



# Debates

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Legislative Assembly for the ACT

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**Wednesday, 25 June 2008**

**MR SPEAKER** (Mr Berry) took the chair at 10.30 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

**Chief Minister**  
**Motion of no confidence**

**MR SESELJA** (Molonglo—Leader of the Opposition) (10.32): I move:

That this Assembly no longer has confidence in the Chief Minister due to his:

- (1) repeatedly giving inconsistent testimony and testimony that is inconsistent with the written record of events relating to the data centre and gas fired power plant at Tuggeranong and, therefore, misleading the Estimates Committee and consequently the Assembly;
- (2) mismanaging the process associated with the data centre and gas fired power plant at Tuggeranong, jeopardising an important project for the Australian Capital Territory and, as a consequence, costing the Territory around \$1 billion in investment;
- (3) selectively releasing materials to the media which were withheld from the Assembly and withholding the substantial part of the records, showing contempt for the people and Parliament of the Australian Capital Territory; and
- (4) failing to properly consider the impact on residents of the data centre and gas fired power plant, and failing to adequately notify or consult with residents, which jeopardised the entire project.

Mr Speaker, this is the story of a government that has lost its way—a government that was given an opportunity to bring a large project to the territory which would provide jobs, economic diversification and a significant source of backup power for Canberra, and it botched it. From day one, it completely and utterly mishandled it. This was compounded when, once the mishandling was exposed, the misleads, the misdirections and personal attacks on critics of the government and sections of the media began. Make no mistake: the Chief Minister and his department were involved in this process throughout. But when things got uncomfortable, when he realised that this was hurting the government politically, he sought to distance himself from the process.

All that this government had to do was to find an appropriate site for the development; that is all. Now, the ACT is not short of land. In fact, ACTPLA is on record as saying there is an abundance of sites. It should have been a simple matter to provide options. However, this government could not even do that. From day one, it limited the selection of sites until an inappropriate one was the only choice.

When called upon to explain his mishandling, the Chief Minister responded with a series of increasingly contradictory comments, each and every one of which has been

questioned. Documents were suppressed, the Assembly was misled and the people of the territory were dismissed. All of this was designed to obscure the clear facts of the matter—that this government and this Chief Minister cannot deliver major infrastructure for this territory.

Let me make it quite clear what this issue is about and what it is not about. One of Mr Stanhope's statements has been the claim that his critics oppose this project. The opposition does not criticise the scale of a project of this size in the ACT; nor do most residents. The Canberra Liberals support a \$2 billion project, but not within a kilometre of houses.

Mr Stanhope says that block 1671 is the best possible site, but clearly it is not because it had to be downscaled by half. We do not want \$1 billion in the wrong place; we want \$2 billion in the right place. Mr Stanhope says it is too difficult to move the project over the road or a few kilometres away, but we are told by others that it is okay for the project to move to Singapore if the development application fails the planning process. This is a game of bluff and we do not buy it.

There has been considerable debate and speculation over site selection versus site facilitation. On the surface, this appears to be a nuanced issue, but the reality is far more simple. The first option was refused by the government; it was never even on the table. The second option was unpalatable to ActewAGL because of heritage investigations. Then the final option neighbouring Macarthur was presented and that was the only location formally offered by government.

This is like the real estate agent who shows you the house you can't afford, the house that is falling down, and then the house they want you to buy. ActewAGL was presented with a classic Hobson's choice—some choice! Mr Stanhope was at all times the responsible minister because (1), he was the minister responsible for land release policy and has the Land Development Agency within his portfolio, the agency responsible for site identification and (2), he was the minister responsible for major projects facilitation. The Chief Minister's Department was instrumental in coordinating government interaction with ActewAGL and the CTC consortium through its business and projects division.

Mr Stanhope was in a position to know all the facts as the responsible minister. Indeed, he has made emphatic statements to parliament on what the facts were—statements that are contradicted by the written record. Let me run through some of the many falsehoods. Mr Stanhope claimed in estimates:

... suggestions that any of these blocks were ruled out or that pressure was brought to bear not to accept a particular site and to move to another site is essentially to challenge my evidence ...

This was backing up a quote from an official who said:

At no stage did the government or LDA rule out any site.

I repeat:

At no stage did the government or LDA rule out any site.

There are several written records that contradict these statements. An ActewAGL memo states:

On May 2 2007, at a meeting with LDA, LDA advised that this site was no longer available as it was programmed for development and sale as industrial land in the near future.

I seek leave to table that document.

Leave granted.

**MR SESELJA:** I table the following paper:

Proposed gas fired power station and data centre—Copy of ActewAGL’s site selection criteria and site identification and selection.

On 30 March 2007, an ACTPLA official revealed in an email that ActewAGL was being held up in progressing the project because of disagreement with the government over block 7, section 21. I seek leave to table that document, Mr Speaker.

Leave granted.

**MR SESELJA:** I table the following paper:

Proposed gas fired power station and data centre—Copy of Email from Garrick Calnan to Leesha Pitt, Communications team leader, ACT Planning and Land Authority, dated Friday, 30 March 2007.

On 15 July 2007, Anne Skewes, the CEO of the LDA, wrote on an LDA brief that “CMD have already agreed a site”. I seek leave to table that document.

Leave granted.

**MR SESELJA:** I table the following paper:

Proposed gas fired power station and data centre—Copy of Brief to Anne Skewes, Chief Executive Officer and Ray Stone, Acting General Manager, Urban Development.

Jon Stanhope has said:

Officials have identified potential sites because that is their job. Neither they nor I have influenced the final selection because that is not our job.

Really? On 8 July 2007, Scott Carr, the ActewAGL senior commercial analyst, wrote to government officials begging the government to reverse its decision not to offer ActewAGL its preferred site. In his words:

The decision to move to the [18]/23 site was initiated by the LDA because they had identified 7/21 as part of industrial land release program and were well advanced with planning for the land release ...

We therefore wish to request the support of the Chief Minister in asking the LDA to review the industrial release program with a view to making block 7/21 available for the natural gas power station/data centre project.

I seek leave to table that document.

Leave granted.

**MR SESELJA:** I table the following paper:

Proposed gas fired power station and data centre—Copy of Email to Rod Power from Scott Carr, dated Sunday, 8 July 2007.

If it was always available, as is claimed, why were ActewAGL asking in July for it to be made available? Mr Stanhope himself wrote, in answer to a question on notice:

The first site identified by ACTEWAGL was Block 7 Section 21 Hume. However, this site is being prepared for development as a green industrial estate. LDA, in consultation with ACTPLA, referred ACTEWAGL to Block 18 Section 23 Hume.

I seek leave to table that document.

Leave granted.

**MR SESELJA:** I table the following paper:

Proposed gas fired power station and data centre—Copy of Select Committee on Estimates 2008-2009—Question on notice No E08-253.

Once again, it is another indication that ActewAGL were moved off their preferred site. It is extraordinary that, having spent the day denying that ActewAGL were steered towards Tuggeranong, he indicates, in answer to a question on notice, that that is exactly what happened. Once again, it is another indication that ActewAGL were moved off their preferred site.

It is extraordinary also that, according to the government, ActewAGL, which has spent years seeking the Hume site, and had, as late as 8 July 2007, asked once again for the government to give it this site, suddenly, just as it was allegedly offered the Hume site, decided within a couple of weeks to move to another site. Mr Stanhope has told the Assembly:

The facts are that I personally had no role in the site identification or selection process.

In fact, on 23 March 2007, in a media release, Mr Stanhope indicated that he had personally narrowed the field of sites under initial consideration by confining the search to Hume. He stated:

In relation to the possible site of the gas-fired powered station I asked officials some weeks ago whether they might be able to identify land at Hume.

I seek leave to table that document.

Leave granted.

**MR SESELJA:** I table the following paper:

Proposed gas fired power station and data centre—Copy of Attachment 3 to press release 256/07, dated 23 May 2007.

Mr Stanhope's worst contortions in his testimony were his contradictory positions on whether block 7 of 21 in Hume was offered. Mr Stanhope told estimates on 27 May:

The site was offered and not accepted.

When documentary evidence did not back this up, we saw a number of contradictory positions put. Position 1 was that he did not know if the request for land was rebuffed. Mr Stanhope said:

No. I do not know that level of detail.

Position 2 was that he admitted knowledge of the facts. He said:

... it was not formally offered, Mr Smyth. I guess we had better get down—it was not formally offered.

In position 3, on the same day of testimony, Mr Stanhope claimed:

... I do not believe it was ever made not available ... I do not know of a single piece of evidence ... that has been produced.

In a fourth position, Mr Stanhope accused ActewAGL of turning down an offer over block 7 of 21. Mr Stanhope was asked:

... did the proponent just say, "We do not want it, so we will leave it for you to release in another method"?

He replied:

Yes, that is what happened. The proponent chose not to accept this ... The proponents decided that they did not want this particular site.

He was challenged about the letter from Scott Carr, on behalf of ActewAGL of 8 July 2007, which contradicts him. This is the document in which ActewAGL begged him to reconsider the government's refusal to offer block 7 of 21. With a straight face, he told the parliament:

No. At no stage have I been asked and I am not aware that the government has been asked or that the LDA has been asked.

It spoke volumes that Mr Cappie-Wood did not back up Mr Stanhope. Mr Cappie-Wood said that ActewAGL never ruled out block 7 of 21, but he did not

answer whether the government ruled out block 7 of 21 at any point. None of the four contradictory cover stories invented by Mr Stanhope are supported by the documents. I have already mentioned ACTPLA's email in March last year, the meeting with ActewAGL on 2 May 2007 and the letter from Scott Carr of 8 July.

Mr Dawes, in the Chief Minister's Department, had instructed officials to resist requests for 7 of 21. Senior officials in the LDA note this fact in a memo dated 4 July 2007 in which they record:

Whereas ACTEW will probably prefer their default option of returning to Block 7 Section 21 Hume the implications of this for industrial land supply which Mr Dawes emphasised was a priority for Government must be taken into account in reaching a final decision.

I seek leave to table that document.

Leave granted.

**MR SESELJA:** I table the following paper:

Proposed gas fired power station and data centre—Copy of Email from Gordon Lowe to Ray Stone, Project Director, Land Development Agency, dated Wednesday, 4 July 2007 (2).

Mr Stanhope is contradicted absolutely and at every turn by the documentary record. He has plainly misled the estimates committee on a number of statements of fact and consequently he has misled the Assembly. Mr Stanhope twice misled the Assembly with categorical statements that denied the government had ever considered the financial return from different site locations. He said:

... suggestions that either I or the government took into account the respective valuations or return to government in relation to the selection of one particular site over another are spurious and false.

He also said:

So what we have is no statement from officials saying the land was too valuable.

This is utterly contradicted by a number of documents. In June 2007, the Policy Division of the Chief Minister's Department told ACTPLA that it must consider the impact of site selection on the value of available land supply. The document states:

The gas-fired power station, as located in Options 1 & 3 would occupy land with a potential value of \$50 to \$60 million and take up half the land available for immediate release.

Mr Speaker, I seek leave to table that document.

Leave granted.



**MR SESELJA:** I table the following paper:

Proposed gas fired power station and data centre—Copy of Letter to Tom Percival, Project Manager, Land Use Planning, ACT Planning and Land Authority, from Ken Douglas, Acting Director, Economic, Regional and Planning Branch, Chief Minister’s Department, dated June 2007 (2).

CMD also conveyed this instruction to LDA officials in writing on 4 July 2007. The document states:

Whereas ACTEW will probably prefer their default option of returning to Block 7 Section 21 Hume the implications of this for industrial land supply which Mr Dawes emphasised was a priority for Government must be taken into account in reaching a final decision.

Mr Stanhope received a brief, sent on 18 July 2007, from Pam Davoren, the Acting Chief Executive of the Chief Minister’s Department. The memo is signed by Mr Stanhope himself and indicated “agreed” in his handwriting. It states:

The Broadacre site has the merit that it would not utilise Industrial land at all ... Valuations: the valuation of the Hume site appears very low, given that industrial estates have sold recently for \$200 to \$300/sqm. It is also way below what ACTEWAGL is budgeting for land acquisition (total of \$50m for the Belconnen and Hume sites). Therefore, the valuation needs to be revisited and, until this is done, it would not be wise to discuss potential sale prices with ActewAGL.

Mr Speaker, I seek leave to table that brief.

Leave granted.

**MR SESELJA:** I table the following paper:

Proposed gas fired power station and data centre—Copy of Brief to the Chief Minister from Pam Davoren, dated July 2007.

Valuations were sought and obtained for various sites under consideration in June 2007. This is very significant because the deed of option which ActewAGL signed requires fresh valuations in the future if ActewAGL eventually elects to purchase a site. The valuations obtained by the LDA in June 2007 were therefore only relevant for the purposes of government decisions on the value of sites offered to ActewAGL. I seek leave to table two documents in relation to that.

Leave granted.

**MR SESELJA:** I table the following papers:

Proposed gas fired power station and data centre—Copies of—

Minute to Ray Stone, Senior Project Manager, Urban Development, from Michael Britton, Project Officer, Land Development Agency, dated 5 June 2007.

Extract from valuation report by Savills (Canberra).

It is worth returning to the quote that I referred to earlier from the Chief Minister. He said:

... suggestions that either I or the government took into account the respective valuations or returns to government in relation to the selection of one particular site over another are spurious and false.

He said that on 16 June and is contradicted by several documents which I have tabled for the Assembly. Mr Stanhope even attempted to verbal the head of the Land Development Agency, claiming:

He said there would be an opportunity cost but it was not a consideration.

Mr Mitchell was asked by Mr Smyth:

So we are looking to the profit there; we want to maximise the profit on that block of land?

He replied:

It is a relevant consideration.

The government had a twofold responsibility: to help ensure that the project went ahead while at the same time protecting the people of Canberra. This government has comprehensively failed on both these counts. The site identification and selection process was so flawed and so futile that the project has been jeopardised. The shortlisted sites were all unavailable or unsuitable. The final site, championed by the Chief Minister, has proven to be woefully inadequate. Mr Costello, from ActewAGL, told the media, after the development application had been lodged:

It's too small. It has to be 350 to 450 (megawatts) so that site was not suitable whether there were protests or not.

I remind the Assembly of what has been stripped from the project so far. The number of jobs created was to be 400; now it is 300. And the data pod buildings will be reduced from 13 to 10. As John Thistleton wrote in the *Canberra Times*:

Let's be clear about this debate. It's about the ACT Government having an exceptional opportunity to take Canberra forward—and dropping the ball.

The government did not make an effort to identify a wide range of sites that could meet the needs of ActewAGL's proposal. Residents in Woden and Tuggeranong believe that site identification was handled appallingly. This is not just the view of the general public, but also the view of ACT government planning officials in ACTPLA. When ACTPLA officials reviewed the preliminary assessment for the proposal just a few weeks ago, they wrote:

No information is provided as to why this site has been chosen over any other.

They also referred to the “abundance of comparable broadacre sites” in the ACT. In their own words:

Given the abundance of comparable broadacre sites, a matrix indicating the order of importance for site selection pre-requisites and a comparison between other suitable sites would be useful to understand that this is the best location.

I seek leave to table that ACTPLA document.

Leave granted.

**MR SESELJA:** I table the following paper:

Proposed gas fired power station and data centre—Preliminary assessment for Canberra Technology City.

In addition, the planning authority showed the kind of consideration for the community which was lacking in the Chief Minister's input when it noted:

Given the undoubted community opposition to a power station, further explanation of why this is the best solution is required.

I have asked the government whether it has considered another 17 specific large vacant blocks of land in and around Hume. The written answers indicate that none of these 17 site options were ever looked at. Only four sites were ever considered. ActewAGL was given a Hobson's choice and, as a result, the government has shoehorned a good project into a less than ideal location.

The third ground for the no-confidence motion is that Mr Stanhope has been suppressing evidence associated with his involvement in the project. This morning, we see yet another revelation of another document that shows that the decision to push industrial facilities to broadacre land closer to homes was a government discussion without public consultation.

On the same day that Actew picked the site, their senior commercial analyst wrote that it was the government's study that confirmed the availability of the site and that the sites in Hume should not be considered. We also see that the government has failed to follow its own guidelines on public consultation.

The freedom of information process has been abused. On the one hand, the opposition is told that it would not be in the public interest for it to have documents released to it, while on the other hand Jon Stanhope is authorising the selective release of some of the same documents. He has selectively released five pages of materials to the media while withholding at least 3,030 pages of other records. He has refused to table documents in estimates, and he sat alongside officials of his department while they falsely denied the extent of their involvement in the issue.

My requests under the FOI process have revealed that Mr Stanhope is sitting on 3,030 pages of documents. It is within Mr Stanhope's discretion to release any of these documents to the estimates committee to clear the air, but he has instead acted like a man with something to hide.

The opposition understands that it is acceptable for Mr Stanhope to withhold a small number of documents which may contain commercial-in-confidence information,

personal information or information injurious to the public interest, but there is no good reason to hide the bulk of the documents on the excuse of cabinet confidentiality. When Mr Stanhope came into government, he claimed he would not hide behind cabinet confidentiality. The *Canberra Times*, in its editorial of 10 June 2008, said:

The possible unravelling of a proposed \$2 billion investment project requires the government to end the conjecture and come clean about the extent of its involvement. The blacked-out documents and the hesitant and contradictory performance of its senior bureaucrats demand it.

When the estimates committee requested documents from Mr Stanhope, his response was:

I am certainly not giving carte blanche to release a whole raft of documents ...

Of the 1,754 pages of documents held by the Chief Minister's Department on the issue, we have received only 239, and of these 105 have been censored, many heavily. Mr Stanhope's department has taken a significantly less liberal approach to release of documents under FOI than has ACTPLA or the LDA. The LDA has only withheld 15 per cent, ACTPLA 78 per cent and CMD 86 per cent of documents.

ACTPLA and the LDA in their documents point to the government as being responsible for driving decisions on site selection. By contrast, the documents from the Chief Minister's Department are censored and blacked out to within an inch of their life. (*Extension of time granted.*) The estimates committee was prevented from pursuing a line of inquiry when false information was conveyed about the involvement of Mr Stanhope's department prior to August 2007. Mr Dawes said:

We did not become involved in that project until after a site had been selected ...

These comments were withdrawn in writing in letters received by the estimates committee on 5 June 2008, six days after the final scheduled hearing day for the estimates committee. Mr Stanhope has said he shoulders no responsibility for how the estimates committee was misled. He told ABC Radio on 16 June:

I'm not responsible for comments that officials make at Estimates.

On the same day, he refused to allow officials to appear without him to answer questions. Apparently, the Chief Minister is not responsible but he needs to be there to make sure they do not say anything that he does not like.

The documentary records show that the Chief Minister's Department was involved before a site was selected in early August. The Chief Minister's Department was involved since at least May 2007, when it received letters from ActewAGL's CEO on 9 May and 22 May 2007 which were forwarded to it for preparation of Mr Stanhope's response. Various documents indicate that CMD was clearly involved since at least June. Ken Douglas from CMD wrote to ACTPLA in June 2007 on the issue. I seek leave to table that document.

Leave granted.

**MR SESELJA:** I table the following paper:

Proposed gas fired power station and data centre—Copy of Letter to Tom Percival, Project Manager, Land Use Planning, ACT Planning and Land Authority, from Ken Douglas, Acting Director, Economic, Regional and Planning Branch, Chief Minister's Department, dated June 2007 (2).

An LDA document on 4 July shows that Mr David Dawes had been telling other officials that industrial land supply was a priority factor. I seek leave to table that document.

Leave granted.

**MR SESELJA:** I table the following paper:

Proposed gas fired power station and data centre—Copy of Email to Gordon Lowe from Ray Stone, Project Director, Land Development Agency, dated Wednesday, 4 July 2007 (2).

Mr Dawes told the Assembly that the Chief Minister's Department was not involved until a month later, after the government had presented ActewAGL with a Hobson's choice on the location of the power station, and Mr Stanhope sat there mute while this was being said.

The fourth basis for this no-confidence motion is that in identifying a site for the facility Mr Stanhope and his government failed to properly consider the impact of the data centre and gas-fired power plant on residents. Mr Stanhope has a low regard for the residents of Tuggeranong and Woden. He bragged to estimates:

So, I think that is a great win-win that we had managed to satisfy this proponent for this major billion dollar investment whilst retaining the capacity to release industrial land to meet significant pent-up demand within the community for industrial land at Hume. So, it was a classic win-win. Everybody won out of the ultimate decision. I think it was a fantastic result.

Win-win! He does not seem to consider that upset residents in Tuggeranong and south Woden count as anybody. The opposition believes that these residents do count. We believe they have been treated shabbily by this government. This was a major industrial project. We believe that a responsible government should have considered the impact on the public in selecting a site.

This was not an over-the-counter transaction at arm's length from ministers. Mr Stanhope had a personal role in considering a direct sale of land, so government had a very hands-on involvement in determining what sites could be considered. Mr Stanhope scoffed at me when I said community impact should have been considered. In his words:

... that is a very, very dangerous position ... He is advocating that ministers should make judgements in the interests of the community ...

Yes, I am, Mr Speaker. Unlike the Chief Minister, I believe that ministers should make judgements in the interests of the community, and you failed to do so in this case, Chief Minister. You failed residents and you failed the project. Jon Stanhope demonstrated his attitude to the process of the direct grant when he said:

It is not for the government to decide whether an application for a nightclub in a certain site should proceed or not ... It is not for the government to decide whether a grog shop is appropriate for a fixed site.

Comparing this project to a nightclub or a grog shop demonstrates the Chief Minister's disdain for the community and his lack of understanding of the significance of this project. This was a \$2 billion project and the government had a responsibility to get it right.

The motion of no confidence is a serious step. It would have been irresponsible of the opposition not to move this motion after the stuff-ups by the Stanhope government that have put this project at risk and caused so much concern in the community. The series of contradictory statements in the Assembly show a deliberate and careless attempt to mislead the parliament. It is incumbent on ministers to tell the truth to parliament. Parliaments cannot command information from government; they can only request it. In a parliamentary democracy we place huge store in the assumption that ministers will tell the truth when they are asked questions in parliament. Mr Stanhope has shown by his actions that he is unfit for the responsibilities of ministerial office. I ask all MLAs, and particularly Labor MLAs, to look to their conscience and do the right thing in the vote on this motion.

Although this motion may fail, it is not futile. It is the responsibility of the opposition to call the government to account when they hold the people and the processes of the territory in contempt. The government have done precisely that. Each of the matters in this motion is proven. It is beyond question that this project was mismanaged and jeopardised. A wilful failure to recognise that fact by the government compounds ineptitude with ignorance.

That the Chief Minister has selectively released materials, or withheld relevant materials, is beyond doubt. We can see that in the 3,030 censored documents and the last-minute revelation of the Hume study. That he failed to properly consider the impact on residents is manifest. The anger and engagement of residents should sound a warning that this Assembly ignores the people at its peril.

When he was caught doing all of this by the people and my party, he tried to re-invent the record, misdirect attention and put blame on others. Unfortunately for him, he could not spin a consistent cover story. He not only made statements that contradicted the documentary paper trail, but also he contradicted himself numerous times in his own testimony.

His pattern of behaviour tells us how he will continue to treat this Assembly and this territory in the future. His actions tell us that this is a man who is no longer in touch with the community, who is no longer able to meet standards of accountability and who can no longer be trusted with the responsibility of a ministry.

The bottom line is that this government mismanaged this process from the start. They did not consider the residents, they have withheld documents, and this government cannot handle major projects. Mr Stanhope has no-one to blame but himself for the current crisis. I commend the motion to the Assembly.

**MR STANHOPE** (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (10.59): Mr Speaker, I take my responsibilities and duties as Chief Minister as seriously as I take everything else that I do. From the moment that I was sworn into office, I have been dedicated to acting at all times and in all my dealings in the best interests of Canberra and the Canberra community. I know, as we all know in this place, that there is cynicism about the motives and methods of politicians. I have tried always to prove that politics can be conducted in a manner that proves the cynics to be just that—cynics. I take accountability seriously; I take most things seriously. I cleave to the principles of parliamentary democracy and to the principles of open and accountable government.

Mr Speaker, time has shown that while I am able and willing to mistakes or errors, so, too, have I always been prepared to account for and defend my actions, the actions of my government and the actions of my public servants. It is precisely because I take my responsibilities so seriously that I regard this motion of no confidence to be an affront to the standards set previously in this place. Never has there been a motion of no confidence so flimsily rooted. Never has there been a motion so clumsily constructed, so grounded in wishful thinking, so insubstantial and so maliciously motivated.

Before we reflect on the spurious grounds for this motion, I beg your indulgence, Mr Speaker, to reflect on the headline of the *Canberra Times* of 20 June 2008: “Address the facts, not me.” This sentiment was attributed to none other than the Leader of the Opposition, the individual behind today’s motion. I believe the sentiment to be a worthy one, so worthy that one cannot help but wonder why the member for Macarthur—actually, the member for Brindabella, or is it Molonglo—seeks for himself a courtesy he elects not to extend to others. This motion is nothing less than an attack on me as a person and on my integrity. It is a motion that accuses me of lying; it alleges that I am not fit to hold my job; it is a call for me to resign.

Sadly, one of the actual and palpable outcomes of this political stunt will be a savage blow to the prospects of the ACT being able to attract future major investments, a blow from which we may not quickly recover. Another outcome—real, unnecessary and shameful—will be the undermining of confidence in our independent planning processes. What must the people of Canberra think when they see the alternative Chief Minister of this territory suggesting that ministers ought to be able to abort independent arm’s length statutory assessment processes on a whim and that procedural fairness ought to be abandoned at the first sign of disputation or difficulty? Let nobody be fooled. That is precisely what the Leader of the Opposition and his colleagues are calling for—that is, approval by ministerial fear, approvals for mates at the expense of the rest, nods and winks and the kind of system that would have an ICAC sniffing at our borders in a heartbeat.

It is also frustrating that this political stunt by the Leader of the Opposition has delayed important legislation. There is the appropriation bill, for a start, and the wages of the ACT public service to consider. Other crucial business of government has been set aside to accommodate this charade, including the Children and Young People Bill and the feed-in tariff legislation. There is the land rent legislation, an Australian first that everyone but the Liberals, with their one-song libretto on housing affordability, is acclaiming as a creative response to helping low-income earners into home ownership. They are pieces of legislation that are irrelevant to an opposition, perhaps, but important to a government that is focused on and ready for the future. They are important to the Canberra community, which has been asking us for just this kind of leadership.

Mr Speaker, this motion, which reads like something scribbled on the back of an envelope over a third bottle of wine, not only is without foundation or merit but is a contempt of this place and a contempt of our democratic processes. It is a personal attack by the Leader of the Opposition who seeks, in turn, to be exempt from scrutiny and to be freed even from the standards required for public servants who would—were the Liberals ever elected—serve him loyally and well, as they have served me. It is an attack by a man who refuses to acknowledge, let alone apologise, for misleading the community by concocting fictions about a proposed gas-fired power station for Belconnen. We heard no reference to the gas-fired power station in Belconnen in the Leader of the Opposition's speech today. I stand amazed at the double standards.

I defend not only myself today, but also the fine, able, and professional public servants and the outstanding Canberrans whose names, along with mine, are today dragged through the mud by the Leader of the Opposition. I have not misled or concealed, and neither have they. The government and its agencies have followed proper and correct processes in identifying potential sites of land. The proponents have followed proper processes in choosing a preferred site. That is what happened here. Our recollections accord; our records are as one.

There is no smoking gun here; there is no conspiracy; there is no cover-up. There is, quite simply, a planning process underway that is yet to run its course. Indeed, the only secrecy whatsoever that has emerged over the course of this unedifying episode has been that perpetrated by the "member for Macarthur"—a sin of omission rather than commission, to be sure, and one that ordinarily would be unremarkable.

It is the Leader of the Opposition himself who has rendered the fact of his residency extraordinary and remarkable by failing to mention, until quizzed by the media, that he lived in the suburb closest to the proposed development. He has made the fact of his residency extraordinary and remarkable by keeping silent. Indeed, for all intents and purposes, he seemed unconcerned by the proximity of the development, unafraid of its impacts, until he sensed there was mischief to be made by encouraging and escalating community concern at the development. Imagine the outrage of the Leader of the Opposition; imagine the brow creased in concern and the grave look if it had been a government minister who had failed to declare a fact of such obvious pertinence. This man has the temerity to squeal and gulp about the government getting personal in the very same breath as he tries to bring me down on grounds that go to my character, my professionalism and the heart of my integrity. As if that is not personal!



In his motion of no confidence the Leader of the Opposition makes four claims, each without merit or foundation. He alleges, firstly, that I gave inconsistent testimony and misled the estimates committee and the Assembly. He alleges that I mismanaged the process associated with the data centre and subsequently jeopardised a billion dollar investment. He accuses me of selectively releasing material to the media and withholding material from the Assembly, and he says I failed to consult sufficiently with residents, by which I can only assume he means that I failed to consult with him personally. These claims are not only demonstrably false, but offensive and motivated by malice and desperation. I will demolish the grounds in a moment.

First, I would like the Assembly's indulgence to talk for a moment about what is really going on here today and what is really at stake. The data centre is an outstanding investment opportunity for the territory. If it proceeds, if the best efforts of the Liberals to derail it fail and if it meets the planning hurdles, it will be the largest single private sector investment in this town. It epitomises Labor's determination to diversify the economy, to attract external investment and to create quality, highly skilled jobs for Canberrans. This is a high-tech, green development that would dovetail perfectly with our knowledge economy, our growing green credentials and our expertise in servicing the needs of major government instrumentalities. It would bring hundreds of skilled jobs to the territory. It would enhance our reputation as a destination for big, high-tech investments. It is a project that has the support of the Canberra Business Council, the Property Council, and the ACT and Region Chamber of Commerce and Industry.

The Liberals protest that they actually really, truly—cross their hearts—support this project. Why then, one might legitimately ask, are they out there doing their best not just to kill off this particular billion-dollar investment in the territory economy but also to scare off anyone else who might have been tempted to invest in our town in the future? Like me, the local business community is bewildered. It is more than bewildered, in fact; it is anxious and it is angry. Its anxiety and its anger go to the possibility that this project may still be lost to the territory through fear mongering, delays and the clear message the Liberals are sending that investment in this town is not welcome and will not be given a fair hearing.

Make no mistake: that is exactly the message that the Liberal Party is sending. The Liberal Party is telling potential investors loud and clear, "Your proposal will not be considered on its merits, because, under a Liberal regime, we would abort the merit process at our pleasure and at our discretion. Your proposal will not be accorded procedural fairness, because we will let ministers intervene at the first sign of community agitation, whatever the rational basis for that agitation."

I will turn now to specific allegations made by the Leader of the Opposition. The first is that I have given inconsistent testimony and misled both the estimates committee and the Assembly. I regret to suggest that this particular accusation says much more about the Leader of the Opposition's inexperience than about anything else. He does not understand the processes involved in and the processes that distinguish site identification and site selection. He does not grasp the statutory arm's length development approval processes we in the ACT follow—processes we follow precisely because they keep politicians at one removed from the approval process.

The Liberal Party has a theory. Its theory, or should I say its fantasy, is that I and my officials strongarmed a data centre consortium into agreeing to a site that was not its preferred option and that we did so in order that we could retain an alternative, more valuable site for later sale. They have no evidence for it, mind you, or any evidence of the inconsistency; it is just a fantasy born of their fevered imaginations.

Let us speak logically about this supposed train of events for one moment. If my intention, or the intention of any of my officials, was to have the consortium choose the site it ultimately chose, why would we have identified more than one site at the outset? We would have identified a single site and said, "Well, here it is. Take it or leave it." Let us not stop with this single excursion into logic. Let us follow the theory to its logical conclusion. What could have been the financial benefit to the government in steering the data centre consortium away from the hidden site, a site that is, by the way, as close to the suburb of Gilmore as the preferred site is to the home of the Leader of the Opposition?

An application for a direct sale, such as that made by the consortium, is not a request for a gift. Once approved, the land is sold at market value. The fact is, if the Hume site had finally been chosen by the consortium as its preferred site, it would have been purchased by the consortium at market value. It would not have been the preference of officers who had worked to prepare the site for industrial release and who might have been required to go back and prepare another site—that much is clear from the documentation—but that possibility was also raised in the documentation. So what? Logically, the government would have realised the full market value of that site, irrespective of the identity of the buyer, and irrespective of whether it was bought by this consortium or another, this buyer or another.

The financial windfall to be gained by anyone strongarming the consortium onto a different site is patently illusory. It is a fairytale artefact. It is the pot of gold at the end of the rainbow. It is hidden pirate treasure in a famous five tale. It exists wholly and solely in the rantings of an inexperienced politician who imagines that everyone shares his own moral and ethical standards. Mr Speaker, he is wrong on that score. The record is unambiguous. Is it not interesting that, of the documents tabled by the Leader of the Opposition, he did not table the letter that I wrote to Mr John Mackay on 19 July.

On 19 July 2007, I wrote to the Chief Executive of ActewAGL, Mr Mackay, explicitly identifying that the Hume block at that time, the consortium's preferred site, was still available, along with another site at Hume and another on Mugga Lane opposite the tip, which was ultimately selected by the consortium. Allow me to quote from the letter, which I did at estimates, which says:

Your letter of 22 May sought the immediate offer of a lease of a portion of part Block 18 Section 23 Hume in order for ActewAGL to obtain certainty with respect to its entitlements of the land and allow ActewAGL to complete commercial arrangements with prospective partners and clients.

At a meeting of ActewAGL and Government representatives on Friday 6 July 2007, the Land Development Agency (LDA) informed your officers that the Government has only just learnt of the need to undertake a heritage examination

of part of this site. In light of the uncertainty this would introduce for your planning, your representatives stated that their ranking of Hume sites was now:

- First, the site originally sought at Block 7 Section 21 (to the southeast of the Monaro Highway);
- Second, the site at part Block 18 Section 23 (located to the northwest of the Monaro Highway and north of Mugga Lane) provided the heritage examination lasted not longer than three months and that ACT Heritage could assure both the Government and ActewAGL that development could proceed after that time, no matter what was found on the site; and
- Third, the Broadacre sites at Block 1610, District of Tuggeranong (located on the western side of the Monaro Highway south of Mugga Lane).

Further, your representatives stated that ActewAGL was willing to fund the heritage examination of part of Block 18 Section 23 (expected to be around \$100,000).

The Government and ActewAGL representatives agreed that the three sites would be urgently examined and that advice would be provided to me on their respective merits.

That letter was dated, as I said, 19 July 2007. It postdates all of the documentation tabled and relied upon by the Leader of the Opposition for his spurious motion. The letter is quite plain, Mr Speaker. All options were on the table; all sites were on offer; all sites were being urgently examined. The government was not strongarming ActewAGL onto a particular site, and there is not a skerrick of evidence to support the opposition leader's construction of events—not one.

To start hurling about accusations such as those contained in the grounds concocted by the Leader of the Opposition, it helps to start with something called evidence. He does not have that because it does not exist. Mr Mackay gave his personal assurance at the estimates committee, essentially under oath, that he was not in any way pressured to change his site preference. One can only assume that the Leader of the Opposition is accusing Mr Mackay—Canberra Citizen of the Year and Chief Executive Officer of ActewAGL—of misleading him too, along with a number of senior public servants of impeccable reputation.

I now turn to the next point in the motion—the assertion that I mismanaged the process associated with the project and, as a consequence, cost the territory around \$1 billion in investment. We can dispense with this, of course, in short order. We could replay last night's WIN news, in fact—I would quite enjoy that, if it could be arranged. We could turn to today's *Canberra Times*. Bluntly, not a dollar of investment has been lost or jeopardised, and there is not a shred of evidence to suggest that it has been. I refer to a letter from Mr Mackay of this week, which states:

There has been a great deal of speculation in recent weeks to the effect that ActewAGL is no longer planning to build a gas-fired power station to improve the territory's security of supply. This follows ActewAGL's recent decision to

remove the peaking power station from the proposed CTC development at block 1671 in the District of Tuggeranong, as part of our response to community concerns.

Please be assured ... that ActewAGL continues to firmly believe in the strategic rationale for building such a power station. Consequently, ActewAGL will continue to seek a site and build such a plant at some time in the foreseeable future. This will, of course, require the identification of a suitably remote site within the ACT or nearby NSW that is sufficiently close to gas and electricity infrastructure. ActewAGL will also need to rework the feasibility models based on that location.

One particular site that has potential to meet our needs is near Williamsdale adjacent to a piece of land where Transgrid is already planning to build a major piece of electricity infrastructure.

ActewAGL's intention is to initiate this process as soon as practicable and once the proposed CTC data centre is sufficiently progressed through the ... planning processes.

This fully accords with my own statement after the consortium announced the scaling back of the original proposal on the Mugga Lane site that there was still an intention, if possible, to build a peaking power plant but on a site more distant from concentrated residential areas to meet expressed community concerns. As we see from today's media and from last night's television, that seems to be exactly what is happening.

Where is the Leader of the Opposition's evidence that a single dollar of investment has been lost to the territory as a result of anything that I have said or done? There isn't any, Mr Speaker. Yet again, all the evidence, right up to last night's news and this morning's paper, points to a reality that is diametrically opposed to the fevered imaginings of the Leader of the Opposition.

The proponents are clear—they are actively seeking an alternate site for this vital piece of infrastructure. From today's media, it appears they might just have found such a site. They have not abandoned the project; the investment is not lost. Ironically, from what I understand, it may even end up being an even bigger investment than the one originally proposed. Perhaps I can expect a motion of congratulations from the Leader of the Opposition in that event!

The real threat to this investment, as I said earlier, is not anything I have said or done but the careless and cavalier way in which the Leader of the Opposition and his fellow Liberals have used this project as a political pawn. Theirs is a mighty dangerous gamble. What they are engaged upon is anti-business, anti-investment, anti-jobs and anti-innovation scaremongering. It is they who rightfully should be on the receiving end of a motion of censure.

It is the Leader of the Opposition, not I, who has declared open season on investment in Canberra. It is he who has, in seeking to injure me personally, relinquished whatever credentials his party retained as a party that was pro-business. He has let every potential investor in this town know that if there is scope to undermine a

proposal for a smidgeon of political gain, the Liberals will take it—they will be in it. He has sent the message that due process and procedural fairness are things of the past, and that he believes in intervening and undermining and aborting statutory processes according to his personal whim.

Despite the best efforts of the Leader of the Opposition to undermine our statutory processes, they have been shown, over the course of this episode, to work and to work well. The public's views are being heard. The proposal's virtues and impacts are being assessed. (*Extension of time granted.*) No decision has been reached, because the process is not complete. Oddly, while his fellow Liberals may be threatening to chain themselves to bulldozers and his candidates are publicly advocating the complete relocation of the development to another site, the Leader of the Opposition seems to have some small, vestigial understanding of process.

He was even on ABC radio last Friday, dancing away from giving a categorical appraisal of whether, as a resident of Macarthur, he thought the development was appropriate. Instead, what did he do? He pointed out to Mr Solly, "Oh, Mr Solly, but there's a process being followed." Well, hallelujah. Yes, there is a process. In fact, there are a few processes here, and today's motion seeks to undermine and pre-empt every single one of them. It seeks to undermine and pre-empt ACTPLA's assessment of the development application and the consultation process. It seeks to undermine and pre-empt the operation of the Freedom of Information Act—I will say more on that in a moment. It seeks to undermine and pre-empt the consortium's pursuit of an alternative site for the peaking power plant by labelling the cause lost, the money gone and the dream of power security for the people of Canberra dead.

Let me turn briefly now to the third matter raised by the Leader of the Opposition, that I selectively released material to the media and withheld information from the Assembly and the estimates committee. As with each of his allegations, these accusations are spurious and easily dispensed with. It is a pity that the Leader of the Opposition did not seek the counsel of wiser and more experienced members of his party before wasting the Assembly's time with this particular baseless accusation. One might have hoped that a would-be Chief Minister would know that ministers play no role whatsoever in deciding what information is released in response to a freedom of information application. Indeed, often times a minister is only vaguely aware that such an application has been made. Governments that have nothing to hide have nothing to fear from the FOI act. As I say, ministers play no role in the process. The Leader of the Opposition's colleague, Mrs Dunne, appreciates that fact. Indeed, she acknowledged in estimates last week:

That decisions relating to release are made by delegated officials.

It is a pity that she was not given the opportunity to counsel her leader before he put his ignorance on display to the Assembly and the community, as he has done here again today. It is a pity, too, that someone more conversant with the act could not have walked the opposition leader through some of the law's other provisions; for example, the reasons why documents might be deemed to be exempt. One such provision, very pertinent to the current proceedings, is the provision under section 27 that material concerning a third party be shown to those parties before release, and that a 30-day extension be made to the original 30-day time limit to allow for that to happen.

Mr Seselja has been advised of that provision in writing by the delegated official in relation to this FOI request, and he has been advised when he can expect access to a raft of other documents, subject to the section 27 requirement to consult with third parties. He was advised, in writing, as recently, I believe, as yesterday, that the department was finalising consultations with a third party in relation to that raft of documents, which he now claims to have been wilfully withheld by me.

The Leader of the Opposition has received a preliminary release of information in response to this freedom of information request. We know it, because we have seen him paw over it and search for the elusive and non-existent smoking gun. We also know that he has been advised that material has not yet been provided because it falls under that third-party provision. He knows this, yet he pretends again in his presentation today that it has been wilfully withheld, not that it has been actually considered in the context of the legal statutory responsibilities of an FOI decision maker and that the material will be provided consistent with the act, in due course. He again misleads and challenges that it was I who withheld the information when I have, under the law, absolutely no role in its release.

It may be that some of this material will be provided—I am sure it will be, once the third parties have been given an opportunity to view and comment upon it. I do not know that for sure, because I am not involved in the process, but I do have faith in the process. The Leader of the Opposition does not. He has not even been willing to wait for those legislative processes to run their course, and he has pre-empted the process and accused me of withholding information. Wrong on both counts, Mr Seselja. The decision to release or withhold is not mine. Under the law, the clock is still ticking in relation to the material.

Interestingly, the same rules of disclosure and exemption apply, of course, whichever party is in government. The Leader of the Opposition has been keen to display pages with black boxes on them as supposed proof of this government's secretive nature. If we are going in for visual stunts, perhaps I ought to parade in front of the cameras the following documents. I have one small example here today. It is my last request of the then Liberal government in relation to Bruce Stadium. This was the document released by the then Liberal government to me when I was the Leader of the Opposition and sought documents in relation to Bruce Stadium, that particular fiasco.

That was a decision made by a delegated FOI officer when the Liberal Party was in government. That is how the system works. That is how the FOI act works, Mr Seselja. That is how it has always worked and that is how it still works. Those decisions to deny me access to documents in relation to Bruce Stadium were made by a designated FOI officer. I never thought for one minute that they were decisions made at the whim or direction of a Liberal Party minister at the time. Page after page is blacked out. I have no doubt that they were blacked out for precisely the same sorts of reasons that segments of the pages paraded by the Leader of the Opposition have been blacked out.

