



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**SELECT COMMITTEE ON FUEL PRICING**

(Reference: [Inquiry into fuel pricing in the ACT](#))

**Members:**

**MS T CHEYNE (Chair)**  
**MR M PARTON (Deputy Chair)**  
**MR A WALL**

**PROOF TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**WEDNESDAY, 8 MAY 2019**

This is a **PROOF TRANSCRIPT** that is subject to suggested corrections by members and witnesses. The **FINAL TRANSCRIPT** will replace this transcript within 20 working days from the hearing date, subject to the receipt of corrections from members and witnesses.

**Secretary to the committee:**  
**Mr A Snedden (Ph: 620 50199)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

## **WITNESSES**

<b>BARR, MR ANDREW</b> , Chief Minister, Treasurer, Minister for Social Inclusion and Equality, Minister for Tourism and Special Events, and Minister for Trade, Industry and Investment.....	<b>193</b>
<b>NICOL, MR DAVID</b> , Under Treasurer, Chief Minister, Treasury and Economic Development Directorate .....	<b>193</b>
<b>PONTON, MR BEN</b> , Director-General, Environment and Sustainable Development Directorate .....	<b>193</b>

## **Privilege statement**

The Assembly has authorised the recording, broadcasting and re-broadcasting of these proceedings.

All witnesses making submissions or giving evidence to committees of the Legislative Assembly for the ACT are protected by parliamentary privilege.

“Parliamentary privilege” means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively, and enable those involved in committee processes to do so without obstruction, or fear of prosecution.

Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

While the committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

*Amended 20 May 2013*

**The committee met at 2.37 pm.**

**BARR, MR ANDREW**, Chief Minister, Treasurer, Minister for Social Inclusion and Equality, Minister for Tourism and Special Events, and Minister for Trade, Industry and Investment

**NICOL, MR DAVID**, Under Treasurer, Chief Minister, Treasury and Economic Development Directorate

**PONTON, MR BEN**, Director-General, Environment and Sustainable Development Directorate

**THE CHAIR:** Good afternoon, everyone, and welcome. I declare open this seventh public hearing of the Select Committee on Fuel Pricing's inquiry into the matters referred to it by the Legislative Assembly on 14 February 2019. The proceedings are public. They are being recorded by Hansard for transcription purposes and they are being webstreamed and broadcast live.

Before we begin, I remind the witnesses—you probably have never seen this before—of the protections and obligations that parliamentary privilege entails and I draw your attention to the pink privilege statement set out on the table. It is very important. I welcome today's witness, the Chief Minister and Treasurer, Mr Andrew Barr MLA. Could you confirm for the record that you understand the privilege implications of the statement?

**Mr Barr:** Thank you.

**THE CHAIR:** Thank you, and I will get the officials to do the same.

**Mr Ponton:** Yes.

**Mr Nicol:** Yes.

**THE CHAIR:** Thank you. Before we proceed to questions, do you have an opening statement?

**Mr Barr:** No.

**THE CHAIR:** Mr Barr, the *Canberra Times* reported, I think last week, that, based on your submission I think, you had ruled out a fuel price monitoring or mandatory reporting scheme. That is not what I read in your submission. For the purposes of the committee's deliberations, would you be able to clarify your view?

**Mr Barr:** Yes. That might have been an overextension from that particular media outlet in relation to what the government has said. It is not the first time, nor will it be the last time, that a politician has had their words twisted by the media.

**THE CHAIR:** However, I do note in the submission that you note the government is cautious. I think that is perhaps more accurate about—

**Mr Barr:** Yes.

**THE CHAIR:** any proposal to mandatorily report prices or lock in any prices. What are the key concerns that you believe need to be considered, and do they relate to resourcing?

**Mr Barr:** It is a factor, but no-one can guarantee it will work. So we are going to change from the status quo and invest public money in a new solution. I would want some guarantees that it will actually achieve what those who are proposing it say it will, otherwise it is simply an exercise in window-dressing. If we are serious about addressing this issue, we might need to go further than simply monitoring prices.

