

SELECT COMMITTEES ON ESTIMATES 2008-2009

Question on Notice

Minister for Planning

Table of Contents

<u>QoN</u>	<u>Description</u>	<u>Page</u>
	Table of Contents.....	1
356	Planning Seselja.....	3
	Staffing and relationship with NCA	3
357	Planning Seselja.....	6
	Staff Numbers.....	6
358	Planning Seselja.....	7
	Hospitality	7
359	Planning Seselja.....	8
	Travel.....	8
361	Planning Seselja.....	9
	Development application forms.....	9
362	Planning Seselja.....	11
	Planning error at Kingston Foreshore.....	11
363	Planning Foskey	15
	Energy efficiency.....	15
372	Planning Seselja.....	19
	Block 2232 in Jerrabomberra	19
373	Planning Seselja.....	20
	Block 2231 in Jerrabomberra	20
374	Planning Seselja.....	21
	Block 2229 in Jerrabomberra	21
375	Planning Seselja.....	22
	Block 2228 in Jerrabomberra	22
376	Planning Seselja.....	23
	Block 2224 in Jerrabomberra	23
377	Planning Seselja.....	24
	Block 2227 in Jerrabomberra	24
378	Planning Seselja.....	25
	Sec 24 Blocks 4 and 5 in Hume.....	25
379	Planning Seselja.....	26
	Sec 24 Block 7 in Hume	26
380	Planning Seselja.....	27
	Sec 24 Block 1 in Hume	27
381	Planning Seselja.....	28
	Sec 18 Block 6 in Hume	28
382	Planning Seselja.....	29
	Sec 18 Block 15 in Hume	29
383	Planning Seselja.....	30
	Sec 17 Block 7 in Hume	30
384	Planning Seselja.....	31
	Sec 3 Block 6 in Hume	31
385	Planning Seselja.....	32
	Sec 19 Block 6 in Hume	32

386	Planning Seselja.....	33
	Sec 19 Block 4 in Hume	33
387	Planning Seselja.....	34
	Sec 7 Block 44 in Hume	34
388	Planning Seselja.....	35
	Sec 8 Block 3 in Hume	35
389	Planning Seselja.....	36
	Land banking and amendments	36
390	Planning Seselja.....	38
	Electrical substation at Kingston	38
391	Planning Seselja.....	40
	Canberra Technology city	40
461	Planning Smyth.....	42
	QTON - Gas fired power station- coordination comments	42
462	Planning Foskey	43
	QTON - AAT decisions.....	43
463	Planning Smyth.....	44
	QTON - List of items transferred to TAMS and ACTEW	44
464	Planning Dunne	46
	QTON - Caretaker cottage – keys	46
465	Planning Seselja.....	47
	QTON - Improper approval of development applications in Kingston.....	47
466	Planning Seselja.....	48
	QTON - Caretakers cottage	48
467	Planning Smyth.....	49
	QTON - Railway sidings – Kingston	49
473	Planning Dunne	50
	QTON - Railway sidings – Urban infill sites	50

Staffing and relationship with NCA

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA staffing and ACTPLA Relationship with NCA**

1. Why is there planned a reduction of staff of eight ACTPLA staff positions from the 2007-08 budget provision to the 2008-09 estimate?
(page 394, Budget paper 4) In what sections and services will these reductions in positions impact?
2. How is ACTPLA managing the recruitment of former National Capital Authority staff into ACTPLA whilst reduction ACTPLA staff numbers at the same time?
3. How many former employees of the National Capital Authority have been recruited by ACTPLA since the start of the 2007-08 financial year?
4. Where ACTPLA has recruited former National Capital Authority staff since the start of the 2007-08 financial years, how many of these staff have been hired at a reduced salary compared to what they were receiving before and how many have been hired at a lower level of public service seniority?
5. What number and proportion of the National Capital Authority staff recruited by ACTPLA since the start of the 2007-08 financial year are on temporary contracts and what number and proportion have been given permanent positions?
6. What would be the cost of the ACT Government providing funding for the proposed ACTPLA position and the additional three ACT appointed positions on the National Capital Authority Board, which the ACT Government has proposed it have the power to appoint in its submission to the joint Standing Committee on the National Capital and External Territories inquiry into the role of the National Capital Authority (hereafter the JSC Inquiry)?
7. What are the sections of arterial roads that the ACT Government proposes be transferred to ACT Government planning responsibility (page 7 of the ACT Submission to the JSC Inquiry)?
8. What would be the breakdown of cost of increased ACT Government responsibility for planning and control of land use over, respectively:
 - arterial roads;
 - land adjoining arterial roads; and
 - changes in designation of land under the National Capital Plan outside the National Triangle and diplomatic missions;as proposed by the ACT Government in its submission to the JSC Inquiry?
9. What is the total amount of funding that the ACT Government estimates it requires from the Commonwealth Government to satisfy recommendation ten of its submission to the JSC Inquiry? (page 19 of the submission)
10. What is the approximate loss of funding to Floriade from the cuts in the National Capital Authority budget?
11. What is the expected NCA contribution to the 2008 Floriade budget and what was its contribution in 2007?
12. What is the expected ACT Government contribution to the 2008 Floriade budget and what was its contribution in 2007?

13. When and how was the ACT Government advised that the “Federal Government funding of \$30 million [for the north-south airport roads] is likely to be identified into the 2009/10 Federal Roads program”? (page 4 of the ACT Government supplementary submission to the JSC Inquiry)
14. Under what appropriation bill and under what measure, or through what announcement outside the budget on what date did the ACT Government provide funding over the forward estimates for the balance of costs of the north-south airport roads (the Monaro Highway to Majura Road connection)?
15. Has the ACT Government proposed any names to replace either Mr Ball or Mrs Pegrum at the NCA? What did the federal government seek the views of the ACT Government on possible appointees and when did the ACT government propose names?

MR BARR : The answer to the Member’s question is as follows:–

1. The overall reduction reflects the cumulative nett effect of:
 - Completed initiatives, including implementation of the new planning system and affordable housing compliance measures.
 - New initiatives related to sustainable communities and energy efficient housing measures.
 - The need to accommodate cost pressures from the ACTPS Template Agreement finalised in late 2007 with retrospective effect from April 2008.

Since the reductions are broadly reflective of both new and completed initiatives, work in these areas are principally affected. The cost pressures will be absorbed generally across the organisation with limited impacts on services.