Mr Speaker, if the Leader of the Opposition has concerns about the Freedom of Information Act, the way to address them is not to provide misleading information around the reasons for their non-disclosure. It is not clear what he hopes to achieve by

moving a motion today against someone so wholly unconnected with the legislation or its operations.

To address the other elements of this particular plank of the Leader of the Opposition's fast-sinking raft of accusations, I make no apology whatsoever for authorising the release to the media of materials—I believe five folios—that has helped to set the record straight and disprove the fictions being peddled as fact by the Leader of the Opposition. The Leader of the Opposition has been assiduously misleading the local media, making outrageous and unsubstantiated accusations against me to the effect that I strongarmed the consortium into accepting a block of land against its better judgement. Of course I provided the *Canberra Times* with information that categorically disproved this dreadful slander.

Is it seriously suggested that I should not have done so and that I ought to have allowed the slander to run? The remarkable aspect of this affair is not that I quite properly set the record straight but that the Leader of the Opposition, even after his party was in full possession of the facts, assisted in peddling misinformation and fiction. Where is the acknowledgement by the Leader of the Opposition that he was 100 per cent wrong? Where is his retraction of the allegations he made against me that were made in relation to the gas-fired power station proposed at Belconnen—that complete fiction, that fantasy and imagining of his? Astonishingly, what we have, instead of an abject apology, is a no-confidence motion in me for daring to set the records straight, plus a repetition of the slander. Strange days indeed, Mr Speaker.

The final matter raised by the Leader of the Opposition is that I failed to properly consider the impact of a data centre and gas-fired power station on local residents and I failed to adequately notify and consult with residents. Again, what is on display today is the Leader of the Opposition's ignorance of how the planning system actually works. Is the Leader of the Opposition seriously suggesting that every time a private development proposal is put up, it should be the responsibility of a minister to consult with residents in relation to that proposal? On what basis? Under what area of portfolio responsibility? To what end?

Under our statutory processes, it is not for the government to sell a private sector proposal to the community or to consult on it—that is a job for the proponents. The government's role and the role of its agencies in relation to proposals of this sort is clear, and it has been designed precisely and explicitly to remove ministers and the executive from the responsibility of approving projects. I may champion a particular proposal in a general sense. Indeed, I champion the current proposal, in that general sense, openly and proudly. I champion a project that would have a carbon footprint 56 per cent less than a similar development that relied on the electricity grid. I champion a project that will create hundreds of jobs and boost our reputation as a centre for high-tech services, a project that would help diversify our economy and insulate us against the shocks that come to any town that depends to such an extent on one major employer. But this support is essentially irrelevant. (*Further extension of time granted.*)

Neither I nor my ministers ought to be charged with planning approval in relation to this or any other project. I have nothing to say about the suitability of this site or any site or the level of emissions it may generate or the visual impact on the landscape,

because these are matters properly addressed by rigorous statutory assessment—not by me. Similarly, I might personally disapprove of, say, a proposal for an Elvis wedding chapel on the shores of Lake Ginninderra, but should not such an idea have its merits considered regardless of my personal belief that it should be a Leonard Cohen wedding chapel instead?

The role of the independent planning authority is to notify and then assess the impact of a proposal on residents and on the environment. That is exactly and precisely what ACTPLA is doing right now, this minute. In the case of the data centre, those processes had not been completed when the project proponent significantly revised the scale of the project. The assessment of the revised proposal is still underway; it is continuing; no decisions have been made; evidence is still being accumulated.

Mr Speaker, where is the failure of process? There has been none. On the contrary, there has been a robust and independent planning system working as it should, free of the sort of knee-jerk, Wollongong-style political interference that the Liberals are committed to introduce. “Abort the process,” they cry. “On what grounds?” we ask. “The community is afraid,” they cry. “Might not facts dispel that fear?” we suggest. “Yes, and we wouldn’t want that,” they respond, “Abort the process.”

Mr Speaker, I stand ready always to have my actions and conduct scrutinised by the Assembly. I am even prepared to defend myself in relation to accusations hurled by the opposition leader, who openly refuses to be held to the same standards of honesty and integrity, yet who seriously offers himself to the community as an alternative Chief Minister. I am prepared to defend myself against attacks by the Leader of the Opposition, who has misled the community and hoodwinked the media about non-existent proposals for a gas-fired power station in Belconnen, who has accused professional public servants, by implication, of misleading a committee essentially under oath and who has failed to correct the record even after categorical proof is placed in the hands of his own party.

Address the facts, the accuser says. I call on the Leader of the Opposition and his colleagues today to search their consciences and do just that. Set aside the fiction. Set aside the wishful thinking and the political ambition and address the facts. Produce the evidence.

**MR SMYTH** (Brindabella) (11.32): The Chief Minister stands there and says, “Address the facts.” He says, “Tell us where it exists.” He says, “Table the evidence.” The Leader of the Opposition tabled document after document that the Chief Minister has not addressed, has not rebutted and has not refuted. And he says, “Address the fiction of Belconnen.” I will address the fiction of Belconnen.

The LDA explicitly says that Belconnen was to include a gas-fired power generator when requesting evaluation of the site. The site was valued to include a gas-fired power station in Belconnen. It is in the documents, it is in a minute from a Michael Britton, project officer, to Ray Stone, senior project officer, signed by both on 5 June 2007, Chief Minister. Read your document that you provided. I will read it for the benefit of the Assembly:

ActewAGL have approached the Land Development Agency regarding the sale of two blocks of land. The proposed use of the blocks of land is for gas fired power generators and data storage facilities.



ActewAGL's representative, CB Richard Ellis, stated that block 1610 was to be used for only one of the two power stations, that is, there was to be another one somewhere else. Your document, Chief Minister! I will read it:

A site in Hume has been selected for one of the two new stations proposed by ActewAGL

Your documents, Chief Minister; your ignorance; your smug attack on the Leader of the Opposition! You cannot come in here in good conscience and lay the documents on the table that would clear your name. Bring them in and put them on the table; table the letter from John Mackay that you assume everybody has got; table the documents that supposedly the Deputy Chief Minister has seen. "If you read these documents you will know there is not a shred of evidence that implicates the government in this mess." Yet those documents are not tabled.

The Chief Minister asked, "Where is the failure? Where is the lack of process? What went wrong?" It goes wrong when the Chief Minister makes a decision—and decisions are made in his department before the much-vaunted process has even commenced to run—in planning the approval. And how do we know this? Again, from the Chief Minister's documents, from some of the papers that have been released to the opposition. I quote:

Please turn your issues brief into a short brief from the CEO—  
of the LDA—

to Deputy CEO CMD to appraise Mr Dawes of the twin issues i.e the threat to ACTEW initiative and industrial land supply. Whereas ACTEW will probably prefer their default option of returning to Block 7 Section 21 Hume the implications of this for industrial land supply which Mr Dawes emphasised was a priority for Government—

profits over people—

must be taken into account in reaching a final decision.

And it goes on. Then we have another document, a handwritten document, a handwritten note from the head of the Land Development Agency, that says:

CMD have already agreed a site.

No process.

CMD have already agreed a site.

We have heard of the proponents from here to there, from hither to yon, up and down dale, at crossroads, behind roads, behind tents, over hills, but CMD made the decision. And who informs them of this decision? Did ActewAGL ever actually get a look at buying block 7 of 21 Hume? No, they did not. There is a note to the Chief Minister, in a brief with the letters to Mr Mackay attached but never released and not seen by the opposition. I read the paragraph that says:

... it is considered that TAMS should be advised that the cabinet submission should be deferred ...

And that is a cabinet decision endorsing what Mr Corbell did back in August when he said, "There is a moratorium to 2010 on this block because we are planning to put a cemetery there." It goes on to say:

... until you—

Chief Minister—

have determined which of the three sites is to be offered to ActewAGL.

What is the decision? What is the process? The Chief Minister will decide. The Chief Minister will write to ActewAGL. The Chief Minister will abandon the process. And that is why we are here today, and that is what the Chief Minister, in 33 minutes of babble, failed to address—his role and only his role.

It is interesting, when we go to the estimates process, there is the verballing and the overreaching voice of the Chief Minister. Mr Stanhope said when his department and he were recalled because they had lied to the estimates committee, they had shut it down, and they had had to go on the offensive—

**Mr Stanhope:** On a point of order, Mr Speaker.

**MR SMYTH:**—and try to retract—

**MR SPEAKER:** There is a point of order, Mr Smyth. Resume your seat, please.

**Mr Stanhope:** Mr Smyth has just alleged that I lied, that the estimates was recalled because I had lied to estimates. That is patently untrue, offensive, unparliamentary, and should be withdrawn.

**MR SMYTH:** Mr Speaker, I am simply repeating the words the Chief Minister used in his own speech. He said, "This is about me lying." If I cannot repeat what he says, then I am happy to withdraw. But he put it on the table, not me. I seek your ruling.

**MR SPEAKER:** Mr Smyth is repeating the word that you used. If that is the case, then, Mr Stanhope, I will allow it.

**Mr Stanhope:** On the point of order, Mr Speaker: at no stage did I say, in anything I said, that estimates was recalled because I had lied. I said it has been alleged by the Leader of the Opposition that I have lied. But at no stage, as just alleged or claimed erroneously by Mr Smyth, did I suggest that the estimates had been recalled because I had lied to estimates. And that is not true. It is an offensive remark, it is unparliamentary and it should be withdrawn. I said no such thing. I certainly said that this motion of no confidence implicitly alleges that I lied, but then to actually extend that to a basis for actually recalling estimates is simply not true.

**MR SPEAKER:** Mr Smyth, did you want to raise something else?

**MR SMYTH:** I would first ask that the clock be stopped, Mr Speaker, as is your wont.

**MR SPEAKER:** Yes, stop the clock.

**MR SMYTH:** At no time has the word “lie” been used by the Leader of the Opposition. The Chief Minister used the word “lie.” He said, “The Leader of the Opposition is accusing me of lying.” I have used it back to him. If it pleases him, I will withdraw it so that we can continue with the debate, because he has nothing to stand on.

**MR SPEAKER:** Thank you, Mr Smyth.

**MR SMYTH:** I do go to the way that the Chief Minister behaves. The Chief Minister said in his introduction, when he and his officials were recalled to estimates to answer the facts:

The facts are that I personally had no role in the site identification or selection process.

When I repeated it back to him, I said:

Chief Minister, you have said consistently that the department or you had no role—

here we go—

in the process of identification and selection ...

Mr Stanhope said:

That is not correct ...

So he says something. Five minutes later I repeat it to him, and five minutes later it is wrong. You cannot trust a single word this Chief Minister says. And that is why we are here today.

Mr Stanhope started by saying it is an affront. Yes, his behaviour is an affront to the process that he lauded over. And he said it is flimsily rooted in fact. The facts were laid out. Five, 10, 15, 20 documents were laid on the table by the Leader of the Opposition, none of which has been refuted. And I ask him to address the facts.

The Chief Minister goes on to say that this is a savage blow to the prospects of these facilities. And he is right; it is a savage blow dealt by his government. When you look at their record of developing business in the territory over the last 6½ years, it is an appalling record. They have set up a lousy process. They are concerned at their lack of activity for 6½ years—6½ years of nothing. We have had the abandonment of the white paper.

There is concern in business about this process. There is real concern that nothing has happened. This process that we are going through today is a reflection of

Mr Stanhope's attempts to catch up. And this is what happens when a government gets process wrong, badly wrong. That is what this motion is about, a government so out of touch that it believes due process does not apply, that community opinion does not matter and that the people will not care.

The people do care, and so does the opposition. Due process is not some annoying bureaucratic impediment to autocratic authority. It is the means by which the excesses of power are kept in check and the rights of the community are kept in focus. It is due process that has been missing in this process from the beginning and continues to this day. Since the flaws of this process have been made public, this government has done a series of backflips that make the Cirque du Soleil acrobats look somewhat static.

You only have to look at their own report given to them in September 2007 about the block the Chief Minister chose. He is the authorising agent. He wrote the letter. The brief says, "Mr Chief Minister, you have to pick. You have to tell ActewAGL they cannot have the block that they want." And he did. You only have to go to the Hume industrial planning study final report of September 2007, where it talks about block 1610 district of Tuggeranong, and this is what it says:

This land is also separated from residential suburbs by a small ridge, which limits the longer-term potential for intensive industrial land uses that generate noise, pollutants and heavy vehicle traffic.

I think the residents there would say that the noise and the pollutants are the things that concern them most.

This report also shows that the block was locked away, because it actually says:

For the next three years, the broadacre part of 1610 will be held off from development and subject to a feasibility study for the cemetery site.

So you have got one arm of the government set up by Mr Corbell, started by Mr Corbell, finding the site and running in one way; but since Mr Corbell has lost planning it is all over the place, because the Chief Minister, as decision maker, cannot stick to the process.

We look at estimates and we look at what comes out of the estimates. And what we see is minister after minister finally acknowledging that they all had a role in this, because it was finally revealed that this decision went to cabinet. There is a cabinet decision.

The Minister for Health was not there and, as a shareholder of ActewAGL, she failed to apprise herself of what was going on. She is a shareholder. She had a responsibility. And we know that her department takes it seriously, because they said, "If this goes ahead, we have got to move the residents under our care. We have got to move the people from Symonston House, because you cannot live there in the shadow of this power station, in the shadow of this development." We forgot to tell the residents that, didn't we, minister, until it came out? And that is why we are here today, Mr Chief Minister, because you have not addressed any of these concerns of the people of the ACT.

There is much to be said here. And it is deeply disappointing that what should have been a wonderful announcement for the ACT, for our economy and for our future has turned into an absolute debacle. And let us look at the debacle. Two months ago, this was a \$2 billion process and a 210-megawatt power station. Not even a month ago, it was downsized, downsized to a billion-dollar development with 28, 42 or 56 megawatts generated. Suddenly today we have got another backflip where it actually is now a \$2.4 billion development, and we have got 500 megawatts.

What this shows is the Chief Minister in his haste to look like he had addressed the concerns of the business community on the lack of economic diversity and tax base in this city, in one fell blow. This is the big-legacy project. “This proves that I have looked after business.” And he grabbed it and he ran it, and he ran it into the ground on a process that does not fly.

You, Chief Minister, as outlined in the second section of this motion, have put at jeopardy an important project for the ACT and, as a consequence, until this morning, had cost potentially a billion dollars in development. But now we have got a process that has found a site 15 or 20 kilometres south, on a block of land that we do not own, that we are going to develop jointly with TransGrid, half in the ACT, half in New South Wales, as a proposal, a kite flown to protect the ailing Chief Minister’s popularity. And that is all it is. It is a stunt. There is no substance in this.

If I were the farmer that owned that block of land I would be sitting there reading this morning’s *Canberra Times* and thinking, “Gee, I’ve got the whip hand here. I can negotiate now because the government needs my block of land to save the Chief Minister’s reputation.” We know, when it comes to his reputation, he will spend whatever he can to save it.

The documents are unlimited; the documents are all there. But there are 3,000 pages that no-one can see. The Deputy Chief Minister said it when the Chief Minister was away. “Read the documents; it will clear the government.” Give us that opportunity. Table the documents. Open yourself to the scrutiny of the community. Be the man you said you were going to be when you said you would be more honest, more open, more accountable. Instead, you have become more arrogant, more distant and more out of touch as your chief ministership has progressed. And that is the problem today.

In his speech, the Leader of the Opposition was considered. He very slowly unveiled and peeled the onion that is the debacle that the Chief Minister has presided over. He tabled the documents one after another, detailing the chronology of failure and interference from this Chief Minister. And the Chief Minister could not address any of it. The Chief Minister sat there and all he can do is what he always does—he attacks the man. When you cannot play the ball—

*Members interjecting—*

**MR SMYTH:** We had these crocodile tears on Alex Sloane’s program the other day. When he was asked did he peddle to the media the rumours of where Mr Seselja lived, he said, “Oh, no, the *Canberra Times* approached me.” Answer that as well, Mr Chief Minister. (*Extension of time not granted.*) Again, they do not want to hear the rest of the story against the Chief Minister, and this motion should be passed.

**MR SPEAKER:** Resume your seat. The question is that the motion be agreed to.

**Mr Stanhope:** It needs to be understood that these arrangements were agreed between the party whips this morning.

**MR SPEAKER:** Order! The question is the motion be agreed to. Is this a point of order?

**Mr Seselja:** It is just on the Chief Minister's comments, Mr Speaker. We agreed to 30 minutes for me and the Chief Minister, and we gave the Chief Minister extra time.

**MR SPEAKER:** That is a matter between you. It is not a point of order. The question is that the motion be agreed to.

**DR FOSKEY (Molonglo) (11.48):** I stand here today, a week after the Leader of the Opposition announced his intention to move a vote of no confidence in the Chief Minister. While it was certainly an inconvenience and embarrassment to the government and a lot of extra work for me and my staff, I am glad that we have had those extra days to get on top of and inside this issue to the extent possible. A no-confidence motion requires all the information available and a great deal of consideration.

After a week of reading, attending briefings and talking to people about the questions raised by the government's handling of the issue of the gas-fired power plant and data centre, I have to say that little more knowledge and clarity have been added, apart from the documents obtained by the Liberals through freedom of information. After this focused attention, I have to stand here and report that we are more than ever convinced that the process followed was a poor one, bound to come up against exactly the problems that it has experienced. Blind Freddy could have told Mr Stanhope and Mr Mackay that any thoughtful residents would want to know a great deal more than was provided by ActewAGL if such a development was planned near their homes. It is not a Macarthur-Fadden thing; it is an ACT government-ActewAGL thing. And while the opposition has certainly capitalised on it—I will have my camera out when Mr Pratt locks on to the first bulldozer to enter the paddock—it was not responsible for the bad process.

Since the government sets the rules for land releases and business operations in the ACT, the responsibility lies with it. ActewAGL certainly shoulders a great part of the burden, but there seem to be enough overlaps between it and the government to indicate that there were avenues for giving more guidance and bars to reach to gain approval, and that is approval of not just government but also the community. Seeing that Mr Stanhope is the Chief Minister, the Treasurer and the minister for economic development, as well as Minister for Indigenous Affairs and minister for the environment, energy and climate change—all portfolios with some relevance to the issue at hand—he must wear the responsibility.

He also has a responsibility on this matter as one of the two voting shareholders of the territory-owned Actew Corporation. I am sorry to say that he has denied the extent of that responsibility in a letter to me, as he did in a public hearing over another

territory-owned corporation. I do not think that territory residents are well served by this hands-off attitude.

Shortly I will go through many of the issues of concern to me in relation to the government's actions, or failure to act properly, but first I would like to reflect upon the nature of no-confidence motions in this Assembly. There have been three of these in the nearly four years of my incumbency, and I have supported one of them. It is sobering to reflect that with a majority government even the most recalcitrant Chief Minister will feel nothing more than a slap from a feather from this no-confidence motion unless one of the ALP members votes in favour of it, and that is an unlikely prospect.

That is a crying shame because, annoying though this no-confidence motion is, this is a discussion we had to have. Estimates committee hearings, answers to questions without notice, answers to questions on notice—these did not provide the required opportunities for debate. Indeed, the lack of opportunity even for questions at the second estimates hearing might be one reason why the opposition felt that the light afforded by a no-confidence motion was needed.

My staff and I have certainly benefited from the respectful attention given to our inquiries and concerns by the government and ActewAGL as the sword of a no-confidence motion—even one the government is sure to win—hangs over them. But all this effort will be to no avail if the government does not admit its short-fallings through this process and if ActewAGL does not learn that it is not the concerned community that is the problem; it is their concerns that are the problem. Reducing the size of the data centre and gas-fired power plant may be an elegant solution from a business perspective, but we still have no environmental impact statement, and only recently has a health impact statement been announced. I note from the guidelines for health impact assessments that they usually accompany an environmental impact statement. We are still missing it.

It is a pity that the nature of this exercise means that Mr Stanhope is unlikely to admit any mistakes or negligence on the part of his government—we have just heard that—and that the motion will not be passed. It is a pity that the government did not support my motion back in May. Acting upon that could have averted this motion. Nonetheless, it is my sincere hope that advisers will have made notes and that there is better documentation on the next such proposal and more transparency and fewer claims of cabinet or commercial in confidence.

I will now address the motion. I go to the first part. What we in my office think that we understand from the FOI documents given to me by the opposition and government is that ActewAGL and all wanted to put the power station and data centre on block 7, 21, in Hume. There was clearly some reluctance from some parts of the government to hand that first block over as it had been prepared as smaller industrial blocks as part of the government land release program. Another block was suggested, but delays regarding heritage objects were cited. After several months of argy-bargy, a third—broadacre—block was identified. We are advised by ActewAGL that, after initially being rejected, it was reconsidered on the basis of being subdivided to specifically cater for the data centre's requirements, and it was then quickly locked onto.

We have seen a lot of documents about those first two Hume blocks. We have seen very few about the chosen block—across Mugga Lane from the tip at east Macarthur. We have seen one internal ACTPLA document which raised many of the questions that the Greens, the opposition and members of the community have been raising, including reference to the abundance of comparable broadacre sites and a whole bunch of planning issues around energy, greenhouse impacts and infrastructure requirements.

These documents existed at the time of the committee hearings and they existed while this no-confidence motion was brewing. Yet the government did not show the information to me. Why not? It certainly cast useful light on the genesis of this saga as it has developed so far, and it indicates that ACTPLA was probably unlikely to approve that initial PA. Did the government think I could not be trusted to have the correct interpretation of that document? This selective leaking and eking out of information does not do anything to help my trust in the candour of the government.

It is important not to presume too much on a serious matter like this, but I find it hard to accept that there was no written discussion on the matter before the application for the Mugga Lane block was made to the LDA. Either that written discussion has been kept from us or the business around site selection for the largest commercial project ever undertaken in the ACT, involving top business people and the top bureaucrats in the ACT, is a very loose and informal one, principally conducted over the phone or over coffee. That is the only possible conclusion.

We see no documents from ActewAGL, the LDA or the Chief Minister's Department that address or even acknowledge these concerns—or other air quality and noise impact concerns. Nor do we see any documents that shed any light on the thinking that led to the shift from Hume to Mugga Lane. Today's newspaper tells us about a study on Hume—the Hume industrial study, which I have been asking about for months, dated September 2007—that led to the shift from Hume to Mugga Lane. All the government agencies, including Actew, would have seen it. It recommended against the power station in Hume. The *Canberra Times* today features Actew's John Mackay professing strongly that, despite that report—I guess it is ActewAGL now, Actew later—in a formal sense, block 7, 21 in Hume was always available. This assurance is starting to sound hollow, given the apparently informal nature of the eventual site selection.

Today's front page announcement of a \$650 million power station in Williamsdale provides some cover for the government on the loss of development issue. If this project falls over on economic or environmental grounds, that will be months down the track. By the way, I hope that the fact that Mr Mackay is saying that there are not many people around so he does not anticipate many problems does not mean that he has forgotten that this power plant too will be in an environment.

There are a couple of specific points on evidence in estimates to consider. The fact that the Chief Minister sat silently while one of his officers was admonished for telling the truth and then misled the committee by lying about the extent of the Chief Minister's Department's involvement in the site identification process is, on the face of it, highly improper. The Chief Minister knew that his department was intimately



involved in the site selection process, because his signature is on several documents. The semantic differences between selection and identification had not been invented at that point in time; the terms were being used interchangeably. And, like a number of other so-called explanations in this matter, the particular meanings given to otherwise incriminating words and sentences seem to have been invented after the fact.

Before I turn to the other specific grounds for this motion, I would like to touch on the issue of the alleged Belconnen power plant. I have seen three separate documents which read as if ActewAGL intended to install a gas-fired power plant at Belconnen. I think that people would be entirely justified in believing and asserting that a power plant was considered or even proposed for the Belconnen data centre. After listening to John Mackay's explanation as to why these documents were factually incorrect, I accept his assurance that a full-blown gas-fired power station was never planned for this site, but I would not condemn the opposition for raising the issue.

I turn to the second part of the motion. From what I have said, it should be obvious that I am in considerable agreement with this statement. I am not sure whether the \$1 billion has actually been lost, but it does seem as though the government should have invested more in facilitating this development. Instead, different arms of government seem to have been acting at odds with each other and without sufficient communication. Mr Mackay said in evidence to the committee that the words "the site was no longer available" on one of the documents actually meant that the site was not available on the same terms. He said that the changed terms were conveyed in discussion on 6 July. No evidence has been presented to me to show what those changed terms were.

It is of vital importance to this matter for us to know what and who was involved in that conversation. If someone eventually told ActewAGL that their preferred site would be revalued to bring it into line with current industrial land values, then we should know that. Telling us that the land was originally undervalued and that it was subsequently changed is hardly commercial-in-confidence information. It should be embarrassing to the LDA and to the Chief Minister's Department that they did not get onto it sooner.

I do not claim for a moment to be making any judgement as to whether any of these sites might have been able to house a full-scale development. I accept ActewAGL's arguments that the site they ended up with was truly superior to their previously preferred site. But why were they still wasting time and energy trying to get approval for their initial preferred site so late in the piece when we are told that time was of the absolute essence?

I turn to the third part of the motion about selectively releasing materials. The government did not see fit to show me all the documents that were released to the opposition under FOI. There was no reason why the government should have not released all this information, not only to me but to the public. It is undeniable that the government withheld the bulk of available documents from the Assembly and the public.

Whether this was justified is another matter. Many documents would be commercial in confidence and many would involve the unreasonable release of private

information, but the remainder of the document should have been closely scrutinised to ascertain whether the public interest in having a better understanding of the process outweighed the public interest in protecting public servants and ministers from having their work scrutinised in the public arena.

Mr Speaker, I am not sure that I am going to have enough time to address all the points in the motion. I want to seek leave to move the amendments which will shortly be circulated in my name. I would like to speak to those amendments and, if I have time, I will come back to the motion.

**MR SPEAKER:** There are two amendments, are there?

**DR FOSKEY:** Yes. I seek leave to move them together.

Leave granted.

**DR FOSKEY:** I move:

(1) omit “That this Assembly no longer has confidence in the Chief Minister due to his”, substitute “that this Assembly censures the Chief Minister for his”; and

(2) add:

“(5) (a) failure to assure the Canberra community that a full and independent analysis of the health and environmental impacts of the data centre and power station would be conducted; and

(b) out of hand rejection of an environmental impact statement of this proposal.”.

Perhaps one of the most disturbing aspects of this debacle of a process is that the good news of the proposal has been as uninvestigated as its health and side effects. Since the PA was first lodged, the Greens have been calling for an EIS. The day before yesterday, we were told that a requirement to produce an EIS would mean the end of the project—it would take too long. The outgoing chief executive of ActewAGL dismissed the call of the Greens and the community for an independent, thorough EIS as though it does not matter. His mind has already moved to the next iteration of the gas-fired power plant at Williamsdale, where he hopes that the problem of neighbours has been solved.

**MR SPEAKER:** The member’s time has expired.

**DR FOSKEY:** I have agreement to have 20 minutes.

**MR SPEAKER:** You will need leave of the Assembly.

**DR FOSKEY:** I seek leave for an extension of time.

Leave granted.

**MR SPEAKER:** The clock will show 7½ minutes.

**DR FOSKEY:** Thank you. In the ACT, the scope of an EIS needs to be brought into the age of climate change awareness. It is clear that climate change implications have to be part of any contemporary EIS. Oddly enough, the plume study consultants threw in a bit of climate change analysis as well, but this appears to have been unread by the project spruikers. I have some excerpts in my speech from the PAE document. It is available on the web, I believe. It talks up the cogeneration and the resultant reduction in power. We applaud this, but why was it not used to sell the project?

Hugh Sadler, who is a man who knows a lot about energy, rang the ABC a few weeks ago to make precisely this point. He said that ActewAGL had been incompetent in the way they had gone about selling and “telling” the larger project because cogeneration is a win-win story. Not only does it make sense; so does covering acres of roofs with solar panels and taking advantage of the generous feed-in laws that we might be passing today, offsetting 337 tonnes—I think I must have that wrong—of greenhouse gases, gaining credit in the emissions market. Reading the PAE study does show that the Belconnen coal-powered and diesel-backed-up data centre cancels out—and then some—any climate change benefits that will be gained on the Hume site.

Do not boast about a coal-fired data centre. It is contradictory and it does not make sense. If ActewAGL, whose business is energy, could not seize this opportunity to gather the maximum amount of renewable energy and low carbon energy from the project without compromising the health of ACT residents, to give the ACT an independent source of power if we are cut off from the New South Wales grid, it is not a responsible corporate citizen in this climate-challenged world.

The ACT government seems to have forgotten its greenhouse strategy and reduced its hope of achieving even its own weak emissions target of 60 per cent of 2000 levels by 2050, by not requiring a climate change assessment of the gas-fired power plant and data centres. It is an equation. If we are going to produce more greenhouse gases in one activity, we have to reduce it in others. Instead, our government is talking about energy-intensive water recycling and other projects.

The minister for economic development is also minister for the environment. I have yet to see him take off his economically approving hat and don his environmentally responsible cap to consider the impacts of a great big building with 300 workers arriving every day, emitting nitrous oxide and making noise at some level 24 hours a day. I would not have been alone in applauding the minister for the environment if he or the Minister for Planning had announced that an EIS was being conducted. These are all points made in the ACTPLA assessment of the PA.

The minister for the environment is also the minister for climate change, energy and water. The data centre project uses a huge amount of energy—up there with aluminium smelters—and quite a lot of water. We have been calling for an energy plan and an energy policy for a long time. We are yet to see an energy policy. We need to see a plan for transition to a low carbon capital. It is the least that Canberra people can expect from their government.

I believe that the minister for the environment, climate change, energy and water does deserve to be censured for his neglect of these portfolios in relation to the gas-fired power plant and data centres. He has done a great job as the minister for economic development spruiking the project, but he has done a very poor job as the minister for the environment and climate change. That is why I have moved my amendment.

Why a censure motion rather than a vote of no confidence? In the end, it is a question of degree. I support the criticisms of the ACT government and the Chief Minister inherent in this motion. A vote of no confidence in the Chief Minister is the strongest sanction that the Assembly can apply. While I am seriously concerned about this government's approach and processes, I could not find a level of deception, corruption, incompetence or illegality in the examination of the issues before us at a level that would justify the government withdrawing its confidence entirely from the Chief Minister. In a few weeks the people of Canberra will have a similar opportunity to pass judgement on the integrity and capacity of this majority government. In this case, I believe we should censure the Chief Minister for the process and the outcomes and leave the final judgement or a vote of no confidence to the electorate.

If I could just have a moment or two, I will go back to the motion. The third part is about selectively releasing materials to the media which were withheld from the Assembly. As I have already mentioned, the government did not see fit to show me all the documents. There is no doubt that the bulk of available documents have been withheld from the Assembly and the public. There is the question of that important period—for which there are no documents—in which the crucial decision was made. I expected over the week to see some evidence of those documents. There was even talk at a briefing that I might see some of the memos from ActewAGL. But in the end I did not see those.

It is not as if I am on a misty-eyed democratic frolic of my own. I am concerned that the Freedom of Information Act was, in a sense, not used to its capacity and had its spirit broken. Most people do feel that when a government hides evidence it is because it has something to hide. The delicious irony in this case might be that the government has very little to hide but is so committed to a culture of secrecy that it has implicated itself by merely following standard operating procedure. I am not denying that the government has followed its own procedures, but it has used those procedures as a defence against full disclosure to the community. In none of the FOI decision letters is there one argument—not one argument—which acknowledges that there could be a public interest in disclosing how the intermediate and final decisions were made in this case.

**MR MULCAHY** (Molonglo) (12.11): Mr Speaker, this is a motion which calls for the removal of the current Chief Minister from office and, therefore, for a rearrangement of the government. It is a very important motion and one which I take very seriously. In case there is any confusion I note that a motion of this kind is certainly not a show of hands for the general level of confidence or lack of confidence in the performance and policies of the Chief Minister and his government. That decision, of course, will be made by voters of the ACT in October, some 16 weeks from now.

The motion before us today is instead a motion which makes specific accusations against the Chief Minister and, on the basis of those accusations, calls for his removal from office. I would also like to be clear that this motion is not about whether one approves or not of the construction of the proposed or originally proposed power station and data centre near Macarthur.

In making my decision on the substantive motion, I believe that it is appropriate to approach it in the same way as one would approach an accusation made in a court of law. In other words, political agreement or disagreement on matters of policy and philosophy must be put aside and the focus must be on the specific allegations made and the evidence of those allegations. In this particular process I do believe that the onus of proof of the matters alleged rests solely with the opposition.

Dr Foskey and I had a conversation last night and she made a comment to me which I hope she does not mind me repeating. She said, "I think it is also up to the government to prove that they did not do wrong." I am not one who subscribes to the Napoleonic approach to law, and I think the fact is that the case has to be well made out to warrant the support of all members here for a motion of no confidence. Since the allegations contain specific allegations of instances of misconduct, the case must be demonstrated to the satisfaction of all members of this Assembly. The opposition must present evidence to convince members that their version of the facts is credible and that any instances of misconduct made out are sufficient to warrant the removal of the Chief Minister from office.

I am aware that passions are high on this issue and I expect, as we have seen already, that this motion carries some degree of vitriol from both sides of the chamber, but I hope in this circumstance I am able to provide a somewhat more objective voice on the issue. I have met with the opposition leader and his advisers, and I appreciate the time and effort they have made available. I have been given a number of documents which they rely on in making their argument. I have also been fortunate enough to have been provided with a comprehensive briefing by ActewAGL and by the government and the Chief Minister on the process of site selection for the Canberra technology city power station.

The opposition contends that a finding of no confidence in the Chief Minister should be made, amongst other things, for misleading the estimates committee. The motion itself does not give details of the specific instances of testimony from the Chief Minister that the opposition alleges were misleading. Nevertheless, my understanding is that the opposition disputes the Chief Minister's assertions that the government did not rule out any of the sites for the power station and did not pressure ActewAGL to select a particular site for their development. There are various instances at which the Chief Minister put this view to the committee. For example, the Chief Minister stated at the estimates hearing on 16 June that:

Selection of a preferred site was, quite properly, a matter for ActewAGL and its partners.

That is at page 1201 of the transcript of 16 June 2008.

The opposition argument relies on internal government documents and emails which do, indeed, on occasions contradict the government's position that the development site was entirely up to ActewAGL. For example, the opposition relies on an email of 7 July 2008 from the senior manager of the planning and urban services section of the Cabinet and Policy Group in which he refers to a draft letter from the Chief Minister to John Mackay. According to the email, the draft letter notes that the government is urgently assessing the sites to advise the Chief Minister which is the most appropriate. The email also states that the Chief Minister will then write a letter to Mr Mackay informing him of the final site.

Clearly, this email contradicts the Chief Minister's statements on the site selection process, and if the email correctly reflects the Chief Minister's position, then it would indeed be a cause for serious concern. However, I am not satisfied that this account of the email correctly reflected the Chief Minister's communications with ActewAGL. Having spoken to the government about this email, I am informed that the draft letter referred to in the email ended up as the Chief Minister's letter of 19 July 2008.

I am a bit bewildered, because Mr Smyth got up and said that the government should table this document; they are hiding things. I met with Mr Seselja yesterday afternoon and he assured me he had a copy of this letter, so I do not understand the secrecy. This letter is one of the most telling documents in this whole saga. I have read it, and I would need a substantial amount more convincing that there has been misleading conduct or wrongdoing.

This letter notes ActewAGL's prevailing preferences for each of the three sites and does not mention any of them being unavailable. It states that the sites would be assessed on their merits, but does not state that the Chief Minister would inform ActewAGL of the final site. The letter is somewhat vague about whether ActewAGL will be able to have any site they want. It does suggest that this is subject to assessment but that in-principle support will be given for some site.

Nevertheless, the letter also does not rule out any of the sites at all. In fact, following receipt of this letter, it appears that ActewAGL were of the opinion that they were in control of site selection. On 16 August 2008, Mr Mackay wrote back to the Chief Minister, stating:

Our representatives are working with representatives from your office and the Land Development Authority to finalise our preferred site, which is the section of land in Block 1610 District of Tuggeranong.

The evidence obtained by the opposition does suggest that the LDA at some stage pushed the view that the site at block 7, section 21 of Hume should be ruled out. However, the Chief Minister's letter to ActewAGL seems to have left the matter more open, referring instead to assessment of the site.

If I could just digress for a minute, my staff have made the point that frequently they give me letters and emails of advice which are not ultimately accepted. They said, 'If you put all those things out there and said, 'Well, this must be the position of the member and should be accepted as a matter of fact,' you could create quite a deal of

misinformation.” We all get advice and we get suggestions from people down the line that have views on how the world ought to be run. As my former adviser, Ian Wearing, used to say, “Politicians decide; staff advise.” At the end of the day, it is up to the elected leaders to make the final decisions in these processes.

At the estimates committee hearing on 16 June there was an exchange between the Chief Minister and Mr Smyth over whether the site at block 7, section 21 of Hume, the site on the southern side of the Monaro Highway nearest to Gilmore, was formally offered to Actew. There seems to have been some argument here over what constituted an offer and whether this required a formal letter of offer for the site. Mr Smyth made much of the fact that the Chief Minister had previously stated that the site was offered to ActewAGL and not accepted but that he could not point to a formal letter of offer. Whether or not a formal offer was made, it is clear from Mr Stanhope’s letter of 19 July 2008 that ActewAGL were free to select this site if it was their preferred option.

Could we just get one thing on the record, Mr Speaker—I heard something on Ross Solly’s show last week when Dr Foskey spoke and I heard Mr Smyth say it today. The Chief Minister and the Deputy Chief Minister are not shareholders in ActewAGL; they are shareholders in the Actew Corporation. ActewAGL is a joint venture between Actew, AGL and Singapore Power. I think it is important to clarify that because it has now been repeated a few times. There is a lot of confusion. In my first week in this place I had a briefing so that I understood the difference. When we are dealing with corporations of the size of Actew and ActewAGL, it is very important to understand who owns what.

**Dr Foskey:** Yes, and I do.

**MR MULCAHY:** Good. Glad to hear it.

**Dr Foskey:** You did not hear me the first time round.

**MR MULCAHY:** I think that is what was reported on the ABC in the interview.

**Dr Foskey:** No.

**MR SPEAKER:** Order!

**MR MULCAHY:** We will not digress too long on that. Mr Mackay certainly believed that they were free to select the site, and that was their preferred option. During that exchange he was asked by the Chief Minister, “Did we offer you that particular site?” to which he responded, “I think the simple answer is that at that stage I felt we could select any one of the four sites.”

There are several other instances of internal documentation that has caused confusion in this matter. For example, a summary of a meeting between ActewAGL and the LDA states:

The LDA advised that this site was no longer available as it was programmed for development and sale as industrial land in the near future.

However, in the estimates committee hearing on 16 June, the Managing Director of Actew explained that this note was incorrect and that, in fact, the LDA had merely advised ActewAGL that the site was no longer available on the same terms as in 2002. I know that the Leader of the Opposition disputes that, and I understand the basis of his scepticism. In fairness to the opposition, there is certainly some internal material that has come out of this process with statements that warrant his suspicion and further questioning. I have taken these matters up with the government and with ActewAGL, and, in the main, I am satisfied that the statements in these internal documents are either incorrect or are superseded by later decisions.

In any case it is clear from the testimony of the executives concerned and from their written correspondence that the statements and internal documents on which the opposition rely did not reflect the views of the Chief Minister or of ActewAGL. I have some sympathy for the opposition's first contention in their motion because I think the Chief Minister should have been more forthright to the estimates committee about the views of the LDA and the internal process that was going on during negotiations with ActewAGL.

It appears to me that the Chief Minister's initial remarks in the estimates committee did not go into sufficient detail on the process and the LDA's position at various stages in the process. However, this testimony, of itself, is insufficient to warrant a no-confidence finding. The opposition have made it clear to me in their discussions that they do not rely on this single point; rather, that it is merely one of the complaints which they are making.

Paragraph 3 of the motion asserts that the Chief Minister selectively released materials to the media which were withheld from the Assembly, and I took this issue up in the estimates process. In particular, the government withheld documents under FOI request or some documents which the Chief Minister later gave to the media to support his version of events.

I understand the Chief Minister has taken the position that he was not involved in the FOI process, and he has reiterated that today, and that he later took the legitimate decision to release documents that he did not have to release under FOI. Presuming that the documents denied in the request were denied on legitimate grounds, this is compliant with the letter of the law regarding FOI requests. However, I find this something of a cheeky approach and I think that it leaves little room for the Chief Minister to complain about the adverse media comment he received on the issue. Again, I would have preferred to see the government be more up-front on this aspect of the whole debate.

Paragraphs 2 and 4 of the motion assert that the Chief Minister mismanaged the process associated with the data centre and failed to properly consider its impact on residents. I will not speak long on this particular point, except to say that I am of the view that it is incumbent on the government to use the statutory procedures for development application and approval that are set out in ACT law. For that reason, whilst I am on the record as saying I could see a case for some censure, the grounds on which Dr Foskey is relying in relation to the EIS I do not think are appropriate.



As I said when this whole dispute arose, I really wanted to see the process worked through, and if the process had determined there ought to be an EIS, that would be good. But I do not believe that it is at all wise under the planning laws for politicians to start sticking their noses into process—whether it is the minister responsible or whether it is opposition members trying to derail things through public activities. I think there is a process.

**Mr Pratt:** Ha, ha!

**MR MULCAHY:** Mr Pratt laughs about it, but that would not be the case if he crossed the border—and there is someone who wants to come from that side of the border to here! You can keep the New South Wales system as far as I am concerned. We have seen what has gone on in Wollongong when you start letting politicians stick their noses into development applications.

**Dr Foskey:** Is asking for an EIA doing that?

**MR MULCAHY:** I do not have an issue with that, Dr Foskey. It is a matter of how you tackle it. If you selectively pull things out of the selection process, I think that is when the problems arise.

In relation to the process of approval, I do not believe it would have been proper for the Chief Minister to have ignored these processes and to have made the decisions himself unilaterally. In this case the process is still going on and ACTPLA are yet to make a determination on the development application, as amended, that has been submitted by ActewAGL.

The evidence adduced by the opposition demonstrates that the Chief Minister was insufficiently forthright with the estimates committee, the opposition and the media. There is indeed room for legitimate criticism here, and I hope that the Chief Minister will be more careful in future when explaining government processes. However, I do not believe that the opposition has demonstrated that the development process has been seriously mismanaged. It seems clear to me on this view that the case made by the opposition is not sufficient to warrant a vote of no confidence.