We know what the prices are. We know the substantive issue here is retail profit margins. They vary considerably, depending on the nature of the retailer and the behaviour of the retailers, because people who are accessing fuel at roughly the same wholesale price can apparently sell it in Canberra considerably cheaper—if you happen to be an independent operator or use the Costco model, for example—than the largest players who are gouging Canberra motorists. It is as straightforward as that.

We can muck around with all the different monitoring schemes we want. But in the end, if we are actually going to get fuel prices lower, we need to look at retail margins and we need to highlight for the community who is doing the gouging. I want to commend this committee because since you have been focusing on this issue, and since there has been publicity, the fuel price in Canberra now is apparently cheaper than Sydney's.

**THE CHAIR:** Over a period of time, yes.

**Mr Barr:** How about that?

**MR WALL:** It depends on where they are in their price cycle, so the committee is led to believe.

**Mr Barr:** Possibly it does, and we do not have a price cycle, which would then raise the question of what is the utility of locking in prices or having a large-scale apparatus to monitor prices beyond what is already provided by private parties through the various websites and apps? What would be the value-add of spending taxpayers' money on a further monitoring system? What value-add would it bring? That is the question I want answered. If there is a satisfactory answer to that question, beyond just making people feel good, that we actually deliver a result, sure, I am very open-minded to that.

**THE CHAIR:** I think what this committee is grappling with at the moment is this: is there any solution which has a guaranteed effect on lowering prices? It is a question we are still trying to answer, but equally there are some—

**Mr Barr:** There might be a combination of solutions rather than any one single response.

**THE CHAIR:** It does appear that there are solutions that will deliver things that are not necessarily lowering prices but will result in greater transparency or allow people

to plan without receiving a shock.

**Mr Barr:** Sure, and to the extent that it is already pretty well known where cheaper fuel is available within the territory, it then becomes a question, to use the economic term, of the elasticity of demand: how willing are people to change their behaviour or to travel further to access that cheap fuel.

For some people, clearly the cost of travelling the extra distance outweighs the benefit of the cheaper fuel. You see that in terms of people's behaviour. Then, for other people, it is simply the cost of their time to do that. Even if they were able to save a couple of dollars on a tank, they just value their time more. So you will see that behavioural response across the entire community.

Some people will, absolutely, plan their weekly shop and a range of other activities around also accessing the cheapest fuel by being in that district to undertake a range of other activities. If you look at the NRMA research, if you look at the market share of the various retailers, it will tell you that there are some people who will utilise the information they have available and change their shopping or their fuel purchasing behaviour as a result. But that is not the majority of the market, it would seem.

That is why the retailers have been able to gouge Canberra motorists in locations outside of the more competitive zones. In my mind, there are a number of different solutions that we need to look at, some of which are within the control of the territory government, many of which have been tried before and have succeeded for a short period of time but not necessarily into the long term. If they had, we would not be sitting around here having this conversation. Then there are obviously the actions of federal agencies.

There are two specific things that I would ask the committee to have a look at. I think you are already looking at touching on the planning question. Most of the major highways and major arterial roads are under the National Capital Authority's planning jurisdiction. So even if we wanted to change and have more fuel outlets—on the Federal Highway, for example, coming in to the city, or on the Monaro or other major roads—we would have to go through an NCA process as well.

The second thing that can be done at a federal level is that the ACCC used to get quite a lot of data on retail margins for retailers. They stopped doing that in about 2015. They should start doing that again. That will give a very clear indication of who is gouging and who is not. But, on the available information, it is very clear that there is one particular retail group that has about 25 per cent of the market in the ACT that has been exhibiting very different behaviour to many others and has been ripping off Canberra motorists.

**MR WALL:** Chief Minister, you referred to consumer behaviour of not necessarily valuing the trip to a discounter or to a cheaper retailer of fuel. Is that the fault of the fuel companies or is that the fault of the consumer? If I go across the road to the convenience store to buy a litre of milk, I am going to pay, in some cases, double what it is at the supermarket. If I want to pay less I have to travel further. The same applies to fuel, as it does for just about any product. There is a levy that retailers place on those things for convenience.