2. The need for the National Capital Authority (NCA) to reduce staff does not impart any obligations on ACTPLA. ACTPLA has been keen to explore employment options with some of the NCA’s well-qualified and -experienced people as a means of addressing significant skills shortages in the field. So whilst there is a nett reduction in ACTPLA staff numbers, there is still churn and vacant positions that are suitable for skills offered by individuals within the NCA.
3. Four (one of whom has since taken a position in the private sector).
4. By arrangement with the NCA, these staff have been engaged on short-term temporary contracts while on leave without pay from NCA for the period. The employment arrangement has preserved existing NCA salaries and benefits. Permanent employment with ACTPLA is dependent on the success of these individuals in a formal merit selection process. If this occurs the salaries and benefits involved will be those applicable to any ACTPS staff member in a similar position.
- 5 See 3. and 4. above.
- 6 The ACT Government’s submission to the Joint Standing Committee’s (JSC) Inquiry into the NCA does not propose four ACT Government positions on the Board of the

NCA. Any ACT representation on the NCA Board would be a power that remains vested in the Commonwealth and any remuneration to those individuals would be the responsibility of the Commonwealth, however, typically ACT public servants would not be expected to be remunerated for holding such a position.

- 7 The wording used in the ACT Government's submission to the JSC makes it quite clear that this does not relate to a transfer of any sections of arterial road from the Commonwealth to the ACT. Instead this is a reference to the power conferred under the PALM Act to the NCA, to undertake the planning for the ACT's arterial road system, which the ACT Government argues should reside with it given it has accountability to the public of Canberra for the road system and has budget responsibility for the bulk of the arterial road system in Canberra.
- 8 The ACT Government's representatives at the JSC Inquiry are on the record as having advised that the cost to the Territory of the transfer of responsibilities through planning for arterial roads, uplifting designation and removing special requirements, is \$400,000 per annum.
- 9 See response to question 8 above.
- 10 Nil
- 11 The NCA does not provide any cash contribution to the conduct of Floriade. For Floriade 2007 the NCA provided \$115K in in-kind support. For Floriade 2008 the NCA will provide the use of Commonwealth Park free of charge.
- 12 The total cost of staging Floriade 2007 was approximately \$3.3m (\$3.0m operational budget and \$0.3m salaries. Floriade 2007 generated approximately \$0.96m in own source revenue, therefore the ACT Government contribution to Floriade is approximately \$2.4m. It is expected that Floriade 2008 cost will be similar to 2007.
- 13 In April 2008 the Federal Department of Infrastructure advised Territory and Municipal Services that the Federal Government commitments regarding the Airport Roads project and Lanyon Drive upgrade would be met and included as part of the next bilateral agreement between the Australian and ACT Governments to be negotiated during the 2009/10 financial year. The current agreement concludes in June 2009.
- 14 Funds of \$1m for the forward design of the Monaro Highway extension is included as part of the \$10m allocated for Airports Roads Stage 2 works included in the recent ACT budget for 2008/09.
- 15 No.

Staff Numbers

MR SESELJA: To ask the Minister for Planning

In relation to: Staff Numbers at ACTPLA

1. What is the estimated outcome for casual and contractor staff in 2007-08 in full-time equivalent terms?
2. What amount is the estimated outcome for 2007-08 spending on contract staff?
3. What are the anticipated numbers of casual and contractor staff for 2008-09 in full-time equivalent terms?
4. What amount is budgeted to be spent in 2008-09 on contract staff?

MR BARR: The answer to the Member's question is as follows:-

- | | | | |
|----|--|----|---------------|
| 1. | Casual: | 2 | |
| | Contractor (staff engaged on temporary contracts): | 28 | |
| 2. | Estimated cost outcome on contractor (staff engaged on temporary contracts): | | \$1.4 million |
| 3. | Casual: | 1 | |
| | Contractor (staff engaged on temporary contracts): | 26 | |
| 4. | \$1.35 million | | |

Hospitality

MR SESELJA: To ask the Minister for Planning

In relation to: Hospitality in ACTPLA

1. What is ACTPLA spending on hospitality costs (including catering, venue hire, promotion and accommodation) in the 2007-08 year and what is the provision for expenditure in 2008-09?
2. How many events were hosted by the ACTPLA in the 2007-08 year to date involving hospitality expenditure of over \$500 (including catering, venue hire, promotion and accommodation)? When and where were each of those events held, how many people attended each event and what was that total expenditure for each event?

MR BARR: The answer to the Member's question is as follows:—

1. Expenditure to 31 May 2008 is \$7,175.90. It is forecast that a similar amount will be spent in 2008-09.
2. One. This was held at ACTPLA's Dickson offices to launch the new Planning System. There were approximately 200 attendees. Total expenditure was \$624.49

Travel

MR SESELJA: To ask the Minister for Planning

In relation to : ACTPLA Travel

1. What is the estimated outcome for ACTPLA spending on travel in the 2007-08 year and what is the provision for expenditure in 2008-09, as broken down in each year between domestic travel and international travel?
2. What is the breakdown of ACTPLA spending on airflights between Qantas/Jetstar and Virgin Blue on the Sydney-Canberra route for the 2007-08 financial year to date?
3. What is the breakdown of ACTPLA flight numbers between Qantas/Jetstar and Virgin Blue on the Sydney-Canberra route for the 2007-08 financial year to date?
4. What is the breakdown of ACTPLA spending on airflights between economy and business class for the 2007-08 financial year to date?
5. What is the breakdown of ACTPLA flight numbers between economy and business class for the 2007-08 financial year to date?

MR BARR: The answer to the Member's question is as follows:—

1. \$125,000 (approximately \$5,000 on international travel).
It is estimated that \$130,000 will be spent in 2008-09. (No specific allowance has been made for international travel).
2. All of ACTPLA spending on airflights was with Qantas on the Sydney-Canberra route, and this totals \$11,983.47 for the 2007-08 financial year to date.
3. There have been 62 Qantas flights on the Sydney-Canberra route for the 2007-08 financial year to date.
4. ACTPLA spending on economy flights has been \$44,400 and business class flights \$6,300 for the 2007-08 financial year to date.
5. There have been 178 economy flights and 6 business class flights for the 2007-08 financial year to date.