I do believe that there are issues that have been raised, and I do subscribe to the concerns expressed in paragraph 1 of Mr Seselja's motion and in relation to aspects of paragraph 3. Whilst the form of that motion probably goes somewhat further than is reasonable, with all the facts, I think the sentiment there is that there have been some clear inconsistencies in evidence and the written record. I am certainly uneasy over the fact that information that was initially withheld, whether it be for legitimate grounds or otherwise, was then released, in part, to the *Canberra Times*. Certainly it appears that the opposition has not been able to officially access a number of records, and I am dismayed by that. For that reason, I propose a further amendment to Dr Foskey's proposed amendment No 2. I move:

Omit the amendment, substitute:

“(2) omit paragraphs (2) and (4).”.

The effect of my amendment is that the motion becomes a censure motion, not a no-confidence motion. *(Time expired.)*

*Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour.*

**Sitting suspended from 12.27 to 2.30 pm.**

**MR MULCAHY:** I seek leave to speak for a further five minutes.

Leave granted.

**MR MULCAHY:** I thank members for their indulgence on this. As there was some confusion before we went to the luncheon break, I reiterate that I have moved the amendment in my name to Dr Foskey's amendment.

I do not believe that the Liberal Party have made a strong enough case to warrant a vote of no confidence in the Chief Minister. I will speak in a little more detail to the original motion shortly. A no-confidence motion, as I said this morning, is the most serious step the Legislative Assembly could take. It requires a serious offence, in my view, and one has not occurred in relation to the proposed data centre and gas-fired power station.

That is not to say that I am happy with the process that has been undertaken. I have told the government and ActewAGL directly that procedures and processes followed in developing this project and selling it to the community have been poor. I also acknowledge that some of the Liberal Party's points have been well made.

For that reason, I have moved this amendment. I agree with Dr Foskey and believe that there is reason to admonish the Chief Minister over aspects of the handling of this matter. But I differ from the Greens, however, in that I do not believe that each point made by the Liberal Party in their original motion justifies censuring the Chief Minister.

Rather, my amendment seeks to censure the Chief Minister on two points. The first relates to the giving of inconsistent testimony and testimony that is inconsistent with the written record of events relating to the data centre and gas-fired power plant at Tuggeranong and, therefore, as a consequence, misleading the estimates committee and, consequently, the Assembly.

The second basis of my amendment relates to the selective release to the media of materials which were withheld from the Assembly. Withholding substantial parts of the records, I believe, is a prima facie case of some contempt toward the people and the parliament of the territory. It is clear that not all members of the Assembly have had access to the documentation that some of us have.

I believe that the Chief Minister's performance during the estimates process was not entirely acceptable. Whilst some political argy-bargy is to be expected in any hearing, the point has been made that some of Mr Stanhope's statements before that committee are contradicted by documents that are now available.

This is not a hanging offence, and the opposition has admitted to me that, as a stand-alone element, it would not be enough to warrant toppling a chief minister, which is what this motion in its original form seeks to do. It is, however, a matter of some concern. A more polished and open performance by the government in the estimates process would have avoided much of the drama of the last week, its disruption to the work of the Assembly, the interference, obviously, with the budget process and the creation of a perception by many people in the Canberra community that we all went on a week's holiday. If only we had that luxury!

Whilst I acknowledge that the Chief Minister's letter of 19 July and Mr Mackay's response make it clear that the broad position of Mr Stanhope during the estimates process is, in fact, correct, the Chief Minister made other statements during the hearings that certainly contradicted evidence that exists in written documents. Because of this, I do believe that there is cause for a censure of the Chief Minister over this issue.

I also agree with comments that others have already made that the selective release of some documents by the government has been somewhat disappointing. I recognise that there is some material that is not appropriate for release under the Freedom of Information Act. I do believe that the Chief Minister's decision to release some material to the media reduces his ability to rely on this form of defence.

The Chief Minister should not be in a position to say, "I do not decide what is released under the FOI Act," which he was adamant to point out when I raised this issue in estimates. "It is the department," he said and then turned around and provided to the media some of those same documents under executive authority. I do find an inconsistency in this approach.

Just as much of the controversy over this whole issue could have been avoided by a more open performance during the estimates process, if the government had been more open in their release of material under the FOI request, albeit it is being attributed to officials who made these decisions, it would have allayed fears in the community and made the process more open and accountable. I believe that this, too, is some basis for a censure of the Chief Minister.

My amendment also removes Dr Foskey's points about the health and environmental impacts of the proposal. I accept the government's point that, if the process was allowed to continue, all of the necessary environmental aspects would have been considered before any approval was granted. I said this at the outset of the debate and I continue to hold that view. I believe that this is a process that should be allowed to run its course.

I do not accept the argument that this project should have been treated differently from others because of its size and scope. We have planning process that should be followed and allowed to run their course. I, therefore, do not accept Dr Foskey's addition to the list of charges against the Chief Minister, and my amendment seeks to remove it. I think, essentially, we have to protect the planning process. We do not want a situation that has now started to occur in Tasmania, where every project is derailed because some interest group complains. (*Time expired.*)

**MR PRATT** (Brindabella) (2.36): I rise today to add my voice to that of my colleagues on the motion of no confidence. The latest actions of the Chief Minister, his department and his agencies regarding his handling of the Tuggeranong gas-fired power plant project have left the opposition no choice but to exercise its right to censure the Chief Minister and his government over the debacle, and express in the strongest terms possible that his conduct has been utterly unacceptable and that the community ought not to stand for it. Further, the Tuggeranong community remains deeply sceptical about the downscaled data centre project at Macarthur—and I, too, remain deeply sceptical and concerned about that.

The people of Canberra, particularly my own constituents in Brindabella, have again been the subject of derision and contempt by this Chief Minister. The manner in which the minister has personally managed this significant project has been irresponsible and lacked transparency from the outset. A sham consultation process, followed by intentionally misleading the Assembly about his precise role in giving ActewAGL a Hobson's choice for a viable site, have raised serious questions about the Chief Minister's capacity to serve in the best interests of this community.

The implications of the Chief Minister's blind support for the siting of the power plant have raised alarm bells in a number of quarters within the territory. The closure of Griffith library, the ongoing, dragged-out, too-late Tharwa bridge episode, and the wholesale closure of schools without a mandate remain fresh in our collective memories. The community is again at the mercy of the Chief Minister's next terrible decision.

It must be noted that, despite disagreement with the Chief Minister's preferred siting of the Tuggeranong gas-fired power station from within his own party, not a single government MLA will have the courage to genuinely represent the people that they purport to represent, and they will not stand up and defy the Chief Minister on this significant issue. All of the government's MLAs have submitted to the party line so far. I would wager that they are as gutless today as they were when they endorsed ActewAGL's studies on Wednesday, 7 May 2008 in this place, again on party lines. If you are a Labor MLA, the interests of your own constituents apparently come second to saving political face—face, profits and power before people.

The people of southern Woden should also note the nitpicking, fence-straddling, ghostly position adopted by the independent member for Molonglo, who, unfortunately, too often is too frightened to hold Labor accountable—although I suppose we should at least be pleased for small mercies.

We may well lose this motion today, but the result will in no way diminish the concern that the opposition and the wider Canberra community hold about Mr Stanhope's deplorable, ram-it-through handling of the Tuggeranong gas-fired power station. The initial sentiment conveyed to me by constituents was one of disbelief and horror that the proposed site for a gas-fired power station would even be conceived by a consortium, sponsored by a territory-owned corporation no less, and then be given tentative approval to submit a development application.

The disbelief turned into anger and bewilderment when it became apparent that a 210-megawatt peaking power station was going to be subject to the same approval

processes as would an apartment complex or a home renovation—a \$2,000 million project. But of course both the Chief Minister and the proponents knew only too well that this project would not be saleable to the people most affected—and, by design, sought to ram this under the radar as much as possible.

By the time a special meeting was convened by the Tuggeranong Community Council to give ActewAGL its first opportunity to present information—and I stress: at the insistence of the Tuggeranong community—there was only an unbelievable seven-day window of opportunity remaining for the public to submit objections to the development application to ACTPLA. On a \$2,000 million dollar project, there were seven days for the community in the first instance to have a look at it.

I was witness to the 300-strong group of residents' outpouring of anger and dismay at the 28 April TCC meeting. I watched with disbelief as the ActewAGL representative sought to explain away significant aspects of the misinformation surrounding this project—you were not there, Mr Hargreaves—showing a general contempt for his audience and failing to address the many concerns raised.

As I spoke to concerned constituents on the night, as well as residents from various other parts of Canberra, the single most vexing issue on people's minds was: how could any government even consider offering land so close to homes and/or are they out of their minds? That was what the feedback was. It was an easy decision for me, or for any fair dinkum MLA, to make that night, on 28 April, that I would emphatically reject the government's plan.

How does the Chief Minister then reconcile the fact that his own public statements about the site clearly compromise his integrity on this matter? On 15 October 2007, even after the site had been granted by him to the proponents as a Hobson's choice in August 2007, the Chief Minister continued to describe the location of the project as being in Hume.

It is no secret that the overwhelming majority of the community simply want the project to be relocated entirely to a more appropriate site. And do they not have a right to have a say, to participate, in the statutory process or to use legitimate means at their disposal to influence the outcomes that will affect them? Not according to Mr Stanhope.

The Chief Minister and the proponents were, in tandem, waging a propaganda war against the people of Tuggeranong, seeking to win the battle for public opinion. ActewAGL CEO Michael Costello did no great service to the Chief Minister's declarations when he said, regarding the decision to scale down the original proposal:

It's too small. It has to be 350 to 450 (megawatts) so that site was not suitable whether there were protests or not.

That quote is from the *Canberra Times* of 31 May 2008. In fact, the consortium knew three weeks prior that the Hobson's choice given to them by the Chief Minister would be unviable and that to make this project feasible an appropriate site well away from homes would be required.

As pointed out even by the *Canberra Times* on 17 June 2008, the government had an exceptional opportunity and they dropped the ball, costing the territory \$1 billion—and we are still counting. How stupid is the Chief Minister? How many sets of eyes were needed to pass over documents relating to the proposed site before someone—anyone—identified the bleeding obvious?

In his stubbornness and arrogance, the Chief Minister still refuses to request an EIS and has only now allowed his health minister to request that an independent health survey be conducted. But nothing short of a fully independent and audited EIS would be acceptable regarding the projects as they now stand.

But we know, don't we, what the Chief Minister thinks of the concerns of our local communities. Short of sending in the revolutionaries to plunder and pillage Tuggeranong for the greater good, the Chief Minister's language has done nothing to mitigate or address the genuine concerns held by them about the impact of the power station on their quality of life.

"No, no," says Chairman Stanhope, "That is a commercial decision of the proponents; that is not a decision for the government. That is not the government's decision." That was the Chief Minister's answer to me when I pressed him during estimates hearings about the integrity of the studies submitted by the proponent. The Chief Minister has effectively relinquished all control over serving the territory on fundamental strategic issues.

This is the Chief Minister who claims that it is "Alice in wonderland" to allow the public a say in zoning matters. This is particularly significant as it has emerged that, despite his repeated and misleading public statements that the project would be located in Hume, the Chief Minister had by design given the proponents only the Hobson's choice of Tuggeranong block 1671 so he could preserve areas of Hume for sale at a later date for greater profit. It is profit before people.

We have been able to establish, through FOI requests, that this was the Chief Minister's motive. The Chief Minister even confirms it, in his statement to the recalled estimates hearing on 16 June, when he claimed that "everybody won" through his opportunistic and callous exercise in cash grabbing. If the Chief Minister has done no wrong, why has he suppressed 3,030 documents from public scrutiny? If he has done no wrong, why did he mislead the Assembly about his role in the site identification process?

Why did the TCC have to host a hastily convened special meeting on behalf of the proponents rather than ActewAGL doing the responsible thing and hosting a series of sessions prior to submitting its application or at the very least throughout the public comment period? Statements put out by ActewAGL also consistently misled the public about the proposed location, referring to the site as being in Hume even in April this year, well and truly after it had commenced planning approval for the site in Tuggeranong.

Why did the Chief Minister, who chose the site himself in August 2007, not ensure that there was adequate consultation about the proposal prior to April 2008? Did he

not anticipate that his decision to give the proponents the Hobson's choice of Tuggeranong block 1671 would raise community anxiety?

How could the Chief Minister expect genuine community awareness when he led them to believe that this project would be located in the Hume industrial precinct rather than within 1½ to two kilometres of the Fadden-Gowrie area, 600 metres from Macarthur and 1.2 kilometres from Gilmore? Why did only some residents in the immediately affected areas get informed by pamphlet, only a fortnight prior to closing dates for objections that a gas-fired power plant would be located within a kilometre of their homes?

What about the residents of Monash and Wanniasa or the residents of the wider Tuggeranong and southern Woden region? Did the Chief Minister consider that residents of these areas would quietly submit themselves to his latest unscrupulous decision? In the factual vacuum that exists in Stanhope-land and in the absence of any government confirmation or denial, or willingness to address the outstanding matters to do with site selection, not to mention the poor excuse for prior public consultation, the people of Canberra, and Tuggeranong in particular, remain suspicious and anxious—and legitimately so. That is why selling the data centre is now a very big ask.

This is where the ACT Property Council, too, do not get it. When tugging their forelocks to Jon Stanhope, they totally ignore the broader community concern as well. It is profits before people.

We are not here arguing the merits of having a significant ICT facility in the territory. The Chief Minister knows that. The opposition have stated on the record, on numerous occasions, that we are supportive of initiatives like the Canberra technology city proposal that will broaden and secure the territory's economic future. But we are concerned that, in pursuing this proposal in the manner that he has, the Chief Minister has both abandoned the community's interests and jeopardised the entire project. From determining the site, making false public statements and then misleading the Assembly about aspects of this entire project, it is absolutely clear—as clear as day—that the Chief Minister has been part of the problem rather than gauging and providing community acceptable solutions from the outset.

We grow weary of repeated Labor-speak justifying bad decision making as making apparently hard decisions. After all, this is a government that has a living and breathing internalised policy of “selling backflip as responding to community concerns”. In a jurisdiction where the government now pays mere lip-service to holding real and meaningful public consultation this no-confidence motion today should be a wake-up call that this time they have well and truly got it wrong. They have stuffed it! It beggars belief that after the Tharwa bridge debacle, the closure of Griffith library and the government school closure program they would have the nerve and the audacity to ram through a \$2,000 million project—we do not have those very often—against a tide of overwhelming public consternation.

I again urge the government to grasp the community imperative before the opportunity passes us by, before the Chief Minister sanctions a development that will contribute to a loss of faith in statutory process, that will cause further mistrust in government and that will ultimately be judged harshly. I commend the motion.

**MS GALLAGHER** (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (2.51): Mr Speaker, no-confidence motions are amongst the gravest and most serious motions that we, as a deliberative body, can consider. We have no governor in the ACT. The self-government act dictates when and how governments are formed. Under that act the passage of a no-confidence motion means that the position of Chief Minister is spilled and the Assembly must effectively elect a new Chief Minister and a new government. That demonstrates the seriousness of this motion.

We have had countless motions of this type in this Assembly but, tellingly, none since the earliest days of self-government have passed. As members we need to consider the gravity of this motion and what it means and, if those countless others fell, why this one should pass.

Through this no-confidence motion brought by the opposition the Assembly is being asked to consider two very simple but serious questions. Firstly, it is being asked to consider what the appropriate standards for a Chief Minister or a government are in fulfilling their duties to the ACT community and to this parliament. Secondly, it is being asked to decide whether this Chief Minister has lived up to those standards.

In short, debates in this place and other Westminster parliaments, as well as countless inquiries by oversight bodies in the ACT, Australia and the commonwealth, have made it clear that ministers and governments should observe the highest standards of propriety, probity and responsibility at all times while always exercising their powers and undertaking their duties in the public interest.

Motions of want of confidence in the Chief Minister by both sides have traditionally dealt with matters of grave importance. The opposition today seeks to move a no-confidence motion in the Chief Minister, not over a death or a misappropriation or even a clear act or omission. They do so regarding a process that has followed the normal course and, even more incredibly for the purposes of this debate, is not even complete yet.

No decision has been made, no event has occurred, no project or building has been approved, let alone built. In any other year this normally lazy opposition would not even have contemplated such a motion. Today the opposition seeks to argue that a no-confidence motion regarding a process not yet complete for a building years from being built—if it is—should pass. Many others have said it, and I know many other people believe it: it is a stunt.

It is reasonable for the community to have a concern over projects of this size and it is reasonable to have debates on these issues. That is what the planning process is about. That is why the government has not yet made a decision on this project. That is why we have commissioned a health impact assessment with a panel comprising the Chief Health Officer, experts in public health or environmental health and a community representative.

We as a community and as a government are all anxious to ensure that this project only goes ahead once all matters have been taken into account and appropriate



standards, tests and reports have been analysed through the established channels. That is reasonable and achievable if the processes underway are allowed to be completed without continual and constant political interference and scaremongering from the Seselja Liberals.

We are learning that this is part of a pattern of behaviour by Mr Seselja—a pattern of style over substance, of politics over policy and, indeed, of politics over process. What is not reasonable is that those opposite seek to scare the community, and Mr Pratt’s latest message to the community does exactly that. We know that that material would have had to have been approved by Mr Seselja. It seeks to derail the project and to score cheap political points.

The Liberal opposition cannot have it both ways. It cannot seek to protect the project while it is out there, day by day, letter boxing the community with Seselja Liberal approved documents designed specifically to generate concern and ignite community agitation. I have had it raised with me many times over the past two months, including by some people whom you would name as traditionally being the Liberal Party’s strongest supporters—

**Mr Pratt:** It is to wake them up to your incompetence. It is to alert them to your incompetence.

**MR SPEAKER:** Order, Mr Pratt!

**MS GALLAGHER:** how concerned they are by the games that the Liberals have chosen to play on this project. If there was something to it, I think people could understand, but when there is nothing but confirmation that government agencies were doing their job, including holding differing opinions about potential sites for a project, I think people are just left scratching their heads about what the Liberals are trying to achieve.

If we go to the details of the motion, the first paragraph refers to “repeatedly giving inconsistent testimony and testimony that is inconsistent with the written record of events relating to the data centre”. This morning, the Seselja Liberals were unable to provide any evidence to support this first allegation. Mr Seselja tabled a series of documents today with which he attempted to draw this first part of the motion together, but he failed, because none of the tabled documents proves that.

The government’s position on this has remained constant. We felt that this project provided an enormous opportunity for Canberra—a wonderful project, but one which, like every other project, needed to go through the required processes. The Chief Minister remained appropriately briefed on the project and remained at arm’s length from the day-to-day machinations that occurred between agencies and outside them, as the embryonic stages of the project were developed.

The government has been more than cooperative with the Assembly and, through it, the estimates committee—indeed, volunteering to reappear at estimates when the Chief Minister first returned to work.

**Mrs Dunne:** After a little tantrum!

**MS GALLAGHER:** Nobody called the Chief Minister; there was not a motion. The Chief Minister quite happily volunteered to attend.

**Mrs Dunne:** No, he got a letter, then he lied about the content.

**MR SPEAKER:** Order, Mrs Dunne!

**MS GALLAGHER:** Mr Smyth and Mr Pratt have alleged that the Chief Minister specifically chose the site in August, yet they failed to prove that today. Again, the documents tabled by Mr Seselja failed to prove that.

The second part of the motion refers to “mismanaging the process associated with the data centre”. Mismanaging what process? The process used to identify the land—the independent statutory planning process? Just what process has been mismanaged? If we go to Mr Seselja’s arsenal of documents, does this show a failure of process? No, it actually proves that government processes are working. And I will go to each of these documents.

The first document is a note from ACTPLA—ACTPLA doing its job. The second document tabled is from ActewAGL—doing its job. There is a note from the LDA raising issues—LDA doing its job. Actew, again, responding to CMD, raising issues with CMD—the government doing its job. An answer to a question on notice—the Assembly processes working.

**Mrs Dunne:** Which completely contradicts everything he said that day.

**MR SPEAKER:** Order, Mrs Dunne!

**MS GALLAGHER:** A press release from the Chief Minister about the potential benefits to the ACT—again, the Chief Minister doing his job. Another email: the LDA doing its job, providing advice. There is another document here—the same document tabled twice. CMD talking to the LDA: shock, horror—government agencies talking to each other, raising issues! Another note: CMD to ACTPLA, raising issues. There is a brief from CMD to the Chief Minister, interestingly showing that it had been faxed to the Liberals by the *Canberra Times*, on 16 June. It shows that CMD were briefing the Chief Minister—again, doing their job. Interestingly, in this brief, which was not mentioned today, it leaves the issue of block 7, 21 Hume still on the table as a potential site. Again, that was not mentioned today.

**Mrs Dunne:** Also saying quite specifically that the Chief Minister gets to choose the site.

**MR SPEAKER:** Mrs Dunne, I warn you. No more interjections.

**MS GALLAGHER:** There is a minute from the LDA—again, doing its job. All of these documents show that the government is doing its job—that is, government agencies talk to each other, provide advice to each other and raise issues with each other. Where is the breakdown in process with these documents? Interestingly, with respect to these documents, Mr Seselja said that he had not seen the letter from the

Chief Minister of 19 July, which clearly outlines all of those sites as still being on the table. In this little package of documents, we can see the Liberals did have it because it was faxed to them from the *Canberra Times* on 16 June. So we have Mr Seselja saying he has never seen that document, repeatedly denying it, and not tabling it today as part of these documents, because it did not quite fit with the argument of today, did it? The fact that all of those sites were on the table and it was encouraged that Actew continue to consider them did not fit with the arguments of today. It is very convenient, Mr Seselja, to just omit or, dare I say it, selectively table documents, which goes to the third paragraph of the motion.

The third paragraph of the motion refers to “selectively releasing materials to the media” and also goes to allegations raised by Mr Pratt, Mr Smyth and Mr Seselja, and even by Dr Foskey today, that the Chief Minister has had some role in withholding parts of records through the FOI process. In fact, the use by Mr Pratt of the words “he is withholding 3,000 documents” shows a complete lack of understanding of the FOI process or it shows an understanding, in the allegations that are being raised, that the Chief Minister knowingly interfered with an FOI process or alternatively that public servants responsible for that FOI process have allowed this process to be interfered with. They are most serious allegations that all of you who have spoken today have made. I do not think you realise how serious they are.

Yet again, as we are learning from Mr Seselja, there is no proof. You don’t need any proof to substantiate these allegations—just throw it out there and see if it flies, see if the *Canberra Times* picks it up, see if you can get a run on the news. It does not matter if you can’t support it; it does not matter if you are offending every FOI officer in the ACT government, who take their job very seriously about how they release information under the FOI law. They are actually breaking the law if what you are alleging has occurred. So if it has occurred and you know it has occurred, you need to prove it, and you have not been able to do so. What you have raised today is the most serious of allegations.

**Mr Seselja:** You don’t understand the argument.

**MR SPEAKER:** Order, Mr Seselja!

**MS GALLAGHER:** Yes, I do understand the argument, Mr Seselja, but it is uncomfortable for you because it is sort of moving away from the mantra that you have in your head.

**Mr Seselja:** He can release them, and he has chosen not to.

**MR SPEAKER:** Order, Mr Seselja!

**MS GALLAGHER:** I can tell you how arm’s length the government is from FOI. I was the Acting Chief Minister, I believe, when those documents may have been released to the opposition. The first opportunity when I learnt that FOI had been released was when John Thistleton rang me with questions about the release of FOI information. That is the first point at which I became aware that the FOI information had even gone to you. So for all of you to stand up here and allege that we have interfered inappropriately in the FOI process, and not only us, but to allege that public

servants have also inappropriately dealt with an FOI application, needs to be proven. I await every single other one of you standing up and proving those allegations today. That is the challenge that you now have, from the silly speeches that all three of you have given.

This has been, and is, a waste of the Assembly's time, but it has given us the opportunity to put the facts on the table, because they are not Mr Seselja's facts; they are the true facts.

**Mr Smyth:** Lay down the documents.

**MR SPEAKER:** Mr Smyth, cease interjecting.

**MS GALLAGHER:** There are two series of facts here—the Seselja facts, which are convenient for the Liberals' argument, and there are the real facts, the ones that can't be played with or misconstrued. I table the following paper:

Proposed gas fired power station and data centre—Copy of Brief to the Chief Minister from Pam Davoren, Acting Chief Executive, CMD, dated July 2007.

This is the letter that the Liberals say they do not have, when we can see from the documents tabled today that they do have it. It clearly sets out the Chief Minister's involvement in and understanding of issues as of 19 July this year.

Mr Speaker, there is a long way to go on this project. If it comes off, it will be a wonderful result for the ACT, but it will only come off if all the required standards, tests and analysis of reports go through the planning process and meet those standards. That is what the government said at every stage. Yes, we are excited about this project, but there is a process underway, and that process involves community consultation and an independent statutory planning process, and that is what is underway now. The government should remain at arm's length from that, and not do what Mr Pratt suggested, which is to get involved and give it the tick or flick before those processes are completed. That is what needs to occur now.

**Mr Pratt:** You kept the community in the dark about this.

**MS GALLAGHER:** Community consultation is an important part of the planning process. It is there so that this community gets involved and concerns are raised. They can be either responded to or, if they cannot, they are taken into consideration through that planning process. But that should not be determined by me; that should not be determined by you, Mr Pratt. We are politicians. We are not here to take that role on.

The issues that we are here to discuss today are four elements of a motion of no confidence in the Chief Minister. None of those elements have been supported in any way by any evidence provided by the opposition today.

**Mr Pratt:** Do you understand the concept of prior community consultation?

**MR SPEAKER:** I warn you, Mr Pratt.

**MS GALLAGHER:** Not one piece of evidence has been tabled that supports any of the four sections of this motion. That was your challenge in your week off, and you have not done it.

**MRS DUNNE (Ginninderra) (3.06):** I am glad to see the government has eventually brought out the big guns. I am terrified by that!

It is clear that this Chief Minister should no longer enjoy the confidence of this place because he has misled the estimates committee and, as a consequence, this Assembly about his personal involvement and his department's involvement in the process of site selection for the Tuggeranong power plant and data centre. The proponents were steered away from their preferred site in Hume towards cheaper land, closer to Tuggeranong residents.

He also tried to keep the public, the people he was elected to represent, in the dark about his role which ensured that ActewAGL and its partners had no choice about the siting of the gas-fired power station and data centre. He has flagrantly disregarded the potential to injure the nearby residents of Tuggeranong by the inappropriate siting of a 210-megawatt power station.

Let us start with the Chief Minister's misleading of the estimates committee. As the deputy chair of the estimates committee, I know more than I care about the Chief Minister's conduct during that inquiry. Firstly, the Chief Minister breached his own code of conduct and all the conventions of the Westminster system when he sat mute while his officials gave misleading evidence to the committee; he was there and he heard it.

Officials of the Chief Minister's Department on 26 and 27 May this year consistently told the committee that they were not involved in site selection for the Tuggeranong development; yet documents provided under the Freedom of Information Act by the LDA reveal that this is not the case. The Chief Minister sat mute while the acting chief executive of the Land Development Agency was bullied and ashamed into changing his evidence. It was clear on the day that the acting chief executive of the LDA changed his testimony and he did so under duress.

It is reprehensible that pressure was brought to bear on him in such a way and it is doubly reprehensible that the Chief Minister sat there and allowed this to happen. In allowing his officials to mislead the committee, the Chief Minister closed down a line of questioning and helped to distract attention from his close involvement in the site selection process. Throughout the estimates process, we saw and experienced a chief minister who was prepared to twist and selectively quote, to pressure and bully and to give a false impression of his involvement in the site selection.

The Leader and the Deputy Leader of the Opposition have highlighted the Chief Minister's misleading and contradictory testimony, to the extent that, within a short period of time on one day, he held no fewer than four competing views—enough even to boggle the Chief Minister's mind. On top of that, after holding four contradictory views in the course of one day, he then, at the end of that day, provided in writing an answer to a question on notice in relation to the MacArthur power station that

undermines everything that he said and reinforces the arguments that Mr Seselja has brought to this place today. In answering the questions, he said:

Potential sites were considered in sequence.

They were not all on the table at once. That is what he kept saying. But in the answers to questions he said:

Potential sites were considered in sequence. The first site identified by ActewAGL was Block 7 Section 21 Hume.

Then he goes through the sequence of sites.

The final site was also part of Block 1672, but following subdivision is now Block 1671 ...

The Chief Minister's evidence at the estimates committee is, in fact, finally and conclusively undermined by his own hand in answer to a question on notice. The Chief Minister proved that he cannot take people forward on this matter. He has misled, he has obfuscated, he has twisted.

We come to the refusal to table documents. I am so glad that the Deputy Chief Minister has raised this issue. As members have said, there are in excess of 3,000 documents which, for various reasons, have not been made available to the opposition in their FOI request.

The Chief Minister, as we all remember, used to be an advocate of reform; we all remember the more open, more accountable Jon Stanhope, the Jon Stanhope who was advocating reform of the Freedom of Information Act. That Jon Stanhope has gone a long way in the other direction because he is now out in public giving false notions of what the Freedom of Information Act is all about. He actually said on radio last week:

The Freedom of Information Act requires, for a full range of exemptions of material that won't be provided ...

He goes on to explain how an FOI officer does his job:

Every time documents are released under the FOI Act the FOI officer goes through them and deletes and blacks out all the information which is exempt under the Act.

Over time the Chief Minister has sent a clear message to his officials that all exemptions under the Freedom of Information Act must be used to the maximum extent and contrary to the objects of the act which say that the use of the provisions of the act should be "exercised as far as possible to facilitate and promote, promptly and at the lowest reasonable cost, the disclosure of information". There is nothing in Jon Stanhope's words, there is nothing in Jon Stanhope's actions, there is nothing in his example that would give any FOI officer in this territory any thought that he should be lenient in providing information to the territory.

After the estimates hearing, we had the spectacle of the Chief Minister misleading again members of the public and the media by a range of statements and media releases that claimed that the opposition had in its possession a particular document. He actually went so far as to put out a press release that said that Mrs Dunne held it up in the estimates process last week.

I will actually do a re-enactment because I failed to do something the other day when I was in estimates. I undertook to table these documents. I omitted to do so. What I held up was this document—and I will hold it up again—that was received by the opposition at folios 10 to 15 of the FOI Act and is exempted because, according to the FOI officer, it is an internal working document. I held it up and contrasted it with the document that I told the Chief Minister we had received from the *Canberra Times*, which is a briefing to him, without the attachments. I held them up together and asked him to contrast why we were given the blacked-out, preliminary version but the *Canberra Times* was given the whole, final version, complete. In answer to a question from Mr Mackay, we made it very clear that we did not have the attaching letter that goes with it.

Day after day, the Chief Minister put it out there that the opposition had this letter, the magical get Jon Stanhope out of jail free letter, which would prove forever and always that he was in the right and we were in the wrong. I seek leave to table these documents which I should have done during estimates.

Leave granted.

**MRS DUNNE:** I present the following papers:

- Proposed gas fired power station and data centre—Copies of—
  - Email to Pam Davoren; David Dawes and George Tomlins from Rod Power, Senior Manager, Planning and Urban Services Section, Cabinet and Policy Group, dated Saturday, 7 July 2007.
  - Letter to Mr J A Mackay AM, Chief Executive Officer, ActewAGL, from the Chief Minister (2).
  - Brief to the Chief Minister from Pam Davoren, dated July 2007.

While the Chief Minister was out there lying to the community, lying to the media, encouraging the media organisations to ring my office and ask for a copy of the document which he knew that I did not have—

**MR SPEAKER:** Would you withdraw the accusations of lying, please?

**MRS DUNNE:** If I made an accusation of lying, I withdraw it. The Chief Minister was out encouraging members of the media to approach my office for the documents that he claimed I had when he knew, in fact, that I did not have them. It is the case that the opposition did eventually receive that document. It received it yesterday afternoon, at 4.57, I have been informed. It was folios 174 and 175 of the FOI request which, up until then, had been exempted or subject to consultation under section 27 of the Freedom of Information Act. I would have tabled it eventually, except that someone from the government has tabled this letter.

Let us look at the letter. Mr Stanhope says this is the government's get out of jail free letter. It is not. It does not disprove anything that the opposition has been saying. It says that there are three sites. It lists the three sites. It says quite categorically that, as of 19 July last year, ActewAGL's preferred site was still block 7 of section 21. It does not disprove anything. Mr Stanhope talks about a meeting that happened on 6 July, but we know from the documents tabled by Mr Seselja that on 8 July officials of ActewAGL were still writing to the LDA saying, "Please intercede with the Chief Minister to get block 7 of 21, Hume. back on track because this is the one that we want to use."

It does not disprove anything. All it does is say that these are the sites that have been considered. It does not make a commitment from the Chief Minister to provide any one of those sites. There is nothing in this that could prove otherwise. Jon Stanhope's get out of jail ticket is so flimsy that he would not provide it until the 11th hour. When he was given the opportunity to table it this morning, he would not table it. He was eventually forced to get a girl to come and do his job for him. He will not table most of the other advice that goes with it.

What we have seen today and throughout is a Chief Minister who, when it is convenient, will use the term "process". But when he does not want to release documents he says, "There is an FOI process involved." He has actually given very clear direction to his FOI officers that they should be as stringent as possible in the releasing of information.

As a member for Ginninderra I cannot let the opportunity go by without referring to what is in the pipeline for the people of Belconnen. What is in store for your constituents and my constituents and Mr Stanhope's constituents in relation to a proposed data centre within 200 metres of the new housing development of Macgregor and slap-bang in the middle of what the new territory plan tells us is a future urban area?

Predictably, when the opposition raised this as a possibility, it was only raised on the basis of "it seems that this is what people are thinking". The Chief Minister came out swinging in his usual attempt to mislead over the issue. He claimed that we should not be upset because it was a block next to an egg farm. In fact, the egg farm is considerably further from the block than is the affordable housing land that the Chief Minister has touted. It is simply not true that it is close to the egg farm.

The Chief Minister said that there were no plans—there had never been any plans—for a gas-fired power plant. He said at estimates, "There is no evidence, not a skerrick." He said this because back in October last year ActewAGL lodged with the LDA an application for a block of land and said that they would use mains electricity to power the data centre.

But let us look at what happened before October 2007 and see what the truth really is. There is a substantial amount of documentary evidence that shows that there had been at least preliminary plans for a gas-fired power station at Belconnen. The LDA believed that the government facility required a gas supply. As Mr Smyth said this morning, they explicitly said this when they asked for a valuation. The ActewAGL



planners, CB Richard Ellis, stated that the Tuggeranong block was only one of two proposed power stations, and it is obvious by a process of elimination that the other one does come in at Belconnen.

There was a meeting on 6 August at which CB Richard Ellis talked to ActewAGL and the LDA about this. Other documents from that meeting say:

The proposed solution will enable ActewAGL to properly manage power delivery and guarantee very high levels of power availability necessary for non-stop data centre operations compliant with the highest international ratings ... This will be achieved by integrating the power load ... power generation, synchronisation and switching infrastructure into a single manageable solution ... The proposed development offers: On-site secure power supply from a gas-fired power station to be constructed by ActewAGL.

There is an aerial photograph prepared by CB Richard Ellis. It is held by the ACT government and shows over two hectares of power assets separate to, but adjoining the 14.7 hectares of data centre at Belconnen. These power assets are 200 metres from the indicative boundary of the west Macgregor development.

ACTPLA believed that the Belconnen facility would be a duplicate of the southern facility, and there is a briefing, which states:

I attended a briefing by ... (CBRE) and ... (ActewAGL) on the proposal for a data centre and gas-fired power station at Hume and a parallel/duplicate data centre at—

the next bit is blacked out so we do not know where the location is:

proposing connecting the two centres by fibre optic—

This is an internal email from officers of ACTPLA to elsewhere. It is perfectly plain from this—(*Time expired.*)

**MR BARR** (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (3.21): Mr Speaker, I will not be supporting the motion. It is nothing more than a political stunt. It appears to be politically designed to politicise the independent planning assessment process in the territory. The ACT has an independent planning authority and a statutory process for the assessment of proposed developments. This government, in 2003, established an independent planning authority capable of assessing development applications at arms length from political interference. The Canberra city technology project is still being rigorously and independently assessed by the Planning and Land Authority.

For the benefit of those opposite I will take the opportunity now, particularly in response to paragraph (2) of Mr Seselja's motion, to outline the process for assessment. The development application was accepted by the Planning and Land Authority on 31 March 2008. According to the transitional arrangements in the Planning and Development Act, an act that, from memory, was passed unanimously in this place, the land act continues to apply in relation to the application.

To answer Mr Pratt's question in his little tirade about why such a facility could be on a site that was zoned as broadacre land use, we all voted for it in the territory plan. So did you, Mr Pratt. That is the plan. According to the territory plan the site is within a broadacre land use policy area and, as such, permits a major utility installation and a communications facility, subject, of course, to the provisions of the territory plan. As the proposal includes a major utility installation, as defined by the territory plan, it falls under the list of prescribed classes of defined decisions in appendix 2 of the territory plan, which requires a mandatory preliminary assessment.

To answer the second question and the second ridiculous point that Mr Pratt put in his speech that the assessment process for a project like this is no different than for a home renovation, I would challenge Mr Pratt to identify which home in the history of the ACT has required a preliminary assessment. I have asked that question because this issue has been raised before—that it is the same assessment process. It is not. It is a very different assessment process. A mandatory preliminary assessment is required for a project of this size. A home renovation does not require a mandatory preliminary assessment.

The purpose of the preliminary assessment is to identify the extent of potential environmental impacts. The PA and the DA were notified in accordance with the requirements of the land act. Again I respond to Mr Pratt's point about notification. We had this debate in this place in relation to the new planning system. I will give credit to Dr Foskey: she raised this issue around what was appropriate notification.

The provisions in the act require adjoining leases to be notified. The question that you would have to ask if you were to extend it further is: how much further? At what point do you say you are no longer close enough to the project to be notified in writing that you should otherwise be notified by means of a public announcement through, for example, the *Canberra Times* or perhaps some other form of public notification, be it a sign on the site or some other form of communication? That is a matter for some debate, and we had that debate in relation to the new planning system. The Assembly again reached a position on that.

If the Liberal opposition wishes to revisit that and revisit the notification provisions, that is a debate that we can and should have. We are very happy to engage in that debate. But Mr Pratt voted for the notification system that is in place. For him to come in here and suggest that that was inadequate belies his own vote in this place.

The public inspection and comment on the PA and DA were extended to 27 May. Mr Gentleman made that request of me as planning minister. I agreed with Mr Gentleman's assessment and recommendation. I agreed with that and extended the consultation period.

Subsequent to that, the proponents have requested changes to the proposal. These changes have been accepted by the Planning and Land Authority as an alteration to the current DA at the request of the applicant as is permitted under section 226 (7) of the land act. The transitional arrangements in the Planning and Development Act permit the alteration of an application lodged under the land act and require the DA to be determined according to the provisions of the land act and hence the pre

31 March 2008 territory plan. Section 226 (8) of the land act requires the Planning and Land Authority to renotify the alteration in accordance with the earlier notification requirements.

A revised PA was submitted to the Planning and Land Authority with the altered DA. The altered DA and the revised PA have been renotified in accordance with the sections of the act. This renotification was advertised in the *Canberra Times* on Saturday, 7 June. The renotification proposal is available for comment for 15 working days from the date of the *Canberra Times* notice, which is the time frame required by the legislation. This closes on 1 July 2008. I can advise the Assembly that all submissions received to date will be considered during the assessment as well as all additional comments received during the renotification period.

The preliminary assessment will be evaluated by the Planning and Land Authority according to the requirements of the legislation, taking into consideration the comments from other ACT government agencies, including the ACT Environment Protection Authority, ACT Health and submissions from the ACT community. The health minister has indicated that she has commissioned a health impact assessment for the proposal. This will also inform the evaluation of the preliminary assessment.

The subject of the potential environmental impacts offered by the PA will then be provided by ACTPLA to the environment minister, who will make a decision as to whether to direct a higher level of environmental assessment. That is an important point. I hope Dr Foskey, particularly, is paying attention.

Once the Planning and Land Authority has assessed the preliminary assessment, it then makes a recommendation to the environment minister. It is at that point that a decision is made—and a decision can be made at a ministerial level—as to whether a higher level of environmental assessment is required. To do so before that would be in breach of the act. For those opposite and Dr Foskey to be calling for that to occur before the planning authority has made that assessment would be asking us to breach the act. I do not think that those opposite and Dr Foskey would in any other circumstance seriously ask a government minister to breach the act.

The result of the PA process will inform the authority's assessment of the development application. The development application will be assessed against the requirements of the land act, the general principles and policies of the territory plan, the broadacre land-use policies and other relevant policies and guidelines. The assessment of the DA will also include a careful consideration of the submissions from other ACT government agencies and the range of issues raised by the community. The development application must be determined by 26 September 2008.

Obviously, by their stunt today and by the tone of the interjections, the Liberal opposition do not agree with this process and believe themselves to be above it. However, one could be forgiven for being confused at their position. The Leader of the Opposition has now fessed up to the fact that he was briefed on this project some eight months ago. If he does think it is such a heinous project, which will cause pollution and the loss of amenity to his fellow residents and indeed to himself, why did he not say so in October last year? Could it be because he thought it was a project with enormous potential to broaden the territory's economic base? The great

economic diversifiers over here! Is this something where the great economic diversifiers over here might have initially wanted to support it but suddenly realised, "Hang on; there might be a vote in this. We might do a dramatic about-face." Was it because he thought such a project was worthy of going through a full independent assessment process to see if the project could proceed with proper regard to the environment and to the requirements of residents?

Whilst the Leader of the Opposition does not appear to know much about the planning portfolio, he is aware that there is a process. When asked by the *ABC Breakfast* announcer Ross Solly whether, as a resident of Macarthur, he was "relaxed and comfortable" about the development being sited on Mugga Lane, Mr Seselja responded, "Well, we're just going through a process." A little later in the interview, he said, "I think everyone would have some concerns about it and that's why we've been going through this process."

It would appear that we have an agreement that there is a process and that we should go through it. It begs the question: why has the opposition spent the last two months ignoring this process and trying to kill off this project? Why are you so incapable of respecting an independent process?

**Mr Pratt:** You did not live by the process.

**MR ASSISTANT SPEAKER** (Mr Gentleman): Mr Pratt, remember that you are on a warning.

**MR BARR:** Good governments develop robust and independent processes to assess projects such as this. Good governments put the good of the people of the ACT and the economy above petty, cheap political stunts. The opposition leader and his team of ACT Liberals have shown that they would be a danger to the sustainable economic development of the ACT but they have also, perhaps most importantly, shown that they would be a danger to independent planning assessment. They would open up the ACT to Wollongong-style corruption as a way to buy votes.

That is what this motion is really about. It provides a further insight into how the Liberals propose to operate the ACT's planning system if they ever get back into government. That is the issue that the media should focus on. If the opposition are unhappy with the statutory process, let them put forward an alternate statutory process.