**Mr Barr:** Sure, yes; the balance between convenience and otherwise, yes.

**MR WALL:** Is it fair to say that it is a gouge when we have seen from data that the discount fuel retailers in the ACT, such as Metro or United, are getting less than an equal market share of sales at their locations compared to the majors, which are getting almost double market share?

**Mr Barr:** I think if you look at the deviation from the average, in terms of which retailers charge above the average fuel price in the ACT versus those who consistently charge below, you will see the gouging behaviour. That is quite clear.

**MR WALL:** Because the other data—

**Mr Barr:** I am certainly not going to be in the business, through this process, of defending many of the retailers who I think have behaved appallingly to this community.

**MR WALL:** Okay; I am just suggesting where the evidence is. I guess that to some extent there was some contrary evidence to this committee. I think everyone agrees, or everyone feels, that they pay too much for petrol. They look at different marketplaces and see different prices and wonder why. I think that is a fair question to ask. I do not think any of us around this table disagree with that. But we are seeing that consumer behaviour is often unaffected by price, other than a very few—

**Mr Barr:** Yes, I think we agree on that. A significant segment of our population would not drive further to save 5c a litre.

**MR WALL:** Correct. Second to that, we are seeing that the retailers that are aggressively pricing are not getting a larger market share even compared to stations in the geographic area. Further to that, information or data was provided to the committee recently, which has been published, that showed the six-month average price board, compared to what the average consumer purchase price was over that six-month period. It showed overwhelmingly, across the city, that Canberrans were typically buying fuel at below the average price board price, as opposed to above.

**THE CHAIR:** Buying more fuel.

**MR WALL:** Not buying more fuel, but more fuel was being sold at below average prices than it was at above average prices.

**THE CHAIR:** When prices are low, Canberrans fill up more, and when they are higher, they are a bit more cautious.

**Mr Barr:** Yes, so in the main—

**MR WALL:** But to suggest that there is a gouge going on is—I am trying to get what your evidence base for that is.

**Mr Barr:** I have an evidence base. I have already been briefed on it. You will not see

it until 4 o'clock this afternoon.

**MR WALL:** Okay, so this meeting may be a bit premature.

**Mr Barr:** You guys called it for now, but you would be aware that in commissioning this piece of work—

**MR WALL:** There was also difficulty with your diary.

**Mr Barr:** I also asked the ICRC to look at this. They have briefed me today. Their report is out publicly at 4 o'clock.

**MR PARTON:** Chief Minister, you have indicated in your letter to the committee that you are concerned about retail margins. There were certainly strong words from you today in terms of appalling behaviour and price gouging. But the perception, if not in this committee then certainly in the community, is that you are not concerned enough to do anything more drastic about it than you have done to date. There really has not been drastic action in this space, has there? We have had a look at the market. We have ascertained that it is not really serving the community well, but there is not a great deal that we have done about it.

Much of this committee's work has revolved around the transparency of the market, and we have talked about price apps. I think you and I agree on this: having all of the information will not necessarily make the market any more competitive. Unless there is a challenge to the market from within it, it is not really going to make a great deal of difference if everyone has the information. Our information suggests that potential discount retailers have very little chance of outbidding the majors when it comes to the new sites that, of course, do not come up very often. It is almost impossible for them to win that war.

My question to you is this: what out-of-the-box considerations, if any, have there been by your government in regard to tinkering with the process to give a leg-up to an independent retailer?

**Mr Barr:** That has been tried on a number of occasions over the last two decades in Canberra—by the Follett government and, indeed, by the Carnell government. It had some short-term success in that the planning system was used to provide, effectively, direct sales to independent operators on the grounds of enhancing competition to address the sort of concentration of ownership and the market failure that had been identified at that time. Land was made available; a new operator came in; for a period of time—sometimes many years—it served to provide a degree of competition in the marketplace that did impact on the behaviour of the other retailers.

But then, at a certain point in time, that business either sold out or was bought out by the various agglomerations of the vertically integrated nature of this business. So the government intervention was then effectively nullified by a subsequent sale from an independent to a major operator. That is the flaw with that market intervention.