Development application forms

MR SESELJA: To ask the Minister for Planning

In relation to: Development Application Forms

1. Prior to the introduction of new Development Application forms, how did ACTPLA test what the average amount of compliance time would be to complete the proposed new paperwork and what did that testing find?
2. What is ACTPLA's current view on the compliance time taken to complete the new Development Application forms and how that compliance time compares to the compliance time using the old paperwork?
3. What are ACTPLA's observations on any changes in the frequency and volume of compliance errors since the introduction of the new Development Application forms?
4. What is the change in processing time for ACTPLA to process the new Development Application forms after they have been completed by applicants and what is the impact on staff resources?
5. How far is ACTPLA behind on processing approvals using the new Development Application forms and how has the case backlog changed since the introduction of the forms?
6. Has there been an increase in the number of conditions attached to decisions by ACTPLA in 2007-08 as compared to 2006-07, what is the scale of increase and what are the factors that explain any change in approach of outcomes?
7. Has there been any changes in the number of conditions attached to decisions by ACTPLA since the introduction of the new planning system and what does the data to date show?
8. Approximately what proportion of development application cases in the 2007-08 year to date received consistent case management involving a single case officer and what proportion of cases get passed from officer to officer? How is the balance expected to change in 2008-09?
9. What was the average processing time for development application cases dealt with under old planning system from 1 July 2007 to 31 March 2008? What number and proportion of cases in that time were dealt with beyond the 6 month limit during the period?
10. What is ACTPLA expecting to happen to processing times now that the 6 month limit on ACTPLA's time to make approval decisions has been removed?
11. Why has the accountability indicators for development application assessed within statutory timeframes changed? How were the old percentages derived and how will the new percentages be derived?

MR BARR : The answer to the Member's question is as follows:-

1. There was insufficient time to test the new forms ahead of the introduction of the new planning system on 31 March 2008. However, since that time ACTPLA has been liaising with the HIA and MBA to significantly streamline the forms. Later this year electronic DA forms will be brought on line that will significantly streamline processes. A prototype of that system was trialled successfully in 2007.
2. No direct comparison times have been made.
3. There is some evidence of incomplete or incorrect forms being submitted, but these are not considered to be significant in number.
4. There is no apparent impact on processing times due to the forms.
5. There is no evidence that new DA forms are impacting on processing times.
6. The number of conditions attached to a Notice of Decision is not quantified or recorded by ACTPLA.
7. See Answer 6.
8. It is not usual for DAs to be “passed from officer to officer” during their assessment and decision making phase and therefore the proportion would be relatively low. Obviously, if an officer is absent from work, then the decision must be made by another delegate of ACTPLA. It is not possible to estimate how this balance might change in the future.
9. The average processing time for DAs from 1 July 2007 to 31 March 2008 is 85% of single residential applications were determined within the statutory timeframe. 51% of non-single residential applications were determined within the statutory timeframe. There were no applications dealt with beyond the 6 month limit.
10. The removal of the 6 month limit will not, in most cases, affect the timely decision making of DAs by ACTPLA.
11. The accountability indicators prior to 31 March 2008 were 75% of application for non-single residential applications to be determined within the statutory timeframe, and 85% of applications for single residential applications to be determined within the statutory timeframe. Consistent with these indicators, the Merit track indicator is 75% of applications to be determined within the statutory timeframe as the types of applications are similar to non-residential applications. The Code track performance indicator is 85% of applications to be determined within the statutory timeframe, consistent with the previous single residential indicator.

Planning error at Kingston Foreshore

MR SESELJA : To ask the Minister for Planning

In relation to : Planning Error at Kingston Foreshore where a Five Storey building was approved inconsistent with the Territory Plan.

1. Which of the checks failed when ACTPLA provided approval for a five storey building that was inconsistent with the planning regime?
2. What new checks have been created since this mistake was identified to ensure that this kind of mistake will not happen in future?
3. On what date was each development application lodged, in respect of each separate approval that had been given in error?
4. On what date was the planning approval made in respect of each separate approval that had been given in error?
5. On what was the error identified in respect of each separate approval that had been given in error?
6. On what dates prior to the approval were officers from other ACT Government Departments outside ACTPLA involved in discussions concerning the proposed development?
7. How many conditions were attached by ACTPLA to each separate approval that had been given in error? How many of those conditions have been met and when were they met?
8. What was the time gap between lodgement of each of the development applications that were subsequently approved in error and ACTPLA's subsequent approval of each of those applications?
9. When and how did suspicion first arise that an error had been made?
10. When and how was the error detected?
11. When did an investigation start into the matter?
12. What investigation protocols could have been applied and what protocols were applied to this case?
13. Were external persons in charge of the investigation or involved in the investigation and what was their involvement?
14. What were the arrangements for the head of the investigation, their resourcing and their autonomy for decisions making?
15. How many persons were interviewed in this course of the investigation, as broken down by persons in ACTPLA, persons in other ACT Government agencies and persons in the private sector?

16. How many other planning approvals were considered in the course of this investigation and how did those case numbers breakdown on a year by year basis?
17. To what extent were police involved in the investigation?
18. What was the legal expenditure for purposes of the investigation and for purposes of representing persons involved in the investigation?
19. What was the expenditure of searches of computer records and computer forensics for purposes of the investigation?
20. What was the expenditure on other forensic services for purposes of the investigation?
21. When did the investigation conclude and report to Ministers?
22. When and how was the identification of the error first made public?
23. How does ACTPLA survey the construction industry to ascertain their confidence in the planning system, and what is their view of the system – its fairness, its probity, its simplicity or complexity?
24. What protocols and policy frameworks are in place to investigate possible cases of corruption, should such cases ever arise in planning matters? To what extent were any of those options considered or commenced in this case?

MR BARR : The answer to the Member's question is as follows:–

1. The ACTPLA business rules require, where there is a question regarding compliance with the Territory Plan with respect to height or other listed elements, that the Development Application (DA) be referred to the ACT Planning & Land Authority's (ACTPLA) internal Project Review Group (PRG). Two of the DAs (relating to one building) were also required, under the ACTPLA business rules, to be referred to a higher order review committee, being the Executive Policy Committee (EPC). The assessment officer did not refer the DAs to the PRG or the EPC.
2. A comprehensive review of ACTPLA's Standard Operating Procedures and Work Instructions is currently underway. This includes reviewing opportunities for improvements in regular auditing of decisions made under delegation.
3. Two of the three DAs were lodged with ACTPLA on 19 July 2007 and the third DA was lodged with ACTPLA on 20 July 2007.
4. Approval to each DA was granted on 14 November 2007.
5. The error relates to compliance with "Control (c) Built form and materials, Area Specific Policy 8L, Entertainment Accommodation and Leisure land use policies" of the Territory Plan 2002 (refer to page 23 of Part B8 of the Territory Plan 2002).
6. The DAs were referred, as is normal practice, to ACTEW and the Department of Territory and Municipal Services (TaMS) for comments soon after lodgement. Written responses were received from ACTEW in August 2007 and TaMS in September 2007 and October 2007.