**Mrs Dunne:** You've got two minutes to address the motion.

**MR ASSISTANT SPEAKER:** Mrs Dunne, remember that you are on a warning.

**MR BARR:** Or are we going back down the path of what planning and development was like in this city when Mr Smyth was the planning minister, when the call-in power was the most frequently used planning instrument and when there were no controls: there was not an independent statutory planning authority and there was not an independent planning process. That is the choice we face.

We can put in place a statutory independent planning authority and have assessment of development applications at arm's length from political interference: we set the policy, we set the territory plan, as members of this Assembly, but assessment of development applications is done at arm's length.

I would argue, and I know my colleagues argue very strongly, that that is a preferable system to what occurs in New South Wales. Most particularly, if you want to cite an example of how the New South Wales system can go wrong, I direct you to Wollongong. That is an example of how, if there is undue political interference in the planning process, you get bad outcomes.

This statutory process is not yet complete. It should be allowed to be completed. The real danger and the real motivation behind this motion from the Leader of the Opposition is that it signals his intent to have dramatic change to how the planning system would operate if the Liberal Party were ever in government in the ACT.

**MRS BURKE** (Molonglo) (3.36): Once upon a time, a \$2,000 million gas-fired power station and data centre were planned for Canberra. This would have boosted the government's claims to be leading the way on reducing greenhouse gas emissions and also maintained the commonwealth government's infrastructure presence in Canberra.

But, as has now become form and a trademark of the Stanhope government, they failed to manage the project properly, did not communicate with the community until they were sprung, and chose to site this station near residents in the southern suburbs of Canberra rather than away from people's residences. They told people as little as possible, but the community were naturally angry when they found out—and the project has since been scaled down by half.

People are not fooled by this Chief Minister after seven years of his sham community consultation. How could they be? After seven years of the Stanhope government pulling the wool over people's eyes, they are now awake to the way that this government governs—or does not. They now know that this government is about deals and decisions behind closed doors and a cynical nod in the direction of community consultation after the decision has been made.

The first time that these people in the Tuggeranong valley knew about it was when they saw a notice in a paddock regarding horse agistment. So I suggest you check your processes, Mr Barr. In fact, this sham consultation process continued when you decided to close 23 schools—remember? Now you have tried to do it with the Tuggeranong power station and data centre.

With the Stanhope Labor government we are in a looking-glass world where nothing is quite as it appears. Ms Gallagher as Acting Chief Minister said information blacked out in FOI documents may have been commercial-in-confidence but that the government had nothing to hide. According to this Labor government, blacked-out documents show they have nothing to hide! They have really used the commercial-in-confidence excuse once too many times.

The Chief Minister would give the artful dodger a run for his money. His favourite technique for dealing with criticism is to mount a huge aggressive personal attack on all critics, as he has really demonstrated today. Even the *Canberra Times* has had a slamming in the past and he thinks it is enough to declare roundly, as he did, on his return to the estimates committee:

Any suggestion that I acted improperly, had something to hide or, worse, strong-armed a consortium, that at a whim could simply have taken its business elsewhere is counter-intuitive, without foundation and profoundly offensive.

That quote was from the *Canberra Times* on 17 June. As my colleagues have been telling you, so far from being counterintuitive, whatever that means, and without foundation, there is a daisy chain of statements and contradictions by the Chief Minister, with two senior ranking public servants actually writing to the estimates committee to change their previous testimony—it is a shame that these people have been hung out to dry as well—because it was inaccurate.

The Chief Minister tries to vainly justify his mishandling of this extremely important project for the ACT. The Acting Chief Minister Katy Gallagher said:

The opposition will not be able to prove in any way, in any document that there was any improper involvement, or ultimately that the Government took decisions around this project specifically about where it was, because that is just not the case.

That was from the *Canberra Times* of 6 June. Unfortunately for Ms Gallagher and Mr Stanhope, we know, from freedom of information documents that the opposition has received, that ActewAGL identified block 7 section 21 Hume as its preferred site but later moved from that position. Why? Because the Land Development Agency had identified the Hume site for its industrial land release program. It was not, as the Chief Minister had said, that ActewAGL had rejected this site. The same FOI document showed that the ACT Chief Minister's Department thought the Tuggeranong site was the best outcome because it would leave the industrial land available for the release to the market and—guess what—it could fetch between \$30 million and \$40 million.

Despite the protestations, the Chief Minister has not been at arm's length from the decision to place the gas power station and data centre in Tuggeranong. He and his government have actually been behind the decision to place the gas power station and data centre right where they are proposing, and they will stick to it now, at Tuggeranong. Even after making that decision, they have continued, funnily enough, to refer to the site as being in Hume. I think they have even got themselves mixed up and confused.

Yet again, we have seen copious examples of the same old lack of transparency, the same old double dealing behind closed doors, hoping, no doubt, as they always do, to be able to spin it to the long-suffering public. But the whistle was blown on the involvement of the Chief Minister and his department by none other than the Deputy Chief Executive of the department, David Dawes, and the LDA's Acting Chief Executive, Philip Mitchell, who, after saying previously before the estimates committee that the Chief Minister's Department was not involved in the selection of

the site, said, after all, that it had been, and the estimates committee was reconvened to hear the evidence.

It is interesting here that the Chief Minister could have intervened during the estimates hearings on 26 and 27 May and corrected the statements made by officials. He says he shoulders no responsibility for how the estimates committee was misled. He said on 2CC on Monday, 16 June, "I'm not responsible for comments that officials make at estimates." However, the facts are that in March 2007 Mr Stanhope indicated that he had personally narrowed the field of sites under initial consideration by confining the search to Hume. I quote from document No 6 of 23 May 2007, Stanhope media release "Gas Fired Power Station Could Help Secure Supply":

In relation to the possible siting of a gas-fired power station I asked officials some weeks ago whether they might be able to identify land at Hume.

In fact, the Chief Minister made multiple self-contradictory statements to estimates, and this is what happens when someone makes things up as he goes. He further said, more or less what he said today, that he does not get close to the decision making but that he is made "vaguely aware". How aware is "vaguely aware"?

The power station project has alarmed Tuggeranong residents, who believe that the power station is too close to their homes and will pollute the valley with nitrogen oxide emissions. Did the Chief Minister think people would not notice perhaps? Or is it just that he has become so hidebound and arrogant that he is used to being able to ram through whatever unpalatable proposal he likes, just as he did with the closure of 23 schools?

We know, don't we, what Mr Stanhope thinks about Tuggeranong. We have a lovely quote from page 184 of *Hansard* of 6 March 2007:

... Mr Slimeball from Tuggeranong. He loves it down there in the gutter.

... ..

Mr Smyth is comfortable down there in the gutter. He likes it there, down with the cigarette butts and the dog turds and the wasted life.

That is what he thinks about the people of Tuggeranong! That is the contempt he has for the people in Tuggeranong. In short, Chief Minister Jon Stanhope owed it to the people of Canberra to have got this project right and to have looked after its citizens first and foremost. Also, what did Jon Stanhope do about ensuring the health and safety of the people of Canberra, particularly those who would be close to the site the Chief Minister had selected, right next door to housing, instead of in a removed industrial area, the site preferred by ActewAGL?

The health minister was asked during the health estimates hearing on 21 May what information she had been given, and when, about the impact of the proposed power station in Tuggeranong on a health facility some 660 metres from the boundary of the project. Ms Gallagher replied:

I have received some correspondence on that, not just in health but in disability, and I am taking advice on both of those areas.

That quote is from *Hansard* of 21 May. The health minister was then asked what she had done to protect the residents of Tuggeranong and she replied:

I have taken advice on all of the issues under the health and disability portfolio.

The minister was asked whether ACT Health had been given advice about the design and operation of the power station and data centre and its impact on residents at large, and in particular the facility known as Rose Cottage. Ms Gallagher said:

... it is appropriate that agencies have discussions. I am aware that they have across my portfolio. No, I have not seen any firm advice on it. But I am sure it is on its way ...

The minister may have seen some soft advice on this, but the firm advice is a bit like the cheque in the mail—it is always on the way. The CEO of ACT Health then said that the advice had been prepared for the minister “and will be made available to the minister and to the other authorities as appropriate during the consulting process”. From this, it would seem that the firm advice was not even on its way, but sitting in a drawer, from which it would be plucked out at whatever time ACT Health deems the “appropriate” time for releasing it to the minister during the consulting process. Who is running the show? Why wouldn’t the Minister for Health be given advice on the health impact of the proposed power station—a major project, as we keep hearing—as soon as it was prepared? I really find this quite strange, and I know that the people of Tuggeranong do.

Are we also to believe that the Chief Minister did not keep his deputy or her officials advised and apprised of this major project? Apparently not, if we are to believe Ms Gallagher’s recollection of events. At the health estimates hearings, the health minister said she was not briefed as one of the two shareholders of Actew Corporation. I may have to correct that; or Mr Hargreaves may correct me. The health minister then added, “I have received correspondence, I am sure.” What did the correspondence say? Did that correspondence constitute a briefing? When and how often did the Chief Minister discuss this matter with his deputy? Has he now in fact landed his deputy in the mire here? She did not look very comfortable today, that is for sure. We do not know. All that we have is vagueness and evasion about a very important matter that concerns potential health risks to the community—or not, as the case may be.

The health minister was at it again today. She accused the “naughty opposition” of “scaremongering”. This is the usual bleating we have come to expect from this minister and this government when they are trying to gloss over major gaffes. That is what we are seeing today. In the *Canberra Times* on 23 May, she said that there were no health concerns at the moment because the proposal for the power plant was not yet finalised. Ms Gallagher reiterated, in the *Canberra Times* on 23 May, the Chief Minister’s claim that if there were any health concerns, the project would not go ahead. If health concerns were so important, why were they being considered last? And if this project is so important, why was the discussion of the potential health impacts kept so quiet?



When did the Chief Minister talk to Ms Gallagher in her capacity as minister for disability services? During the estimates hearings into disability services, Ms Gallagher said for the first time that she had been given advice that the respite centre at Symonston for severely disabled men “would have to move if the project went ahead”. This is a facility on which the government has just spent \$1.6 million refurbishing. It emerges that the respite centre is the closest neighbour to the power station.

A departmental official from disability services said that the Land Development Agency had advised them as part of the DA process. Another department official said that they had become aware of the need to address this issue of the respite centre’s proximity to the project “through the press and through informal discussions” and only after the DA had been lodged in February and the environmental assessment had started.

What a bungled mess this all is. These admissions are staggering. This further highlights the Chief Minister’s absolute and total mismanagement of this major project and his failure to keep his ministers properly informed in a timely manner.

Ms Gallagher said on radio that ACT Health “has not raised any specific concerns” about the health impact of the proposed gas-fired power station. One wonders what her definition of specific is. Have they raised generalised concerns about the impact of nitrogen, one would wonder. What she did say was not calculated to instil any confidence in Tuggeranong residents or anyone else. She told the ABC on 17 June:

I know the first advice I got about this proposal late last year was that ACT Health was quite excited about it—

that was the gas-fired power station—

because it certainly bolstered our preparedness in case of an actual disaster. So, that is a positive health impact.

In the topsy-turvy world of ACT Realpolitik Labor style, the health minister says that there are no specific concerns about the health impact of the gas-fired power station but that we should be pleased that ACT Health is improving its preparedness for—what?—a potential disaster.

As John Thisleton wrote in the *Canberra Times*, this project has been “beset by indecision and intrigue”. The only information forthcoming has been belated and partial and has only come about because the community rose up against the proposal.

In response to public uproar, we now learn that there will be a very hasty examination by an expert committee of potential health issues of the now scaled-down version of the power station project, to report after a month. Can anyone really have any confidence in such a hastily thrown together inquiry? This is the cynical, knee-jerk act of a cynical government.

What should have been a great opportunity for Canberra has been squandered by this government and a \$2 billion investment has now been halved. Greed has guided the

government's decision to move the power station site from industrial land at Hume to Tuggeranong where it will be close to residents. That is why the opposition declares today that we have no confidence in this Chief Minister. I urge members to support this motion.

**MR HARGREAVES** (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (3.51): I observe that we are talking about Canberra's second gas-fired power station—the first gas-fired power station we heard this afternoon and this morning, delivering the biggest load of garbage I have struck in 10 years since coming to this place.

**Mrs Burke:** And that is why you did not go to the community meeting, isn't it—too scared, lily-livered?

**MR HARGREAVES:** Mr Speaker, if Mrs Burke wishes to talk to herself because no-one else will listen, I would like to invite her to go outside and talk to them because she has got more friends out there.

It is time for the Leader of the Opposition to attempt to gain some traction in the community. It is time for the Leader of the Opposition to try to gain some attention from the voters. It is time for the annual no-confidence motion in the Chief Minister. I wondered also earlier on today whether if Mrs Dunne became the leader between now and the election we would see another no-confidence motion, because it seems to be a rite of passage for those people across the chamber.

All the leaders of the opposition have had a crack at moving no-confidence motions in this Chief Minister and none of them have succeeded because none of them can mount a case. Why can't they mount a case? It is because there is no case to be made. This Chief Minister is the strongest leader that the Canberra community has had since self-government and he has managed to keep a united team behind him for the 6½ years he has been Chief Minister—he is now the longest serving head of government in the nation—because he is wedded to good processes implemented by an impartial public service. In the first Stanhope government, he needed the support of the crossbench and was able to obtain that because he was trusted and followed good process. Nothing has changed now.

Yet, in that same period, everybody opposite has had a go at being leader or acting leader of the Liberal Party, except Mr Pratt and Mrs Dunne—and there are still four months to go. The Liberals' idea of unity is to expel anyone that does not agree with them—Mrs Cross in the last Assembly, Mr Mulcahy in this one. The late Mr Kaine jumped before he was pushed; at least Trevor was able to participate in a successful no-confidence motion against a chief minister. He was part of the push against Ms Follett, the first female head of government in the nation, and he became Chief Minister himself as a result. Eighteen months later, he fell victim to a no-confidence motion.

Those two no-confidence motions were the result of minority government, and it should be noted that the motions were against the Chief Minister and the government, unlike the present motion, which is against the Chief Minister only. Perhaps the opposition are happy with the job the rest of us are doing. Thank you very much for your vote of confidence, guys.

I know that the movers of those early motions put up plausible reasons for moving them, but the underlying cause was minority government, which is inherently unstable and creates openings for opportunistic political stunts such as this one. Minority government cannot create the stable conditions required by business and the wider community to prosper. The second Stanhope Labor government has held a majority, exercised it reasonably and created the stable conditions required to attract and keep projects of the size of the one proposed by the TRE consortium.

The only other successful no-confidence motion against a chief minister was against Mrs Carnell, for her inept administration—and two members opposite were ministers during that phase, too.

**Mr Stefaniak:** A very good administration, actually.

**MR HARGREAVES:** He adds quietly to himself. Admittedly, Mrs Carnell was another Liberal leader that jumped before being pushed—she resigned before the motion could be debated—but she knew the numbers were against her. She was smarter than Mr Seselja: she could count; apparently he cannot.

That no-confidence motion was against Mrs Carnell; it was not against her and her government. The Stanhope opposition had no interest in creating an unstable environment, even if there was a minority government. We wanted good process, arm's length, transparent processes, and eventually we got them. The no-confidence motion against Mrs Carnell was not a precipitate, knee-jerk reaction; time was taken to build the case. Before tabling the motion, Mr Stanhope chaired the Select Committee on Government Contracting and Procurement Processes. The committee held an inquiry and made recommendations to ensure that the principles of openness, fairness and value for money were embodied in government dealings. Would the man that led that committee do the things that the Leader of the Opposition is accusing him of? I do not think so. I doubt it.

As a result of that committee's work, an independent member, Mr Osborne—note, not the government but an independent—put up the Public Access to Government Contracts Bill 2000. The minority Liberal government was led kicking and screaming to the roundtable conference at which it, the Labor opposition and independents agreed on the clauses of the bill to be put to the Assembly. It passed into law with our support and, after a series of amendments since then, became the Government Procurement Act.

All that sterling work put in over a period of years matches the government's work in reforming the land release process so that it works in the community's interests of fairness and value for money. The development that has taken place under this government is second to none. It has brought business and jobs to the city to make us one of the strongest economies in the country.

The planning process has been extensively overhauled by my colleagues Mr Corbell, the former Minister for Planning, and Mr Barr, the current Minister for Planning, in spite of the endeavours of the erstwhile minister for planning, the youngest leader of the Liberal opposition—or, should I say, the latest leader of the Liberal opposition—

and the shadow minister for planning, sitting next to a very, very bad former Minister for Planning. It needed overhauling because some of us can remember when that ratbag bunch opposite headed a minority government and were at the mercy of the crossbench and any carpetbagger that came through the door. Tweet, tweet—open your mouths a bit more and I will put a worm in them—tweet, tweet, tweet!

The lack of process under the previous government, in which Mr Smyth and Mr Stefaniak were ministers, led to such real debacles as the building of suburbs with roads too narrow for buses, in Gungahlin; the Hall-Kinlyside proposal; the on again, off again rock concerts Mr Smyth knows all about; Impulse Airlines—what an impulse that was, straight down the toilet with a little blue block; the Bruce stadium fiasco that cost Carnell her job, overnight loans for millions and spending taxpayers' money without appropriation.

This current project has had much more robust process around it than those used by the previous government or even the procedures that the unelectable lot opposite are proposing in Mr Smyth's bill. The consortium approached the government for land and were referred to the appropriate sections of the public service, which identified a number of blocks that might fit the purpose. The consortium made their selection from the lots offered and then the statutory processes kicked in—land valuations, planning studies, preliminary assessments, development applications, public notification of the DA et cetera. These processes are all at arm's length from the government, and that is how it should be.

The inexperienced Leader of the Opposition accuses the Chief Minister of mismanaging the process associated with the data centre and gas-fired power plant at Tuggeranong, thereby jeopardising this most important project for the Australian Capital Territory. Guess what, Mr Speaker: it is not the Chief Minister's job to manage this project. The Chief Minister has to do a lot of things—but managing this project is not one of them. If we assume that Mr Seselja is talking about managing the process of identifying land that might be suitable for the consortium's purposes, that is the job of the Land Development Agency in consultation with elements of the Chief Minister's Department. It is not something for the Chief Minister to manage.

If Mr Seselja is talking about managing the process of determining whether the data centre and power plant are appropriate for the ACT and will be viable, that is the job of the consortium. It is a matter for the managers of the consortium to determine which commercial operations will stand or fall on their profitability—not the government, not the opposition, not the community, but the consortium. It is not something for the Chief Minister to manage.

If he is talking about managing the development of a greenfield site through to the completed project, that again is not the Chief Minister's job. ACTPLA must carry out their statutory obligations in assessing and notifying the development application. If they approve a DA, objectors have a right of appeal. If the appeals are rejected, the consortium must carry out the development in accordance with the DA. Nowhere in this chain is there a task for the Chief Minister to manage.

Of course, the government are interested in the project and kept a close watch on what was happening because we are concerned for the future of the territory. If someone

wants to come here and spend more than \$2 billion to diversify the economy, naturally the government is going to want to pay close attention to the project and make sure that it stays here. And it is staying, despite Mr Seselja's best efforts to wreck it and talk it down. Not only is it staying; the power station is growing in size in another location, contrary to the misleading statement in the dissenting report of the Select Committee on Estimates that the project has been cut in half. Somebody misled the estimates committee. Who was it, Mr Speaker? Put your hand up. Come on, put your hand up. It was you, Mr Seselja.

We are interested in building a future. We have just produced a budget for the future and this should have been debated and passed last week. But Mr Seselja is not interested in the future; he is only interested in now: "Gimme the top job now!" In your dreams—dream on, sunshine.

This impressive project is also for the future. It will produce jobs for the future, jobs for the kids of the Tuggeranong valley—jobs for Mr Seselja's kids when they grow up, because he had the foresight to move to Macarthur, knowing full well that the power station and data centre was to be built nearby. His kids will be able to walk to work when they get jobs there. Mr Seselja had no qualms about moving to a house close to the site—no qualms about taking his wife and his kids to live there—knowing about the project. Why is that? Did he truly have no concerns or is he so arrogant that he thinks he has the power to wreck a \$2 billion project or at least force it to move away from his new home? This motion shows his true motive. He approves the project; he said so, and I will quote him:

It is really important that we diversify the kind of job opportunities we have in Canberra. And what this provides, potentially, is the opportunity for hundreds of jobs that aren't tied to the Commonwealth public service.

What he does not approve of is that no-one in the community knows who he is. He badly needs some brand recognition amongst the voters and he thinks a no-confidence motion is the best way to gain the community's attention. He does not realise that the community can recognise a political stunt when they see one and turn off the person who pulls it.

He also hopefully accuses the Chief Minister of selectively releasing material. Well, he or his colleagues were the ones that framed the request under the Freedom of Information Act for access to the documents. The decision to release the documents was made in accordance with that act by a public servant. The Chief Minister has no role to play in that process, so how did he "selectively release material"?

The only time a minister would be involved in an FOI request occurs when the request is made to the minister for documents in his direct possession. I understand Mr Barr has such a request on foot. Otherwise, the minister has no role to play. I would hope that the minister's department would inform the minister about what has been released, but the minister cannot make the decision about what is released. Mr Seselja has only himself and his party to blame if he does not know how to frame an FOI request to get all the documents he was seeking.

In relation to consultation, I do not know what the consortium were expected to do. There were articles in the paper, planning studies and a PA and DA process. When the community expressed their concerns, the consortium amended their plans. They down scaled the project at Mugga Lane and moved the larger power station to Williamsdale.

What would have happened to community consultation under the Liberal Party? To answer that we look at Mr Smyth's proposed Projects of Territory Importance Bill 2008. As with all private members' bills, there is no explanatory statement, so we are left to guess at his intent. That can be gauged from the long title:

An act to facilitate the moving of projects of Territory importance from a location to another to allow for their effective delivery and, consequently, to allow for the usual planning processes to be shortened.

What a short-sighted approach—to allow developers to say: “My project is of territory importance but it can't be built in the location I chose. I want to move it.” And Mr Smyth will then say, “Righto, off you go—and, by the way, you don't have to comply with the planning laws because you're moving. You don't have to do noise studies or consult the community. Just go.” Mr Smyth then really opens the door to political interference by requiring ministers to approve the project on the changed site and then asking the Assembly to approve it. Where does he get this idea from? Wollongong maybe. That will really protect the community's interest—allowing politicians, rather than independent statutory bodies and an apolitical public service, to do the leg work.

This motion of no confidence should be against Mr Seselja for allowing his deputy to put up such nonsense—or perhaps the leader did not allow his deputy to do it; perhaps the puppet master was just pulling the strings on that one. If Mr Seselja had truly been a “senior lawyer” in his previous job, he would have seen through Mr Smyth's proposal. But he was not a senior lawyer. He was not the Attorney-General, the Solicitor-General, the Australian Government Solicitor. He was not their deputy; he did not even work in a law department. He has not had the experience in administration, government or politics to know that he was being misled. This no-confidence motion also shows that lack of experience. How would he go in COAG, against Rudd, Brumby and Rann? It does not bear thinking about.

This motion, like Mr Seselja, should be dismissed.

**MR STEFANIAK** (Ginninderra) (4.06): I must thank Mr Hargreaves for his fascinating contribution to the debate. The cavalier approach of the Stanhope Labor government to governance in the territory questions its own fundamental ideals and philosophies. Indeed, in the 2004 Labor Party platform it is said:

It understands that good government does not bully, it leads. Good government accepts criticism. Good government has the courage to allow itself to be closely scrutinised. It conducts its operations in an open, honest and accountable manner, not in secret.

Good government respects the right to differ. Good government seeks to unite, not divide.

On this alone, the Chief Minister should not only resign but he should resign from the ALP, because he has failed not only the people of Canberra but even his own party's ideals. He has failed to uphold every single one of the ALP's platform principles, ethics and morals which form the basis of his party's stance on good governance in the territory.

There are four elements of governance that this Stanhope Labor government has treated with contempt and which form the basis of this no-confidence motion. Before I discuss those elements, it is important to reiterate that the Liberal Party's position on the gas-fired power station and data centre is quite clear. As my colleagues have said, we actually support the \$2 million investment in the facility. We see this as one of the most important infrastructure developments in the history of Canberra, even surpassing the construction of new Parliament House over 20 years ago. It is a facility that would create jobs, present incredible export opportunities and contribute to the broader economic and business base of the territory. In other words, it is a good project for Canberra.

The community refused to be kept in the dark here in relation to this particular project. The concerns that we hold in relation to this project do not actually go to the project itself; they go to things like the location of the facility, how the decision for that location came about, and the involvement of this government and its ministers in that particular process. The incompetence of this government in the process of the site selection for this project is no more clearly evidenced than in one solitary outcome—the very considerable community backlash it created. Exactly why there was such a strong and concerted backlash against the location of this project is simple—this government has failed the four key elements of good governance, and the first relates to accountability.

In bringing on this motion of no confidence, our democracy demands that we hold this Chief Minister and his government to account. Indeed, the community itself has largely done this, and it was done because this Stanhope Labor government was giving the community the mushroom treatment. It was kept in the dark and fed on you-know-what, Mr Speaker.

**Mrs Dunne:** Fertiliser.

**MR STEFANIAK:** Fertiliser, thank you, Mrs Dunne. The community refused to be kept in the dark, however, and that is why it spoke out so vehemently, and that is why the government had to respond. That is why the government had to placate the community, for example, by announcing the health impact study. Through the estimates committee, the Assembly has been treated in the same way. This treatment has been even worse than that of the community. Sifting through the Chief Minister's evidence reveals confusion, a lack of knowledge, denials, guesses, shifting of blame and contradictory statements. All of these were designed as an attempt to throw the committee off the scent.

Even something as basic as the time allocation for his recall appearance on 16 June before the estimates committee was the subject of confusion. Not only was the Chief Minister confused about it but he carried on about it ad nauseam, wasting a

considerable amount of the committee's time at the beginning of the hearing. He said, and I quote:

In fact, my office was advised that this hearing would be from 10.30 to 12.

The time for the recall appearance was set out in bold in a letter sent to the Chief Minister on 10 June by the chair and it said:

The Committee would appreciate hearing from yourself ... **from 10.30 am to 2.30 pm.**

The Chief Minister made a bevy of claims about his involvement or otherwise in the selection of this site. He made claims about the involvement or otherwise of his department in the selection of this site. He claimed that ActewAGL was not proposing a gas-fired power station in Belconnen, and at the summit of all this is the Chief Minister's attempt to release his government from any blame or involvement by shifting all responsibility for the site selection onto ActewAGL. It is a desperate attempt to hide from accountability, especially in this election year.

The Chief Minister was careful to emphasise this in the estimates hearing when he said:

The facts are that I personally had no role in the site identification or selection process.

The Chief Minister's biggest problem with all of this is that the paper evidence obtained under FOI, even as heavily censored as it was, sets the case that the Chief Minister was, in fact, personally involved, and so was his department, in the site selection for the gas-fired power station and data centre. Indeed, in a document that was published as a media release on 23 May 2007 he said:

I asked officials some weeks ago whether they might be able to identify land at Hume.

Further, there is paper evidence that sets the case that, in fact, a gas-fired power station was also proposed for Belconnen. An internal minute of the Land Development Agency dated 5 June 2007 identifies blocks of land in Hume and Belconnen and states:

The proposed use of the blocks of land is for gas-fired power generators and data storage.

This refusal to be accountable has become the hallmark of this Labor government. For more examples one has only to look at the government's refusal to release the functional review that was so critical in framing the 2006-07 budget. More recently, we have also seen a critical report written by Mr Ellis in relation to fire emergency services. For these two reports, the government has hidden behind the invisible cloak of cabinet in confidence, directly contradicting its 2004 election platform undertaking to:

... relax cabinet-in-confidence rules to allow a more open system of government.



The second element of good governance in which the Chief Minister has failed is that of the processes of government and the competencies of ministers. Our system of parliament demands that we perennially challenge this element. This is no better illustrated than by two factors: the first is the downsizing of the project from \$2 billion to \$1 billion; the second is borne out in ACTPLA's preliminary assessment of the proposal in which ACTPLA noted:

No information was provided as to why this site has been chosen over any other.

Where is the process, firstly, to downsize the project? It seems it was done with the stroke of a pen, purely and simply in response to a community backlash in a vain attempt to abate that backlash. It would seem that the Chief Minister is ready and willing to let the project and its impact on our economy suffer from his own raw stubbornness and his refusal to acknowledge the shortcomings of that Tuggeranong site. It is a case of "I've gone too far now to be able to do yet another backflip and sell it as responding to community concerns".

Then there is the ACTPLA assessment, which went on to say:

Given the abundance of comparable broadacre sites, a matrix indicating the order of importance for site selection prerequisites and a comparison between other useful sites would be useful to understand that this [the Tuggeranong site] is the best location for this proposal.

The third failure of the Chief Minister to uphold the qualities of good governance is in the area of transparency. It is the people who elect us to the Assembly who demand that we test the transparency of government decision making. What does it mean, Mr Speaker? Fundamentally, it means governments actually have to interact with people; they have to consult on issues that concern and affect them; they have to be up-front with people. In short, governments have to trust and acknowledge the intelligence of the people. To see the most spectacular failure of the Stanhope Labor government in this area, I go back to 18 January 2003 where we saw the failure of this government to warn the people of Canberra that a most horrific and fierce firestorm was on its way to the urban fringe. We know the result of that.

That was a failure of the government, as this is, to trust and acknowledge the intelligence of the people of Canberra. It is a total lack of faith by this government in the capacity of the people of Canberra to respond intelligently to the situation. Again, this government's own 2004 Labor platform states:

The fundamental principle underlying the governing of the ACT should be the development of the highest degree of community participation in the decision making process as possible. It is a basic right of all ACT citizens to be involved in making decisions, which affect them.

But then, in the estimates committee we hear the Chief Minister say in relation to consulting with the community:

He—

referring to Mr Seselja—

is advocating that ministers should make judgments in the interests of the community.

When exactly, Mr Speaker, did the community participate in a decision involving one of the largest infrastructure projects ever to be undertaken in Canberra? When exactly did the community participate in the decision to locate the project less than a kilometre from their homes? The answer is simple, Mr Speaker—they participated after the decisions had been made. They participated after the horse had bolted. They participated only when the government was satisfied it had gone so far down the track it could not turn back.

When the community did participate, it was in anger and it was in frustration. It was in anger and frustration, because the Stanhope Labor government either could not trust their participation or the government simply failed to properly consider the impact of the project on the residents. These failures have resulted in \$1 billion in project costs, not to mention the ongoing economic loss to the territory due to the lowered capacity of the facility.

The fourth element of good governance where the Stanhope Labor government has failed is ministerial responsibility. The trust that the people of Canberra put in their elected representatives demands we ensure ministers accept responsibility for the decisions of their government and its administration. The Australasian Study of Parliament Group in its 2007 report of the accountability working party entitled “Be honest, minister! Restoring honest government in Australia” comments:

Ministerial accountability fails when governments seize and hold political advantage, putting partisan interests ahead of the democratic rights of citizens and their entitlement to be treated with integrity, dignity and respect.

In this regard, Mr Speaker, the Chief Minister and his government have failed perhaps worst of all.

This government is so arrogant as to think ministerial responsibility is a burden that others must carry. We have seen every single minister over the past four years stand up in this chamber and blame others for their shortcomings. Ministers, including the Chief Minister, have tried to shift the blame to someone else ranging from issues in relation to not warning people in 2003, reporting assessments of our health system, the recent balloon fiasco, costs blowouts of the GDE, and the Chief Minister and his deputy trying to hide behind the thin veil of share certificates in government business enterprises such as Rhodium.

Mr Speaker, the Chief Minister and his deputy are the shareholders of Actew Corporation, which itself holds a 50 per cent share in ActewAGL. However as a shareholder and minister, the Chief Minister confuses his responsibilities. As a shareholder, the minister may be supportive of a proposal, but, as a regulatory decision maker, he should be neutral. The Chief Minister sees his role in the absolute reverse. He says he is neutral in his capacity as a shareholder, but, in his capacity as a minister, he is an active supporter of a proposal. When asked in estimates whether as a

shareholder and as a community representative he had made any judgements about the merit of this proposal he replied that that was not for him to do. Yet only moments later he said:

The government has been fully supportive of this particular proposal and project, and remains so. Our support has been evident from the outset.

How are the people of Canberra to understand where the Chief Minister's loyalties lie when confronted with these kinds of contradictions?

I recently had cause to go the Bega Valley Shire Council, one of the 17 shires and local government areas that form the Capital Region. They also are a little bit annoyed that no great emphasis is placed any more by this government on that region. But there was a document there about—guess what—a gas-fired power station. A \$150 million project, 190 watts, which was going to be situated some 7.5 kilometres from Bega to the south west. The council had an A4 fold-out document with pictures, maps, a time frame of when it was all going to happen subject to community consultation, and other things. I think the process was meant to start in 2006 and to be up and running by August 2008.

I asked one of the staff what happened to the project. It was not killed off because of any problems with the consultation process. It had been clearly set out in this document which was available and given out to the community. What killed the project was apparently the trouble of getting the gas pipeline to go over the Brown Mountain and the costs which the proponent and the New South Wales government decided was prohibitive, so the project went elsewhere.

What if the government had just simply been as honest as the Bega Valley Shire Council and put out a document like that at the start of this process, saying, "This is what we would like. Here are some of the sites. Here is what it is going to do for Canberra. Here's a proposed time frame"? What if it had taken the people into its confidence and done it properly rather than all the obfuscation and all the scurrying around it has done since this all came to notice far down the track from when it actually started?

Let me finish, Mr Speaker, by noting that we in this city have a Chief Minister heading a government that is quick to put paid to its own ideas and philosophies. We have a Chief Minister who cannot be consistent in his evidence, either because he is not sufficiently across the detail or because he holds the estimates committee and, through it, the Assembly in some kind of contempt. We have a Chief Minister who refuses to acknowledge the intelligence of the people of Canberra and their willingness and their eagerness to be involved in the process of decision making on matters of concern to them, especially matters as fundamental as this and matters of such importance to the territory.

We have a Chief Minister and a government who are so arrogant as to think that they are above democracy and our systems of parliament. Finally, Mr Speaker, we have a Chief Minister and government who are proving every day now that they are thoroughly out of touch with what ordinary Canberrans want. The motion should be supported.

**MR CORBELL** (Molonglo-Attorney-General, Minister for Police and Emergency Services (4.21): Mr Speaker, the enthusiasm with which Mr Stefaniak launched into the prosecution of his case belies the weakness of the argument that those opposite have when it comes to this no-confidence motion. Mr Stefaniak needed to be kept on life support to get through the last few minutes of his speech, so convinced is he of the merits of this argument. Indeed, it says much that the most experienced member of the Liberal opposition is the one who has shown the least enthusiasm for this argument. He knows that this argument is a confected one, without foundation, and displays a fundamental inability to understand how the planning and land development process works. Further, it fails to understand the fundamentals of the processes of government decision making.

The arguments that have been put forward by Mr Seselja and his colleagues today are simply a political stunt—nothing more and nothing less. There are four key arguments on which the opposition has sought to base its poorly judged no-confidence motion today. The first is that the Chief Minister gave inconsistent testimony and testimony that is inconsistent with the written record. To support his argument, today the Leader of the Opposition tabled a series of documents that he asserts prove that the Chief Minister sought in some way to create a situation where the gas-fired power station should be located in the location immediately adjacent to the suburbs of Fadden and Macarthur.

The documents do no such thing. What do these documents actually show? The documents show, for example, that a range of sites were considered and that there were a range of considerations that had to be taken into account in relation to each site. Most surprisingly from those opposite—shock, horror—the government, or government agencies to be more precise, took account of land value when deciding which was the most appropriate site for release. Imagine if government agencies had failed to take account of land value.

Let us remember the criticism of the Leader of the Opposition about a number of other government processes where he has sought to criticise government processes. This is the man who has criticised the government at length for, he asserts, failing to have regard to land value in sites such as the QE II development site in the city and the EpiCentre site in Fyshwick. His main complaint in both of those instances was that the government failed to take account of land value in determining the most appropriate use for those sites and approving the uses that occurred on those sites. Yet, in the argument he presents today, he criticises the government for saying that cost is a consideration. As the Chief Minister has said, that was not a matter that related to his decision making, but it is quite clear that it was a factor in discussion by government officials. Indeed, it would be negligent if government agencies did not have regard to the issue of cost, suitable alternative sites and other potential uses for those sites. The opposition cannot have it both ways. They cannot say, “Well, in some instances you should have regard to the land value and in other instances you shouldn’t.” What a hypocritical and contradictory position by those opposite.

Of course, the real killer of the so-called smoking gun that Mr Seselja attempted to confect today is the letter that the Chief Minister wrote on 19 July to the chief executive of ActewAGL where he clearly indicated that there were three sites in

play—three sites: not one, not two, but three—and all sites were subject to further consideration. Any suggestion that there was an attempt by the government to try and push or create a situation where only one site was made available is simply incorrect. On Mr Seselja's point No 1, he has no argument.

In relation to point No 2, Mr Seselja asserts that the government has mismanaged the process of the data centre and the power plant and jeopardised over \$1 billion in investment. I simply draw Mr Seselja's attention again to the front page of the *Canberra Times* today. There it is quite clear that the government has continued to take steps to ensure that the site for a power station is still available and that that investment will remain in the ACT. Of course, it will not remain in the ACT thanks to the help of those opposite; if they had their way, it would not be here at all.

*Members interjecting—*

**THE SPEAKER:** Order, members!

**MR CORBELL:** Indeed, we heard the first murmurings of the argument of Mr Smyth earlier that they will even oppose Williamsdale.

**Mrs Burke:** That is where it should have been in the beginning.

**THE SPEAKER:** Mrs Burke!

**MR CORBELL:** They will seek to talk down the prospect of its development at that location as well. Mr Smyth described it as an artifice; Mr Smyth described it as just a ploy.

**Mr Seselja:** The timing was a little bit interesting, wasn't it, Simon?

**MR SPEAKER:** Order, Mr Seselja!

**MR CORBELL:** That just shows how sincere—or should I say insincere?—they are when it comes to truly supporting this project. On point No 2, Mr Seselja has no argument.

In relation to point No 3, Mr Seselja suggests that the Chief Minister sought to withhold information through the Freedom of Information Act. As has been put forward by my colleagues, and as members opposite should know, Mr Stanhope is not involved in decisions relating to release of information under the Freedom of Information Act. I think—I would hope—that is beyond dispute. How can you accuse a minister of withholding information when the decision about which information will be made available through FOI is not his to make? How can you accuse the minister of that? You cannot. Mr Seselja has been caught out on this issue because the document that he suggested he did not have was in fact in his possession on the morning of the estimates committee hearing—

**Mrs Dunne:** You did not listen.

**MR CORBELL:** And you can see that from this document.

**Mrs Dunne:** You didn't listen.

**MR SPEAKER:** Mrs Dunne, order! Mr Corbell, resume your seat, please. I have called members of the opposition to order several times. You seem to be making some sort of sport out of ignoring me. It will not be allowed to continue. Mr Corbell.

**MR CORBELL:** Again, Mr Speaker, they simply ignore the facts because they do not suit their argument. In any event, the Chief Minister is not the decision maker on the release of FOI. You cannot hang someone for something that they have no responsibility for. Yet again that is what those opposite seek to do. On Mr Seselja's point No 3, does he have an argument? The answer is no. Indeed, in relation to that matter, it just shows how poor is Mr Seselja's understanding of the processes of government. Perhaps Mrs Dunne should have given him a refresher on FOI 101.

Finally, I go to point No 4 of Mr Seselja's motion, "failing to properly consider the impact on residents". Again, as my colleague Mr Barr pointed out, that assessment is ongoing—by government agencies. It is not complete. Are those opposite saying that they believe that process should be curtailed or stopped? Is that what they say? Is that what they argue for? As my colleagues have asked, do they want a process where ministers inject themselves into the planning process and direct planning officials about what they should and should not look at? Is that the sort of process they want here in the ACT? That clearly is the worst of these four weak and inadequate points they seek to aim against the Chief Minister. They fail on all counts.

More importantly than all of that, this opposition fails when it comes to presenting itself as an alternative government. Members of this opposition should know that, if they are ever in a position of being elected to government, they will need to take some difficult decisions. They should know that the way to work your way through proposals that may be contentious, difficult or unpopular with some segments of the community is to apply a process—apply a mechanism for public information, apply a mechanism for detailed expert assessment, and then provide for a decision to be made. They do not appear to be interested in that. They do not appear to even understand the planning framework within which these assessments are made.

We have planning law for a reason—to deal with large-scale projects that have possible impacts. This process is designed to do just that. I ask those opposite to again consider exactly what basis they are making their arguments on. They have not demonstrated in any way that there was any substance to the four points that they sought to make in this argument.

The opposition think that there is some political gain from this process. That is why they moved the motion. It is a stunt. It is without any substance. I have been a member in this place for a considerable period of time. I have seen a number of no-confidence motions moved; I have seen a number of censure motions moved. I have never seen an argument as weak as this one. There is no smoking gun; there is no failure of process. There cannot be a failure of process, because a decision is yet to be made on the application that is before the planning authority. Those opposite have not been able to highlight any failure in the planning process or any breach of the planning law.

Let us highlight that in contrast to some decisions that those opposite were party to when they were in government. The best example is the Hall-Kinleyside development north of Hall. A decision was taken to provide land directly to a private leaseholder where that leaseholder had no right of renewal to that lease. A decision was taken to direct-grant it for a massive residential development without any public process. There was no notification, no public advice, no public information session. The cabinet just went and decided to grant the lease. We look forward to seeing those cabinet papers when they are available shortly, because that will highlight and show in contrast the process that this government is committed to through the planning and land act and the approach adopted by those opposite.

**Mr Pratt:** Boring.

**MR CORBELL:** Mr Pratt can say, “Boring.” Mr Pratt can resort to the typical schoolyard charms that he uses when he knows he has not got an argument. The bottom line is that this motion is without any merit. (*Time expired*)

**MRS DUNNE** (Ginninderra) (4.36): Mr Speaker, I seek leave under standing order 47 to speak again, because some of what I spoke about was clearly misunderstood by Mr Corbell.

**MR SPEAKER:** Mrs Dunne.

**MRS DUNNE:** Thank you, Mr Speaker. Mr Corbell held up a document, a copy of which I tabled during my speech, to show, erroneously again, that the opposition must have been in possession of the attachments to that document. In my speech in relation to this, I pointed out that I had referred to particular documents in the estimates committee. I held up the exact same document that I held up in the estimates committee. It was clear in the estimates committee—and I made it perfectly clear today—that at the time of the estimates committee the opposition was not in receipt of the attachments to that document. In fact, we received the attachments to that document yesterday afternoon at 4.57. Mr Corbell either did not hear or chose to misconstrue what I said. We did not have the document that he claims that we had.

