates to the proposals for future years that have been identified by agencies as deserving study but which have not yet been put to Cabinet and hence have no formal status. The Chief Minister asked the committee to treat this information as confidential and the committee acceded to this request.

¹⁵ Transcript of public hearing held on 12 June 1998

5.29. Organisations like the Belconnen Community Council have argued that the community should have the opportunity to put forward capital works projects and that the debate about which ones to adopt should take place in the public domain. To a large extent, the fact that successive ACT governments have published a draft program of capital works in advance of the Budget is a clear indication that the government finds public discussion of its draft useful.

5.30. It appears to the committee that the information about possible projects that are developed within the bureaucracy might usefully be made available to the wider public. The committee suggests the government fully investigate the ramifications of this course of action.

Expenditure on roads

5.31. The committee is concerned about the level of expenditure on ACT roads. In 1997 the Auditor General conducted an audit to determine how well road assets have been obtained. His findings were:

that inadequate maintenance funding has been available to cost effectively maximise the useful lives of ACT road assets and that past maintenance funding shortfalls have reached between \$24m and \$36m...

The 1992 Road Maintenance Evaluation Study prepared by consultants and accepted by the then government recommended that to maintain ACT road assets on the most economical basis \$18m annually needed to be spent on road pavement maintenance [whereas] expenditure on pavement maintenance has ranged between \$9.2m and \$10.3m in real terms for the years 1993-94 and 1995-96...

By limiting current expenditure in an attempt to "save" money - opportunities to prolong the life and quality of roads at least overall cost have been lost. Budgets in the past have been tight and are becoming even more constrained. It is difficult to see the advantages in deferring expenditure on road treatments as the deferrals will consequently generate higher costs in the future - when budgets are likely to be even more constricted.¹⁶

5.32. The response of the (then) Minister for Urban Services to the Auditor's comments included a reference to the fact that the government was developing an Asset Management Plan for roads.

5.33. Also in 1997, the government published an important document entitled *Asset Management Strategy and Framework and Guidelines for Asset Management* (draft version). It stated, in relation to roads:

Maintenance benchmark standards have been set to treat municipal roads every 15 years, or 7% of the network each year. Similarly, the treatment benchmark for the territorial network is every 10-12 years, or 8-10% of territorial roads each year.

¹⁶ Auditor General's Report No.2 of 1997 *Road and streetlight maintenance* p5 and p19

Performance against these standards indicate that 5% of the municipal network, and 6% of the territorial network, is being treated each year.¹⁷

5.34. These points were reinforced by the evidence presented by the MBA during the inquiry (see chapter 4).

5.35. In light of this background the committee recommends:

- **that the government act urgently to ensure the level of expenditure devoted to maintaining and rehabilitating the ACT's roads is appropriate to ensure that the value of the asset is maintained. This requires the government to develop a program of expenditure for future years that reflects the fact that roads are a key Budget item.**

Expenditure on bicycle paths, Gorman House Arts Centre and the Koomarri hydrotherapy pool

5.36. The committee notes that the Draft Capital Works Program makes no provision for the construction of bicycle paths in 1998-99. However, the committee is also aware that the current year's Capital Works Program makes provision for several cycle paths and that some of this work is not yet completed.¹⁸

5.37. Representatives of Pedal Power ACT particularly drew the committee's attention to the proposed cycle path linking Fyshwick, Russell and Kingston. This path would go through the Jerrabomberra wetlands and complete a full circuit of Lake Burley Griffin.

5.38. The committee considers this work should be considered for a future capital works program.

5.39. Similarly, the committee considers that the upgrading of Gorman House Arts Centre should be considered for a future capital works program. The Canberra community has a valuable asset in Gorman House and it is clearly important to maintain and refurbish the Centre, showing sensitivity to its heritage aspects.

5.40. In relation to the proposed expenditure on a hydrotherapy pool at Koomarri School, the committee appreciates that this project has been a long time coming and is highly desirable. The government is to be commended for listing the project in the Capital Works program - the committee endorses it unreservedly.

¹⁷ p100

¹⁸ See Attachment B to the Chief Minister's letter of 19 May 1998, being the status report on works-in-progress.

Centralised call tender schedule for capital works

5.41. The committee asked for supplementary information about the usefulness of a call tender schedule and received the following advice from the Office of Asset Management:

Under previous arrangements with Works and Commercial Services (now Totalcare) a call tender schedule was forwarded to the Master Builders' Association and other professional bodies as soon as the Capital Works Program was approved by the government.

This schedule was updated monthly and was used to assist industry in tendering.