7. Each of the three DAs was approved with five conditions. Three of those were ongoing and two related to the issue of a licence for encroachments. The licence relating to Blocks 6 & 7 Section 54 Kingston was issued on 21 January 2008 and that matter remains outstanding for Block 5 Section 54 Kingston.
8. See answers to 3 and 4.
9. Suspicion was first raised during consideration by ACTPLA's PRG of a DA for a nearby block in late February 2008.
10. The error was first detected at a meeting of ACTPLA's PRG in late February 2008 (the same meeting referred to at 9 above). That meeting was considering a DA for a nearby block. In considering the DA the PRG also examined recent approvals for nearby blocks to understand context of the DA. It was at that point the error was detected.
11. Preliminary investigations into the matter first commenced in late February 2008.
12. The Authority's Fraud and Corruption Prevention Plan was considered the appropriate protocol. The application of this protocol resulted in the investigation proceeding under the Misconduct and Discipline provisions of the Planning and Land Authority's Union Collective Agreement 2007-2010.
13. The Chief Planning Executive (CPE) was in charge of the investigation. An external investigator was engaged to conduct the investigation and to advise and make recommendations to the CPE, as the decision maker, on all relevant matters.
14. The external investigator was provided with a written background summary of the circumstances of the matter. He was provided with specific advice as to the need for the investigation to proceed under the provisions of the Certified Agreement, and that he was required to provide advice and recommendations to the CPE. The Investigator liaised with ACTPLA's HR Manager to obtain further background information as appropriate. The investigator arranged and conducted his own interviews of relevant staff.
15. ACTPLA: 7 (by the investigator)
Other ACT Government agencies: Nil
Private sector: 3 (by CPE and Director, DSB)
16. An additional random sample of 20 DAs that the officer had dealt with were reviewed.
17. Police were not involved in the investigation.
18. Legal advice was provided by the GSO with no external services. They do not bill agencies for costs. No other persons sought, or were provided with, legal representation. It is not known if any of the private parties spoken to sought legal advice
19. Computer records and searches were undertaken utilising ACT Government staffing resources in InTACT and ACTPLA. These costs were not recorded but are not considered to be significant.
20. Other external services were limited to the provision of recorded and typed transcription at a total cost of \$288.75. Forensic services pursued by the GSO were not billed to ACTPLA.

21. The external Investigator reported to the CPE on 14 April 2008. The CPE having considered the advice of the Investigator concluded his formal investigation and advised the staff member of his findings on 23 April 2008. The CPE advised the Minister for Planning of his conclusions on 16 April 2008.
22. ACTPLA issued a press release on 13 May 2008.
23. ACTPLA has held many meetings with the Industry Sector, exchanged correspondence and dealt with inquiries over the phone or at its Dickson and Mitchell counters. ACTPLA also convenes regular exchanges with industry groups through its Residential and Commercial Advisory Groups, as well as the Planning and Development Forum. Views vary from time to time on the performance of the system including differences between individuals and associations, some of which differ from positions that are stated publicly. One issue they are typically concerned with is ACTPLA being prepared to make decisions and therefore they are concerned that any over-reaction in relation to this matter does not result in a diminishing of the use of delegation.
24. The answer to question 12 identifies the appropriate framework for such cases and, as indicated, was the approach taken in this case.

Energy efficiency

DR FOSKEY: To ask the Minister for Planning

In relation to:

Regarding Energy Efficiency

1. How is the ACT Government ensuring that best practice solar access, energy efficiency and social inclusion planning practices are implemented in the Molonglo Valley development?
2. Are you confident you achieve or approximate best practice in these areas?
3. If not, what constraints do you identify as preventing the achievement of these outcomes?

Regarding Section 63

4. Will there be residential development as part of the development of Section 63?
5. Was residential development specified in the sale of the Section 63 block (as it is specified in key variations to the National Capital Plan for this block and others around City Hill)?
6. Is the ACT Government committed to ensuring that housing is incorporated into future development around City Hill, and if so will it also ensure that the housing serves a social mix?
7. Can you please advise how social inclusion might be incorporated into an office and retail development on the side of city hill?
8. What is the plan for parking for the development at Section 63?
 - a. Will the Government be working with the developers to discuss sustainability outcomes and perhaps lessen the need for parking to be built into the development?

Regarding Narrabundah Community Council & ACTPLA [2008] ACTAAT 14

9. The decision in the recent AAT case of *Narrabundah Community Council & ACTPLA [2008] ACTAAT 14* contains criticism of ACTPLA by the Tribunal (see paragraph 33) stating that “[ACTPLA’s] decision making process was not rigorous in applying the requirements of the Plan aimed at ensuring the amenity of the residents of the proposed development, nor of promoting energy efficiency”.

9(a) Does ACTPLA and the Minister accept and/or agree with the Tribunal findings?

9(b) Do ACTPLA and the Minister consider that it is acceptable in a development of this nature for public spaces “including the public courtyard and community lounges” to have no access to sunshine for most of the day in mid-winter? (see para. 31)

9(c) What is ACTPLA or the Minister doing to ensure that energy efficiency and resident amenity are given their due importance in future?

9(d) Does ACTPLA or the Minister think that the '3 hour rule' represents best practice urban planning? (see para. 30)

10. Have ACTPLA or the Minister anticipated the possibility of civil legal action resulting from the approval of developments which overshadow neighbouring properties and result in the compromising or destruction of the photo-voltaic capabilities of those properties?

10(a) what is being done to protect the Territory from potential liability for approving the destruction of what is arguably a property right in existing or potential photovoltaic generating capacity or solar thermal technology?

11. In *Narrabundah Community Council & ACTPLA [2008] ACTAAT 14* the Tribunal considered that "the proposed development is inconsistent with the existing approved lease purpose and with the Control in Part 4 requiring a restriction by the lease to residents to those with special needs" (see pp. 11-13).

11(a) Do ACTPLA and the Minister agree that community use leasing provisions need to be interpreted narrowly to maintain facilities for the purpose for which the original leases were issued.

12. Do the Minister and ACTPLA agree with the Tribunal that varying a lease by means of an exchange of private letters is "contrary to principles of openness and accountability that should now inform all public administration, particularly in relation to interests in land".