**MR SMYTH** (Brindabella) (4.37): It is quite interesting that a comment, at page 13 of the GHD report called *Hume industrial planning study*, under “Environment and Recreation”, says:

Location of commercial blocks in Figure 34, Lots 1 to 48 and Lots 110 to 121, in close proximity to residential blocks, may result in properties in Gilmore and Macarthur being exposed to industrial pollution.

And that is the comment. These are the blocks that form the area that is now—

**MR SPEAKER:** Mr Smyth, you are going to have to come back to the amendment.

**MR SMYTH:** I am talking about it. The amendment is about environmental impact studies, and I am talking about environment comments.

**MR SPEAKER:** The question before the house is that Mr Mulcahy's amendment be agreed to.

**MR SMYTH:** Yes, to remove part of Dr Foskey's amendment which includes section 5, which deals with the need for an environmental impact study, and I am reading from the environment commentary in the report. Indeed, the GHD response is:

If development proceeds, the ACT Government will have to undertake the appropriate environmental impact assessments to determine the effects on the residential areas.

In that regard, the opposition will be supporting the second of Dr Foskey's comments. I think it is important to look at the reports that the government had in train. Indeed, this report, which is a planning study commissioned by the government for the future development in the area, actually does have, on page 75, the proposed gas-fired power station and data centre on what looks like block 7 of 21 Hume. So not only do the government have a faulty process, they actually have in place a planning study and they just throw it out the window. We are just throwing money all over the place.

We also know that the former planning minister in August 2005 set aside the land in question for a period of five years for the Cemeteries Trust to prepare a plan for an additional cemetery capacity in the ACT. Mr Corbell got it right—I know Mr Barr is not here in the chamber—and it must be quite galling for Mr Corbell to know that his good work is just thrown out in this manner. I guess that is why he came down to do Mark Antony to Jon Stanhope's Julius Caesar. Remember that fantastic line: "I come to bury Caesar, not to praise him."

**MR SPEAKER:** How does that relate to the amendment, Mr Smyth?

**MR SMYTH:** It relates to the fact that Mr Mulcahy is going to delete paragraphs 2 and 4 from Mr Seselja's original motion. Mr Corbell has just given us a running commentary on paragraphs 1, 2, 3 and 4 of the motion, and I am going to address his comments.

What we have is Mr Corbell, as he always is—here he is, a team member—absolutely supportive of the government. "I come to bury Caesar, not to praise him." And what does he do? He goes out and exposes the Chief Minister. He absolutely exposes the Chief Minister.

**Mr Corbell:** On a point of order, Mr Speaker: the question is that Mr Mulcahy's amendment be agreed to. That does not provide an opportunity for members to re-agitate the previous debate.

**MR SPEAKER:** Stop the clock, please.

**Mr Corbell:** The point of the standing order is to allow members to speak to the amendment, not to re-agitate previous arguments. I would ask that Mr Smyth confine his comments to the amendment.



**MR SMYTH:** Mr Speaker, on the point of order: the amendment says, “Get rid of paragraph 2 and paragraph 4.” Mr Corbell just gave us a litany. In speaking to the amendment, in relation to paragraph 1, he said things like “thanks to the *Canberra Times*”; in relation to paragraph 3, he said “not responsible”; in relation to paragraph 4, he talked about the residents.

**MR SPEAKER:** Mr Smyth, you should not use points of order to agitate debate either.

**MR SMYTH:** I am just discussing this amendment.

**MR SPEAKER:** The question before the house is that Mr Mulcahy’s amendment be agreed to, and I would ask members to confine themselves to the subject matter of the amendment.

**MR SMYTH:** I certainly am, Mr Speaker. Mr Corbell gave commentary, and he certainly talked about paragraphs 2 and 4, and that is simply what I am going to talk about.

**MR SPEAKER:** It is not about what Mr Corbell said, it is about—

**MR SMYTH:** At the heart of this, Mr Corbell said we had not made the case. And at the heart of this, Mr Corbell made the following comments. He criticised Mr Seselja for criticising the government for saying that cost is not a consideration and then went on to say that it was. Indeed, Mr Corbell said the words he used were: “It is a factor when you make these decisions.” Indeed, Mr Corbell went one step further. Mr Corbell actually said, talking about the Chief Minister, “He would be negligent if he had not taken this into consideration.”

In seeking to omit paragraphs 2 and 4, Mr Mulcahy contends that we never made the case. Mr Corbell has asked for the evidence, and I want to—

**MR SPEAKER:** You seem to ignore the fact that Mr Corbell was speaking on the motion and the amendments.

**MR SMYTH:** But I am talking about what Mr Mulcahy also said in trying to get rid of paragraphs 2 and 4. Mr Corbell has said, and Mr Mulcahy has said, the case has not been made.

Let us make the case on one issue, whether or not price was a consideration. The Chief Minister said, in estimates on 16 June 2008, at page 1208:

... Madam Chair, I can confirm absolutely that suggestions that either I or the government took into account the respective valuations or returns to government in relation to the selection of one particular site over another are spurious and false.

And this is at the heart of what we are talking about today. Somebody here is now misleading. It is either Mr Stanhope or it might be Mr Corbell, because Mr Corbell just said—and we all heard him say—that Mr Seselja—

**MR SPEAKER:** You can withdraw that in relation to Mr Corbell.

**MR SMYTH:** All right, Mr Speaker. Mr Corbell said, “Indeed, it would be negligent for the government not to take it into account.” We have the Chief Minister saying they did not take it into account. Then Mr Stanhope goes on to say:

So what we have is no statement from officials saying that the land was too valuable.

Yet we do have Mr Corbell saying, “The land is valuable and it must be taken into consideration.” And that is the nub of the problem that we have today, whether or not we should get rid of paragraph 2 and paragraph 4 in Mr Mulcahy’s amendment.

We will not be supporting Mr Mulcahy’s amendment and we will not be supporting the downgrading of the no-confidence motion to a motion of censure. It is interesting that all non-government members are agreed that this process was flawed and that some sort of admonishment of the Chief Minister, some serious admonishment of the Chief Minister, must occur—Mr Mulcahy, Dr Foskey, my five colleagues and I, the six Liberal members.

What we have got is an extraordinary lack of defence from the government in defending their Chief Minister. Indeed, Ms Gallagher could barely rise to her feet until the seventh speaking spot was available for her. She is accorded, as the Deputy Chief Minister, some respect in this place, but I did not hear a single piece of rebuttal from Ms Gallagher in regard to what the opposition had said in their case.

Indeed, when you then look at what Mr Hargreaves had to say, Mr Hargreaves’s attack was that I did not have an explanatory memorandum to my bill. If Mr Hargreaves wants to actually go to the website he will find my explanatory memorandum. If he cannot use the computer, I will get him one personally.

At the heart of this process is: if the impacts on the residents have not been considered and if mismanaging the process associated with the data centre and the gas-fired power station have not been considered, then there is cause here. Mr Stanhope is, in fact, the minister responsible for the LDA. And you would think that the LDA, when coming to a consideration as to how they would release a block, would release blocks for purposes that are consistent with what the territory plan says, either before the changes at the end of March this year or indeed after.

One of the issues with the community is, quite clearly, in relation to the territory plan, the old part B10 broadacre land use policy. It is great; Mr Barr has come back. Mr Corbell can tell him how the old territory plan worked; it was his, after all. I refer to B10 section 2.4D, the sixth dot point, which refers to:

siting of development—

and this is about broadacre—

in a manner which does not adversely impact on the ecology or visually intrude on the landscape character of the locality.

In regard to what Dr Foskey is saying about the need for an EIS on this site, you only have to look at the development conditions to know that this should be supported. It refers to, and I will read it again:

siting of development in a manner which does not adversely impact on the ecology or visually intrude on the landscape character of the locality.

And indeed, if you go to the new section, which is “NUZ1—Broadacre Zone”, it makes the same point in point c) under “Zone Objectives”:

Ensure that development does not adversely impact or visually intrude on the landscape and environmental quality of the locality.

So what the government seems to be saying is that the LDA can put any block up for option and then it goes through a process, and it is only in the process that it gets approved or knocked off, whether or not it is consistent with the territory plan. If that is the way they are running the planning system, if that is the way the Chief Minister is running the LDA, then he is worthy of no confidence.

What he is doing, as he has done in this case, is set these blocks up for failure. That is what he is doing. If it is not compliant with the territory plan—and indeed, under the territory plan it has to be compliant with the national capital plan, and this whole point about what broadacre is able to be used for is very clearly set out in the national capital plan, with which the territory plan must be consistent—then what they have done is set the process up for failure.

In talking about paragraphs 2 and 4, the subject of this amendment, you have to consider the impacts on residents of the data centre and the gas-fired power plant. Without that, you will not be consistent with what is clearly laid out in both the old and the new territory plans: that you cannot affect the ecology and you cannot affect the visual amenity. And that is what this government have done. They have not sold a block that I believe can be considered compliant with the plan. In that regard, yet again, you get a proponent being set up for failure.

Indeed, we had the whole question of the letter that the Chief Minister supposedly sent to Mr Mackay on 19 July. Again, it is simply a recitation of what Mr Mackay said to the Chief Minister. It is one of those classic *Yes, Minister* letters that says, “Yes, thank you for your letter saying all these things. I now repeat all these things. You and I will consider all these things. Thank you very much.”

But in the end, when you go back to it, when you look at the documents that we have seen, the Chief Minister’s documents that he provided, it is quite clear that at the end of the day, the Chief Minister was the one who would decide. Again, I refer to the Chief Minister’s brief on 17 July 2007, from where Mr Mackay’s letter came. It says, talking of the Chief Minister, “until you have determined which of the three sites is to be offered to ActewAGL”. So there is a process before the ACTPLA process, and it is that process that we focus on today. And it is very important that we focus on that today.

When we see the Minister for Planning's attitude to this, I am very worried. Surely he has to agree that the LDA must release blocks that are at least consistent with the territory plan; otherwise, what we are doing is setting people up for failure.

**Mr Corbell:** It is.

**MR SMYTH:** Mr Corbell interjects. Perhaps Mr Corbell thought that was the case, but apparently it is not anymore. We reject the Hume planning study, we reject the territory plan and we potentially reject the national capital plan when we do this.

It is very important that these two paragraphs stay in or we have not had a single piece of evidence—apart from the rhetoric. And Mr Corbell is best at rhetoric; the best on the day; you get the award today. At least you are true to your plan that your own party has rejected when they rejected you as planning minister; but best on the day for your speech.

Ms Gallagher's speech was disinterest, at best. Mr Hargreaves was plain wrong, because he only had to check the website to find my explanatory memorandum. Mr Barr has a different view of the world and chose, for the majority of his speech, to simply—

**Mrs Dunne:** His was "let's not mention the war".

**MR SMYTH:** Yes, that is right, Mrs Dunne; that is a good summary. "Let us just not mention the war. Let us talk about a different process." But the process that we have been talking about, that we have been focused on, is site identification and selection, and that is the process that the Chief Minister today is being held to account for. And it is very important that it be held to account. There is the process that this government undertakes in other departments as well, where we have studies that are just being thrown out the window in the zeal that the Chief Minister has shown to ramrod this process through.

Mr Corbell set up processes. Mr Barr set up processes at which taxpayers' money, good taxpayers' money, was thrown. And we now hear words like "superseded". Read "waste". And that is what this is about; it is about holding the Chief Minister accountable for the things that he does.

It was fantastic to hear the Deputy Chief Minister talk about the real facts. I guess that is as opposed to the unreal facts, which is all we have heard from them today. "Real facts" is a tautology. The facts speak for themselves. They were outlined in a series of documents tabled by Mr Seselja this morning. Turning these documents over and saying, "This is a document, therefore it's good; and this one is a document, therefore it's good; and this one's a document" is not a defence; it is not a rebuttal. It is actually not intellectually honest. You actually have to read the documents to understand what they say. The documents that were tabled detail a litany of failure, and that is why these paragraphs must remain in this motion.

If the minister had bothered to read them, she would see comments like: "Chief Minister has already chosen the site. Write a brief to fit that," and, "Chief Minister,

you have got to make a decision and you are going to offer the block that you want them to use," because that is what it comes down to. The Chief Minister had decisions here. Indeed, there are further blocks in Hume and there are further blocks further afield, as Mr Seselja pointed out, that should have been and could have been considered for this project, but they were not. Questions have to be answered as to why they were not.

They are exposed now by Mr Corbell's revealing what the Chief Minister should have done and did do, and that is they did consider it. Mr Corbell has told this place that the Chief Minister did consider the value of the blocks or he would have been negligent. The Chief Minister denied that he considered the values of those blocks. The Chief Minister denied it. So we have got this conflict again in their defence. Their defence is so flimsy and so full of holes that you are almost embarrassed to call it a defence. They have not looked at the documents that have been tabled earlier this morning. We even had a lunch break. You had two hours to look at these documents; you chose not to because you know that the opposition is correct in what they are doing today; the Chief Minister is worthy of a motion of no confidence in him.

**MS PORTER** (Ginninderra) (4.53): I rise to speak in opposition to the motion and also the amendments. Members may remember me mentioning previously in this place that I decided to run for the Assembly on the back of, amongst other things, my belief in Jon Stanhope as a leader. I had observed him as a man of integrity and of vision, not wanting to be driven by short-term political gain. I felt comfortable that my personal integrity and value system would not be under threat being part of Jon Stanhope's team. I stand here today to say that I have not been disappointed. That is why I have decided to stand again in October this year.

As I said, Jon Stanhope is a man of vision, a man of integrity and a man not driven by short-term political gain. You only need to look at the record of this government under his leadership, as has been outlined in this place many times. It is clearly demonstrated by the 2008-09 budget that we are about to debate, and that we would have debated by now were it not for this mischief we are subjected to today.

What I can say, though, is that I am very disappointed in Mr Seselja. When he came to this Assembly at the same time as me, as a new member, fresh with enthusiasm and, I would think, high ideals, I expect he thought he was here to make a difference for all Canberrans. I certainly came here with that hope and intention and I have been very pleased to make a real difference for thousands of Canberrans in the few years I have been here as a member. Indeed, I know that the Stanhope government, as a whole, has been able to make a substantial difference to the lives of all ACT citizens, not only those of today but those of the future.

However, what has Mr Seselja done? In my opinion, he has abused the privilege that people gave him in 2004. He is young and inexperienced, granted, and he is easily manipulated and persuaded by political gain, granted. Why, if that was not so, would he be gullible enough to be willing to be appointed Leader of the Opposition, a sort of sacrificial lamb, on Mr Smyth's behalf. We all know the reason why his party room, or more particularly Mr Smyth, wanted Mr Seselja to put himself on the line in this way.

However, let us go to what is happening in the Assembly today. On the basis of no evidence, the Leader of the Opposition has brought this shameful motion on today. He has held up important business of the Assembly, as Mr Stanhope has already outlined. He has done this because he seeks cheap political gain for himself. He and his colleagues do not stand here today to further the common good for the people of Canberra. He stands in this place to further the aims and aspirations of the Liberal Party and his personal gain.

Those opposite would have us believe that this government stands in this place and speaks for our own benefit and that the Chief Minister stands in this place for his own benefit. Not so; he stands in defence of good governance. Mr Seselja's arguments are flawed and his motives hold no credibility. Today I heard a person on the radio talk about the process that we are engaged in today as putting politics before governance. This is true. Mr Seselja has placed politics before good governance.

This morning the Leader of the Opposition tabled a number of documents and sought to construct an argument, through them, that the Chief Minister had misled the Assembly. A close examination of the facts and the documents proves this to be completely false. I would like to take the opportunity to go through a few of these documents and set the record straight.

In relation to document 15, an internal Land Development Agency minute tabled by Mr Seselja, much has been made about a note written by Ms Anne Skewes, the former head of the Land Development Agency, on 15 July 2007 that said, "CMD have already agreed a site." This implication is once again that a decision had been made and sites already ruled out. However, I am advised that the officers of the Chief Minister's Department examined the piece of correspondence and have indicated that they believe that the date written by Ms Skewes should in fact have read 15 August, not 15 July.

In relation to that document, I have two statements of fact, one signed by the General Manager, Urban Development, Land Development Agency, and the other by the Project Director, Urban Development, Land Development Agency, who states:

The brief contains a notation from the CEO dated 15 July 2007 which contains a question mark after the initials of the CEO. This notation would suggest that the CEO had read the brief prior to it reaching her office.

Given the above table this would not have been physically possible. I am of the view that the CEO mistakenly dated the brief back to the General Manager, Urban Development 15 July 2007 instead of 15 August 2007.

I seek leave to table those documents, Mr Deputy Speaker.

Leave granted.

**MS PORTER:** I table the following documents:

Proposed gas fired power station and data centre—Statements of Fact—  
Ray Stone, Project Director, Urban Development, dated 20 June 2008.  
Gordon Lowe, General Management Urban Development, Land Development Agency, dated 20 June 2008.

I now turn to document 2 tabled by Mr Seselja, an ActewAGL summary of the selection process prepared on 10 June 2008. Mr Seselja sought to highlight the statement that the document says that “on 2 May the site was no longer available”. This matter was fully clarified by the chief executive of Actew, Mr Michael Costello, at the estimates hearing on 16 June. At that hearing Mr Costello said that the document was not an LDA document but one prepared by ActewAGL and that what it actually meant was that the site was no longer available as it had been in 2002. He went on to say:

On 6 July, it was not available on the same terms, no. On 6 July, there was a discussion. That discussion was summarised in the Chief Minister’s letter of 19 July. And as a result of that, all sites were available and we considered they were available at that time. And a decision was made and we got a better site than the original site and we are delighted.

It is plain that this matter has already been clarified by both the Chief Minister and Mr Costello, and indeed by Mr Mackay, yet Mr Seselja continues to deliberately distort the picture.

I now turn to document 36 tabled by Mr Seselja, an answer by the Chief Minister to a question on notice from Mr Seselja, where the answers were given in relation to a number of parts of the question that “no further sites were considered”. At that point in the process no further sites were considered because ActewAGL had by then identified their preferred site and needed to move quickly to conduct a range of environmental studies and prepare a development application and preliminary assessment.

It is a matter of record that, prior to that, a number of sites were identified and that ActewAGL selected one. Once that point had been passed, there is no logic in continuing to identify and consider sites. At some point a decision on a preferred site had to be made and it was.

Mr Seselja quoted from a range of documents citing advice from government officers to other government officers or to the Chief Minister. If Mr Seselja were more experienced, he would have realised it is the role of officials to provide advice and raise issues, as the Deputy Minister has said, all of which is appropriately considered.

Mr Seselja has sought to make the point that the issue of industrial land was raised. That is correct; it was. As the Chief Minister said, if industrial land had been sold to ActewAGL, it would be for market value. But, further, in simply seeking to imply that industrial land was taken off the table by the government on value grounds, Mr Seselja ignores the written evidence in document 16, a brief from the Chief Minister’s Department to the Chief Minister, in which officials indicated: “if this site”, that is block 7 section 21 Hume, “becomes the final one offered to ActewAGL, there would be an urgent need to identify other replacement land for release”. It does not say it cannot be done or it will not be done—merely that, if ActewAGL selects that site, alternative industrial sites would need to be identified to meet a critical need. And, in a letter on 19 July attached to this brief, the Chief Minister made it clear that all sites were still available and under active consideration by both parties.

Mr Seselja has sought to make something of the fact that an officer of the Land Development Agency, in an email to a colleague, document 11, requests that a brief be prepared to apprise Mr Dawes of the Chief Minister's Department of the "threat to the Actew initiative and the industrial land supply" and that the implications for industrial land supply must be taken into account. All factors are taken into account. However, this does not change the simple fact that ActewAGL themselves made the final site selection.

Industrial land supply is an issue for the ACT, but the evidence of the correspondence of 19 July and the accompanying brief make it clear that block 7 section 21 was still firmly on the table. It was not removed from the mix by anyone and no strong-arm tactics were used to influence ActewAGL's decision. All the advice given was given on a professional basis and served merely to outline all relevant issues—not to elevate one over others.

The tabling of these documents by Mr Seselja and his interpretation of these events prove nothing other than the ability of an inexperienced politician to draw the wrong conclusions, ignore evidence to the contrary already put to him and others, and construct an argument on nothing more substantial than a house of cards.

As I said before, Mr Seselja is about politics and not good governance and I think that you can see that from this discussion that we are having today. Mrs Dunne stands in this place and uses her position as past deputy chair of the Select Committee on Estimates to accuse the Chief Minister of misleading the committee. One would imagine, if this were the case, that in the report that the committee has now publicly made available there would be a notation, at least, that there was a mislead. But there was no notation, and, again, no recommendation—just pages and pages of text in *Hansard* of those opposite going down rabbit hole after rabbit hole, after something that is not there.

I recall Mr Stanhope saying on the final day of the hearings that the opposition was living in "Alice in wonderland" and, truly, we have heard Mrs Burke say "once upon a time". I am sure we all recall Alice, who fell down the rabbit hole and found herself in a world that made no sense. There is no sense in any of what Mrs Dunne and the opposition have been saying today. I would like to ask anybody in this place if they could make any sense of the things that have been said by those opposite. What I have noticed today, and what I noticed when we were in estimates, is that the opposition were continually going round and round in circles, down that rabbit warren, around that rabbit warren, looking for something that was not there. I am sure that we all felt we were living in "Alice in wonderland"; I certainly thought I was.

As I said, Mr Seselja is on about politics and not good governance. Mr Stanhope, on the other hand, can hold his head high today as a man of integrity, a man of vision, a man who works tirelessly for the common good of all Canberrans. That is why I am not supporting the motion and will not be supporting the amendments.

**DR FOSKEY (Molonglo) (5.06):** I would like to speak to the amendment that was moved by Mr Mulcahy. I am very pleased that Mr Mulcahy is at least agreeing with me that there should be a censure motion, but I am also very disappointed that he



rejected the rest of my motion and decided to rule out paragraphs (2) and (4) of Mr Seselja's original motion. I have already spoken to paragraph (2) of Mr Seselja's motion, but I believe that I should justify why I support paragraph (4) of the motion in arguing against Mr Mulcahy's rejection of it.

Of course, this goes to the heart of the whole process. Mr Barr spoke at some length about the planning approval process and seemed to imply that I did not understand how the process worked in asking for the minister to call for an EIS. I will address that a little more comprehensively shortly. However, I want to reassure the Minister for Planning that I do accept the government's argument that it was not its legal responsibility to notify and consult with residents. That is the responsibility of ACTPLA and the proponents. It is true that ACTPLA has not yet reached the stage where it should properly intervene in this process and, from Mr Barr's understanding of the legislation, the government cannot act or call for an EIS until the planning assessment process is complete.

However, Mr Barr and I have agreed that there is room for several interpretations of that legislation. At what stage during the PA can the government intervene? Is it after the PA has been lodged or is it after the PA is complete? The legislation does not spell that out. Also, there is the question of "reasonable grounds". If ever there was a phrase that was open to several interpretations, "reasonable grounds" is it.

The reality, in my book, is that the process was in fact deficient for the size of the project and that this deficiency has jeopardised the development. My office staff and I were told in a briefing at which Mr Mackay was present just a couple of days ago that if there was an EIS then at least some of the partners would walk. Very clearly, the proponents have never wanted an EIS. I am not sure whether Mr Stanhope's rejection of that proposal is an indication of his concern that the EIS would cause the project partners to walk. I clarify that that is not because they feel they would come out badly in an EIS; it is because an EIS would take too long.

I want to dispute that. An EIS would take perhaps a year—that is the problem—or maybe longer, but it is not as though there will not be other people interested in establishing data centres in the ACT or elsewhere. If the ACT does have all of the natural advantages of cooler weather, which is something ActewAGL claims quite a lot, other developers will be interested in setting up data centres here. If an emissions trading scheme comes into place, which it will next year—we still do not know under what terms—people will be seeking greener data centres to help in their emissions equation. So there are very good reasons why a greenish, co-generated data centre will always be a winner. The fact is that we are going to see an expansion of data centres. That is incontrovertible, because we are not going to stop googling; we are not going to get out of cyberspace. So there will always be a demand for data centres. Let us not panic about this one. Let us have proper governance and proper processes.

Ms Porter talked about how this motion counters proper governance. That is really a very small-picture approach to the matter. We are talking here about the long term. We are talking about data centres that will be here for decades. We are talking about climate change that will be here forever. Yet the government supports Mr Mackay in his concern that an environmental impact statement would cause some proponents to walk because it would take too long. Hang on; I think we would like the world to be around for a few more million years yet, wouldn't we?

What we are finding is a process that may need to be looked at for projects of this size. The process may be deficient. I am not saying that it is; I am saying that it needs to be looked at. The government, in one of its many manifestations, should have recognised the danger that was brewing in the faulty notification process and advised ActewAGL to lift its game. And let us remember that ActewAGL is not a separate legal entity. It is not a business in its own right. It is a creature of contract—a contract entered into by the 100 per cent government-owned Actew Corporation of which the Chief Minister is a 50 per cent shareholder. As such, I reject the Chief Minister's proposition that his capacity as a shareholder to influence the management of ActewAGL is "extremely limited and indirect".

Two of the directors of ActewAGL are directors of Actew who were appointed by the Chief Minister—and perhaps the other shareholder as well—and over whom the Chief Minister and the Deputy Chief Minister, representing the ACT people, have an ongoing responsibility for overseeing and satisfying themselves that they are fulfilling their corporate, fiduciary and contractual obligations as directors of our company, or their company, Actew. They are hardly extremely remotely and indirectly connected with the Chief Minister as their direct employer. If, as the Chief Minister suggested to me in his letter—he was replying to my letter about the shareholder's responsibility—they are not giving the Chief Minister up-to-date and accurate information as to how the biggest project that they have ever embarked upon is going and how it is playing out in the community then those government appointed directors of Actew, who are on the ActewAGL board, are not fulfilling their statutory obligations and neither, I believe, is the Chief Minister.

This is not a reassuring start for the project facilitation unit in the Chief Minister's Department. It did not advise on the importance of effective community participation. It did not advise on environmental and health concern risks. Even after the initial substandard health and environmental reports were made public, it did not evaluate the feasibility of the project itself. And if it was never a financially viable project, why wasn't the Chief Minister made aware of this, or even the percentage probability of this fact, long before it was announced by ActewAGL?

Since then, we have heard the government and ActewAGL give at least three different explanations for why the project has been radically downsized: (1), they were responding to community concerns—a bit late, but good; (2), that the project was never economically viable—well, that was a bit late to be found out; and (3)—take your pick—that the environmental or health impacts were unacceptable.

I refer the government to the opinion piece in the *Canberra Times* by Karen Macpherson, published on 23 May this year. Dr Macpherson gives a very credible and apparently objective critique of the Ausplume model used in the initial study. I have to declare, as she did, that she is a resident of Fadden. But please do not hold that against her. It is telling that all the deficiencies of the Ausplume model result in lower emissions readings than would probably occur in reality. Added to this, it appears that no background gas level was taken into account in reaching the final emissions concentration estimations.

I understand that other arms of government were quick to realise these inadequacies but somehow their input was not valued above that of the Chief Minister's

Department or Treasury. It seems that the government was blinded by the prospect of a \$2 billion investment and this blinded it to its responsibilities to put the health of Canberra residents above the lure of development dollars.

An environmental impact statement, rejected by Mr Mulcahy and Mr Stanhope, is absolutely necessary. I have looked at the report that was commissioned by the proponents, by Hogg and somebody else; I cannot remember the other person's name. It is interesting that it notes—by the way, as does the final, but apparently not final, Hume industrial planning study—that a lot of care will be needed to look after the endangered yellow box-redgum grassy woodland species affecting the site.

Hogg and his associate concluded that, because the ground cover is somewhat compromised, this particular grassy woodland is not really a worry. Interestingly, another ecologist, Geoff Robinson, saw the same ecological communities and he said that there was a problem. It shows that an ecologist that is hired by the proponent does need at least peer review of their results. That is what would happen in the academy. I do not wish to disparage the work of Mr Hogg and his associate. I am just saying that, out in the real world of science, people seek peer reviews. An environmental impact study would do that. Then we would not have to say, "Oh yeah, but that consultant was chosen because he would say what the proponent wanted." I do not know that that is the case, but it is possible. So let us also be aware that the other things that were mentioned in the Hume industrial planning study in relation to the environment—

**Mr Corbell:** If you said that outside this place, you would be sued.

**MR DEPUTY SPEAKER:** Order!

**Mr Corbell:** If you said that outside this place you would be subject to a libel action.

**DR FOSKEY:** Read what I said later on.

**MR DEPUTY SPEAKER:** Order, Mr Corbell! I called you to order before.

**DR FOSKEY:** A precautionary approach would need to be exercised to protect the endangered yellow box-redgum grassy woodland species affecting the site. There is talk of strategic ecological corridors and the establishment and repairing of buffer zones.

It is disappointing that the Chief Minister has not taken this opportunity to acknowledge the failings in this process and the reasonable disquiet felt by large sections of the community. He does not acknowledge the fact that the full power station posed a very real health risk to Tuggeranong residents. He does not acknowledge that the consultation was woeful. He does not acknowledge that the documents the opposition tabled are real. They were created by ACT public servants and they do tell a different story from the one the Chief Minister spun. I fear that the Chief Minister's instinct to defend himself by attacking the messenger has backfired on him today.

I just want to clarify, for the information of Mr Corbell, that I had no intention of disparaging any of the work that was done; I was mentioning the need for peer review because in science that is the way it works.

**Mr Corbell:** You suggested they had a vested interest.

**MR DEPUTY SPEAKER:** Mr Corbell, if you have a point of order, make it, but I think that what I hear from Dr Foskey is more than reasonable.

**DR FOSKEY:** I did make it clear that, when the proponent chooses the researchers, there will always be those questions.

*Mr Corbell interjecting—*

**MR DEPUTY SPEAKER:** Dr Foskey, resume your seat. Mr Corbell, I have called you to order four times. I think Dr Foskey's explanation is fine. If you were to take a point of order, I would reject it on that basis, so let us have some order in the house. Dr Foskey?

**DR FOSKEY:** My time is up, more or less.

**MR GENTLEMAN (Brindabella) (5.21):** I would like first to address Dr Foskey's comments that there have not been sufficient studies done to address environmental health and other concerns related to the data centre project. Mr Deputy Speaker, I seek leave to table a media release from the Canberra technology city partners, dated 17 June this year.

Leave granted.

**MR GENTLEMAN:** I table the following paper:

Proposed gas fired power station and data centre—Copy of ActewAGL welcomes further independent review—Media release, dated 17 June 2008.

In this media release from the Canberra technology city partners of 17 June, the consortium welcomes news of the health impact assessment for this project which was announced last week by the Deputy Chief Minister, Ms Gallagher. In the 17 June media release, ActewAGL Chief Executive John Mackay said:

ActewAGL included 12 expert studies with the CTC development application.

He continued:

Independent reports and assessments were carried out on traffic and parking, access and mobility, plume, heritage, flora and fauna, bushfire, geotechnical, noise, tree assessment, site investigation, an Environment ACT Contaminated Site Search and waste management.

The health impact assessment will be the 13th study on this important project, and we must reiterate that the process is continuing. It must be allowed to continue without

interference. Absolutely no-one in government, of course, has point blank ruled out an environmental impact statement for this project. My understanding is that ACTPLA is still considering the preliminary assessment. The process is continuing. Again, can we allow the process to run its course at an appropriate arm's length from government and without interference?

I will not be supporting either the amendments or the substantive motion. We do need to remember that what we are debating here today is a very important subject. We need to remember exactly why the opposition has put on hold important Assembly business for more than a week for what is essentially nothing more than a political stunt. We need to remember, and it has been shown here today, that Mr Seselja, the geographically challenged Leader of the Opposition, is the one who has misled the community on this subject. In fact, I bet he will try and mislead the members of his electorate in October by pretending he is one of them. It is Macarthur's highest profile resident who has tried to frighten the life out of the people in his suburb, while moving his family smack-bang in the middle of his so-called danger zone.

The Leader of the Opposition cannot have it both ways. He ducked questions by the *Canberra Times* on this topic and appears to have got away with it there. He must not be allowed to get away with it here. Mr Seselja needs to put on the record here today, and I suggest he does it when he closes the debate, exactly when he purchased his new property in Macarthur. Mr Seselja also needs to put on the record when he was first briefed about the CTC proposal. Mr Seselja needs to put on the record whether he actually chose to move his family into Macarthur because he knew the planned data centre and power station was harmless but he has chosen to oppose it anyway, in a farcical attempt at political gain.

With respect to political gain, let me elaborate on that point for a moment. The Leader of the Opposition sat idle while the initial debate surrounding this significant investment was played out in the public arena. Mr Seselja was nowhere to be heard or seen when the public meetings were taking place. Mr Seselja was nowhere to be heard or seen when the community consultation process was going on at the Vikings club. You were there, Mr Deputy Speaker. Where was Mr Seselja when all of this was taking place? He was most likely with his family at his home in Macarthur. That is right: 600-odd metres from the development proposal, and he sat by and said nothing. Why, Mr Deputy Speaker? Because he saw nothing wrong with it.

*Opposition members interjecting—*

**MR GENTLEMAN:** So when did the Leader of the Opposition start talking? It was when he thought he had an opportunity to score some political points. But while Mr Seselja was mulling over the documents and how he could turn this terrific—

**MR DEPUTY SPEAKER:** Order! I will ask those on the opposition benches to come to order. I want to hear Mr Gentleman's speech in detail so that I can check it for relevance, but I can't hear anything.

**MR GENTLEMAN:** I was asking: when did the Leader of the Opposition start talking? It was when he thought he saw an opportunity to score some cheap political points. But while Mr Seselja was mulling over the documents and how he could turn

this terrific investment opportunity for Canberra into a political debate, Mr Pratt—you, Mr Deputy Speaker—was out there publicly opposing the proposal. I was there with you, Mr Deputy Speaker, at the ActewAGL community meeting in Tuggeranong, where you, Mr Pratt, an Isaacs resident and the member for Brindabella—Mr Seselja’s colleague—stood up and said that you did not support the proposal for a data centre and gas-fired power station at Tuggeranong. You have reiterated that again here today. Mr Deputy Speaker, you said: “I reiterate what I said at the meeting. I told the Tuggeranong community meeting that I emphatically rejected the plan.”

*Opposition members interjecting—*

**Mr Corbell:** On a point of order, Mr Deputy Speaker: those opposite continue to interject. I note that you have called government members to order on a number of occasions. I would ask you to call your colleagues on the opposition benches to order also.

**MR DEPUTY SPEAKER:** Mr Corbell, are you concerned that there is no balance here today in the chairing of this area?

**Mr Corbell:** It was a point of order, Mr Deputy Speaker.

**MR DEPUTY SPEAKER:** Thank you; very nice of you. Mr Gentleman, resume your remarks.

**MR GENTLEMAN:** Thank you, Mr Pratt. I was going to your comments at the Tuggeranong community meeting when you said, “I emphatically reject the plan.” You reiterated that earlier in the chamber. Some may be a little confused as this contradicts Mr Pratt’s current position. Mr Deputy Speaker, I seek leave to table a copy of your flyer.

Leave granted.

**MR GENTLEMAN:** I table the following paper:

Proposed gas fired power station and data centre—Copy of Power station debacle—Flyer by Mr Pratt.

It is a flyer that you distributed in the Brindabella electorate, saying that you will protect the people and the project. Mr Deputy Speaker, which way are you going with this? Do you support the proposal as outlined in the flyer or do you not, as you have openly stated at the Tuggeranong community meeting and reiterated today? Again, where was the Leader of the Opposition while this was going on? Most likely at his Macarthur home, getting ready for the estimates.

Let me clarify: we have the Leader of the Opposition, the member for Molonglo, who lives in Macarthur, saying diddly-squat, and we have the member for Brindabella, Mr Pratt, representing the Liberal Party, who lives in Isaacs, publicly opposing the proposal. So when did we finally hear from Mr Seselja? It was, indeed, at the estimates committee when he questioned the Chief Minister over and over again, looking for some political gain on the issue. When he found none, he called on the

Chief Minister, members of the government and Actew to clarify the points raised, which they all dutifully did. But was that enough? Clearly not.

Mr Seselja has now moved this motion, this stunt, which we are debating here today, wasting valuable Assembly time by trying desperately to gain some political ground on an issue where there is none to be gained. So where does the opposition stand on this issue? Right now, the public are a little confused.

Much of today's debate has focused on process, and I would like to talk a little bit about the planning process—one that Mr Seselja should be well aware of, having sat on the planning and environment committee for some 3½ years. Earlier, the Chief Minister commented on the Leader of the Opposition's lack of understanding of the planning system. The planning system is, of course, designed to remain at arm's length from executive government. Mr Speaker, why doesn't Mr Seselja understand this process? One would imagine that, after almost four years on the P and E committee, he would pick up that knowledge. But, of course, he did have trouble attending some of the meetings. If my memory serves me correctly, he missed seven meetings in one of the years.

**MR SPEAKER:** Come back to the subject matter of the question.

**MR GENTLEMAN:** He got most upset about not being there for reports.

**MR SPEAKER:** Come back to the subject matter of the question.

**MR GENTLEMAN:** The *Hansard* reflects that. This is perhaps part of the reason why Mr Seselja does not understand the planning process, or perhaps he does not understand the process because he is too lazy to study the planning system. He is too lazy to attend the P and E committee meetings; he is too lazy to stay back for debates in the chamber. Members will recall that last May we sat until 2.00 am while Mr Seselja went home at five the day before. He had his feet up, perhaps, in Macarthur. I am happy to raise the question: what has he been doing for the last eight days?

Much of today's debate has focused on process and on the performance of senior public servants. It has focused on the potential sites that might be available for a large-scale project such as this. It has focused on what dates appeared on what documents, and it has focused on the FOI process—one which I still do not think the opposition understands. It has focused on many things, but we need to come back to the reason why this place has stood empty for the last eight days.

**Mr Pratt:** Because the Chief Minister stuffed up.

**MR SPEAKER:** I warn you, Mr Pratt.

**MR GENTLEMAN:** The opposition has tortured itself over the last eight days doing nothing but poring over documents, trying to find some elusive smoking gun. Mr Speaker, there is no smoking gun.

This no-confidence motion is nothing more than a political stunt. At all times the Chief Minister has acted properly in his role. He has allowed the statutory planning process to run its course. It is one that is still running its course, and must be allowed to run its course—something that the opposition do not seem to fathom.

The opposition leader should hang his head in shame at the way he has misled the ACT community and deliberately wasted valuable Assembly time. The Leader of the Opposition should hang his head in shame at deliberately driving fear into the community while remaining silent about where he actually resides—where he chose to bring his family, knowing full well what was proposed for that area.

The Chief Minister said it earlier, and I repeat it: the data centre is an outstanding investment opportunity for the ACT. To have the Leader of the Opposition sit idle during the community debate, then leave Mr Pratt to oppose the idea, then support it, then to be followed by an unjustified, unqualified motion by Mr Seselja with claims that have not been substantiated by anybody from the opposition, provides a clear indication that those opposite have no idea what they are talking about. They have no idea what they do and do not support. Clearly, they are a confused bunch of misguided Liberals, led by Mr Seselja, a lazy man with little profile and little support from the Canberra community.

**Ms MacDONALD** (Brindabella) (5.35): Mr Speaker, in rising to address both the motion and the amendments, I want to make this point. I have been listening reasonably closely, and I have listened reasonably closely to the events as they have occurred in estimates and the comments that have been made. My opinion from watching the process today is this; this is what occurs to me. This opposition is no real opposition; it is a rabble. What this motion really is about is the opposition scrambling around and looking for an issue in an election year. Really they could not find—

**Mrs Dunne:** You never found one, which is why you're not facing another election year.

**MS MacDONALD:** Mr Speaker, I did not interrupt anybody on the opposite side; I ask that they pay the same respect to me and not behave in a disorderly fashion contrary to the standing orders.

**MR SPEAKER:** Opposition members will remain silent while Ms MacDonald has the floor.

**MS MacDONALD:** Thank you, Mr Speaker. What this is about is a Liberal opposition busy scrambling around for an issue in an election year. Because they could not find one during the estimates process, what they have done is to go to an issue which was well and truly announced last year—which had, I might say, absolutely nothing to do with the budget estimates process. It is irresponsible behaviour to the extreme on the part of the opposition to behave in the way that they have been behaving since the estimates committee came down.

**Mr Smyth:** On a point of order, Mr Speaker, I was wondering which part of the amendment or the original motion this was in reference to. Perhaps you might direct the member to point that out.



**MR SPEAKER:** Come to the subject matter of the question.

**MS MacDONALD:** Certainly, Mr Speaker. What I was about to say was that it is irresponsible behaviour—

**MR SPEAKER:** Ms MacDonald is speaking not only to the amendment but to the motion, Mr Smyth.

**MS MacDONALD:** It is irresponsible behaviour to have moved this motion of no confidence, because there is no smoking gun here. As the Chief Minister pointed out before, there is no evidence; they have found no evidence. In the two weeks in which we had estimates hearings and then in the follow-up hearing with the Chief Minister, the opposition could not make a case. They could not make a case in the least and they have not managed to make one today.

This planning approval process and development application process have followed the normal process. Of course, ActewAGL themselves have said that the information process could have been better handled initially, and of course it is important that, as members of the Assembly, particularly for the members of Brindabella and Molonglo, we listen to the concerns that are raised by our constituents. I certainly have taken on board everything that has been said to me, and certainly my office has taken all those issues on board and we do not discount those.

But there is a need to weigh up the information that is presented. Just because somebody lives in my electorate and disagrees with the proposal does not mean that I take their side if the evidence is not on their side. I am sorry, but this is going through the normal process. It would be micromanagement in the extreme if this government interfered while the process is still going on.

There is no foundation for this motion and there is certainly no foundation to scale it down and make it a censure motion. I cannot support this motion today.

I listened to the comments that Mr Mulcahy made today. Mr Mulcahy made the point that it is incumbent on the government to use the statutory process. I certainly agree with that. Mr Mulcahy made some very valid and pertinent points. Ms Gallagher also made a pertinent comment about the Chief Minister having this motion moved against him. It is happening. Why is this motion happening? We followed the statutory process. What else are we supposed to do? What else is the government supposed to do?

Mrs Dunne and a few others on the other side have attempted to build up a straw man. Their portrayal of the events that occurred within the estimates process is wrong. Within the cut and thrust of estimates, there are often more competing questions than there is time for everybody to ask questions. To allege that things were shut down to protect the government is just farcical; it did not happen in the least.

I want to finish on another note, about something that I do not believe has been mentioned today. That is about what happened when the Chief Minister and officials came back before estimates on Monday of last week. I want to thank not so much the

Chief Minister—because the Chief Minister, like the rest of us, is a politician and is in for the cut and thrust like the rest of us—but the officials who came back. It would not necessarily have been an easy thing. I especially commend Mr David Dawes for the apology that he made. He has been involved with public life for a long time—not on the government’s side. But in being on the government side and coming back and making an apology to the committee, I thought he did it very sincerely.