**MR PARTON:** But you have indicated to me that it did provide some success in distorting the market.



**Mr Barr:** For a period of time, in particular locations.

**MR PARTON:** I wonder then why, particularly taking into account your strong rhetoric on it, we have not considered going down that path again.

**Mr Barr:** Because I think the two or three practical examples—not in recent history, as in the last few years—when this issue was considered before proved to be only short-term sugar hits in terms of the problem. What we really need is a more lasting solution. In terms of the answer to the second part of your question around what could be considered, a maximum retail margin, a legislated maximum retail margin, is—

**MR WALL:** So you are actively considering regulating the price?

**Mr Barr:** Look, if we do not get behavioural change from the retailers then that has to be on the table.

**MR PARTON:** Yes, don't worry; we have had discussions about that too.

**Mr Barr:** If you want a more serious intervention, beyond the popgun that is freezing the prices for 24 hours at their already high levels or trying to introduce more competition, you would need to go down that path. It may well be that a combination of all three might give you the lasting outcome that you want.

**MR PARTON:** When you say “a combination of all three,” am I hearing that you are not ruling out potentially tinkering with the process around new sites in terms of giving a leg up to an independent retailer?

**Mr Barr:** That could be part of an overall solution, but I do not think there is any one outcome that is going to fix this.

**MR PARTON:** One of the things that this committee has grappled with—I think I speak on behalf of the other two members—as we have gone down this path is that anyone who thinks this is easy is sadly, sadly mistaken.

**Mr Barr:** Yes, and there are pros and cons with every single approach. It could become expensive, and quite a legal apparatus would need to be put in place in order to set a maximum retail margin. You would need to be able to enforce that. I think you would need cooperation from Australian government agencies as well, because if we had to duplicate the ACCC and their powers and capability, that could be potentially very expensive. You would need to bear that in mind.

Equally, you could, as I say, have a quite significant intervention that had a planning focus, a competition focus in terms of retail price setting, as well as a consumer information emphasis. What you then have to weigh up is this: there will be costs to taxpayers through the government to establish a lot of that apparatus, in addition to what is already in place. Would those costs be more than offset for consumers by the savings in the marketplace?

**MR PARTON:** Indeed. How much of it is about achieving an outcome—

**Mr Barr:** Yes.

**MR PARTON:** or how much of it is about appeasing people into believing that we have done our best?

**Mr Barr:** That is how I see just doing some sort of price monitoring and fixing the price for 24 hours.

**MR PARTON:** Agreed. I am in agreeance with you completely.

**Mr Barr:** It looks like you are doing something but actually, probably, you are not.

**MR PARTON:** Yes, as a sole measure it is not going to achieve anything.

**Mr Barr:** Yes. I do not think it flies, no. That is why my letter to the committee says exactly that. I think that is—

**THE CHAIR:** We have seen a circumstance in Forrestfield in Perth. Because an independent retailer's prices were essentially advertised every day by the media and by the government, saying, "This is the cheapest in town and it is locked in for 24 hours," he has been able to flourish.

**MR PARTON:** FuelWatch were genuinely of the belief—I know the markets are different and they have different histories attached to them—that a number of their smaller rebel retailers would not currently exist if FuelWatch had not been in place.

**Mr Barr:** Yes. Effectively you have a daily mini-auction.

**MR PARTON:** Yes.

**Mr Barr:** It is fixed for 24 hours and then you are back again. But then—

**MR PARTON:** But the problem is, of course, that we do not have the rebels. There are no rebels, so—

**Mr Barr:** Yes, sure, and obviously that market and the behaviour of retailers have adjusted to that regulatory regime.

**MR PARTON:** Yes.

**Mr Barr:** Could you generate the same sort of effect in our market? It is difficult to say. What is the elasticity of demand—

**MR PARTON:** Yes, I do not know, but you see—

**Mr Barr:** within the Perth metropolitan market as opposed to Canberra's?

**MR PARTON:** You mentioned some of the pricing apps, and MotorMouth has been mentioned. I would suggest, because we have done some research on it, that the

cheapest petrol in Tuggeranong just about every day is at United at Kambah, but their price does not appear on MotorMouth. It does not appear. On that particular app, if you are in Tuggeranong, you do not see it.