12(a) if the Minister and/or ACTPLA disagree with the Tribunal's opinion (above) is it anticipated that legislative amendments will be prepared to clarify and provide crucial guidance on what standards of openness and transparency are expected and required in this jurisdiction?

12(b) Do ACTPLA and/or the Minister accept the Tribunal's recommendation (see para 51) that approvals for future lease alterations should be made readily available to any person seeking information about those changes?

Regarding Technical Amendment to the Territory Plan Code Variation V2008-02

13. Does the new **1.1 Subdivision of Blocks (Including Unit Title Subdivision)** mean that any existing building on a heritage listed site can be subdivided – as long as it was lawfully approved and the application for that approval was lodged before September 2002 – to more than one dwelling, and unit titled?
 - a. wouldn't this be in contradiction to the intent of the garden city variation (Variation 200).

MR BARR: The answer to the Member's questions are as follows:–

Regarding Energy Efficiency

1. The ACT Government recently held a workshop in March to canvas with industry, professional and academic associations immediate and longer term actions to improve the solar design of houses and subdivisions. The Workshop Report will shortly be issued for public comment. While many of the actions related to education rather to planning, the outcomes of this workshop will be incorporated into the concept planning for Molonglo. More importantly the ACT Planning and Land Authority has commenced a program to comprehensively review its policy framework guiding concept planning and subdivisions to achieve more 'carbon neutral' development. Any updated policy framework will be applied to all new subdivisions.
2. Yes. The current guidelines and regulations reflect agreed national standards, however, the ACT Government recognises that the challenge of climate change necessitates review of these standards.
3. The impending national debate on climate change adaptation and mitigation once the Garnaut Final Report is released in July will identify the context against which policy change is made.

Regarding Section 63

In regard to questions 4 through to 8 on Section 63, the National Capital Authority is the sole approving Authority for this development. Therefore approvals in this area are outside of ACTPLAs jurisdiction.

Regarding Narrabundah Community Council & ACTPLA [2008] ACTAAT 14

9. (a) ACTPLA accepts the Tribunal's findings.

9 (b) Access to sunshine is one of many criteria ACTPLA must consider in the assessment of a Development Application (DA) under the Territory Plan. Access to sunlight must be considered in the context of all relevant assessment criteria.

9 (c) Energy efficiency requirements for residential dwellings have been removed from the Territory Plan 2008. This avoids duplication between planning and building code assessment requirements as the Building Code of Australia requires 5 star energy ratings for new residential dwellings. This is consistent with the National Planning/Building Framework.

9 (d) The 3 hour rule is being reviewed as part of the subdivision code and has been the subject of recent industry workshops including Concept Planning for Molonglo. Refer to Question 1 of “Energy Efficiency”.

10. No.

10. (a) The right of access to sunlight for the purpose of protecting the capabilities of photo-voltaic installations on residential properties is not a matter that has been addressed in the Territory Plan 2008. However, the Planning and Development Regulation 2008 makes provision for the installation of an external photo-voltaic panel as Exempt Development in certain circumstances.

11(a) The DA for Block 1 Section 28 Narrabundah (Salvation Army) requested approval of a scheme in substitution of the existing plan. However, it was determined that, as that plan was referenced in the Crown lease in a development clause and the Salvation Army had complied with the development requirement, the relevant clause was spent and, therefore, a new scheme could not be approved under the spent clause. Further to this, the AAT determined that the Authority could 'vary' the Crown lease under the existing purpose clause being "To use the said land.... for such other purposes as may be approved in writing by the Commonwealth or the Minister on behalf of the Commonwealth".

12 Prior to the introduction of the *Land (Planning and Environment) Act 1991* (Land Act) leases could be varied or additional uses granted through agreement in the form of a letter. However, it was not common practice and these were generally limited to community organisations and church groups. Such uses were limited or restricted in some way. However, the Land Act and the new *Planning and Development Act 2007* (P&D Act) both require lodgement of a DA to vary a Crown lease, a process which is open and accountable. All applications to vary a Crown lease are publicly notified and the variation, if approved, is registered at the Land Titles Office. The register at the Land Titles Office is available for all members of the public to search.

12 (a) The P&D Act requires all variations to Crown leases to be publicly notified and assessed against the requirements of the Act and the Territory Plan. It is not anticipated that further legislative amendments are required.

12 (b) as stated above, all lease variations are subject to the provisions of the *Planning and Development Act 2007* and are subsequently registered at the Land Titles Office.

Regarding Technical Amendment to the Territory Plan Code Variation V2008-02

13. No, as this is consistent with the transitional arrangements incorporated into Variation 200. Variation 200 included the note that the prohibition of unit titling on heritage blocks did not apply if the DA was lodged before 1 September 2002.

Block 2232 in Jerrabomberra

MR SESELJA: To ask the Minister for Planning

In relation to: **ACTPLA consideration of Block 2232 in the District of Jerrabomberra**

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering all or part of Block 2232 in the District of Jerrabomberra to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Block 2231 in Jerrabomberra

MR SESELJA: To ask the Minister for Planning

In relation to: **ACTPLA consideration of Block 2232 in the District of Jerrabomberra**

6. Was ACTPLA involved in ACT Government discussions about whether to consider offering all or part of Block 2232 in the District of Jerrabomberra to the proponents of the data centre and power facilities?
7. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
8. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
9. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
10. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Block 2229 in Jerrabomberra

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of Block 2229 in the District of Jerrabomberra**

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering all or part of Block 2229 in the District of Jerrabomberra to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Block 2228 in Jerrabomberra

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of** Block 2228 in the District of Jerrabomberra

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering all or part of Block 2228 in the District of Jerrabomberra to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Block 2224 in Jerrabomberra

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of** Block 2224 in the District of Jerrabomberra

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering all or part of Block 2224 in the District of Jerrabomberra to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Block 2227 in Jerrabomberra

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of** Block 2227 in the District of Jerrabomberra

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering all or part of Block 2227 in the District of Jerrabomberra to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Sec 24 Blocks 4 and 5 in Hume

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of** Section 24 Blocks 4 and 5 in Hume

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering Section 24 Blocks 4 and 5 in Hume to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Sec 24 Block 7 in Hume

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of** Section 24 Block 7 in Hume

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering Section 24 Block 7 in Hume to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Sec 24 Block 1 in Hume

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of** Section 24 Block 1 in Hume