**Mrs Burke:** How embarrassing for him.

**MS MacDONALD:** I did not interrupt you; please do not interrupt me. He did it very sincerely. I want to commend him for that apology that he made. I believe that the officials, when they came back with the Chief Minister, well and truly clearly set out the process. In spite of that, there was this circular argument. Being a circular argument, it just went round and round about the decision and who spoke to who when.

This is a huge development proposal. There would have been numerous discussions between numerous government departments. It is ridiculous to think that everybody is remembering exactly who said what in what conversation at what time. Basically, the Liberal opposition are just trying to catch people out in the confusion about who said what, by saying, “Did you say this at this point? Did you say this here? At this point you said this”—but failing to recognise that things were superseded later on. As I have said already, this is a farcical motion on the part of the opposition today, an opposition that is a rabble.

Question resolved in the negative.

**MR SPEAKER:** The question now is that Dr Foskey’s amendment be agreed to.

**Dr Foskey:** Mr Speaker, could that be dealt with in two parts?

*Ordered that the amendment be divided.*

Question put:

That **Dr Foskey’s** amendment No 1 be agreed to.

The Assembly voted—

Ayes 2

Dr Foskey  
Mr Mulcahy

Noes 15

Mr Barr	Ms MacDonald
Mr Berry	Ms Porter
Mrs Burke	Mr Pratt
Mr Corbell	Mr Seselja
Mrs Dunne	Mr Smyth
Ms Gallagher	Mr Stanhope
Mr Gentleman	Mr Stefaniak
Mr Hargreaves	

Question so resolved in the negative.

Question put:

That **Dr Foskey's** amendment No 2 be agreed to.

The Assembly voted—

Ayes 7		Noes 10	
Mrs Burke	Mr Smyth	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Stefaniak	Mr Berry	Ms MacDonald
Dr Foskey		Mr Corbell	Mr Mulcahy
Mr Pratt		Ms Gallagher	Ms Porter
Mr Seselja		Mr Gentleman	Mr Stanhope

Question so resolved in the negative.

**MR SPEAKER:** The question now is that Mr Seselja's motion be agreed to.

**MR SESELJA** (Molonglo—Leader of the Opposition) (5.49): I thank all members for their contributions. I would like to touch on some of the responses in a moment, but I thank particularly the crossbench members for seeing the merits in much of what we had to say today. What we have now is in fact agreement from all non-government members that this process has been handled very poorly. We have agreement from Mr Mulcahy on a number of the points that we have put. We have agreement from Dr Foskey on all of the points we have put—simply a different conclusion as to the sanction.

That is reflective of where the community are at at the moment. The community are very concerned about how this process has been handled. They are concerned about how the site selection was handled, about the government's hiding of the facts and about how the government has handled this process from a committee perspective, from a public consultation perspective, from a freedom of information perspective and from a general good process perspective.

I particularly pay tribute to Dr Foskey, because she took the time to get across the very detailed arguments. I know that she received briefings from the government. I believe that she received briefings from ActewAGL. Certainly we gave her whatever documentary evidence we had in pursuit of our case. Dr Foskey did take the time. She had no particular reason to support us other than that she saw the merit of the case that we had made.

Nothing that we have heard in response undermines that case. The case in response was summed up a bit by Ms Porter. It was the "yeah but" defence. She essentially said, "Yeah, well, there is that document but we are told that actually that is the wrong date that you are looking at there. Yeah, there is this document that ActewAGL has saying that the sites are being ruled out, but they didn't really mean that. What they actually meant was something different."

We have an overwhelming amount of evidence pointing in one direction and we have clear contradictions between what the Chief Minister has said and what is reflected in

that documentary evidence. We see it in relation to involvement in the site selection, we see it in relation to taking into account the value of the land, and we see it in relation to whether or not the site in Hume was ever ruled out. That is clearly demonstrated in the documentation that we have put.

We heard Ms Gallagher going through the documents but not really going through them. We saw her referring to the documents and saying, "Here's a document that shows that the officials were doing their job." That is all it shows, apparently—the officials doing their job. I do not doubt that in the vast majority of cases the documents do show officials doing their jobs. I have got no doubt about that at all. But they also show a contradiction—a clear contradiction—between what we have been told and what the public has been told about the government's role in this process and what actually happened. I do not think there would be any reason for all those documents to be wrong.

I do not think that it is credible to suggest that the "yeah but" defence holds here. Yes, they all point to the fact that the sites were ruled out, that the government did take into account the valuations, and that they did push them to the Tuggeranong site—yeah, but that is not what they meant. We are told that they did not really mean that.

What is actually written in these reams of documents—which all point in one direction—are not actually the facts of the matter. Dr Foskey made the point very well: all this evidence is pointing one way and you would think that, if it was not true, there would be a raft of documents for a process like this that the government could point to that would specifically back their claims. In the seven days since I gave notice of this motion, they had the opportunity to make that case, to provide those documents. They have not been able to. What they have come back with is the "yeah but" defence: "That is not what we meant."

We do not buy it; the community does not buy it. The documentary evidence is very clear. We were misled. We were misled in the committee on numerous occasions by the Chief Minister. We know that this process has been poorly handled. There is no-one outside the Labor Party at the moment who maintains that this has been a well-handled process—that if they had their time again they would not have done it differently. There is no doubt about that.

We saw the discussion around freedom of information and the use of freedom of information. We had Ms Gallagher, and Mr Corbell in particular, prosecuting the case that we are misunderstanding how it works. What we are actually saying is very simple, and I will make it very simple for them. There is a freedom of information process where we are told by government agencies that we cannot have certain documents for particular reasons—whether it is not in the public interest or because of any of the other exemptions—yet we have a Chief Minister who grabbed some of those same documents and released them selectively.

What we are saying is that he does have the ability, clearly, to release those documents, and he has not: he has only released a select few, to a select number of people. He has not released all of the documents and put all of the documents on the table. Our point there absolutely stands: it is a fundamental misunderstanding or it is a deliberate attempt to muddy the waters to put any other position. That is absolutely clear. In fact, it is a point that was noted by my crossbench colleagues.

We have a government that had an opportunity here—an opportunity to get it right. They got it wrong. They had a positive duty to get it right and they did not. But they also, in the negative, undermined it by pushing it in the wrong direction. That is clear. When they got caught out, they misled the community and they misled the Assembly.

The documentary evidence—the mountains of documents that we have tabled—has not been refuted. The Chief Minister bases his whole defence on this letter, which does not say what he says it says. It does not, in any way, shape or form, make true his statements that we have pointed to. It does not make them true at any stage. It does not suggest that this site was never ruled out, because it was. The documents actually show that.

We have got a mountain of documents pointing one way; we have got a government that controls all of the information. If there was a mountain of documents the other way, no doubt we would have been given them. All we have is one letter—the one letter that does not say what the Chief Minister says it says. It simply says back to the proponent what they are saying. It does not in any way refute our central claim—that we were misled by this Chief Minister over his role, we were misled over what the government took into account, and we were misled over whether or not sites were ruled out.

That is what the documents say; that is what we have based our comments on. Those are the facts. Those are broadly the facts that are accepted by every non-government member in this place. They are the facts, I believe, that are accepted by the community on this issue. We absolutely stand by our motion. We stand by our motion of no confidence; I commend it to all members of the Assembly.

Question put:

That **Mr Seselja's** motion be agreed to.

The Assembly voted—

Ayes 6

Mrs Burke  
Mrs Dunne  
Mr Pratt  
Mr Seselja  
Mr Smyth  
Mr Stefaniak

Noes 11

Mr Barr  
Mr Berry  
Mr Corbell  
Dr Foskey  
Ms Gallagher  
Mr Gentleman  
Mr Hargreaves  
Ms MacDonald  
Mr Mulcahy  
Ms Porter  
Mr Stanhope

Question so resolved in the negative.

*At 6.00 pm, in accordance with standing order 34, the motion for the adjournment of the Assembly was put and negatived.*

**Sitting suspended from 6.00 to 7.30 pm.**

## **Petitions**

*The following petitions were lodged for presentation:*

### **Cotter Road—caretaker's cottage**

*By Mrs Burke, from 876 residents:*

**To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory.**

This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that: The 1926 Caretakers Cottage at 540 Cotter Road Weston Creek will soon be at extreme risk of damage through neglect or vandalism if the property becomes vacant and unprotected during proposed "infrastructure works" which may service the Nth Weston & Molonglo Valley development.

Your petitioners therefore request the Assembly to: Immediately implement a Preservation Plan for the Cottage that is inclusive of the current caretakers so that security issues & ongoing maintenance are fully addressed and ACT Departmental responsibility is clearly defined. It is also imperative that the heritage values of the building be assessed by the ACT Heritage Council, as a matter of urgency, prior to any deterioration that may detract from its' viability for Heritage Listing.

### **Road safety**

*By Mr Mulcahy, from 22 residents:*

**To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory.**

This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that: the intersections at Tyagarah Street and Hindmarsh Drive and Numeralla Street and Yamba Drive, are dangerous for traffic trying to exit O'Malley.

Your petitioners therefore request the Assembly to: address the road safety issues with the two intersections to make it easier and safer for O'Malley residents to exit the suburb.

### **Gas-fired power station**

*By Mr Stanhope, from 17 residents:*

**To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory.**

This petition of certain residents of the Australian Capital Territory draws to the Attention of the Assembly that ActewAGL, a Territory Owned

Corporation, is proposing to develop Block 1671 of the Tuggeranong District, adjacent to the suburbs of Macarthur and Fadden, to construct a facility titled “Canberra Technology City”, under the submitted Development Application No. 200704152.

The facility will contain a Natural Gas Power Station, high voltage power lines, data storage space and a high pressure gas pipeline. The magnitude of the social and environmental impact on local residents remains unknown and this facility will be located as close as 600 metres from residential areas.

Your petitioners therefore request the Assembly to:

- 1) Immediately rescind any approvals or licenses granted to ActewAGL to construct this facility in Macarthur; District of Tuggeranong or close to urban areas.
- 2) Undertake to find alternative locations within the ACT that would be suitable for such a large industrial facility.

*The Clerk having announced that the terms of the petitions would be recorded in Hansard and a copy of each referred to the appropriate minister, the petitions were received.*

## **Legal Affairs—Standing Committee Scrutiny report 55**

**MS MacDONALD** (Brindabella): I present the following report:

Scrutiny report 55 of the Standing Committee on Legal Affairs performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

**MS MacDONALD**: Scrutiny report 55 contains the committee’s comments on 11 bills, 23 pieces of subordinate legislation and seven government responses. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

## **Scrutiny report 56**

**MS MacDONALD** (Brindabella): I present the following report:

Scrutiny report 56 of the Standing Committee on Legal Affairs performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

**MS MacDONALD:** Scrutiny report 56 contains the committee's comments on 53 pieces of subordinate legislation, two government responses and one regulatory impact statement. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

## **Legal Affairs—Standing Committee**

### **Statement by deputy chair**

**MS MacDONALD (Brindabella):** Pursuant to standing order 246A, I wish to make a statement on behalf of the Standing Committee on Legal Affairs.

The committee held public hearings into annual reports within its portfolio responsibilities on 1 and 2 November 2007. The committee heard from Minister Corbell, the Minister for Police and Emergency Services and Attorney-General, and the following agencies: the Department of Justice and Community Safety, the Public Advocate, the Legal Aid Commissioner, the ACT Electoral Commission, the ACT Ombudsman, the Director of Public Prosecutions, the Public Trustee, the Emergency Services Agency and ACT Policing.

While a wide range of issues was canvassed with all agencies, the committee focused the majority of its attention on the progress, cost and operations of the Alexander Maconochie Centre and the state of the emergency services in the ACT. The committee is currently conducting a separate inquiry into fire and emergency services in the ACT and will report to the Assembly in August this year on that matter.

So far as the Alexander Maconochie Centre is concerned, the committee decided to undertake some inspections of the prison facilities in the ACT, including a visit to the AMC. In February this year, the committee visited the Belconnen Remand Centre, Symonston Periodic Detention Facility and the AMC. The committee expresses its thanks to the Attorney-General for facilitating this visit and also to the staff of ACT Corrective Services and JACS, who were most helpful and informative during the visits.

The legal affairs committee is not making any further comment at this stage on any matters raised in annual reports and at the public hearing. The committee will continue to scrutinise the progress and operation of the AMC. The committee plans to undertake a further visit of the AMC prior to its completion and will report further to the Assembly after that visit.

The annual reports public hearings continue to be a significant accountability tool for the committee and a valuable record.

## **Public Accounts—standing committee**

### **Statement by chair**

**DR FOSKEY (Molonglo):** Pursuant to standing order 246A, I wish to make a statement on behalf of the Standing Committee on Public Accounts relating to reportable contracts under section 39 of the Government Procurement Act 2001.



The Government Procurement Act 2001, as amended in 2007, requires agencies to provide the public accounts committee every six months with a list of reportable contracts. Reportable contracts are defined, with some exceptions, as procurement contracts over \$20,000 that contain confidential text. Agencies provide the committee with the names of the contracting parties, the value of the contract and the nature of the contract.

The public accounts committee believes that this information should be available to all members and that the legislation should be amended to require the government to table the information in the Assembly each reporting period. The committee has written to the Chief Minister about this. Until such time as this amendment is possible, the public accounts committee proposes to table these lists as it receives them.

Mr Speaker, I would just like to bring members up to date. I did write to Mr Stanhope, the Treasurer. One of the concerns of the public accounts committee is that, of the various groups that were affected by this change, the public accounts committee was the only body that was not consulted. What we have now is a public accounts committee that is unclear as to its role. We are not sure how agencies are meant to report to us and what we are meant to do with those reports. The best information comes from a copy of a letter from the Under Treasurer that instructs eight chief executives to supply this committee with lists of reportable contracts for the period, or a nil return if there were no such contracts for the period.

To date, this committee has received responses from Treasury, six of the eight agencies whose chief executives were listed and from CIT. This last response leads the committee to question whether there are other agencies that are supposed to provide responses that the committee is unaware of, and whether part of our role is to determine who they are and to chase them up.

I understand that the Auditor-General's office used to spend a considerable amount of time chasing agencies to supply responses. However, our committee's resources have not expanded to meet our new responsibilities.

**MR SPEAKER:** Dr Foskey, is this a statement agreed to by the committee?

**DR FOSKEY:** It certainly is, Mr Speaker. I also wish to report that I received a letter today from Mr Stanhope in response to my letter, and there is opportunity for further negotiations and conversations about that.

To conclude my statement, I seek leave to table lists of reportable contracts for the period 1 October 2007 to 31 March 2008 as received by the public accounts committee.

Leave granted.

**DR FOSKEY:** I table the following papers:

Reportable contracts—

Copies of letters to the Chair of the Standing Committee on Public Accounts from the following Departments and Agencies for the period 1 October 2007 to 31 March 2008—

ACT Health, dated 14 April 2008.  
 Canberra Institute of Technology, dated 3 April 2008.  
 Chief Minister's, dated 17 April 2008.  
 Education and Training, dated 21 April 2008.  
 Justice and Community Safety, dated 7 April 2008.  
 Land Development Agency, dated 18 April 2008.  
 Territory and Municipal Services, dated 21 April 2008.  
 Treasury, dated 17 April 2008.

Copy of letter to Chief Executive Officers and Chief Planning Executive from Megan Smithies, Under Treasurer, Department of Treasury, dated 14 February 2008.

### **Ethics and Integrity Adviser—appointment Statement by Speaker**

**MR SPEAKER:** Pursuant to the resolution of the Assembly on 10 April, I wish to advise that, following a selection process, Mr Stephen Skehill, has been selected to be the Ethics and Integrity Adviser for the remainder of this Assembly. Mr Skehill has extensive public sector and legal experience in the Australian public service as well as in private practice. In a long career he has held positions as the Australian Government Solicitor and Secretary of the Commonwealth Attorney-General's Department. Mr Skehill will be making arrangements to meet with all of the members of the Assembly in the coming months.

### **Standing orders—suspension**

Motion (by **Mr Corbell**) put:

That so much of the standing orders be suspended as would prevent orders of the day Nos 1 and 2, Executive business, relating to the National Gas (ACT) Bill 2008 and the Land Rent Bill 2008, and order of the day No 4, Private Members' business, relating to the Electricity Feed-In (Renewable Energy Premium) Bill 2008, being called on forthwith.

The Assembly voted—

Ayes 10

Noes 5

Mr Barr	Mr Gentleman	Mrs Burke
Mr Berry	Mr Hargreaves	Mr Mulcahy
Mr Corbell	Ms MacDonald	Mr Pratt
Dr Foskey	Ms Porter	Mr Seselja
Ms Gallagher	Mr Stanhope	Mr Smyth

Question so resolved in the affirmative, with the concurrence of an absolute majority.

## National Gas (ACT) Bill 2008

Debate resumed from 8 May 2008, on motion by **Mr Stanhope**:

That this bill be agreed to in principle.

**DR FOSKEY** (Molonglo) (7.46): I am going to speak in support of this bill, which establishes some collective rules that will apply to all gas companies across Australia, whether for infrastructure, distributors or regulators. Despite the Greens' concerns about national electricity market harmonisation overall, which I will go into in a moment, this bill is generally a sensible one.

The reform or harmonisation of the national electricity market, as agreed at COAG's Ministerial Council on Energy meetings, has been happening steadily in the background without much, if any, input by state and territory governments. Especially now that Australia has Labor governments across all states and federally, an ever-increasing number of decisions are being made at COAG level, meaning that decisions are not subject to the usual scrutiny that parliaments would otherwise have. This means that these decisions can be made by ministers and their advisers without any public or stakeholder input and without any community consultation; we should be satisfied if they take external views into account at all. It seems that COAG is the new government that counts. It is appointed by premiers and chief ministers, not elected by people.

There is no doubt that it makes sense to have a national agreement on energy issues. In the ACT the majority of our gas comes from Moomba in South Australia, with some from New South Wales and some from Victoria. It is then distributed through New South Wales and into the ACT. National agreements are necessary in this context.

What is frustrating is the process of national energy reform whereby South Australia is deemed the lead legislator for national energy and gas legislation. Under this proposed bill, the new national gas law, the regulations and also the national gas rules which were agreed to in South Australia last week will be applied in all Australian jurisdictions by acts which apply the National Gas (South Australia) Act 2008 on 1 July.

Given the process through which this legislation has been developed, it is a farce to even discuss the matter here in this chamber. The agreements have already been made at the ministerial council level; even though the states and territories are going through the motions of debating the bill in each place, in actual fact the bill that just passed in South Australia is the only one that counts.

A colleague in South Australia, Mark Parnell, put some amendments forward which would take social and environmental aspects into account. However, these were defeated by the two major parties as there was significant pressure there in South Australia not to make any changes at all. Mr Parnell is concerned that the South Australian government is not the lead legislator but the lead rubber stamp for the energy reforms.

Unfortunately, despite the fact that the national energy act is already in force in the ACT, this is the first opportunity that we have had to discuss the national energy market reforms in this place.

This may look like a small bill, but, due to the built-in ambulatory forces in clauses 8 and 9, the guts of the bill are actually in the South Australia schedules, soon to be our own. By adopting this legislation, we are also adopting two schedules which will become ACT law next week, on 1 July. I am somewhat concerned that in doing this it is possible that no-one in this room has actually read these schedules. It is possible; it is not desirable, though. Rather than actively adopting them, we are doing it passively by just having a reference in our act to the website where the South Australian act can be found.

And not only that. Due to the ambulatory forces, whenever South Australia amends its schedules, our legislation is automatically updated. This puts a lot of pressure on our minister for energy, the Chief Minister, to be alert and fully engaged in the COAG processes, where ultimately all decisions about our energy markets are decided—not here in the Assembly. It also leaves the Chief Minister with the responsibility for informing the rest of the Assembly when there are significant updates, as the schedules are inbuilt and not disallowable or even notifiable.

Discussing the gas bill here today after spending the rest of the day discussing aspects of plans for a gas-fired power plant—not to mention the feed-in bill due for debate later this evening—brings into focus the lack of an ACT energy policy. It looks as though the government is preferring to rely on a national scheme rather than develop a locally relevant policy which also incorporates climate change mitigation. The community put a lot of work into submissions on the energy discussion paper over two years ago, but these submissions are not publicly available. Developing an energy policy is a key part of the government's climate change strategy, and already overdue. When will the government do the right thing by the people of the ACT and show us whether they have a comprehensive plan for energy for our future?

I find it very frustrating that in this day and age we still have critical energy legislation like this bill, setting up rules that govern an essential energy market, presented to us in a way that fails to acknowledge the complexity of the issues and instead seeks to blinkeredly restrict consideration to purely economic considerations. Just to reinforce that point, I refer to a couple of sentences on the objective of the South Australian bill from the second reading speech:

The national gas objective is to promote efficient investment in, and efficient use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, reliability and security of supply of natural gas. The national gas objective is an economic concept and should be interpreted as such. The long term interest of consumers of gas requires the economic welfare of consumers, over the long term, to be maximised. If gas markets and access to pipeline services are efficient in an economic sense, the long term economic interests of consumers in respect of price, quality, reliability, safety and security of natural gas services will be maximised. By the promotion of an economic efficiency objective in access to pipeline services, competition will be promoted in upstream and downstream markets.

I look forward to holding a competition on how to put all those words into one sentence.

Inherent in those statements is an assumption that markets have at their heart the best interests of society, whether in a social context or in an environmental context. Of course, markets have no heart and markets do not seek the best interests of society; markets are made up of those people with the most economic power. It would seem to me that we are not doing the best we can if we have an efficient and competitive economic system which pays no heed to the environmental consequences of a fossil fuel and which pays no real regard to the social consequences of regulating an essential community fuel, because gas is not just about economics.

This solely economically focused objective will prevent the new regulators from taking social and environmental goals into account when considering investments in the gas industry. By comparison, the United Kingdom, which has a similar energy system, has environmental and social measures in its energy legislation. Since this is a national framework, the Greens think that more work should be done in examining the social and environmental impacts, not less. The Business Council for Sustainable Energy has commented:

Most states have had strong environmental objectives in their energy legislation and all governments now agree that we need to dramatically reduce greenhouse emissions. At a time of heightened community concern with climate change it is bizarre to think that future energy market developments occur in a manner that does not also support emission reductions.

On a positive note, this bill has been applauded by the Consumer Action Law Centre in Melbourne, as it does make companies reveal lots of detail that they would not otherwise choose to.

Gas has both a positive and a negative impact in relation to tackling climate change. Australia produces the cleanest natural gas in the world and it is an essential transitional fuel to reduce carbon emissions, as it produces half as many greenhouse gas emissions as coal. But it is not as good a fuel as true renewable energy, whether it be solar or wind. When carbon trading starts up, gas will get the advantage over coal, its biggest competitor, but the ones that will get the real advantage are solar, wind and other such alternatives. Energy efficiency is, of course, the best policy of all.

One thing we need to be very careful about is that we do not allow gas to become the end point in terms of energy policy. We need to allow some technology in industries to leapfrog from the dirtiest—that is, brown coal burning power stations—straight to the cleanest renewable energy without going through transitional fuels such as gas.

It is very important that we take environmental considerations into account in relation to gas to ensure that it fulfils its role as an essential community service on the one hand and a transitional fuel on the other in relation to reducing our greenhouse gas emissions—but that we not stop there, as it alone will not solve our greenhouse emission problems.

I understand that the Ministerial Council on Energy will be working closely with COAG's high-level group on greenhouse to address greenhouse gas emissions from

the energy sector on a national basis. I hope that we see any outcomes from this work trickle down into the ACT's energy policy.

We rely on gas for cooking and for heating, so there is a social dimension to it. Reasonable and reliable access to natural gas should be viewed as an essential service in our community. That is to make it very clear that gas is not just about economics; it is also about the social fabric of society and the basic right of all of us to access sufficient energy for our daily lives.

The current experience in Western Australia that members would be aware of in relation to gas shortages has highlighted a number of considerations that we should be taking into account in relation to this bill. In particular, when we get to a situation of having to ration gas supplies, the important questions are: who makes those rationing decisions and whose needs will be deemed most important? Will it be a large factory with lots of jobs at stake? Is that more important than a hospital's need to sterilise its equipment or a pensioner's need to cook their evening meal? In the ACT, will it be a data centre over gas for heating and cooking?

Under the new national electricity law, market regulators cannot take social or environmental issues into account. However, it is clear that the market, left to its own devices, will not produce good social and environmental outcomes. Electricity is an essential service and is necessary for health, wellbeing and participation in employment, community and social activities. The key controls on energy production and distribution are market rules and regulations. Yet currently this market actively operates in conflict with many social and environmental objectives, undermining policies designed to promote social cohesion and environmental protection. This will have to change if we are going to prevent dangerous climate change and protect vulnerable households.

A coalition of social, environmental and consumer advocacy groups have united to form the power for the people declaration, which calls on federal, state and territory MPs to amend the national energy markets agreement, the national electricity law and the national gas law by (1) requiring regulators to consider the environment and sustainable development when making decisions; (2) requiring regulators to "consider social impacts, with particular reference to preventing negative impacts for low income and disadvantaged consumers"; (3) requiring industry to "implement cost effective demand management and energy efficiency", to help consumers save energy wherever this is cheaper than investing in more infrastructure; and (4) increase transparency through "ensuring parliament is provided with an annual environmental and social sustainability report" on energy.

I would have proposed these sensible amendments today if it were not for the fact that this is a COAG agreement and, under this majority government, I am afraid that my amendments probably would not have got anywhere. But I would like to urge the Chief Minister, the minister for energy, to make sure that these proposals are incorporated in the ACT energy policy when it finally arrives.

**MR PRATT** (Brindabella) (8.01): I stand to support the bill. I believe that the ACT should continue to participate in national energy market reforms, which are currently rationalising the economic regulation of energy in Australia. The Liberals will be

supporting the National Gas (ACT) Bill 2008, as we are in favour, nationally, of the energy market reforms.

This bill will increase efficient investment in energy infrastructure, which will in turn lead to long-term benefits for all ACT energy consumers. We the opposition are in favour of the government amendment to have this bill come into action on 1 July 2008 in line with the commencement of the National Gas (South Australia) Act 2008 in South Australia. This bill should also be passed to stay in line with the COAG Australian energy market agreement. If the bill were to fail here, and not commence on 1 July 2008, then clearly the ACT would be responsible for preventing the national gas law from commencing in any other jurisdiction around Australia, effectively putting this national initiative on hold; we do not want to do that.

The national gas law replaces the current gas pipelines access law as the third-party access regime for gas network infrastructure. The national gas rules will replace the gas access code. The national gas bill also goes to further the goal of convergence of national gas and electricity regulation. It shares many common areas with the national electricity law, which came into action on 1 January this year.

This is a template law where other states and territories apply the relevant schedules from the South Australian legislation as laws in their own jurisdiction through the use of application acts. We see this as an uncontroversial law. We do not see this reform as being a commonwealth legislative takeover. Having the ACT as well as all the other states and territories move into line on this bill is a step in the right direction for energy market reform on a national level and will clearly lead to a more effective and efficient market outcome for the territory's energy consumers. I commend the bill to the Assembly.

**MR STANHOPE** (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (8.04), in reply: The ACT is continuing to participate in the national energy market reforms that are rationalising the economic regulation of energy across Australia. These reforms will lead to a more effective and efficient energy market outcome that will benefit the territory's natural gas consumers. The energy market reforms have been ratified by the commonwealth and all states and territories under the COAG Australian energy market agreement, which schedules the transfer of most state and territory energy market economic regulation functions, including those related to natural gas, to a national regime that sees the phasing out of associated jurisdictional functions.

The bill being debated now will apply a national gas regulatory framework consistent with the national gas law, regulations and the national gas rules in the ACT. It is complementary to the revised national electricity law, which came into effect across all jurisdictions on 1 January this year. The regulatory framework will transfer the governance and institutional arrangements of the current gas access regime to the national framework, with the Australian Energy Regulator assuming responsibility for economic regulation and enforcement and the Australian Energy Market Commission assuming responsibility for rule making and market development. It replaces the current gas pipelines access law as the third-party access regime for gas transmission and distribution infrastructure along with the national gas rules that replace the gas access code.

The regulatory framework furthers the Ministerial Council on Energy goal for the convergence of natural gas and electricity regulation and contains a number of areas in common with the national electricity law. The bill applies, as a law of the ACT, the national gas law set out in a schedule to the National Gas (South Australia) Act 2008 of South Australia as well as any regulations made under that law. It will repeal the Gas Pipelines Access Act 1998, the current ACT legislation that applies the national gas pipeline access law as a law in the territory. It confers necessary functions and powers on the commonwealth minister and commonwealth bodies, including the Australian Energy Regulator, the Australian Competition Tribunal and the National Competition Council.

The new legislation applying the national gas law in the ACT represents the achievement of another significant milestone in the COAG national energy reforms. I thank members for their contribution and their foreshadowed support for this bill. As Mr Pratt indicated in his presentation, there is just one small technical amendment that I will be moving in the detail stage, which is required to ensure consistency in commencement of the bill with the national regime. I foreshadow that now and will move it at the appropriate time.

Question resolved in the affirmative.

Bill agreed to in principle.

### **Detail stage**

Bill, by leave, taken as a whole.

**MR STANHOPE** (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (8.07): I move amendment No 1 circulated in my name [*see schedule 1 at page 2021*].

I table a supplementary explanatory statement on the government amendment. As I indicated, this is a very technical amendment, which is required to ensure that the provisions of the new act will commence consistently with the national scheme.

**MR PRATT** (Brindabella) (8.07): Mr Speaker, we support the amendment.

Amendment agreed to.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

### **Land Rent Bill 2008**

Debate resumed from 8 May 2008, on motion by **Mr Stanhope**:

That this bill be agreed to in principle.



**MR SESELJA** (Molonglo—Leader of the Opposition) (8.08): The opposition will not be supporting this bill. The land rent scheme is, of course, perversely predicated on an assumption by this government that low income earners can no longer afford to own a home in this town. The land rent policy is a result of the government's deliberate policy to drive up land prices by constricting land supply. According to HIA data on first home buyer affordability, in the March quarter of 2008 Canberra became more expensive than Perth and Sydney, a position it has not been in for years. Canberra has also edged closer to overtaking Brisbane to become the most unaffordable capital in Australia for first home owners.

Housing affordability for first home buyers is significantly worse than when Mr Stanhope's Labor Party came to office in the ACT. According to the HIA affordability index, first home owner affordability has dropped by 59 per cent under Mr Stanhope.

In 2008 we have heard mixed messages from Mr Stanhope on land supply. Earlier this year Mr Stanhope insisted he was releasing enough land. I refer to his column in the *B2B* magazine on 21 February. Then the opposition put pressure on him over Canberra's housing affordability crisis and we embarrassed him with our policy of no stamp duty for first home buyers. Subsequently, in a hurried reaction Mr Stanhope belatedly promised, after seven years of stifling supply, that he would release more land. But under the new announcement land supply will not exceed demand until at least Christmas, we are told, which means another six months of supply shortage this year. Given that the promise is not to be delivered on until after the election, you have to wonder if the promise can be believed at all.

Land rent is a weak response to a problem of constricted land supply. It is also a very risky policy option. Some window dressing policies can have minor positive effects. This policy has dangerous effects. The estimates committee has received a range of evidence indicating that land rent is a risky proposition. It is a well-established point that land generally increases in value over time whilst buildings depreciate. It is for this reason that bank lending on property almost always involves lending against combined house and land security or lending against vacant land.

The Chief Minister has made some ridiculous criticisms of the opposition's policy of no stamp duty for first home buyers. He claims that stamp duty exemptions have an inflationary effect. If this were true, then the same criticism would apply to other schemes, such as the ACT government concession scheme. He thinks it is responsible and non-inflationary of him to have concessions, but it is inflationary for an alternative government to propose concessions. He cannot have it both ways.

Moreover, there is an even bigger weakness in the government's claims that stamp duty concessions will cause inflation. If stamp duty concessions are inflationary, then this could only be so in a market where there is constricted supply. The government has a queer view that housing supply should remain stationary and the number of people who can afford to enter the market should not be increased. It is a pretty backward view of how markets operate.

If this government had any understanding of supply and demand, then they would realise that in a balanced market supply should be loosened to keep pace with demand

and that in such a market prices would stay competitive. Price inflation happens only in a market where supply is constricted. Mr Stanhope has a monopoly control over land supply and he has been personally responsible for some of the inflation that we have seen over the past seven years in relation to land prices. He is the last person in this building entitled to accuse others of inflating house and land prices.

The other point that is worth making in relation to the criticisms of the stamp duty policy is that, aside from the government defending taxes on first home buyers of upwards of \$15,000 as somehow being reasonable, in this town investors who purchase and pay stamp duty are actually able to write the costs of that off. So we have got the perverse situation where first home buyers, who are often competing with investors for properties, are disadvantaged by the taxation regime. Jon Stanhope appears comfortable with that situation. He maintains that it is reasonable, that it is indeed a good thing and that it is indeed irresponsible to change the arrangements whereby first home buyers are forced to pay extraordinary amounts of stamp duty, as they are now.

The opposition asked in estimates whether there were any plans for some form of guarantee by the government that participants in the land rent scheme would not lose money from depreciation of houses purchased under the scheme. The officials responded emphatically that the government was not prepared to provide a guarantee from its pocket to insure owners against depreciation of house values. I asked:

Given that people eligible for the scheme would be borrowing for the house rather than for the land and the banks would be giving money for a depreciating asset, are there any plans for any sort of guarantee scheme on behalf of the government?

The responsible Treasury official answered:

No. The simple answer is no.

If there was any doubt, the entire viability of the ACT government's land rent scheme is exposed following the exposure of Treasury modelling assumptions in answers to questions on notice. Treasury advice confirms opposition fears that the land rent scheme would risk placing most qualifying families in negative equity circumstances. The land rent scheme flies in the face of all evidence that land generally increases in value over time while buildings depreciate. In its modelling Treasury expects buildings to depreciate at between 3.3 per cent and 2.5 per cent a year; that is, a 30 to 40-year effective life. This means that a \$200,000 house will depreciate by between \$5,000 and \$6,000 per year.

Let us put that into perspective. In the first year of a mortgage the home buyer is typically paying almost entirely interest and very little capital. Not until at least halfway through an average mortgage does the home buyer pay more capital than interest. But in a normal mortgage the home owner does not face negative equity because land appreciates over time. But on a land rent mortgage, that \$5,000 of depreciation each year will accumulate as a write-down of the home buyer's equity without any offset from land appreciation.

At the rate of depreciation that ACT Treasury assumes, a purchaser who buys under Labor's scheme would build up negative equity in the first 12 years of a 25-year loan unless they are paying a substantial amount of the capital amount off their loan. Over the remainder of the loan they would be catching up on earlier accumulated losses. They will not get ahead financially unless they stay stuck in the loan for the full 25 years, and if they exit early they will take a loss.

Mr Ahmed, Executive Director, Policy Coordination and Development at ACT Treasury, confirmed that a house loan without a loan against land was seen as a risky proposition by the banks. When questioned in the estimates committee, he reported:

Throughout the development of the policy we consulted extensively with the financial institutions ... the financial institutions would expect a slightly higher level of deposit.

Mr Ahmed also confirmed that banks would refuse to lend to first home buyers who sought the usual 90 to 95 per cent finance. It is not hard to see why Treasury thinks the banks would want large deposits. The banks want any initial loss of equity to be a loss from the home buyer's pocket and not a loss from the bank's security.

Treasury provided an oral briefing for the opposition on the land rent scheme. We asked if any bank had confirmed that they would even be prepared to lend against the scheme. The response was, "Well, no. They will consider applications when they get them." Subsequently, through questions on notice, the opposition has ascertained from Treasury that those few banks will expect participants to provide deposits of 20 per cent. That is not the banks' number. It is the Treasury assumption that has been given to us. Treasury also assumes that the average borrower will be on an income of \$50,000 and will have a deposit of \$40,000. That is a high assumption. There would be very few people in the community on \$50,000 a year who would be likely to be able to save \$40,000.

Treasury concedes that few people will be able to afford to buy under the scheme. Let us remember that the scheme is demand driven, not capped. Treasury assume that only 120 blocks will be land rented per annum. Treasury modelling assumes that after five years only 20 land renters will graduate to full land ownership—20 people graduating to full ownership after five years. That is not a serious solution to a housing crisis that has thousands of Canberra renters in its grip. Treasury admitted in estimates that their modelling showed negative equity in the years immediately after purchase. Mr Ahmed said:

For a very brief period within the first year, there seems to be some suggestion they might go into negative equity. But certainly we do not see a household going into negative equity on an ongoing basis. The moment people purchase a house, there is that quick, initial depreciation that happens in the first year.

Treasury modelling makes very questionable assumptions about the outyears of a loan. They assume that construction costs will increase by 2.5 per cent per annum and that this will help prop up the price of a house. In picking this number they look to ABS statistics, which show that house prices have increased by 25 per cent over the past

five years. Statistics suggest that 45 per cent of this increase was attributable to the house component.

This is where the modelling gets tricky. Having looked at this modelling, I was not able to see anywhere where it actually drills down on some of these growth figures. If we look at the growth in house prices, as opposed to land prices, over the past few years a number of factors have gone into that. It is unclear to me whether Treasury has taken account of all these different things, and I will give an example.

Houses are generally bigger now than they were five years or 10 years or 20 years ago. Are we saying that the price of a 12-square home is more now than it was five or 10 years ago, or are we saying that the price of an average home, which is now 15, 18 or 20 squares, is more than it was five or 10 years ago? That is unclear to me. Perhaps the Treasurer can enlighten us in his speech by actually drilling down on some of those figures.

It certainly is of concern to me to be given these figures that say the house will depreciate. We know that land is always the better part of the equation—they are not making any more of it. We know that houses get run down over time and cost money to maintain and are, in real terms, in terms of growth, worth less than land. So they are either going backwards or, depending on what we read into this Treasury analysis, going forward very, very slowly. We do have a real concern with that aspect.

There are two real problems. The modelling suggests that it is only going to help a tiny number of people. That in itself is not a problem, but if we have got a scheme that helps a tiny number of people and then potentially puts a number of people into negative equity, then that is a scheme that is very difficult to support because we may well get more harm than help out of this scheme. That is our concern. Certainly the projection that only 20 land renters will graduate to full land ownership after five years suggests that it is only a small number of people. These depreciation figures lead us to suggest that under this scheme a number of people may go backwards.

We recently heard in the news that New Zealand has a form of land rent that has worked for years. We have looked up that New Zealand scheme. There is such a scheme. The Papakainga lending scheme provides loans in respect of houses on Maori land, but not in respect of the land. There are similarities to what Labor is proposing, but there are also important differences. The Housing New Zealand Corporation is the only organisation that will lend for Papakainga housing because no bank in New Zealand is prepared to lend. The HNZC loans are underwritten by the taxpayer. I have here a New Zealand cabinet minute from 2008, which states:

The Papakainga programme of lending for houses on Maori land provides access to finance for Maori to buy or build houses on Maori land. Other commercial lending products are not available.

I also have an extract from the latest published annual report for the Housing New Zealand Corporation. That report states that there were only 10 such loans on Maori land in the 2006-07 financial year. Even for a taxpayer funded scheme, that is a pretty poor take-up.

The taxpayer subsidised New Zealand scheme requires buyers to have a 15 per cent deposit, and I can only presume that this is because of the obvious depreciation problems. Take-up has not rocketed under the life of this scheme. There was an 80 per cent decline in loan applications between 1992 and 2004 because of the 15 per cent deposit requirement. This scheme has not had a high take-up.

The conditions for the loan include a requirement that the buildings bought with Papakainga loans are relocatable; that is, the houses must be demountable, single-storey and have pile foundations. This is not a scheme to create long-term investments. These are not houses with stable foundations—physical or financial. I would like the minister to inform the Assembly what the ACT government knows about the New Zealand scheme, including the cost to government and the annual level and value of defaults in loan write-offs. Let them bring this information to this place and put all the facts on the table for us to consider.

In summary, we have serious concerns with the land rent scheme. We do not believe that it will have any sort of impact on housing affordability. We believe that the small number of people who may seek some assistance—and I stress the word “may”—may well be cancelled out by many others who find themselves with negative equity. When you add up all the numbers and take into account depreciation and the cost of renting the land and servicing the mortgage on the house, it actually does not stack up very well against renting a home.

When you rent a home, as opposed to participating in a land rent scheme, you do not have the added risk of having a large loan against the depreciating asset. So while renting is not an ideal situation for most people because of the dead money, what you have here is a lot of dead money—you are not getting the capital growth that you get out of land, you are getting the risk that goes with being the owner of a house and you are still, in cash flow terms, about the same or worse off than you would be if you were renting a comparable property.

For all of those reasons we think it is a severely flawed scheme. We believe the government should take up our scheme—which is being taken up around the country now—and cut stamp duty for all first home buyers to give them a better prospect of buying a home. It would assist the government to manage land releases in a better way and allow for more affordable products and competition in the market, instead of stifling competition, as we have seen under this government through the Land Development Agency. If we had that mix, then we are confident that over a period of time housing would become much affordable for first home buyers.

We are not going to do that by flooding the market. We will do it by structural changes over a period of time: changes to taxation; changes to the way we structure land releases and changes to the way we allow competition to flourish. The land rent scheme is a poor imitation of a strategy to help first home buyers. We cannot support it.

**MR MULCAHY** (Molonglo) (8.24): I will be supporting the Land Rent Bill as I have formed the view that it will provide an additional option for prospective purchasers of property and land in the ACT. It will allow some who might otherwise have been

unable to enter the market the ability to straddle the line between buying and renting by purchasing a property subject to a long-term rental lease on the land. My understanding is that the government regard this scheme as merely one strand of their plan for affordable housing. Whilst I reserve my judgement as to the government's overall ability to tackle this problem, I believe that this scheme will be of some use.

The land rent scheme will be available on greenfield blocks sold by the Land Development Agency. It will allow buyers to avoid buying the land and instead enter into a scheme whereby they rent the land under normal Crown lease with an option to buy the land at any time by paying its unimproved value.

For buyers with a household income below \$75,000 per annum, subject to adjustments for dependants, the rental cost for the land under the scheme is set at two per cent of unimproved value per annum. This rate is calculated to cover the infrastructure cost to the government involved with the release of the land. For buyers who do not qualify for the discount rate, the regular rental cost for land under the scheme is set at four per cent of unimproved value per annum. This rate is calculated to approximate the market rate of the cost of housing services.

The scheme involves an annual review of the land value and the income of the tenant. Tenants may switch back and forth between the discount rate and the regular rate, depending on their income. Once on the discounted rate, this rate prevails for 12 months even if their income increases during that period.

These rates of land rent are also subject to an upper limit in annual rental increases to avoid sharp increases in rent in times of rapidly rising land values. If the unimproved value of land increases by more than average weekly earnings in a year then rental increases for that year are capped at this level. This means that rental increases caused by rapid increases in land values will be spread over several years rather than occurring in a short period of time.