This schedule was not issued in 1997-98.

In view of concerns expressed by the committee, the usefulness and continuation of the release of the schedule will be discussed with the peak industry bodies including the MBA, Housing Industry Association and Property Council.¹⁹

5.42. The committee appreciates this quick response by officials.

5.43. The committee recommends:

- **that the government do everything possible to facilitate the future release of a call tender schedule for works projects - recognising that such a schedule assists planning by local industry as well as by government officials.**

Belconnen Leisure Centre/Swimming Pool

5.44. The committee closely questioned government officials about the status of the Belconnen Pool. In particular, the committee sought detailed information about the process within government that led to the decision not to spend more than \$150,000 of the \$1.5m allocated in the current year's program for initial feasibility design work on the pool - and to set aside only \$200,000 in the 1998-99 program.²⁰ The committee learnt the following.

5.45. In 1995 the Commonwealth and all State and Territory governments signed the National Competition Policy agreement which:

provides a legislative framework for a Competition Code to achieve and maintain consistent, uniform and complementary national competition laws and policies applying to all businesses regardless of whether they are publicly or privately owned...

The *Competition Policy Reform Act 1996* applies the Competition Code in the ACT.

[The] Agreement seeks to create a level playing field on which private and public sector organisations may compete fairly to produce benefits for the community.

¹⁹ Correspondence to the committee from the Office of Asset Management, dated 19 June 1998

²⁰ Transcript of public hearing held on 29 May 1998

Competitive neutrality is to be achieved by removing market distortions resulting from public ownership, removing anti-competitive legislation and restraining monopolistic and exclusive activity.²¹

5.46. The ACT government subsequently prepared a document entitled *The operation of the competitive neutrality complaints mechanism in the ACT*. It sets out the manner in which the ACT administration intended to deal with any complaint involving competitive neutrality.

5.47. In January 1998 the government announced that an aquatic facility comprising an indoor 50m indoor pool, toddlers pool, hydrotherapy pool, fitness and gym facilities, creche and kiosk would be built at the intersection of Aikman Drive and Eastern Valley Way, subject to the successful outcome of a geotechnical survey.

5.48. In the latter part of January 1998 two complaints about the proposed pool were laid by the Big Splash Waterpark and the Kippax Pool and Fitness Centre. The ACT administration instituted its competitive neutrality complaints mechanism, which consisted of an investigation by officers of OFM. These officers formed a small three-person unit called the Competitive Neutrality Complaints Unit, which sought evidence from the ACT's (then) Department of Business, Arts, Sport and Recreation.

5.49. In April 1998 the Unit produced a report entitled *Competitive neutrality complaint - Big Splash Waterpark and Kippax Pool and Fitness Centre Pty Ltd against the proposed aquatic and fitness facility adjacent to the Belconnen Town Centre*. The key findings of the report are:

The issue is when considering the feasibility and desirability of the project, are the competitive neutrality financial requirements outweighed by public interest considerations...

The facilities and services that are proposed for Belconnen would be in direct competition with the existing facilities as it would be offering similar services to those currently available.

The extra public benefit the centre would create by providing these services would be marginal.

The fee structure suggested in the siting study by J.A.Nicholas and Associates Pty Ltd does not reflect the full cost of providing the proposed services.

Increasing the number of facilities in the area by building the proposed Belconnen aquatic and fitness facility may only provide a short term gain as other facilities in the area may be forced to close resulting in an overall reduction in facilities; and

The potential detriment to existing and potential competitors in the market due to the proposed facility does not appear to be outweighed by any apparent public

²¹ *Competitive Neutrality in the ACT* ACT Government 1996

benefit which would warrant the proposed Belconnen aquatic and fitness facility not being subject to the principles of competitive neutrality.

5.50. The Complaints Unit then recommended that:

The proposed Belconnen aquatic and fitness facility be subject to a detailed study that takes into account competitive neutrality financial requirements to determine its feasibility and the full cost of providing the proposed services;

once the financial analysis has been completed and the full relevant costs are known, the Government reconsider whether or not the net public benefits of the proposed facility are sufficient to warrant continuation of the project and in particular if the public benefits outweigh the competitive neutrality requirements...