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering Section 24 Block 1 in Hume to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Sec 18 Block 6 in Hume

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of** Section 18 Block 6 in Hume

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering Section 18 Block 6 in Hume to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Sec 18 Block 15 in Hume

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of** Section 18 Block 15 in Hume

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering Section 18 Block 15 in Hume to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Sec 17 Block 7 in Hume

MR SESELJA: To ask the Minister for Planning

In relation to: **ACTPLA consideration of Section 17 Block 7 in Hume**

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering Section 17 Block 7 in Hume to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Sec 3 Block 6 in Hume

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of** Section 3 Block 6 in Hume

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering Section 3 Block 6 in Hume to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did the ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Sec 19 Block 6 in Hume

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of** Section 19 Block 3 in Hume

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering Section 19 Block 3 in Hume to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Sec 19 Block 4 in Hume

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of** Section 19 Block 4 in Hume

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering Section 19 Block 4 in Hume to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did the ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Sec 7 Block 44 in Hume

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of** Section 7 Block 44 in Hume

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering Section 7 Block 44 in Hume to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did the ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has the ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Sec 8 Block 3 in Hume

MR SESELJA : To ask the Minister for Planning

In relation to : **ACTPLA consideration of Section 8 Block 3 in Hume**

1. Was ACTPLA involved in ACT Government discussions about whether to consider offering Section 8 Block 3 in Hume to the proponents of the data centre and power facilities?
2. If so, what attributes of the block were considered potentially appropriate to the needs of the proponents and the nature of the proposed facilities?
3. If the block was not given preliminary consideration, why did the ACTPLA determine or assume that the attributes of the block were inappropriate to the needs of the proponents and the nature of the proposed facilities?
4. If the block was not given preliminary consideration, on what other grounds was the block ruled out, including for environmental reasons, economic reasons and social reasons, such as loss of amenity for people and land users in the vicinity of the block?
5. Has ACTPLA had discussions with any parties regarding potential industrial activities on the block, what was the nature of the proposed industrial use, who were the entities concerned and when did the discussions occur?

MR BARR: The answer to the Member's question is as follows:—

1. No. Advice was provided by ACTPLA in relation to application of the Territory plan.
- 2.- 4. See response to question 1.
5. No.

Land banking and amendments

Zed Seselja MLA : To ask the Minister for Planning

In relation to : **Land Banking and amendments to the Planning and Development Act 2007 and related subordinate legislation.**

1. How many blocks does the ACT Government assess are being land banked, with no genuine effort to develop? How does the ACT Government derive its estimate of levels of land banking and how do the estimates breakdown between commercial and residential land banking?
2. If land is forfeited under the Planning and Development Act due to failure to develop land within the required period or periods, what will be the policies followed for disposal of part-built structures on that land and for use of proceeds from sale of part-built structures and their components?
3. If land is forfeited under the Act due to failure to develop land within the required period or periods, what will be the policies followed by the ACT Government regarding liability of the ACT Government where construction delay was partly or largely due to the ACT Government (including due to delays in planning approval and delays in provision of associated infrastructure by the ACT Government)?
4. Does the ACT Government consider that it is common or acceptable practice for developers of commercial buildings to first lease a vacant land site from the ACT Government for a commercial building and then seek tenants prior to investing in construction? If not, why not?
5. Does the ACT Government consider that it is common or acceptable practice for developers of commercial buildings to use the relevant block of land as the main security for lending which finances the construction? If not, why not?

MR BARR : The answer to the Member's question is as follows:–

- 1. How many blocks does the ACT Government assess are being land banked, with no genuine effort to develop? How does the ACT Government derive its estimate of levels of land banking and how do the estimates breakdown between commercial and residential land banking?**

a)The initial pilot audit program was conducted in 2006 on a limited scale. This program indentified an estimated 300 residential blocks (single dwelling) that had remained undeveloped. A large number of these have remained idle for several years.

b)The figure is determined through the use of defined searches retrieving data from the ACT Planning and Land Authority databases.

c)The initial pilot audits did not extend to blocks other than residential blocks. However, out of this residential audit it was identified that there were a significant number of blocks owned by developers that remained idle for an extended period, including 18 blocks in one street in Gungahlin owned by the one developer. However, many leases have both commercial and residential uses available, or a required mixture of residential and commercial development.

Audit of commercial leases will commence in mid 2008.

- 2. If land is forfeited under the Planning and Development Act due to failure to develop land within the required period or periods, what will be the policies followed for disposal of part-built structures on that land and for use of proceeds from sale of part-built structures and their components?**

Answer: There are no provisions for forfeiture of a lease under the *Planning and Development Act 2007*. Where a lessee is in breach of any provisions of their lease, compliance action may be taken in accordance with the Act in order to achieve compliance with the lease conditions. Lease termination (subject to appeals) is one option at the completion of any compliance action. Any compensation payable will be determined in accordance with Act provisions' and any regulations or statutory directions.

- 3. If land is forfeited under the Act due to failure to develop land within the required period or periods, what will be the policies followed by the ACT Government regarding liability of the ACT Government where construction delay was partly or largely due to the ACT Government (including due to delays in planning approval and delays in provision of associated infrastructure by the ACT Government)?**

Answer: There are no provisions for forfeiture of a lease under the *Planning and Development Act 2007*. Any compliance action will take into account all factors resulting in a breach of lease conditions. In addition an unforeseen delay, not within the control of the lessee, may constitute a ground for obtaining an extension of the relevant time periods beyond the maximum period otherwise applicable.

- 4. Does the ACT Government consider that it is common or acceptable practice for developers of commercial buildings to first lease a vacant land site from the ACT Government for a commercial building and then seek tenants prior to investing in construction? If not, why not?**

Answer: Yes.