**Mr Barr:** Yes, you would not know.

**MR PARTON:** You do not know.

**THE CHAIR:** And the same—

**Mr Barr:** Why do they not want to get their price on that app?

**MR PARTON:** I think they are not clients. They are not clients.

**THE CHAIR:** I do not think they purchase services from Informed Sources. This is something that we have received a range of views on. There are a whole group of people over here who tell us that we are well serviced by apps, but there are a whole group of people over here who tell us that we actually are not. There is no one app that gives full price transparency for all products that is completely accurate. Again, even in WA where prices are locked in—so they should be accurate—they find the same thing.

**Mr Barr:** Even under the government sponsored ones, you still cannot—

**THE CHAIR:** No, the government FuelWatch is fine, but—

**MR WALL:** It is the third-party apps that cause issues.

**Mr Barr:** Yes, sure.

**THE CHAIR:** for Petrol Spy or MotorMouth users in WA, it still is not complete, even though it could be complete because WA has all that data.

**MR PARTON:** They have all the data, but they just do not use it.

**Mr Barr:** They do not line up, sure.

**MR WALL:** It does not aggregate. I have a follow-up question on the planning issue. I have asked a number of people what we need to do to get these discount retailers to stick. I think that Gull was one of the brands back in the day when it was brought in, which turned into United.

**Mr Barr:** Yes.

**MR WALL:** Why were conditions not put on the lease for those blocks to ensure that it was only a discount operator? That would have prohibited one of the majors essentially occupying and operating from the site. I know it is a legacy issue but is it something that could be—

**Mr Barr:** Sorry, on that site?

**MR WALL:** On those sites.

**Mr Barr:** Okay. We will have to go back and check. This would have been when the late Terry Connolly was the consumer affairs minister. Then Brendan Smyth was mentioning that his government—

**MR WALL:** Yes, this is a legacy issue from—

**Mr Barr:** Yes, it is going back 20 years to—

**MR WALL:** governments that will rear their heads on Friday.

**Mr Ponton:** It is important to note that even if there were provisions within the crown lease, the crown lease at any point can be varied and then a change of use charge et cetera is applied. We can certainly go back and look at those particular crown leases. I would expect that if they were sold to a particular operator or to a discount operator, there would have been a provision in the crown lease. But, when sold, I suspect there would have been an application to vary the crown lease.

**Mr Barr:** And how would we determine, right into planning legislation, what constitutes a discount operator?

**MR PARTON:** Yes, you have made the point—

**THE CHAIR:** We have the same—

**MR WALL:** Yes, I think there are a lot of things on the table here. That is probably a less interventionist step, compared to some that you are considering.

**Mr Nicol:** I would also add that there are ways around change of control that the leasehold system is not well designed for. So do you buy the company, and is it still the company if there is another shareholder?

**MR WALL:** Yes.

**Mr Nicol:** Then you are into legislating how—

**MR WALL:** How a business has to operate.

**Mr Nicol:** a business can sell or buy its ownership rights; it is quite challenging.

**MR PARTON:** You cannot legislate for retail courage, can you, in terms of legislating for someone to be a rebel?

**Mr Barr:** No, that is true. Nor can you legislate for entrepreneurial talents. Sure.

**MR WALL:** I am a little confused. Your government has some exceptionally ambitious energy emissions targets.

**Mr Barr:** Yes.

**MR WALL:** Yet you are wanting to see fuel prices reduced. The typical economic model would be: if the price increases, usage decreases, changing consumer behaviour. Why the angle of wanting to reduce emissions yet reduce the price of petrol, which will ultimately see an increase in use?

**Mr Barr:** I think there is a balance to be struck here around social equity as well, in that there is a proportion of our community for whom there is a certain amount of driving and fuel use that will be necessary regardless. This is why we have been asking the questions. I think there is an opportunity for an intervention to achieve a better outcome for that segment of the community. There are others for whom there will be a transition pretty quickly. The next vehicle they buy will be electric, in spite of all the political buffoonery around electric vehicles.