In other respects, the scheme allows the land tenant the same rights as an owner of land. The tenant may at any time choose to purchase the land at the prevailing unimproved value. The tenant may also sell their property freely either by buying the land prior to sale or by selling the property subject to the land rent scheme. A new buyer who acquires the property subject to the land rent scheme may themselves continue on the scheme or purchase the land at the prevailing unimproved value. And of course the lease on the land is the standard 99-year lease for buyers who have leasehold title to land. The essential difference is that tenants under the land rent scheme are subject to land rent payments in addition to their rates and charges.

I understand, from briefings that have been provided on this bill, that tenants taking up the land rent scheme will be subject to a mandatory education session taking about three hours. This session is designed to explain the scheme and to ensure that land rent tenants do not take up the scheme through lack of understanding.

I am not one who takes the view that the general populace are helpless simpletons who need mandatory assistance from their anointed government masters to make their own informed and intelligent decisions. Nor am I keen on imposing mandatory requirements for commercial transactions. However, this mandatory education

requirement does not seem to me to be a particularly onerous condition and, given the importance of a property purchase and those who are most likely to avail themselves of this scheme, I would expect that most land rent tenants would be eager to attend the course even if it were not compulsory.

The land rent is not a normal rental payment under an ordinary lease contract. Rather, the bill structures the rent payable on land under the scheme as analogous to rates and charges. Clause 6 of the bill provides that the Land Rent Act is a tax law under the Taxation Administration Act 1999. My understanding, from briefings with officials, is that this is done for administrative reasons, to ensure that the privacy and enforcement safeguards in the tax law apply to the land rent scheme.

This will ensure that tenant income details, which are used to calculate the rate of land rent, are protected under the ordinary provisions relating to tax law. It will also ensure that tenants who are in default of their payments will be subject to the same safeguards and processes for recovery. This seems to me to be a sensible means of administering land rent payments. In the unlikely event that a tenant is unable or unwilling to pay land rent due, they will probably also be in default on their rates and charges; so it seems sensible that these should be administered together.

It is useful to compare the situation of a person who takes up the land rent scheme to the situation of a normal buyer of land who purchases the land under a home loan. Such a buyer would pay the prevailing market rate of interest on home loans but would be the owner of the land and hence would be entitled to the capital gains on the land. Since the market rate on home loans is substantially higher than the two per cent or four per cent land rent levels, there is no doubt that the land rent scheme is cheaper than an outright purchase. The scheme essentially allows the buyer to straddle the traditional line between buying and renting and become a partial buyer and a partial renter. This dampens the normal risks and rewards of renting and the normal risks and rewards of property ownership.

The decision, of course, that is facing a prospective purchaser as to whether to buy the land under a normal market home loan or rent the land under the land rent scheme hinges on whether or not the expected capital gain on the land is worth the additional repayments to purchase the land. By allowing buyers to partially buy their property—that is, buy the building but rent the land—this scheme will allow many Canberrans the option to enter the property market who would not otherwise have had the chance.

I note that the opposition has expressed a number of concerns. The opposition has expressed concern that the scheme could lead buyers to have a greater risk of negative equity or other adverse results. I think that these criticisms are incorrect.

The fact is that land value is highly correlated with the value of buildings so that increases or decreases in the value of a house are likely to be accompanied by corresponding increases or decreases in the value of the land. This means that people under the land rent scheme are actually likely to suffer a diminished effect if there is a market crash or some other event which adversely affects their position.

The flipside of this, of course, is that they are also likely to receive diminished rewards if property values rise substantially or there is some other event that increases

the equity in their home. Property owners under the land rent scheme are partway between being a full renter and a full purchaser. If there is a property market crash then a person under the land rent scheme is likely to suffer less of a loss than a full owner but more of a loss than a full renter. Conversely, if there is a boom in the property market then a person under the land rent scheme will gain less in equity than a full owner but more than a full renter.

This scheme may not be for everyone. I am the first to acknowledge that. It is likely to be suitable to prospective homebuyers who are either unable or unwilling to enter the property market in a comprehensive way and instead wish to get their foot in the door. I have expressed my reservations about the capacity, in fact, of either party to deliver serious outcomes in terms of affordable housing. But that being said, I see this initiative as one that is a positive step, and it will deliver benefits to some within our community.

Whether or not the scheme is worth while is ultimately an issue for prospective purchasers of land, and I am confident that they are able to weigh up the risks and rewards of the scheme. I will be supporting this bill as a means of giving another option to those who wish to enter the property market.

**DR FOSKEY** (Molonglo) (8.33): The ACT Greens, over many years, have called for a coherent strategy from the ACT government to address the crisis in housing affordability. The release of a housing affordability action plan last year was, to some extent, a response to that pressure and this bill sets up a scheme which is one of several initiatives designed to address the problem. The housing affordability crisis is not solely a Canberra phenomenon; it exists to varying degrees in all of the major cities of Australia. While land supply is clearly a factor, it is just one of many.

Journalist Peter Martin in the *Canberra Times* yesterday reported on the coalition-dominated Senate Select Committee on Housing Affordability finding that, as housing analysts and the Greens have been saying for years, the commonwealth's capital gains and negative gearing tax concessions have made a major contribution to the extraordinary rise in the price of housing and have benefited the well-off at the expense of the poor. And federal initiatives such as un-means-tested first homebuyer grants, stamp duty exemptions and even rental rebates have added to the price of housing rather than ameliorated them.

The coalition government of the last 11 years needs to accept a lot of the responsibility for that. In that context, then, many initiatives at a territory level, while important, are simply work-arounds for more systemic problems.

A coherent approach to housing affordability needs to include a number of strategies, including planning requirements for affordable housing in all major developments, especially those close to transport links and services. It needs also to include a real and continuing growth in community and public housing; it needs a fair and well-thought-through legislative approach which offers some security of tenure and protection to residents of mobile homes and caravan parks. It also needs, and is now getting, a wider range of block sizes and house configurations, shared equity schemes for residents of public housing and innovative and targeted ways to help people into homeownership, as this land rent scheme aims to do.



There are land rent schemes in other parts of the world which, being established on a freehold system, depend on the establishment of trusts to purchase and own the land which is then rented to homeowners. However, the ACT is still a leasehold system and so this project, which reintroduces land rent for particular people in the first instance, takes advantage of the territory's land tenure system; and, if well handled, this scheme may well provide the scaffolding out of the rental housing trap for some people on lower middle incomes.

One of the biggest barriers faced by many people seeking to purchase their first home is the so-called deposit gap. The deposit needed for a house and land is growing faster than the savings a couple can accrue while they pay increasing rents. If it is possible to purchase a home and then save additional money on a concessional land rent while the mortgage on the house is paid off then not only does that person or that couple start to own their own home but they can be better placed to eventually purchase the land. That is the theory and, with a bit of luck, in most cases that will be the practice.

I would like to discuss some concerns that I still have with the scheme because I am not convinced that Treasury et al have yet put in place the safeguards that I would hope for with an innovative program in a section of the market where the borrowers will be particularly vulnerable. This scheme is about making a space in the market. There is no protection for borrowers who might find themselves trapped with negative equity or simply unable to meet repayments. It will be up to standard credit providers such as banks and mortgage companies and the purchasers to sort it out among themselves.

In that context, then, I sought some reassurance from government that the credit providers were fully aware of this scheme and were themselves committed to making it work. I understand that they have shown considerable interest in it, both broadly when the idea was first floated and, more recently and specifically, in regard to this legislation. There do not appear to have been any discussions, however, about the challenges faced by people on low incomes and their extraordinary vulnerability to rising costs, including mortgage costs, interest rises and fuel costs.

Other organisations consulted include the Law Society and the Real Estate Institute. It has been assessed externally by an independent expert, AHURI, that is, the Australian Housing and Urban Research Institute, but there has been no input from experts whose work is focused on the very people that this scheme is directed towards.

In recognition of these issues, attendance at a compulsory training course being run at CIT will be required for anyone wishing to put themselves up for a ballot of an LDA block available to rent. That course is based on a similar course in New Zealand and has been assembled under the guidance of the CIT, the LDA, the Chief Minister's Department and Treasury. It has not, however, involved any conversation with CARE Financial Counselling or ACTCOSS, who are key organisations in the ACT with a real, everyday understanding of what is happening to people in financial stress or on low incomes.

I have been reassured that issues relating to land rent payments will be handled sympathetically and intelligently by that part of Treasury that handles rates. I also

note that there are other protections being put in place, including a cap on rent increases, whatever the fluctuation in land values and some averaging out of income growth may be. While that is pleasing, it is not a sufficient reassurance to me that those who take on a home purchase and rent the land will necessarily be safe from market fluctuations and that their greater vulnerability in terms of income limits means the level of risk might be much higher than they appreciate.

I am seeking some assurance now from the Treasurer, when closing the debate perhaps, that he and his department will work with community experts, even perhaps the social inclusion board, to provide the kind of scrutiny and support that will be needed.

I note that land rent will initially only be available to people earning \$75,000 per annum. That figure has been and will in future be determined internally by Treasury. I am concerned that it has not been thought necessary to set up any mechanism to advise Treasury on setting this income threshold amount, and here I would have thought that a reference group of some kind would at least represent the views of the target market to government. I will talk more about that in a moment. It seems to me that the Treasurer and his department are very confident that they can get it right but my concern is that, if they get it wrong, they will not be the ones who will suffer the pain.

I am also aware of the opposition's opposition to the scheme on the basis that people's houses will devalue and the value of the land they rent or maybe want to buy will keep going up. The government's answer to Mr Seselja's question on this matter points out that the value of both houses and land has increased over the past five or six years and that the house value increases are not much different from land value increases.

My concern is that these figures might largely reflect the super-sizing of houses rather than the rise in their intrinsic dollar value or the sale of new houses rather than resale price. I note, however, that Treasury's figures are based on median house and land prices—that is, the price in the middle of the spread where there are just as many above or below. So it is fair to take from that response some reassurance that well-maintained houses have increased in value at a rate not much less than the increase in land value.

Indeed, there is considerable analysis that suggests that the value of land will fall or rise at a lower rate while the value of the house could rise more consistently. However, I believe that needs to be watched very closely, because what appears in analysis and economic modelling does not always show up in daily life and I am not sure whether these figures are not biased towards the changing value of new houses where we are looking here specifically at houses over their lifetime.

The one profound weakness of this bill is that it does not seem to have within it a kind of body to provide the scrutiny of the effect on the people it is designed to assist, other of course than the Legislative Assembly itself because it will be a disallowable instrument. And I am concerned that, having set the scheme up for some purchasers, it may be a trap rather than a way forward.

I mentioned before a reference group and that I would feel happier if it was giving the government some advice. Some of the organisations I could see represented on that might be the Tenants Union, CARE Financial Counselling, ACTCOSS, perhaps Shelter, community housing associations and ACT Housing, because they are the people who know what the housing reality is in the ACT and it is very important that we do not just have money crunchers in this group. Markets do not always, and especially of themselves, deliver the goods. Setting up this scheme and then leaving it to the market is not a thoughtful or a careful enough approach.

I look forward to hearing the Treasurer address some of these concerns and advising me how, if the scheme goes pear-shaped for some of the homebuyers, the government would ensure that the people it had, through this process, encouraged into the market, would also be helped to get out if need be.

**MR SMYTH** (Brindabella) (8.44): The government provided me with a most useful briefing on this bill a couple of weeks ago and I thank the government for that briefing. However, as a consequence of that briefing, I, too, echo the concerns raised by Mr Seselja and Dr Foskey. It strikes me that this may well be an initiative that sounded good at the time but, as one delves into the detail and the protections that are not necessarily in the bill, one wonders, as Dr Foskey put so eloquently, if the scheme goes pear-shaped what will happen. Unfortunately for the Canberra community, I think the objectives for this policy remain questionable.

I would like to spend a few moments looking at the broader parameters of the project as far as we can discern them, because there is precious little information in the budget papers that the government has made available on the land rent scheme. Indeed, for what has been touted as a major component of the Stanhope government's affordability housing action plan, it is most surprising that it is hard to find any details on this policy. If one digs into budget paper 4 and turns to page 60, one will find a reference to the affordable housing action plan land rent scheme.

Of course, it does not tell us very much about the scheme, but what it does tell us is that the Stanhope government is proposing to spend more than \$85 million over the next four years to buy land for this land rent scheme. Let me repeat that: \$85 million over four years to buy land for this scheme.

Perhaps this was why the proposal was indeed launched in the social pages of the *Canberra Times* after a senior bureaucrat was the guest speaker at, I think it is called, a food and grog lunch. I do not know whether it is food and grog or grog and food, but the results were that it was announced in the social pages of the *Canberra Times* rather than anywhere else. Again, you have to wonder about that as well.

Then you have to wonder, in this period of claimed economic and financial stringency that the Chief Minister used to make his savage cuts in 2006, that we now have the Stanhope government proposing to spend \$85 million of taxpayers' funds to buy land for this land rent scheme. But it will assist fewer than 500 buyers, based on the assumption of the government. They are assuming, as they told me in the briefing, approximately 120 people a year will be helped by this scheme.

I think the issue that we have with this proposal is indeed part of the opportunity cost of this approach. We will have the Stanhope government proposing to spend \$85 million over four years to buy around 120 blocks each year for the scheme. Let us say 500 blocks over five years will be available for the land rent scheme. I think that represents a significant opportunity cost or, I think you could also say, a loss to the ACT taxpayer.

The intention of this scheme will enable people, initially on lower incomes, to be able to commit to buying their own home and, while they are not paying off the land component but renting the land, the assumption is they will be able to save to buy the land in due course. This might sound like a good theory. As I say, it may have sounded like a good idea at the time but at the end of it the Stanhope government is assuming that only a very small proportion of these people, something like 20 people, will be able to convert from renting to buying. So after four years something like 20 people will have genuinely benefited from this proposal, worth \$85 million, and actually ended up owning the home and land that they live on.

In part, this will be because these people will have to buy the land at its then current market value and, in all probability, the value of the land will continue to increase, and increase substantially. What does this mean? It means a very small proportion of renters will become owners.

There are also significant efficiency concerns about this as a use of public funds. The opposition questions whether the use of the \$85 million in the way proposed by the Stanhope government is, indeed, an efficient and effective use of money, particularly when contrasted with alternative uses for these funds—for instance, using these funds to provide relief for first homebuyers from the stamp duty impost.

But there is another concern about the group that will be accessing this scheme and, indeed, is the suggested target group for the scheme. The planning minister, Mr Barr, has been quoted on ABC online on 24 June this year as saying that this scheme is targeted at people earning around \$50,000 per year. That in itself is an admirable objective. The concern—and I think this goes to the concerns that Dr Foskey and Mr Seselja were also talking about—is that this may ultimately place these people in situations where they are actually unable to sustain their financial commitment.

The fundamental question is how sustainable this approach would be in the longer term and how the ACT government would respond to people who find themselves in trouble. For these reasons, it is a flawed policy. I believe it is a policy that is unlikely to help many people in the long term. We do not know how much this policy will really cost the ACT taxpayer in the end, because it is, of course, uncapped. Indeed, one of the comments I made was: “If you had enough people who were interested in the policy, it might be something like a second appropriation or a transfer through the Financial Management Act.”

I do not believe this policy is a good use of public funds and I do not believe that the government has actually thought through the policy to a great level of detail. For instance, when we questioned officials during the briefing, we found there was no money for the advertising budget; there was no money to promote the scheme. We

were told that the early sessions are already booked out. That might be the case, but in the end how will we get this information out to people and how will they understand their rights?

The scheme will be linked to the homebuyers concession scheme, and that is a good thing. If that is the section of the market that we are aiming to help then that would be a good thing. But they will have a lease, and with that lease will come the associated rights, conditions and privileges. So at any given time people will need to look at their lease to make sure that they are accommodating the needs of that lease while at the same time continuing to be able to finance their lifestyle.

If, as Mr Barr has said, this is being aimed at people who earn income at the \$50,000 mark after tax, and you break that down to 50 weeks, you are probably talking about somebody who takes home, in the hand, \$800 or \$850 a week. From that, they have to fund their family and their lifestyle, pay the mortgage on their home, and pay their land rent, which admittedly on the discounted scheme is only two per cent of the value of the land and four per cent if you are paying the full rate. At the same time, they have this objective of saving the 20 per cent deposit that it is expected will be put in place by the banks.

We asked about consultation in the briefing. I have to commend the Treasury on this. I think the consultation on this was quite good. We were told they had spoken to the banks, the Law Society, the valuers and the Real Estate Institute. In regard to whether or not the banks would fund the scheme, or fund lenders for the scheme, the answer was, "Well, that's a decision for the banks." So whilst there might be a great deal of interest in this scheme, the real question at the end of the day is: will the banks come up with the goodies? Will they provide the money so that people can access this scheme and use it?

There are a number of questions here. I know that Dr Foskey and Mr Seselja asked questions, and it would be good to hear the Chief Minister and Treasurer explain how he believes this will work, what further interaction there has been with the banks, what guarantees there have been from the banks and whether or not funding will be forthcoming so that people can go out and borrow against this scheme. I would hate to think that people may have got their hopes up, only to find, at the end of the day, that they cannot borrow.

Having said that, the opposition will not be supporting the scheme, for the reasons outlined by the Leader of the Opposition. We believe that, with a scheme that might help 120 people into the home of their choice, while that is an admirable objective, you have to question the use of the money. For instance, a rebate on the stamp duty for a first homebuyer will have a far more positive impact in this field and enable more people to get into the market and purchase not only their home but their land. We would commend our scheme to the Chief Minister. I know he does not like it, but in reality it is a scheme that will provide a far more effective use of revenue forgone than money locked away in an asset that will not necessarily, at the end of the day, even by the government's own figures, be transferred to a great number of people.

If we are serious about living in the nation's capital, in a country where the dream of homeownership—and everybody thinks of their land as part of that home package—is

now beyond the reach of ordinary people, there is something fundamentally wrong with the system that we are running in the country, let alone the system that we are running in the territory. When you think that in the territory we are the owner of the land—the government is the owner of the land, the controller of the land, the holder of the land, and we all get leases on it—then there is something fundamentally wrong.

As the Leader of the Opposition pointed out, that has been the disaster that has been this government's land release policy over the last seven years. All of the reports and all of the submissions, particularly the Reserve Bank's submissions to the current housing inquiry, clearly indicate that it involves the value of the land. If you want to make housing affordability real and genuine then you have to tackle the land supply issue and make sure there is appropriate land available at all times to allow the market to function properly.

**MR STANHOPE** (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (8.55), in reply: I am very pleased that we have reached the position in relation to this legislation that allows us at least now to face the prospect that the bill will be passed today and become law. As we have discussed, the bill will introduce a land rent scheme to the ACT. The ACT is the only state or territory in Australia to offer this innovative approach to addressing housing affordability. More importantly, this initiative is only one, albeit an important one, of 62 initiatives—a significant range of measures—in the government's affordable housing action plan.

The action plan is the most comprehensive and detailed approach to improving housing affordability in Australia. The plan has received attention both nationally and internationally, with the ACT leading the way in providing affordable housing. The 62 measures contained in the action plan range from increasing land supply to a mandate of cheaper house and land packages in all new greenfield developments. The land rent scheme is another measure, alongside those already implemented, to encourage entry into the private housing market.

The land rent scheme is unique to the ACT and is the first of its kind in Australia. It has been developed to take advantage of the ACT's unique leasehold land system. The scheme will allow low to moderate-income households to rent the land instead of purchasing it, improving the prospect of homeownership for those households with incomes as low as \$50,000 per year. Under the scheme, households will pay rent on their land. The annual rent will be calculated as a percentage of the unimproved value of the block. To help families on lower incomes, the scheme will have two rental rates—a discount rate and a standard rate.

This scheme is not a "lease to buy" scheme and rental payments will not be deducted from the final sale price. However, land renting will provide another option to households to advance their homeownership to an earlier phase of their life than is currently possible for them. Households may eventually choose to purchase the land at the current market value or they may continue to rent the land indefinitely. This scheme has been designed to be flexible depending on each household's individual circumstances.

The scheme will initially only be open to households eligible for the discount rental rate. Households on this rate will pay annual rent calculated as two per cent of the unimproved value of their land. This rate will involve strict eligibility criteria around income, ownership and residency. Later, subject to an evaluation, it will be open to all households, investors and builders at the standard rate.

To protect households from unforeseen rent rises, annual increases in rent will be capped at the level of ACT wages growth. This ensures that any sharp increases in land values do not impact significantly on household budgets. If a household's income falls for any reason, they will be able to change to the discounted rate and pay a lower level of rent. If the value of their block of land falls, the amount of rent paid by households will also fall. However, if the block of land appreciates, the household's rental increases will be modest, as they will be capped. This scheme has been designed to be flexible and to respond to changes in participants' circumstances.

Remembering that households in this scheme have a Crown lease and that they are paying a mortgage, this is the only scheme of its kind which adjusts housing costs according to changes in personal circumstances and the market conditions. Contrary to the suggestions by the opposition, the scheme actually reduces the potential for housing stress for households in homeownership. Because this scheme is the first of its kind in Australia, and ACT households have not had the opportunity to rent land before, the government is requiring all households interested in the scheme to attend an information session run by the Canberra Institute of Technology.

I am advised that the first information session was held on Tuesday night—last night—at the CIT. The first session was a resounding success, with the session fully booked, even before the legislation has been passed, and there are many more names on the waiting list for the second session. These sessions will continue to play an important role in outlining the details of the scheme and help people to decide whether the land rent scheme is the right option for them.

Land rent will only be available on a new single residential block of land released by the Land Development Agency. Contrary to suggestions, it is not the government or the LDA which would nominate the blocks available for land rent; the household will make that choice as to whether it wants to rent the block of land or pay out the lease. Any eligible household wishing to enter the scheme will be able to do so. Again, contrary to suggestions, the number of blocks available for land rent is not capped. The annual estimate of 120 is just that—an estimate. The government, of course, will be delighted if there are more people exercising this choice, and will support it. Along with the affordable house and land packages, it is another measure in the affordable housing action plan; it provides choice and options to households entering the housing market.

On the one hand, the government's policy will directly help those struggling to enter the housing market. It will initially provide a benefit to those households on incomes under \$75,000. On the other hand, the Liberal Party's "no stamp duty" policy provides the most help to those households who could otherwise enter the housing market, on incomes above \$160,000. The introduction of this unique scheme is another step towards more affordable housing. The scheme will add another housing alternative for households to choose in achieving their goal of homeownership.

Households' circumstances vary at a particular moment and over time. Their expectations and aspirations also vary. The scheme may not be a suitable or preferred choice for every household, but it provides another option and another choice. I must say the government is extremely disappointed that the opposition is not supporting this scheme. The opposition has expressed, and expressed it again today, through both its leader and the deputy leader, very much, it seems to me, a Marie Antoinette approach to housing affordability within the ACT. It is very much a case of "let them eat cake".

We have a classic example here of the Liberal Party opposing an innovative scheme, an Australian-leading scheme, that has the support of almost every sector of the housing industry, from financiers to the Law Society, builders and the Real Estate Institute. It is supported everywhere—across the board. The first of what we hope will be many information sessions has been held, before the legislation was passed. It was booked out. It was not even advertised, yet it was booked out and there are names on a waiting list. There is very much an attitude of sour grapes that there is a very effective housing affordability strategy in place in the ACT, with 62 options, that is recognised around Australia and attracting international attention for the range and breadth of the initiatives being pursued.

We have an initiative that goes right to the heart of providing an opportunity for those families that have probably just about given up the prospect or the hope of owning their own home, and gaining entry—a foothold, a toehold—to home ownership. They want to have the capacity to come home at night and unlock the door of a home which they can call their own. We are offering that to households in this community that potentially have incomes as low as \$50,000.

You need only do some basic sums on some of the implications of land rent, as opposed to purchase, to get some idea of the significance and the innovation inherent in this proposal. At the moment, a household weekly mortgage payment on, say, a \$200,000 block of land, is in the order of \$382. This puts it into perspective: on a \$200,000 block of land, the mortgage payment would be in the order of \$382 per week. Under the land rent scheme, a household would be required to pay \$77 per week in rent—\$77 as against \$382. It gives a significant indication of what hope this scheme holds out to those people on lower incomes, young families, working families, young families with children, seeking to gain what many of us take for granted—namely, their own home.

The Liberal Party would begrudge them that. The Liberal Party have adopted this flighty, Marie Antoinette "let them eat cake" approach: "Who are we to care? Who are we to hold out the opportunity or the hope for homeownership to those Canberrans on incomes of less than \$75,000? We have a stamp duty exemption scheme. We have one policy. You might have 62 but our one policy, our stamp duty exemption policy, un-means-tested, is attractive for those people earning more than \$160,000."

It is a scheme which is beginning to attract some attention. It has been adopted around Australia. The Liberal Party in the ACT are engaging in "me-tooism". It is interesting that in the last week we have had the first detailed analysis of the stamp duty exemption schemes proposed by the Liberal Party here and which have been adopted



by other places around Australia. There has been a major study published by Westpac. Also, have the Liberal Party read the latest Peter Martin article on housing affordability? I bet they stopped reading when they got to this point in that particular article. With respect to pursuing land rent schemes in New Zealand, I wonder if they got onto their websites to pursue Westpac's analysis of the implications of stamp duty exemptions, un-means-tested and uncontrolled, that have applied around Australia and, indeed, in other places in the world.

What does Westpac say? Last Friday, Westpac published its analysis of the effect of the latest round of extra stamp duty tax concessions in the states, which found that, combined, they would force up national house prices by at least an extra per cent; indeed, in Queensland, it had pushed up house prices by two per cent. Let us go to the median house price, which currently is in the order of \$450,000. Westpac found that this stamp duty exemption scheme embraced by the Liberal Party here, and indeed by others, would immediately and automatically push up the price around Australia in the first instance by at least one per cent—\$4½ thousand. In Queensland, which was the most relevant example—I think it was the longest established—the figure was two per cent, or \$9,000. So your \$450,000 house, immediately and automatically, under these schemes, jumps to \$459,000.

How quickly does it do that? Westpac found that the original first homebuyer became priced in, after the stamp duty exemption, within six months. Westpac found that the stamp duty concession regime introduced in Western Australia became priced in within three months. So with respect to the stamp duty exemptions that have been provided under these schemes, within three months in Western Australia—the most relevant experience—they are priced in. A stamp duty exemption is lovely; who is going to say no to a tax break? Which politician or political party is going to resist the urge of simple politics: “Give them a break.” “Oh yes, I'll take that”?

The second round of applicants for the stamp duty exemption pay an extra \$9,000 within three months. So you get your first band of stamp duty exemption and houses go up immediately by one per cent—on some suggestions it is two per cent—and it is priced in within three to six months. The most recent economic analysis of the implications, effect and consequence of this un-means-tested, open-slayer stamp duty exemption for first homebuyers is to have it priced in with higher prices within three months, in the case of Western Australia, and, they believe, inevitably within six months. In other words, you have done your dash within six months.

It is great politics; none of us deny that. It is great, simplistic, shallow politics with appalling policy outcomes. It is appalling policy with appalling policy outcomes—voodoo economics at its worst. The Liberal Party's one and only housing affordability initiative, in the view of Westpac, in the most recent and perhaps only real analysis of the implications of stamp duty exemptions that are un-means-tested and uncontrolled, for first homebuyers, is that they push up house prices by between one and two per cent and the effect of the stamp duty exemption becomes priced in within three months. Peter Martin's article—and my view and impression of the *Canberra Times* goes up daily—stated:

The ACT stood alone with NSW in not widening stamp duty concessions in its last budget (except for an innovative and temporary concession for pensioners wanting to downsize).

This has now been adopted by the federal parliament in its recommendations as a model which other states and territories should adopt. The article continued:

The ACT Opposition has promised to scrap stamp duty for first homebuyers. Westpac believes that's a bandaid that would push up prices.

I will leave the last word to Westpac: Westpac believes that the ACT Liberal Party's approach to housing affordability is a bandaid solution that will push up prices.

I need to correct the record in relation to the claims that Mr Smyth made. The government is not spending \$85 million. It is simply a transfer of assets. It is a technical appropriation; we are not spending at all and there is no opportunity cost, as Mr Smyth was advised in the briefing. *(Time expired)*

Question put:

That this bill be agreed to in principle.

The Assembly voted—

Ayes 9

Noes 5

Mr Barr	Mr Gentleman	Mrs Burke
Mr Berry	Ms MacDonald	Mrs Dunne
Mr Corbell	Mr Mulcahy	Mr Pratt
Dr Foskey	Mr Stanhope	Mr Seselja
Ms Gallagher		Mr Smyth

Question so resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## **Electricity Feed-in (Renewable Energy Premium) Bill 2008**

Debate resumed from 9 April 2008, on motion by **Mr Gentleman**:

That this bill be agreed to in principle.

**DR FOSKEY** (Molonglo) (9.16): Finally we get to the electricity feed-in bill. Climate change issues are at the forefront of political rhetoric and are slowly intruding into government decision making. The Greens, and now the overwhelming majority of respected scientific bodies, believe that it is necessary to limit global warming to a maximum of two degrees Celsius and that global, national and local targets must reflect this need. Greens policy is that we should reduce our emissions to at least 80 per cent of 1990 levels by 2050 and the IPCC, Nicholas Stern and Ross Garnaut agree.

To reach these targets, action in the next 10 years is crucial. Renewable energy is going to be an important part of the solution if we are going to take real steps to address climate change. For too long governments at all levels have continued to support and subsidise fossil fuel industries.

The Greens and others concerned about climate change want to see targets to substantially lower the emissions coming from the ACT in the near future. The per capita consumption of electricity is on average 40 per cent higher in Canberra than in the rest of Australia. Our immediate priority is to reduce our electricity use to the national average in the very near future, and then we can work with the rest of the country to further reduce our consumption.

A renewable energy feed-in tariff is long overdue in Australia. South Australia has recently approved such a tariff and Victoria has a standard feed-in tariff with a premium for renewables to start next year. The ACT is the next cab off the rank. It will help reduce pollution and greenhouse gas emissions and generate local employment and local business development.

This is not the most efficient way to create large-scale renewable energy for the ACT, but this legislation provides a framework for the development of further renewable industries. The government needs to keep energy sources open to ensure emerging technologies over the next five years do not make this scheme redundant. A national energy trading scheme will bring about some renewable energy investment but not as fast as schemes like feed-in tariffs, which have been successful in 41 jurisdictions overseas. The Stern review found:

Comparisons between deployment support through tradable quotas (ie. energy trading system) and feed-in-tariff price support suggests that feed-in mechanisms achieve larger deployment at lower costs.

The feed-in tariff was announced in the government's climate change strategy. It is a shame that it took a private member, Mr Gentleman, to draft it and, I understand, champion it through caucus and cabinet. Where would the government have got to on feed-in tariffs if Mr Gentleman had not done this? I am sure that if the Greens had proposed it the government would not have supported it.

In short, the Greens do support the bill and we congratulate Mr Gentleman on his perseverance, but we would like to discuss the detail of the model. Given the way that energy reform is heading around the country—that is, harmonisation of all aspects—it is very important we get our model right here in the ACT. Here is an opportunity for our model, which will be better than South Australia's and Victoria's, to be replicated across the country.

A response to opponents of renewable support laws is that energy markets are already affected by a complex mix of laws, policies, programs, and subsidies. A German counterargument is that renewable energy laws are not a subsidy but rather a price-correction measure to ensure application of the polluter-pays principle. Greenhouse gas emissions reduction overall is a bigger issue than we have time for today. We are still waiting for the ACT government's energy policy which will play a large part in the implementation of the climate change strategy.

A feed-in tariff alone is not a cost-effective or efficient method of reducing greenhouse gas emissions. The ACT climate change policy should be broad and set meaningful and interim targets. It must have many other measures which incorporate better public transport and accelerate desperately needed retrofitting. While this feed-in tariff will support an increase in renewable energy production, we also need to simultaneously ensure that we encourage an overall reduction in energy use. We suggest that any installation of photovoltaic panels is accompanied by an energy audit and insulation installation.

Mounting photovoltaic panels on rooftops is an effective way to produce energy. The more PV arrays that are installed, the better the economies of scale in terms of reducing the production cost of electrical components. Like ACTPLA, I recommended that the roof of the data centre be filled up with solar panels. Even if it is not enough to power the data centre, it will make a very significant contribution to the grid and show that ActewAGL does have an energy conscience after all. Given that it is more economic to install larger arrays, we should be encouraging owners of large buildings, including government buildings such as offices and schools, to install PVs.

If its main purpose is to increase renewable energy production, this bill is not the best answer. However, I note that Mr Gentleman's object is to promote it, not generate it.

The federal government's mandatory renewable energy target has been increased to 20 per cent by 2020, which is a vast improvement on past government policy. The Greens' target is for 10 per cent by 2010 and 25 per cent by 2020. In the long term, the better way to encourage renewable energy in a free electricity market is to either internalise the external costs and disadvantages of non-renewable energy sources, that is, carbon pricing, or to introduce market instruments such as a well-functioning system of tradable green certificates. In the meantime, a feed-in tariff may be the best alternative instrument, notably when this amount is still small.

We hope to see a successful take-up rate and to hear that installers are booked up for the next year. The solar industry has been growing in Canberra over the past few years, most probably spurred by the federal government's subsidy for PV panel installation, and this bill will add the icing on the cake for the local solar industry. Unfortunately, a recent step backwards was the federal ALP's means testing for photovoltaic panels which has, we have been told, been devastating for some local solar suppliers.

Most households could reduce their energy use, but the incentives and commitment are missing. The energy efficiency access and savings initiative, EASI, proposed by Greens Senator Christine Milne, would establish a system of free energy audits; advise householders of all efficiency opportunities with a payback period of 10 years or less; organise and pay the up-front costs of implementing cost-effective opportunities such as ceiling, wall and floor insulation, solar hot water systems, efficient lights, and shading of windows; and collect repayments as a proportion of savings on a home's energy bills over a 10-year period. Repayments would be less than the savings on energy bills, so that no householders would ever feel out of pocket.

This repayment mechanism would operate similarly to Dr Andrew Blakers's solarisation proposal. Neither scheme involves a government handout, as the Chief Minister keeps asserting. Both involve an up-front investment in critical climate change initiatives which would be paid back at a next to zero risk of default and then become available to be rolled over to fund future initiatives. Fully implemented nationally, EASI would reduce greenhouse emissions by close to 30 million tonnes each year, achieving almost 10 per cent of the emissions reductions required by the Greens' target to reduce emissions to 30 per cent below 1990 levels by 2020. The total cumulative cost of the program nationwide is projected at \$22 billion over 10 years, which would be recouped by the government in a repayment scheme through energy bills. This would permanently keep household energy bills down, saving increasing amounts of money as energy prices rise on the back of a carbon price.

I have not extrapolated these figures to the scale of the ACT, but I am quite sure that the Chief Minister's Department has the ability to do this. Perhaps ActewAGL could consider a requirement that either a PV or solar hot water system, or other renewable energy generator, be installed along with air-conditioning systems as an offset for the air conditioners' greenhouse gas emissions. From studies that I have seen I believe it would be relatively easy to achieve a 50 per cent reduction in energy usage for most households.

I am glad to see that in Mr Gentleman's model a contract period is 20 years and the tariff will be payable on the gross output of the solar system, not net. I understand that the minister will probably propose a decrease of two per cent each year for new installation. This creates an incentive for people to invest in PV earlier rather than later. This is a sensible mechanism and I urge the minister to adopt it and publicise it widely.

I am glad that there is provision for variable inputs so large-scale plants can also be included. We want to encourage corporate energy consumers to install renewable sources. Commercial and industrial premises have large, often flat, roof spaces—a great opportunity to ensure faster and viable utility of the renewable energy and general public and private participation.

It would be more cost effective if the federal or ACT governments subsidised large-scale commercial sized plants to be set up, which are much more efficient, and economies of scale would apply. To maximise renewable energy use we need to encourage the installation of photovoltaic panels on all roofs, including data centres. Additional incentives could be created to reward community organisations who wish to make use of the scheme, and businesses should be encouraged to participate by non-monetary incentives.

The premium rate should consider long-term factors including competitive pricing and efficiencies. It should ensure that incentives are maintained to encourage new entrants into the renewable energy production market. Regular review is necessary as the renewable energy sector will probably start changing dramatically over the next few years as the climate crisis takes hold, as new technologies come online and as more people install PV and other technologies.

In this regard I am disappointed that the Queanbeyan-based company Dyesol recently failed to find suitable accommodation in the ACT. Its Dyesolar technology, while not as efficient in terms of energy capture, is cheaper to produce, able to be deployed on most building materials and able to operate at lower light levels than conventional PV technology. Perhaps the government can explain why we lost that particular industry to New South Wales.

Climate change impacts will have a bigger burden on low-income households than on wealthier ones. There has been community concern that this proposal will result in low-income and rental households subsidising high-income households and I am proposing an amendment to address this problem. There are already concessions for people who due to their age, their health, their housing or other factors have no choice but to use more than average levels of electricity to keep warm or cool. Such households should be prioritised in a retrofitting scheme, remembering that energy efficiency and the reduction in energy use are the low-hanging fruit in terms of reducing greenhouse emissions and they are a necessary accompaniment to feed-in laws to make them fair.

In this case, the increased levy from the feed-in tariff and the \$8,000 federal subsidy for PV installation are only part of the costs to government. People who take up this offer are benefiting the many in the long run. It is largely not the wealthy households who have so far taken up the federal subsidy; rather, it is people who are passionate about ameliorating climate change impacts and who can afford to do so.

The tariff structure offered in this bill does not provide an option of sales into the spot market. In future years we would like the pricing to reflect that solar production is maximised during peak summer demand. If electricity is priced so that peak time usage is charged at a higher rate, it would make sense to also pay a higher tariff for energy production and feed-in at a premium spot rate. People have overexaggerated the cost differential being paid for solar energy by ignoring the fact that it largely replaces peak load power, which is bought at a premium by companies such as ActewAGL.

Spot rates were discussed at one of the public forums held by Mr Gentleman and we understand that some other jurisdictions with feed-in tariffs have varying rates to take into account the spot market, including Slovenia, Spain and the Czech Republic. To encourage efficiencies this premium tariff design should be considered, instead of the fixed-tariff design proposed here.

The combination of a direct subsidy and an increased feed-in tariff is a good incentive to attract private capital investment. Further subsidies could be made in the electrical component installation. Even with the federal subsidy it will still be expensive for householders to install solar PV when an average array costs around \$13,000. We need to urge the federal government to increase this subsidy in the short term and to revoke the means testing so that the states introducing feed-in tariff legislation are supported.

We also need to increase the incentives for solar hot water installation. Michael Raper of the National Welfare Rights Network has argued that 50 to 80 per cent of the costs

of solar hot water installation are in the marketing. Hence, if we were to install solar hot water on a grand scale we could reduce costs by something approaching 50 to 80 per cent. This would make it financially viable for most private householders, even without a government loan or a subsidy. Many landlords of private rentals might also consider it. Raper argues that governments should coordinate mass rollouts as was done with gas and broadband: "Solar hot water is being installed in your street in March." This could achieve very real financial savings as well as greenhouse gas reductions.

Of course, some in the community are gearing up for feed-in tariff laws, such as the Macquarie SEE-Change bulk buy. I know that some other communities are looking at organising in that way to facilitate community members to install solar panels. There will be more of these if we can put the incentives in place. If economics help people to decide to install solar roof panels, perhaps we should also establish mechanisms that make it easy for people to invest in solar panels on other properties. Individuals who perhaps do not have their own appropriate roof space or perhaps would just like to invest in a few separate arrays could buy either outright or share in photovoltaic panels on other people's roofs in a form of roof agistment.

Private rental houses are an issue. Tenants have no prospect of taking up this opportunity as you have to own and reside in a house to be eligible for the feed-in tariff and the federal government subsidy. While landlords may choose to use the roofs of properties they rent out for this purpose, I am interested in whether tenants who pay the bills can apply for the tariff on behalf of landlords if there has been agreement on this.

The Greens are convinced we need an integrated planning and development approach that includes massively improved efficiency in our houses and appliances, and that means revisiting the territory plan which currently allows overshadowing of adjoining houses so long as they get a minimum of three hours of sunlight in part of their living area. We have been contacted by someone who is having their whole roof area overshadowed and they will not be putting in any solar panels.

Planning for future solar PV capture has to be well enshrined in planning regulations and I have talked about that often in this place. Nonetheless, it is excellent to see this proposal come forward here and we would like to see other initiatives in the climate change strategy implemented, as mentioned earlier.

The Greens support Mr Gentleman's bill and we expect support for our amendments, particularly the ones relating to concessions. While we support renewable energy feed-in laws, we also propose that they be extended to other renewable power generation technologies; that measures be introduced to ensure no-one is disadvantaged; that the feed-in legislation is accompanied by a program to retrofit houses and community organisations' premises; that better efficiency for public and low-income households is achieved; and that stepped energy tariffs be introduced.

We are bound to have these debates again, but today we are only focusing on feed-in tariffs, which the Greens support.

**MRS DUNNE** (Ginninderra) (9.36): It is interesting that, after ranting on and off over the last week about how important the feed-in tariff was and what a vital piece of legislation it was for the government, the Chief Minister and minister for the environment is not here for this debate.

It was interesting last week that we had this funny journey of the electricity feed-in renewable energy premium bill, because when Mr Gentleman first championed this idea one of the biggest pourers of cold water on the idea was, in fact, the Chief Minister. He was very reticent to come to the party. He was in the press nay-saying this at the outset. But I think that, because he is in politics, the Chief Minister can do the numbers and he saw the numbers of people who turned out to Mr Gentleman's very successful consultations on the process, and it is very clear that there is a high level of community anticipation and community support for measures such as this.

It was interesting that in the budget, I think, the Chief Minister talked about the feed-in tariff. Suddenly it seemed that he was proposing it. I hope he does come to speak on this and somehow gives the imprimatur of this being a government initiative, because Mr Gentleman's work deserves that much. It was interesting that in the budget debate the Chief Minister talked about the world-standard feed-in tariff. He likes to do this because he likes to have things that he can eulogise about his chief ministership, so that when he ceases being Chief Minister he can say, "I did that."

I have to congratulate Mr Gentleman on, as Dr Foskey said, championing this and sticking with it through thick and through what I anticipate was not a very receptive caucus. They cannot possibly have been a very receptive caucus when we see how little this government has done in relation to energy efficiency, renewable energy and making it easier for people to live a better, more comfortable life in their homes in Canberra.

Let us look at some of the policy initiatives that have been put forward and pooh-poohed in this place by the Chief Minister to put this in context. This is the Chief Minister who threw out a greenhouse strategy. He had some advice from people who reviewed the greenhouse strategy about how to make the greenhouse strategy better. But, instead of doing that, he threw it out and this territory had no greenhouse strategy for the best part of three years. Then he brought in a 43-part greenhouse strategy which was a cobbled-together concoction of things. One of the things that was in the greenhouse strategy was, as Mr Gentleman said, a feed-in tariff, and we will have a feed-in tariff once this legislation passes and we get to the commencement, which is at the beginning of July next year, which is another interesting story.