- 5. Does the ACT Government consider that it is common or acceptable practice for developers of commercial buildings to use the relevant block of land as the main security for lending which finances the construction? If not, why not?**

Answer: Yes

Electrical substation at Kingston

MR SESELJA: To ask the Minister for Planning

In relation to: **Electrical Substation at Kingston**

1. What is the proposed timeframe for commencement and completion of relocation work, subsequent to the conclusion of the forward design in 2009-10?
2. What are the section and block numbers of the sites of land that ACTPLA has considered as potential locations for the relocated electrical substation, and what were the advantages and disadvantages of each of the sites that were considered?
3. What is the section and block number for the combined site identified near Fyshwick Sewerage Treatment Plant that has been selected as the preferred site for purposes of the forward design? Why was this site chosen as the preferred site ahead of other options?
4. Does the preferred site provide scope for collocation of a gas fired power plant on the same block or on adjoining blocks?
5. What is the estimated range of cost for relocating the existing electrical infrastructure and constructing a replacement Electrical Substation?
6. What is the timeframe for advertising and awarding the tender for this study?
7. What would be the risks or opportunity costs if the existing electrical infrastructure which is proposed to be moved is instead retained in the current locations?
8. What is the estimated cost for retention of the existing electrical infrastructure in the current locations, rather than relocating the infrastructure? How soon would refurbishment be required on the existing electrical infrastructure?
9. What new land uses are proposed for the land currently occupied by the existing electrical infrastructure which is proposed to be moved?
10. What land uses are proposed for blocks adjoining the land currently occupied by the existing electrical infrastructure, which are land uses that would not be possible if the electrical facilities were not moved?
11. What is the extent of work done by ACTPLA to identify and consult with firms capable of relocating the current electrical infrastructure and constructing replacement facilities?

MR BARR: The answer to the Member's question is as follows:—

1. Timing will be dependent on completion of the feasibility studies and funding agreements.
2. Consideration of sites and selection of preferred option(s) are part of the feasibility study.
3. As for 2 above. Until the feasibility study is complete a preferred site is not finalised.
4. This is not being considered by ACTPLA.
5. No detailed cost estimates are available at this time.
6. A tender for the feasibility study is being awarded.
7. ActewAGL advise they must build a new substation due to increased power demand. The consequences of not building a substation would include power failures.
8. As per 7 above.

9. The Causeway Switching Station is located within the Kingston Foreshore development area. The existing site and adjacent land is identified in the Kingston Foreshore Structure Plan to provide for a mix of land uses incorporating residential and commercial development, as well as land for provision of community facilities.
10. As per 9 above.
11. Procurement decisions will be made in association with ActewAGL as owner of the infrastructure, but are premature until the feasibility is progressed.

Canberra Technology city

MR SESELJA : To ask the Minister for Planning

In relation to : Canberra Technology City

1. When was ACTPLA first contacted by the sponsors of the Canberra Technology Centre (CTC) or by other agencies in the ACT Government regarding power generation and data centre options and what was the timing and nature of inquiries and approaches made prior to lodgement of the Development Application?
2. What information has ACTPLA given the Land Development Agency on what type of land could be offered to the proponents of the project or where it could be located? When was that information provided?
3. What information has ACTPLA given the sponsors of the CTC on what type of land they could be offered or where it could be located? When was that information provided?
4. What information has ACTPLA given the Land Development Agency on conditions that might attach to the grant of land? When was that information provided?
5. What information has ACTPLA given the sponsors of the CTC on conditions that might attach to the grant of land? When was that information provided?
6. What is the current status of the CTC project? When does ACTPLA expect a new Development Application to be lodged?
7. What information has ACTPLA given the sponsors of the CTC on the factors that will be considered in assessing whether a revised submission will be treated as an alteration to the existing DA, or whether it will be assessed under the new legislative arrangements? When was that information provided?
8. What information has ACTPLA given the sponsors of the CTC on the factors that will be considered in assessing what track a revised submission under the new legislative arrangements will be considered under? When was that information provided?
9. What are the section and block numbers of land which is included in ACTPLA's eastern broadacre study which is looking into the availability of potential industrial land? (Referred to in Hansard Proof for 30 May 2008, page1164)
10. What are the section and block numbers of land which was already subject to more detailed investigation and actually already has an industrial land use zoning? (Referred to in Hansard Proof for 30 May 2008, page1164)

MR BARR : The answer to the Member's question is as follows:–

1. Representatives for ActewAGL met with ACTPLA on 6 March 2007 regarding the Hume Industrial Planning Study underway at the time. ACTPLA was advised that ActewAGL was in discussion with the Land Development Agency seeking a site a site for the development of a gas-fired power station and data centre.
2. ACTPLA has not been involved in site selection for the CTC. Advice was provided in relation to interpretation of the Territory Plan for a number of sites in August/September 2007.
3. ACTPLA was not involved in any discussions directly with the sponsors of the CTC over what type of land could be offered or where it could be located. Refer to the answer provided to question (2) above.
4. ACTPLA co-ordinate agency comments on land release proposals via the Land Release Co-ordination Committee. Agency comments on a proposal for an integrated gas fired power station were collated and agreed in August/September 2007. The Land Development Agency are a member of this Committee and party to this information.

5. No information related to conditions that might attach to land has been supplied to sponsors of the CTC.
6. An altered development application and revised preliminary assessment were lodged with ACTPLA on 3 June 2008 under section 226(7) of the *Land (Planning and Environment) Act 1991* and must be renotified according to section 226(8) of that Act.
7. ACTPLA has advised that changes to the original proposal requested by the applicant may be treated as an alteration to the original application under section 226(7) of the *Land (Planning and Environment) Act 1991*, and will be assessed according to the provisions in that Act under the transitional arrangements of the *Planning and Development Act 2007* rather than a new application. The proponent was advised of this in a meeting with ACTPLA 26 May 2008.
8. Refer to the answer provided to question (7) above.
9. The blocks which were the subject of the Eastern Broadacre Study are in Attachment 1.
10. The blocks which were the subject of the Hume Industrial Planning Study are in Attachment 2.

(For details of attachment, please contact Committee Office)

QTON - Gas fired power station- coordination comments

Mr Smyth : To ask the Minister for Planning

In relation to : Gas Fired Power Station – Coordination Comments

MR SMYTH: But it has been done and the Chief Minister said, when Leader of the Opposition, that he would not hide behind cabinet-in-confidence. Will you now release that information to the committee?

Mr Barr: It is not my cabinet submission so I am not in a position—

MR SMYTH: No, but you can release your coord comments. They are your coord comments.

Mr Barr: I am not in a position to do that this afternoon. I can look at the matter and consider it.

MR SMYTH: So you will take that on notice?

Mr Barr: I can consider the issue, yes.

MR BARR : The answer to the Member's question is as follows:—

This material forms part of the Cabinet process.

QTON - AAT decisions

DR FOSKEY : To ask the Minister for Planning

In relation to AAT decisions, could you give us an example of where ACTPLA has changed its practices after having a decisional policy interpretation overturned.