**MR PARTON:** Just be careful. Do you know the price? No.

**Mr Barr:** And the tradies in their utes. Apparently we are fighting a pitched battle to save the ute.

**MR WALL:** Distance is often a challenge in this country; electric is not there yet.

**Mr Barr:** Yes, but it will be. We do not manufacture any vehicles in Australia anymore; so we are going to be dictated to in terms of what will happen here. Certainly you are going to see more hybrids in the market to begin with, then clearly electric vehicles will be the majority of those that are sold. There will be a transition. Part of my thinking here is that some short-term solutions might be what we need just to get us through that period.

**MR WALL:** This transition that has been coming for a long time?

**Mr Barr:** It has, but it is picking up pace where it matters elsewhere in the world. We are a tiny market in terms of global automotive. We will get what the market provides. And many of the large manufacturers will no longer be producing vehicles with internal combustion engines by the middle of the 2020s, let alone by 2030.

This is the thing. I would say to you to think a little about whether we are looking for solutions here that have five to 10-year horizons. Our intervention may not need to be a forever thing. We might need to think about some immediate benefits that we can provide.

This goes back to, I guess, the question of market elasticity. How do people respond to an increase or otherwise in fuel prices? It would mean some would drive less. That is true. Others still have to drive what they have to drive and it has an impact. It has an impact on their—

**MR WALL:** Especially with the bus network.

**Mr Barr:** More people are riding buses now, actually, than before.

**MR WALL:** Do not count multiple journeys as one.

**Mr Barr:** More journeys, more passengers and more actual people. But that is a debate for another day.

**MR PARTON:** When it is not free.

**Mr Barr:** But there will be a segment of the community for whom what is not variable is the number of kilometres they need to do in a day or a week. And this is for them. What we do in any dimension is for that segment. Then there will be others whose behaviour will not be impacted at all. They would pay \$5 a litre. They do not care because they are that wealthy or they drive such a small amount. Then there are some people who have already made the choice to move away from internal combustion engines or have switched to gas or might in fact have hydrogen fuel cell cars as well.

**MR WALL:** I was going to say hydrogen fuel cell is something that probably does not get anywhere near the air time that it should.

**Mr Barr:** Yes, and there would be a niche in the market for that sort of technology, particularly for larger vehicles.

**THE CHAIR:** I am conscious that we are at the end of your scheduled time, Chief Minister, but quickly, and perhaps while Mr Ponton is here, your letter stated that Metro had lodged a development application for a second fuel station in Fyshwick in August last year. Do we have any update on where that is at, and is the process easier in a suburb like Fyshwick in terms of approvals than—

**Mr Ponton:** In terms of whether the process is easier, not necessarily just because that is an industrial zone. Service stations tend to be in either industrial zones or commercial zones. People expect to see that type of development. I think the process is much the same. I am aware of three recent approvals for service stations. That particular one, though, I will need to come back to you on. I will take that on notice, if that is okay.

**THE CHAIR:** Thank you. I think we are out of time.

**Mr Barr:** I did not have opening remarks, but I have some closing ones, very briefly.

**THE CHAIR:** Go for it.

**Mr Barr:** Thank you. The work you have already done, the spotlight you have put on this issue, hauling before you the people who are responsible for gouging Canberrans, hearing that information, questioning them has been a really useful process.

One potential solution—only half joking here—could be to have a permanent Assembly committee constantly asking these questions. We already pay for your salaries. This is a useful contribution that is being made, and this is exactly the sort of thing that people want from their elected representatives, to stand up for them against particularly big business who are gouging them in this city at the moment.

**MR PARTON:** Most generous; thank you.

**THE CHAIR:** Thank you, Chief Minister. I think there are one or two questions on notice, and I suspect, given the time, we might have some questions we will give you on notice. Answers to those questions that you have taken on notice would be appreciated within five business days from the date you receive the proof transcript of the hearing. When available, it will be forwarded to you and placed on the committee's website.

We next meet tomorrow, when, for interested parties, we finally hear from Coles and Viva Energy, as it is now called.

**Mr Barr:** And you will be armed with some useful information for that hearing.

**THE CHAIR:** Indeed. Thank you very much.

**The committee adjourned at 3.08 pm.**