But it is a shame that when we did this we got such a small element of a feed-in tariff. Mr Gentleman went overseas and looked at what was happening in a number of countries. Anyone who has done even a small amount of research realises that there are a large number of countries—I think Dr Foskey said 41 countries—who have feed-in tariffs of different sorts. But the feed-in tariff is only part of the whole and the countries which are most successful at renewable energy—probably the standout European country is Spain—have a combination of capital incentive, a bit like the rebate which the federal Labor government has undermined recently, and a feed-in tariff. There are some refinements, as Dr Foskey said, in some countries, with premium rates and things like this.



What we have today in this bill is a modest start at the very expensive end of the realm and, while we should not criticise Mr Gentleman for his measure, what we do need to do is criticise the government for its comprehensive failure to address so many of the other things.

The report of the previous Commissioner for the Environment pointed to the fact that the ACT is a huge consumer of electricity, much higher than anywhere else in the country; I think Dr Foskey used a figure of about 40 per cent. My recollection is that it was not that high, but it is considerably higher than anywhere else. We live in a climate which is cold in winter and hot in summer and we have very badly designed houses for the climate. We spend a lot of money on heating and cooling in our houses and as a result of this we are producing many more greenhouse gas emissions than are our fellow citizens in other states and territories.

We should be addressing this by better building design, by doing something to retrofit the houses that we already live in, to make them better, more pleasant and cheaper for people to live in, and those flow-on benefits could be part of an increasing momentum towards more greenhouse gas reductions.

We have seen the green bank scheme, which was pooh-poohed by the Chief Minister but, interestingly, is now proposed to be introduced by the federal Labor government. It is also in some way being introduced in the solar schools program in terms of the capital supplementation which is being offered to non-government schools, which is exactly modelled on the green bank scheme the Liberal Party took to the last election but was pooh-poohed by the Chief Minister. I am glad to see this backflip. It is a small backflip from the Stanhope government and I hope to see more.

My real problem with Mr Gentleman's bill, which was pointed to by Dr Foskey, is not the lack of goodwill and not the lack of intent but that this is a piecemeal approach. Earlier this evening we had a debate about the national gas bill, about the importance of harmonisation of the gas laws. We have a national energy market for gas and electricity.

I am pleased to see the approach taken by the Liberal Party and the Greens in the federal parliament, where Greg Hunt, the shadow minister for environment and climate change, and Bob Brown have collectively moved towards a national inquiry into a feed-in tariff. If we are going to have a feed-in tariff, it should be as part of a national energy policy, as part of our harmonised energy electricity and gas program. This is where it should be so that, irrespective of where one lives, there will be the same approach, and we would have the capacity to look at some of the refinements that Dr Foskey has highlighted as necessary to have a fully effective process.

But, at the same time, we have to look at the models of capital support for renewable energy sources. It is a huge shame, a disgrace and a matter that we should be particularly concerned about, that the federal government at the last budget introduced a means test which effectively cut a huge number of people out of the market for PV cells. I had an opportunity to have dinner this evening with a group of people who work in the solar industry, some of whom are in business in the ACT trying to sell solar rays, and they told me about how their business has fallen because of the thoughtlessness of the Rudd government and Peter Garrett's proposal for a means test.

I would like to congratulate my federal colleague Greg Hunt, who has introduced this week his Save Our Solar (Solar Rebate Protection) Bill, and I hope we will see a turnaround from that proposal. He seems very confident that the Rudd government will see the light and see what damage they have done to not only our reputation but the men and women on the ground who are trying to make a living and make a real difference, and that we will see some movement on the means test.

Let us look at the bill as it stands. The bill creates a new scheme for buying electricity produced by small-scale renewable energy facilities. The present arrangement is that people who sell into the grid do so at the wholesale rate of 7.4c a kilowatt hour. The proposed new scheme would require an electricity distribution company—ActewAGL—to purchase the gross energy produced by a small-scale renewable energy facility at 3.88 times the retail value, which is currently 12.1c a kilowatt hour or 48c a kilowatt hour rounded up. The customer can buy all of their electricity back from ActewAGL or any other distribution agent at the retail rate. Therefore, if the small-scale renewable energy producer produced exactly the same amount of electricity as he consumed, the electricity distribution company would effectively pay the producer 2.88 times the retail cost of the electricity and not receive any net electricity.

The stated aim of the policy is to make renewable energy, principally solar energy, more attractive by reducing the payback period for the substantial capital outlay required to install, especially, solar rays and thereby reduce greenhouse gas emissions. If I put a PV ray on my house, an average one, it would produce about 1½ megawatt hours a year, so on average mitigation under this scheme would cost the community—not necessarily taxpayers, but everyone else who buys electricity—about \$720 to subsidise me.

If you compare that with the performance of low-energy hot water systems and the efficient insulation in my ceiling, each of these initiatives mitigate about two megawatt hours a year and each of them would save me and the community about \$520 a year. What I am trying to say is that, although it is laudable, as Dr Foskey has already said, this is a very inefficient means of mitigating greenhouse gas emissions. It basically works out at something like—it is pretty simple actually—one tonne of CO<sub>2</sub> is one megawatt hour of electricity and one megawatt hour of electricity produced in this way would cost the community \$488. That is \$488 a tonne to mitigate per tonne of CO<sub>2</sub>. It is very inefficient.

While it is laudable and I commend Mr Gentleman for his initiative, there is much more that we should be doing as a community. We should be addressing our 20, 30 or 40 per cent above national average consumption of electricity because, as the outgoing head of ActewAGL has said to me often—and I am sure he has said it to plenty of other people—the energy you save is the cheapest energy that you can have.

There is very much that we can do to save energy and cut our energy consumption, thereby reducing our greenhouse gas emissions, and at a much lower price. Not only is the outlay much lower; substantial savings can be made by this. As I have pointed out, insulating my house will probably save me about \$500 a year in power bills, and that would be a much more efficient way of doing it. It gives you a payback for your insulation of about 2½ years.

There are many measures that we should be looking at. For instance, the research done by the McKinsey consulting group tells us that the most cost-effective ways of mitigating greenhouse gas emissions involves low capital costs and low recurrent costs. There are plenty of interventions that are cost positive on a recurrent basis—they will save us money in the long term—and some have sufficiently low capital costs that they will repay themselves in under five years.

These are the things that the Stanhope government should have been doing over the years. They have been here for seven years and their contribution is to do away with one greenhouse gas strategy, have no greenhouse gas strategy, then have another one which is pretty much a replication of what was there in the first place, but no substantive policy initiatives to really address the quality of our housing and the rate at which we consume electricity in our houses, let alone in industry; they have not even touched industry.

This is an all right measure, but it should not be where we start. There is so much more that we could be doing to save money for people who live in very difficult circumstances. I commend Mr Gentleman for his initiative but I condemn the Stanhope government for its failure in so many other places.

**MR MULCAHY** (Molonglo) (9.51): I was occasionally distracted, but I was not entirely clear from that speech whether Mrs Dunne indicated the opposition are opposing or supporting the bill. There was lots of criticism of the government that things could be done better. That was not completely evident to me, but I guess that will become evident as we proceed.

Mr Speaker, I am happy to speak on this bill today as it may mark a philosophical watershed moment on environmental matters that may well set the policy direction for the ACT in the years to come. This bill essentially poses the question of whether issues of cost and economics should be on the agenda when discussing climate change, or whether we are to proceed in disregard of all economic principles on the wave of indiscriminate environmentalism. If this bill is passed by the Assembly, then there are few climate change measures that would not be passed, regardless of their merit or cost.

In an attempt to avoid any distortions of my argument and the accusations of being anti-environmental that opposition to this bill will inevitably draw, let me state quite clearly that I believe the creation of renewable energy sources or resources is a highly worthwhile endeavour which will be one of the great environmental achievements of coming generations.

I am a strong supporter of renewable energy projects and projects to reduce reliance on sources of non-renewable energy. I have previously been very active in the corporate world in attempting to implement no-regrets environmental projects, to reduce energy consumption, and to ensure that companies are able to achieve environmentally beneficial outcomes in an economically sustainable manner.

I have also advocated both environmentally and economically sustainable policy in my time as the shadow minister for the environment. Although the ACT Liberal Party

abandoned the no-regrets approach, and I know Dr Foskey was never keen on it, the fact is that in 1996 onwards I was able to introduce the most successful greenhouse program for any industry sector in the nation, including the mining industry, which should have been at the forefront. Their Liberal Party colleagues at a federal level heartily endorsed that as a sensible way to go.

We are not doing any favours to our environment if we are not scrupulous to ensure that any money spent in pursuit of environmental objectives is optimised. If money spent on subsidising environmental projects is not value for money or has dire and unintended economic consequences, that will lead to greater problems and we will then be betraying any genuine desire for environmental sustainability in order to feel warm and fuzzy about ourselves.

One can always throw money at a problem, and governments have a stubborn tendency to use costly subsidies to get what they want without regard to the hidden costs. It is these hidden costs and unintended consequences that I would like to discuss. I say they are unintended consequences, but perhaps that is being kind. In truth, the kinds of principles which I will be talking about are little more than elementary teachings of economics. They are things which have been said over and over again about a host of government subsidy schemes over the years.

The bill creates a forced sale mechanism that compels electricity distributors and suppliers to purchase electricity from certain renewable sources at a price far exceeding its market value. The price set for this forced sale is set initially at a premium rate of 3.88 times the transition franchise tariff retail price payable for electricity under the price direction of the Independent Competition and Regulatory Commission applying at the time of commencement. For supplies over 10 kilowatt hours of power, the price reduces to 80 per cent of this premium rate, and for supplies over 30 kilowatt hours of power, the price reduces to 75 per cent of this premium rate. These percentages can be changed by the minister.

This premium rate lacks any objectivity and is entirely arbitrary. No doubt Mr Gentleman can regale us with some wonderful stories about how exactly the figure of 3.88 was determined and how the percentages were determined, but, from an economic point of view, this figure is entirely arbitrary. I had an email from a constituent in May, who I believe also wrote to other members, to question the wisdom of this figure and to ask what the subsidy costs would be for each kilowatt of electricity produced from renewable sources under the scheme. Whilst my constituent had done some calculations of his own and had determined the scheme to be grossly inefficient, I have not been able to verify these figures. Suffice to say, it is far from clear that this subsidy scheme will deliver value for money.

Even if it were good policy to implement a subsidy scheme—and I am far from convinced on this issue—the Assembly must consider the efficiency of this scheme against alternative subsidy schemes. I know Mr Gentleman has put in a lot of work on this, and I am not being personally critical, but this comes down somewhat to philosophy.

Over the weekend I was lobbied by a member of my family who works for an accounting firm, and he advocated that I support this. He tells me that the model here

is the best on the eastern seaboard and that the gross formula rather than net is the way to go, and he cited examples in Europe. But he has clients and I have a broader constituency. My broader constituency is the one I am concerned about in relation to this matter.

Clearly, this mechanism is intended to create an incentive for investment in renewable energy. It is a mechanism that makes what would otherwise be imprudent investments suddenly quite lucrative and thereby induces investment in these technologies far beyond what could be sustained by the actual value of the electricity that they produce.

Instead of being determined by its actual value in satisfying the wants of consumers, the value of this investment is determined by the effects of arbitrary legislation and unbridled ministerial discretion. By altering the rate of return on energy supplied under the feed-in scheme, the minister can create a massive revenue windfall for renewable energy investors, or, in effect, bankrupt their investment at the stroke of a pen. Such is the nature of such government-backed subsidy schemes.

Forced sales are rather an odd economic mechanism and are rarely used as incentives in government policy. There is quite good reason for this, as they are a measure which creates a great deal of distortion to the market process and leads to a great deal of inefficiency. I suspect that the Chief Minister's earlier days of reservation about this whole thing is not in any small part due to the very point I am making.

In this case, not only will electricity distributors be required to accept a forced sale, but they will do so on terms that are potentially ruinous to the bottom line. They will be forced to pay almost four times the transition franchise tariff retail price of the electricity supplied to them, meaning that they are certain to suffer significant losses from such a transaction.

The forced sale provisions in this bill create a great deal of inefficiency and moral hazard on both sides of the transaction. On the side of the electricity distributors, there is every incentive to try to prevent the forced sale. This means that any discretion over the acceptance of renewable energy under the scheme will naturally be exercised so as to impose artificially high standards on the energy provider.

I notice that the bill has been amended by Mr Gentleman to remove the former clause 8, which allowed the distributor to impose standards that apply in relation to renewable energy generators that may be connected to their network. This amendment, in itself, is an admission of the serious moral hazard that exists under the scheme.

Similarly, on the side of the electricity provider, there is every incentive to meet the bare minimum standards under the bill and then to make a killing on the forced mark-up imposed by the government. This creates a serious moral hazard problem in which energy sources are chosen for their compliance with artificial subsidy rules rather than their efficiency or environmental qualities.

The irony is that, with such large profit margins, basic environmental and efficiency considerations become less and less important. This system creates a clearly antagonistic situation, made worse by the fact that the profitability of the system rests on the stroke of a ministerial pen. If there was ever a recipe for political lobbying and

pressure group warfare, then I believe this is it. I have no doubt that if this scheme is introduced, which I imagine it will be, the minister will have a battle on his hands refereeing the competing claims of distributors and occupiers under an entirely arbitrary subsidy scheme.

It is only a matter of time until some wag realises that he can make a killing from this scheme if he is careful or if he is able to curry the favour of the ruling minister of the day. Some clever person is going to realise that they can make substantial amounts not by attaching a couple of solar panels to their roof but by going larger scale in power generation activities and selling power back to the grid at exorbitant prices backed by legislative favouritism.

If this occurs, or if enough people take up the scheme such that the amount of electricity sold under the scheme is sufficiently large, there will inevitably be serious cost pressures and calls for the rate of return on energy to be reduced further. Since this rate is entirely arbitrary to begin with, there can be no rational economic guide for how to deal with this situation. Indeed, we have thrown economics right out the window if we adopt the scheme in the first place.

I think it was Mrs Dunne who made mention of the changes that went on federally as a result of the decision of the government. Somewhere here amongst my papers I have comments from the federal environment minister who, when talking about the solar panel rebate scheme, said that the program was oversubscribed and would have overheated and produced to the solar industry demand fluctuation such as would make it very difficult for this industry to be sustainable.

People were going along with one set of rules, and overnight we were told they were going to change, although Mr Hunt is putting up a valiant fight. The fact that the sudden decision of the Commonwealth government to limit the \$8,000 rebate for households earning less than \$100,000 has, in fact, caused a massive fall in demand. This is the problem when you come up with these artificial things that are at the mercy of ministers who can make overnight decisions which can cause economic ruination.

The only thing I should say is that the question will be determined more by political lobbying than by any serious analysis of financial and economic principles going forward. As cost pressures mount, there will be a lot of people with a lot of money invested who will be very keen to ensure that the minister does not reduce the legislated rate of return. Of course, there will be many other people in the ACT who are paying higher electricity prices who will be very keen for the minister to do what he can to reduce costs. It is that group of people that I am most swayed by in terms of the position I have come to here.

Yes, it is great to have environmental initiatives, but I have people coming up to me in my electorate constantly saying that they already cannot afford increased prices in electricity or water or rates and taxes and charges. I have to listen to those concerns, and my concerns are for those people, most of whom will not be beneficiaries under the scheme but ultimately will wear the additional prices in their electricity accounts. The result is the standard result that occurs when government interferes in the economy to privilege one group at the expense of another. It is a war of all against all in the war of political lobbying.

It is a credit to the creativity of the left wing environmental movement that they are able to find so many ways for the poor to subsidise the wealthy. They are truly unmatched in this area. Despite the pretensions as being saviours of the poor, in this case, they have come out in favour of a subsidy scheme for the well-to-do with solar generators. Many economists have already pointed out the ways in which open space laws have created artificial land scarcity and driven up the cost of properties, driving poorer people out of areas for well-to-do environmentalists. Here we have yet another policy that will see the poor subsidise the affectations of the well-to-do.

Because of the initial capital costs of investment in renewable energy, the scheme proposed by Mr Gentleman is out of the reach of many ordinary ACT residents. Instead, they will be on the paying end of the scheme. They will see higher electricity prices as a result of the subsidisation, not to mention the increases that were announced only a few days ago. They will see higher electricity prices as a result of the subsidisation of those who are able to afford an initial capital investment of several thousand dollars.

I have spoken several times in this Assembly about my belief that the ACT should adopt a no-regrets environmental policy which focuses on areas in which businesses and other groups can make energy savings to save themselves money. A no-regrets policy approach looks for areas in which we can improve our environment—all members here have said they would like to see more happen—and save money at the same time. It is a means of ensuring that we are scrupulous in our search for economically sustainable environmental policies. I would think that such talk of sustainability would be welcome to other members of the Assembly, but it seems that, when preceded by the word “economically”, it does draw blank stares.

This scheme is fraught with problems. Rather than being designed for economic efficiency and sustainability, it is, instead, a recipe for massive market distortion and rising costs. It is also highly inequitable, and it is a recipe for antagonism, division and pressure group warfare between those who are the beneficiaries of subsidies and those who are forced to pay for these subsidies, which will be the overwhelming number of consumers in the territory. As a result of these problems that I have identified, I am not going to be able to support this bill.

**MR STANHOPE** (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (10.06): I am very pleased today to join this debate, first and foremost to thank and congratulate Mr Gentleman for the work, the effort and the personal responsibility which he has accepted to champion this particular bill. He has put an enormous effort into community consultation through the meetings he has attended, the inquiries he has responded to, the advocacy he has been responsible for and certainly his general and genuine championing of a most significant piece of policy development and legislation.

The ACT government, as members I am sure know, did include in our climate change strategy in action plan 1 for the years 2007 to 2011 as action No 18 an undertaking that we would introduce feed-in tariffs so that energy fed back into the electricity grid

from distributor generation—for example, solar panels on buildings—was credited at a higher rate than energy bought from the distributor. The action plan goes on to say:

Around the world, renewable energy is being integrated into neighbourhoods and onto buildings. Microgeneration of renewable energy, such as photovoltaic panels, can reduce a building's energy bills and greenhouse gas emissions.

Currently, there is little incentive to return power to the grid. Increasing the price paid creates an incentive for small-scale generation and over time, reduces the pressure for new electricity distribution infrastructure. This, in turn, results in lower network costs, increased efficiencies and reduced pressure on retail power prices.

Distributed power generation improves energy security and self-sufficiency (particularly where the city's connections to the National Grid are limited). The feed-in initiative will be available to all residential, commercial and industrial electricity customers.

That is the promise which the government made in relation to this particular policy initiative when we introduced and agreed to and generated weathering the change and the action plan which underpins that plan. What Mr Gentleman has done—and I thank him and congratulate him on behalf of the government—is that he has set about all aspects of the development of a significant policy that reflects the promises that the ACT Labor government has made in relation to this particular issue. He has done a sterling job and has brought us to the position that we are at today where, hopefully tonight, the bill will be agreed to in principle at least.

This is a nation-leading initiative. Indeed, Mrs Dunne continued to parrot quite wrongly and erroneously that this is not a policy that I have supported. It is included in the climate change strategy and action plan which I issued and released a couple of years ago—it is there as action No 18—but I would imagine that Mrs Dunne has probably never read the climate change strategy. Mrs Dunne's familiarity with any climate change policy would be almost nil in that the Liberal Party has none and never has had one.

**Mrs Burke:** And you were a bit iffy because you didn't think of it; Mr Gentleman did. We know what happened there.

**MR STANHOPE:** What did I just say, Mrs Burke? Have you read action 18 in the climate change strategy? The government will introduce a feed-in tariff, and it has done it. I always smile wryly, of course, when I hear Mrs Dunne and the Liberals talk about their much-vaunted climate change strategy. I think we had this debate once before in the budget year 2001-02. I must say, I think it was Mr Smyth who read out with enormous pride that the then Liberal government, in its last budget before it lost government, committed \$240,000—I would have to go back and check the number, I know it was not \$1 million—

**Mrs Dunne:** It was new money. That was new money.

**MR STANHOPE:** Well, it was new money, but in its final budget for 2001-02 before losing government, the Liberal Party committed \$240,000, I think it was, of new



money, Mrs Dunne reminds me. The Liberal Party committed \$240,000 in new money to climate change. Such was their commitment to dealing with global warming, such was their commitment to dealing with issues around sustainability—

**Mrs Dunne:** And you put \$300,000—\$1 dollar a head—in the next budget.

**MR DEPUTY SPEAKER:** Order, Mrs Dunne!

**MR STANHOPE:** Such was their commitment to their climate change strategy that, in their final year in government, they committed \$240,000 to it, and Mrs Dunne reminds me that it was new money. I have advice from Treasury that, over the last three years, this government has committed \$242 million to climate change initiatives. That is the most recent advice that I have from the Treasury in relation to the commitment by this government to climate change initiatives. Of course, those initiatives are quite significant. I am reminded that I do not think I have ever seen a climate change initiative from the Greens either, so they are in good company with the Libs in relation to this.

We have a quite significant, coordinated detailed set of actions that we are actively implementing. There are 43 actions in the plan, and progress on those actions and their implementation is significant and advanced. They include to: pursue carbon neutrality in government buildings; establish a \$1 million energy efficiency fund for ACT government agencies; develop and implement a park and ride strategy; require all retailers of electricity to have access to an accredited green product and for that green product to be the first offer applied to any new customer; legislate renewable energy targets; differential stamp duty for low-emission vehicles; \$20 million over 10 years for energy efficiency in government housing; support and generate a national emissions trading and reporting scheme—of course, we all know the Liberal Party's attitude to that; \$20 million over 10 years to assist schools to become carbon neutral; ACTION compressed natural gas bus fleet replacement; energy efficient street lights; bicycle riders who use on-bus bike racks provided travel on the bus at no cost; public transport improvements; network and service design plan for buses; travelling to work options; introduce feed-in tariffs; pursue energy efficiency ratings for all buildings; mandate greenhouse friendly options for new dwellings; integrate land use and planning; public schools to integrate environmentally sustainable design; increase home owners' entitlement to trees; pursue urban forest replacement program; Eastlake to become a showcase urban development, et cetera, et cetera.

They are very good initiatives, most of which are on the way to implementation, including this very significant initiative, which leads Australia and the world. It is designed quite deliberately to ensure that we maintain our reputation as a community that will take seriously its obligation to deal with climate change, our emissions and footprint, and we will do it through a multiplicity of options. We will seek to engage the community and each of these initiatives do that.

It is vitally important that we engage with this community in relation to our individual responsibilities to deal with our emissions and with global warming. It is a pressing problem; it is one of the most significant, if not the most significant, issue facing the world. We take it seriously; we are investing heavily; we are being innovative; we are leading the world, and we will continue to do that. We will not stop. We will continue to push the boundaries; we will continue to invest.

As I said, we have allocated in excess of \$200 million to this subject over the last three budgets, and we will continue to do that. We are currently engaged in a detailed feasibility study on the possibility of a large solar farm, and we are serious about it. It is a significant, serious, scientific assessment of our capacity in this community to actually develop and generate solar power within this community.

We take it seriously; we are funding it; we are putting our money where our mouths are. We do not stand and boast about a climate change strategy or commitment that we had that in our last year in government we funded to the tune of \$240,000 and then continue to beat our breast and pretend that we were ever serious about this particular subject. Canberra knows the Liberal Party was not serious.

This is a great initiative. I again congratulate Mr Gentleman for his stewardship and for his championing of it. There are a range of issues involved. Indeed, Mr Mulcahy of the Canberra Party is engaging intelligently in this debate. He has put a particular point of view that should be listened to in relation to any social policy initiative. The sorts of issues he raised are issues which the government gave consideration to. There are issues around costs; there are issues around subsidisation; there are issues around cross-subsidy and the equity of distribution of costs for initiatives such as this.

We considered all of those, and, at the end of the day—and I was very much part of that discussion—when you weigh up all of the issues which we as communities need to address around driving innovation, driving industrial development, driving business, driving community engagement, doing something genuine, then initiatives such as this, it seems to the ACT government and Mr Gentleman, must be grasped. Even if there is an element of experimentation, we have to try this to see, because we need to generate change and engage.

At the moment there are 134 solar voltaic units connected to the grid in the ACT. In a city of 130,000 houses, 134 are currently connected to the grid. Of those 134, I believe probably at this stage only one of the 134 is a net user. To put into context some of the concerns and worries that you express, Mr Mulcahy, which I do not dismiss as legitimate concerns, I think in the context of where we are up to, it is relevant to remember that of the 130,000 houses in this city, 130 currently have solar voltaic units connected to the grid. That is 0.1 per cent. In the context of the costs and equity issues that you raise, Mr Mulcahy, at this stage they are a far lesser consideration. Mr Gentleman has done the costings. At this stage and into the foreseeable or near future, cost distribution across the community is negligible. On all his modelling, Mr Gentleman says it is less than 80c a year in the first year in the context of our capacity for units to be installed. That is probably not taking into account the removal of the rebate which the Commonwealth is responsible for or, perhaps I should say, guilty of in relation to photovoltaic energy.

They are legitimate issues, but we have taken them into account, and we believe that, for all those reasons about innovation, driving business capacity, engaging the community, doing something different, establishing new industry and a new focus and a new point of view, this initiative is worth while, should be pursued and I hope will be supported by the broader Canberra community. I am sure it is, and I believe quite deeply that this will be very successful across the board in relation to all of those outcomes that we wish for.

**MR GENTLEMAN** (Brindabella) (10.19), in reply: I would like to thank members for their contributions this evening and, indeed, for their support. There seems to be a lot of support in the Assembly tonight for the feed-in law. I am still a little bit wary, of course, of the opposition. They have not said they are going to support or oppose the bill yet, so I guess we will see when we get to the vote on the in-principle stage.

It has been some time since this bill was tabled, and I do think it appropriate to bring some new light to the incidence of our greenhouse emissions and, in fact, the contribution Australia is making to global warming. Just a few weeks ago I attended a two-day program, "Imagining the real life on a greenhouse earth", at Manning Clark House at ANU in honour of Dr Barry Jones. It was attended by quite a few academics and politicians as well. Over the two days it gave us quite an insight into what has happened most recently in regard to climate change.

The introduction to the program by Andrew Glickson and Bryan Furnass advised that the present human-induced climate change is occurring on a scale commensurate with the largest natural calamities, with rates of temperature rise that exceed the fastest glacial terminations by an order of magnitude to which plants and animals can hardly adapt. Since the early 1980s, climate scientists, some of whom were at the conference, have been warning that near two orders of magnitude increase in the rate of human emitted CO<sub>2</sub> relative to past glacial terminations is resulting in dangerous climate change. Those warnings have been ignored. They talked about how the denial industry, using Orwellian newspeak in part funded by vested interests combined with fundamentalist profits of the second coming, has effectively delayed climate mitigation by more than 20 years.

During this conference we were advised by Dr Barry Jones that the impact of climate change poses unprecedented challenges not only to the environment but also to the democratic practice and the pluralist values associated with western humanism and that, so far, governments have been glacial in their approach to climate change. I think this government may have a little bit of ice melt under its glacier, and I mentioned this at the conference. We are trying a little bit harder than others.

Just to give you some idea of what climate change can do, Dr Andrew Glickson said at the conference that mass extinctions of terrestrial species, including the late Anthropocene mass extinction, are imminently related to abrupt changes in the physical and chemical conditions of the atmosphere and hypersphere on which these species depend. The indication is that these changes are happening right now. Indeed, the impact can be mass extinctions of species, including our own.

So, to come back to the bill and the comments argued tonight, I am very pleased to see that the Greens support the bill. I have been aware for some time that they have been supportive of the bill. In fact, Dr Foskey did mention the first time the bill was tabled that she would have liked to have seen it presented by the Greens themselves. The history of the bill has been going for quite some time within the Labor Party and within our caucus. There were some comments tonight that the Chief Minister was opposed to the bill. That is quite ludicrous. The caucus, as you know, Mr Speaker, was well informed about the program for the bill, and the Chief Minister was on side all the way through. As he said tonight, it was included in the Weathering the Change

ACT climate change strategy as action 18—that is, to introduce feed-in tariffs so that energy fed back into the electricity grid is credited at a higher rate than energy bought from the distributor.

There was quite a lot of work from the government to get this in place. I have been lucky enough to champion the cause, as people have indicated tonight. Solving the issue of global warming, reducing our ecological footprint and reducing our carbon emissions will come at a cost. We have seen evidence of that in papers from Ross Garnaut, for example. I know Mrs Dunne attended the conference, as I did, at the ANU on 5 June, when Professor Garnaut delivered a report, which states:

... it is always sensible to ask whether it would be better to delay decisions, while information relevant to the decision is gathered and analysed. However, it is as much a decision to delay action, as it is to decide to take early action.

The issue, of course, is whether delay would cost the decision in the end. The report continues:

In 2008, the costs of delay—on a balance of probabilities, in the probabilistic terms that frame a good decision under conditions of uncertainty—are high. The mainstream science, the tendencies in global economic development and the state of the international decision-making process suggest that “business as usual” is running Australia and the world towards high risks of dangerous climate change at a rapid rate. The opportunity costs of delaying decisions are high.

It is very important that we act now. While it has taken some time to get to this position, I am very pleased we are here at the in-principle stage ready for the detail stage later on.

Going back to comments made by the opposition and Mr Mulcahy, I think they missed the point in relation to this legislation. The legislation is to bring about a social change within our community, to make people more aware that they have an alternative to their current electricity use and the way they access electricity at the moment—that is, using renewable energies. There has been a lot of focus tonight on the types of renewable energy available. Dr Foskey spoke only about photovoltaic energy in regard to this bill. Of course, the bill does go through quite a lot of other renewable sources, such as wind. Overseas, in Germany, for example, where I studied the law, there were many other renewable energies that fit into this, and the minister will be able to make determinations on those types of energies or any new renewable energy program that may fit within the feed-in law.

As Dr Foskey said, there are plenty of community groups out there that support this legislation. The sea change group from Jamison is a huge supporter, but, as we have heard with regard to the community consultation process that I took on, the community as a whole has been very supportive. The number of people attending these meetings has been very high.

With that, I will close the in-principle stage by saying that we had 11 and a half years of the former Prime Minister of Australia denying the very existence of climate change. While that group was not coming forward with any alternative because it still remained sceptical about the issue of climate change, the ACT government realised

there was something that it could do and should do straightaway. With that, I thank members for their contributions and commend the bill to the house.

Question resolved in the affirmative.

### **Detail stage**

Clause 1.

Debate (on motion by **Mr Stanhope**) adjourned to the next sitting.

### **Adjournment**

Motion (by **Mr Stanhope**) proposed:

That the Assembly do now adjourn.

### **Legislative Assembly—pairs**

**MRS BURKE** (Molonglo) (10.29): Today we have seen what, disappointingly, is another low in this place. I might call it arrogance personified. We have seen the government whip and manager of government business once again ride roughshod over agreed courtesies and conventions and other such arrangements that have always happened quite well in this place until, it would seem, today. I am talking about pairs and general communication whip to whip and manager of government business to opposition whip.

We in the opposition have until now done everything we can to accommodate the government in regard to pairs requests. It is most unfortunate that the government whip was disgracefully disorganised and totally unprepared for this sitting week. Today has been absolutely shambolic. The government have requested over a dozen pairs for this week and next week. One of the agreed pairs—I will come to these few points one at a time—was for Ms Porter and Mr Stefaniak tonight from 7.30 to 9.30. The opposition had also offered a pair to Mr Hargreaves, given his recent medical procedure.

*Ms Porter interjecting—*

**MRS BURKE:** I am not sure what Ms Porter is babbling across the chamber—

**Ms Porter:** I am saying that it was Mr Stefaniak who requested the pair.

**MRS BURKE:** But that was agreed between the whip and myself. The opposition had also offered a pair to Mr Hargreaves, given his recent medical procedure. Ms MacDonald verbally attempted to advise the opposition at some stage in the afternoon—myself and Mrs Dunne—that there had been some changes to the daily program. I asked for these to be in writing and was told by Ms MacDonald that she could not do it because she had no staff. That was not my problem. The courtesy is to put these things in writing. There is a great deal to be sorted and worked through.

The first issue was that the select committee on estimates report would not be tabled today, and neither would the government response to the committee report, and that a cognate debate would now eventuate tomorrow, being Thursday. The second advice on changes to the program was received by email on Tuesday the 24th at 2.23 pm:

Hi Jacqui,  
Just to let you know the Assembly will be sitting late tomorrow night—

which is tonight—

so there will be a dinner break. Also Mr Gentleman's Bill will now be the first Labor item up for debate (2nd in order)—

that is, in order of private members' business—

and Ms MacDonald's motion will now be the second Labor item (5th in order).

There was no mention at this time that the government were planning to pull a swiftie—namely, bump order of the day No 4, Mr Gentleman's bill, up to executive business. I see Mr Corbell coming in with that usual arrogant smirk. The courtesy to tell us what was going on has always escaped the manager of government business, which is very unfortunate because there was no mention of what the government were prepared or about to do. Whether it was Mr Corbell's fault or not I do not know. We will say that it was Ms MacDonald or a lack of communication between the manager of government business and the whip. In Mr Corbell's motion, there was no mention at all of moving private members' business up to executive business. I refer members to the blue:

Mr Corbell (Manager of Government Business) to move motion to suspend standing orders to call on Executive Business Order of the day No. 1 and Executive Business Order of the day No 2.

The third issue for the day—just when I thought the day could not get any worse—was this: on return from the dinner break, Mr Corbell's motion was brought on to suspend standing orders. I have another email here. The emails were going backwards and forwards, but always a little bit too late and always a little bit vague, with Ms MacDonald trying to tell us very quickly—verbal arrangements. It really was disgraceful today.

I have to bring this to the attention of the house. I hope that Mr Corbell manages the whip a little better or that we replace the whip to get somebody who knows what they are doing. The government whip had not had the courtesy to advise the opposition that Ms Porter's pair had been cancelled—whoever it was with, Ms Porter. If I got it wrong before, I apologise.

**Ms Porter:** I did not ask for a pair, Mrs Burke.

**MRS BURKE:** I was told you were the pair. So that is something else. Mr Hargreaves also at this stage had not taken his pair or had not left the house. I was then advised by the government whip, after the vote on the suspension of standing

orders, that the government needed its majority to suspend. How amazing was that? Its acts of arrogance know no bounds, it would seem.

The opposition have never used pairs as a bargaining tool—ever. Unfortunately, despite our goodwill, it is just not being reciprocated by the government. I wish to therefore advise that, as from tonight, excepting those pairs already agreed, all bets are off now. The government can blame the lazy and undisciplined work ethic of their whip, Ms MacDonald. We will consider future pairs on their merit and we will agree or disagree on our terms.

### **Legislative Assembly—pairs**

**MR CORBELL** (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10.34): It says a lot about Mrs Burke's ability to negotiate general business in this place that she has to resort to the use of this chamber to raise issues that she cannot seem to communicate in any other way. In the case of every other government whip that I have dealt with and every other opposition whip that I have dealt with, and I have dealt with a number in my time in this place, I have had absolutely no difficulty in having a commonsense conversation with them and reaching an agreement about what we are going to do—even with Harold Hird, who was not exactly one of the great movers and shakers of this place, but who was a good local member and a sensible man. When Harold was government whip, it was very easy to have a negotiation with him.

**Mrs Burke:** You are not talking to Ms MacDonald; that is all I can say. She does not know what is going on.

**MR CORBELL:** Again, Mrs Burke raises all these horrible things. She cannot seem to manage face-to-face communication with anyone else so she has to hurl abuse across the chamber as the only way of getting these matters done. I would only make the following observation. The government is committed to getting its legislative program passed. The opposition have delayed this place for over a week. They have now taken up close to six hours of sitting today to debate their motion. Then they have the gall to complain that the government wants to get on with some of its program. God forbid: the government actually bringing forward its program! The government made it quite clear that we were bringing forward the program, and we did so.

**Mrs Burke:** You should tell Ms MacDonald to articulate better then.

**MR CORBELL:** I have sat in government business meetings with Mrs Burke and then Mrs Dunne, and then Mrs Burke and then Mrs Dunne, and then Mr Smyth and then Mrs Burke, but on every single occasion I have asked them, whenever we have—

**Mrs Burke:** How many ministries have you—

**MR SPEAKER:** Order, Mrs Burke!

**MR CORBELL:** I have asked them—

**Mr Pratt:** We are multiskilled.

**MR CORBELL:** whenever we have—you are not multiskilled; I can assure you of that.

**Mr Pratt:** That is all right; I am just explaining the variety. I am just explaining the variety, Simon.

**MR CORBELL:** Schizophrenic definitely, but I could not say multiskilled.

**Mr Pratt:** I am just explaining the variety, Simon—seamless transition.

**MR CORBELL:** At every single government business meeting I have asked those opposite, “Can you please tell us what is on your program for the coming sitting week?” I go to every meeting and I say, “This is the government’s program. This is what we’re going to do. These are the bills we want passed. This is when we want to sit.” Mr Mulcahy or his representative says, “Yes, but we want to do this.” Dr Foskey is very good. She says, “These are our priorities; this is what I want to debate.” What do the Liberals say? The Liberals say, “Oh, we don’t know,” or they say, “Nothing to advise at this time.” That is at every single meeting for the last four years.

**Mrs Burke:** That is not true.

**MR CORBELL:** Every single meeting for the last four years. Go through and check the minutes of the government business meetings for the last four years and you will see that on not one single occasion has the Liberal Party ever advised the government of its proposed business. So don’t you come into this place, Mrs Burke, and say that the government never consults and that the government is arrogant and high-handed. It is this opposition that continually refuses to advise any member in this place of its proposed business. Mr Mulcahy and Dr Foskey can confirm it; they have seen it themselves. At every single meeting, I say, “Any advance notice from the Liberal Party about what they are going to introduce in this place?” “Oh, no; sorry, no. Oh, we don’t know. Oh, I will have to check.” Mr Speaker, they have never done it.

My simple response to Mrs Burke is this: people in glass houses should not throw stones and people who have an incapability to communicate excepting by throwing barbs across this place perhaps need to go and find themselves another job.

### **Gas-fired power station**

**MR PRATT** (Brindabella) (10.39): Today, Mr Gentleman very kindly tabled in the no-confidence debate a flyer about the power station issue in the northern Tuggeranong region. I thought I would come down here and table a much better quality flyer. I must say that I was very impressed that Mr Gentleman did that. I hereby table a much better quality flyer, in colours.

**MR SPEAKER:** You will need leave to do that.

**MR PRATT:** I seek leave.

**Mr Corbell:** No.



**MR SPEAKER:** Leave is not granted.

**MR PRATT:** Leave is not granted?

**Mr Corbell:** We have already got one.

**MR PRATT:** I can give you much better quality—colour, Simon. All right; if that is the case, let it be noted that Mr Corbell wanted to be churlish about it all. I am quite proud of that flyer. I was really pleased that Mr Gentleman tabled that flyer. That was very good. That flyer has a very special message about this government's incompetence over the power station. I did want to willingly come down here and give you a much better quality flyer, Simon, but if that is the case, Mr Speaker, there is no more to be said.

**Mr Corbell:** Give me an autograph.

**MR PRATT:** All right; thank you, Simon.

### **Legislative Assembly—pairs**

**MS MacDONALD** (Brindabella) (10.40): Mr Corbell has just addressed the issues that Mrs Burke raised but I need to set the record straight, because Mrs Burke has made some allegations about what I have and have not done today. Certainly, there was advice given by my office—from my staff member, who is very sick and is emailing from home, I should say—that there was going to be the swap, that we were changing the places because the admin and procedure committee met over a week ago to discuss what the business for today would be and things have changed since then.

This morning, before the Assembly met at 10.30, I went around to Mrs Burke's office. I also went to Mr Mulcahy's office and to Dr Foskey's office. I explained to them what was going on. I have a limited amount of time so I explained it rather quickly—which is, I think, the problem for Mrs Burke, because it was not slow enough for her and there were not any diagrams or arrows for her to follow. That was my mistake; I should have got a big red pen and drawn on a piece of paper for her what was happening.

I explained at that point that the manager of government business would be suspending standing orders to bring on executive business and Mr Gentleman's bill on the feed-in tariff. That was explained at the beginning. I explained it again later in the day. Then I had another conversation with Mrs Burke, with Mrs Dunne in attendance. I have explained this at least three times to Mrs Burke today.

**Mr Corbell:** Not often enough.

**MS MacDONALD:** No, apparently not. Of course, Mr Corbell, there was the failure of the big red marker and the arrows; that was obviously the problem. I am sorry that I could not actually send Mrs Burke an email about this earlier in the day, but that would have entailed me being out of the Assembly while Mr Seselja and Mr Stanhope were giving their speeches on the motion of no confidence, which I thought was more

important than my sending out an email on something which I had already explained to people.

If Mrs Burke cares to check with the crossbench members, I am sure that she will find that I did actually explain this to them. I explained quite clearly what it would mean. There was discussion about what was happening with Dr Foskey's MPI, et cetera. I am sorry that Mrs Burke is confused.

I should also correct the record. Mrs Burke, I understand, has alleged that Ms Porter asked for the pair. Certainly she did not. I actually sent a note across to Mrs Burke—a written note, which I have—asking the opposition, as they had some functions which they were hoping to get to this evening, if any of them wanted a pair. I was told that Mr Stefaniak would like to go to a function in Belconnen, which Ms Porter also wanted to go to, so it was agreed at that time that that would take place.

There was the issue of the need to have an absolute majority for suspension of standing orders. I think this is where the issue lies for the opposition in that they were hoping that they would catch us out by us not having an absolute majority to suspend standing orders and thus not let the government get on with business yet again. It would not have worked anyway because, as the record shows, Dr Foskey voted for the suspension of standing orders.

Mr Speaker, that is my understanding of what happened today. I have taken at least three minutes longer than I should have in talking about this.

Question resolved in the affirmative.

**The Assembly adjourned at 10.44 pm.**

## Schedule of amendments

### Schedule 1

#### National Gas (ACT) Bill 2008

Amendment moved by the Minister for the Environment, Water and Climate Change

1

Clause 2

Page 2, line 4—

*omit clause 2, substitute*

2

#### **Commencement**

- (1) This Act (other than section 19 (1) and schedule 1) commences, or is taken to have commenced, on the commencement of the *National Gas (South Australia) Act 2008* (SA), section 7 (Application of National Gas Law).

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

- (2) Section 19 (1) and schedule 1 commence on the later of—
- (a) the commencement of the *Offshore Petroleum Act 2006* (Cwlth), section 7 (Offshore areas); and
  - (b) the day section 10 commences, or is taken to have commenced.
-