MR BARR : The answer to the Member's question is as follows:–

In the AAT's decision in the matter of Stoddart and Others versus the ACT Planning and Land Authority regarding proposed redevelopment of Blocks 20 and 21 Section 69 Evatt, the AAT drew attention to what it considered to be a lack of clarity in the drafting of some of the Performance Controls of the Territory Plan's Residential Design and Siting Code for Multi-Dwelling Developments. The issues related to the interface between the private open spaces of proposed and adjoining dwellings and the possible impacts of overlooking and privacy of these areas.

In this case ACTPLA's AAT Decision Review Committee agreed that the impacts on neighbouring private open space needed to be in the assessment of Multi-Unit Development Applications (DAs).

Subsequently ACTPLA, in assessing Multi –Unit DAs impacting on the private open space of adjoining blocks, gives detailed consideration to the design of these areas to reduce adverse effects on neighbouring areas, while incorporating adequate opportunities for solar access to the proposed private open space areas.

QTON - List of items transferred to TAMS and ACTEW

MR SMYTH : To ask the Minister for Planning

In relation to : Budget Paper 4 – transfer of money to TAMS, that the reduction in the estimated outcome for 2007-08 “is money transferred to TAMS and ACTEW. Can you outline what those capital works were?”

MR BARR : The answer to the Member’s question is as follows:–

A list of items transferred to TAMS and ACTEW follows:

TRANSFERS OF CAPITAL WORKS

TERRITORY AND MUNICIPAL SERVICES

	<u>Amount</u>
Bonner Water Quality Control Pond	3,000,182.92
Horse Park Drive/Forde Access Road	1,200,273.06
City West Infrastructure Stage 1 - Childers Street Precinct	135,804.19
Jamison Group Centre Infrastructure Forward Design	111,163.63
Ngunnawal - Whitehaven Cyclepath	334,504.37
Replacement and New Signage for City	723,363.01
Gungahlin to Civic Corridor - Stage 1 High Occupancy	2,829.93
Sustainable Transport Initiative Stage 1	500,000.00
Cycle Paths - various locations	502,402.15
Childers Street Power Box	108,826.00
Gungahlin Fencing	6,009.00
Horse Park Drive / Forde Underpass	60,000.00
Childers Street Precinct	50,000.00
Gordon 9 Urban Edge Fencing and Guardrail	8,820.00
Lyneham - Hockey Centre Access Road Culvert Works	41,095.00
Gordon – Slavin Place Footpath	14,664.00
Amaroo - Shoalhaven Avenue Footpath	40,911.55
<u>ACTEW</u>	
Gundaroo Drive Water Main	1,799,647.74

TRANSFERS OF LAND

TERRITORY AND MUNICIPAL SERVICES

Block 1 Section 59 Melba	900,000.00
Blocks 17 & 18 Section 63 Canberra City	2,750,000.00

12,290,496.55

QTON - Caretaker cottage – keys

MRS DUNNE: To ask the Minister for Planning

In relation to: Caretakers Cottage - keys

1. Did the research that was done by ACTPLA at any stage indicate that the current occupants took possession of it or were they given possession?
2. To your knowledge, do you know whether or not the occupants were handed the keys by ACT Forests?

MR BARR: The answer to the Member's questions are as follows:–

1. In August 1983, a letter from the Farrell's was received by the then Minister for Territories and Local Government advising that they were residing in the caretaker's cottage.

The letter advised that they had heard of an abandoned derelict house on the edge of Stromlo pine forest.

After making a number of phone calls to different Government departments regarding ownership of the cottage, the Farrell's claimed that no Department was willing to take responsibility for the cottage so they moved in.

2. At no stage do our records reveal that the keys were handed over to the Farrell's.

QTON - Improper approval of development applications in Kingston

MR SESELJA: - To ask the Minister for Planning

In relation to the discipline investigation conducted into the circumstances leading to the improper approval of Development Applications in Kingston:

- (a) What was the cost of the external investigator?
- (b) What was the overall cost of the investigation?
- (c) Who at the Government Solicitor's Office (GSO) advised ACTPLA?

MR BARR - The answer to the Member's questions are as follows:

- (a) \$10,471.54
- (b) Apart from the cost at (a), transcription services of \$288.75, plus additional undefined staffing costs in ACTPLA, the Shared Services Centre and the GSO were incurred.
- (c) The Chief Solicitor and his officers provided advice.

QTON - Caretakers cottage

MR SESELJA: To ask the Minister for Planning

In relation to: Caretakers Cottage

1. What is the Government's policy in relation to other circumstances involving the occupation of Territory property with no appropriate legal arrangements?

MR BARR: The answer to the Member's question is as follows:—

1. While I am unaware of other Territory properties with circumstances like those of the caretakers cottage, if they were to arise, they would need to be dealt with on a case-by-case basis.

QTON - Railway sidings – Kingston

MR SMYTH: To ask the Minister for Planning

In relation to: Railway sidings - Kingston

Can you provide a list of occupancies on the railway sidings in Kingston?

MR BARR: The answer to the Member's question is as follows:–

There are a number of organisations operating from railway facilities in the railyards at Kingston:

- The Australian Railway Historical Society (ACT Division) occupy a number of sidings and operate the Canberra Railway Museum.
- William Edmund Pty Ltd occupies a rail siding and former freight building to the north of the Canberra Railway Museum.
- CountryLink, a division of NSW RailCorp, occupy the Canberra Railway Station under licence from the ACT Government.
- The Canberra Society of Model and Experimental Engineers (CSMEE) do not occupy a rail siding, but operate the Kingston Miniature Railway on land adjacent to the rail yards.

QTON - Railway sidings – Urban infill sites

MRS DUNNE : To ask the Minister for Planning

In relation to opportunities for urban infill – can you provide a list.

MR BARR : The answer to the Member’s question is as follows:–

The Indicative Land Release Program includes the release of a range of urban infill sites. These include:

- the release of land in north Weston, Lawson, Woden East in Phillip, East Lake in Kingston and Fyshwick and at the Kingston Foreshore.
- the release of sites for the development of 150 aged care dwelling units each year. These sites are generally located within existing suburbs.
- the preparation of land for the development of 300 multi unit dwellings in existing suburbs each year. These sites include Section 52 Holt, Section 85 Bruce, Block 26 Section 52 and Block 1 Section 151 Belconnen. Additional sites will be added once sites are identified. While these sites are currently in the ‘release ready’ section of the program, these sites will be released subject to further investigation.
- a number of mixed use sites included in the Commercial Land Release Program that allow residential development.