5.51. The committee was told that OFM is currently working with the government officials responsible for sport to develop terms of reference for the full public benefits test. Further, the committee was told that this test should be completed within twelve months.²² The \$200,000 allocated to the pool in the 1998-99 Draft Capital Works Budget is to fund the detailed study, specifically addressing the following:

a detailed analysis of the demand for the proposed facility including an assessment of public benefit;

competitive neutrality considerations raised by [the] recent report by the ACT Competitive Neutrality Unit.²³

5.52. Members of the committee have serious concerns about elements of this process. It is disappointing to members that the Competitive Neutrality Complaints Unit did not seek public input, relying wholly on a submission from the (then) department responsible for sport. It is of some concern that the whole process appears to be a complaint-driven process. It is of concern that the terms of reference for the full public benefits test are not yet finalised. It is possible that the cost of the consultancy will exceed the \$200,000 allocated to it, and that the timetable for the work may take longer than expected - particularly if (as seems to be the case) this may be the first time in Australia that a public benefits test of the type proposed for the pool has been conducted.

5.53. The committee is aware that issues of competitive neutrality are attracting considerable government and media attention in several Australian states, as well as at the Commonwealth and territory level. There is some public confusion and disappointment about the ramifications of the national Competition Code in particular instances (such as the milk industry in NSW and the ACT, and postal delivery services at the Commonwealth level).

5.54. The ACT Legislative Assembly extensively debated aspects of competition policy on 23-25 June 1998. The Assembly resolved to endorse the establishment of an independent council to monitor, review and make

²² Transcript of public hearing held on 12 June 1998

²³ Draft capital works program of the Department of Education and Training

recommendations to the Assembly on all aspects of implementing National Competition Policy. Further, the Assembly called on the Chief Minister to report to the Assembly by the last sitting day in August 1998 about a model for such a council including its role, accountability arrangements and resource issues.

5.55. The committee recommends:

- **that the Belconnen pool be built;**
- **that the government be prepared to re-allocate funds within the 1998-99 Budget to facilitate construction of the pool (in the case of a satisfactory outcome of the further financial and other tests)**
- **that the government finalise the terms of reference for further assessment of the Belconnen pool (including its financial feasibility and the public benefits test) as a matter of urgent priority; and**
- **that a copy of the final report be provided to the Assembly by the Chief Minister and released for public comment prior to any further decisions being made on the pool;**
- **further, should the Legislative Assembly deem it appropriate for the Standing Committee on Urban Services to facilitate comment by members of the public (by instituting a committee inquiry), then this committee is willing to undertake this task.**

Harold Hird MLA
Chair
2 July 1998

**APPENDIX I: THE CHIEF MINISTER'S LETTER AND
ACCOMPANYING OVERVIEW STATEMENT**

APPENDIX II: DETAILED LIST OF WORKS IN THE DRAFT PROGRAM

**APPENDIX III: LIST OF WITNESSES AT PUBLIC HEARINGS ON
THE GOVERNMENT'S 1998-99 DRAFT CAPITAL WORKS
PROGRAM**

29 May 1998

Chief Minister's Department

Office of Financial Management: *Messrs Lilley, Morgan, Finn and Blackburn*

Office of Business Development & Tourism: *Ms Ford and Mr Dillon*

artsACT: *Ms Michelle Frost*

Exhibition Park in Canberra: *Mr Bol*

Gungahlin Development Authority: *Ms McGrath*

Gold Creek Golf Course: *Mr Morgan*

Interim Kingston Foreshore Development: *Mr Lowe*

Department of Justice and Community Safety

Mr Tim Keedy

Mr Brian Lenihan

Emergency Services: *Mr Mike Castle*

Corrective Services: *Mr James Ryan*

Department of Education and Community Services

Messrs Wheeler and Lebang

Sport and recreation: *Mr Owens*

5 June 1998

Department of Health and Community Care

Canberra Hospital: *Mr Schmidt*

ACT Community Care: *Mr McNeill*

Calvary Hospital: *Mr Dyer*

Health and Community Care: *Mr Kendall*

Department of Urban Services

Mr Gilmour (Chief Executive) and *Mr Davidson* (Director, infrastructure and water policy)

Koomarri School

Messrs Kirk and Wells

Belconnen Community Council

Mr Evans and Ms Flint

ACT Athletics

Mr Colquhon

Master Builders' Association

Messrs Gillingham (Director, industrial relations), Pinter, Purdon, Reilly and McArdle

Pedal Power ACT

Messrs Ibbotson (President) and Reece

Gorman House Arts Centre

Mr Manderson

12 June 1998

Totalcare

Mr Sly (Managing Director) and Mr Sullivan (General Manager)

**Office of Financial Management and the Competitive Neutrality
Complaints Unit**

Mr Lilley (Under-Treasurer) and Mr Primrose (Acting Manager of the unit)

Office of Asset Management

Messrs Morgan (Director), Finn and Blackburn